



Swiss Democracy

Possible Solutions to Conflict in
Multicultural Societies

Fourth Edition

Wolf Linder · Sean Mueller



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Swiss Democracy

“Much can be learned from this study. But the lesson of this book is not: do it like the Swiss, and everything will be fine. Rather: study the history and the institutions of Switzerland, adopt what seems to work and avoid the many pitfalls”.

—Jürg Steiner, *University of North Carolina at Chapel Hill, USA and University of Bern, Switzerland, on the first edition (1994)*

“This new edition of *Swiss Democracy* lives up to both the far-reaching changes that the Swiss political system has experienced over the past decades under the influence of Europeanization and party system polarization, and also to the dynamic development of political science research on Swiss politics. It is essential reading for scholars and practitioners alike who are interested in a critical appraisal of the development and dynamic development of Swiss consensus democracy”.

—Silja Häusermann, *University of Zurich, Switzerland*

“*Swiss Democracy* provides a comprehensive and original analysis of the emergence, development, and various definitive features of this unique and complex political system—one characterized by extraordinary diffusion and sharing of powers among branches and levels of government as well as numerous constituencies. The authors explain the particularities of Swiss consensus democracy, federalism, direct democracy, and position in European and international politics, while also providing insightful comparative perspectives and potential lessons. This fourth fully revised edition sheds light on continuity as much as numerous changes and challenges to Swiss policies, politics and polity. It is a must-read for scholars of Swiss politics as well as comparative government that is also remarkably accessible for students, practitioners and a wider audience”.

—Jared Sonnicksen, *Technical University of Darmstadt, Germany*

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4th ed. 2021

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The open access publication of this book has been published with the support of the Swiss National Science Foundation.

ISBN 978-3-030-63265-6 ISBN 978-3-030-63266-3 (eBook)

<https://doi.org/10.1007/978-3-030-63266-3>

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*We dedicate this book to
Verena and Natia
who continue to enlighten us about
Swiss politics and society.*

PREFACE TO THE FOURTH EDITION

This book has a history of over 25 years. When *Swiss Democracy* was first published in 1994, articles on Switzerland in political science journals were rare, and *Swiss Democracy* was one of very few monographs on the Swiss political system written in English. Meanwhile, things have changed. This edition can draw on extensive political science research on this ‘deviant case of democracy’, and several new or revised monographs on the history and politics of Switzerland are on the market.¹

In certain respects, *Swiss Democracy* has remained unique. Up to date with the state of scholarly research, it offers the basics of the political system and is intended not only for an academic readership. The book strives to combine an accessible writing style with theoretical considerations and concrete political narratives. Past editions have found many readers outside of university classrooms. Particularly the Swiss Department of Foreign Affairs makes use of the message of *Swiss Democracy* in its diplomatic missions and public initiatives, notably with the 1500 copies ordered of the Arab version. The book has also been translated into Polish, Nepali, and,

¹For example, Clive H. Church, *The Politics and Government of Switzerland* (Palgrave Macmillan, 2004) and *Political Change in Switzerland* (Routledge, 2016), Jonathan Steinberg, *Why Switzerland?* (Cambridge University Press, 3rd edition from 2015), Pascal Sciarini, Manuel Fischer and Denise Traber, *Political Decision-Making in Switzerland* (Palgrave, 2015), Hanspeter Kriesi and Alexander Trechsel, *The Politics of Switzerland* (Cambridge University Press, 2012), Jan-Erik Lane (ed.), *The Swiss Labyrinth* (Palgrave, 2001), Michael Butler et al., *The Making of Modern Switzerland* (Palgrave, 2000), and, as a collection of political science articles, Ulrich Klöti et al., *Handbook of Swiss Politics* (NZZ Publishing, 2007).

forthcoming, Azerbaijani. Partial translations of the text exist in Russian, Romanian and Serbo-Croatian.

As a kind of a reference work for a critical account of Switzerland's democracy, the text needed continuous updating for two reasons. One, Swiss political science research has flourished over the last two decades. Many of its findings are relevant for this book and give readers further insight and hints, corresponding to the latest state of the art. Two, beneath Switzerland's apparent political stability one finds steady political change. This relates to the Swiss Constitution which—because of its openness to popular initiatives—is subject to amendments almost every year. Change also concerns politics, where the party system has undergone fundamental transformations since the early 1990s. Finally, Swiss policies, under the disruptive effects of globalisation and Europeanisation, have been under pressure from abroad. In the words of British scholar Clive Church, this has led 'from stability to uncertainty'.

While the second (1999) and third (2010) editions of *Swiss Democracy* were characterised by 'soft' renovations, this fourth edition underwent more extensive revisions. As a result, the former Introduction now appears as a separate chapter (Chap. 1) from the historic review of building a multicultural society (Chap. 2). Besides providing comprehensively updated statistical data, this chapter particularly describes two recent developments: the question of immigration and asylum policy, as well as the transformation of the party system and its implications for the Swiss government. In the chapter on federalism (Chap. 3), readers will learn about the latest developments in the Jura conflict, the exit from nuclear power and its consequences for Swiss energy policy, the changing role of the Council of States and how the institutions of federalism are under stress from the outside.

The practice of direct democracy (Chap. 4) has also led to political turbulences. They first emerged when the people and cantons approved constitutional amendments conflicting with international treaties. And while digitalisation appears as a new chance, it also bears considerable risks for direct democracy. The rise of populism and growing polarisation have further jeopardised the politics of 'consensus democracy' (Chap. 5). As in the past, the international comparisons (Chap. 6) are focused on one essential question: how do the institutional features of federalism, power-sharing and direct democracy function in other countries? And can they help to solve multicultural conflict? A new chapter (Chap. 7) analyses the

policy of ‘bilateral’ relations between Switzerland and the EU, as well as their uncertain future. That chapter and thus the book conclude with the question on whether and how others could take the Swiss experience as a basis for their own institutional development—what I call the ‘dialogue model’.

Online databases play an ever-important role also in teaching and research. For students interested in Swiss politics, I mention just two of them: <https://annepolitique.swiss>, a yearly chronicle about all important events in Swiss politics, and <https://swissvotes.ch>, a list of all federal popular votes since 1848, with comprehensive statistical data and the narrative of every single votation.

The most pleasing change of the book, however, is that I could gain Sean Mueller as co-author. Holding since February 2020 a Swiss National Science Foundation professorship at the University of Lausanne, Sean is one of the most promising political science scholars of his generation in Switzerland. He inspired me and Anne-Kathrin Birchley-Brun from Palgrave Macmillan to undertake this fourth edition. Based on the experience of a similar and rewarding cooperation for a new edition of the German textbook *Schweizerische Demokratie*,² Sean and I took great pleasure in reviewing, discussing and rewriting what is now the latest edition of *Swiss Democracy*. It was realised in the spirit of maintaining the qualities of all past editions: a simple structure, a focus on the essentials, up to date on scientific research and real developments, and written in a style accessible also to non-specialists.

My thanks go to the many persons who helped me in the making of *Swiss Democracy* in the past 25 years. It was the late George W. Jones of the Government Department of the London School of Economics who in 1990 encouraged me to write a monograph on Swiss governance and recommended me to a British publisher. I still remember the hospitality of Jürg Steiner (University of North Carolina) and his wife Ruth at Chapel Hill, where I wrote drafts of the first edition during my sabbatical in 1992. Clive Church from the University of Kent at Canterbury was an important mentor. As a specialist in contemporary Swiss history, Clive made particularly well-informed suggestions on how to explain Swiss political institutions to an English-speaking public. In many respects, the questions

²Wolf Linder and Sean Mueller, *Schweizerische Demokratie – Institutionen, Prozesse, Perspektiven* (Haupt, 2017).

discussed in this book go beyond the perspective of political science. I am particularly grateful, therefore, to a number of colleagues from other disciplines: Jean-François Aubert from the University of Neuchâtel, the late Peter Saladin and Walter Kälin from the University of Bern, all of them specialists in constitutional or international law, as well as peace researcher Johan Galtung, at the time when he was a guest professor at our Institute. They were all critical readers of the manuscript for the first edition and provided invaluable advice as well as incitation.

Finally, my acknowledgements go to the many collaborators of the Institute of Political Science at the University of Bern who, before my retirement, assisted in the preparation of earlier editions. I mention Hans Hirter, Lorenz Kummer, Martin Senti, Adrian Vatter, Daniel Hug, Martina Delgrande, Thomas Holzer, Reto Wiesli, Andrea Iff, Michael Sutter, Franziska Ehrler, visiting scholar Peter Stettler and my long-time secretary Monika Spinatsch. As to this fourth edition, special thanks are due to the anonymous reviewer and to Palgrave's Anne-Kathrin Birchley-Brun for her publishing services. Last but not least, we thank the Swiss National Science Foundation for enabling the Open Access publication of this fourth edition.

Bern, Switzerland
May 2020

Wolf Linder

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ABBREVIATIONS

BDP	Bourgeois-Democratic Party (<i>Bürgerlich-Demokratische Partei</i>)
BFS	Federal Statistical Office (<i>Bundesamt für Statistik</i>)
CHF	Swiss Franc
CP	Counter-proposal (to a popular initiative)
CR	Constitutional (or obligatory) referendum
CVP	Christian-Democratic Party (<i>Christlichdemokratische Volkspartei</i>)
EEA	European Economic Area
EEC	European Economic Community
EFTA	European Free Trade Association
EU	European Union
FDP	Radical-Liberal Party (<i>Freisinnig Demokratische Partei</i>)
GDP	Gross domestic product
GLP	Green-Liberal Party (<i>Grünliberale Partei</i>)
GPS	Green Party Switzerland (<i>Grüne Partei Schweiz</i>)
LR	Legislative (or facultative) referendum
NATO	North Atlantic Treaty Organization
OECD	Organisation for Economic Co-operation and Development
OSCE	Organisation for Security and Co-Operation in Europe
PI	Popular initiative
SPS	Social-Democratic Party Switzerland (<i>Sozialdemokratische Partei der Schweiz</i>)
SVP	Swiss People's Party (<i>Schweizerische Volkspartei</i>)
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
USA	United States of America
USSR	Union of Soviet Socialist Republics
VAT	Value Added Tax
WTO	World Trade Organization
WWII	World War Two

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Introduction

Switzerland is a bottom-up creation. Unlike other countries that were founded more in a top-down manner, through territorial conquest or dynastic intermarriage, the basic values and mechanisms of Swiss democracy are cooperation, small-scale government and participatory democracy. That is also why for many observers, Swiss politics has something archaic, outdated, medieval. Indeed, two of the most important institutions, federalism and direct democracy, can draw on an almost uninterrupted legacy spanning centuries. The legendary *foedus* or pact sworn on the Rütli meadow in Central Switzerland epitomises pre-modern liberation struggles from imperial rule, while some of the equally medieval citizen assemblies have functioned to this day.

Yet albeit somewhat old-fashioned and simple in design, Switzerland is also profoundly postmodern and complex. It has largely achieved the peaceful living-together of different cultures as postulated by Kymlicka (1995). Its civic nationalism resembles ideas of Jürgen Habermas' (1992) *Verfassungspatriotismus*. The Swiss polity emphasises democracy as a process of deliberation among co-equal citizens (Barber 1984), and its consensus democracy in many ways approximates the theoretical ideal-type (Lijphart 2012). Complexity, in turn, arrives in the form of dynamic interactions between different institutional elements. Federalism, direct democracy and power-sharing reinforce each other in multiple ways. For instance, citizens can directly vote on policies and elect their representative at the local, regional and national levels. But there are also tensions, such

as when the territorial and popular majorities collide or when certain regions, parties and groups feel excluded from and neglected by the government for too long.

In some ways, this book thus describes a ‘deviant case’ of democracy: one where citizens participate not only in the election of their parliament and government, but also vote on and ratify parliamentary decisions of major importance. Since this type of direct democracy has remained unique, it runs the risk of a double misunderstanding: rejected by some and glorified by others. The main goal of this book, therefore, is to critically discuss Swiss democracy and avoid both fallacies. Our hope is also that some aspects of Swiss democracy can stimulate creative thinking elsewhere.

However, it is important to keep in mind that probably nobody in her right mind would today invent something like Switzerland. To divide a small country with only 8.5 million inhabitants into 26 cantons and over 2000 municipalities? Even Germany, with over 80 million inhabitants, only has 16 *Länder*. Moreover, not only does this mean that, on average, a mere 330,000 people inhabit a canton. But every canton also has its own constitution, government, parliament, courts, flag and anthem. In reality, cantons differ widely in size, from Appenzell Inner-Rhodes with just 16,000 to Zurich with over 1.5 million inhabitants. The number of municipalities varies enormously, too, from Glarus and Basel with three each to Bern with 346 (Fig. 1.1). On top of all that, the country also recognises four different national languages—and not just *any*, but those of its big neighbouring countries, Italy, France and Germany. If at least linguistic and cantonal diversity overlapped, it would all make sense. But no, not really: 17 cantons are officially German- and four French-speaking, three are bilingual (two with French, one with German as the majority language), one is Italian-speaking and one trilingual (German, Italian and Romansh). Logic was definitely not part of decision-making when this was all called to life.

Or, rather: logic was very well present, just not in the form of a single, grand design imposed by somebody from above or the outside. The great fortune of the Swiss has been that with only one or two exceptions, they were always masters of their own destiny. At the same time, it was understood early on that with freedom also comes responsibility, with rights also duties. So rather than Cartesian, it was through trial and error, mutual learning and an almost instinctive scepticism towards anything new that today’s institutions slowly took shape. Like a child that needs to fall over

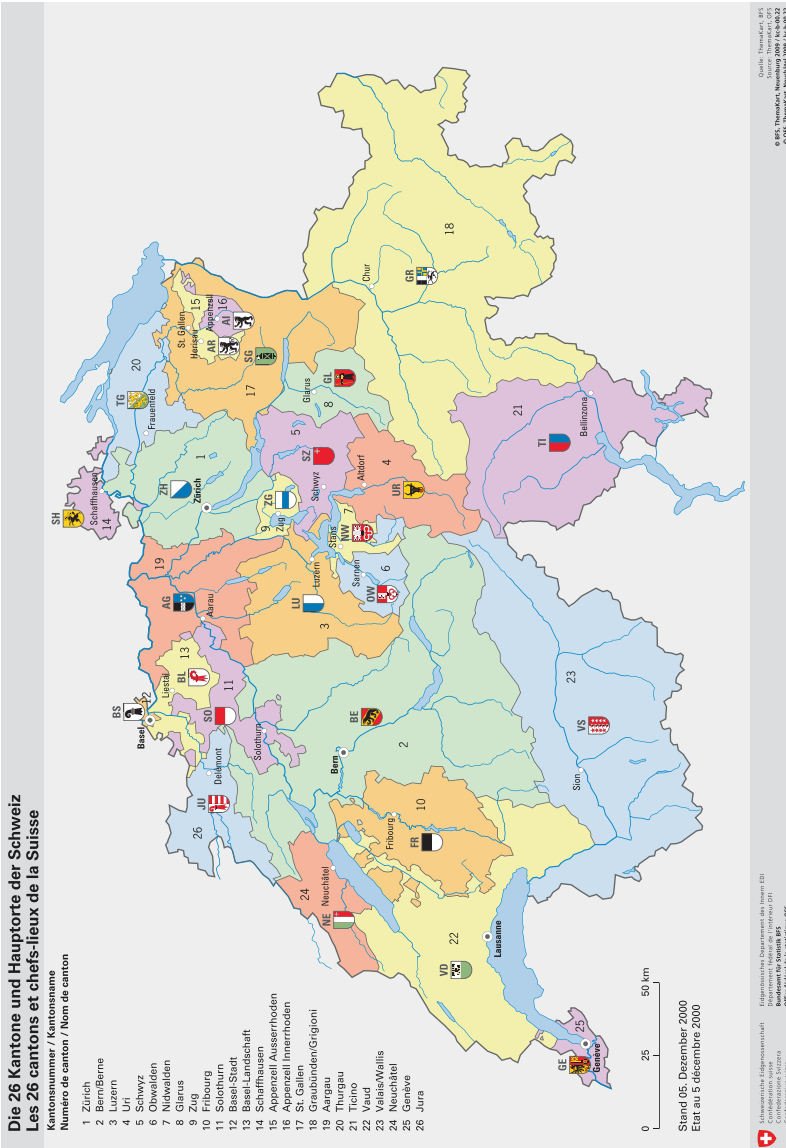


Fig. I.1 The 26 cantons of Switzerland

to learn the laws of gravity, the Swiss have had their painful military defeats and civil wars, too.

The purpose of this book is *not* to heap but praise on the Swiss way of doing politics and try to ‘sell’ its democracy. No system is perfect, even if some do seem a little less imperfect. For despite the many advantages and mechanisms that make Switzerland appear as a success story, there remains room for improvement. For the progressive left, campaign and party funding should be made more transparent. For the conservative right, integration into European-wide affairs, notably by subscribing to the free movement of persons, has gone too far and needs to be rolled back. Yet for all their cultural and political differences, Swiss citizens want the exact same things as those of other countries: good jobs, healthy lives, sustainable economies and a solidary society. Switzerland, in that sense, is nothing special. All that is different is the political structure in which these same goals are pursued. If ever there was one general lesson to be drawn from the Swiss case, it is probably that finding the right institutional structure takes time and will never be finished once and for all.

Chapter 2 explains how, indeed, it was not abstract logic but pure necessity and pragmatics that dictated the terms of Swiss state-building. What is more, nation-building occurred in parallel to state-building—neither was fully present when modern Switzerland was founded in 1848, after a brief civil war. This circumstance, coupled with the observed cultural diversity, gives Swiss nationhood its distinct political, that is, ‘civic’ flavour. This is very different from mono-cultural, ‘ethnic’ nations. Swiss history can thus be read as gradually achieving the participation of the most important minority groups and the different social classes through proportional representation. Proportionality is the first and most important element of power-sharing, the common notion comparative political scientists use to describe the characteristics of democracies that renounce majority and ‘winner takes all’ rules (e.g. Lijphart 2012).

In Chap. 3, we focus on Swiss federalism. Federalism allows the division of power between one central and many regional governments and is therefore a widely used institutional arrangement in multicultural societies. But rather than just focusing on autonomy and differences, Swiss federalism also allows for participation and coming-together for the purpose of joint problem-solving. As Denis de Rougemont (2012 [1947], 88) explained using the very Swiss case:

As it happens, the words federalism and federation are understood in two very different ways in [the German- and French-speaking parts of]

Switzerland. In German, Confederation means *Bund*, which means union, evoking especially the idea of centralisation. In Swiss *Romande*, on the contrary, those who profess federalism are actually the jealous defenders of cantonal autonomy against centralisation. For some, therefore, to federate simply means to unite. For others, to be federalist simply means to protect freedom at home. Both are wrong, because each is only half right. True federalism consists neither only in the union of the cantons, nor only in their complete autonomy. It consists in the continuously adjusted balance between the autonomy of the regions and their union. It consists in the perpetual combination of these two opposing yet mutually reinforcing forces.

If federalism thus understood and practised has helped bridge the gap between different cultural communities, direct democracy contributed to avoiding one developing between the political elite and ordinary citizens. Chapter 4 discusses the emergence and operation of Swiss direct democracy and assesses its effects on power-sharing. Contrary to what many theorists have claimed, it is not too demanding for people in a highly developed industrial society. Just as with other elements of Swiss democracy, abundance is not an obstacle but key to success: the fact that citizens get to have a direct say up to four times a year at federal level, in addition to frequent referendums at cantonal *and* local levels, makes voting almost a routine exercise. It also allows today's losers to become tomorrow's winners—and vice versa, thus fostering mutual respect and cooperation. But contrary also to what some revolutionaries had hoped for, it has not led to radical change either. Instead, direct democracy has above all led to political conservatism, be that regarding welfare policies, defence or European integration. Most importantly, the Swiss Constitution and with it the entire development of the modern state is the direct result of dozens of popular votes.

Chapter 5 takes yet another step into the Swiss 'labyrinth' (Lane 2001) by unpacking the notion of power-sharing. Many other countries use a variety of institutional forms of plebiscite, referenda and popular initiatives to influence or complement parliamentary and governmental policies. Switzerland, however, is the only country where direct democracy has become an important—perhaps also the most constraining—element of power-sharing. In fact, the referendum has enabled different minorities to successfully challenge parliamentary proposals that did not take into account their group interests. Consequently, law-making in Switzerland has become impossible without the participation of various interest groups

at early stages of drafting already. The referendum has profoundly changed the Swiss governmental system, which initially intended to follow the winner-takes-all pattern of Anglo-American democracy. Instead, it has developed into broad-based political pluralism. In its structures of consociational democracy, all important political parties and interest groups are permanently represented in the political institutions, and legislating has become a process of negotiation and mutual adjustment involving different political forces.

In Chap. 6, we develop three comparative perspectives that look beyond the Swiss case. Beginning with direct democracy, we discuss how it is not a definitive concept, but one which changes with the passage of time. Thus, enhancing the direct participation of people as in Switzerland—considered revolutionary in the nineteenth century—may still be regarded a progressive form of democracy. But can the principle of the maximum participation of the greatest possible number of people be applied to the whole spectrum of political issues and decision-making? And are increased political rights, offering the people not only a voice in electing their representatives but also a chance to decide major decisions directly, really an efficient way to improve democracy?

The second perspective deals with federalism. Traditionally, it has been understood as a means for the vertical division of power within states. But can it also play a role for the supranational division of power and the participation of minorities? Despite the fact that federalism is a venerable and well-known institutional recipe, it seems that still not all of its possibilities are fully exploited today. The last section of Chap. 6 places political power-sharing in a context of conflict resolution, especially concerning multicultural societies. We end by stressing that power-sharing is not just an institutional arrangement, but that it also has to be based on the specific culture of a society that intends to practice it.

The book concludes, in Chap. 7, with a look at Switzerland in Europe and the world. Why are the Swiss, while profiting from globalisation, not a member of the EU? And how come that Switzerland, by means of a series of bilateral treaties with Brussels, adopts a good part of the economic regulations enacted by that same EU? We analyse the reasons and political consequences of this selective participation without membership and try to answer the question whether or not ‘bilateralism’ is a sustainable strategy for the Swiss preference: utmost economic integration and least political loss of national autonomy.

What about Switzerland in the world? Contrary to the hopes of Francis Fukuyama's (1992) 'end of history' thesis, we do not live in an age of worldwide democracy. Instead, democracy is barely consolidated in many countries and even at risk of disappearing (Levitsky and Ziblatt 2018). No wonder that we observe a growing interest in the institutions of Swiss democracy from abroad, be it in questions of decentralisation, direct democracy or political power-sharing. Can Swiss democracy be exported? We do not regard such 'export' ideas as appropriate. Instead, we propose an alternative: the 'dialogue model' which, as a discourse between equals, seems to be a more promising way. In this approach, others can draw from the 'Swiss experience' as a base for autochthonal developments of their institutions. And the Swiss can be inspired in turn.

Let us conclude this introductory note with an emphasis on one of the main Swiss paradoxes: its democracy both maximises stability and institutionalises openness. How is that possible? Stability happens by letting all important groups participate in collective decisions, either through political parties and governmental or parliamentary representation; interest groups voicing their concerns in the pre-parliamentary phase; social movements building up pressure from the street or cantonal and local governments running their own show. At the same time, the system is incredibly open: a good idea, a determined organisation, some resources and maybe fortunate circumstances allow almost anyone to change the Constitution or bring the entire political and economic elite to its knees.

The country is small, elite members know each other and important issues and projects are regularly discussed in the media, at work, in associations and of course online. But despite all that, surprises still happen and political change occurs. Suffice it to look at the October 2019 federal elections, which produced massive gains for the Greens and Green-Liberals at the expense of all four government parties. Of course, one should not read too much into just one election. But 2019 was also the year that saw the biggest ever 'Women's Strike' (*Frauenstreik*) take place, on 14 June, with hundreds of thousands of women (and some men) demanding full equality. And as if to top that—as some say—biggest political demonstration in 100 years, three weeks before the parliamentary elections a further 100,000 people took to the streets in Bern to call for a sustainable climate policy.

Welcome to Switzerland, a country that spent decades creating a system possibly devoid of one grand design but replete with specific answers to specific problems of all sorts of groups. A place where you can not only

vote for people and parties but also decide all important policies directly, at three meaningful levels of government—and still feel ignored, neglected and as losing out from globalisation. At the heart of Europe, the masters of federalism, home to a civic community of willing members—yet not in the EU, the other grand project of uniting different communities to the benefit of all.

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Building a Multicultural Society by Political Integration

2.1 INTRODUCTION

Switzerland seems to be one of the most privileged countries in the world. Whereas its direct neighbours were engaged in the destructive conflicts of World Wars I and II, Switzerland survived as a successfully neutral and independent small nation in the heart of war-torn Europe. Today, its inhabitants enjoy one of the highest living standards among industrialised countries. The country lacks natural resources, but Swiss industries produce high-quality goods of global renown: from precision machines and watches through chocolate and cheese to pharmaceutical and chemical products. Its services such as banking, insurance and tourism are equally appreciated all over the world. With high import and export rates, Switzerland is strongly dependent on the European and world markets yet has maintained its ability to compete in many fields. Although Switzerland's population is small and the country landlocked, it can compete with the largest developed nations. In exported goods, Switzerland ranks 17th in the world and among foreign investors 8th (CIA World Factbook 2019). What was once a poor region of mountain farmers, mercenaries and emigrants has become the third-largest holder of foreign exchange and gold reserves. No wonder it is seen as a model case of successfully finding a profitable niche in world markets (Box 2.1 and Fig. 2.1).

Swiss residents pay relatively low taxes for the many benefits they receive from their government. There are high-quality, reliable public transport systems which not only link cities but also extend up to small mountain

Box 2.1 Characteristics of Switzerland

A. Geography

Switzerland is a landlocked country at the heart of Western Europe. Its total surface spans 42,000 km², divided into three main areas: the Jura mountain region in the North-West, the Alps in the South/South-East and the *Mittelland* plains spread out between the two. Less than 10% of its soil are residential/industrial, 36% are agricultural, 32% forests, and the remaining 25% unproductive. Switzerland borders five countries: Italy in the South, France in the West, Germany in the North and Liechtenstein and Austria in the East. Various lakes and rivers flowing in different directions (Rhine, Aare, Rhone, Ticino and Inn) complete the picture.

B. Population

By the end of 2019, some 8.6 million people had permanent residence in Switzerland. One in five inhabitants lives in one of the ten largest cities, but the average population size of the roughly 2000 municipalities is still only 3800. The largest city is Zurich with 430,000 inhabitants. Twenty-five per cent of the Swiss population, that is, some 2.1 million persons, do not possess the Swiss nationality—although 19% of those (i.e. some 410,000) were born in Switzerland. In turn, some 750,000 Swiss live abroad. German, French, Italian and Romansh are all national languages, spoken by 63, 23, 8 and 0.5% of inhabitants, respectively. Five per cent have English as their main language, 19% another language.¹ In terms of religion, 36% of residents are Catholics, 24% Protestants, 6% practise another Christian faith, 5% are Muslims, 0.3% Jewish, 3% belong to another or an unknown religion and 26% have none. While language proportions have remained stable over centuries, Protestants have lost their majority (1910: 56%) due to secularisation and immigration from Catholic countries such as Italy, Spain and Portugal.

(continued)

¹ Respondents could indicate more than one main language, which is why the total exceeds 100%.

Box 2.1 (continued)*C. Economy*

In 2017, Switzerland's Gross Domestic Product (GDP) was 523 billion US Dollars. This corresponds to some 62,000 US Dollars per inhabitant, placing the country 16th worldwide, behind the various oil and fiscal paradises. Seventy-four per cent of GDP derive from services, 26% from industry and 0.7% from agriculture. Ninety per cent of companies have less than nine employees, but 32% of employees work in companies with 250 or more staff. Exports mainly go to Germany (15%), the US (12%) and China (8%), imports mainly come from Germany (21%), the US (8%) and Italy (7%). Unemployment rate is a low 3%. Nevertheless, some 8% of the population live below the poverty line and a further 15% are at risk of poverty. Figure 2.1 shows how the share of non-Swiss residents and the expansion of the services-sector have both grown enormously since 1960.

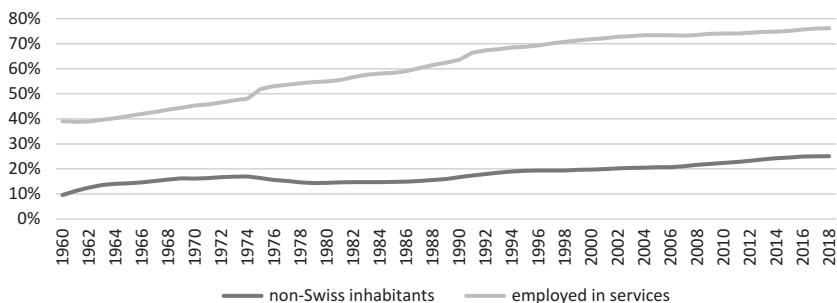


Fig. 2.1 Service economy and immigration, 1960–2018: two indicators of socio-economic change [%]. (Sources: CIA World Factbook (2019); BFS (2019))

villages. The infrastructure for roads, energy supply and telecommunications is comprehensive and well maintained. Public education is of a high standard, especially in vocational training. In some research domains, the two Federal Institutes of Technology in Lausanne and Zurich are world

leaders. Health and social services are available to everybody, even if the costs of both have steadily increased over the past decades.

Finally—and here we come to the heart of the matter—the political stability of Switzerland is outstanding. With only a short interruption, the seven-member Swiss government has been composed of the same four parties since 60 years. Together, they have represented between 70% and 90% of the Swiss electorate (BFS 2019). Despite the fact that every year the people vote on some six proposals to change the Constitution (average for 1999–2019; Swissvotes 2019), Switzerland is not a country of political revolution. Maintaining a constrictive interpretation of the principle of neutrality, Switzerland has played a lesser role on the stage of international politics than other neutral countries such as Sweden or Austria. In doing so, it has avoided many of the conflicts and complications in international affairs that could have been dangerous, perhaps even catastrophic, for a small nation.

Outsiders thus wonder not only about Swiss conservatism, but also about a seeming absence of serious social, economic or cultural conflict. But even if they are right to suspect a connection between political stability and economic success, the question is how such stability arose in the first place.

In the context of Swiss history, this outcome is all the more puzzling since initial conditions seemed anything but favourable. It would also be fundamentally wrong to think of Switzerland as a country without historical conflicts. Modern Switzerland was not created by one homogeneous ethnic people, but by different groups speaking different languages and adhering to different religions. Nation-building was a slowly evolving, bottom-up process. Moreover, nation-building and the processes of urbanisation, industrialisation and modernisation were accompanied by societal conflicts just as in other countries. The latter are in many ways comparable to processes in developing countries today.

In 1848, the Swiss federation emerged out of a civil war between Conservative Catholics and progressive Protestants. Thereafter, despite its political neutrality, in World War I Switzerland almost fell apart because political elites opted for different sides in the conflict between its neighbours: the majority of German-speaking Swiss identified with Germany, while the French-speaking population sympathised with France (Jost 1986). Industrialisation was accompanied of rising economic inequality and a class struggle between workers and entrepreneurs. This culminated in a nationwide strike and the intervention of the armed forces in 1918. The workers, whose claims were all denied by the bourgeois government, radicalised their opposition politics in the following decade.

An even bigger ‘minority’, namely women of Swiss nationality, had to wait until 1971 to be given the right to vote on national affairs. A first attempt had failed in 1959. Finally, after World War II an important ethnic conflict broke out in the canton of Bern, where a large part of the French-speaking population in the Jura region felt ill at ease with the German-speaking majority. After a long political struggle, by 1979 they succeeded in creating a canton of their own, but the fate of one city, Moutier, remains undecided even in early 2020.

Today, the Swiss people are deeply divided on the question of European integration. Despite its geographical location in the heart of Europe, Switzerland is not a member of the EU, and in a 1992 referendum a majority even refused to join the European Economic Area (EEA). Switzerland thus faces the challenges of globalisation and Europeanisation on its own. Being a small state, it runs the risk that many of its traditional comparative economic advantages turn into disadvantages. Thus, the question of European integration remains controversial: ‘Traditionalists’ see Switzerland’s best future in continuing its long-standing policy of neutrality and utmost sovereignty, while ‘modernists’ want Switzerland to become a member of the European Union or at least maintain close ties (e.g. Church 2016, ch. 11; Mazzoleni and Dardanelli 2019).

So how has the Swiss nation-state, once a Utopian idea, become a reality? How was Switzerland able to keep its independence as a political nation and deal with its many religious, economic, linguistic and class conflicts? And, finally: how was Switzerland able to transform itself into a modern, industrialised nation and develop a form of democracy that already in the nineteenth century went further than all other European countries?

In saying that Switzerland represents a ‘paradigmatic case of political integration’, we echo the view of Karl Deutsch (1976), a scholar looking at Switzerland from the outside. Indeed, the Swiss have become a nation with its own, distinct identity *only through and because of its political institutions*. Their role was fundamental in uniting territorial communities of four different languages, two different religions and many more different regional histories. What is more, political institutions were able to turn the disadvantages of cultural diversity such as fragmentation and conflict into advantages such as experimentation and solidarity. Key to this process was political integration and a particular way of dealing with conflicts and problems in a peaceful, democratic manner. In this chapter as well as in many other parts of the book, specific examples illustrate what integration meant and how it has worked to date.

2.2 THE ORIGINS OF MODERN SWITZERLAND

After the Vienna Congress in 1815, when much of the European pre-revolutionary, old order was restored, nobody could have foreseen that Switzerland would shortly become one of the first modern democracies and a small nation-state.

The origins of Swiss integration can be traced back to three tiny alpine regions, which declared themselves independent from the Habsburg Empire in the thirteenth century. Other regions and cities then followed suit and by the time of the French Revolution, 13 regional polities (*Orte*, later named ‘cantons’) formed a loose confederation. However, what had once been a product of peasant resistance against outside jurisdiction and taxation had mutated into a feudalist regime of privileges, in which a fortunate few exploited the resources and people of newly acquired subject territories. This moribund *ancien régime* broke down when troops of the French Revolution, promising to bring liberty, equality and democracy, invaded Switzerland as they had other European countries.

While France was successful in breaking the privileges of the old cantons, it failed, not surprisingly, to merge the cantons into a united Helvetic Republic in 1798. Five years later, on the order of Napoleon Bonaparte himself, a part of the autonomy of the cantons was restored in the so-called Mediation Act, but in 1815—with Napoleon defeated—the Swiss chose to return to the old system. A loose confederation of now 25 independent cantons, which considered themselves sovereign states, was re-established. The ‘eternal’ treaty guaranteed collective security by mutual assistance. A conference of canton delegates was empowered to implement common decisions. But delegates were bound by the instructions of their cantonal governments. Agreements and decisions were thus difficult to reach. The Swiss confederation of 1815 did not have a real parliament, let alone an executive body. In other words, Switzerland was not yet a true nation-state (e.g. Kästli 1998, 17–44; Vatter 2018b, 14ff.).²

In the decades after 1815, the Swiss Confederation lived through a period of internal polarisation between two forces, the Conservatives and the Radicals. The Conservatives were Catholics from mainly rural regions in Central Switzerland, Fribourg and Valais. Being a minority, they insisted

²There is often confusion about the meaning of the term confederation. Here it is used to describe a treaty-based system of independent states, whereas the term ‘federation’ designates a state wherein power is shared between one central government and a number of non-centralised governments having the status of constituent or member states. Thus, Switzerland will be called a confederation for the period 1815–1848, and thereafter a federation.

that decisions taken at the Conference of Delegates (*Tagsatzung*) should be unanimous. They were sceptical about the idea of strengthening the authority of the central government—just as the anti-federalist forces in the US had been a few decades before. In a time of early democratisation in the cantons, the Conservatives also wanted to preserve the traditional cultural and political role of the Catholic Church, especially regarding education. The Radicals, on the other hand, were rooted in mainly Protestant, industrialising cantons such as Zurich, Berne, Basel and Geneva. The Radicals strove foremost for democracy under the slogan of popular sovereignty, with the aim of public control of all authorities. The democratic revolutions in many cantons sought not only political rights for all people, the division of power, and publicity for the debates of the elected parliament, but also the separation of state and church. Radicals denied the Catholic minority the old social privileges of their church. From the sixteenth to the eighteenth century, the old confederation had suffered four internal religious wars—but it had also achieved agreements between Catholics and Protestants that led to periods of peaceful coexistence (Box 2.2). With the arrival of democracy, religious differences again led to conflict.

Box 2.2 Religious Conflicts Between Protestant and Catholic Cantons, Sixteenth–Eighteenth Centuries

- 1529: A military conflict between Protestant Zurich and the five Catholic cantons was prevented by the first *Kappeler Landfriede* which contained the promise of confessional tolerance.
- 1531: Battles between Catholic and Protestant troops from Zurich and Bern were won by the Catholics. The second *Kappeler Landfriede* was therefore in favour of the Catholics: Protestant confession was acknowledged but Catholics conserved some prerogatives. This second *Kappeler Landfriede* regulated the balance until 1656.
- 1656: Zurich and Bern tried to improve their position vis-à-vis the Catholic cantons but lost the first battle of Villmergen, which confirmed Catholic dominance.
- 1712: The second battle of Villmergen was won by the Protestants. The victory eliminated Catholic hegemony in the Old Confederation and gave Protestant Zurich and Bern political influence appropriate to their growing economic power.

Religion was not the only conflict between Radicals and Conservatives, but it became the focus for many other conflicts within and between the cantons. It led to rebellions and repression by military force, as when armed volunteers (*Freikorps*) of Radicals from other cantons wanted to ‘liberate’ Lucerne from its Catholic government. In 1845, the Catholic cantons signed a separate treaty (*Sonderbund*) to defend their common interests. They also demanded a revision of the confederal compact and tried to obtain diplomatic help (and more) from Austria, France and Sardinia. In 1847, the Catholic cantons left the *Tagsatzung*. This was interpreted by the Protestant cantons as secession. The differences over religion, culture and the political structure then escalated into a short civil war, which ended—after 26 days and with only about 100 casualties—with the defeat of the secessionists (Ernst et al. 1998; Remak 1993; Roca 2012).

The way was then free for the creation of a nation-state fundamentally different from that established by the confederative treaty of 1815. The victorious Radicals were the leading force in drafting a constitutional framework that involved:

- The bottom-up transition from a loose confederation to a federation: The 25 cantons (today 26) were willing to establish a national government and, upon becoming member states of the federation, to renounce on some of their sovereign powers;
- The creation of a multicultural state: According to the Constitution of 1848, the Federation consisted ‘of the peoples (*Völkerschaften*) of the cantons’. In contrast to the unification of Germany or Italy, which happened in the same period, the concept of the state was thus not based on the same culture, religion or language of its people, but on the same *citizenship* of the different peoples of the cantons. Switzerland therefore represents a political or civic, not a cultural or ethnic nation;
- The transition to a constitutional democracy with an independent executive authority and its own parliament. Moreover, the Federal Constitution set minimum democratic standards for the institutions of the member states, including guarantees of certain political and civic rights, the separation of power, free elections to parliament and defining the cantonal electorate as the supreme authority for changing cantonal constitutions.

The draft was submitted to a popular vote in 1848. The votation did not conform to the same standard in all cantons because there was no common procedure. In Fribourg and Grisons, the cantonal parliament decided ‘in the name of the people’, whereas the Radical government of Lucerne interpreted the vote as a veto and thus added the 30% non-voters to the yes-side. Despite these irregularities, two thirds of the cantons accepted the project, and on 12 September 1848 the *Tagsatzung* declared that Switzerland’s first ever Federal Constitution had been accepted by a large majority of people and cantons (Kölz 1992, 608ff.; Ruffieux 1983, 10f.; Ernst et al. 1998; Kley 2011).

Fully revised in 1874 and 1999, the Constitution of 1848 nevertheless contained most of the organisational framework of today’s polity (Boxes 2.3 and 2.4). Table 2.1 shows that the Swiss federal system consists of legislative, executive and judicial organs at each level. Note, however, that the Swiss system conforms less to the classical concept of separation of powers than to an idea of mutual cooperation and control that is partly comparable with the checks and balances of the US Constitution. Finally, Box 2.5 provides an overview of the Swiss party system.

Box 2.3 Main Authorities of the Federation

Federal Assembly: Bicameral parliamentary body representing the people (National Council) and the cantons (Council of States). Both chambers have equal powers. The Federal Assembly exercises the supreme authority of the federation, having the legislative power to make all federal laws, and appointing the members of the Federal Council and the Federal Court, the Commander-in-Chief or general (in times of war) and other major federal bodies. It supervises all authorities of the Swiss federal government and approves the annual budget proposed by the Federal Council.

Federal Council: Supreme executive and governing authority of the Swiss federation. Its composition mirrors power-sharing between different parties and cultures: the seven members of the Federal Council are representatives of four different political parties (in basically the same composition since 1959: three bourgeois centre-right and one left-wing party). An unwritten law

(continued)

Box 2.3 (continued)

requires that at least two members come from French- or Italian-speaking regions. The Council acts as a collegiate body. There is no role of prime minister with prerogatives over the other members of cabinet; thus, most decisions come from and are underwritten by the Council as a whole. One of the seven serves as president of the federation. By custom, this function is carried out by a different member each year. The president has no special political privileges, only formal duties. Each federal councillor heads one of the seven ministries (called departments): Foreign Affairs; Home Affairs; Justice and Police; Defence Civil Protection and Sports; Finance; Economic Affairs; Education and Research; and Environment, Transport, Energy and Communications. The federal administration, located mostly in Bern, has a staff of about 38,000 civil servants and employees—the army, national rail and postal services excluded.

Federal Tribunal: The Federal Supreme Court acts as the final court of appeal in cases coming from cantonal courts and involving federal law. Thus, the Court acts in all areas of Swiss law but in very different functions, depending on the specificity of the case. The Court also decides on conflicts between the federation and the cantons and on conflicts among the latter. It is empowered to review all legislative and executive acts of the cantons and guarantees the constitutional rights of the citizens. However, the Court does not have the power, either directly or by implication, to rule on the constitutionality of federal laws. The Supreme Court is located in Lausanne, with specialist chambers in Lucerne, St. Gall and Bellinzona. The Federal Assembly elects all judges for a term of office of six years. The composition of the Supreme Court complies with both cultural and partisan proportionality: all three state languages as well as the most important political parties are adequately represented.

Box 2.4 Direct Democracy

Besides electing their parliament, the Swiss voters are provided with three important instruments of direct democracy: the popular initiative, the mandatory referendum and the facultative referendum.

The *popular initiative* is a formal proposition which demands a constitutional amendment. It must be submitted to the vote of the people and cantons if the proposition is signed by at least 100,000 citizens within 18 months. Before the vote, the Federal Council and the Federal Assembly give non-binding advice on whether the proposal should be accepted or rejected and occasionally formulate a counterproposal.

The *mandatory referendum* obliges parliament to submit every amendment of the Federal Constitution and important international treaties to the approval of a majority of cantons and the people.

The *facultative referendum* provides 50,000 citizens or eight cantons with the option to challenge any Act of Parliament within 100 days of its publication. If that quorum is reached, the Act is submitted to a binding vote, with a simple popular majority deciding on approval or rejection.

2.3 TURNING POOR ODDS INTO GOOD ONES: FACTORS THAT MADE SWISS NATION-BUILDING A SUCCESS³

As the short historical account of the previous section suggests, the transition from confederation to federation was not an easy one. First, the Conservatives' desire to maintain key elements of the old order made them fiercely opposed to giving away the sovereign rights of their cantons, preferring instead to maintain the status quo. The innovating forces, on the other hand, were firmly opposed to this. Second, there was the problem of cultural differences. Besides religion, there was the question of language. German was, and still is, spoken by some 70% of the population. Those in the French- and Italian-speaking regions feared that, as minorities, they would be made worse off by yielding their political power to a central government. Third, economic structures differed from canton to canton, as did preferences for trade regulations protecting the interests of farmers, craftsmen and traders.

³For general and comparative accounts of Swiss nationhood, see Eugster and Strijbis (2011) as well as Dardanelli and Stojanović (2011) and Zimmer (2003).

Table 2.1 The Swiss federal system and the executive, legislative and judicial powers at each level

	<i>Executive power</i>	<i>Legislative power</i>	<i>Judicial power</i>
Federation	<i>Federal Council</i> Seven federal councillors, each elected individually by the United Federal Assembly for four years. Each councillor heads one of the seven government departments or ministries. All have formally the same powers.	<i>Federal Assembly</i> <i>National Council</i> : 200 members. Seats attributed to cantons based on their population shares, but each canton has at least one seat. Popular election with the cantons as constituencies using proportionality, plurality rule for cantons with only one seat. <i>Council of States</i> : 46 members. Two seats for each full canton, one seat for each half-canton. ^a Election rules according to cantonal legislation, but popular election everywhere and mostly via majority-plurality rules. Both chambers have the exact same powers; elections of government members and judges take place with both chambers united in one session (United Federal Assembly).	<i>Federal Tribunal</i> 38 full- and 19 part-time supreme judges, elected by the United Federal Assembly for six years
Cantons	<i>Cantonal Government</i> Five to seven members. Election by the people for four or five years. All but Ticino use majority-plurality rules	<i>Cantonal Parliament</i> Election by the people; most cantons use proportional rules. All cantons have just one chamber.	<i>Cantonal Court</i> Election by the cantonal government, parliament or electorate
Communes	<i>Communal Council</i> Election by the people, mostly between five and seven members	<i>Communal assembly or parliament</i> Small communes: no elected parliament but citizen assemblies, usually twice a year. Larger and most French-speaking communes: parliament elected by the people, usually using proportionality	<i>District Court</i> Election by the people of a number of communes forming a district or appointed by cantonal authorities.

^aConstitutionally speaking, the term 'half-canton' was abolished in 1999. However, since the differences in weight that come with it (one seat in the Council of States instead of two; only 0.5 votes instead of a full vote on popular initiatives and referendums on constitutional change) have not been altered, we have decided to retain the term

Box 2.5 Political Parties

The social cleavages and antagonistic political interests in the second half of the nineteenth century led to three main tendencies in Swiss political life: liberalism, conservatism and socialism. Coupled with the urban-rural and religious divide, these tendencies crystallised into the four governmental parties: Radicals (liberal, urban and largely Protestant), Christian-Democrats (conservative, rural and largely Catholic), Social-Democrats (socialist, urban and working class) and the Swiss People's Party (conservative, rural and historically Protestant). Federalism and proportional representation, however, have led to a highly fragmented multi-party system. Since there are no quotas, usually over ten different parties are represented in parliament.

A further distinction can be made between governmental and non-governmental parties. The development of political power-sharing in the twentieth century has led to a multi-party government. From 1959 to 2003, there was an informally fixed distribution of the seven executive seats among the four biggest parties (the 'magic formula') according to their electoral strength: two seats each for the Radicals, Christian-Democrats and Social Democrats, one for the Swiss People's Party (SVP). The rest of the parties occupied less than 20% of the electorate and did not form a coherent opposition. The SVP gained one seat in 2003 at the expense of the Christian-Democrats, was out of government in 2008, but returned to occupy one and then two seats in 2009 and 2016, respectively. So the new formula is two seats each for the Radicals, SVP and Social-Democrats, one for the Christian-Democrats (see also Chap. 5).

The federal elections of 2019 led to substantial changes in the party system: All four governmental parties lost part of their supporters, whereas Greens and Green-Liberals almost doubled their electorate. The worldwide campaign against climate change thus did not fail to have a great impact on Swiss voters. The majority of the Federal Assembly, however, refused to allocate the Greens a seat in the Federal Council. Without the Greens and with two clearly over-represented parties (Radicals and Social-Democrats), the arithmetic rule of proportional representation is violated. If the Greens can repeat their electoral success in 2023, adjustments of the 'magic formula' will have to be sought.

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Box 2.5 (continued)

The profiles of current governmental and non-governmental parties and their performance at the 2019 federal elections (National Council) are as follows:

- *Governmental parties*
 - Radical-(Liberal) Democrats (15.1% of the vote, 35% female MPs): regards itself the heir to nineteenth century liberal ideas; enjoys close relations with business and industry and is highly influential in economic matters. Represents independent professionals, entrepreneurs and the upper-middle class.
 - Christian-Democrats (11.4%; 28%): successor to the Catholic Conservative Movement. Still the preferred party of Catholics. With a bourgeois and a trade-union wing, it tries to integrate the opposing interests of entrepreneurs and employees.
 - Social-Democrats (16.8%; 64%): in former times periodically a Radical left movement. Today a moderate party standing for social, ecological and economic reforms. Enjoys close relations with trade unions. Most of its supporters live in urban, industrialised regions, but it draws on all social groups.
 - Swiss People's Party (25.6%; 25%): once a conservative party appealing mainly to farmers, craftsmen and independent professionals, it has more than doubled its electoral force over the last 30 years and become the biggest political party. Defending Swiss sovereignty and neutrality, it is today situated at the national-conservative right. The success of the People's Party was the result of several factors: absorbing smaller right-wing parties, strong mobilisation of anti-European and anti-immigration parts of the electorate, populist strategies, stronger professional organisation, charismatic and authoritative party leadership and substantial financial resources.
- *Non-governmental parties*
 - Greens (13.2; 61%): party of the ecology movement; has drawn from left parties as well as from new social movements.
 - Green-Liberals (7.8; 50%): split from the Green Party in 2007 to address centre-oriented ecologists, that is, voters

(continued)

Box 2.5 (continued)

- willing to better protect the environment but without too much government regulation.
- Bourgeois-Democratic Party (2.4%; 0%): split from the Swiss People's Party in 2008, moderate right-wing party.
 - Protestant Party (2.1%; 67%): counterpart to the Christian-Democrats, but without their electoral success.
 - Alternative left (1%; 50%): successor of former Radical left parties (mainly the Communist Party and progressive organisations) that have almost disappeared. Non-dogmatic, socialist, feminist and ecological.
 - Federal Democratic Union (1%; 0%): Radical-right, defends Christian values, Eurosceptic.
 - *Lega dei Ticinesi* (0.8%; 0%): regionalist-populist party in Canton Ticino, anti-immigration like the SVP but sometimes also left-oriented in welfare questions.

Fourth, nationalism, at the beginning, was a kind of abstract Utopia. What is called nationalism today in East-European countries, for instance, is an appeal to a common cultural heritage or ethnic group. In Switzerland, the reverse applied: the people of the cantons represented different languages, ethnic groups and religions and had to be convinced that they should form a common nation, which to them was artificial in every respect. Certainly the people of the cantons were known as 'the Swiss', but they really felt themselves to be from Zurich, Uri, Geneva or Ticino, with little in common with people of other cantons. Last but not least, some cantons had serious internal conflicts. In Basel, for instance, the city was unwilling to give up its political control over the surrounding regions. When a compromise failed to be reached, the city and countryside separated to form two independent half-cantons.⁴

⁴In 1830, the rural population around the city of Basel demanded proportional representation in the cantonal parliament, that is, a number of seats according to their demographic weight. After the city refused, a civil war broke out in which numerous people were wounded and killed. In 1833, the Swiss confederation approved the separation of Basel into two half-cantons, bringing the conflict to an end (e.g. Andrey 1983, 247ff.).

Thus, it was not easy to push the idea of a nation-state when political perspectives and horizons were shrinking rather than widening in many cantons. Instead of ‘coming together’ (Stepan 1999) to form a single nation-state, the cantons could have been stuck with their internal quarrels and vanish from the map of Europe.

So what *did* bring Switzerland together?

2.3.1 *Economy*

By the middle of the nineteenth century, early industrialisation had reached many cantons. New elites, whose status was based on industrial wealth and capital rather lineage and privilege, entered the public arena. The harnessing of power from rivers led to a pattern of decentralised industry, reaching far up into the Alpine valleys. The first railroad between Baden and Zurich opened in 1847, and from then on it became evident that the boundaries of cantonal markets were obstacles to growing industrial activities. The Federal Constitution of 1848 promised not only to remove these obstacles, but also to create a new, common economic market. It banned cantonal toll barriers and empowered the federal government to issue a Swiss currency as well as to introduce a federal postal service. Moreover, the Constitution aimed to promote ‘common wealth’ (*gemeinsame Wohlfahrt*), and it promised equal rights as well as freedom of residence in any canton to all those who became Swiss citizens. One historian went so far as to say that the economic necessity of creating a common market was more important than the political ideas of Swiss nationalism (Rappard 1912).

2.3.2 *Pressure from the Outside*

When the great powers, at the Vienna Congress of 1815, restored the patterns of Old Europe, Metternich and the delegates of the other countries were not unhappy about a neutral zone between Austria, Sardinia-Piedmont and France. The Swiss confederation thus gained further recognition of its political neutrality (Box 2.6), which the cantons had begun to observe as early as 1648. Between 1815 and 1848, however, the cantons learned that they were somewhat dependent on the good—or bad—will of their powerful neighbours. While the latter were far from thinking of annexing the cantons, this did not make them refrain from diplomatic intervention into Swiss affairs. This situation was exacerbated by some cantons seeking diplomatic help from outside, as did the members of the *Sonderbund* (see above).

Box 2.6 Neutrality: A Necessary Aid in Building up the Swiss Nation

Political neutrality has long been a traditional cornerstone of Swiss foreign policy. After a disastrous defeat in the battle at Marignano (near Milano) in 1515, the Swiss cantons slowly grew aware of the advantages of neutrality. In fact, this turned out to be the only way to maintain the integrity and independence of a confederation consisting of small cantons surrounded by larger and belligerent powers. Subsequently, the Swiss avoided becoming involved in conflicts between neighbouring states, especially during the 30 years of religious war in Europe which ended in 1648. It took a long time, however, for the unilateral declaration of neutrality to be recognised abroad. It thus did not prevent the Swiss cantons from being occupied by the French during the years 1798–1802. Things changed only after the Vienna Congress of 1815, when the European powers at last recognised the neutrality of the confederation, realising that it was in their own interest to use it to preserve the desired political equilibrium. After the creation of the federation in 1848, Switzerland became able to more efficiently defend its neutrality with its own armed forces. This was particularly important in the twentieth century, when Switzerland was one of the very few European nations not to be involved in either World War I or World War II (Riklin 2006).

Neutrality, historically, has had two main functions: internal integration and external independence. Integration through neutrality prevented the cantons of the old confederation from becoming divided by the conflicts of their neighbours and from being broken up into antagonistic religious and cultural camps. Later on, armed neutrality helped to preserve the independence of the Swiss federation.⁵

Today, the Swiss idea of neutrality is firmly based on the law of nations as formulated in the ‘Hague treaty on the rights and duties of neutral powers and persons’ of 1907. ‘Neutrality in the sense of

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⁵ Riklin (1991) adduces three additional functions: (a) the free trade function, (b) the function of maintaining a political equilibrium in Europe and (c) the function of offering ‘good offices’ in international relations. See also Kreis et al. (1992) and Goetschel (2007).

Box 2.6 (continued)

the law of nations' means nothing more than the neutral nation's non-participation in a war involving other nations. In fulfilling this, first, Swiss neutrality is permanent and defended by an army. Second, Switzerland pursues a policy of doing everything to ensure neutrality in a future war. But Switzerland's policy goes far beyond this. After World War II, its extensive interpretation of 'neutrality' even meant non-participation in the European Community, the United Nations and other multilateral organisations. The reason given for this was the wish not to participate in economic sanctions or peace-enforcing measures, considered a threat to Switzerland's neutrality.

After the end of the Cold War, the government's policy has changed. In the 1990s, it participated in peace-keeping missions of the EU, the OSCE and the UN in the Balkans. In 2002, Switzerland decided by a popular vote to become a member of the UN. Neutrality is no longer an obstacle for participation in economic sanctions or peace-keeping operations, if decided by a universal organisation such as the UN (Kux 1994; Gabriel 1995; Gabriel and Fischer 2003).

In the middle of the nineteenth century, the cantons witnessed important experiments in nation-building as when the small neighbouring kingdoms of Sardinia-Piedmont, Lombardy-Venetia, Baden, Wurttemberg and Bavaria became parts of Italy and Germany, respectively. What would be the future of the small cantons when their neighbours developed as members of larger and more powerful nation-states—each of them speaking one of the Swiss languages? In fact, the process of Swiss unification developed a strong momentum by assuring a better collective security for all the cantons, and precisely the *lack* of linguistic unity forced the elite to seek other means of imaginary togetherness (Zimmer 2003). Thus, the Swiss Constitution of 1848 speaks of federal responsibilities to guarantee the independence of the Swiss nation in 'unity, force and honour', as well as to uphold internal security and order.

2.3.3 *Democracy and Social Values*

Enthusiastic nineteenth century writers praised the Swiss for their 'innate taste for democracy'. The Swiss were certainly not the inventors of

democracy—such ideas were brought to Switzerland through the French Revolution—and while finding their modern form of democratic government, Swiss and US constitutionalists were mutually influenced.⁶ However, Switzerland did possess a cultural heritage which had prepared its people both to learn about democracy and to live with it: the *Landsgemeinden* (Meuwly 2018, 43). Also, the Swiss cantons had long been independent of both imperial and monarchical rule. While their old regimes were highly elitist, they were at least autochthonous (and, in French, ‘*plus paternalistes qu’autoritaires*’; *ibid.*, 24).

As small societies, the cantons were unable to develop complex regimes. Most lacked the resources to build up professional bureaucracies and to back the modern form of ‘rational power’ of the state. Especially in rural regions, public works—such as building roads or aqueducts in the Valais canton—were done on a community basis: every adult man was obliged to work for several days or weeks a year for the common good (Niederer 1965). In addition, many economic activities—farming in rural regions and crafts in the cities—were bound up in organisations which required collective decision-making. This, and the mutual dependence of people in small societies, promoted communalism. That was also reflected in the slogans used in the democratic revolutions in the cantons during the nineteenth century, when calls for the ‘sovereignty of the people’ became louder and louder (e.g. Meuwly 2018, ch. 5).

It is difficult to say whether Swiss democratisation came primarily from ‘above’ or ‘below’. Certainly the democratic revolutions, which began in 1831 and swept through many cantons, involved more than just the elites. In the small canton of Thurgau, which then had less than 80,000 inhabitants, more than 100 petitions with 3000 propositions for a new democratic constitution were collected and discussed in the communes (Soland 1980). Some scholars, however, affirm that democratisation did not eliminate the elites then in power, but simply redistributed the cards for a new game under the same rules. Democratic revolutions neither took away the inherited wealth from old patrician families, nor did they prevent the concentration of capital in the hands of a few (Masnata and Rubattel 1991).

⁶According to James H. Huston (1991), there were several periods of mutual influence. Especially important were three periods: (a) in the debate between American federalists and anti-federalists, the latter took the model of the old Swiss confederation as their reference; (b) the Swiss, in 1848, had the American Constitution very much in their minds when combining the principles of federalism and democracy; (c) towards the end of the nineteenth century, the institutions of Swiss direct democracy were taken as a point of reference.

Moreover, the rules of nineteenth century Swiss democracy were—by the standards of today—less than perfect: women were denied political rights, while some cantons established electoral rules that excluded poor or unmarried men from voting. Citizens elected their parliament but were denied the right to elect their government. Yet at the same time, political rights were gradually extended to allow the people a say over actual decisions of their parliament. This was the beginning of semi-direct democracy, which will be described in Chap. 4.

After 1831, the concept of democracy—implying equal voting rights—spread among all cantons and their different cultures. When it succeeded at cantonal level, the experience of democracy helped the process of unification: the sovereignty of the people was one of the few things that almost all the different cantons had in common, and what they wanted and agreed upon (see Box 2.7).

Box 2.7 Developing a Collective Identity

Successful nation-building needs cultural cement: the development of collective identity. Unlike nations such as France, Germany or Italy, Switzerland could not rely on one common culture, language or ethnicity, which were the prevailing bases of European nation-building in the nineteenth century. Therefore, it may have been difficult to find a common thread to bind together people from different cantons and thus identify themselves as ‘Swiss’. However, the development of patterns of collective identity relied on ‘civic’ elements such as national symbols, shared history, common myths and finally the new federal polity.

After 1848, one can observe a search for a shared identity, for a common denominator (Im Hof 1991). Historians offered an integrating view of the past. The many local battles in the old peasant cantons to defend their independence against invasions by the ‘Habsburg hordes’ became part of a glorious heritage that all Swiss could be proud of. Historians also told that the Swiss elites went back as far as 1291, when three local leaders swore an oath of political independence and mutual help. This act of will was especially emphasised and declared to have been the birth of Switzerland.

On 1 August 1891, the oath of 1291 was for the first time celebrated on a national basis. History was personalised so as to improve

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Box 2.7 (continued)

the opportunity for identification. Legendary and symbolic figures such as William Tell (a hero killing a foreign tyrant) and Helvetia (the mother of the nation) were omnipresent on postal stamps, popular pictures and hundreds of pub and inn signs. Today, historians give a much more sober account of Swiss history when trying to distinguish between the facts and the myths. Some claim that William Tell never existed, and that the events in 1291 are fiction. Even if that were true, from the point of national identification, this misses the point: symbolic figures and myths gave life to the idea of a common Swiss culture, and probably more so than actual events because they were independent of a particular social structure and allowed people with different backgrounds to identify with them.

The Alps were another element of national identification. The picture of a nation consisting mainly of farmers and shepherds living in isolated mountain chalets or small villages was drawn to distinguish Switzerland from other countries, although large parts of Switzerland had already been industrialised by the nineteenth century.

From the very beginning, therefore, Swiss identity relied not only on what its people shared with each other, but also on very Swiss specificities (Ruckstuhl 1991, 136; Demont-Heinrich 2005)—things that allowed the Swiss to feel different from their neighbours. Most important in this respect was the Swiss polity itself. Swiss direct democracy is different from other types of democracy, and it has also become the most precious element of its common culture. Moreover, the fact that all men are legally bound to serve in the army is not only a means of social integration. Until 1971, when voting was the privilege of male citizens only, the duty of serving in the army was considered to be correlative with having political rights—and was used as an argument against women's suffrage. The ideology of all male citizens defending their country, and identifying with this task, was said to be the 'cement' of Swiss society especially during World War II.

Today, many of these symbols, myths and glorifications of history have lost their persuasiveness. But politically Swiss citizens are still convinced that their direct democracy is unique, their federalism and the neutrality of the country useful. The Swiss are proud if their football team wins an important game and sway the national flag as do the citizens of all other countries.

2.3.4 *Combining Democracy with Federalism*

Democracy is founded on the principle of ‘one person, one vote’ and on the rule of the majority, which together make collective decisions binding for all. But is it defensible that a sizeable minority with different opinions and interests should have to comply with the decisions of the majority? One of the answers to this controversial question of political theory is that no majority decision is final. The minority should always have the right to propose a reconsideration of the decision taken, and if its arguments are convincing a new majority will be found for a revised decision. But while this may hold good for different opinions on common interests, it would not satisfy minority groups with religious beliefs or cultural values inherently different from those of the majority. French-speakers cannot become German-speakers and Catholics do not become Protestants because of democracy. If a society is deeply divided by such cultural or religious cleavages, democracy alone cannot help the problem of ‘frozen’ or ‘eternal’ minority or majority positions: the minority, which under pure ‘one citizen, one vote’ rules can never win, is likely to be frustrated and discriminated against. In turn, even for the eternal majority, who can afford not to learn, power can become pathological (Deutsch 1967, 214–43).

This was the exact problem when the Swiss cantons were ready to set up their central government. For good reasons, Catholic and non-German-speaking citizens and their cantons were fearful of being systematically overruled on questions of faith, language and culture more generally. Thus, if the popular desire for government *by* the people gave momentum to unification, democracy was at the same time disadvantageous to the prospects of the creation of a Swiss nation-state since it risked working only for *some* of them: the German-speaking Protestant majority.

Combining democracy with federalism provided the answer. Federalism allowed the sharing of power between one central government and the cantons. In all matters that were the responsibility of the cantons, different answers to the same question were possible—answers that corresponded to the preferences of different ethnic or religious groups, who although a minority nationally were majorities regionally. Thus, federalism permitted—and still permits—cultural differences to coexist alongside each other, and it protects minorities without infringing too much on the majority. As we shall see when discussing federalism in Chap. 3, the initial division of power between the federation and the cantons was very much in favour of the latter, providing for the utmost autonomy of cantons and

their cultural, social and political particularities. In 1848, this division of power in favour of the cantons also meant a concession to the Catholic conservative minority, military losers of the civil war, which gave the state-building project a better chance of succeeding in the forthcoming referendum on the new Constitution.

Next to regional autonomy or *self-rule*, federalism also allowed the cantons to become active participants in central government decision-making (*shared rule*). The Constitution provided for a system of parliamentary bicameralism similar to that of the US. Thus, the National Council represents the Swiss people but is complemented by the Council of States, where all cantons are equally represented regardless of their population size. Moreover, the cantons also matter when deciding on constitutional amendments, since the Swiss-wide popular majority in favour has to be accompanied by a majority of cantonal electorates (double majority). In both instances, therefore, the democratic principle of ‘one person, one vote’ is combined with, on equal terms, the federal principle of ‘one canton, one vote’. As we shall see in Chap. 3, this requirement for a cantonal majority has become very important.

2.4 RELIGIOUS AND ETHNIC MINORITIES: FROM COEXISTENCE TO PLURALISM

The Constitution of 1848 provided an institutional framework able to give unity to a diverse nation. It promised to peacefully resolve conflicts between minorities and majorities. A constitution, however, is only a legal document at first. Later it becomes a framework for political life, even if not political life itself. In this section, we turn from the framework to the picture and ask: how did formal political unity spur political integration and further develop the identity of Swiss society? Instead of treating this subject in a general form, we concentrate on the two minorities which were most important at the time, and for whom the success or failure of integration was crucial: Catholics and linguistic minorities.

2.4.1 *Political Catholicism: From Segmentation to Integration*

In the middle of the nineteenth century, the Catholic minority comprised about 40% of the Swiss population. The cantons more or less represented religiously uniform entities. In 1860, ten cantons had over 75% Protestants,

eleven rather smaller cantons had over 75% Catholics. Only four cantons (Geneva, Grisons, Aargau and St. Gall) had a more even distribution of religions. Despite the fact that Catholic-Conservatives eventually achieved a good constitutional compromise, history first led to the segregation of the Catholic minority rather than to their integration. Politically, they retired to the strongholds of ‘their’ cantons and let the Radical majority take the initiative in forging the national unity of the new federal state.

Catholic regions were mostly rural, cut off from the industrialisation that was the main concern of the political elites in their progressive Protestant counterparts. The First Vatican Council of the Catholic Church, held in Rome in 1871, was hostile to the modernisation of society and scientific progress, opposed the separation of religion and state, and tried to enforce the position of the Pope as the sole and binding authority in all aspects of life. Both factors led to isolation and segregation. Many Catholic cantons entrusted the Catholic Church with the task of public education or maintained segregated public primary and secondary schools. Even in a few mixed cantons, religious segregation in schools was continued well into the second half of the twentieth century. In Fribourg, a Catholic university was founded in 1889. A tight web of social organisations kept Catholics together and close to the church—both in their home cantons and in the diaspora regions where Catholics constituted a minority.

Catholics not only had their own political party, they also had their own trade unions, newspapers and bookshops. In mixed regions, they remained loyal to the Catholic butcher, pub, plumber and carpenter—even when the quality of a Protestant competitor was said to be better (Altermatt 1991, 147). This kind of segmentation also existed on the other side, but to a much lesser extent: Protestant Switzerland lacked both the political leadership of a confessional party and the moral pressure of a single church to integrate all social classes on a continuing basis.

No wonder that conflict over religious issues became acute, especially in the mixed cantons. Swiss history books speak of the ‘cultural struggle’ (*Kulturkampf*) because the issue went far beyond religion to embrace different views of the role and interplay of society and state. The first total revision of the Federal Constitution in 1873–1874 was influenced by this struggle, which reached its peak around 1870. The Constitution of 1874 aimed at a fully secularised state and eliminated most public functions of the church. Several articles of the Constitution confirmed the anti-clerical character of the federation and the isolation of Catholics. Examples are:

- The prohibition of Jesuit activities;
- The prohibition on founding and restoring monasteries;
- No creation of episcopates without the permission of the federation;
- Federal control of citizenship and protection of marriage by the state;
- Ban of clerical courts and jurisdictions;
- The obligations for the cantons to establish confessionally neutral schools under the direction of the state; and
- Full religious freedom without privileging any of the Christian confessions.

Insofar as these provisions were discriminating against Catholics, they have been eliminated from the Constitution in the second half of the twentieth century. Today, the regulation of the relationship between the church and the state is the sole responsibility of the cantons. These relations vary from canton to canton. Usually there is no complete separation of state and church: the Protestant, Roman-Catholic and the small Christ-Catholic Churches are acknowledged as public institutions, called *Landeskirchen*. Some cantons—for instance Zurich—have given a similar status to the Jewish communities, but not to the 20 times larger Muslim communities which have grown rapidly in the last few decades.

The historic cultural conflict between Catholics and Protestants has by now faded away. Many of the issues were settled by the establishment of a modern, liberal democracy, which reduced the direct influence of religious organisations on the state. However, the more than four generations during which federalism permitted ‘in-between’ solutions to these conflicts needs to be noted. Thus, cultural issues were less ‘settled’ than given time to cool down.

This cooling down and the decline of the confessional schism was helped by several factors. First, the separation of Catholic and Protestant societies was overcome by modernisation. Geographically, a strong and steady migration between Catholic and Protestant regions opened ‘ghetto-oriented minds’ to religious tolerance and cooperation. Migration led to desegregation, which in turn helped integration. The declining influence of religion on people’s lives opened the way to pragmatic solutions: smaller communities, instead of building two churches, constructed one that was used and maintained by both Catholics and Protestants. Marriage between Protestants and Catholics became common. Industrialisation and the modern economy did not distinguish between Catholic and Protestant money. Divisions disappeared as more and more Catholics gained equal access to those economic and social activities which had once been seen as

typically Protestant. Cultural and political Catholicism itself developed pluralist attitudes towards the state. At the beginning of the 1970s, the former Catholic Conservative Party accordingly renamed itself the Christian-Democratic Party. The new label suggested the promotion of more general values of Christian belief and culture and acceptance of the separation of state and religion. This was similar to the programmes of Christian-Democrats in Germany and Italy after the end of World War II.

This brings us to the second, more political factor. Federalism permitted Catholics to maintain the particularities of their culture in their 'own' cantons during the first decades of the nation-state. Later the devices of direct democracy permitted the Catholic minority to participate, with considerable success, in federal decision-making. Notably after the introduction of the facultative referendum in 1874, Catholic-Conservatives were able to successfully challenge proposals by the Radical-dominated parliament. Simple majority politics therefore became impossible—the Catholics had to be integrated through participation in the government. Moreover, in 1918 a coalition of Catholic-Conservatives and Social-Democrats succeeded in imposing proportionality rules for elections to the National Council. This meant the end of the absolute majority of the Radicals in the Swiss parliament, and for Catholics the beginning of power-sharing. Most astonishing: with class struggles growing in importance, the Catholic opponent of the nineteenth century even became the closest ally of the Radicals in the twentieth century!

Beyond participation in the Federal Council and key positions in the federal administration, power-sharing meant compromises on legislative issues between Radicals and Catholic-Conservatives. It thus brought political influence, recognition and success to the Catholic part of society—and that success is enduring. Although religious cleavages have largely disappeared, Christian-Democrats still constitute one of the four governmental parties. Economically, they have become advocates of business interests almost as much as their Radical partners in government, although they often defend social policies together with the left. Christian-Democrats, therefore, have become a pragmatic centrist party. Nevertheless, it should be noted that some crucial questions of the cultural schism—such as the prohibition of Jesuits, who in the nineteenth century were regarded by Protestants as advocates and conspiratorial actors of counter-reformation—were only resolved long after the practical relevance of the issue had disappeared. Questions regarding fundamental values and religious belief take time to be settled—or even a long period of voluntary non-decisions, thereby avoiding the re-awakening of old cultural conflicts.

2.4.2 *Multilingualism: Understandings and Misunderstandings*

Multilingualism constitutes a second instance of the historical integration of cultural minorities into Swiss society (McRae 1964; Windisch 1992; Du Bois 1999). Today, about 73% of Swiss citizens speak German, 21% French, 4% Italian and 0.6% Romansh, a minor language largely descending from Latin and spoken in a few Alpine regions in south-eastern Switzerland.⁷ The issue of multilingualism, however, differs in two ways from the subject previously discussed. Multilingualism—with the important exception of the Jura problem, discussed below—never became as crucial as the question of religious minorities. And, as we shall see, societal segmentation by language played, and still plays, a different role.

Let us first consider the institutional arrangements that protect linguistic minorities. Federalism, first, permits Romansh-, Italian- and French-speaking minorities to live their own culture within the boundaries of ‘their’ canton(s). Moreover, being a majority in their canton, they also have a political voice in the decision-making of the central government. The historical importance of this voice may be illustrated by the fact that until 1974, the members of the National Council were seated in linguistic blocs (BAR 2011, 2).

Second, there are statutory rights for linguistic minorities. Linguistic autonomy is guaranteed by the principle of ‘territoriality’: the cantons are not only authorised but even obliged to guarantee the traditional language(s) of their region. Hence, newcomers need to adjust to whatever language is spoken in a given territory, and no commune can be forced to change its official language. German, French, Italian and Romansh are all defined as national languages.⁸ Banknotes and the most important federal

⁷If the total population, including the 25% foreign nationals, is taken into consideration, the proportion of Italian-speakers increases, whereas the proportion of German-people decreases (see Box 2.1).

⁸In 1938, Romansh was added as the fourth national language of Switzerland. This was the result of a 1935 request by the executive of Canton Grisons, at the height of Italian fascism under Mussolini. The initiators understood the request ‘primarily as an aid to Romansh in its uphill struggle for survival against the inroads of modern communications and tourism’ (see McRae 1964, 9). With an amendment to the Constitution in 1996, Romansh also became official language for state authorities ‘when communicating with persons who speak Romansh’ (BV 1999, Art. 70.1).

Table 2.2 Proportional representation of linguistic groups

	<i>German</i>	<i>French</i>	<i>Italian</i>	<i>Romansh</i>
Swiss population (5.3 million)	72.1%	23.7%	6.2%	0.7%
Federal Council (7 members)	57.1%	28.6%	14.3%	0%
National Council (200 members)	73.0%	23.0%	4.0%	0.5%
Council of States (46 members)	73.9%	21.7%	4.3%	0%
Federal Supreme Court (38 members)	60.5%	31.6%	7.9%	0%
Expert committees (ca. 1900 members)	65.1%	25.5%	8.6%	0.8%
Federal Administration (ca. 38,000 employees/35,000 full time equivalents):				
– <i>All personnel</i>	70.8%	22.1%	6.6%	0.4%
– <i>Top management</i>	70.3%	24.0%	5.7%	0%

Sources: Own calculations based on Bundesamt für Statistik (BFS) (2019), Bundesrat (BR) (2016), Delegate for Plurilinguism (2019)

Note: Population data only for Swiss citizens who are 15 years and older (2017); data for the Federal Council and Parliament from August 2019; data for expert committees from 2016, data for the federal administration for 2018

government documents are worded in all four languages. Romansh is the main language of less than 50,000 inhabitants (BFS 2019). So, for practical reasons most legal texts are translated only into German, French and Italian.

Third, we find a strongly enforced proportional rule that leads to political quotas. An unwritten rule says that two of the seven members of the Federal Council should be of French- or Italian-speaking origin, and over time, this has been well observed (Giudici and Stojanovic 2016). In governmental expert and parliamentary committees, too, linguistic proportions are observed more than any other proportional rule. Complaints about ‘German predominance’—more common among French- than Italian-speakers—are not well founded when looking at federal personnel statistics: at all levels of government, proportionality is observed to a high degree.

However, in contrast to many other countries, Swiss quotas are not defined as hard legal rules. While some of them are written as general regulations in law, most are informal, that is they are obeyed as a political custom. This allows for flexibility under concrete circumstances. As can be seen from Table 2.2, general regulations and informal quota can have astonishing results for the fair representation of different cultural groups. This does not necessarily mean, however, that also proportional *influence* is guaranteed. Take for example the Federal Council with seven members,

of which currently two are French-speakers and one Italian-speaker. Here the proportional rule is well observed, even in favour of the minorities. However, the four German-speakers could easily overrule the others without even talking or listening to the French- and Italian-speakers. Moreover, the latter might be forced to learn German in order to understand what discussions are all about. Of course, minority representatives have the *formal* right to speak their language, but knowing that majority members might not understand them well it would probably be better to present a key argument in German. French- and Italian-speakers may also face a situation where the German-speaking majority, at the end of the formal session, begins to converse in their regional dialect(s): very different from standard or ‘high’ German and therefore barely understandable by French- and Italian-speakers. This worst case stands in sharp contrast to the best case, as when a polite German-speaking majority loves to speak French and makes French the official language of the discussions. Both of these cases happen in practice.

At the federal level, discussions in the National Council are simultaneously translated into all three (full) official languages. However, while the official record of Swiss laws and regulations is published in Italian, French and German, it happens that the documentation for parliamentarians is available only in one or two languages. The same is true of many government reports. Canada, for instance, goes much further, requiring every official document to be published in both English and French—probably because Canada has a more serious problem with its linguistic minority.

The Swiss are very conscious of the need for multilingualism: in schools, children are instructed in at least two languages. It is a myth, however, that these efforts lead to widespread bi- or trilingualism (Werlen 2008, 211f.). Most people rarely read newspapers or listen to news in a language other than their own, which means that they perceive politics by different media systems in the three linguistic regions. When face to face with a person speaking another language, it is normal, however, to try to communicate. Traditionally, German-speakers try to speak French to a *Romand*, even if their French is poor. Today young people, all of whom are taught English at school, are more and more using English as the *lingua franca* among themselves.

Multilingualism seems to offer advantages in internationalised business, too. The Swiss are actually rather proud of the multilingual aspect of their society and would find the question of whether German-, Italian-, French- or Romansh-speakers are ‘better’ Swiss people rather silly (cf. also Schmid

2001). Multilingualism requires public expenditure and fiscal redistribution in favour of minorities, both of which the Swiss have been willing to bear. There are four complete public radio and television networks, one for each linguistic group. The networks of the linguistic minorities get a more-than-proportional share of the national budget. For instance, in 2018 *Radio Télévision Suisse*, generating 23% of revenues, got 33% (SRG 2019, 41).

These notions about language can be extended to cultural life in general. Cultural specificities exist also in lifestyle (Windisch 1992). There is a popular saying that German-speakers live to work, whereas French- and Italian-speakers work to live. These and other differences are an enriching element of Swiss life. They may sometimes create difficulties in communicating, but they are accepted as part of normal life. Thus, cultural and linguistic segmentation has not disappeared, unlike differences of religion as we saw above. Linguistic diversity has been kept—or rather reproduced—within the protecting boundaries of the cantons and linguistic communities. Differences appear also in political behaviour, for instance with respect to federal votations. French-speakers favour a more open foreign policy, while on issues concerning the armed forces, they are more sceptical than German-speakers.

With one exception (the Jura case discussed below), cultural segmentation has not been a major political problem for Swiss society as a whole. The virtues of pluralism may lie partly in the fact that the different cultures are separated from each other by the political autonomy of their cantons. It may be true that globalisation makes many societal differences between the cantons diminish or even disappear, while those with some groups of foreigners become more salient. But still, federalism provides a kind of horizontal segmentation which allows the three main regions of German-, French- and Italian-speakers to live apart without bothering each other too much (Watts 1991; Schmid 2001; Windisch 1992).

2.4.3 *Jura: The Exception to Integration*

Compared to the many multicultural societies which struggle with their cleavages, one could ask why Swiss society has integrated so successfully. We have no reasons to believe that the Swiss are more peaceful by nature than other people, nor their elites brighter than elsewhere. However, comparative politics literature suggests that there are institutional factors which generally favour processes of multicultural integration, such as a

non-ethnic concept of the state, federalism, proportional representation and other mechanisms of political power-sharing. Pressure from the outside also helps fostering national unity provided it does not lead to armed intervention by a foreign power. All these factors were present in the Swiss case, and we shall come back to this in the conclusions to this chapter. Here, let us focus on one particular condition which can be decisive for the success or failure of political integration: cross-cuttingness.

Cleavages related to religion, language and the economy can be territorially overlapping or cross-cutting. When cleavages overlap, it means that a linguistic minority is also a religious minority and belongs to the poorer social strata of a society. If cleavages are cross-cutting, minorities are split into different groups. For instance, one part of the linguistic minority belongs to the religious majority, while another belongs to the religious minority. From a theoretical point of view, it is evident that in this case integration has better chances: a linguistic minority feels less discriminated against and may even be rewarded by integration if it is part of the religious majority. In situations of overlapping cleavages, however, the same group may suffer from multiple discrimination, which creates a much higher potential for grievances and ultimately political conflict (see also Steiner 1990).

The Swiss case is generally characterised by cross-cutting cleavages. Among French-speakers, for example, there are both Catholic and Protestant cantons. Among economically poorer cantons, there are both German- and French-speaking cantons. Thus, religious, linguistic and socio-economic cleavages do not coincide with the geographical boundaries of the cantons—instead, they cut across each other. The cumulation of different issues into one political conflict with just two sides—for instance, poor Catholic French-speakers versus rich Protestant German-speakers—could never develop. In practice, political majorities differ and vary from issue to issue. Most Swiss cultural groups have experience with being part of both a minority and a majority. This has been very important for the development of a culture of tolerance and pluralism.

There is an important case in modern Swiss history, however, where integration has somewhat failed. It concerns the Jura region, once the northern part of Switzerland's second largest canton, Bern. In a struggle of over 40 years which included riots and violence, the Jura minority, who felt discriminated against by Bern, fought for separation from the old canton. The creation of the new canton in 1978 will be described in Chap. 3, but the case is worth mentioning here precisely because of the factors of

integration discussed above. First, the Jura region contained a double minority: French-speakers practising Catholicism in a Protestant canton dominated by German-speakers (Fig. 2.2).

Moreover, there were socio-economic differences. The Jura region, located on the periphery of the canton along the border with France, claimed to be economically neglected. In the Jura region, therefore, we find the rare case of overlapping socio-economic, language and religious differences. This overlap, however, was not equal throughout the region. The southern part of Jura was economically better off and had a Protestant majority. Thus, the population of Jura itself was divided into pro- and anti-separatist movements. After a series of popular votations at different levels (see Sect. 3.3.5), the new canton of Jura was eventually created. But the southern districts had voted to stay with Bern and therefore the Jurassian people, because of its internal fragmentation, were not integrated into a single political unit.

Whereas the creation of Jura canton was widely praised as the solution that corresponded most to the principle of self-determination by the people concerned, some separatist groups claimed that the southern districts should be reunited with the Jura canton. In other words, the potential for ethnic conflict was not completely removed with the 1978 solution. Catholics and French-speakers in the southern districts still complain about being a minority, cut off from the political body to which they feel they belong. However, if the southern districts were to be integrated into Jura canton, there would be a new problem for the Protestant minority, which feels more akin to Bern. The lesson to be drawn is evident: the ideal of ethnic and political overlap, so common in many nationalist movements, is a pipe dream. In most cases, while it does eliminate some minority problems, it cannot be realised without the creation of new problems.

2.5 THE CHALLENGES OF SOCIO-ECONOMIC INEQUALITY

2.5.1 *A Working Class Without a Homeland*

Compared to other European countries, the industrialisation of Switzerland took place early, but it was somewhat different. Instead of concentrating in urban areas, important industries such as watchmaking, textiles and embroidery thrived in rural areas. This decentralised industrialisation prevented the sudden concentration of a mass proletariat in the cities. But, as in every capitalist country, industrialisation led to growing inequalities and

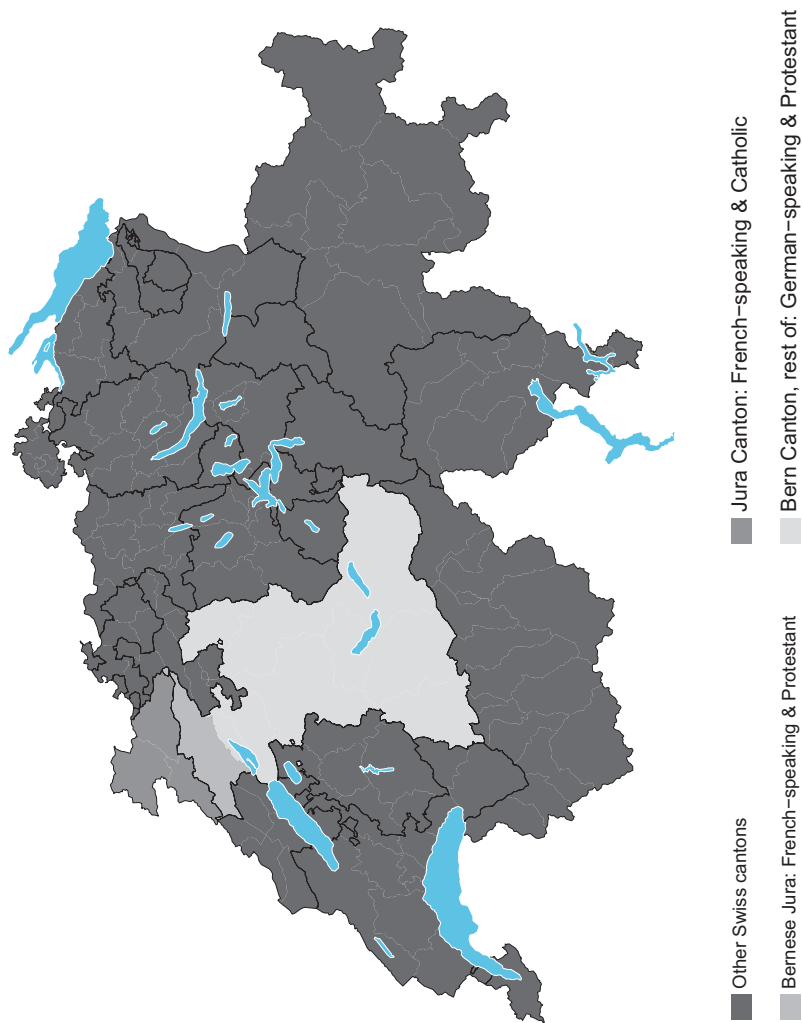


Fig. 2.2 Bern canton up to 1978 showing the former boundaries of the canton including that part of the Jura region which in 1978 became an independent canton

the impoverishment of a new social class of workers, whose jobs were insecure and whose earnings low. As in other countries, democracy prevented neither economic exploitation of workers nor inhuman working conditions (Gruner 1988). In the 1870s, the Radical politician Friedrich Bernet wrote: ‘The Swiss Constitution of 1848 has put much political and economic power into the hands of a few. This has allowed the rich to grow richer, whereas other groups such as farmers, craftsmen and industrial workers are downgraded to an indistinguishable proletariat’ (cit. in Gruner 1964).

At that time, neither a Socialist party nor a strong trade union for workers existed yet. Instead, it was a faction of the Radical Party which sought to defend the interests of the working class by a policy of ‘entrepreneur-socialism’. They were concerned about growing social inequalities, which in their eyes were unacceptable in a democracy worth that name. The faction was the driving force behind the first regulations to protect workers and ban the use of child labour. This policy was strongly opposed by the liberal wing which, in the fashion of ‘Manchester liberalism’, wanted to avoid any government intervention into the free market. This marks the emergence of two new economic questions slowly superseding the older cultural schisms in Swiss politics:

- To what extent should the government protect Swiss industries against international competition and intervene in the free market?
- What role should be given to the government in compensating growing social inequalities created by market competition?

Unlike in other countries, such as Austria and Norway, business itself was divided on the question of the free market. Whereas some export industries pushed for unconditional liberalisation, farmers wanted to be protected from international competitors through levying duties on foreign products. Small trades and crafts enterprises were organised into corporations and also sought protectionist state regulations for things that were beyond their own capacity to deal with. The first vocational schools, for instance, were run by trades and crafts corporations, but the state provided subsidies and declared professional schools mandatory for apprentices. This eliminated the problem of free riders—enterprises that abstained from investing in professional training, but which would hire employees from other enterprises that had invested in them.

Thus, from the very beginning Switzerland's economy tended to develop organised relations with the state. In a kind of highly fragmented corporatism, a great number of professional and business organisations cooperated with the state. They sought particular advantages through state regulations or subsidies, which eliminated the risks of free competition. In return, they offered to help in the implementation of government activities. Farmers' organisations, for instance, furnished the statistical data used in drafting agricultural policies, which helped to keep down the number of public administration staff. Despite their high praise of economic liberalism, and despite their tradition of anti-state ideology, organised professions and businesses have developed strong and influential relations with the national government which persist until today (Farago 1987; Church 2004, 71–81; Mach 2007).

In the race for the organisational build-up of economic interests, the workers were latecomers and did not organise until the end of the nineteenth century. They sure had a common interest to defend: the betterment of their economic conditions, promised also by the ideas of Socialism emerging in other European countries at that time. But in Switzerland, this common interest proved difficult to organise. Workers were spread all over the country and to a large degree isolated in smaller towns and villages. Here, the ties of traditional society and patterns of paternalism may have dampened the effects of economic inequality, but at the same time they hampered collective identity and the political organisation of the new working class. When the Social-Democratic Party was eventually founded in 1888 (Vatter 2018a, 107), it achieved rapid electoral success. Social-Democrats and trade unions were also among the first to use the new instrument of the popular initiative at the federal level. In 1894, they demanded the right to work and a programme of public industrial policy—40 years before Keynes. But the hope that direct democracy would be the lever of social reform was dashed. In a popular vote that year, the proposed constitutional amendment was rejected by over 80% of voters and all cantons (BK 2019).

Later, cultural ties often proved stronger than economic cleavages. The Catholic Conservative party, its social organisations and unions successfully united Catholic workers. Thus, the working class was divided. While this did not prevent the Social-Democrats from becoming one of the largest parties, they never managed to form a coalition of equal strength to the bourgeois forces. Neither did the trade unions succeed in influencing industrial politics as much as businesses. This minority position of labour

in politics and industrial relations has remained a Swiss characteristic (Farago 1987; Kriesi 1980). It differs from other small European countries, such as the Netherlands, Austria, Norway and Sweden, where more of an equilibrium between labour and capital, and between the political left and right, can be observed. Cultural segmentation and territorial decentralisation were key obstacles to the organisation of the left in Switzerland. Labour forces were never able to catch up with the organisational strength of businesses or even farmers.

2.5.2 *From Class Struggle to Economic Partnership*

In the first decades of the twentieth century, the conditions of the Swiss working class worsened. For the period before World War I, historians note the development of a conservative, nationalist, sometimes reactionary and anti-democratic political right which resorted to a ‘class struggle from above’ (Gruner 1988; Jost 1992). Politically marginalised by the cooperation of bourgeois forces, Social-Democrats and trade unions could not prevent the working class from bearing most of the burden of economic setbacks during and after World War I.

The worldwide economic crisis of the 1930s brought mass unemployment also to Switzerland. Several strikes by angry workers were suppressed by federal troops, more than once ending in bloodshed. The left was denied what Catholics (in 1891) and farmers (in 1929) had achieved: recognition, political influence and participation in the Federal Council. Principles of proportional rule and participation were used to integrate cultural minorities, but not to resolve the problems of a growing socio-economic cleavage.

On top of all that, the Socialist movement split. A communist faction claimed that bourgeois democracy was fake, an instrument of the capitalist class, and that the betterment of the working class could arrive only through political and economic revolution. In their view, only the politics of class struggle could overcome the market and profit systems and install the working class in power. Social-Democrats, on the other hand, insisted on proportional participation in all democratic institutions and trusted in limited reforms, even if the state remained in the hands of a bourgeois majority. They also aspired to a mixed economy, with a strong public sector and state intervention on behalf of social equality. This would not only improve the situation of workers, but also protect the Swiss economy from the deep, worldwide market crisis that then seemed inevitable.

For almost four decades, until World War II, the workers' movements, politically discriminated against and internally divided, hesitated between radicalising the class struggle and cooperating in the hope of achieving integration. In the end, outside events gave the latter strategy the upper hand. Faced with the threats of fascism from Hitler's Nazi Germany, the Social-Democrats gave up their opposition to militarise and supported the modernisation of the army. An important treaty between the employers' organisations and trade unions in the mechanical-engineering industry was signed in 1937: the so-called Labour Peace Convention (*Friedensabkommen*) accepted unions as representative organisations of the workers, proposed to resolve all conflicts by negotiation, and promised to end strikes and lockouts.

Economic and social inequalities—the predominant political issues in the twentieth century—thus finally began to be addressed through cooperation and integration. The Social-Democrats accordingly obtained their first seat in the Federal Council during World War II and were given adequate, that is, proportional, representation as of 1959.

The unifying experiences of the generation that defended Swiss independence and neutrality between 1939 and 1945 also had an effect. Ideological differences between the political left and right shrank. A large consensus amongst all political forces allowed the building up of a social security scheme, health care and insurance services, and a higher educational system, which reduced many areas of social and economic inequality. Economic growth led employers' and workers' organisations further towards cooperation and away from confrontation. Collective contracts, similar to the 1937 Labour Peace Convention, became the rule. Despite the fact that the labour force was less unionised than in other European countries, Swiss workers and employees obtained a fair share in the growth of prosperity (Linder 1983).

By the early 1970s, the highest degree of integration of different social classes in Switzerland had thus been reached. Employers and workers had gotten used to partnership, the left was integrated into the once purely bourgeois state. Political parties and economic organisations were able to reach consensus by compromise, power-sharing was effective. However, since then the social integration of Swiss society has somewhat declined. When economic growth turned into recession in 1974, the left learnt that proportional participation did not mean proportional influence. In 1984, a minority of the Social-Democrats even wanted to quit the Federal Council because political power-sharing was not shifting influence from the haves to the have-nots. Unions, which were willing to share the burden of recession

by accepting pay cuts, were losing members and political influence. In the last decades, while achieving less from employers by way of contracts, unions have thus tried to promote social policy by way of legislation instead. This led to a shift from a liberal to a post-liberal welfare regime, in which social partnership plays a somewhat lesser role (Trampusch 2010).

In the last decades finally, globalisation and Europe-wide liberalisation have led to new conflicts between capital and labour, and between urban and rural areas as well. Despite polarisation between the right and the left, political power-sharing has persisted thus far, but the partnership between employers and unions has become more difficult to maintain, as we shall see in Chap. 5.

2.6 PROPORTIONAL REPRESENTATION: THE UNIVERSAL KEY TO POWER-SHARING

In the preceding sections, we saw how linguistic and religious minorities became integrated, and then how conflicts arising from the social cleavages of modern industrial society were resolved. Conflict resolution in Switzerland relies very much on power-sharing rather than winner-take-all approaches. This section takes a closer look at the proportionality rule. It is a universal key to power-sharing in a double sense: it opens many doors to political participation for existing actors, and it can be used by new groups arising from new cleavages.

Let us first discuss the ‘doors to power’. The proportional rule today is the key that unlocks the door to almost all political institutions. As can be seen from Table 2.3, the proportional rule is used for different criteria—or groups—in the same body. In the ‘magic formula’ of the seven-member Federal Council, for example, party affiliation is not the only criterion of proportionality. As already mentioned, the Federal Assembly follows the rule of linguistic proportionality, normally granting French- and Italian-speakers two or even three seats. Until 1999, a provision in the Constitution stated that there could not be more than one representative from the same canton. This criterion has been abandoned in favour of a new rule stipulating an appropriate representation of the various language regions. Gender balance has not (yet) become a formal rule, but in 2010 briefly led to a female majority in the Federal Council. Not only candidates for the Federal Council, but also high officials of the federal government must fulfil one or more criteria of proportionality to be eligible for a position. There is some criticism that this system means that the ‘real’ job requirements are all too often neglected (Box 2.8).

Table 2.3 Use of the proportional rule: institutions and criteria

<i>Institution</i>	<i>Language</i>	<i>Party</i>	<i>Gender</i>
Federal Council	x	x	x
National Council	(x)	x	(x)
Council of States	x	x	(x)
Federal Supreme Court	x	x	x
Parliamentary committees	x	x	(x)
Expert committees	x	(x)	x
Nomination of high government officials	x	(x)	x

Note: x = criteria normally used, (x) = criteria sometimes important

Box 2.8 Proportionality in Practice

Proportionality does not mean quotas but is based on informal political claims, as the following illustrates:

When a French-speaking three-star general retires, the search for his replacement is practically limited to French-speakers. But what about a German-speaker who may be more qualified than the top French-speaking candidate? The former is indeed discriminated against on the basis of his language affiliation. This is the price that the Swiss are willing to pay for their system of power-sharing. This price, however, should not be exaggerated. In the foregoing example, the highly qualified German-speaker simply has to wait until a three-star general of his own language retires. Sometimes, of course, bad luck may strike; no opening may occur when someone is the “ideal” age for a particular position. For example, a German-speaking Free Democrat of Catholic faith, regarded as a top candidate, may never make it to the Federal Council, because during his prime political years, his particular combination of attributes may never be demanded. (Steiner 1990, 109)

There is flexibility in the system in that over- or under-representation is temporarily allowed but must be compensated over time. Moreover, we cannot speak of formal ‘group rights’ because in most cases these are mere political claims which cannot be enforced by law (but are respected in most cases, though). The great majority of Swiss are opposed to rigid legal quota but like the idea that all groups of society should be fairly

represented in public bodies. Proportionality, therefore, is a political rather than a legal practice.

Finally, this element of political culture applies even beyond politics and positions in government. It is practised in many cultural organisations and even in sport. This is true at least for the linguistic proportional rule. It would be unimaginable, for instance, that the executive committee of the Swiss Football Association would consist of German-speakers only.

2.7 THE LIMITS OF SWISS PLURALISM: NEW CHALLENGES FOR INTEGRATION

We may speak of true political pluralism if no societal group is discriminated against and if every group has a fair chance of exercising influence through political institutions. This requires a state that refrains from privileging or discriminating specific groups and whose laws enforce values common to all: human rights, basic rights and democracy, with all its implications of equality. Switzerland's multicultural society, thanks to the way it has been integrated, has achieved a remarkable standard of political pluralism. Peaceful conflict resolution through power-sharing is not only a pattern of political but also of social life.

There are limits, however, to peace and pluralism in Swiss society. In sharp contrast to the mutual respect among the larger groups, there has at times been heavy discrimination against smaller religious and ethnic groups. Children of gypsies, a group at odds with the rather rigid Swiss sense of order, have been taken away from their parents and raised in 'proper' homes. During World War II, Jewish refugees were sent back over the German border in order to avoid additional difficulties with the Nazi regime. For a long time, the rights of patients in psychiatric clinics and of sentenced and remanded prisoners did not meet the standards of other European countries (Kaufmann 1965, 245–62). During the Cold War and after, the federal intelligence service not only spied on extreme left-wing militants, but also on approximately 100,000 citizens who had done nothing more than support unorthodox political opinions or actions.

Another problem is gender. For a long time, Swiss women had to live in a society which only reluctantly began to abandon traditional male-female roles. Until 1971, Switzerland was a comparatively incomplete democracy because it denied women the right to vote, let alone be given a political mandate. As we shall see in Chap. 3, federalism and direct democracy made introducing female suffrage a difficult task. When in

1981 a constitutional amendment introduced legal, social and economic equality for women, the Swiss became aware that despite political pluralism, much discrimination persisted. Since then, legal discrimination against women—in the areas of family law and social security for instance—has been eliminated from all legislation. Today, the representation of women in the parliaments of the cantons and the federation is on par with that of neighbouring countries. In the last decade the proportion of gainfully employed women has increased more than in most highly industrialised countries.

On the other hand, women in Switzerland still mostly work in less qualified, worse paid jobs, are sometimes far from getting equal pay and are underrepresented in the higher ranks of management or universities. Whereas highly industrialised countries such as the US and Sweden have practised policies of affirmative action or equal pay for decades, Switzerland had to catch up in many fields of equal opportunity for women (EKF 1980–1999; Ballmer-Cao 2000; Ballmer-Cao and Trembley 2008; Senti 1995).

Finally, there is the question of foreign residents. Ever since the 1960s, the rapidly growing economy needed additional labour. Workers from Italy, Germany, France and Austria, and later from Spain, Portugal, former Yugoslavia and Turkey, found jobs in Switzerland. In 2015, the number of foreigners surpassed 2 million for the first time, and in 2019 stood at 2.1 million. That is 25% of the total population. A great part of them work in jobs that the Swiss avoid if they can. They pay taxes and contribute to all social security systems, but they generally have no political rights.⁹ Obtaining Swiss citizenship is difficult; a demand can only be placed after at least ten years of residence and the commune of residence decides, either through an expert committee or a citizen vote or both (e.g. Hainmueller and Hangartner 2013; Hainmueller et al. 2019).

While Swiss enterprises actively seek foreign workers, Switzerland has become an attractor to refugees and migrants from Third World countries (Table 2.4, Fig. 2.3). The social integration of this growing and heterogeneous foreign population sometimes challenges the capacities of political

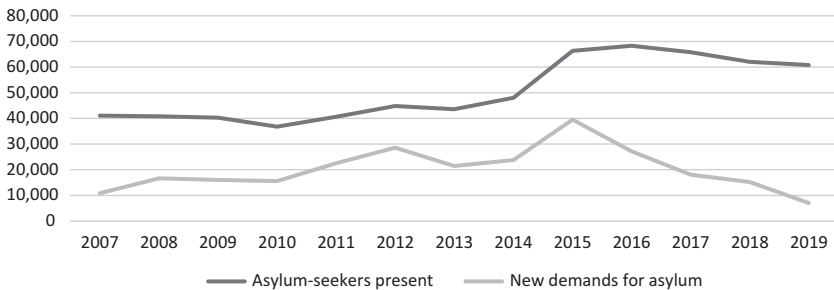
⁹The exception are the French speaking cantons of Jura, Vaud, Neuchatel and Fribourg—as well as some municipalities in Appenzell Outer-Rhodes and Grisons—which grant full political rights to foreign residents in communal affairs. See <https://www.ekm.admin.ch/ekm/de/home/staatsbuergerschaft-citoyennete/Citoy/buergerrechte/panorama.html> [1.10.2019].

Table 2.4 Foreign permanent resident population by citizenship, end of 2017

<i>Citizenship/Origin</i>	<i>1000s</i>	<i>Share</i>
Italy	317	15%
Ex-Yugoslavia ^a	312	15%
Germany	305	14%
Portugal	267	13%
France	131	6%
Spain	83	4%
Turkey	68	3%
Austria	42	2%
United Kingdom	41	2%
Other European countries	206	10%
Asia	160	8%
Africa	107	5%
Latin America and Caribbean	54	3%
North America	26	1%
Oceania	4	0%
Stateless/not attributable/no indication	2	0%
Total	2126	100%

^aBosnia and Herzegovina, Croatia, Kosovo, Montenegro, North Macedonia, Serbia, and Slovenia

Source: BFS (2019)

**Fig. 2.3** Asylum seekers in Switzerland, 2007–2019. (Source: SEM (2019))

authorities, schools and some parts of society. Severe political tensions have arisen. Xenophobic parties developed and brought pressure on the political authorities to restrict immigration and avoid the ‘over-alienation’ (*Überfremdung*) of Swiss society. Foreign workers, asylum seekers and immigration remain highly controversial issues.

To integrate foreigners in the same way as the native minority groups in the past will be much more difficult for Swiss society. Contrary to the past, it will also mean the integration of non-European cultural patterns, values, religious beliefs and mentalities, which is a new challenge. With over 25%, Switzerland has the highest proportion of foreigners of all European countries except Luxembourg. In many jobs, Swiss workers are a minority, as are Swiss children in school classes where teachers have to handle up to ten languages spoken by immigrant pupils. For a long time, immigration policy followed the interest of industries which needed additional workforce with low qualifications but systematically underestimated the cost of social integration of new immigrant groups. In addition, competition between domestic and foreign workforce creates social tensions when jobs are cut. No wonder that immigration policy has become one of the most controversial issues.

2.8 CONCLUSION

Until the middle of the nineteenth century, Switzerland was neither a unified society nor a state. It was composed of several small societies with differing traditions, languages and religions that had become too limited to survive independently. In a bottom-up process, the cantonal peoples founded a united nation-state. It was based on a common Constitution, but not on a common language or religion. It was artificial, a product of historical circumstances, and could easily have failed. It lacked a coherent society. Surrounded by much more powerful and unified neighbours, the Swiss nation-state could still have been too small to survive. It could have been divided up and thus have fallen apart.

Yet, thanks to its political institutions and several felicitous circumstances, Switzerland became a nation willing to survive and found its own identity as a modern society. The case of Switzerland is thus an example of the successful integration of different cultures and of dealing with social inequalities. In this long-time process of societal integration, at least four political institutions or ideas played a key role:

- *A non-ethnic concept of the nation-state:* The most important factor behind Switzerland's success may be that it never had the choice of building a state based on one religion, one culture or one language. Forming a nation-state on that basis would not have resolved existing minority problems, or only at great social cost. Whether in

attaching smaller units to a larger one or dividing up a larger unit into smaller ones, eliminating one minority problem merely creates others. In having no choice other than for all minorities to live together, Switzerland avoided becoming a mono-cultural nation-state. Instead, the non-ethnic concept of the state allowed the different peoples of the cantons to recognise each other as having equal rights, regardless of differences in religion, language or cultural heritage. Switzerland is a political nation, held together by the political will to live under the same Constitution.

- *Federalism*: Regional self- and shared rule were essential for the bottom-up process of nation-building. They allowed for a compromise between the opponents and the advocates of a strong central state. Up to these days, federalism provides utmost autonomy to the cantons and their different cultures whilst also securing national unity.
- *Proportionality*: Proportional representation was, step by step, introduced in all institutions of the central state. It encompasses parliament and its committees, the government, the courts, and expert committee as well as the federal administration. Proportional representation is applied not only for party affiliation but also for language, and belatedly also for gender, thus giving different societal groups adequate recognition and voice.
- *Political power-sharing*: Swiss democracy developed differently from the majoritarian or Westminster model of parliamentary government. Instead of competition between government and opposition, where ‘the winner takes all’ for at least four years, we find an oversized government coalition. Instead of majority or sometimes even plurality politics, decision-making in Swiss politics is characterised by negotiation, consensus-seeking and compromise. The development, characteristics and functioning of this ‘power-sharing democracy’ will be explained in-depth in Chap. 5. The essential point here is this: political power-sharing has facilitated peaceful conflict-resolution among culturally different groups. In contrast to competitive democracy, power-sharing has avoided the alienation of minorities arising from a perpetually winning majority.

Looking at the process of national integration, we note that the effect of political institutions is neither immediate nor perfect. It took time to overcome the deep conflicts between Catholics and Protestants, or between capital and labour. And while the religious and linguistic

cleavages have cooled out, others like the economic cleavage might catch fire again if the market economy exacerbates risks and inequalities. Moreover, while integration was successful for the main linguistic and religious groups of civil society, some small minorities were discriminated against. Women also received their political rights much later than in other countries. And immigration is the new, big challenge for integration. Immigration has become a controversial and important political issue precisely because it has created problems of integration that cannot be solved by the political mechanisms described above.

Finally, there are external factors that helped create and maintain national unity. Pressure from the outside was one of the basic motivations for the creation of the federation in 1848: the Swiss cantons, surrounded by much bigger nation-states, wanted to keep their autonomy and independence. Pressure from the outside has been relevant ever since, but never materialised in armed intervention. Armed neutrality has allowed Switzerland to stay out of the belligerent conflicts between Germany and France in 1871 and both World Wars. With the end of the Cold War in 1989 and the Eastward expansion of North Atlantic Treaty Organisation (NATO), armed neutrality lost much of its practical importance in foreign policy, yet it still is a commonly shared value of all Swiss. Most citizens feel that the government of a small state should not expose itself in international conflicts.

Yet when it comes to current challenges, the Swiss seem less united. On the question of European integration, they are divided between (an albeit dwindling number of) protagonists of membership and those who prefer bilateral treaties with the EU. Globalisation has led to new social tensions between winners and losers, and heavy immigration is sometimes followed by problems of integration. In times of pressure from the outside, as during the financial and economic crisis of 2008/2009 when the Swiss government was forced to renounce on the traditional ‘banking secrecy’ and to adapt OECD standards for cooperation in fiscal affairs, the Swiss are still undecided on their future identity.

This is different from the past, when pressure from the outside—for example Mussolini’s irredentism towards Ticino—was a constant factor that brought the Swiss together in the idea of protecting and maintaining their national unity and independence. In the end, however, this past is still present. To this day, the Swiss are constitutional patriots and feel as a ‘nation of political will’, and as ‘being different from others’. While lacking a common language or religion, and despite conflict, the Swiss are

proud of what they all share as citizens: their political architecture and the civic rights that come with it. The three most important elements of that architecture—federalism, direct democracy and power-sharing—will be described in the following chapters.

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Federalism

3.1 INSTITUTIONS

3.1.1 *The Swiss Interpretation of Federalism*

Until the time of the French Revolution, Switzerland was not a nation, but an ensemble of cantons bound together by several treaties. In modern terms, we could define this as a system of small, independent states united by an international treaty. Since all the cantons claimed to be autonomous or sovereign states, common decisions in this loose confederation had to be unanimous. All the decisions proposed by the assembly of cantonal delegates, the *Tagsatzung*, had to be ratified by all the cantons. After the civil war of 1847, the question was how to create a single political unit out of this multi-state system in order to guarantee political autonomy whilst Switzerland's neighbours were forming modern nation-states and to provide a common market for its growing industry.

An obvious answer could have been to fuse the cantons into a single, larger territorial state just like European monarchies—such as Italy and Germany—had in the mid-nineteenth century. This solution, however, was impossible for two reasons. First, the Swiss people had already experienced a unitary state between 1798 and 1803, when all power was in the hands of a central government. This model, imposed by revolutionary France, was at odds with the tradition of the Swiss people who were—and mostly still are—rooted in their cantons. The idea of such a system was therefore not feasible—it was inconceivable that the Swiss people, who

had successfully re-decentralised in 1803, would (re)establish a unitary system 50 years later of their own free will.

The second reason why that solution would have been impossible to achieve is even more important. As described in Chap. 2, the creation of a common government for Switzerland was highly controversial. Fought out between Conservative Catholic and Radical Protestant cantons, the latter's struggle for political unification succeeded only after the short civil war of 1847. A peaceful solution for successful nation-building, however, had to take into account the interests of the defeated Catholic minority (Bonjour 1948, Ch. 7; Kästli 1998, 23–176).

Thus, the creation of the Swiss state was destined to follow a middle path between the unsatisfactory status quo of a loose confederation and a unitary state desired by nobody. It was also an institutional compromise between Conservatives, who were hostile to centralisation, and Radicals, who favoured a federal government strong enough to take the necessary decisions in the common interest (Ernst et al. 1998). The Constitution of 1848 proposed the creation of a central authority by the cantons, who were to renounce part of their sovereignty as individual states. Nowadays, we would probably not accept the logic of such a divided sovereignty—logically there cannot be two supreme powers. Politically, however, it was the common understanding of the fathers of the Federal Constitution that the cantons had not lost their sovereignty, but merely part of their responsibilities. Crucially, they retained a substantial degree of autonomy as well as a say over future divisions of power between the federation and the cantons. This solution rested on three factors:

1. The Swiss people had already experienced a federal system, when in 1803 the Mediation Act imposed by Napoleon restored cantonal powers to the former unitary Helvetic state.
2. Between 1831 and 1848, some of the cantons had not only established revolutionary forms of direct and representative democracy, but also developed and realised the idea of 'constitutionalism' (Kölz 1992, 301–540). This meant the establishment of a basic political order voted by the people, granting limitations and separation of legislative, executive and judicial powers, personal rights and freedoms, and procedures for amending the Constitution. Cantons also kept their own constitutions, which form the basis of their political autonomy and statehood.
3. The American Constitution successfully combined federalism with democracy, a crucial issue at the time. Doing so required an ade-

quate reconciliation of two different, even contradictory, principles of decision-making: democracy follows the idea of ‘one person, one vote’ whereas federalism seeks to grant equal influence to member states regardless of population size.

After the victory of the advocates of a Swiss federation in the civil war, the drafting of the Federal Constitution in 1848 and its ratification by a majority of people and cantons were achieved within a few months. Thus, Switzerland became not only the first continuously functioning democracy, but also the first modern federation in Europe.

Since 1848, the Swiss federal system has consisted of three levels: federation, cantons and communes. Each of them has a certain degree of autonomy, legal powers and responsibilities, the right to levy their own taxes, and the cantons have their own constitutions. Under the terms of the Federal Constitution, communes, cantons and the federation cooperate with each other. All are bound to guarantee the democratic election of their authorities and decision-making. Furthermore, they must respect the principle of separation of legislative, executive and judicial powers. Until today, the Swiss are citizens of their commune, their canton and the federation—in this order. They elect authorities and vote on policies at all three levels, exercising their rights and fulfilling their duties based on federal, cantonal and communal law (Aubert 1967, 510–894; Aubert and Mahon 2003, 379–455; Vatter 2018, ch. 4).

3.1.2 The Division of Powers Between the Federation and the Cantons

The cultural diversity of the Swiss cantons, their political power and their claims for autonomy set narrow limits to central authority. In 1848, the powers of the federation were limited to a few essential areas (Dardanelli and Mueller 2019). Its most important tasks were to handle foreign relations and protect Swiss independence by maintaining an army and to ensure peaceful relations among the cantons. Moreover, the federation was authorised to mount a federal postal service, provide a common currency and abolish cantonal customs duties. Looking at the current distribution of responsibilities between the federation, the cantons and the communes in Box 3.1, we find that the responsibilities of the central government have considerably increased with the passage of time. Nevertheless, Switzerland remains one of the most non-centralised states worldwide.

Box 3.1 The Main Powers of the Federation, the Cantons and the Communes

A. *Division of powers between federation and cantons*

	<i>Exclusive legislative power with federation</i>	<i>Legislation by federation, implementation by cantons</i>	<i>Legislation shared by federation and cantons</i>	<i>Exclusive legislative power with cantons</i>
Foreign affairs	X			
Defence	X			
Police				X
Civil and criminal law		X		
Tariffs, currency and monetary system	X			
Trade, industry and employment			X	
Agriculture			X	
Roads			X	
Railways, aviation and nuclear energy	X			
Postal services, communications and media	X			
Utilisation of hydropower			X	
Basic education				X
Professional training		X		
Research and universities			X	
Social security and health			X	
Environmental protection		X		
Churches				X

(continued)

Box 3.1 (continued)*B. Responsibilities of the communes*

- Construction and maintenance of local roads
- Local public transport systems
- Gas, electricity, water supply and waste services
- Local land-use planning, construction permits
- Choice and employment of primary school teachers, building of schools
- Culture, theatres, sports facilities
- Budget responsibility, imposition of taxes
- Naturalisation of foreign residents
- Old age homes and mobile care services

Note that local government powers are determined by cantonal law, with wide variations from West to East as to how much they can actually do (Mueller 2015). The selection here comprises typical and most widespread functions.

3.1.3 Non-centralisation—Not Decentralisation

Even at an abstract constitutional level, the distribution of powers between central government and cantons can never be defined once and for all. A federal state must provide rules on how to deal with changes in the distribution of central and non-central power, and it must decide whom to entrust with new responsibilities that arise because of changes in the economy and society.

The question of what rules apply to the allocation of future responsibilities between central government and member states is crucial for federal systems because it implies shifts in power. In Switzerland, as in other federal states, centralisation or decentralisation is a constant political issue that prompts ideological, social, cultural and economic conflict. Centralisation is often urged by protagonists of a strong state, economic intervention, modernisation and extensive social programmes. Decentralisation, on the other hand, is preferred by interests which fear big government, by protagonists of decentralised autonomy or a ‘minimal

state', and by some minorities. In the nineteenth century, the principle of the division of powers among the three political levels prevailed. Since then, relations between the different levels have become far more complex. In most policy areas, we find some form of cooperation between the federation, the cantons and the communes.

The Swiss solution exhibits a marked preference for extensive cantonal and local autonomy, thus preventing any uncontrolled growth in the power of the federation. The Constitution in Article 3 says that all (future) powers belong to the cantons, unless the Swiss people and the cantons decide, by constitutional amendment, that they shall be attributed to the federation. Here we find similarities to the US Constitution, which says, in its 10th amendment, that all powers not delegated to the United States by the Constitution, nor prohibited by the Constitution to the states, are reserved to the states respectively, or to the people. Both federations, therefore, share the same idea: any major centralisation of power must take place via constitutional amendment, whereas in unitary systems, for example those of France and Britain, a simple governmental decision can create or eliminate local powers and even authorities. Thus, the US and Switzerland share a common institutional arrangement: federalism as a system of non-centralisation rather than decentralisation.

Note, however, that the same institutional arrangement is interpreted in fundamentally different ways. In the US, the 10th amendment proved to be a difficult way to shift powers from the states to the central government. Thus, US authorities developed the practice of 'implied powers' or the 'interstate clause', which allowed the federal government to assume new powers by mere interpretation of the existing Constitution. A strong Supreme Court assisted in this.

Not so in Switzerland. From the very beginning, the Swiss parliament has been reluctant to provide the federation with new powers and interpreted Article 3 of the Constitution in a strict sense. Not only the establishment of a national bank, any form of federal taxes, the creation of a social security system, the construction of federal highways, subsidies to the cantonal universities and the introduction of environmental policies, but also 'small' issues like subsidies for hiking trails all needed formal constitutional amendments and ratification. This is one of the reasons why in Switzerland constitutional amendments are proposed practically every year, while in the US they are rare events (Linder 1999). Switzerland also has a comparatively weak Supreme Court, which cannot review Federal Acts as to their constitutionality.

Every proposal to bestow new powers upon the federation needs not only a majority in both chambers of parliament, but also a majority of cantons and of the people in a popular vote. Many proposed amendments failed several times before being accepted. The requirement has had a braking effect on centralisation and partly explains why many controversial policies—like the introduction of a national pension system—took a long time to be realised. Another consequence is that central government expenditure is far lower in Switzerland than in other countries (Table 3.1).

3.1.4 *Relations Between the Federation and the Cantons*

Although the role of the federation is in many ways restricted, within the bounds of its authority it exercises substantial legal control over the cantons and communes (cf. also Linder and Vatter 2001). The juridical foundation of this control is an important rule: federal law is superior to cantonal law. Key issues of federal control are the following:

- Cantonal political institutions have to be ‘democratic’, meaning in accordance with the principal rules governing the separation of legislative, executive and judicial powers. The Federal Assembly, by

Table 3.1 Central government tax and expenditure share, 2017

	<i>Taxes^a</i>	<i>Expenditure^b</i>
Federal states		
Switzerland	60	43
USA	68	51
Germany	67	60
Unitary states		
Denmark	73	36
France	86	81
Netherlands	96	69

Notes: ^aCentral government tax revenue as % of total general government tax revenue; ^bCentral government expenditure as % of total general government expenditure. Source: Organisation for Economic Co-operation and Development (OECD) Fiscal Decentralisation Database, at <https://www.oecd.org/tax/federalism/fiscal-decentralisation-database.htm> [8April 2020]

approving amendments to cantonal constitutions, ensures adherence to this standard.

- Cantons must grant their inhabitants all the rights provided for in the Federal Constitution. For example, they must guarantee basic human and civil rights, equal protection by the law, and due process. These rights can be claimed by everyone through different legal channels and brought before the Federal Supreme Court.
- Cantons are bound to respect and implement federal law. However, the principle that ‘federal law breaks cantonal law’ does not mean that ‘federal policy breaks cantonal policy’. The actual implementation of federal law through the cantons depends heavily on their political will (see Sect. 2.3).

3.2 FEDERAL ELEMENTS IN THE DECISION-MAKING PROCESS

3.2.1 *Bicameralism*

The Swiss parliament consists of two chambers, the National Council and the Council of States. They reflect different ideas of representation.

The *National Council* represents the Swiss people. Its 200 members are elected on the democratic principle of ‘one person, one vote’. Thus, the 200 seats are divided among the cantons according to their population size. The fact that the National Council is elected in 26 electoral districts corresponding to the 26 cantons has two consequences. First, the choice given to the electorate differs between small and large cantons. Citizens in the canton of Zurich can elect 35 MPs, since its population of 1.5 million represents about 18% of the total population, whereas citizens in Uri (36,000 inhabitants) can choose only one person. Second, the different size of cantons as constituencies is a relevant factor to the proportional mode of election. The proportionality rule, which replaced the winner-take-all majority system in 1918, should give smaller parties a better chance of winning seats. This objective is fully realised in large cantons such as Zurich, where a small party can win one of the 35 seats with less than 3% of the votes. But in a small canton with, say, two seats, the same party would need 34% of votes to be sure of winning a seat. For this reason, the effects of proportional representation are weakened in small cantons, where small parties risk being left with nothing. Overall, the

proportional rule favours the larger, historical parties, while it leaves small parties underrepresented (Table 3.2).

The *Council of States*, following the federal principle of equal representation of cantons, is composed of two members from every full canton, and one member from each half-canton. The election of the Council of States differs in two ways from that of the National Council. First, the cantons themselves determine the mode of election for their representatives. Before direct election by the people became the rule in the 1970s, many cantons allowed their parliaments to choose their councillors.

Second, the members of almost all cantons are elected by majority/plurality rule. This means that a candidate must gain at least 50% of votes

Table 3.2 Composition of National Council and Council of States, 1999 and 2019

<i>Party</i>	<i>National Council</i>					<i>Council of States</i>				
	1999		2019			1999		2019		
	<i>votes (%)</i>	<i>seats (N)</i>	<i>seats (%)</i>	<i>votes (%)</i>	<i>seats (N)</i>	<i>seats (%)</i>	<i>seats (N)</i>	<i>seats (%)</i>	<i>seats (N)</i>	<i>seats (%)</i>
SVP	22.5	44	22.0	25.6	53	26.5	7	15.2	6	13.0
SP	22.5	51	25.5	16.8	39	19.5	6	13.0	9	19.6
FDP	19.9	43	21.5	15.1	29	14.5	17	37.0	12	26.1
CVP	15.9	35	17.5	11.4	25	12.5	15	32.6	13	28.3
Greens	5.3	9	4.5	13.2	28	14.0	0	0	5	10.9
GLP ^a	–	–	–	7.8	16	8.0	–	–	0	0.0
BDP ^b	–	–	–	2.4	3	1.5	–	–	0	0.0
LPS ^c	2.3	6	3.0	–	–	–	0	0	–	–
LdU	0.7	1	0.5	–	–	–	0	0	–	–
EVP	1.8	3	1.5	2.1	3	1.5	0	0	0	0.0
CSP	0.4	1	0.5	0.3	0	0.0	0	0	0	0.0
PdA/ Sol.	1.5	3	1.5	1	2	1.0	0	0	0	0.0
EDU	1.3	1	0.5	1	1	0.5	0	0	0	0.0
SD	1.8	1	0.5	0.1	0	0.0	0	0	0	0.0
Lega	0.9	2	1.0	0.8	1	0.5	0	0	0	0.0
Other	3.2	0	0.0	2.4	0	0.0	1	2.2	1	2.2
<i>Total</i>	<i>100</i>	<i>200</i>	<i>100</i>	<i>100</i>	<i>200</i>	<i>100</i>	<i>46</i>	<i>100</i>	<i>46</i>	<i>100</i>
<i>ENPV/S</i>	<i>5.8</i>	<i>5.2</i>		<i>6.5</i>	<i>5.8</i>		<i>3.5</i>		<i>4.6</i>	

Note: ^asplit from Greens in 2007; ^bsplit from SVP in 2008; ^cmerged with FDP in 2009. ENPV/S = Effective number of parties in terms of votes or seats. Source: BFS (2020)

to be elected, while in the second round a plurality suffices. This is again difficult for a candidate of a small party, even if she has a strong personality. On the other hand, if a party enjoys the support of a good 50% of the electorate, it can secure both seats, as was the case in small, rural Catholic cantons that were strongholds of the Conservatives (today the Christian-Democratic Party) for decades. Today, however, no party gets over 40% in a canton. A joint list of two parties, making a ticket of the two candidates to be elected, has the best chances for success. The most natural alliance is between the Socialists and the Greens, on the left; among the smaller centrist parties, including the Christian-Democrats; and between the Liberals and the national-conservative Swiss People's Party, on the right. The result can be seen in Table 3.2. In 2019, the two main centre parties, thanks to their tickets, won a majority of 25 out of the 46 seats with only about 27% electoral strength nationwide. While the Socialists are proportionally represented in the Council of States, the Swiss People's Party, despite being by far the largest party, remains clearly underrepresented because it is less able to form strong alliances.

Parliamentary law-making reflects the equal importance of democratic and federal principles (see Box 3.2). Both chambers may initiate constitutional amendments, new bills and regulations, as well as propose the revision of existing laws and regulations. All bills must be passed by both chambers in the exact same version, the common bureau deciding which chamber first considers a draft.

Box 3.2 The Powers of the Swiss Parliament

A) Elections

The United Federal Assembly, which is the term for joint sessions of the two chambers—where the Council of States has one fifth of the votes—votes for the seven members of the Federal Council, the Federal Chancellor (administrative function), the members of the Federal Supreme Court, the Commander-in-Chief of the army in times of war and other major federal bodies.

(continued)

Box 3.2 (continued)*B) Legislation, budget, finance and controlling*

Parliament is responsible for all political decisions of general importance. Three main categories exist: constitutional and legislative acts as well as parliamentary ordinances. In addition, the chambers decide on budgets and finance and approve international treaties of major importance. The pre-parliamentary stage settles many issues even before a bill arrives to parliament. Nevertheless, parliament remains the key legislative actor: it sets the political agenda through parliamentary initiatives, motions and propositions and thoroughly examines and modifies draft bills. A parliamentary reform in the 1990s introduced permanent committees, each having assured responsibilities in a defined policy area or in finance, auditing or the supervision of the federal government and its agencies. The reform considerably strengthened the political influence of parliament (Lüthi 1997).

If a bill fails to gain a majority in one of the two chambers, differences are sought to be eliminated through a procedure comprising different steps. If the second chamber proposes changes, the bill is sent back to the first chamber before being returned to the second. If both chambers insist on their version after three readings, each chamber appoints an equal number of delegates to a joint committee, which then tries to find a common solution. If the committee's solution fails to be approved by either chamber, the bill does not go through.

This procedure reflects the rule of absolute equality of the two chambers in all matters of legislation. The desire of the founders of the Swiss Constitution for strong federalism went further than in other European nations. In Germany, for instance, the *Bundesrat*, which represents the sub-national states of the republic, is composed of members of the governments of the *Länder*. The number of members of each *Land*, however, varies according to population size, and the *Bundesrat* is empowered to exercise its veto only for constitutional revisions or in matters concerning the *Länder* directly.

How does bicameralism work out in law-making? In the nineteenth century, the English constitutionalist Walter Bagehot noted that hot tea, poured from a first cup into a second, can be drunk cooler. Modern political science literature comes to the same conclusion: bicameralism produces decisions closer to the status quo (e.g. Vatter 2005; Tsebelis and Money 1997). In a federal system, bicameralism can have further effects. In Switzerland, where the second chamber represents the cantons, we note several dimensions of over-representation. First, by 2019 the 15 smallest cantons represent only about 21% of the population but can, with 25 votes, block every decision in the 46-member Council of States. This is more than theory because the small cantons have affinities: they are rather rural, Catholic, conservative and tending more towards the political right.

Second, these advantages of over-representation were used by different groups. In the early stages of the Swiss federation, the main cleavage was between the victorious Radicals, who favoured a strong central state, and the Conservative Catholic minority from small cantons who were resistant to the idea of central power. The Catholics' deputation in the Council of States was therefore bound to prevent power shifting from the cantons to the federation. The rationale of these politics was evident: it allowed Catholics to maintain their conservative policies within the cantonal bounds of their majority influence. In the first half of the twentieth century, the main division was between bourgeois forces (often uniting Catholics and Protestants) and Socialists, who were concentrated in industrial and urban cantons. The bourgeois majority, who enjoyed almost total control of the Council of States, was not opposed to new federal powers in general. However, they weakened or blocked measures aimed at improving the conditions of the working class that had been proposed in the National Council, where the Socialists had much more influence. This only changed after World War II, when the centre parties accepted the development of a modern welfare state. During all periods, however, the over-representation of rural regions in the Council of States led to privileged subsidies and regulations for agriculture. For a long time, the small chamber had the reputation of being committed to eliminating inequalities between poor and rich regions and between urban and rural areas, rather than between upper and lower social classes.

One might conclude that the Council of States, despite its official mission and reputation in the larger public, does not primarily subscribe to the federal ideal of maintaining decentralisation and cantonal powers. Yet a more convincing perspective is that different political forces—the

Catholics, then the bourgeois coalition and the rural cantons—used their over-representation in the Council of States to their own advantage. Thus, the Council of States has often played a conservative role, protecting the status quo against innovations proposed by the government and the other chamber. Yet this is an effect of the specific political composition of its majority, and not of the system itself. Indeed, between 2015 and 2019 the Council of States was a centre-left counterweight to the centre-right dominated National Council.

Those who say that the Council of States does not represent a truly federal point of view have strong empirical arguments. This assertion is corroborated by a theoretical perspective: the members of the Council of States and those of the National Council are elected in the same electoral districts, that is, the cantons, represent the same constituencies, and have the same interest of being re-elected. Thus, one must expect that the members of the Council of States defend the same group interests as those which dominate the National Council, and that they have no specific incentive to promote the collective interests of cantons as such. A systematic comparative analysis of the voting behaviour of both chambers during 1995–1999 (Wiesli and Linder 2000) confirmed this hypothesis, but with a surprising point: on issues concerning the cantons, the Council of States was not more active than the National Council, but both chambers were highly committed and successful in defending the collective interests of the cantons.

3.2.2 *The People's and the Cantons' Vote*

All constitutional amendments and some international treaties proposed by the Federal Assembly, and all popular initiatives proposing to change or amend the Constitution, have to be approved by both the people and the cantons. With (mandatory) referenda and popular initiatives, we thus again find that democratic and federal principles are co-equal elements of the decision-making process. Just like in parliamentary decisions, there must be a double majority: on the one hand a majority of all voters, on the other a majority of cantons. The latter is calculated in a simple way: what the popular majority within a canton decides counts as the vote of that canton. The votes of the 20 full cantons count as one vote each, the votes of the six half-cantons count half, which makes a total of 23 votes. If the result is tied (11.5:11.5), the proposal is rejected. As in the Federal Assembly, there can be a

Table 3.3 Constitutional revisions and amendments proposed by the Federal Assembly, 1848–2019, including direct counter-proposals to popular initiatives

<i>Went to a vote</i>	240	100%
Accepted	174	73%
Total rejected, of which:	66	28%
— <i>rejected by the people and the cantons</i>	56	23%
— <i>rejected by the cantons only</i>	9	4%
— <i>rejected by the people only</i>	1	0.4%

Source: BFS (2020)

Table 3.4 Popular votes with different majorities of people and cantons, 1848–2020

<i>Issue</i>	<i>Year</i>	<i>People (% for)</i>	<i>Cantons (N)</i>	
			<i>For</i>	<i>Against</i>
Federal measures and weights	1866	50.5	9.5	12.5
<i>Proportional representation</i>	1910	47.5	12	10
<i>Protection for tenants</i>	1955	50.2	7	15
Civil protection service	1957	48.1	14	8
Federal finances	1970	55.4	9	13
Federal education	1973	52.8	10.5	11.5
Federal economic policy	1975	52.8	11	11
Federal energy policy ^a	1983	50.9	11	12
Cultural policy	1994	51.0	11	12
Naturalisation of foreigners	1994	52.8	10	13
<i>Abuse of asylum right</i>	2002	49.9	12.5	10.5
Family policy	2013	54.3	10	13
<i>Taxation of married couples^b</i>	2016	49.2	16.5	7.5
<i>Responsible Business Initiative</i>	2020	50.7	8.5	14.5

Note: ^aBeginning in 1979, the inclusion of canton Jura brought the number of total cantonal votes to 23 and the majority to 12. ^bThis vote was declared invalid by the Federal Supreme Court in April 2019. In italics: popular initiatives; all others: mandatory referendums

Sources: Germann (1991, 266), Linder and Mueller (2017, 224), BFS (2020)

collision between the principles of democracy and federalism: a particular constitutional amendment may obtain a popular majority, but a majority of cantons rejects it, and vice versa (see Tables 3.3 and 3.4). However, unlike parliamentary proceedings, the popular vote does not foresee a negotiation process—in the case of conflicting majorities, a proposal simply fails and the status quo prevails.

Details of direct democracy are explained in Chap. 4. Here we should mention further ways in which the cantons participate in federal decision-making. First, every canton is entitled to hand in proposals for a federal bill or constitutional amendment. This is called the right of cantonal initiative. Though, if only one of the two chambers rejects the proposal it fails. A collective of at least eight cantons also has the right to demand a popular vote on every bill passed by parliament (cantonal referendum). This provision was used for the first time in 2003, when cantonal governments were strongly opposed to a new federal tax bill—and won the subsequent popular vote by a landslide.

Second, the informal, most usual and effective way for cantonal influence lies in pre-parliamentary consultation and lobbying. Given the importance of power-sharing in Switzerland, consultations preceding formal decisions are a process of intensive negotiation, which we consider in Chap. 4. As implementation lies with the cantons, they are influential actors involved in both agenda-setting and drafting of federal legislation.

Box 3.3 Communes: The Cornerstone of the Swiss 'Bottom-Up' State

Why the communes are the foundation of the Swiss state can be illustrated by way of the following two topics.

1. *Subsidiarity*: The idea of subsidiarity is that a central authority should perform only those tasks which cannot be performed effectively at a lower level. It is a guiding principle of federalism. In the Swiss context, we find roots in Catholic social philosophy and liberal thinking which gave subsidiarity an additional meaning: the state should take responsibility only for tasks which cannot be performed by other societal organisations. Both meanings can be considered to form part of Swiss political culture long before subsidiarity became a constitutional guideline in 1999. In fact, surveys show that Swiss citizens expect less responsibility to be taken over by the state than do citizens from neighbouring countries, and that they prefer decentralised solutions whenever possible. This is exactly how the Swiss system reacts to new challenges: if state intervention is really necessary to solve societal

(continued)

Box 3.3 (continued)

problems—for example, regarding drug use or the integration of foreigners—solutions are first sought at the local level. A transfer of powers to the canton or federation happens only if and to the degree in which local solutions turn out to be unsatisfactory or incomplete.

2. *Swiss citizenship*: As already mentioned, the Swiss are citizens of a commune, a canton, and of the federation. If foreign residents want to acquire Swiss citizenship, they have to start at the local level. Local citizenship must be acquired before applicants are granted cantonal and finally federal citizenship. The whole procedure is burdensome, costly and time-consuming, and the highest hurdle is at the local level. Applicants must have lived in the same commune for a number of years; a local committee demands proof that the applicant speaks a Swiss language, has a basic knowledge of Swiss society and its institutions and is socially integrated. In smaller communes of some cantons, it is the full assembly of the citizens who ultimately decide on each application. In the late 1990s, when discrimination happened against applicants from certain countries, the Federal Supreme Court (1990) intervened, defining standards of fair procedure for the people's assembly. While the decision was welcomed by Liberals, it was criticised by Conservatives: in their eyes, the court's ruling was an offence against local autonomy. While the liberal view reflects a modern concept of the rule of law, the conservative position illustrates that several elements of traditional political culture are still highly valued: a bottom-up idea of the state, local autonomy and a high degree of legitimacy through direct participation (see also Hainmueller and Hangartner 2013; Hainmueller et al. 2019).

3.2.3 *Local Governments: The Corner Stone of the Swiss 'Bottom-Up' State*

So far, we have been mainly concerned with the federation and the cantons, but emphasis should also be given to the particularities of local governments (Horber-Papazian 2007). Communes are a corner stone of the

three-level federal system (see Box 3.3). The political autonomy of communes is guaranteed by the Federal Constitution. Despite variations in the degree of local autonomy, which depends on cantonal law and politics (Mueller 2015), we can identify a common core that is characterised by the following:

1. *A (constitutional) right to exist*, including the freedom to merge with other communes or to remain independent, which cannot be withdrawn by the cantons. This means that a reform of local government ‘from above’, as happened in Germany in the 1960s when the *Länder* forced small communes to merge, would be rather impossible in Switzerland. Indeed, the number of communes, some 2200 by early 2020, had barely decreased until the 1990s. Since then, about 800 municipalities have merged into larger units on their own political will. This is not astonishing because more than half of the Swiss communes counted less than 500 inhabitants and had increasing difficulties fulfilling their tasks. Even though reasons of efficiency are strong political arguments for merging, citizens sometimes prefer independence and autonomy. Mergers can fail because the majority of citizens must accept the project in a popular vote in each of the communes concerned.
2. *The freedom to choose, within the bounds of cantonal legislation, an adequate political structure and administration* (see Box 3.4). There are cantons with numerous small communes and others with fewer but larger ones, and the degree of autonomy of the communes varies greatly from canton to canton. Furthermore, traditions of direct and assembly democracy are stronger in the German- and Romansh-speaking regions of Switzerland, whereas communes in the French and Italian-speaking regions favour representative democracy. Apart from culture, the most important factor defining the type of political organisation is population size (Ladner and Fiechter 2012, 440). In small communes, local government consists of a few elected part-time officials who are poorly remunerated. Citizens meet several times a year to approve or reject their decisions. Large cities, in turn, have an elected parliament and full-time executive heading professional services. This

leads to somewhat strange proportions: the 30,000 local employees of Zurich, the country's largest city with over 400,000 inhabitants, are almost double the number of inhabitants (15,500) of the smallest canton, Appenzell Inner-Rhodes.

3. *The right to impose taxes for their own needs.* The right to impose taxes and to decide on local tax rates is certainly the most important element in assuring the autonomy of local governments. Fiscal autonomy not only allows communes to decide on local infrastructure, services, land-use planning or other public utilities according to their own preferences. It also establishes responsibility on both sides of local government: authorities are held responsible for using their resources according to the people's needs, and citizens have to contribute with their taxes to the services they demand and enjoy. Thus, decentralised governance brings the state closer to the people. Whereas in the UK and the US local taxes are mostly determined by the value of real estate, Swiss communes are entitled to impose an income tax. With some 30%, the local share of total state revenue and expenditure is considerable.
4. *Freedom of action in matters that are not in the competence of the cantons or the federation.* The consequences of this principle are two-fold. First, it defends local autonomy in situations of conflict. A corporation seeking a site, even for the purpose of a public benefit such as a nuclear power plant, cannot impose itself on a commune with the help of cantonal or federal authorities if the latter lack a formal competency in the issue. Therefore, depending on the circumstances, communes are also protected against their own canton. The Federal Supreme Court protects local autonomy in a similar way as it does individual human rights. Second, the principle can encourage political innovation, because communes are in the pole position to spot the need for new public services. Some social services, schools for social workers, AIDS prevention, controlled drug use or recycling of waste are examples of new public tasks that started in the communes. When those activities are further developed at cantonal or federal level, we can speak of a trial-and-error process, which permits the use of small-scale experiences for large-scale benefits.

Box 3.4 Local Government Institutions

Political structures vary considerably with the size of communes. This is the reason why we distinguish between small and large communes in the following description:

	<i>Small communes</i>	<i>Large communes</i>
Legislative body	<p><i>Citizens assembly:</i> A type of ‘assembly democracy’. All adult Swiss citizens living in the commune can participate. The plenary assembly decides on propositions submitted by the executive of the commune and by ordinary citizens. All important communal questions can be discussed.</p>	<p><i>Communal parliament:</i> Elected by the people. A type of semi-direct democracy.</p> <p>Important decisions must be approved by a popular vote submitted by the executive (mandatory referendum). Other decisions can be challenged by an optional referendum. In the communes of most cantons, citizens have the right to hand in initiatives leading to a votation</p>
Executive body	<p>Collegiate council, elected directly by the citizens (exception: canton Neuchâtel, where the communal parliament appoints the executive council).</p> <p>Part-time members as a rule, full professionals the exception.</p>	<p>Professional full-time members as a rule; part-time officials the exception.</p>
Administration	<p>Relies partly or entirely on the non-professional services of local volunteers.</p>	<p>Professional administration in combination with resources of non-professional volunteers.</p>

Note: In some French-speaking cantons, the traditions of ‘assembly democracy’ as well as of the referendum and the popular initiative are less known. Even small communes therefore rely on types of representative democracy with an executive and a legislative council

The main field of the *Milizverwaltung* is local government (Geser et al. 1987; Ladner 2008). In communes with less than 1000 inhabitants, there are often just two full-time professional posts: mayor and communal secretary or clerk. The other seats of the communal council, as well as positions in social services and the fire brigade, in committees for land-use planning and school administration, are occupied by volunteers or are part-time jobs. Even in larger communes and cities, the *Milizverwaltung* does not disappear entirely, but is combined with professional administration.

3.2.4 *Citizens' Self-administration*

In many areas of Swiss administration, public tasks are not fulfilled by employed civil servants or administrators. Instead, ordinary people themselves manage these public affairs by part-time engagement of a few hours or several days per week. In German this is called *Milizverwaltung*, a form of self-administration by people who volunteer for the public good. This part-time work is sometimes remunerated, sometimes not, depending on the nature and volume of the work. In some cantons the system dates back to the Middle Ages. In the canton of Valais, for instance, the water-supply system in the high valleys was realised via the *Gemeinwerk* (community work) into which every adult man was periodically drafted for several weeks to help with construction (Niederer 1965).

In its modern form, *Milizverwaltung* has three functions:

1. It uses the professional skills of ordinary citizens for public affairs. This allows non-centralised self-administration and political autonomy even for small political units who lack the funds to hire professionals. By relying on the part-time involvement of their citizens, they can deliver their own community services.
2. Self-administration, with a great number of persons involved in part-time tasks, posts and committees, allows for more democratic participation. In their voluntary role, citizens become part of and personify the political and administrative institutions.
3. Communitarian traditions in Switzerland have been able to survive. There are many private organisations working for the poor, the handicapped, in cultural affairs, for the protection of the environment or the promotion of other public goods. These non-profit organisations fulfil public tasks outside of public administration, even though many of them are subsidised by the federation, the canton or the commune.

Milizverwaltung is found at the cantonal and federal level, too, for instance in the form of expert committees. In the 1980s, a first systematic inquiry found almost 400 federal expert committees with some 4000 persons involved (Germann 1981). A more recent study, taking into account only committees nominated directly by the Federal Council, illustrates the importance of the federal *Milizverwaltung*: 40% of the 181 committees have a consultative function, 43% are decision-making and appeal organs,

while the rest fulfil leadership or representative mandates (Varone 2007). Moreover, many cantonal and district courts work on the basis of *Milizverwaltung*, and all members of all parliaments—federal, cantonal and local—formally exercise their mandate on a part-time basis. With the exception of executive members, most elected politicians in Switzerland work on another job besides their mandate.

Advocates of the *Milizverwaltung* claim that it is cheaper than professional administration, that the state remains in close contact with voters and that the system keeps the political elite from becoming an isolated class. Opponents, on the other hand, argue that it has led to too much amateurism and not enough professionalism in Swiss politics, as well as hidden transactions or even corruption if individuals do not carefully distinguish between private and public interests.

3.3 FEDERALISM AT WORK

The actual functioning of federalism is best shown through concrete political processes and conflicts. This is the reason why we illustrate the working of federalism through five issues, all of them dealing with important political questions to be settled, regulated and implemented by federal, cantonal and communal actors. Two of these issues—energy policy and the creation of the canton of Jura—represent enduring and still controversial political questions. Their history is illustrated in the form of condensed case studies. Regarding the implementation of federal tasks, primary schools and financial compensation, we confine ourselves to describing the essential ideas and concepts.

3.3.1 *Cooperative Federalism: How Federal Tasks Are Implemented by Cantons and Communes*

In the middle of the nineteenth century, divisions between centralists and non-centralists led to a clear distinction and division of power between the federation and the cantons. This concept, however, has subsequently been overruled by the mechanisms of intensive cooperation between all three levels of the federal system. The complexities of modern infrastructure, economic intervention and social programmes stimulated the completion of federal legislation by the cantons, the implementation of federal programmes by cantonal and local authorities, and extensive finance- and revenue-sharing.

The Swiss social security system provides a good example of this kind of 'cooperative federalism'. Its main element, which gives a minimum old-age pension to all retired persons as well as to widows and their children, was introduced in 1948 and has been regularly revised since then. The federation is responsible for legislation, regulates insurance contributions, and supervises the implementation of the programme. It also finances part of the costs and, through the Federal Supreme Court, guarantees equal application of the law.

While citizens may look to the national politics section of their newspaper to find the latest changes to social security payments, it is the local and cantonal authorities or even private organisations with whom they have to deal. The monthly contributions of employees and employers are collected by cantonal and regional agencies of the different industries, a reminder of the time when social security was based on private organisations. The same organisational scheme applies to other branches of social security, such as invalidity, maternity and unemployment insurance. The regional agencies and cantonal authorities are also responsible for most of the redistribution, along with the postman, who in earlier times took the money directly to pensioners. Indeed, the postal and telecommunication service, together with the federal railways (SBB), belong to the few federal services which deal directly with the public. Most federal programmes are implemented by the cantons and the communes, and there is no parallel federal administration, with its own regional services, agencies or even courts, like that in the US.

Where the social security system is concerned, the cooperation between the federation, the cantons and the communes goes even further. If a retired citizen is so poor that she cannot live on the federal pension, she may go to the local authority and apply for an additional benefit provided by the canton. The fact that the federal government pays a substantial part of that grant is an incentive for the cantons to run complementary social security programmes (otherwise they would not obtain a share of this part of the central budget), but the cantons are in sole charge of the programmes. Implementation, finally, is delegated to the communes, which are closest to inhabitants and therefore have better information based on which to evaluate the needs of claimants. Indeed, most of the other social services for which personal relations are essential—social aid to the poor, social work, homes for elderly people, mobile-meal and health services, childcare—are run by the communes, although sometimes they are delegated to private organisations and publicly subsidised.

This kind of cooperation again reflects the strong belief of the Swiss in the subsidiarity principle (see Box 3.3). Thus, public intervention and public help should only occur in situations where private means do not suffice to achieve a goal. Furthermore, if a public programme is really necessary, the Swiss start at the bottom, with the commune. Cantonal programmes kick in only when local programmes do not suffice, and only if a task exceeds the capacities of cantons do they relinquish power to the federation. Consequently, even in federal matters not all responsibilities are centralised. Whereas the federation has become responsible for legislation on many issues that once were under cantonal rule, the implementation of federal programmes is delegated back to the cantons and the communes whenever possible (Dardanelli and Mueller 2019). This applies even to the fiscal state: the cantons or in some places even the communes collect all income and property taxes from their inhabitants—not only their own but also those of the federal government.

3.3.2 *Energy Policy: From Federal Deadlock to Cantonal Experiments*

When the first oil crisis in 1973 shocked the industrialised world, the Swiss became aware of their extremely vulnerable energy supply. While water from the Alps can meet a good deal of electricity demand, this constitutes the only major renewable energy resource of Switzerland. For about 80% of its energy consumption, it is dependent on international markets: oil from the Middle East and Africa, gas from northern Europe and Russia and uranium from Canada and the US. In the view of the Swiss government, a national energy policy was then considered urgent and necessary. A committee of experts was appointed to provide long-term forecasts of energy supply and consumption. Its report on a national energy programme to the government made three key recommendations: substitute oil, boost research into alternative sources and encourage energy savings. In 1980, the Federal Council proposed a constitutional amendment which would have enabled a national energy policy to be developed. The two chambers of parliament approved yet in a referendum in 1983, the amendment gained the people's consent but failed to muster a cantonal majority.

It was not until 1990 that the federal authorities presented a new proposal for a national energy policy that survived the referendum process. This constitutional amendment contained only a few moderate suggestions. In the following decade, protagonists of effective energy saving

policies handed in three popular initiatives proposing taxes on non-renewable and subsidies for alternative energies. None of them was successful, and two similar bills taking up the idea of subsidies for renewable energies were rejected by the people in 2000. In 2001, parliament accepted a law setting standards for the reduction of CO₂ emissions. Thus, it took the federation almost 30 years to acquire a mandate for a national energy policy whose limited ambitions were far from the original hopes of the government. A more ambitious plan—the ‘Energy Strategy 2050’—was approved at the polls only in 2017 (SFOE 2018 and below).

This long delay may be exceptional. The example of energy policy, however, is typical of the difficulties the central government faces if it wants to acquire new competencies under the conditions of direct democracy. There have been other occasions when the people have rejected federal projects several times, before finally accepting them in a different version. Even then it should be noted that the people may reject bills to implement a new policy when they have already approved the underlying constitutional amendment. This was the fate, for instance, of the maternity insurance bill that was successfully challenged in popular referenda in 1987 and 1999, although the constitutional principle had been approved as early as 1945.

The combination of federalism with direct democracy, therefore, gives the cantons high veto power and amounts to a considerable obstacle for federal innovation. One of the most common arguments against national policies is mistrust of the federal government and defence of cantonal autonomy. Anti-state, anti-centralist, as well as conservative and neoliberal motives fit equally well into this pattern. They also played a role in the votes on energy. It was argued that new federal powers to intervene in the market were not necessary. Such activities would weaken regional competences, and it was said that the cantons were already doing all that was necessary. Thus, federal innovation attempts are far from being guaranteed success. And even if they do, it may take a long time because of the high consensus required by the double majority of people and cantons and because of the two stages of legislation, constitutional base and statutory enactment. Table 3.3 shows that over a quarter of all constitutional amendments proposed by the Federal Assembly between 1848 and 2019 were rejected.

The case of the national energy policy, however, needs further explanation. It involved a most controversial and polarising issue: nuclear energy. In the 1970s, the anti-nuclear movement successfully stopped the

construction of a power plant after several months of occupying the site. When first the Greens and then the Social-Democrats opposed the construction of new nuclear power plants, the issue divided parliament, parties and the people. Nuclear power was controversial where technical risks and gains were concerned, but underneath lurked a fundamental conflict of values. Proponents of nuclear power considered that economic growth and technical progress were at stake; opponents were deeply concerned about the protection of nature and of future generations against the dangers of nuclear technology.

A popular initiative against the construction of new power plants failed in 1979, but 49% of the people voted in favour—the anti-nuclear movement had successfully reached the masses. The protagonists of nuclear power were equally unable to win enough support for the continuation of the programme. When in 1985 the federal chambers authorised the resumption of the construction of the nuclear power plant in Kaiseraugst/AG, it encountered unanimous protests by the two neighbouring half-cantons of Basel. Public opinion throughout Switzerland to a large degree disapproved of the resumption of works, and some federal authorities were convinced that completion would be impossible without police guards or even military protection. The work was thus not resumed, and in 1989 the federal parliament dropped the project, paying 350 million CHF in indemnities to the electrical company that had been licensed to undertake the work. This was two years after the nuclear accident at Chernobyl, whose radioactive fall-out reached large parts of Western Europe.

Thus, neither the opponents nor the protagonists of nuclear power could win the argument. In this deadlock, a compromise was found. In 1990, the cantons and the people accepted a popular initiative for a ten-year moratorium on the authorisation and construction of new plants. When the moratorium ran out, opponents of nuclear power launched two popular initiatives: one to renew the moratorium, the other to pull out fully from nuclear energy within ten years. Both initiatives failed to muster the required cantonal and popular majorities in 2003, as did a third in 2016.

At the same time, the industry launched plans for the replacement of two existing nuclear plants, which led the anti-nuclear movement to reorganise. Thus, as in other countries, the deadlock over nuclear energy seemed to continue—until in May 2011 the Federal Council announced the complete withdrawal from nuclear energy production, just two months

after the Fukushima catastrophe (SFOE 2018; Kammermann and Freiburghaus 2019). To compensate for the losses in domestic production accruing from this decision while at the same abiding by the targets of the Paris Agreement, it was decided to invest heavily in renewable energies as well as efficiency increases. A referendum against the new law was again called but this time unsuccessfully, in 2017 (*ibid.*).

For a long time, the deep conflict on the question of nuclear power had overshadowed and paralysed all other issues in national energy policy. The deadlock of federal politics in the 1980s and 1990s, however, did not prevent important innovations in some cantons (see also Strebel and Widmer 2012). In Basel-Countryside, for instance, where opposition to nuclear power was particularly strong, the authorities found a constructive way out of the dilemma: future energy shortfalls resulting from the rejection of nuclear power should be compensated for by effective energy-saving programmes. The authorities mandated experts with analysing the potential for energy-saving in all household appliances, and in industry, public buildings and transport.

In the 1980s, Basel-Countryside then pioneered energy saving policies, with considerable success. The new regulations for housing insulation, for instance, stimulated innovation in the construction industry. Within ten years, energy consumption for heating in new houses dropped by nearly 40% because of better insulation and more efficient heating. Other cantons followed, and their laws further encouraged energy saving technologies to be applied in businesses and private homes. Thus, decentralised energy policy was an early experiment. Cantons became laboratories for solving the problem of how to live with less energy without renouncing on comfort. Their experiments were realistic and allowed for the risk of failure. Decentralised experimenting and coordination allowed Switzerland to keep the costs of failure low, but let all participants benefit from successful innovation. Cantons became testing grounds not only for new technologies but also for the federal authorities. When finally a national energy savings programme was passed, it could draw on cantonal lessons learned.

The success of these measures should not, however, be overestimated. Some cantons flatly rejected energy-saving programmes, others were reluctant or constrained by the national controversy about nuclear energy. Those who did participate had to realise that stabilising overall energy consumption was not an obtainable goal. Cantons are not authorised to raise gas or oil prices through taxation, which more than any other

measure would seem to stimulate a reduction in consumption. Cantons were able to stimulate the use of new technologies, such as solar or wind energy, but cantonal markets are much too small to hope for economies of scale by mass production. There was no national policy helping the small innovative enterprises to become competitive at an international level, and for some even the ‘Energy Strategy 2050’ falls short of this.

Meanwhile, other countries like Denmark or Germany have taken the lead in solar energy and other fields where Swiss firms were once pioneers. Even so, the cantonal experience was not in vain. It was a substitute for the long times blocked federal policy, contributed to overcoming some of the deep conflicts on the energy issue, and helped to develop ends and means of energy savings policies by a process of decentralised trial-and-error. Learning from decentralised or even competitive innovation processes may be one of the most important advantages of federalism (see also Sager 2003).

Yet in the face of accelerating global warming, this might not be enough anymore. A series of school demonstrations—inspired by the Swedish teenager Greta Thunberg—for stricter climate change policies helped produce great wins for the two Green parties in the 2019 federal elections (see Table 3.2). The federal counterargument that cantons could already do a lot to encourage energy efficiency and careful land use proved unconvincing. With the warnings of global climate change, ‘decarbonisation’—that is, policies for the substitution of oil and gas by renewable energy—has caught the attention of the larger public. It will require heavy interventions and high investments by the central authorities. At the same time, even the most progressive, interventionist national policy to curb Swiss CO₂-emissions will need to rely on the cantons for actual implementation (Dardanelli and Mueller 2019). Looking at the past, this won’t be an easy way.

3.3.3 *Coping with Inequality: The Example of Swiss Primary Schools*

While travelling in rural regions or hiking in the Alps, visitors to Switzerland are often astonished to see pretty and well-maintained school buildings even in small and evidently poor villages. Indeed, having their own schools for their children and a good school teacher is the pride of each commune. Another story, linked again to federalism, is how even small and poor villages are able to live up to this ideal.

In the middle of the nineteenth century, education differed from canton to canton. In some cantons, primary schools were run by the (Catholic) church, others were public. In mountain regions, school lessons were given only in winter, when children were not needed in the fields. Curricula and the length of children's basic education varied considerably. The Radical majority of 1848 wanted education to remain a cantonal matter. This allowed for cultural diversity. Aware of the importance of education for a young nation and its democracy, however, the Radicals stipulated that there should be a federal benchmark. Thus, a constitutional provision required that 'the cantons provide sufficient basic education'. This regulation was, firstly, a plea for the (cantonal) state monopoly over schools and directed against the Catholic Church, which then controlled parts of the educational system. Second, the regulation obliged the cantons to offer a minimum standard of basic education, with a minimum number of years of schooling free of charge and compulsory.

These requirements greatly influenced the evolution of the Swiss educational system. Providing equal-quality education and training became the common concern of the cantons. In earlier times, there was a 'brain drain' of the best teachers to rich communes offering better salaries. Although in most cantons still nominated and paid by the communes, teachers today receive an almost equal salary throughout a canton. Curricula are more and more coordinated by inter-cantonal bodies. Poor communes receive subsidies for the salaries of their teachers and the construction of their school buildings—but these have to follow construction standards that prohibit both luxury buildings and sub-standard classrooms.

Moreover, for long times, inadequately coordinated curricula created difficulties for schoolchildren when parents moved from one canton to another. Whilst it makes sense, for example, for Bernese schools to concentrate on the cultural specificities and history of their own canton, the argument for federalism is less strong when there are 26 different cantonal teaching programmes in mathematics. Thus, many of the old particularities of cantonal curricula have been eliminated—not by dictate of the federal government but rather by means of inter-cantonal coordination (Schwab and Surdez 2007; Schnabel and Mueller 2017).

Sixty years ago, access to higher education was highly unequal. Students from rural regions, from lower social classes and women were underrepresented. This changed with federal programs—subsidies for the new, decentralised cantonal institutions, and top-ups for cantonal

scholarships—that gave a big boost to higher education. Today, women as well as students from rural regions have equal chances. Class inequality, however, remains as big as it was then, and is a black spot in the Swiss welfare state. One has to consider, though, that social differences in access to higher education are more difficult to overcome than barriers erected by distance or gender (Vellacot and Wolter 2004; Becker and Schoch 2018).

3.3.4 *Swiss Federalism: Solidarity Is more Important than Competition*

The federal policy of minimum standards is not limited to schooling; other public services work in the same way. Public transport now reaches practically every commune, even those in high mountain valleys. A dense and decentralised network of public infrastructure has helped to maintain the private services of doctors, local banks or grocery stores even in small villages. If Swiss statistics define communes with 10,000 inhabitants as ‘cities’, there is a reason for this: one can find lawyers and other professional specialists, computer and bookshops, theatres and swimming pools, various other commodities and services, and even a local industry producing a particular product.

Instead of people flocking to where the money is, Swiss federalism has seen to it that the money is sent to where the people are, thus maintaining a decentralised economic and social structure. In the 1970s, when young people from mountain valleys found better jobs by moving to the cities, a large federal programme for public investment in the mountain regions was launched. Subsidies were provided on the condition that different communes agreed on a joint regional development plan. This plan had to demonstrate the development potential of the region¹ and to coordinate

¹The use of the term ‘region’ is ambiguous in Switzerland. It can designate (a) the geographical boundaries of the four language communities, or other geographical subdivisions of the country with a number of common characteristics (mountain, urban, rural and suburban regions); (b) the geographic boundaries of several communes, belonging sometimes to different cantons, defined for the purpose of a specific federal policy programme, as in the case of the development of the mountain regions; or (c) administrative organisations, formed by several communes, for regional land-use planning and economic development. None of these regions are political organisations representing a ‘fourth tier’ in the federal system. In cases (b) and (c), we could speak of administrative organisations that are confined to one specific function.

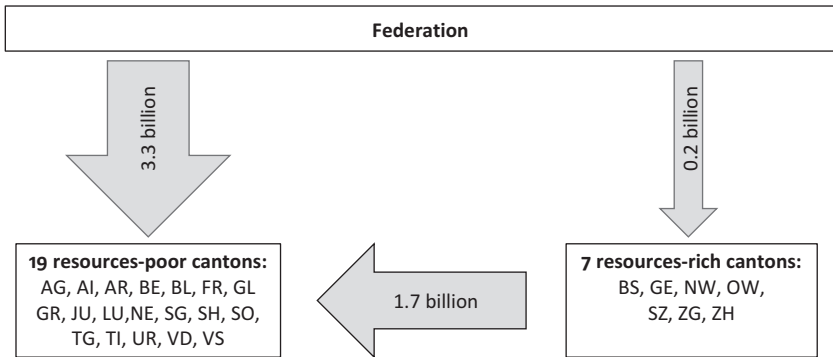


Fig. 3.1 Net compensation transfers in 2020. Note: Own, simplified figure with data from Eidgenössische Finanzverwaltung (EFV) (2019), in CHF

federal investments in roads, schools, sports sites and other facilities. The programme helped to develop new tourist industries and, together with other instruments, provided agriculture in mountain regions with a better chance of survival. In many areas the population drain was stopped. While evaluations of the programme were sometimes critical about its direct economic effects, its socio-political success was undeniable. The programme provided the communes with an incentive to get together to analyse their own situations with a wider horizon and find shared perspectives of development. Encouraging this social activity of ‘endogenous development’, some experts say, was even more important than money (Bassand and Hainard 1985).

With globalisation and the opening of the Swiss economy in the 1990s, this kind of regional policy became more difficult and less effective. It was therefore cancelled. Even so, equalisation policies for the different cantons and their regions are still at the core of Swiss ‘cooperative federalism’ (Vatter and Freitag 2004). The idea is that of a commonwealth of all regions, and of mutuality. At its heart, we find a broad system of financial compensation between the federation and the cantons (and, within the cantons, the same for communes) comprising revenue-sharing as well as financial compensation by block grants and subsidies (see Box 3.5 and Fig. 3.1) (Gaudard and Cudré-Mauroux 1997; Messerli 2004, Vatter 2018, 186 f.).

Box 3.5 Mechanisms of Financial Compensation

Financial compensation serves to adjust differences in financial revenue and expenditure between rich and poor cantons or communes. There are two main reasons why Switzerland has such a policy. First, supposing that people in mountain cantons do not wish to leave, we are confronted with the problem that these cantons cannot compete with the urban cantons, where the economic opportunities are much greater. Besides different resources, the cantonal tax system can worsen the unequal starting position: tax revenues in the mountain cantons are very low whilst tax rates are rather high. Financial compensation seeks to strengthen ‘poor’ cantons and communes and to enable them to offer basic public goods of a quality similar to those of ‘rich’ communes. Second, there is what economists call the ‘externality problem’. Some cantons or communes carry out tasks for others. They offer infrastructural services, for example universities, theatres or hospitals, which are used by residents of other cantons and communes. Instead of pricing these services differently for these individuals—which is not always feasible—cantons or communes look for mutual compensation.

Thus, the federal system of financial compensation is based on two ideas:

1. Financial compensation of resources: compensating for differences of resources between ‘rich’ and ‘poor’ cantons.
2. Financial compensation of spillovers: compensating the externalities of public goods between the cantons or between the different levels of the federal system.

As can be seen from Fig. 3.1, financial compensation has two dimensions: vertical between the federation and the cantons, and horizontal amongst the cantons. The same two-dimensional system can be found in the relations between a canton and its communes. The equalising policies of cooperative federalism are not uncontested. Some complain that shared responsibility makes actors less responsible, or that cooperative federalism encourages too much public spending. The critique was taken up in a major reform of Swiss federalism that started in the 1990s. Its most

important element comprised a disentanglement of responsibilities between the federation and the cantons. It followed the principle of fiscal equivalence: as much as possible, the territorial circle of a public good should coincide with the circle of both its beneficiaries and payers. Better coincidence should strengthen political responsibility. It was the baseline for a reform of the system of financial compensation that was meant to become more transparent and subsidiary in its character.

It was crucial, therefore, to clearly define objective criteria of relatively ‘poor’ or ‘rich’ cantons, which in the end are decisive if a canton ends up being a net beneficiary or contributor of equalisation payments. Even so, it was not easy to overcome the opposition of the rich cantons, all the more so as the fiscal system is characterised by strong cantonal autonomy (see Box 3.6). We now see the political reason for the substantial financial participation of the federation: allowing that only a few cantons ended up as ‘losers’, it eased political conflict enough to guarantee success in parliament and the ensuing popular vote in 2004. Federal subsidies, leading to overconsumption in the past, were mostly discontinued in favour of block grants (Vatter 2005, 2018; Frey 2005).

Box 3.6 The Fiscal State: Paying Taxes in Switzerland

Every year, each household gets a tax form from the cantonal or local tax office. The responsible persons in the household are required to declare the salary earned last year and their fortune by the end of it. On the basis of their own declarations and after control by the authority, taxpayers get their bill. The commune or canton not only collects its own taxes but is mandated to also collect those of the other two levels. This demands much trust in the taxpayer and the collecting authority but is considered to be efficient for all parties involved.

The decentralised system allows cantons and communes to vary definitions of income and fortune, and to apply different tax rates. Households with the same revenue may pay different taxes depending on where they live—even within the same canton. Thus, Swiss federalism allows for competition, traditionally limited in its extent to prevent a ‘race to the bottom’. Even so, differences can be considerable. A family with two children, having a gross annual income

(continued)

Box 3.6 (continued)

of 150,000 CHF, pays 42,000 CHF in (poor) Delémont but only about 20,000 in (rich) Zug (ESTV 2019). This reflects how the different economic situation of two regions can affect taxpayers. Tax competition became a political issue when the Canton of Obwalden, in order to attract rich taxpayers, was the first to introduce a flat rate. This was considered unfair competition because all other cantons use progressive tax tariffs.

Two other aspects of tax competition have become controversial on the international stage: local ‘tax treaties’ and the national ‘banking secrecy’. Both were legally defined offers to save taxes and attract rich people and/or their wealth from abroad. While defenders of these privileges claimed legal and fiscal autonomy, the opponents, raising moral questions or inequality of treatment, were not much heard in the Swiss political discourse. As to the banking secret, things changed when the biggest Swiss bank was accused in the US of systematically violating US tax legislation, and when in 2009 the OECD placed Switzerland on a grey list in order to change its banking secrecy and thus fight tax evasion. Meanwhile, banking secrecy is dead. While an international harmonisation of rules of tax competition seems to be logic and reasonable in times of globalisation, the Swiss government is worrying about who sets the rules, and what these rules as well as their implementation are going to look like.

This notion of cooperative federalism is different from other ideas of federalism. Economic theory, for instance, relates federalism to competition. Some economists prefer many decentralised authorities to the monopoly of one central government. According to this view, the ideal situation is one where governments constantly compete and where citizens have the option to ‘vote with the feet’ for the government they prefer. One could say that US federalism is, and probably always was, influenced by this idea. The variety of US states is considered as something amongst which one chooses. Individuals migrating from East to West or North to South are trying to make the best choice they can. US cities and communities are in strong competition with each other. Living in a wealthy

residential area or a poor suburb can mean all the difference between excellent or poor public services. People who find that the local public school is not good enough for their children send them to private schools or move to a better area. This can lead to vicious cycles where poor communities get poorer and rich ones richer.

‘Voting with the feet’, then, may be part of the American political culture that favours individual liberty, and is a heritage of people who once took the ‘exit option’ to leave their home countries as emigrants. The attitude of the Swiss is different. The Swiss passport does not mention ‘place of birth’, but the commune of family origin, dating back generations. In older times, this kind of citizenship was of great importance: before the creation of the modern welfare state, the commune of origin was legally obliged to care for ‘its’ elderly, homeless and destitute. Today, the place of origin has lost its importance. But most Swiss are strongly sedentary, emotionally attached to the communes and regions in which they grow up and live. This collective notion of freedom is in stark contrast to US-American understandings of liberty (Basta Fleiner 2000).

Many Swiss feel that choosing to make a living in another canton means the loss of familiar surroundings and mentalities. One finds Swiss people of all professions who prefer to stay in their own region rather than accept better jobs in other cantons or abroad. Moreover, there are the language boundaries. Only a very small proportion of the population changes linguistic regions. Many of those who do so for professional reasons later return to their region of origin. Things are changing, though. Under the pressure of globalisation, the Swiss economy is subject to rapid structural change, requiring workforce to become more mobile. University students are today offered mobility programmes to receive part of their education abroad. Nevertheless, living close to their native region is the first choice of most people.

Under these conditions, we can understand the great importance of regional solidarity in Swiss politics. Creating fairly equal living conditions in the different regions is vital if collective values of local cultures are to be maintained and if people continue to feel emotionally attached to their place of living. In contrast to the US, then, the Swiss culture of federalism is not primarily based on competition, nor on voting with one’s feet by migrating, the ‘exit option’ in Hirschmans (1960) terms. By compensating for existing inequalities, Swiss federalism makes it possible for people to stay in their own region. It thus favours the ‘loyalty option’.

3.3.5 *Dealing with Separatism: The Arduous Birth of a New Canton*

The problems of the Jura region have already been mentioned in Chap. 2 (Sect. 2.4.3). The Jura represents an exception to Swiss integration of cultural minorities. Historical factors and worsening language, religious, cultural and socio-economic differences instead led to its separation from the canton of Bern (Aubert 1983; Jenkins 1986; Ganguillet 1998; Siroky et al. 2017; Vatter 2018, 230ff.). The Jura region, which is mainly Catholic and French-speaking, was incorporated into Protestant, German-speaking Bern at the 1815 Vienna Congress by arrangement with Prussia, England, Austria and Russia. As a minority located at the northern periphery of the canton, the people of Jura felt they were being discriminated against both politically and economically. An escalation of political clashes after World War II gave rise to a separatist movement, which triumphed in 1978 when the new Jura canton was created. Things were complicated by the fact that the population of Jura was itself divided: the three southern districts had been Protestant since the sixteenth century, were economically better off and had traditionally better relations with Bern. Thus, the deepening conflict was not only between Jura and Bern, but also between ‘separatists’ and (Bernese) ‘loyalists’ *within* Jura (see also Fig. 2.2).

How were the authorities to deal with a region that wanted to separate from an existing canton and form a new one? The founders of the federal state had not anticipated this problem, so before the game could be played the rules had to be invented.

As far as the game itself was concerned, it was clear that three actors would take part:

1. The people of the Jura region, who had to decide whether they wanted to separate or stay with Bern;
2. The people of the canton of Bern, who had to decide under what conditions they would accept the separation, if that was the will of the majority of the people of the Jura region; and
3. The people and cantons of the entire Swiss federation who would, following the amendment of the Constitution, have to accept the decision of the Bernese and Jurassian peoples to split up and recognise the new canton as a member of the federation.

If Bern had long underestimated the importance of the Jura question, showing little regard for the cultural minority, it eventually was responsible for taking the most important initiatives to settle the conflict. In 1967, the Bernese government presented the people of Jura with three options from which to choose: the status quo, a statute of autonomy, or separation from Bern through the creation of a new canton. In the following year, a task-force or 'federal advisory committee' was created: two former members of the Federal Council and two members of the Swiss parliament were appointed to investigate the implications of a statute of autonomy and of the separation of the Jura region from Bern. Institutionally, this meant not only the appointment of a neutral third party, but also the unofficial involvement of the federal government in a cantonal conflict that had acquired nationwide importance.

In the succeeding years, the separatist forces continued to espouse independence, so the Bernese government proposed a cascade system of popular votes:

1. In the first votation, a simple majority of the people of the canton of Bern had to decide on the right of the Jura region to hold a referendum on separation or not.
2. In the second votation, the people of the entire region Jura were asked whether they wanted to create a new canton or stay with Bern.
3. Whatever the outcome of this second votation (leave or remain), one fifth of the electorate of each district that had been overruled could demand a further vote on what the district would do, that is, remain or leave.
4. If at least one district decided to leave, one fifth of the electorate of every commune lying on the new border could demand a final vote on whether to join the new canton or leave its district and remain with Bern.

The purpose of this cascade system was clear. The first votation would provide canton-wide democratic legitimacy for the subsequent procedure. The second would establish whether the Jura people did indeed wish to create their own canton but, given the internal division of the Jura people between separatists and loyalists, no district or commune would be forced to stay with the old canton or go with the new one against its will. Thus, the third and fourth votations would protect regional and local minorities on either side of the debate.

In 1970, the Bernese people accepted the cascade system as a constitutional amendment by an impressive majority of six to one (first votation). In 1974, the people of Jura voted with 37,000 for and 34,000 against independence (second votation). The cleavage between separatists and loyalists was clear: the Northern districts voted for separation by three to one, the three Southern districts voted to stay with the old canton by almost two to one. In 1975, the three Southern districts confirmed their preference to stay in the canton of Bern (third votation). Later that year, the fourth and final round of votations was held: Moutier, the main city of the Southern part of Jura, decided to stay with Bern whilst some other communes in that district chose to join the new canton.

After these votations the boundaries of the new canton, Jura, were known. In 1976 its people elected a constituent assembly which then drew up a draft constitution for the new canton. The constitution was accepted by the people of Jura in 1977, and one year later the Swiss people and the cantons accepted Jura as the 26th canton of the federation with effect of 1 January 1979. The result of the national vote (1,310,000 for and 280,000 against, with a large majority in all cantons, including Bern) was interpreted as revealing the great respect and understanding of the Swiss people for its minority groups.

The creation of the new canton had split the Jura region, which was contrary to the political objectives of a good part of the separatist movement which, on grounds of ethnicity, culture and language, had embraced the idea of independence for the whole of Jura. They had proposed other procedural rules, for instance that the right to vote for the creation of the canton should be given to all persons *originating* from Jura, regardless of their present place of residence. Instead of the separatists' dream of uniting the entire ethnic group within a single boundary, three districts remained with Bern. Yet this solution was modern in the sense that it rejected the nationalist formula of 'one people, one language, one culture, one state', which always leads to insoluble minority problems. In fact, migration and industrialisation have made mono-cultural societies and their states more and more an exception. In this respect, all boundaries are artificial. In Jura, they were founded on the principle of territorial self-determination on the smallest possible scale: first the region as a whole, then its districts and finally the (border) communes.

We could have witnessed quite a different outcome to the Jura question. Bern, instead of opening the door to separation, could have continued a policy of oppression against the separatist movement, as we have

seen lately in the case of Madrid against the Catalans. Further escalation of the conflict between the Bernese majority and the Jurassian minority without any realistic hope for a solution could have made federal intervention inevitable. Instead the Jura minority, despite discrimination, profited from individual and political liberties that were broad enough to allow it to organise its successful separation. Federal intervention was limited to an informal task-force that was able to gain the confidence of both sides, and the majority of the Bernese people, while anything but enthusiastic about the Jura minority, were willing to allow the Jurassians to leave the ‘grand old canton’ if so wished and expressed direct-democratically.

Fleiner (2012) rightly calls this procedure ‘creative minority protection’ (*kreativer Minderheitenschutz*) and regrets its non-application to other contexts. Indeed, thought through until its very end, self-determination stops with individuals, but the lowest-level *community* is the municipality. The other lesson to be learned from this case is that just because ‘the people’ have decided to leave or remain with Bern, this does not mean that future generations are forever bound by that decision. In fact, after much political agitation within and amicable discussions between Jura, Bern and the Swiss Federation, it was decided to let the people vote again. In 2013, the electorates of Jura canton (North) and the Bernese Jura (South) were asked whether they wanted start proceedings for a merger into a new, common canton. Just like 40 years before, the North overwhelmingly approved and the South rejected—with the exception of the Bernese city of Moutier, where 55% voted in favour of leaving (Siroky et al. 2016, 447). Since again every municipality was given the right to vote anew, Moutier held what was billed as the ‘final’ referendum on the entire Jura question, in summer 2017. On a record turnout of 88%, a narrow majority of 52% voted to join Jura (SRF 2019). However, two years later the courts cancelled that referendum because of several irregularities and so Moutier will—probably—vote anew.

3.4 THE LIMITS OF SWISS FEDERALISM

3.4.1 *Limits of Implementation: Why Some Foreigners Can Buy Real Estate in Switzerland But Others Cannot*

People living abroad can acquire real estate in Switzerland only within certain legal restrictions. The history of this federal law goes back to the 1960s. Xenophobes then complained not only that the foreign resident

share of 15% was too high, but that there was reason to fear a 'sell-out of Swiss real estate' (*Ausverkauf der Heimat*) to foreigners. When the xenophobe movement announced the launch of a popular initiative to stop this development and the price of land soared, the government had to react. It thus adopted a regulation limiting the acquisition of real estate by persons and firms residing abroad. The issue was highly controversial. Liberal forces were against any state regulation of the real-estate market. The political left, on the other hand, wanted new regulations on land-use planning and the protection of tenants, but not in the sense of the xenophobe forces. Yet the government felt forced to do something to curb the political growth of the movement, which had begun to make demands going much further than their original ones. Because of the highly controversial nature of the question, the regulations were many times revised. The bill contains exceptions and leaves room for complementary legislation by the cantons, which also have to implement the programme.

Twenty years after its start, the success of the programme was hardly convincing. Whereas in some cantons the sale of land and houses to foreigners stabilised or even fell, it rose sharply in others. What had happened? A closer analysis (Delley et al. 1982) revealed that the cantons had made full use of their legislative and implementing powers, thus adapting the federal law to their own needs. In some cantons, the objectives of the federal law coincided with their own strategies, as in Lucerne which aimed at a slow and gentle development of tourist sites. The federal programme and its cantonal complements were protective of the environment and implemented in Lucerne without reservation. In the canton of Geneva, the result was somewhat ambiguous. The city's most urgent need was to provide housing, especially for low-income residents. Thus, the city said no to foreigners who wanted to buy existing villas. But it said yes to foreign investors willing to co-finance large apartment blocks on condition that some of the apartments were let to families on low incomes. In a third canton, however, the federal objectives were completely distorted. Ambitious development plans for new tourist sites in the canton of Valais were financed by foreign capital. At that time, one could find advertisements in the business section of foreign newspapers saying: 'For foreigners, it's still possible to realise their dream of a Swiss Chalet'. Indeed it was, because Valais offered much laxer conditions for authorisation than other cantons, thus attracting *more* foreign capital to finance its plans.

Whereas it is common for the cantons to adapt federal legislation to their own needs, it is rare for them to go as far as inverting its objectives.

Yet, the Valais example shows what many other studies (cf. Kissling-Näf and Wälti 2007; Rütli and Sager 2004) confirm: the implementation of central government programmes in a federal system cannot be taken for granted. First, it depends on political will. If the political consensus is large, cantons and communes will make it a success, even if there are technical problems with implementation. Second, in a federal system consensus is required at different levels of government, but this condition may not be forthcoming. Programmes almost unanimously welcomed in the Federal Assembly may be controversial in particular cantons. An analysis of the federal housing programme, for instance, has shown that its subsidies were not used where housing was most needed, but in cantons where political forces willing to protect tenants were the strongest (Bassand et al. 1984). Third, lack of administrative resources at sub-national level can hinder a federal programme. For example, small cantons and communes are often unable to implement complex environmental policies because the necessary resources and expertise to analyse, implement, control and report are beyond their reach (Linder 1987, 224–227; Sager et al. 2018, 119–22).

3.4.2 *The Weakness of Federal Authorities: How a Canton Can Deny Human Rights to Its Citizens*

In the nineteenth century, Switzerland was one of the first countries to attain a level of democracy free from property and other restrictions on an adult male's right to vote. The realisation of women's voting rights, however, was a long and difficult process. The first attempts to introduce women's suffrage at the cantonal level failed in the 1920s in Neuchâtel, Basel, Glarus, Zurich, Geneva and St. Gall. In 1929, a petition demanding women's suffrage at the federal level was handed in with a quarter of a million signatures. The petition led to nothing. In a 1959 a popular vote, Swiss men voted two to one against women's suffrage. In 1971, Switzerland became one of the last countries to give women the right to vote, but it took another ten years before women were given equal rights and constitutional protection against discrimination.

People often wonder why in Switzerland the recognition of women's political and civil rights took so long. One answer may be that women's organisations, after their early setbacks in the 1920s, had lost much of their motivation and energy to demand equal rights (Mesmer 1988).

Another reason may be that Swiss society is generally more conservative than others. In fact the Swiss, who never had to militarily defend their traditional values and autonomy during World Wars I and II and who never suffered a social revolution in the twentieth century, were particularly late in recognising the need for a change in women's societal position (Held and Levy 1974). When in 1958 Iris von Roten published *Frauen im Laufgitter*—a very critical report on the economic, political, sociological and sexual situation of Swiss women—the author and her feminist work were destroyed by the media and effectively silenced (Köchli 1992). Only in 1991, when the almost forgotten book was re-edited, was *Frauen im Laufgitter* hailed as the Swiss equivalent of Simone de Beauvoir's *Le deuxième sexe* (1949) or Betty Friedan's *The Feminine Mystic* (1963). This clearly illustrates the late change of mind about the position of women in Swiss society.

From the perspective of political science, another factor should be recalled. The problem with the direct-democratic introduction of women's suffrage was that women were not able to participate in the decision. Men alone decided whether they were willing to abandon their historical privilege and share their political rights with women. In parliamentary democracies, such a situation is easier to deal with. A party that wishes to introduce women's suffrage can combine this proposition with other issues, for instance job security or minimal wages, in its election programme. Thus, a worker fearing for his job would probably vote for that party, even if he was at odds with the idea of women's suffrage. Should that party win the election, the introduction of women's suffrage would be likely, because once introduced the new voting power of women would most probably support the government that had enfranchised them. This procedure was not possible in Switzerland, where women's suffrage had to be introduced by popular vote—an all men's vote.

Moreover, in order to prevent one issue from riding on the back of another, and to ensure that voters have the opportunity to express their preferences clearly, the Constitution prohibits the combining of different questions in a single popular vote. Thus, when attempting to introduce women's suffrage in 1959, the federal authorities were unable to offer men some sort of incentive to share their electoral monopoly with women. All that the government could do was try to convince men that women were equal and that human rights should be universal. The most helpful thing, however, was the example provided by the cantons and a number of

communes which, during the 1959 votation and later, introduced women's suffrage at the lower level. When in 1971 the federal government tried again, it could point to these successful 'experiments' (see however Banaszak 1991).

A few bastions of all-male democracy withstood all attempts at persuasion, which they perceived as outside interference. The *Landsgemeinde* (citizen assembly) of the canton of Appenzell Inner-Rhodes steadfastly refused to introduce women's suffrage until 1990. Finally, when deciding on an appeal brought by a number of Appenzell women, the Federal Supreme Court ruled that this situation was unconstitutional. The court thus intervened drastically: it redefined Appenzell Inner-Rhodes constitution in such a way that it gave women the right to participate at the next *Landsgemeinde*.²

One may again ask why this process took so long. Was there no possibility of the federal government intervening earlier to end the unconstitutional situation in Appenzell? Theoretically the answer is yes. The Swiss federation has several means of intervening if cantons fail to comply with federal law. In the event of public disorder, it can even send in troops. Under certain circumstances it can also withdraw subsidies. Both sanctions, however, would not have been of much help in this case. Moreover, they are used very rarely. Federal authorities deal with the cantons with almost as much respect as they deal with foreign states. More common is intervention by the Federal Supreme Court. Since every cantonal decision can be challenged with the charge that it violates federal law, the Court's role in implementing equal protection is vital. Indeed, as the Federal Supreme Court deals with basic rights—freedom of the press, freedom of speech, the right to own property, freedom of association, equal protection by and due process of the law, and habeas corpus—it is probably the strongest authority of the central state with regard to the sub-national level. It says what can and cannot be done under the flag of federal autonomy. In defining common standards of constitutional law and equal protection, it acts as a counterbalance to the political variety of the cantons.³

²While the cantons of Appenzell Outer-Rhodes, Nidwalden and Obwalden have abandoned their annual citizens assemblies in the 1990s, Appenzell Inner-Rhodes as well as Glarus still hold on to it (Möckli and Stahlberger 1987; Helg 2007; Schaub 2016).

³On the effects of decentralisation on positive and negative discrimination in the asylum domain and also more generally, see Holzer et al. (2000).

The case of women's suffrage, however, was rather special. When introduced at the federal level in 1971, the amendment allowed for a certain delay on the part of cantons to give them time to adjust their own regulations. This was done for two reasons. First, the delay clause was likely to improve the chances of success in the popular vote. Second, it symbolised the hope that the male majority in those cantons that still resisted women's suffrage would change their minds more quickly if the federal authorities refrained from exerting pressure. This hope was fulfilled in several cantons, but not in Appenzell Inner-Rhodes. Here, the Federal Supreme Court (1990) had to decide and declare that the transitional period, after almost 20 years, had finally run out.

The belief of Swiss political culture that it is better to refrain both from coercive power and direct confrontation between cantonal and federal authorities seems to be indestructible, at least among the political elite. It is significant that the women's suffrage case was brought to the Federal Supreme Court by a few 'ordinary women' who had the guts to resist threats of harassment when doing so. The Swiss political elite, on the other hand, was not very creative in finding means of helping the Appenzell women. They even renounced symbolic politics. When it was the turn of an Appenzell Inner-Rhodes member of the Federal Council to become president in 1989, parliament could have said: we do not wish a representative of this canton to be the head of our state as long as it denies their women political rights. Nobody did. When it comes to its member states, the federation speaks softly and does not carry a big stick. The reason in this case is simple: federal intervention in the realm of the cantonal autonomy would have been perceived as an infringement by the Appenzell (male) voters to decide 'independently'. It would probably not have helped women getting their voting rights sooner either.

In a more general way, the question of how to enforce and implement human or civil rights poses problems in every federal state. Its central authorities have to guarantee equal rights, but they also have to protect minority rights and the historic particularities of local cultures. If equalisation is a question of money, it poses less problems. Money is divisible, and economic equalisation can therefore be negotiated through compromises. This is not always so with the equalisation of human or constitutional rights. Politically, problems of ethical values are often perceived as binary questions. In the view of many people, there is either the right to have an abortion or there is not, and the death penalty is either constitutional or it

is not. Because of the fundamental nature of these questions, parliaments and supreme courts sometimes decide them constitutionally for the whole of society.

But is there in sub-national units a right to difference in the name of federalism? Given the perspective that human rights are fundamental and universal, there can be no tolerance for federal particularities which deny those. Member states should then be forced to comply with the solution decided for all. But such solutions can evoke fundamental conflicts. If the ethical question is highly controversial, the conflict can threaten other values—social peace for instance. In federal systems, it may therefore be prudent to avoid single solutions when the issue is highly controversial. Moreover, if human rights are perceived as a historical product of economic, social and cultural development and not as God-given, there may even be an argument for different solutions in federal states.

Autonomous solutions for particular member states may not only prevent conflicts, but also allow the development of endogenous cultural patterns that are necessary to make human rights effective in daily life. According to the constitutionalist Walter Kälin (1987, 187–200), the Swiss Federal Supreme Court has followed both lines: after an initial ‘unifying’ period, it has later tried to value not only the federal, but also the cantonal tradition of constitutional rights, allowing regional and particular solutions. During the past ten years, however, there is a renewed tendency to impose stricter standards upon cantons when it comes to electoral systems and naturalisation procedures, or human rights in general.

Table 3.5 Federalist against democratic rule: practical veto power of small cantons in nine referenda

<i>Year</i>	<i>Issue</i>	<i>No-votes from 11.5 or 12 smallest cantons [% of all votes cast]</i>
1955	Protection of tenants	25.3
1970	Federal finances	24.0
1973	Federal education	21.7
1975	Federal economic policy	20.5
1983	Federal energy policy	20.0
1994	Cultural policy	19.5
1994	Naturalisation of foreigners	22.5
2013	Family policy	17.8
2020	Responsible Business Initiative	13.7

Sources: Germann (1991, 266), Linder and Mueller (2017, 225), BFS (2020)

3.5 CHALLENGES

3.5.1 *Federalism Versus Democracy: Why One Citizen from Uri Outweighs 35 Citizens from Zurich*

Chapter 2 argued that federalism was an important institutional mechanism in Swiss democracy for protecting minorities and dealing with cultural divisions. However, this also implies a conflict between two principles of decision-making. Democracy insists on the equal weight of every individual, that is, ‘one person, one vote’, whereas federalism guarantees equal representation to the member states of a federation, that is, ‘one region, one vote’. If the two modes of decision-making are used to decide the same question, they can lead to conflict (Germann 1991; Linder and Mueller 2017; Mueller 2020). In Switzerland, such collisions happen not only in parliament, if the Council of the States and the National Council disagree, but also in popular votes on constitutional questions, if the majority of the cantons and the majority of the people point in opposite directions. Table 3.4 shows all 14 instances of this occurring.

Most of these collisions are recent. The number of referenda on constitutional matters has considerably increased. Before World War II, we count about ten referenda per decade. In the period after, this number quadrupled to more than 40. Constitutional amendments, once an exception, have become the norm for the introduction of all substantial new activities by central government. This leads to a greater risk of collision between the popular and cantonal majorities.

Also the differences in population size between cantons have increased because of migration from rural to urban regions. This has had an effect when more popular votations require a double majority. In 1848, one person from the small canton Uri cancelled out 17 persons from the largest canton when the majority of the cantons was counted. Today, among eligible voters between the cantons of Uri and Zurich, the relationship is 1:35. When the 11.5 smallest cantons vote together, they constitute a blocking federalist majority representing only a tiny democratic minority. Theoretically, the smallest federalist veto power (51% of voters in the 11.5 smallest cantons against all others) represents just 10% of the Swiss electorate. This means that some 500,000 citizens, if ideally distributed territorially, could decide to keep all 8.5 million inhabitants in the constitutional status quo. In reality it is unlikely to find a 51% majority against a proposal

in all small cantons and 100% in favour everywhere else. We can, however, determine the practical ‘minimal veto power’ from the votes in Table 3.4, where in ten out of 14 cases the cantonal majority blocked a democratic majority. This is done for the last nine votations, calculating the sum of no-votes from the 11.5 or 12 smallest cantons as a percentage of all votes cast (Table 3.5). We see that the practical veto power of the small cantons represents a democratic minority of just 14–25%.

The above cases were important and controversial, and the veto power of the small cantons has further consequences. Political analyses show that the voting behaviour of the cantons on specific issues is relatively stable. One of the issues where small rural cantons vote differently from large urban cantons is foreign policy. When voting on a trade agreement with the European Communities (1972), on the first project for membership in the UN (1986), and on the Bretton Woods institutions (1992), the small cantons maintained classical attitudes of neutrality or autonomy and preferred non-engagement in foreign policy, whereas the large cantons were more open to Swiss participation in international affairs and organisations. As political scientists had predicted (e.g. Germann 1991, 269), this pattern also held in the votation on Swiss membership of the European Economic Area in 1992, when 50.3% of the people and 19 cantons rejected the treaty. But a mere 30% of all votes, coming from the small cantons, were enough to block a federal vote in favour. For a ‘yes’ to the treaty, on the other hand, a very strong majority of 59% of the people would have been necessary to reach a majority of 12 cantons. The same pattern—but this time with a positive result—was seen during the second referendum on UN membership in 2002: 54.6% said yes to the UN, and this vote produced the smallest possible majority of 12 cantons. It is evident, therefore, that substantial decisions in foreign policy—such as joining the EU, for instance—will meet a particular difficulty when it comes to a vote. If such a decision is a constitutional matter, a simple majority of the people will not suffice. A rather strong preference of 55–60% of the people will be necessary to achieve the double majority required.

To what extent is it justified that thanks to the federal principle a small minority can overrule the democratic majority? ‘Do not mix up two different things’, would say protagonists from small cantons. To protect minorities against a democratic majority is the very aim and legitimacy of federalism. If you accept the principle of ‘one region, one vote’, you have to accept a federalist majority no matter how small a part it may be of the democratic electorate. ‘Of course, minority rights are important’, others

might say. They will object, however, that a federalism weighing the votes of some persons 35 times more heavily than those of others is denying democracy and its principle of 'one person, one vote' too much. Theoretically, every federal democracy faces this problem. There is a contradiction, and a trade-off, between the principle of equal rights of member states and of citizens as such.

It is impossible to find a general answer to the question as to the extent to which federalism may legitimately be allowed to outweigh democracy. Different solutions depend on a country's historical situation, and on the importance a federation gives to minority rights or to the autonomy of its member states. The collision between democratic and federal majorities may be settled more easily in bicameral parliamentary decisions, where there are ways of negotiating between the two chambers, than in popular votations which lack this possibility. Some countries may not be worried by and therefore not become aware of the problem of the collision between federalism and democracy. In the US, the difference between the smallest and the largest states can reach a ratio of 1 to 50 or more. But small states such as Alaska, Wyoming, Vermont and Delaware do not often form themselves into a coalition as in Switzerland.

There is, however, an important lesson to be drawn from the Swiss example. Because of migration between the cantons, the weight of the principle of federalism has increased in comparison with democratic majority rule. One could argue that this is against the logic of Swiss history, because the importance of classical federal cleavages such as religion and language has diminished over the past 100 years. Why not therefore reassess the relative importance of federalism and democracy? Why not go back to the equilibrium, for instance, of 1848?

Theoretically, many solutions are possible. One could redistribute the seats in the Council of States. Given the increasing difference in the population size of cantons, one could modify their equal representation, for instance, giving large cantons three seats, the middle-sized ones two and the small cantons one seat. The majority of cantons in a popular votation could be calculated in a similar way. Or one could imagine rules for a division of power that would allow the federation to undertake new activities without amending the Constitution in every single case. Some such attempts have been made, but their failure was to be expected. Changing the rules of federalism is a game to be played under the existing rules, and there is no reason for minorities to renounce on their long-held veto rights when asked to do so.

More generally, the constitutional design of federalism has to be considered carefully. A simple democratic majority may grant over-representation to its small units. But the institutionalisation of such rights is a one-way street: federal minority rights, once introduced, cannot be revoked by a simple democratic majority.

3.5.2 *Urban Regions—The Forgotten Dimension of Swiss Federalism*

Urbanisation in Switzerland followed the same pattern as in other countries. It crystallised around historic centres, once complete microcosms where the same people were working, shopping, living and spending their free time. With the development of public transport and the spread of cars, the ‘complete’ historic city has been torn apart: its centre attracts the service industry, and the more services concentrate in the centre, the more they can specialise and the more they attract people from far away to use them. The service industry is able to pay higher rents than residents. Land prices rise. Residents are driven out. They may still work in the city, now a central business district, but they have to find an apartment in the suburbs. Old industrial plants, too, move out of the city into its surrounding areas. Consumers buy their commodities in shopping centres built close to motorways. Traffic grows faster than anything else. Urban people become commuters. Part of their growing income and leisure has to be spent on longer daily travel between workplace, shopping and recreation areas and home. The old city is transformed into an urban region, or an ‘agglomeration’, as it is called in Switzerland, which overruns traditional communal boundaries and is composed of a central city with perhaps 30 or more surrounding communes.

Swiss agglomerations may be smaller than those of other countries, but according to official statistics about 70% of the Swiss population live in them. However, there is no political organisation for the common needs of their inhabitants. For defence matters, there is the federation. For hospitals, there are cantons, and for sports facilities the communes are responsible. When it comes to the infrastructure of agglomerations, there is no common authority. Other ways have to be found to finance and run public facilities of common interest. For public transport systems, several organisations may work together: federal railways, private railways, buses run by the postal services and communal trams and trolleybuses. In some agglomerations this kind of cooperation works well. In others it fails because

every single suburban commune may exercise a kind of a veto on most issues (e.g. Koll-Schretzenmayr and Schmid 2003).

The balance between the quality of life in cities and suburbs has been disturbed. Central cities are worried about the concentration of pollution and noise, and about the runaway cost of public services such as theatres and schools, which are supported by city taxpayers alone even though residents of the whole region use them. Through social segregation, the poor concentrate in the cities, whereas rich taxpayers—including firms—move into suburban residential areas. Over the last 30 years, the idea that wealthy cities are the motors of their surrounding areas has changed considerably. Scholars differ in their assessments of the extent to which central cities are losing out economically to suburban communes. There is evidence, however, that in today's urbanisation process Swiss cities are living through a difficult period. They are hampered in their development and are running out of planning options that do not extend into surrounding communes. They risk being overrun by barely controllable commuter traffic. Some of them are becoming increasingly indebted, despite levying higher tax rates than in suburbia. No wonder political tensions between central cities and the surrounding communes are growing. Moreover, we see a revival of historical conflicts between the urban and the rural. Rural and urban societies seem to be faced with different problems. They develop different preferences in lifestyles and vote for different parties: Greens and Social-Democrats in the city, Liberals and Conservatives in suburbia and the countryside, respectively (Kübler 2017, 171ff.; also Scheuss 2013; Maxwell 2020).

Should there be a kind of a metropolitan authority for all shared services and public goods in urban areas? There is a strong theoretical argument for it in the idea that electoral and fiscal responsibility for a public good should coincide with those who benefit from it. Yet metropolitan governments who decide on all public goods, from transport and planning to health and culture, are rare in Europe. Instead of one political authority we find a multitude of special agencies, each dealing with one particular metropolitan service. In Switzerland, the idea of a political statute for agglomerations runs counter to the tradition of local autonomy (e.g. Koch 2013). One could argue that the country does not need a fourth tier in a federal system that is already too complex. But the problem remains. European urbanisation is transgressing national boundaries and pushing for larger dimensions. These pressures will probably help the Swiss to find their own solution (e.g. Sager 2002).

So far, the inauguration of a ‘Tripartite Agglomeration Conference’ is an interesting innovation because it brings together all three federal levels in order to deliberate on common problems. A stronger institution-building could follow two courses. Either cantons and communes will see a revitalisation of historical districts,⁴ with the advantage that the old geographical patterns of common political culture can be utilised. Or the consolidation of urban government will be achieved by the statutory creation of a special region. Urban regions can be designed to effectively cover the entire geographic range of public goods. Yet people may consider them artificial because their boundaries do not represent patterns of common political culture or reflect a sense of political community. If both ways are unsatisfactory, a third option may be considered. It consists of a flexible organisation in which just those communes cooperate who are willing to share part of their facilities and public services. Prices for common public services are higher for non-members than for members. This organisation helps to restrict the benefits of cooperation to members and creates incentives for initial non-members to join (Arbeitsgruppe 1992; Lehmann et al. 2003).

3.5.3 *The External Challenge: Federalism in a Period of Globalisation*

The last few decades have been characterised by a rapid liberalisation and globalisation of national economies. Some Swiss industries—like agriculture or small trade—came under great pressure because the opening of markets meant the end of national tariff and non-tariff boundaries that had protected them from international competition. For the export industry, however, internationalisation was nothing new. Swiss banks, Nestlé, and the chemical and pharmaceutical products of Roche or Novartis are known on all continents. While political neutrality and stability have attracted capital to Switzerland, its firms have invested all over the world, and a great part of their working places are located at production sites and services centres abroad: according to official statistics, in 2018

⁴Districts (German: *Bezirke*; French: *districts*) are subdivisions of cantons, comprising a number of communes. Originally, the districts were created to decentralise cantonal power and institutions, an idea that was mostly substituted by direct delegation of cantonal tasks to the communes. Today, the responsibilities of districts are limited to judicial organisation and some police tasks. Furthermore, they usually serve as constituencies for the election of members of cantonal parliaments.

employment in Switzerland numbered 5 million, among them 1.6 million non-Swiss workers (BFS 2020). At the same time, Swiss-controlled companies employed some 2.1 million people abroad, mainly in Europe (44%) and Asia (26%) (SNB 2018, 4). And with 120% of gross domestic product (GDP), international trade is more important than in most other industrial nations (average for 2015–2018; EU average: 84%; World Bank 2019). No wonder that Swiss export industries welcome globalisation which gives them wider options and access to new markets.

Yet globalisation is more than an economic process. It has become profoundly political. For many problems, the nation-state has become too small. International or supranational organisations are taking part in the political functions and responsibilities that were once the domain of the nation-state. The political dynamics of globalisation have deep consequences for Switzerland. First, they question its traditional foreign policy, which consisted of active participation in international economic affairs but saw neutrality as the guiding principle and refrained from engaging in international conflict. In the 1990s, the Swiss government redefined the idea of neutrality, allowing a more active foreign policy and engagement in international affairs (Goetschel et al. 2005). This prepared it to become a member of NATO's Partnership for Peace and later the UN.

Second, the pronounced liberalisation policy of the WTO made it impossible to continue Switzerland's double-faced economic policy: protecting agriculture and some domestic branches of industry and trade from international competition while fostering liberal world trade for its own exports. Third and most important: despite the fact that the Swiss people in 1992 refused to join the European Economic Area (EEA), which would have offered comprehensive access to the EU's single market, Switzerland is in a process of constant 'selective Europeanisation'. Because of their intense economic relations, Switzerland and the EU have concluded a series of bilateral treaties. Forced by circumstances, Switzerland adapts most of its economic regulations to EU standards. Switzerland is in fact 'Europeanised' without being a member of the EU (Linder 2011; Jenni 2016).

How do globalisation and 'Europeanisation' affect federalism? Does Switzerland, in a process of international centralisation and harmonisation, have a chance to keep its national federalism and decentralised governance? To answer these questions, let us discuss some challenges resulting from outside pressure (cf. also Sciarini et al. 2004; Church 2007).

A first challenge is the different rhythm of decision-making. One of the characteristics of European integration is its rapid evolution, and the great scope of many of Brussels's decisions. This flatly contrasts with Swiss policy-making, where federalism and direct democracy require time and allow for marginal innovation only. Moreover, as EU regulations and other international treaties can affect also cantonal responsibilities, cantonal governments have pushed for more participation in foreign policy. As a result, it is difficult for the Swiss government to formulate a foresighted and proactive policy.

A second challenge is the overruling of federalism. The majority of the Swiss people, for the moment, do not want to join the EU. But Switzerland cannot afford to cut itself off from the common market and have different economic regulations. Export industries and consumer organisations push for the opening and liberalisation of Swiss markets. The Swiss government 'autonomously' adopts many EU regulations and seeks the 'euro-compatibility' of new domestic regulations (Linder 2014, 229). Contrary to proactive policy, in which we observe weaknesses, the Swiss government is quick and alert in reactive adaptation. Some even say that the Swiss government adopts more EU standards than many EU members themselves.

How is this possible? Political analysts see two reasons. Firstly, pressure from the outside can go hand in hand with certain domestic interests. As already mentioned, many Swiss industries are interested in liberalisation, deregulation and open markets. Pressure from the outside and from the EU is 'instrumentalised' by a strong coalition of government and part of the economy (Mach et al. 2003; Trampusch 2010). This coalition, secondly, legitimises shortcuts in the political process, whereby the government is given more powers to decide. This can be illustrated by traffic regulations. Before 1997, dimensions and weights allowed for lorries were regulated by a formal law. When in 1990 the government wanted to increase weights to European standards, opponents feared an invasion of lorries crossing the Alps and launched a referendum. In 1997, parliament revised the law, delegating the competencies for the adaptation of weights and dimensions to the Federal Council. Soon afterwards the government made use of this competency for the first time and 'harmonised' some regulations according to EU standards. Under this regime, referenda are no longer possible.

Thus, globalisation leads to a change of the internal power balances and strengthens the executive. This can go at the cost of parliament, of people's rights—and of federalism as is illustrated by the following example. In 1999, the education ministers of 29 states signed the 'Bologna treaty' for the harmonisation of higher education in Europe. The Swiss minister

also signed on, but without much consultation of parliament or cantons. This was remarkable, as most universities in Switzerland are cantonal and education matters are key domains of the cantons. The overruled cantons, formerly eager to defend their autonomy in educational matters, did not even protest, and the reform was implemented quickly. The example shows that federalism is ruled out not only in a formal but also in a substantial way. With the harmonisation of Bologna, Swiss universities cannot showcase cantonal or national particularities and offer an internationally standardised curriculum instead. University students rightly wonder if the promise of having a Europe-wide recognised MA degree will give them better job chances on the domestic market.

This points to a more general effect of globalisation. Many economic branches, for instance agriculture or crafts, see no future because given higher production costs domestically, they cannot compete in an internationally liberalised regime, nor can they outsource work to cheaper countries. These losers of globalisation are located primarily in rural regions. Cantonal regulations and regional policies cannot help them any longer: globalisation not only makes national but also cantonal boundaries obsolete. The cleavages between the urban and rural segments of the population, and between rural and urban cantons, become deeper. Modern Swiss federalism thus faces a completely new challenge: the domestic power balance is under threat from abroad (Linder 2016).

3.5.4 The Internal Challenge: Why Do the Swiss Want to Preserve Federalism?

Globalisation and especially ‘Europeanisation’ can put traditional Swiss federalism at risk. But there are more challenges. Some traditional cantonal particularities that have lost their significance, for instance judicial procedures in civil and criminal law, which have been abandoned and unified by federal law. While such incremental steps for unification sometimes pass without opposition, a more fundamental critique gets more and more attention: that the Swiss cantons have become too small to effectively exercise their responsibilities.

Indeed, a canton with a population of 30,000 inhabitants may not be capable of running a high-tech lab for food control or run a specialised hospital. Critics say that instead of having 26 cantons of different population size, it would be better to have only seven, each of them having a size of about one million inhabitants. These new federal units could benefit from economies of scale and offer a higher quality of public goods at

cheaper prices. One could even object that one million inhabitants is still small for a federal unit, go further and create a seven-million unitary system with no cantons. Yet even then it would be considerably smaller than the Free State of Bavaria with 13 million inhabitants. Is Switzerland simply too tiny anyway?

We would deny that because the managerial argument for the advantages of big size overlooks one essential point: the smallness of political units is not only a disadvantage but can offer advantages, too. In smaller units, there is often less bureaucracy, better political integration, greater identification with the authorities and better responsiveness to the citizen preferences. Let us take up the last point, illustrating the example of the Swiss health care system. Partly regulated by the federation, health infrastructure and services are organised by the cantons, and therefore of a different level of specialisation. Naturally, small cantons are restricted in their possibilities, and most sophistication is to be found in the big urban cantons with university hospitals. Here, not only public health expenditure per capita is higher but also the health insurance premiums paid by residents. But while explaining differences, there is yet another dimension to be found: experts speak of an East-West difference, with St. Gall and Appenzell at the low and Vaud and Geneva at the high end of expenditures. Some interpret this as a difference of mentality: people in the French-speaking West have a higher appreciation of medical services and use them more intensely than people in the German-speaking East. Thus, a centralised health system would give less satisfaction to both parts: people in the East would pay more and get more than what they want, people in the West less.

Maybe the time will come when some cantons merge with others. But this can happen only as a bottom-up process. If you ask Swiss people how they feel about their canton, you get different answers. Some identify strongly with it despite critique or are attached to its history and natural beauty, others like the emblem of their canton on the car plate, which in traffic distinguishes them visibly from drivers of another canton. But most would say that the federal government in 'Bern' is far away and an anonymous bureaucracy, and that they feel more comfortable with the canton whose service they use daily. These may be traditional feelings or pure intuitions, yet not entirely unfounded. The Swiss strongly prefer non-centralised governance, which brings the state closer to the people. Thus far the Swiss are also willing to pay for it. In today's welfare state, decentralised governance has modern meanings, as we have illustrated using the

example of public health: it is more responsive to the different values and preferences of different peoples. This is the meaning of the saying: ‘federalism makes happy’.

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Direct Democracy

4.1 INTRODUCTION: THE VOTE TO ABOLISH THE SWISS ARMY

On 27 November 1989, the *New York Times* reported the following news from Switzerland:

Swiss Reject Plan to Scrap Army

Geneva. Switzerland today voted to keep its army as the best way of maintaining its neutrality. An initiative to abolish the army was turned down by a margin of almost two to one. 'A majority of the states rejected it', a Government spokesman said. Only in Geneva and Jura did the majority vote in favour of the proposal. The initiative, forced by a petition signed by 111,300 citizens, set off a fierce national debate on the usefulness of an army in a small neutral country.

Readers of the *New York Times* may well have been stunned and wondering:

- How is it that a handful of citizens can challenge the federal government to an extent of proposing such a revolutionary idea as the abolition of the entire army? And if the Swiss people can revolutionise their country at the ballot box, why is Switzerland's government a symbol of stability and its policies so conservative?

- Does direct democracy really have an impact on policy, as this vote on the army implies, or is it just a kind of theatre with the political elite holding real power backstage?
- If—as described in Chap. 2—direct democracy is part of an old cultural tradition, has it now become obsolete? Can democracy in a modern society keep up with growing complexities if the most important decisions are taken by ordinary people?
- And if so, how does direct democracy actually work? Who participates, who does not and how do voters react when confronted with difficult questions? What are the wider effects of direct democracy on the politics of government and parliament as well as political parties?

In this chapter, we shall try to answer some of these questions.

4.2 INSTITUTIONS, HISTORICAL DEVELOPMENT AND MEANINGS OF DIRECT DEMOCRACY

4.2.1 *Obligatory and Optional Referenda*

A ‘referendum’ in this context means a popular vote on a specific parliamentary decision, with the citizens having the last word: they decide whether the proposal becomes law or is rejected. In Switzerland, there are two types of referendum. First, all proposals for constitutional amendments and important international treaties are subject to an *obligatory referendum*. This requires a double majority of the Swiss people and the cantons, thus offering a kind of federal participation (see Chap. 3). The obligatory referendum is relatively frequent. Since Article 3 of the Constitution leaves all powers to the cantons unless specifically delegated to the federation, the authorities have to propose an amendment for every major new responsibility undertaken at national level.

Second, most parliamentary acts and regulations are subject to an *optional (or facultative) referendum*. In these cases, a parliamentary decision becomes law unless 50,000 citizens or eight cantons, within 100 days, demand the holding of a popular vote. If a popular vote is held, a simple majority of the voting people decides whether the bill is approved or rejected, the wishes of the cantons being irrelevant. Since the obligatory referendum refers to constitutional amendments and the optional

referendum to ordinary legislation, the two instruments are often distinguished as the ‘constitutional’ and the ‘legislative’ referendum (Aubert and Mahon 2003, 1061–116) (Table 4.1).

At cantonal and local levels, referenda occasionally go even further. Some cantons hold an obligatory referendum for most laws and important acts, and referenda may also be held on specific financial decisions (Lutz and Strohmann 1998). Direct-democratic instruments are, on the whole, more widely used in the Swiss-German cantons and communes than in the French- and Italian-speaking parts of Switzerland (Vatter 2002, 219ff.; Trechsel and Serdült 1999; Lafitte 1987; Karr 2003). In the latter, the ‘liberal’, representative idea of democracy dominates the ‘radical’, participatory one (Bühlmann et al. 2014, 404–6).

4.2.2 *The Popular Initiative*

One hundred thousand citizens can, by signing up to a formal proposition, demand a constitutional amendment and/or propose the revision or removal of an existing provision. The proposition can be expressed as a fully formulated text or in general terms upon which the Federal Assembly can then make a formal proposition. After signatures have been collected successfully, the initiative is discussed by the Federal Council and parliament, which then adopt formal positions on the proposed changes. This can involve drawing up an alternative proposition or, if the popular initiative is couched in general terms, formulating precise propositions. Initiatives and eventual counterproposals are presented simultaneously to the people. As with all constitutional changes, acceptance requires majorities of both individual voters and cantons.

The cantons dispose of additional instruments of direct democracy. Whereas at federal level the popular initiative is restricted to constitutional matters, it can be used to propose ordinary laws and acts at the cantonal and local level. The process leading to popular votes, notably the number of signatures required and the time allowed for their collection, varies markedly from canton to canton. One would imagine that the height of this hurdle would influence the use of the referendum and the popular initiative. However, this is not the case. There is no statistical evidence to suggest that in cantons with high hurdles, referenda or initiatives are used less often than in cantons with low hurdles (Vatter 2018, 372; Moser 1987).

Table 4.1 Types of referendum and popular initiative (federal level)

<i>Type, year of introduction and of eventual revisions</i>	<i>Trigger</i>	<i>Description</i>
Constitutional referendum (1848), accession to organisations for collective security or to supranational organisations (1921, 1977)	Automatic (obligatory)	In cases of total revision of the Constitution, in cases of amendments and, since 1977, for decisions concerning membership of supranational organisations. All obligatory referenda must win a double majority—more than 50% of the votes nationwide and a majority of votes in a majority of cantons.
Legislative referendum (1874), referendum on international treaties (1921, 1977, 2003)	50,000 signatures or 8 cantons within 100 days of the publication of the act	Any law of the Federal Assembly and any important international treaty may be challenged. If a popular majority votes no, the law or treaty does not enter into force.
Abrogative referendum I (1949)	50,000 signatures or 8 cantons within 100 days of the publication of the act	‘Urgent’ laws become immediately valid but may be challenged by way of an optional referendum during the first year after enactment.
Abrogative referendum II (1949)	Automatic (obligatory)	‘Urgent’ laws without constitutional base become immediately valid but have to be submitted to an obligatory vote within a year. They are abrogated unless accepted by the double majority of the people and the cantons.
Popular initiative for the total revision of the Constitution (1848)	100,000 signatures within 18 months	The proposal is submitted first to the people. If a simple popular majority agrees, parliament is dissolved and a new assembly elected to draft a new Constitution. The resulting document is then be submitted to a referendum, in which it must gain a double majority. ^a
Popular initiative for the partial revision of the Constitution (1891)	100,000 signatures within 18 months	Citizens’ proposal for a constitutional amendment/partial change. Government and parliament propose to reject or endorse the popular initiative. The constitution is changed only if the proposal is accepted by a majority of the people and the cantons.

^aA popular initiative for the total revision of the Federal Constitution was only submitted once, in 1935, by the so-called Frontist Movement, and rejected in stage one (Swissvotes 2019)

4.2.3 *Direct and Semi-direct Democracy: Historical Origins and Development*

Swiss political rights have resulted from cultural patterns and history, political struggles and coincidences. There are some myths about direct democracy. Its protagonists in the nineteenth century claimed that it was a revival of old democratic freedoms. In reality, the Swiss confederation in medieval times had its landlords and familial oligarchies just as their neighbours had their nobility. The French Revolution ended the *Ancien Régime* and the privileges of old cantons over their subject regions in Switzerland. Democracy was imposed by Napoleon, not invented in old Switzerland.

Alfred Kölz (1992, 615–20), in his book on the history of the Swiss Constitution, shows that democratic institutions were directly influenced by theorists of the French Revolution, but official history in the nineteenth century declared them to be of Swiss origin. When in 1831 the progressive cantons began to establish democracy, it was under the slogan ‘sovereignty of the people’, and the constitutional framework provided for the division of power and the free election of representatives. But the representative system reminded the protagonists of democratisation too much of the old regime and its power elites. Thus, democratic forces called for full democracy, that is, law-making by the people and self-government. Whereas the holding of referenda would give the people control over parliament by ensuring they would have the last word on all important decisions, the initiative would bring citizens’ own ideas to bear on law-making. The democratic forces demanding these rights were successful. The referendum and the initiative were introduced first in the cantons, and later in the federation, whose original 1848 Constitution more resembled a parliamentary democracy.

When the legislative referendum and the initiative for partial revisions of the Constitution were introduced at federal level in 1874 and 1891, respectively, there was a second motive behind the calls for direct democracy: to prevent political and economic power being concentrated in the same few hands. As Karl Bürkli, a fervent democrat and trade union leader, wrote in 1869:

Our law-makers, elected by the people, are incapable of making good laws for the working class, even if they make excellent laws for the bourgeois class. Why? Because the representative bodies, in their majority, consist of capitalists and their servants who are hostile to social progress. Just as slave-holders are incapable of making laws in the interests of slaves, capitalist-representatives are incapable of making laws in the interest of workers.

Representative democracy is not a form of government able to improve the living conditions of the working class and to resolve social problems. (Own translation)

But unlike Karl Marx, who 20 years previously had called for a revolutionary class struggle against the ‘bourgeois’ state, Bürkli put all his hopes in direct democracy as law-making by the people. If direct democracy is realised, he wrote, ‘the people will find the right way to social freedom, because they feel themselves its daily sorrows and the need for change’.

From the very beginning, this expansion of the people’s rights not only to elect its authorities but also to vote on certain issues led to another understanding of democracy. The model of pure representative democracy promotes the idea of an elected government and parliament who decide for the people. They are entitled to do so because they represent the people or its majority. Representative democracy requires trust in the parliamentary elite, and trust that the will of parliament is consistent with the preferences of the majority of citizens. Bürkli was not the only political leader distrusting the political elites. In the cantons, many bourgeois politicians, too, were unsatisfied with the politics of their government and parliament. Distrust in government *for* the people led to the different idea of government *through* the people, that is, ‘self-rule’ in the name of the ‘sovereignty of the people’.

The Swiss were aware that government through the people was not possible for every decision. However, they wanted citizens to participate in the most important ones. Democrats demanded that the people should not be excluded from participation in the most important decisions, and that there should be agreement between the authorities and the electorate on all important issues. This constitutional system involves three types of procedures (see also Table 4.2):

Table 4.2 Constitutional selection of direct-democracy issues at federal level

<i>Issue</i>	<i>Legal form</i>	<i>Deliberating authority</i>	<i>Participation by the people</i>
Most important	Constitutional amendment	Parliament	Popular initiative, obligatory referendum
Important	Ordinary legislation	Parliament	Optional referendum
Less important	Ordinance	Parliament, executive	None

- The most important questions are constitutional. Here, the people—and the cantons—always participate through obligatory referenda (voting on all amendments proposed by parliament) or popular initiatives (proposing constitutional amendments).
- Questions of secondary importance concern ordinary laws and regulations, decided by parliament. Here, citizens can intervene if they so wish: the optional referendum permits them to challenge parliamentary decisions. However, at the federal level it is not possible to propose your own law by means of the initiative.
- Questions of less importance are settled through simple regulations or government ordinances. They are left to the government, sometimes to parliament.

This constitutional order fulfils four functions:

1. *Selectivity*: The above given constitutional order provides a selection system. Not all decisions are open to the people, but the people always have the last word on the most important issues of constitutional policies, and they have an option to control the legislation on important issues.
2. *Securing the highest legitimacy for the most important and controversial political decisions*: In the ideology of the ‘sovereignty of the people’, the people’s own decisions are seen as the ‘purest’ form of democracy. ‘Authentic’ decisions by the people enjoy the highest legitimacy because they constitute ‘self-rule’. That is also the reason why the Federal Supreme Court cannot invalidate Federal Laws: the people have either approved them in a referendum or decided not to contest it, which amounts to the same (*qui tacet consentit*).
3. *Keeping parliament involved*: Only a small part of all laws enacted by parliament are actually challenged through a referendum, and government ordinances are excluded from direct participation. Hence, most decisions in Swiss politics are taken by the parliament and the executive, just as in representative systems. That is why the Swiss system is best referred to as a ‘semi-direct democracy’,¹ which means

¹We therefore use the term ‘semi-direct democracy’ when referring to the Swiss political system and its elements of representative and direct democracy as a whole, and ‘direct democracy’ when referring to the two instruments of the referendum and the initiative as well as to their use.

that decision-making contains elements of both representative and direct democracy. The constitutional order tells us how this shall be done, indicating who has the last word on a political decision.

4. *No plebiscites*: In countries which have ‘plebiscites’, it is the parliament or the president who call a referendum. France’s General de Gaulle, for instance, endorsed his project to give independence to Algeria by a plebiscite in order to have more political support and legitimacy for this historical decision. Swiss direct democracy is fundamentally different. It is not the privilege of politicians to decide if a referendum is held, but the Constitution states that all constitutional amendments have to be voted upon, and that every law must be open to an optional referendum. Sometimes constitutional lawyers have different opinions on whether an issue must be regulated by a constitutional amendment or an ordinary law, but this discretionary power is marginal. Thus, the constitutional order provides an effective guarantee of the people’s right to direct participation.

Over the last hundred years, much of the great enthusiasm for direct democracy has disappeared. Many of the hopes put on the effects of ‘people’s law-making’, as expressed by Bürkli in 1869, have been dashed by the experiences of semi-direct democracy. The political left had to learn that the people did not want revolutions. But the same people also rejected many projects of the bourgeois majority. Direct democracy has not replaced, but rather complemented parliamentary politics: both the referendum and the initiative have become the most powerful instruments of the opposition and allow for protest against the political elite.² This partly explains why the political rights have become so popular: in surveys, they regularly show up as the most precious elements of Swiss democracy and identity—even for those who belong to the losers in many votations.

²For a recent, forceful defense of the optional (‘bottom-up’) referendum from a normative perspective, see Cheneval and el-Wakil (2018) and el-Wakil and Cheneval (2018).

4.3 A CLOSER LOOK AT THE REFERENDUM AND THE INITIATIVE

4.3.1 *The Issues*

We remember the call of democratic forces for the ‘sovereignty of the people’ when fighting for participation rights. They believed that no decision of great importance should be excluded from the direct influence of the people. This historical expectation was probably too optimistic. But when looking at the list of federal votations held in the last three years alone (Table 4.3), we can see that there is practically no kind of issue that was not subject to either a referendum or an initiative.

Table 4.3 Federal votations held 2017–2019

<i>Date</i>	<i>Title/Topic</i>	<i>Type^a</i>	<i>Result</i>
19.05.2019	Implementation of EU gun law directive	LR	Accepted
	Corporate tax and public pension reform	LR	Accepted
10.02.2019	Urban sprawl	PI	Rejected
25.11.2018	Insurance deductibles	LR	Accepted
	Self-determination	PI	Rejected
	Cow horns	PI	Rejected
23.09.2018	Food sovereignty	PI	Rejected
	Fair food	PI	Rejected
	Bicycle lanes and hiking paths	CP	Accepted
10.06.2018	Gambling	LR	Accepted
	Sovereign money/banking	PI	Rejected
04.03.2018	Public TV and radio fees	PI	Rejected
	Federal taxes	CR	Accepted
24.09.2017	Pension reform	LR	Rejected
	Financing of pension reform	CR	Rejected
	Food security	CP	Accepted
21.05.2017	Energy law	LR	Accepted
12.02.2017	Corporate tax reform	LR	Rejected
	Highway and urban street plans and financing	CR	Accepted
	Simplified naturalisation of foreigners	CR	Accepted

Source: Swissvotes (2019)

Note: ^aCR = Constitutional/obligatory referendum; LR = Legislative/optional referendum; PI = Popular Initiative, CP = Counter-proposal

4.3.2 *Direct Democracy's Role in Political Agenda-Setting*

Table 4.3 shows a wide variety of issues that have been put to popular vote, ranging from more bicycle lanes to less public TV and radio. We could certainly ask whether these two issues should be removed from a future list of votations—the first because it is of too little importance to merit a popular vote, the second because it is of too great an importance. Yet this would not be in line with Swiss thinking. With the optional referendum and the popular initiative, it is left to the people, political parties and other organisations to decide what they consider to be a case worth voting upon. Politicians may complain about the overloading of direct democracy with minor issues, but they would not overtly deny the right of any group to place a ‘bothersome’ problem on the agenda if it successfully attracts the required number of signatures.

As regards popular initiatives, there is first a formal control by the Federal Chancellery and then by the Federal Council of whether or not the proposal is compatible with constitutional law and certain principles of international law. On the abolition of the army, for example, some officials claimed that the proposal was unconstitutional because it would destroy the fundamental task of the Swiss federation to defend its independence and neutrality in times of war. The Federal Council, however, did not find it politically wise to follow this advice and preferred a democratic vote to be held on the issue—they were convinced that the people’s common sense would lead them to vote the ‘right’ way.

The role of the Federal Assembly is to ensure that popular initiatives are in accordance with the principle of ‘consistency of subject matter’. This means that a popular initiative cannot combine different issues; citizens must be able to express their preference on a single question at a time. If an initiative contains more than one issue, it has to be split up into separate initiatives that are voted upon individually. The Federal Assembly is reluctant to invalidate an initiative on the ground that it concerns questions that do not belong to the constitutional domain.³ The fact that practically any issue can become the subject of a popular initiative has two effects:

First, the Swiss Constitution is much less a historical document to preserve the spirit of the founding generation than an open book which every generation of people and parliament is authorised to change. The Swiss

³ On the cantonal level, we find similar procedures for cantonal initiatives, with the difference that a final decision on the validity of a popular initiative may be demanded from the Federal Supreme Court (cf. Schubiger 2017).

Constitution, therefore, has become a rather unsystematic charter, a collection of important fundamental principles as well as of rather unimportant and detailed regulations. This was the reason why, in 1999, the Constitution was totally revised, bringing more coherence to the constitutional text. Even so, with 32 new amendments accepted since then (Swissvotes 2019), the Constitution remains a living document. It is the written evidence on the development of Swiss politics and policies—initiated mostly by the parliament but controlled by the people and the cantons.

Second, the people have a considerable influence on the political agenda. The control of the political agenda is an unresolved problem in theories of representative democracy because, by tacit arrangement, ruling political elites can agree to circumvent questions that would impair their re-election. Some scholars go as far as to say that the ‘politics of non-issues’—that is, withholding ‘bothersome’ questions from the agenda—represents the core of a hidden power game. It limits democratic discussion to questions of conformity and suppresses issues disliked by the political elites (Bachrach and Baratz 1963). Direct democracy corrects some of these imperfections. In fact, many issues—abolition of the army, immigration policy, restrictions on genetic engineering, protection of the environment and so on—were brought forward by means of popular initiatives and sometimes against the firm convictions of almost the entire political elite. Though their direct success is limited, popular initiatives widen the horizon of what is politically conceivable. Government and parliament do not have complete control of political agenda-setting, and direct democracy enables decisions to be taken on questions which the political elite would prefer to remain ‘non-issues’.

4.3.3 *The Use of Referenda and Initiatives*

In the first decades of the Swiss federation, popular votes were rare. After World War II, the constant expansion of the responsibilities and expenditures of the federal state made votations much more frequent. Today, on four Sundays per year, the Federal Council organises a ballot, and the people vote on up to about 12 issues. Table 4.4 shows the number of votes held between 1848 and 2019—644 in total.

The first section refers to constitutional amendments proposed by the Federal Assembly, subject of the obligatory referendum. About one quarter of all proposals were rejected by the people and/or cantons, which

Table 4.4 National referenda and popular initiatives, 1848–2019^a

<i>Obligatory referenda</i>	
Voted	198 (100%)
Accepted by the cantons and the people	148 (74.7%)
Rejected by the cantons and/or the people	50 (25.3%)
<i>Popular initiatives</i>	
Proposals handed in	474
Insufficient number of signatures	120
Withdrawn	100
Lapsed or declared invalid	6
Pending at time of writing (Oct. 2019)	32
Voted	216 (100%)
Accepted by the cantons and the people	22 (10.2%)
Rejected	194 (89.8%)
<i>Counterproposals (to popular initiatives)</i>	
Voted	42 (100%)
Accepted	26 (61.9%)
Rejected	16 (38.1%)
<i>Optional referenda</i>	
Bills subject to referendum (–June 2019)	3012
Referendum attempted but failed at signature stage	35
Referendum passed signature stage	190 (6.3% of all bills)
Referendums voted (–May 2019)	188 (100%)
Challenge by referendum failed (=parliamentary bill successful)	108 (57.4%)
Challenge by referendum successful (=bill rejected)	80 (42.6%)

Sources: Swissvotes (2019); BK (2019)

^aFor a concise discussion of every popular vote held between 1848 and 2007, see Linder et al. (2010). For later votes, see <https://swissvotes.ch/>

reflects the rather sceptical attitude of the Swiss people towards giving the federal government new responsibilities.

The popular initiative is also widely used, but it does not always lead to a votation. In a few cases, the proposal is invalid for practical or legal reasons. More than one fourth of all popular initiatives are withdrawn, sometimes after successful negotiations with the authorities for a counterproposal. At 10%, the success rate of popular initiatives is rather low. Counterproposals by the Federal Assembly, mostly voted upon in direct confrontation with the initiative, have a considerably higher success rate.

The optional referendum is the instrument challenging the ‘ordinary’ legislative activity of the Federal Assembly. Groups contesting a bill may fail to collect the required number of signatures within the 100-day limit.

From Table 4.4, we see that less than 7% of all bills passed by parliament are actually so challenged. If, however, the referendum challenge materialises into a popular vote, opponents of the bill have a 43% chance of success. This means that less than 3% of all parliamentary bills are actually rejected at the polls.

From these statistics, we can draw some preliminary conclusions. Constitutional policies of the Federal Assembly, which is mainly concerned with providing legal bases for new federal responsibilities, suffer frequent defeats, being rejected once in every four votations. Nevertheless, groups of citizens who wish to promote new federal activities by means of the popular initiative are even less successful. Their success rate is a mere 10%. From a first glance at statistics on ordinary legislation we might think that the optional referendum is of comparatively low effect. In fact, the reverse is true for two reasons. First, the 6% referenda cases typically represent important bills of a controversial nature and, if there is a vote, the chances of the opponents of the bill are rather high. Therefore, the risk of an optional referendum defeat is taken seriously by federal authorities. Second, and as we shall discuss in the next chapter, the perceived omnipresent risk of a referendum being organised leads the federal authorities to avoid the referendum trap by two means: first, an intensive pre-parliamentary consultation phase allows ascertaining the degree of disapproval by different actors. Second, in taking into account opposing views that are dangerous enough to bring everything down, the government then presents a legislative bill to parliament that is already a compromise backed by a large coalition of interest groups and political parties.

4.3.4 *'Braking' Referenda and 'Innovating' Initiatives: Two Different Devices of Direct Democracy*

Our previous discussion has shown that both initiatives and referenda in some ways 'correct' the policies of government and parliament. Yet apart from this, the two instruments of direct democracy fulfil fundamentally different functions. The referendum, particularly in its optional form, allows people to object to proposals by the authorities. The popular initiative, however, is conceived as an active way of shaping constitutional rules—in most cases against the will of government and parliament. From a citizen's point of view, we could argue that the referendum has a 'braking' effect and the initiative an innovative one. Let us take a closer look at this distinction.

4.3.4.1 *The Braking Effect of the Referendum*

Democrats—the faction of the Radicals that fought for the introduction of the referendum in the nineteenth century—considered themselves ‘progressive’ and saw in the referendum a tool to promote reformist policies with the help of the people. Yet things turned out differently. From the very start, when the referendum was introduced in 1874, it was used by the Catholic-Conservative opposition to their own advantage, and projects of the radical liberal majority were shot down as if with a machine gun (Steiner 1991, 139).

The democratic forces had to learn a lesson important to many institution-builders: the consequences of institutional designs are very hard to foresee. Decision-making devices are tools which can be used both by other actors and for purposes other than those envisaged by their protagonists. In many cases, only history can reveal the effects of institutional mechanisms.

If the referendum is used as a plebiscite to give the authorities’ policy greater backing and legitimacy, the government should have the sole power to define under what conditions and on which occasions it is held. This is the case with plebiscites in France. The president of the French Republic organises a plebiscite when, confident that he has the backing of the popular majority on an important issue, the popular vote would help him to continue the general policy of his presidential mandate. Even then this procedure is not without risks, as De Gaulle learned in 1969, when the defeat of his proposal for regionalisation and senate reform forced him to resign (Aubert 1974, 43–4). Yet if plebiscites are unsuccessful, politicians find ways to do without them. When in 2005 the French and the Dutch people said No to the European Constitution, the EU authorities proposed similar steps to integration by way of the Lisbon Treaty, on which no plebiscites in these two countries were held.⁴

Swiss politicians have the discretionary power neither to make an issue the subject of a referendum, nor to prevent a votation. As explained earlier, the Constitution says which type of parliamentary decision is linked with which type of referendum. Parliament cannot circumvent referenda, even though for some decisions it may be particularly difficult to obtain a majority. New taxes, for example, are not very popular in any state. In pure representative democracies, political leaders impose them after elections in

⁴In Ireland, an obligatory referendum had to be held and failed in 2008. The Treaty was accepted in a second attempt one year later, however.

the hope that the people will have forgotten about them by the next election. This is not possible in Swiss direct democracy, where the political authorities have to convince the people that higher taxes are necessary. Therefore, the obstacles for success are high, not only for amendments to the Constitution where the double majority of the people and the cantons are required. In ordinary law-making, parliament can never rule out the possibility that its decision will eventually be challenged by a referendum launched by a political party, an interest group, or by a spontaneous social movement able to collect 50,000 signatures. Parliament therefore is bound to be cautious in law-making. Finally, it seems that negative majorities are easier to build than coalitions in support of change (Box 4.1).

Box 4.1 Difficulties of Building Up ‘Constructive Majorities’: The Example of Taxation in Theory and Practice

If the government needs more revenue, it must theoretically encounter tax resistance from all citizens. However, it may propose a solution that obtains a majority of rational voters, for instance reducing the tax burden for a majority of modest-income households by a small amount and raising taxes for a much smaller group with higher income. By doing so, the government may expect a political majority for its project of a net fiscal gain. However, its hopes can be dashed for two main reasons. Firstly, the proposed solution may have an impact on participation behaviour: higher-income classes, highly affected by and opposed to the bill, may mobilise and participate more in the vote than people with modest salaries. Moreover, the government cannot even be sure that people with a modest income will vote for the bill by offering them only a small gain: voters of lower social or economic status sometimes do not vote according to their actual status, but according to the status to which they aspire. So they may vote no, as if they belonged to a higher-income class. Secondly, opponents may bring up the argument of ‘federalism’, stating that new taxes are much more important on the cantonal than on the federal level. The ‘federalist’ argument is strong because in many issues it is able to divide the entire electorate.

Thus, the government will end up facing a coalition of three groups opposed to the bill, albeit for different reasons:

(continued)

Box 4.1 (continued)

- higher-income groups affected by higher taxes;
- lower-income groups voting as if they had higher-income status;
- all income groups preferring cantonal taxes.

On the supporting side, the government may expect one group only: lower-income groups voting in line with their current status and preferring federal taxes. The actual supporting side may thus be smaller than expected and lose against a heterogeneous opposition.

In practice, the federal authorities were able to successfully raise revenue in the past but seemed well aware of the theoretical difficulties just mentioned. Value added tax (VAT), disliked by most households, is lower than in other countries, and federal revenue relies much more on income than consumer taxes. Progression of income tax is also high—a minority of people with high income contribute more to federal revenue than all other households. The regime on federal income and consumer taxes is also limited in time—after a decade or so, the people vote again on it. Finally, a good part of federal revenue is paid back to the cantons in the form of transfers. All these factors may have helped to build ‘constructive majorities’ on a difficult issue.

For these reasons, the referendum is an instrument of the opposition and favours the status quo. Over decades, the referendum was the favourite instrument of conservative right-wing forces fighting against new competencies of the federation and the development of the welfare state. In the last 30 years, however, it has been the political left which successfully used the referendum against conservative propositions to cut social security programmes, privatise and liberalise working regulations. This illustrates that the status quo bias of the referendum is of a systemic nature and can be used against innovations from any side. The referendum appears to be a versatile vessel, comparable to a sailing ship propelled by the wind of popularity—no matter the direction from which that wind blows. But there is no doubt about the shores the crews on referenda ships are heading for: the defeat of a bill. And this means the maintenance of the status quo.

We now see the direct effect of the referendum on the political process. Its status quo bias renders ‘big innovations’ unlikely. Political elites must anticipate the risk of defeat in a future referendum and are therefore bound to incremental progress. For every political project they have to look for an oversized coalition able to defeat the veto power of possible opposition forces in a popular vote.

This leads to a second, indirect effect. The referendum has profoundly changed the Swiss way of political decision-making. When, at the end of the nineteenth century, the Radical majority realised it could be beaten time and again by a ‘destructive’ conservative minority via the referendum, it changed its policy of pure majority rule in government, allocating one of the seven seats of the Federal Council to a Catholic-Conservative (Neidhart 1970; Bolliger and Zürcher 2004). The majority thus began to strike political compromises with the minority, finding solutions that did not threaten the status quo of groups capable of challenging the bill. This integrative pressure of the referendum transformed majoritarian politics into power-sharing—an institutional effect of direct democracy discussed further in Chap. 5.

Finally, the referendum and its status quo bias had important long-term effects on the development of the federal state. Compared to other industrialised Western democracies, we note:

- The historically late development of certain activities of the Swiss central government, especially in social policy. As every new federal responsibility must obtain the double majority of people and cantons, obstacles are high. In fact, many proposals for amendments to the Constitution were rejected at first and accepted only in a second attempt.
- The low (33) percentage of total public expenditure accounted for by the central government and the modest public sector nationwide, which accounts for less than 35% of Switzerland’s GDP (EFV 2019, 5 & 97).
- The unique fact that among industrialised democracies, Switzerland’s central government is the only one which can rely on income and value added taxes only on a provisional legal basis.
- A small bureaucracy: only 11% (38,000 out of 325,000) of all Swiss administration employees work for the federation. The public sector in Switzerland amounts to only 14% of total employment (BFS 2019).

- Compared with other neutral states, a rather discreet position in international affairs. In 1992, the Swiss people and cantons refused to join the European Economic Area, and Switzerland is unlikely to become a member of the EU in the near future. Switzerland was one of the last countries to join the UN, in 2002—the first to do so via a popular vote, however. One important reason for the sceptical attitude of Swiss voters in foreign affairs is neutrality. Neutrality is more than an elite's preference in foreign policy. It is part of the national identity, even myth, held by a majority of people that Switzerland should always stay neutral and not be committing too much in international politics.

4.3.4.2 *The Innovating Effect of the Popular Initiative*

In contrast to the referendum, the popular initiative is a promoter of political innovation. Moreover, it promotes innovation against the will of the political elite. We have already discussed one such innovating effect: the initiative widens the political agenda and gives authoritative voice to problems that might remain non-issues as far as the elites are concerned. Yet agenda-setting alone does not mean gaining majority approval for a proposal. Statistics show that hopes for political change by means of the initiative are dashed in 90% of cases that come to a vote (Table 4.4). If the people are so sceptical towards grass-roots innovation, we have to ask why so many initiatives are handed in. Practice shows that the popular initiative may serve four different objectives:

1. *Direct success against the federal authorities:* In parliament, the permanent coalition of governmental parties may constantly ignore the claims of the opposition parties. Thus, the popular initiative can be an instrument for parliamentary minority groups. They hope that their issue will be popular enough to find a majority in the votation—even against the mainstream of the political elite. For a long time, it was primarily the Social-Democrats and trade unions who used the initiative to compensate for the lack of support for social reform in parliament. They made the experience, however, that an initiative is a good instrument for political protest but less suited to realise their claims. For initiatives seeking direct success, the degree of innovation must be modest. Typical examples are the introduction of a national holiday on 1st of August in 1993 or the protection

of moor landscapes in 1987. In recent years, however, some quite radical conservative initiatives (ban on minarets, ‘against mass immigration’ and life-long detention for sex-offenders) were successful.

2. *Indirect success through negotiation with the authorities:* As just mentioned, direct success in a popular vote is rare. But defeat does not always leave proponents with nothing. Sometimes the federal authorities pick up ideas from an initiative by drafting a counterproposal or fitting them into ongoing legislative projects. This way the long shots of popular initiatives are transformed into proposals that are more in line with conventional wisdom and therefore stand a better chance of being accepted. At the root of many important federal policies—from social security through the environment to equal rights—we can find a popular initiative. In this way, ideas too innovative and radical at first can later be transformed into proposals acceptable to a majority. In the long run, these indirect effects of the initiative may be even more important than rare direct success (Delley 1978; Sigg 1978; Werder 1978; Papadopoulos 1994).
3. *Mobilisation of new issues and political tendencies:* The objectives of radical groups are different. They may prefer agenda-setting and discussion of political taboos and non-issues, which is provided by the arena of a popular vote. They refuse to pay the price of negotiation and compromise. Therefore, these groups draft ‘long-shot’ propositions, even if their chances of success are minimal or even zero. The initiative on the abolition of the Swiss army is a good example. From the very beginning, its proponents were aware that they would not win a majority of the vote. Still, they used the four years’ discussion to change political attitudes on the formerly taboo subject of Swiss military and peace politics, and with considerable success.
4. *Self-staging and mobilisation for electoral success:* Finally, political parties and social movements can use the popular initiative as a platform for electoral success. Popular initiatives not only ‘create’ issues but also help to establish new political parties and rally the followers around a common cause. This is typical of the way in which several grass-roots movements of the 1970s put environmental issues onto the national agenda and finally established a new, national Green Party. The xenophobe movement of that period also regularly

launched popular initiatives asking for restrictions on immigration. This helped the small anti-immigration parties not only to keep their pet issue on the political agenda, but also to survive for quite a long time.⁵

4.4 PARTICIPATION IN DIRECT DEMOCRACY

4.4.1 *The Deciding Majority, Or Who Are the People?*

On the evening of a popular vote, the news readers on TV and radio often say: ‘The Sovereign of Switzerland has accepted (or rejected) the following propositions ...’. The allusion to the ‘Sovereign’ (*der Souverän*) is an old expression for the highest democratic organ or authority, but who is that? The expression ‘direct democracy’ implies that it is the people, or at least its majority. We shall see that, in practice, it is far from this.

First, the share of people who are qualified to vote in Switzerland is only about 62% of the total population. Those under the age of 18 and foreign nationals, who make up 25% of the resident population, are not allowed to vote. Then again not all those who do qualify take part in a vote—participation over past year averaged some 45%. If voters are split roughly 50:50, the deciding majority may become rather small. Using the above figures, $100\% * 0.62 * 0.45 * 0.5$ equals 14% of the entire population. Figure 4.1 shows the deciding majorities in federal votations as a percentage of the total Swiss population since 1866.

It shows that during the long decades of male-only democracy, before women’s suffrage was introduced in 1971, the actual ‘Sovereign’ could be as small as 5–15%. Since then, the deciding majority has varied between 12% and 22%. Even so, the democratic majority *never* represents the majority of the population, and the ‘will of the Sovereign’ is in reality the vote of a minority. Moreover, as we shall see, the participation of the different strata of citizens is far from being equal. One could argue, therefore, that a serious survey of 30,000 people would cost less and give more accurate information on the true preferences of the people. This argument, however, misses the point.

⁵This ended only in the 1990s, when the Swiss People’s Party took over the immigration issue and ‘swallowed’ the small anti-immigration parties and their protest voters.

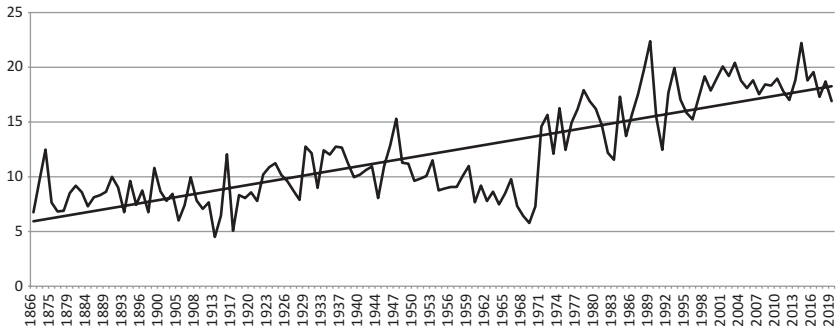


Fig. 4.1 Deciding majorities as a percentage of the total Swiss population in federal votations, 1866–2019. (Source: own calculations and graph based on BFS [2019; population censuses and referendum results]. After 1977 including Swiss citizens living abroad [cf. Kuenzi 2018])

The goal of a votation is not the most precise reproduction of public opinion, but the participation of active citizens in a collectively binding decision. This process of direct participation gives high democratic legitimation to the decision taken, for several reasons. First, the legitimating effect lies in the fact that all citizens are offered the chance to participate, and in that those who do so put time and effort into making up their minds and casting their votes. Second, a popular vote is usually accompanied by intensive campaigns for and against the proposal, including adversarial public meetings, party recommendations, lobby slogans and extensive coverage in the media and online. This process of public deliberation and decision-making may lead to changes in public opinion and individual preferences. It is a collective learning process. Third, the collective decision is authentic: people are binding themselves with the consequences of their own decision. It is their own decision, not one imposed on them by political elites. Direct participation corresponds to the idea of ‘self-rule’. All this creates double legitimacy—for the concrete decision at stake and for the democratic institutions in general.

From a normative point of view, one could still argue about two imperfections of direct democracy. First, what about foreign nationals living in Switzerland who, despite paying taxes and otherwise contributing to public welfare, are excluded from participation? Indeed, while a large part of the Swiss citizens would not be willing to change this rule, others call it an

imperfect state of democracy. This reminds us that the concept of democracy continues to change. The entitlement to vote has evolved over time: once it was restricted to adult married men with some degree of wealth and social status. This restriction was later abolished. While Switzerland may have been late in granting political rights to women, there is one canton that introduced political rights for foreigners as early as in the nineteenth century: in the communes of the canton of Neuchatel, foreigners have participated in elections and votations since 1850.⁶ The canton of Jura followed in 1979, but in many other cantons proposals to extend political rights to foreigners have failed.⁷ In turn, Swiss citizens living abroad, counting for more than half a million by the end of 2019, have been given the possibility to vote since 1977. Since 1992, they can do so without having to travel to Switzerland to exercise this right (Kuenzi 2018). This illustrates that the historical process of the ‘inclusion’ by political rights is long but certainly not at its end yet.

The second question is, does low participation not discredit direct democracy despite its procedural value? Should not a turnout of, say, 40% or 50% be required, the result being invalidated if participation falls below that level—an idea that is applied in Italy, for example? In order to answer this question, let us have a closer look at individual participation.

4.4.2 *Regular Voters, Occasional Participants and Abstentionists*

As shown in Fig. 4.2, the level of participation in federal votations varies above and below an average of 45%, depending on the attractiveness of the issue voted. Controversial subjects of great importance to everybody attract the most voters, such as those to abolish the army, limit immigration, or joining the UN.

⁶One of the deputies in 1850 explained his motive as follows: ‘If we have to allow citizens of other cantons to vote on national issues, there is no reason why French or Italians should not have this same right’ (Schmitt 1989). Since 2001, foreign residents can also participate in cantonal elections and votes.

⁷Some cantons allow foreigners to vote in local matters (Vaud, Fribourg and Geneva) whereas in a further three (Appenzell Outer-Rhodes, Grisons and Basel-City) the municipalities can decide. See <https://www.ekm.admin.ch/ekm/de/home/staatsbuergerschaft-citoyennete/Citoy/buergerrechte/panorama.html> [1.4.2020].

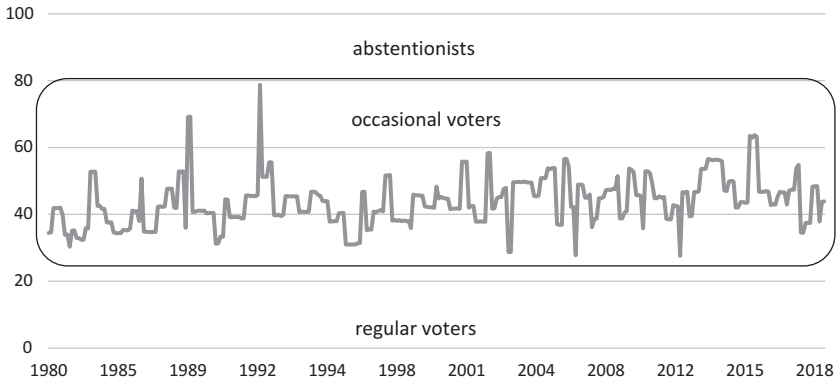


Fig. 4.2 Voter turnout in Swiss ballots, 1980–2019. (Source: own graph based on BFS [2019])

From post-vote surveys, Sciarini et al. (2015, table 1) and Serdült (2013, 48), we learn that Swiss voters fall into three groups which differ in behaviour and general attitude towards voting:

- The first group, comprising some 25–30% of citizens, always votes, that is, at least nine out of ten times. These ‘duty-conscious citizens’ interpret their political right to vote as being a citizen’s duty as well.
- The second group of about 20–25%, the ‘abstainers’, never participates at all. Different reasons can be found for such behaviour. Some are disillusioned; some feel incapable of dealing with the issues involved; others are simply not interested in politics.
- The third and largest group, some 50–55% of the electorate, consists of occasional voters, participating à la carte. They participate in between one and eight votes out of ten. Their selective interest in politics according to the issue at stake makes the participation rate fluctuate between 30% and 70%. Occasional voters participate when they feel they are personally involved or when concrete advantages or disadvantages for them are in play.

The criticism is often made that the low level of participation, which occasionally can go down to 25%, discredits direct democracy. However, proposals to introduce a minimum participation rate for the vote to be valid have been widely rejected by politicians and the public. Indeed, such

a measure would probably be more likely to punish and disappoint active voters than incite the inactive majority to take part. The strongest argument against a participation quorum is that it destroys the deliberative nature of a votation: while proponents have to argue with substantive arguments for the project, opponents can renounce on any argument by a simple call to boycott the vote. The opposition not only has better cards in the game but destroys it: if non-participation pays better than participation, the legitimization of direct democracy itself will suffer.

We also have to recognise that participation in direct democracy is very demanding. Voters in Swiss democracy are supposed to vote on issues that are sometimes very complicated. To read the official documentation on four or five proposals can take several hours. Together with votations on cantonal and local affairs, a voter is supposed to give his or her preference on up to 20 or 30 issues a year. In none of these can he or she expect to have more than an infinitesimal chance of being the one who makes the outcome decisive. The cost of participation therefore outweighs the expected individual benefit, and following the logic of rational choice, the voter would stay at home. Indeed, if many deplore the low participation rates, it could be argued that a turnout of 45% is surprisingly high, given the time and effort required. Thus, there is no satisfactory criteria to judge whether 45% of participation is low or high. Nor can we say whether this participation rate is a bad or good sign for a sound democracy and a mature civic culture.

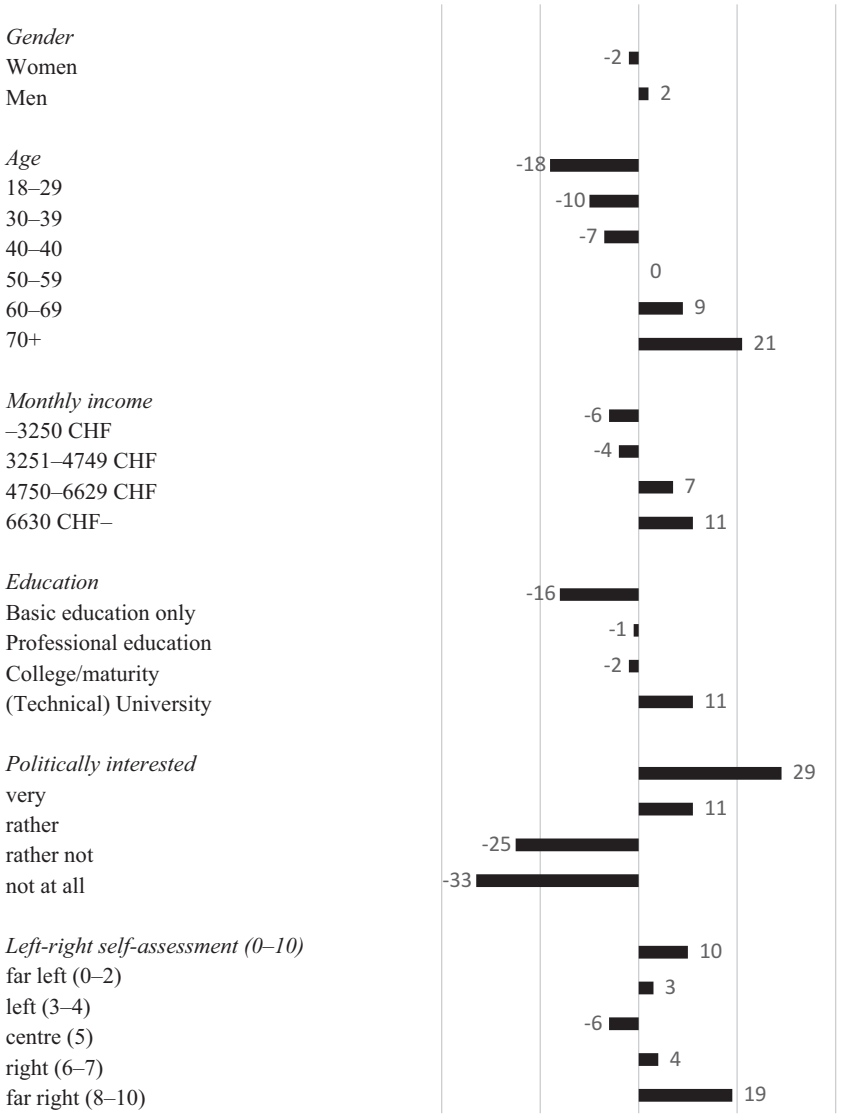
Nevertheless, there are other reasons for worrying about low turnout. As mentioned above, many abstainers are disappointed or feel unable to participate. Direct democracy does not provide guarantees against political frustration or alienation. More importantly, international research (Kern and Hooghe 2018; Vatter et al. 2019, 173f.) into participation reveals two main findings:

- The lower overall participation, the greater the difference in voter turnout between higher and lower socio-economic groups; and
- The more demanding the form of participation, the greater the difference in voter turnout between higher and lower socio-economic groups.

In Switzerland, both factors appear together. First, especially if participation is rather low, as in the example given in Table 4.5, the choir of Swiss

Table 4.5 Typical profile of a popular vote

Difference from overall voter turnout [%]



direct democracy sings in upper or middle-class tones.⁸ Post-vote analyses reveal that in such cases workers and lower-level employees participate less than high-level employees and independent professionals by a factor of up to three. As in other countries, well-educated people with higher income are more likely to vote than their less educated or working-class counterparts. Second, direct democracy is demanding. One should not underestimate the general capacity of ordinary citizens to understand the questions they are voting upon. But besides their personal motivation and political interest, also their capacity to understand the issue at stake varies. If the issues of a vote are complex, some citizens feel unable to cope with it. In a sort of self-censure, they refrain from voting. The second issue in Table 4.5 for instance, the referendum against a new law on enterprise taxes, was difficult to understand because it involved many technicalities. And we notice that people with lower revenue and education participated considerably less, even though the other issue voted that day was considered to be easy to decide: to restrict gun ownership or not.

Source: Milic et al. (2019, 45f.)

Besides education and income, there are other socio-demographic characteristics that influence political participation: younger, female, unmarried and divorced citizens participate less. Moreover, some political characteristics make a difference: people with no party affinity and with no trust in the authorities participate considerably less, and the most important single factor that determines participation is political interest (Heidelberger 2018).

From a normative perspective, however, the most important defect of direct democracy lies in the unequal participation of the social classes. Direct democracy, if its procedures and issues become too complex, turns out to be a ‘middle-class democracy’. To avoid this, direct democracy must be simple in its procedures and in the formulation of issues on the ballot.

⁸ See Schattschneider’s (1960, 35) earlier criticism of Dahl: ‘The flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent’ (also Lutz 2006, 114ff.).

4.5 THE PEOPLE BETWEEN KNOWLEDGE, TRUST AND PROPAGANDA

This section addresses further key questions about direct democracy: do citizens understand the issues they vote upon? What are their motives when saying yes or no to a proposal? What is the role of the political elites and their campaigns? And is it true that, given enough money and propaganda, any votation can be won? When discussing these questions, we can draw upon a fast-growing number of scholarly studies of voting behaviour in Switzerland.⁹

4.5.1 *Example of a Vote: Should There Be Tougher Restrictions on Refugees Seeking Asylum in Switzerland?*

Immigration policy has been one of the most controversial issues of Swiss politics for over 50 years. Back in the 1980s, the number of refugees seeking asylum in Switzerland grew drastically from about 3000 per year (1980) to more than 37,000 (1990), and federal and cantonal resources became strained. Many refugees had to wait several years for a decision on whether they were awarded refugee status. A negative decision meant expulsion, which was considered to be inhuman by many Swiss, who even tried to hide or protect refugees facing repatriation. On the other hand, there was a growing reluctance among a part of the population to allow too many refugees to stay in Switzerland, in addition to the more than one million other foreigners. In 1985, the federal parliament revised the asylum law. It sought to process the growing number of demands for asylum more rapidly and to undertake expulsions more efficiently. The revision of the law was a compromise: right-wing and xenophobe forces were against encouraging a ‘growing mass of refugees’, who for them were mostly ‘false asylum seekers’ coming for economic reasons and not because of political persecution. They proposed severe measures to keep refugees out of the country and a simplification of the legal procedure. Refugee organisations, the Greens and the political left, on the other hand, were opposed to changes in the existing liberal law and its procedure, which offered refugees many ways (and the time) for appealing against negative decisions. Parliament finally chose a middle way, restraining the procedure for asylum, but leaving doors open to refugees according to the standards of

⁹For an excellent overview, see Milic et al. (2015).

international law and the humanitarian tradition of Switzerland. The revised law was not to the taste of Swiss refugee organisations, which, together with the Greens and parts of the left, successfully launched a referendum challenge that was voted on 5 April 1987. The challenge failed: 1,180,082 citizens voted for the revised law, 572,330 against, giving it a majority of 67.3% (see Box 4.2). It was not the first of several referenda on Swiss refugee policy, and others followed, illustrating the salience of the issue up until today.

Box 4.2 Tougher Restrictions on Refugees: Cleavages, Motives, Interests and Voting Behaviour

A) *Cleavages*

According to the VOX post-vote survey (no. 32, July 1987), voting behaviour firstly mirrored the strong divide between the right and the left, each mobilised by the slogans of political parties. For instance, voters with affinity to the Swiss People's Party (90% yes), the Radicals and Liberals (88%) and Christian-Democrats (70%) massively supported the law. On the other hand, voters with affinity to the Social-Democrats (41%), Greens (37%) and small left-wing parties (9%) were clearly opposed to asylum restrictions. The ratio between voters of the political right and left was about 2:1. Note, however, that voters with no party affinity constitute a good majority of all voters. In the vote of April 1987, they supported the project with 72%. On questions such as this one where the traditional division between right and left is decisive, the left has a chance to win only if it can sway voters with no party affinity.

Besides the right-left divide, the VOX survey also revealed a social divide. There was higher support for tougher restrictions among lower social strata. Education, particularly, had a strong effect: the higher the level of education, the more liberal the attitude towards refugees. Citizens with only basic education massively supported the law (88% yes), whereas voters with university degrees rejected it (41% yes).

(continued)

Box 4.2 (continued)B) *Motives and Interests*

Between 1970 and 2019, the Swiss voted 34 times on questions to do with migration and/or asylum (Swissvotes 2019). With 25% of non-Swiss among the resident population today, questions of integration and social conflict have persisted among the most salient and controversial political issues (Fischer et al. 2002; Schneider and Holzer 2002; Linder 1991). In the many votations on migration and refugees, one can observe a constant pattern composed of three main groups, each with different motives and interests:

- *Categorical opponents of (growing) immigration*: protagonists of restrictions on immigration and asylum seekers share a variety of motives that range from feeling the necessity to set limits on the proportion of the foreign population, through wishing to protect traditional Swiss values, to fear of overpopulation and loss of Swiss identity. Unskilled Swiss workers feel disadvantaged by growing immigration of unqualified workforce, while taxpayers are reluctant to accept refugees who cannot be integrated into the labour market.
- *Categorical defenders of liberal immigration*: protagonists of free access for asylum seekers are mainly acting according to humanitarian and egalitarian beliefs, but they may have different reasons: congruence with political ideologies of the left and the Greens, or the fact that better educated people have been less exposed to the negative effects of immigration.
- *Pragmatists*: whereas the attitudes of categorical opponents and defenders rarely change and lead to a stable voting behaviour, pragmatists are more flexible. More than defending social values, the voting behaviour of pragmatists depends on utilitarian considerations. In the vote on workforce immigration, pragmatists can embrace the position of Liberals because as professionals they take advantage of foreign workers or new consumers. In questions of refugee policy such as the referendum of 1987, however, they vote with the opponents of immigration because asylum seekers imply public expenditure with no immediate benefit. A pragmatic attitude is to be expected especially among occasional voters with no party affinity.

The referendum case of restrictions on asylum seekers gives us some first insights into voters' behaviour. First, we notice that the rationality of voting has different roots: social background and corresponding experience, moral values or political beliefs can be important for some groups of voters, while others behave in more pragmatic ways. Political scientists, for a long time, have led a debate on whether political behaviour depends on individually defined self-interest or shared social values. Evidence from other studies on direct democracy (e.g. Vatter 1994; Vatter and Heidelberger 2014, Mueller et al. 2016) confirms what is illustrated in our case: both models of behaviour, self-interest and shared social values up to solidarity, do exist. Second, voters' behaviour is influenced by the voting campaign: to a large degree, they follow the recommendations and slogans of political parties or other actors, but they may and do change their mind based on the different arguments (Colombo 2018, 799). This brings us to the next point: the campaign.

4.5.2 *Shaping Opinions in a Voting Campaign: The Actors*

Citizens cast their votes individually and secretly, but they make up their minds during public discussions. Votations are preceded by intense political campaigns. Different actors provide information, try to convince, praise or denounce, to mobilise and attempt to lead voters to approve or reject. Even the most complex issues must in the end result in a simple yes or no. Therefore, especially at the end of a campaign, the issue has to be treated as a simple message. Let us first consider the actors involved in a voting campaign, and then, in Sect. 4.5.3, evaluate their impact on voting behaviour.

Citizens and their predispositions: In the political asylum case, many people would have had first-hand experience with the question on the ballot. They might have had a job where their colleagues or customers were foreigners. Many may have liked foreigners and refugees because they were good customers or willing and cheap workers doing jobs the Swiss had refused. But even if people liked foreigners for these reasons, they may have said that there were already too many of them in Switzerland. They may have felt like strangers themselves because their colleagues at work all come from Portugal, Bosnia, Turkey or Germany. They may have feared that their children would learn less in school because the majority of their classmates were foreigners speaking perhaps seven different languages but only rudimentary German, French or Italian. In this case, people have firm

attitudes based on first-hand experience. If a popular vote on the issue comes up, they feel able to decide the question on the basis of their own, personal experience. The voting campaign may mobilise voters and confirm their own preference for a yes or no, but it does not change their minds because they are *pre-dispositioned*.

Yet there are other issues more difficult to decide. Tax reforms, for instance, may be complex affairs. In some cases, even specialists are not able to predict their consequences. Voters cannot infer from their first-hand experience if the proposed reform will improve or worsen their own or the general situation. They must rely on the information and recommendations of campaign actors they trust. In this case, the campaign becomes very important because the issue is not pre-dispositioned. Good arguments, recommendations by political parties, clues and catchy propaganda slogans are able to influence voters in shaping their opinion. The campaign, in such cases, may have a decisive effect on the outcome of the vote.

The Federal Council: The executive plays an important role. It decides the date and issues of each ballot. The Federal Council provides the official information on the proposals at stake. In a booklet sent to every voter, it describes each proposition, gives an account on the arguments of parliament and repeats the official recommendation for the vote. Part of the booklet is reserved for the position of the opponents. This and the generally sober account of the issue at stake may be two reasons why voters pay much attention to the Federal Council's booklet; it is one of the prime sources of information they consult when voting. The Federal Council also takes part in the campaign by promoting and defending the position of the parliamentary majority.

Political parties: Parties engage strongly during a campaign. Popular votations are an opportunity to highlight themselves, reflecting on concrete issue against the background of their basic ideologies and programmes, and pointing out the presumed interests of their voters and their affinity to interest groups. Thus, in their slogans and recommendations, parties often emphasise basic cleavages such as left vs. right, urban vs. rural, or ecology vs. economy on which they are permanently positioned to attract and keep their clientele. The ways political parties engage in the campaign have fundamentally changed over time. In earlier periods, local and cantonal party assemblies were at the centre of opinion-shaping and mobilisation. Today, parties mostly rely on the media and the web. Their politicians take part in public debates, organise rallies, try to have their

positions published in print, use social networks, seek face-to-face communication in shopping areas, without however forgetting about some of the old instruments of political propaganda: posters and newspaper ads.

Pressure groups: Vested interests of industry, employers' organisations and trade unions, social movements and other non-governmental organisations become active if one of their core issues is at stake. Their means of campaigning vary to a great deal. Some of them, like trade unions or social movements, primarily try to mobilise their own members through their personal networks. Others, such as business associations, also launch public propaganda campaigns, sometimes spending big money.

The media: Radio, television and print media strongly engage in the campaign. They explain and comment on the issue, provide platforms to politicians and political parties, give background information and undertake fact-checking. Not only do they investigate people's opinions and air the views of government and its opponents, they also present their own thoughts on the issue. There is a public TV and radio service in each linguistic region, bound to observe a balance between pro- and contra-sides. In earlier times a great number of newspapers were affiliated to specific parties and therefore represented their views. These newspapers have largely disappeared. Today, the press has become as commercial as almost any other product—yet its positions are not 'neutral'; instead they reflect the preference of editors or what is presumed to be the preferences of their readers. Since the 2000s, websites, blogs, e-mail lists and online multimedia have become new elements of voting campaigns (see also below, Sect. 4.6.3).

Producers of propaganda: Marketing and Public Relations (PR) agencies are not independent actors in the process but offer their service to any actor willing to pay. This may be the organisation of an entire campaign for one side, or simple voting propaganda defined as information whose only objective is to forge the majority desired by those who pay for it. By its very nature, propaganda need not tell the whole truth about an issue, and sometimes it has little to do with the issue and nothing with the truth. Political advertisement in newspapers and on posters, propaganda flyers and pamphlets are dominated by slogans, photographs, images or cartoons. Their message is aimed at mobilising good or bad feelings, emotions and cues about the controversial issue. Campaigning has become highly professional, and short-term propaganda is not its only means. Today, actors with big interest and big money sometimes hire marketing agencies to launch long-term PR campaigns. The first example dates back

to the 1970s when, following a major scandal, the Social-Democrats launched a popular initiative for tougher restrictions on banks. To counter this proposition, one of the big Swiss banks began a PR campaign, regularly taking out entire pages in newspapers to describe banking activities and their importance to Switzerland's economy. Just occasionally there was a mention of the popular initiative. By 1984, the banks had succeeded in positively changing their image. In the last months of the campaign on the initiative, the banks even deemed it unnecessary to run a propaganda campaign on their own since their earlier PR-efforts had achieved its objective. The initiative failed (73% no).

Pollsters: When the *Schweizerische Volkspartei* (SVP)'s popular initiative 'against mass immigration' was narrowly accepted in February 2014, everybody was very surprised because the country's leading—and in fact largely monopolistic—polling firm, gfs.bern, had predicted a clear 'no'. The same had happened five years before, with the SVP's anti-minaret initiative (e.g. Kovic 2014). The company subsequently lost the public contract for post-vote analyses, ending the VOX-series which had begun in 1977. The new post-vote analyses are called VOTO.¹⁰ More generally, the last decade has seen a number of new kids on the polling block, notably companies using online-only, opt-in surveys or betting markets.

4.5.3 *Are Voters Capable to Decide on High Policy? Theory and Swiss Experience*

Democratic theory is profoundly divided on whether ordinary citizens are capable of rationally deciding political issues. On the one hand, adherents of elitist, liberal or representative models of democracy argue that the mass citizenry is not qualified to decide about high politics. Therefore, their influence should be restricted to electing those who decide for them. Sartori (1987, 120), the Italian theorist, went so far as to say that direct democracy 'would quickly and disastrously founder on the reefs of cognitive incompetence' (see also Budge 1996, 69). Adherents of the model of participatory or radical democracy, on the other hand, argue that direct-democratic choice is not only desirable from a normative point of view but also feasible. It is not necessary that all citizens decide all questions fully informed and on a systematic appreciation of all arguments. If capacities and motivation are lacking, they can resort to simplifying strategies. Using

¹⁰See <https://www.voto.swiss/voto/> [1.5.2020].

shortcuts and cues, they can delegate the search for information to others and accept recommendations by authorities they trust to be competent (Lupia and McCubbins 1998; Kriesi 2005, 9).

This notion of simplifying strategies is important and needs some explanation. Just as in daily life, when we are at the limits of our knowledge, we begin to rely on trust. To drive a car safely we need some instructions on how to handle it, but we need not know how the engine works. Nobody knows precisely how all the complex components of a nuclear power plant operate. It is designed, built and run by specialists who each trust in the professional knowledge of others. In politics, we can make similar observations. MPs specialise in some preferred policy areas, and an expert on social policy, for example, may rely on the advice of colleagues when it comes to fiscal policy. She then decides based on cues or heuristics.

The same mechanism, substituting trust for knowledge, works with voters. They rely on recommendations from other people who are supposed to know more about the tax or nuclear issues at stake. In fact, relying on the expertise of trusted professionals may even be *more* rational than trying to fully understand an issue oneself. So we should not blame voters for knowing too little about the subject of a vote; substituting trust in heuristics and cues from others for one's own knowledge is not behaviour specific to direct democracy.

Thus, since Swiss direct democracy, after more than a century, has not 'disastrously foundered on the reefs of cognitive incompetence', we may reject Sartori's proposition and concentrate on another question: to which degree do voters rely on a systematic appreciation of arguments or on cues, using simplifying strategies?

Kriesi's (2005) extensive study on direct democracy, using VOX survey data from 148 votes between 1981 and 1999, provides interesting empirical evidence and insights. First of all, voters' capacity should not be underestimated. In their majority, voters decide based on a systematic evaluation of pro and contra arguments. As expected, these are mainly the well informed, motivated and politically interested voters. Moreover, voters decide on arguments if they have strong preferences for an issue, based on personal knowledge (cf. also Colombo 2018). In contrast, heuristic voting is prevalent among voters with weak opinions, ambivalent towards or ignorant of the issue at stake. But the study also shows that differences between systematic and heuristic voting are not absolute: Systematic voting strongly relies on arguments provided by the political elites, many of which do not differ very much from heuristics and cues. Furthermore,

voters seem to make intelligent use of heuristics; they do not take them mechanically but look at the context and actors who provide them. Cues as such do not work—they need to be credible. In sum, the study comes to the conclusion that voters do not exhibit the ‘rational ignorance’ advanced by elitist theory, and that heuristic voting in general does not lead to irrational choices (see also Steenbergen and Colombo 2018). These findings, though, depend on one essential other factor: the campaign and the quality of arguments offered by the political elites.

4.5.4 *The Role of Political Parties and Their Campaign*

Political parties play a crucial role for the outcome of the vote. In the ideal referendum case, when all of them support the project unanimously, success is practically guaranteed, and this is not surprising. The compromise proposed anticipates possible opposition and presents a Pareto-optimal solution in which nobody is losing compared to the status quo ante. Interest groups also back the proposition. Therefore, opposition in the campaign is weak and cannot convincingly propose a more attractive solution.

This ideal situation is relatively rare. More frequently, some groups feel as losers and the political elites are split: one or more of the four governmental parties defects and plays the game of an issue-specific opposition. This may happen already during parliamentary proceedings, or later by decision of the party rank-and-file, which not always back the position of their parliamentary delegation. In all these cases the risk of defeat for the government increases considerably. In earlier times the centre-right coalition, as a natural majority after all, was able to win two out of three votations against left-wing opposition (Papadopoulos 1994, 137). With the Swiss People’s Party seeking a stronger right-wing profile by way of issue-specific opposition, the centre-right coalition is often split, putting government projects at risk. If two parties leave the grand coalition, a defeat of the governmental project is highly probable.

Many votations are located somewhere between these highly predictable extremes of government success or failure. If the outcome is predicted to be tight, two factors play an important role: the composition of the party coalitions of government and opposition and their campaigning (Kriesi 2005, 82–3). This is astonishing, as campaign money comes largely from interest groups. Yet to make propaganda trustworthy, it must be embedded in the campaign strategies of parties. Moreover, the intensity of

campaigns itself—and the amount of money spent for propaganda—varies a lot, depending on the closeness of the vote as expected by the elites (see also Hermann 2012, 16).

In all these cases, the outcome of a popular vote is characterised by high uncertainty. The outcome of campaigns, as tennis matches between two equally strong players, cannot be predicted from the past. Actors adapt and learn from past failure. Models of scientific research are able to analyse outcomes *ex post*, but they cannot predict the outcome of upcoming votations—which may even be beneficial for direct democracy. The main conclusions, however, are the following: political elites, their coalitions and campaign efforts play an important role for the outcome of a popular vote. Even so, they do not control direct democracy. The government coalition sometimes loses, and opposition success sometimes comes as a big surprise. The government and political parties have learned to live with it.

4.5.5 *Can Money Buy Votes?*

After a votation, the losing side often complains that the other side has won because it had more money to spend on propaganda. Indeed, it happens that the antipodes in a votation have vastly different resources at hand: the propaganda budget of one side may exceed that of its opponents by a factor of 20. The question whether money and propaganda can buy votes is therefore of practical importance. In an early study on the subject, Hertig (1983) found a strong statistical correlation between success and propaganda in all 41 federal votations between 1977 and 1981. An even stronger correlation was found in 20 cases where the propaganda effort was very lopsided; that is, when the propaganda of one side dominated the other by a ratio of at least three to one. Predominant ‘yes’-propaganda won in 12 out of 13 cases, whereas predominant ‘no’-propaganda was successful in all seven cases.

These statistical correlations, however, do not provide proof that votes can be bought. It is possible that some votations would also have been won without money being spent on propaganda, or that one-sided propaganda expenditure results from existing one-sided preferences. But the study gave rise to a public debate. How much money should be allowed to be spent by a single actor on a campaign, and to which degree is it tolerable that one side may spend a lot more than the other? Swiss law guarantees voters a constitutional right for fair conditions to express their undistorted preferences. Critics have argued that fair conditions of voting

have become an illusion because of the influence of powerful private actors and unequal, largely opaque campaign budgets.¹¹ Bourgeois parties, the main beneficiaries of campaign money, have been hostile to any idea of regulating political propaganda as it exists in US states such as California and Colorado (Cronin 1989, 99–113).

The Hertig study was not the last word on the question. Further studies showed that the effect of propaganda was not the same for all issues: it was weaker on pre-dispositioned issues and when voters were confronted with ‘simple’ questions such as abortion or speed limits, which they can evaluate against the background of their own experience. Non-dispositioned issues and complex questions, however, are like empty labels on which propaganda can inscribe its clues because voters cannot decide on the basis of their personal experience (Hirter 1989; Longchamp 1991).

Kriesi (2009, 83–106; see also Chap. 5) also demonstrates that there is no simple equation between propaganda and success. As already mentioned, the amount of propaganda money spent will depend on the expectations of the outcome. If a tight outcome is expected, more money is spent, and in these cases money may indeed be the deciding factor. In other situations, propaganda is of less influence. Moreover, campaign money does not play the same role for the government and the opposition camps. In the hands of the latter, it is worth more. In the end, according to Kriesi, truth is in the middle: money buys votes neither ever nor never, but sometimes it can be decisive.

4.6 CONCLUSIONS

4.6.1 *Semi-direct Democracy: An Exceptional System*

The Swiss system is at odds with mainstream political thought. It contradicts theories of representative democracy that consider the people’s capacity too limited for rational direct policy choices. The Swiss case provides evidence that intensive political participation beyond the occasional election of MPs is possible and, as a complement to the parliamentary process, can play an important role. It shows that a substantial share of the

¹¹ At the time of writing (end of 2019), a left-wing popular initiative on ‘more transparency’ is pending in parliament. In the cantons of Fribourg and Schwyz, similar initiatives were accepted some years ago, and Geneva, Neuchâtel and Ticino already require their parties to make certain donations public.

population is willing to discuss and express their political preferences regarding even the most complex issues. And if there are shortcomings in the system of semi-direct democracy, Switzerland has neither suffered anarchy, as some have feared from the nineteenth century up to our days, nor has it experienced the political revolutions others had dreamed of.

Direct democracy and the complexity of modern society are not mutually exclusive. On the contrary, direct democracy is an important device for social learning processes which make people politically aware and able to deal with political complexity. The federation, the cantons and the communes fulfil their responsibilities and functions just as well as political authorities in other countries—optimists might even say they do a better job under the constant watch of their citizens.

Moreover, direct democracy has changed the entire political system. Use of the referendum was an important factor that has led to the institutional system of *Konkordanz* or consensus democracy (Neidhart 1970). Chapter 5 describes this historical process in which the referendum became an institutional constraint that induced cooperation among all major political parties and led to negotiated legislation and mutual adjustment among interest groups. In other words, power-sharing is an institutional arrangement to reduce the risks of defeat of government policies by referendum. These indirect effects of the referendum on the legislation process have become as important as the direct impact on specific policies.

4.6.2 *Direct Democracy Between Integration and Polarisation*

Does direct democracy polarise or integrate the people? There are good arguments for both views. On the one hand, direct popular choice amounts to the final word in a political conflict. For a certain time, all quarrels have ended. As a verdict, the popular vote is respected by the authorities and losers alike. The Federal Council, if defeated, would never say that the people's decision was wrong. On the other hand, the campaign before a vote heats up conflict. The articulation of social and economic antagonisms, sometimes in polemic and populist ways, are a reliable means of mobilising the voters.

An empirical study on direct democracy between 1874 and 2006 gives evidence on whether political parties tried to mobilise or attenuate the basic cleavages in Switzerland in every one of the 537 votations, and how the cleavages were perceived by the participating citizenry (Linder et al. 2008). It reveals that in a historical perspective, two of the

cleavages—dealing with religion and language—have cooled out during the twentieth century also amongst citizens. Quite astonishingly, however, we observe a rising polarisation of the citizenry along the cleavages of urban-rural and labour-capital sides in the final four decades. Is this conclusive proof that power-sharing by the political elites is in vain?

Against this inference speaks the fact that the evolution of cleavages is itself dependent on the conflict-laden modernisation of economy and society. Institutional politics can only fuel or attenuate them. In Switzerland's semi-direct democracy, the political elites are forced to seek compromises and thus generally attenuate basic societal cleavages. Popular votations, however, are the arena of issue-specific opposition, and political parties use this arena not only for attenuation but also for fuelling basic cleavages. Thus, parliamentary and direct democracy represent two different arenas. This does not mean a clear distinction of a parliamentary theatre of integration and a direct-democratic domain of polarisation. But political parties, in regularly bringing up cleavages and using them to position themselves in their campaigns, string up the underlying conflict rather than attenuate it.

Thus, the role of direct democracy for societal conflict is ambiguous. On the one hand, we find integration. The vanishing of religious and linguistic cleavages is evident, and it corresponds with the fact that political parties are trying to bridge these divides not only ahead of popular votes but also in seeking electoral gains throughout the country. On the other hand, in Swiss society there is evidence of deepening cleavages between rural and urban areas as well as between capital and labour. On many issues, the salience of these basic societal conflicts is regularly emphasised. Over the last two decades, the Swiss People's Party launched a series of popular initiatives on supposedly unresolved immigration problems. Two of them, the prohibition of constructing minarets (2009) and 'against mass immigration' (2014), even succeeded against all odds. Uneasy feelings towards Muslim practices and fear of Islamic fundamentalism as well as job market related worries, respectively, are part of the explanation. The 300,000 Muslims—some 35% of which are Swiss citizens—and foreign residents more generally, however, had reasons to feel discriminated against. As in other cases, it was also controversial whether or not the minaret initiative violated constitutional or international law.

The risk of direct democracy is therefore twofold. One, the popular initiative can be exploited for electoral purposes, which is nothing new. But it makes a difference whether this is done by a marginal or a

governmental party. In the latter case, it is detrimental for the functioning of the governmental coalition. Two, initiatives can be discriminating against minorities, especially if they become part of a permanent electoral campaign and cannot themselves vote (Christmann and Danaci 2012). Thus, in dealing with social conflict in direct democracy, the political elites have a great responsibility for the quality of campaigns, which corresponds with the findings of Kriesi mentioned above. Direct democracy, in the twentieth century, was able to deal with salient conflicts thanks to political parties that renounced populism and sought broadly acceptable solutions. The hope is that this will last into the twenty-first century as well (see however Papadopoulos 2009).

4.6.3 *Digitalisation: Opportunity, Risk—Or Both?*

Digitalisation has profoundly changed political processes. Politicians use personalised websites and social media as a most effective device to mobilise voters and bring their intents and messages immediately to the public, and this not only before elections. Citizens, in turn, use Twitter, Facebook or Instagram as swift, cheap and reliable communication channels open to all. These tools permit even groups lacking financial resources to articulate and debate their claims without intermediaries, to mobilise supporters in great number and to address politicians in a direct, public way. Finally, a great number of independent online newspapers present alternative issues, viewpoints and opinions—even those you would not normally find in the mainstream media.

No wonder that enthusiasts have celebrated digitalisation as a democratic revolution. And in a way, it really is one. But meanwhile it has become clear that this disruption is not always beneficial for democracy. Online interaction, rather than stimulating mutual respect and understanding, can lead to growing polarisation (Bail et al. 2018). It can also involve automated bots and anonymous, even malicious trolls which deliberately undermine deliberative standards. Tech giants such as Apple, Alphabet, Facebook or Twitter as well as parties and campaigners increasingly rely on algorithms to display targeted news and ads. This accelerates processes of individualisation, fosters so called ‘echo chambers’ of like-minded users and creates diffidence in the polity: if the virtual is the new real, the real must be fake.

Swiss politicians were, for a long time, fascinated by electronic voting, for elections as well as for votations in direct democracy. Their hope was

to boost participation and rely on a new channel of communication: e-communication which voters use in their daily life. Some 20 years ago, several cantons began to introduce e-voting on an experimental base, allowing part of the citizenry to cast their vote using computers or smartphones. The results, after 15 years of experience in 15 cantons in more than 300 votations, were mixed. A comparison of two groups, one using e-voting, the other conventional voting (in person or via post), showed no difference in voting behaviour. Thus a ‘digital divide’ which many feared did not occur. But neither was voting turnout higher, nor did e-voting attract new groups of voters. E-voting also proved more complicated for voters than conventional forms of voting (Germann and Serdült 2017).¹²

When the federal government decided to extend e-voting to the federal level, opposition arose from an unexpected side, namely from digitalisation experts. They showed that existing e-voting software could not completely exclude the risk of being hacked. While irregularities at a single conventional polling station are usually negligible, they warned of a systemic risk in e-voting which could lead to the distortion of an entire election or votation. The Federal Council was unwilling to accept this risk and stopped the whole e-voting project in 2019.¹³

But how about collecting signatures for a popular initiative or a referendum, in which digital tools can play their strengths of quick and massive mobilisation? In contrast to e-voting, we do not have systematic evidence on the effects of e-collecting (Bisaz and Serdült 2017). Few experiences of private actors such as *wecollect.ch* show that e-collecting is promising: in several cases, they succeeded in collecting in shorter time a greater part of the required signatures for a referendum (50,000) or a popular initiative (100,000) than actors on the street. In its present form, e-collecting platforms, on request, mail an official form which the voter has to print, sign by hand and then mail back (postage is covered).

This is an acceleration, but does not use all possibilities of digitalisation: using an app or electronic signature, the voter could just click a ‘like’ or ‘dislike’ button to sign a referendum or popular initiative. Examples from US-States and the Netherlands show that in this way the required number of signatures can be collected in no time. As a consequence, authorities

¹² Results which correspond to earlier experiences in other countries, see Oostveen & van den Besselaar (2009).

¹³ See <https://www.bk.admin.ch/bk/de/home/dokumentation/medienmitteilungen.msg-id-75615.html> [27.10.2019].

think about restricting or even banning e-collecting (Nuspliger 2018). The same could happen in Switzerland's semi-direct democracy. If parliament passes a law for higher gasoline prices, for instance, any well-known platform for used cars could easily play a key role. Since some platforms are visited 50,000 times a day, they could collect the 50,000 'dislikes' almost instantly, which makes the existing time limit of 100 days completely obsolete. At the same time, the decision to sign up to a referendum by a simple 'dislike' button resembles more an emotional reaction than a deliberative weighing up of the pros and cons of a collective decision.

In sum, digitalisation seems to play an ambiguous role especially for direct democracy. Its many advantages of mobilisation and extension of participative opinion-formation stand in contrast to an uncontrollable concentration of power in the hands of internet giants and a loss of quality deliberation. While optimists still ask: how can we use the innovations of digitalisation for democracy? pessimists worry: how can we protect democracy from being undermined by the digital disruption?'

4.6.4 *The Political Culture of Direct Democracy: Particularities and Limits*

Some Swiss may criticise their politicians, parliament, the courts, the Federal Council, federalism or power-sharing. There is one thing, however, which almost nobody would criticise: the political rights of citizens and the institutions of direct democracy. In surveys, direct democracy regularly shows up as the most precious element of political institutions, and only few interviewees agree with the idea of restricting it in favour of more parliamentary power. The fear that some of the people's political rights may be lost if Switzerland joins the EU is one of the most important obstacles for those few who are advocating membership. For many Swiss, 'democracy' simply means 'direct democracy', and some even find it difficult to accept decisions of parliament or the Federal Council as truly democratic.

Against the background of the high esteem for such 'self-rule', one would expect the Swiss to be particularly participative in economic and social life. An unbiased outside observer, however, would probably be astonished that the values of direct democracy have not had more impact on Swiss society beyond politics. He would find no evidence that Swiss schools are more participative than those in the Netherlands or Italy. Moreover, our observer might be stunned to realise that workers and

employees in Switzerland have fewer formal rights of codetermination at the workplace than their colleagues in Germany or Sweden, despite the fact that Swiss employers and unions have been practising social partnership for over 80 years, since 1937.

We may conclude that direct political participation has had little influence on Swiss economic and social life. Rather it is conceived as the specific Swiss culture of institutional democracy. With such a perspective, we can better understand the popularity of people's political rights. They are valued as embodying the self-rule of citizens and ensuring control over the political elite. At the same time, direct democracy is considered to be one of the most important particularities distinguishing Switzerland from other countries.

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Consensus Democracy: The Swiss System of Power-Sharing

5.1 THE DEVELOPMENT OF SWISS CONSENSUS DEMOCRACY

In earlier chapters, we have already mentioned some elements of power-sharing, consociational or consensus democracy, which the Swiss call ‘system of concordance’. Its two main characteristics are the following: first, the executive is composed of a grand coalition. The goal is to let all important political forces participate in governmental politics, and to share the political responsibility with all these forces. Second, political behaviour within this grand coalition is geared towards permanent negotiation and compromise.

Power-sharing or consensus democracy is not unique to Switzerland. Variants of it can also be found in countries as different as Belgium, The Netherlands, India or South Africa. Power-sharing democracy is usually contrasted to the predominant, Anglo-American model of majoritarian democracy, in which the government is composed of a simple majority, holds all political power and can impose its decisions onto the minority. We return to this topic in Chap. 6. Here, we describe the Swiss power-sharing institutions, their development and functioning, and their strong points and weak spots.

If you ask the Swiss today why they like power-sharing, a typical answer is: ‘I find it fair that all languages, regions and political parties are represented in the government. This is better for our country because Switzerland needs political compromises rather than majority decisions’. History tells

us, however, that in 1848 the Swiss Constitution was partly conceived as a majoritarian democracy. For several decades a single party, the Radicals, held all the power in a majoritarian regime. The development of power-sharing institutions and practice came only later. Three factors favoured the institutional conversion of the majoritarian regime into a power-sharing system.

The first is federalism. The small, rural, mostly Catholic cantons had a veto position in federal decision-making right from the beginning. In a coalition with the French-speaking cantons, they were able to block a centralising project of a fully revised Constitution in 1872. This forced the ruling Radicals to seek political compromises for the successfully revised Constitution in 1874 (Linder et al. 2010; Swissvotes 2019). The second is the switch to a proportional electoral system in 1918/1919, which was the success of an alliance of Catholic-Conservatives and Social-Democrats fighting Radical predominance. As a consequence, the latter lost their parliamentary majority and the party system became increasingly fragmented. The third and most important factor is direct democracy. We have already mentioned, in Chap. 4, that the referendum is a strong incentive, even a constraint, to cooperate in the form of an oversized coalition because the risk of defeat in a popular vote is too high otherwise. This indirect, institutional effect of the referendum is as important as the direct effect of popular votes.

5.1.1 The Impact of the Referendum on the Composition of the Government

The reader is reminded of the period following the introduction of the optional referendum in 1874 (see Chap. 4), when the Catholic-Conservative minority used the device like a machine gun to shoot down important projects of the Radical majority (Aubert 1974, 43–4). The governing party could see no other possibility than to come to an arrangement with the opposition. To integrate the Catholic minority, in 1891 the Radicals offered them one seat in their hitherto one-party government. The Conservatives accepted and henceforth had a voice in the Federal Council. But this also meant sharing political responsibility for the solutions proposed by the collegiate council. So, behind this ‘amicable agreement’ (Steiner 1974) there was coercive pressure to cooperate. The Radicals saw their large majority in parliament becoming useless if referendum challenges by the Catholic minority were not curbed. On the

other hand, the Catholic minority, who were unlikely ever to obtain a parliamentary majority, could win more through partial cooperation with federal government projects than through systematic opposition.

Motivations for a similar integration of other important political forces led to ever wider power-sharing in the Federal Council. First, the Catholic-Conservatives obtained a second seat in 1908. In 1928, the farmers and burghers, who ten years before had split off from the liberal Radicals, were (re-)integrated through their own seat in the government. In 1935, the Social-Democrats became the largest political force in the National Council (27% of seats). Some cities even had left-wing majorities. But Social-Democratic claims for inclusion in the federal government were turned down by the bourgeois parties because of the prevailing class struggle. Only in 1943, when during World War II political integration and unity were needed more than ever, were the Socialists given their first seat. In 1959, following a short period with no Social-Democrat participation, the ‘magic formula’ was born: until 2003, the Federal Council comprised two Radicals, two Christian-Democrats (formerly Catholic-Conservatives), two Social-Democrats and one member of the Swiss People’s Party (*Schweizerische Volkspartei* [SVP], formerly the Farmers’ and Burghers’ Party). After the 2003 elections, when the SVP became the largest party in the National Council (28% of seats) at the expense of other bourgeois parties, it received a second seat—at the cost of the Christian-Democrats, which corresponded to the logic of ‘arithmetic’ power-sharing in the government (e.g. Altermatt 2009; Vatter 2018, 218ff.). Except for 2008–2015 (see below, Sect. 5.5.1), this adjusted magic formula has remained intact (Table 5.1).

5.1.2 *Impacts on the Legislative Process*

Integrating the main political parties into a governmental coalition was important; co-optation gave the newly represented parties in government a feeling of being recognised as equal. Co-optation, however, was not a free lunch but a deal: the parties of the more inclusive government coalition were expected to cooperate in parliament, supporting legislative compromises strong enough to survive a referendum. This was not always the case, and the lack of appropriate procedures for parliamentary compromise even led to a crisis of the Swiss political system.

In the period of worldwide economic depression in the 1930s, the bourgeois coalition not only came under pressure from the political left,

Table 5.1 Results of the government elections of 11 December 2019

<i>Name</i>	<i>Party</i>	<i>Language</i>	<i>Canton</i>	<i>Gender</i>	<i>First elected in</i>	<i>Confirmed with^b</i>
Ueli Maurer	SVP	German	Zurich	Male	2008	213 votes
Simonetta Sommaruga	SPS	German	Bern	Female	2010	192 votes
Alain Berset	SPS	French	Fribourg	Male	2011	214 votes
Guy Parmelin	SVP	French	Vaud	Male	2015	191 votes
Ignazio Cassis	FDP	Italian	Ticino	Male	2017	145 votes
Viola Amherd	CVP	German	Valais	Female	2018	218 votes
Karin Keller-Sutter	FDP	German	St. Gall	Female	2018	169 votes
Walter Thurnherr ^a	CVP	German	Aargau	Male	2015	219 votes

^aFederal Chancellor (=secretary general of the Federal Council)

^bTotal votes possible: 246

but also from their ‘own’ interest groups who challenged bills put forth in parliament. Moreover, extremist forces, impressed by Nazi and fascist propaganda in Germany and Italy, tried to undermine trust in democracy and parliamentary institutions. Their so-called ‘Frontist Initiative’, which proposed a radically new political order, was overwhelmingly rejected in a popular vote, but legislation became blocked by referenda challenges from all sides.

The Swiss political authorities had to learn that the referendum could also be successfully used by relatively small groups, and that it was difficult to obtain a sufficient majority even *with* the support of interest groups and parties. In the years before World War II, the Federal Assembly began to rely on the ‘urgency clause’ of Article 89 of the Constitution (now Art. 165), which authorises parliament to pass laws without a referendum when rapid decisions are required. Bypassing the ordinary legislative procedure in this way helped Switzerland to overcome the economic crisis of the 1930s. Democratic movements, however, criticised the utilisation of this clause, and a popular initiative in 1949 successfully restricted its scope (Box 5.1).

Box 5.1 Direct Democracy in Situations of Urgency and War¹

Decision-making under direct democracy takes time, and its results can remain uncertain. How can the Swiss government cope with these difficulties in times of economic, security or public health crises, when rapid decision-making is necessary? We have to distinguish between two different mechanisms:

First, there is an ‘urgency (or emergency) clause’ in the Federal Constitution (Art. 165). It authorises parliament, if immediate action is necessary, to adopt laws without a referendum (*dringlich erklärte Bundesgesetze*). After excessive use in the 1930s, the urgency clause was revised twice. A first amendment, introduced in 1939, restricted the terms of ‘urgency’ and required an absolute majority of members in each chamber. In 1949, a second amendment stipulated time limits. Under these rules, laws enter into force immediately but are limited in time. If a law has a constitutional base, it becomes subject to an optional and ‘abrogative referendum’. This means that the law is repealed after one year unless it is approved by the people. The Federal Assembly can even adopt urgent laws that are not based on the Constitution. Such an urgent federal act ‘must be repealed one year after being passed by the Federal Assembly if it has not in the meantime been approved by the People and the Cantons’ (Art. 165.3 FC 1999). Since 1949, therefore, direct democracy is no longer bypassed by the urgency clause, merely suspended for maximum one year.

In practice, the Federal Assembly still has a large interpretation of ‘urgency’. The old critique of Auer (1976) that the actual regulations still provide too much power to the Federal Assembly is thus justified. On the other hand, it cannot be denied that legislation under direct democracy needs too much time if parliamentary decisions have to be made in urgent situations such as natural catastrophes or—more recently—economic and public health disasters.

In addition to the urgency clause used by the Federal Assembly, the Swiss parliament delegated or recognised an urgency power of

(continued)

¹Largely based on Aubert (1982, 1122ff.).

Box 5.1 (continued)

the Federal Council in times of World Wars I and II. These ‘full powers’—not mentioned in the Constitution of 1874 but given to the Federal Council in 1914 and 1939—comprised all measures necessary to ensure the survival of the population, notably regarding food supply. Using its ‘full powers’ during World War II, the Federal Council issued some 1800 emergency ordinances, whereas the Federal Assembly, in the same period from 1939 to 1945, adopted merely 220 laws and ordinances. The emergency ordinances of the Federal Council were subject to some control by parliament, but not to referenda. Today, Article 185 of the Constitution explicitly allows the Federal Council to ‘issue ordinances and rulings in order to counter existing or imminent threats of serious disruption to public order or internal or external security’. During the coronavirus pandemic, for instance, the Federal Council first relied on a special provision in the Epidemics Act but then also on Art. 185.

The authorities also developed mechanisms for a better integration of political parties, interest groups and the cantons into the law-making process. This *pre-parliamentary process* consists of two major stages. First, the Federal Council, when confronted with the need for new legislation, nominates a study group or committee of experts to evaluate the necessity and various options for new rules. The composition of these committees is worth mentioning. Some members may simply be experts, but most of them combine knowledge and power. The Federal Council strives to appoint members who represent the standpoints of the different groups eventually affected by the proposed legislation. Individual members may well have a reputation as experts on an issue, but the composition of the committee is made as representative as possible in order to cover all positions that could prove divisive during later discussions. On the basis of these expert deliberations, the ministry or office in charge of a project writes a first draft of the bill.

Second, there is a ‘consultation procedure’ (*Vernehmlassung*), open in principle to anyone. In practice, the federal administration circulates the first draft to all cantonal governments, political parties, the most important economic associations and other affected interest groups. However, it

is the authorities who decide who is affected by a particular project, and the right to be consulted does not mean that the authorities accept the views put forth. Only after evaluating the responses from this procedure does the Federal Council decide whether to continue with the project. If the decision is made to go ahead, it is next sent to parliament.

Both elements of the pre-parliamentary process pursue the same goal: to reduce the risk of a referendum challenge or, in the case of the obligatory constitutional referendum, to reduce the chances of failure in the ensuing popular vote (Neidhart 1970; Papadopoulos 1999, 69–96; Blaser 2003).

5.2 THE SYSTEM OF POWER-SHARING: ACTORS AND THE POLITICAL PROCESS

5.2.1 *Actors and Their Functions*

While in parliamentary democracies decision-making is concentrated in the parliamentary majority and the executive, the Swiss system of power-sharing is somewhat more complex: more actors are engaged who all, albeit with different functions, possess considerable influence. These actors have to cooperate, and we cannot find one sole centre of power. Figure 5.1 shows the main actors and illustrates the legislation process as a ‘policy cycle’. Let us start with the actors.

Parliament: According to the ideas of the fathers of the Constitution of 1848, the two chambers of parliament were the ‘highest authority’ of the federation. Indeed, until today parliament has a lot of power. Besides its main function of law-making, it elects the members of the Federal Council and the Federal Supreme Court, supervises the administration and can intervene in many ways. As there is no vote of confidence to bring down the government, parliament is free to criticise the projects of the Federal Council or even to reject them. Even so, the parliament has lost its institutional ‘supremacy’. Its freedom of action is restricted by direct democracy, by the interest groups who intervene in the pre-parliamentary process and by the Federal Council who largely controls the agenda in foreign policy and prepares most draft bills. Although on paper, the Swiss parliament is one of the most powerful comparatively, in practice it has only few resources to compete with the government and its administration, on the one hand, and business interests and civil society groups, on the other (Vatter 2018, 312ff.).

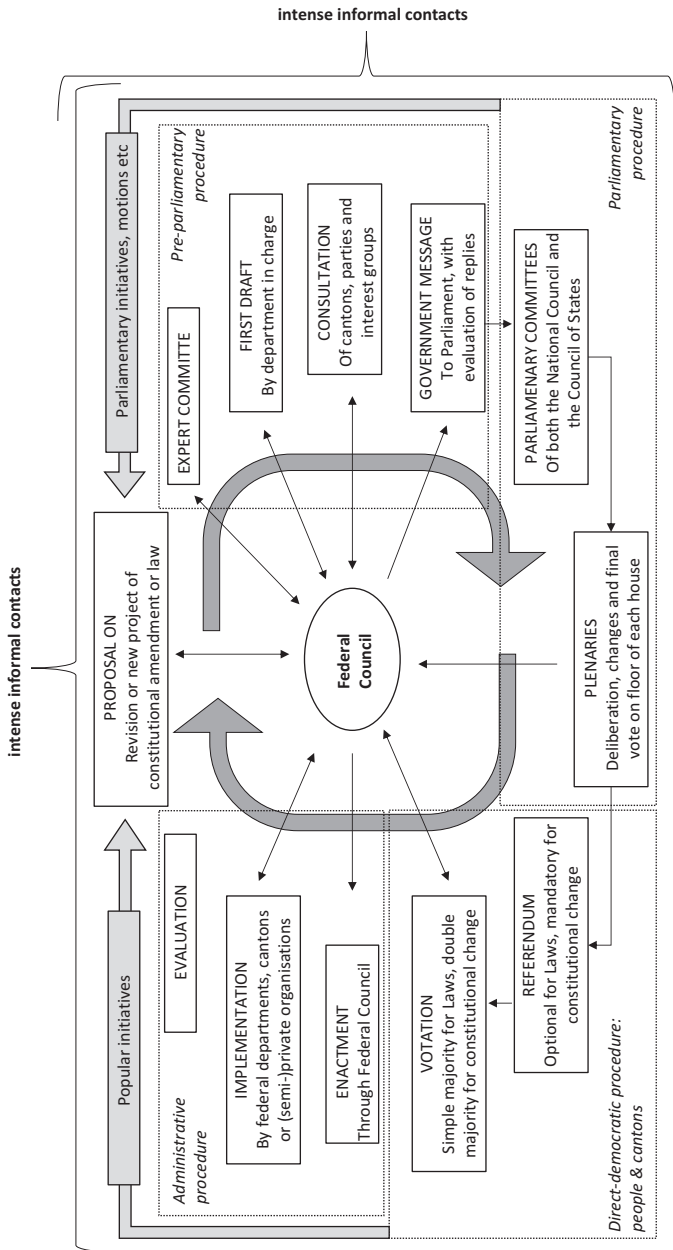


Fig. 5.1 The legislative process: actors and the policy cycle

Direct democracy: Direct democracy began to play an important role when the people's rights, originally restricted to the constitutional referendum, were extended to the optional referendum (1874) and then the popular initiative (1891). In Chap. 4 we discussed their influence at large.

Interest groups: Their prime arena of influence is the pre-parliamentary procedure, which was institutionally formalised after World War II. Note that participation in expert committees and the pre-parliamentary consultation is open not only to economic associations such as employer's and trade unions, but also to other organisations, the cantons and even private individuals. We have already shown why in Switzerland interest groups have more influence in the pre-parliamentary phase than elsewhere: their additional bargaining power lies in the fact that they can use the referendum threat as a pawn. Moreover, interest groups often play an important role in implementation: the 'social partnership' between labour and capital, or public-private partnerships once determined the design and execution of economic and social policies and remain important (see Box 5.2).

Cantons: In Switzerland, the 26 cantons are not only largely autonomous, more or less self-contained polities. They also, and increasingly, try to influence the federal government to act or refrain from acting in a certain way (e.g. Cappelletti et al. 2014; Schnabel and Mueller 2017). In doing so they profit from their strong position as part of the federal system, but also from the popular legitimacy of their governments and parliaments. The self-organisation of the cantonal governments in the form of a 'Conference of Cantonal Governments' has become an influential actor in Swiss politics. Cantonal representatives are regularly asked to sit on expert committees or attend parliamentary hearings. They can also directly petition the federal parliament using the cantonal initiative (e.g. Mueller and Mazzoleni 2016).

The federal administration: With the growth of the social and economic activities of the federation after World War II, the federal administration has acquired greater political influence, for two reasons. First, it has its own experts, who often direct the pre-parliamentary process. Second, it has all the feedback knowledge of implementation and evaluation, which in turn stimulates proposals for further legislative reform. In this way, the bureaucracy can also define its own interests.

The Federal Council: The main function of the Federal Council is the steering of the entire political process. Giving the go-ahead for most formal steps of decision-making, setting priorities in substance and time, the Federal Council has a great influence on the political agenda. It disposes of all the professional

resources of the administration, which allow it to prepare its own policy projects. Political leadership of the Federal Council is limited, however, for two main reasons: consensus in an all-party government is difficult to achieve and often minimal in scope, while parliament, not obliged to support the government because there is no vote of confidence, can always turn down the propositions of the Federal Council. In foreign policy, however, the leadership of the Federal Council is more pronounced.

5.2.2 *The Policy Cycle*

The policy cycle in Fig. 5.1 shows all the phases of the legislation process. It is conceived as an ongoing process of political problem-solving which starts with the first proposals for a new piece of legislation and provisionally ends with its implementation and evaluation. At every stage of the process, negotiations and the appropriate decisions may result in modifications, radical changes or even the abandonment of the project. If the programme enters its final phase, this is not the end: sooner or later the experiences with implementation will lead to new propositions for a reform, and the policy cycle begins anew.

The pre-parliamentary procedure: The cycle starts with propositions for a new law or a constitutional amendment. This can happen through a popular initiative, parliamentary instruments or by the administration, which is the informal gateway for pressure groups seeking reform. If the Federal Council initiates the process, it also organises the whole pre-parliamentary stage of the process. Depending on the issue, it charges the administration or mandates an expert committee to draft a first project. As most committee experts are also representatives of interest groups, this gives them a first chance to announce their position and voice opposition. The actors declare under which conditions they would support or fight the bill. This leads to mutual adjustments, for instance, between employers and trade unions on a social-security reform. The administration will defend its own views and interests but will also exercise a mediating role in conflicts not directly negotiable between antagonistic interests.

The subsequent consultation process involves further organisations, each formulating a position that represents the view of their members. When evaluating the results of this procedure, the administration seeks to maintain only those aspects of the reform that have found sufficient support and to avoid leaving actors worse off than before. If the (modified) draft fulfils these conditions, the Federal Council has good reasons to

believe that the participating actors will support a constitutional amendment in the obligatory vote or refrain from an optional referendum in the much more frequent case of an ordinary legislative proposal. In the form of a ‘Message of the Federal Council’, the draft then enters the parliamentary procedure.

The parliamentary procedure: Each project has to find a majority in both chambers. If proceedings in the Council of State and the National Council end up with a difference in substance, negotiation procedures between the chambers are organised to align on the same solution. If this is not possible, the project has failed. For a long time in the twentieth century, the federal chambers had the reputation of being a weak parliament, accepting all too often and easily the compromises found between the vested interests in the pre-parliamentary phase. Today, such an appreciation is certainly wrong (cf. Sciarini et al. 2015, 34ff.). In the 1990s, parliament has greatly reformed its own organisation and procedures which led, among others, to a strengthening of its legislative committees. These now standing committees have become the centres of intense deliberation and negotiation. Empirical studies show that today, parliament modifies the projects of the Federal Council much more than it did before (Lüthi 1997; Jegher 1999; Vatter 2018, 302). Parliament also realises its own projects by means of a parliamentary initiative, which bypass some aspects of the pre-parliamentary process.²

As mentioned earlier (Chap. 4), less than 7% of law projects passed by parliament are challenged by an optional referendum. This means that the chambers seem to have a good flair for avoiding the referendum risk. This is due to several factors. The draft coming from the pre-parliamentary procedures has a story to tell: parliament knows which issues were controversial and which were accepted unanimously, and they are familiar with the positions of all-important actors, including the Federal Council. Many members of parliament have intense relations to interest groups whose points they support. The modifications of all phases of the procedure are documented for every article of the new bill. Thus, the members of parliament and its political groups know all about the difficulties and fragilities of any compromise that has been reached and can thus assess the

²The parliamentary initiative is to be distinguished from the popular initiative, which emanates from outside parliament—although frequently used by political parties to mobilise their followers (Leemann 2015).

robustness of a solution. The different parliamentary groups equally try to lower the risk of a referendum being called and look for a compromise that is supported by as many parties as possible.

The direct-democratic procedure: Our description of referenda campaign in Chap. 4 left one question open (Sciarini and Trechsel 1996): how come that a seemingly well-balanced project gives rise to opposition, and that opponents take the chance of an optional referendum? There are several answers to this question.

First, the referendum may be called by a governmental party. As already mentioned, consensus amongst the four of them is not always reached (Traber 2015). One or in rare cases two parties articulate their opposition in parliament, and a narrow majority, not giving in to the claims of the opposition, takes the risk or even accepts the challenge that its bill is tested in a popular vote. Sometimes the referendum is triggered by a cantonal branch of a political party despite the support of the governmental project by its national counterpart. This is because political parties are as ‘federal’ as the political system, and deviant positions of cantonal parties cannot be impeded by the national party. In similar situations and ways, the referendum is called by strong interest groups.

Second, also small political parties or even grass-roots movements are able to launch a referendum, and in rare cases they may even be successful. In 1969, for example, the students of the Swiss Federal Institute of Technology called a referendum against a new law on their university—and won (APS 1969). Even though the success of a small party or an outsider group is rare, they sometimes mobilise a considerable part of the electorate. This means that the compromise among political elites is not always accepted by ordinary people.

Third, if the consensus among political elites is fragile, a small outsider can initiate a chain reaction in which other actors or even governmental parties defect and join the referendum. This resembles a cargo ship loaded with barrels barely fastened. If one of the barrels gets loose and rolls from one board side to the other, many barrels will follow, and the ship keels over. These cases are hard to predict. Even though referendum cases make for less than 7% (one in about 15) of all legislative projects, they sometimes come as a surprise to the political elites.

The verdict of the people is binding and has immediate effect. In cases of referenda, the project is enacted or has failed. In cases of an accepted amendment to the Constitution, implementation may take more time if it needs an executing federal law, which has to pass a new policy cycle. This

will be especially cumbersome if the amendment is due to a popular initiative accepted against a (large) majority among the political elites.

The administrative procedure: Once a project has received parliament's assent and gotten the required majority in a popular vote, it enters into force. The implementation is an important part of the policy cycle (e.g. Varone 2007; Kissling-Näf and Wälti 2007; Sager et al. 2018). In many cases, policy programmes for proper implementation have to be developed or revised. As most programmes are implemented in close cooperation with the cantons, negotiations with their administrations take place. It is one of the characteristics of Swiss federalism that the national authorities have little means of coercion and greatly respect the autonomy and preferences of cantonal authorities in the implementation process. Resistance

Box 5.2 Social Partnership and Public-Private Partnerships—The Second Arenas of Power-Sharing

A) Social partnership

In the first decades of the twentieth century, industrial relations between labour and capital were characterised by class struggle, strikes and lockouts. This ended on the eve of World War II, when the Federal Council urged leaders of employers' and labour organisations in the mechanical-engineering industry to resolve their conflicts by ways of negotiation and cooperation, which would better help to overcome the economic crisis. This marked the beginning of a new era: the 'Labour Peace Convention' (*Arbeitsfrieden*) of 1937 invited employers and unions to resolve all their conflicts through negotiation and to renounce on strike and lockouts. In the following decades, similar conventions were concluded in most other industries. Thus, industrial relations are characterised as 'social partnership' (*Sozialpartnerschaft*), leading to a typical pattern of social policy. Social policy was developed contractually between employers and unions, the circle of beneficiaries was restricted to the workforce in the respective industries. Both sides relied on the principle of 'subsidiarity': state intervention should be the exception, restricted to those problems which social partnership was unable to resolve. This pattern of a 'liberal welfare state' has gradually changed in the

(continued)

Box 5.2 (continued)

last decades. As elsewhere, globalisation somewhat reduced the bargaining power of trade unions. As the contractual way became unfavourable for them, they changed their strategy and began to rely on legislation instead. The passage from contract to public law transformed Switzerland into a ‘normal’ welfare state, more and more responsible for all sorts of social policy. The unions were successful because their strategy of legislation let all people, not only those working in the industries, benefit from welfare and defend its benefits also by popular votations (Trampusch 2010). So far, employers and unions have kept social partnership in their own hands while the EU wants to gain control on Swiss industrial relations. This is presently one of the major issues of discussion in the negotiations between Switzerland and the EU, who both seek to put their cooperation on firmer grounds.

B) *Public-private partnerships*

Intensive cooperation between government and private actors is known in most economically developed democracies. It has a long tradition in Switzerland. As early as the late nineteenth century, private organisations, especially in agriculture, fulfilled certain functions for the federal government, which at the time lacked its own professional administration (Vatter 2018, 174). Indeed, Swiss governments at all levels sought to avoid building up a large bureaucracy. Whenever possible, the authorities preferred to use private organisations or create semi-private (parastatal) organisations to implement public policies. In agriculture, dozens of parastatal organisations proposed and policed regulations and organised the pricing, distribution and marketing of products (Jörin and Rieder 1985). The intensive cooperation between private organisations and the state is also known as ‘neo-corporatism’. We doubt, however, whether one can speak of neo-corporatism in the case of Switzerland (see also Vatter 2018, 203ff.). Elsewhere, the term denotes tripartite arrangements between labour, capital and the state to regulate economic conflicts by concerted action. The Swiss case differs in many

(continued)

Box 5.2 (continued)

respects. First, there is no equilibrium of power between employers and unions: the latter are weaker. Second, concerted action is often avoided because arrangements are decentralised and vary considerably from sector to sector. Third, arrangements between private actors and the state also comprise social, cultural or environmental policies and are not always tripartite, but sometimes bilateral and competitive as in pluralism. It is thus more appropriate to speak of public-private partnerships.

Since the 1990s, public-private partnerships have changed considerably. With liberalisation and globalisation, many semi-public or parastatal organisations have disappeared or been privatised. This is particularly the case with agriculture, a domain where World Trade Organization (WTO) regulations forced Switzerland to abandon great parts of its traditional protectionism. While many public-private partnerships still exist or expand into new domains, liberalisation generally leads to a more restricted role of the ‘public’ and to the exposure of the ‘private’ to competition from both within and outside the country (Mach [2007](#), [2014](#)).

from the cantons may impede implementation. Conversely, negotiation and compromises may lead to intense cooperation, which in turn facilitates the implementation of federal policies. Thus, we may speak of a form of vertical power-sharing also at that stage. Evaluations, finally, may kickstart new policy cycles (cf. Sager et al. [2017](#)).

5.3 THE FEATURES OF POWER-SHARING

5.3.1 *The Main Characteristics of Political Compromise: No Single Winner Takes All, Everybody Wins Something*

The entire political process aims at reaching a political compromise. Instead of a (small) majority that imposes its solution onto a (large) minority, we find mutual adjustment: no single winner takes all, everybody wins something. Some people attribute this behaviour to a specifically ‘Swiss’

culture. Indeed, there are some studies that show such differences: German economic elites, for instance, seek less compromise in conflict and use hierarchical power more than their Swiss counterparts (Kopper 1993). From a political science perspective, however, the effect of institutions seems to be paramount. The referendum challenge, the strong influence of cantons and interest groups as well as the multiparty system amount to formidable veto points that simply do not allow for majority decisions and compel political actors to cooperation and compromise. This means that every actor must renounce on some of their expectations, which is not always easy (Box 5.3).

**Box 5.3 ‘No single winner takes all, everybody wins something’:
Conditions of Good or Poor Compromise**

Context

The idea that ‘no single winner takes all, everybody wins something’ has not always worked out. Mutual adjustments were most successful in the period leading up to the 1970s, when economic growth allowed the distribution of more public goods. In the aftermath of World War II—an experience that unified the small country—many old antagonisms between ideologies had disappeared. Optional referenda were few and the success rate of obligatory ones high.

Consensus became more difficult to achieve after the recession of the 1970s. With lower economic growth after the first oil crisis, there was less surplus to distribute. Political redistribution in social security and the health system became a zero-sum game: what one actor won another lost. Ecological sustainability became a political issue and prompted new conflicts and actors. The party system fragmented and new social movements arose. In conflicts over industrial and post-industrial values, and with the rise of neo-liberalism and neo-conservatism, part of the basic Swiss consensus melted away. At the end of the 1980s, important legislation failed or remained incomplete. In the last three decades, globalisation functioned as pressure from the outside, leading to quicker and larger steps of political innovation, but also to higher polarisation, the demarcation of winners and losers of internationalisation, and to the deepening of old cleavages such as that between cities and countryside.

(continued)

Box 5.3 (continued)*Issues*

The feasibility of ‘no single winner takes all, everybody wins something’, then, greatly depends on the specific issue. As long as money is involved, and as long as there is plenty available, compromises easily can be reached. But conflicts can also involve ‘indivisible’ goods. For example, in 1977 the Federal Council proposed to introduce daylight saving time in line with many West-European countries. Farmers refused to put their clocks one hour forward in spring and then back again in autumn, claiming their cows would produce less milk. The typical Swiss compromise was not feasible here: advancing the clock half an hour would have helped nobody. It was easy for the well-organised farmers to call for a referendum, and their challenge was successful. However, living on a ‘time isle’ in the centre of Europe was not very practical. Two years later, parliament passed a new bill and the farmers gave in. Similarly, compromise can be very difficult if an issue involves moral values such as abortion or same-sex marriage. Such topics are considered by many people to be a question of principle. Contrary to daylight saving time, pragmatic experience would not change preferences because interpretations will go both ways. In Switzerland, the abortion issue has led to several popular votations triggered by both sides. Neither proponents of liberalisation nor conservative opponents finding the status quo too liberal, however, could win a majority. Even the federalist idea of letting the cantons decide was rejected: while liberals accepted that cantons could practice different solutions, conservatives insisted that in no canton any liberalisation should be permitted. In other countries, such deadlocks are often solved when elections bring new majorities and a new government. Not so in Switzerland, where the government coalition rests the same. The deadlock lasted for more than 20 years before a solution was found. The example shows that mutual adjustment has its limits in Swiss politics, too.

What is a good compromise?

Obviously, there are compromises and compromises. A key distinction between good and bad compromises is not so much how many persons or groups can live with it, but rather who pays the price. Good compromises in this sense are those whose costs are shouldered by the actors participating in its forging. If employees

(continued)

Box 5.3 (continued)

agree to work more for the same pay but receive an extra week of holidays in exchange, both the costs and the benefits of the compromise accrue to them. If, however, their extra holiday is funded entirely by lower social benefits provided for future employees, the costs of the compromise are shifted onto groups without any representation and influence. That is one of the reasons why the Swiss consultation procedure foresees feedback from all affected sides, even if that is often difficult to achieve. It also means that to be heard, interests must organise politically.

5.3.2 The Technique of Political Compromise: Compensations That Transform Conflict from Zero-Sum into Positive-Sum Games

Consensus, theoretically, requires a Pareto optimal solution in which no actor is left with losses. As illustrated in Box 5.3, it can be difficult or even impossible to meet this condition. In times of general budget cuts, for instance, compromises must distribute losses, and one of the few possibilities to reach consensus is a ‘symmetry of sacrifices’, whereby each actor thinks that others agree to bear similar losses as she is willing to pay. But even under normal conditions, Pareto optimal solutions are not always at hand. Similar to residents around airports or along busy roads who are sometimes remunerated for their sacrifices in favour of others, actors in the political process receive compensation. Compensation is facilitated if the agenda of the issues to be negotiated is widened or the number of participants increased. The compromise reached under these circumstances may suffer from little effectiveness, though, if it violates the famous Tinbergen Rule: the Dutch economist Jan Tinbergen stated that ‘to successfully achieve n independent policy targets, at least the same number of independent policy instruments are required’ (Schaeffer 2019).

5.3.3 Cooperation, Trust and the Deliberative Learning Processes

Game theory shows that in a single game, self-interested actors defect from cooperation when it offers them an extra profit. This risk is considerably reduced if the same actors play many games. In this case, players may

mutually sanction defection, which then becomes less attractive. This is exactly the case in a steady power-sharing arrangement, as it allows actors to develop mutual trust. An additional advantage for cooperation is found if politics involves different cleavages for which the opposed camps, for instance the left or the young, are not the same. This leads to different coalitions from issue to issue, cementing an important aspect of the ongoing process of power-sharing: political actors opposed today on a particular issue may find themselves as coalition partners tomorrow on a different issue. Mutual respect and amicable relations even with the opponent (of today) are the result.

Indeed, studies on deliberation provide empirical evidence that under conditions of power-sharing, political opponents have more respect for each other and listen more to the arguments of the other side than in majoritarian settings (Bächtiger et al. 2005; see also Bernauer and Vatter 2019). Thus, power-sharing allows for deliberative learning processes. The weak spot is, however, that conditions for changing coalitions are not always given. In the 1980s, for instance, the three parties of the centre-right regularly overruled the smaller green-left parties on major issues of public finance, energy and the environment. Behind the screen of all-party power-sharing, informal majoritarian politics were practised. This is a bad constellation—instead of combining advantages, informal majoritarian and formal power-sharing politics combine the disadvantages: the ruling majority refuses to compromise and is not exposed to the risk of losing power through competitive elections as would be the case in a majoritarian system. In such a position, the ‘eternal’ majority can afford not to learn—for Deutsch (1967) a pathological use of power.

5.3.4 *Political Elitism and Its Limits*

Power-sharing produces strong formal and informal contacts amongst the entire political elite. Lijphart’s (1969) early theory of ‘consociationalism’ proposes that power-sharing also leads to the development of common values and attitudes.³ Elites develop a common way of understanding problems which must be solved, and they learn to adopt perspectives that go beyond their specific group interests. Does this mean that power-sharing leads to a cartel of ‘the establishment’, neutralising electoral

³For a recent special issue devoted to consociationalism entirely, see Bogaards and Helms (2019).

competition and abolishing democratic accountability? In the Swiss case, it may be argued that indeed elections do not lead to a change of roles between government and opposition and therefore play a minor role for democratic control. Direct democracy, however, is a strong corrective to elitist consociationalism. Every political party and its leaders have to regularly defend their decisions before a people's vote. This imposes both procedural and substantive limits to elitism.

5.4 THE CRITICS OF SWISS CONSENSUS DEMOCRACY

5.4.1 *The Referendum as an Instrument of Vested Interests*

We already showed that the referendum is a pawn in the hands of interest groups, giving them additional influence in all matters of legislation. Thus direct democracy, instead of being the voice of the people, has partly become the instrument of vested interests. Indeed, this critique has some traction, especially for the long period of time during which the Swiss parliament was weak and often adopted the pre-parliamentary compromise struck by interest groups without much modification. A famous constitutionalist went as far as to say that the law is no longer the result of parliamentary proceedings but of negotiating non-democratic, vested interests (Huber 1971).

Today, the image of a *Verbandsstaat*, that is, a state of vested interests that dominates parliament, corresponds much less to political reality. Not only has parliament become more vocal in shaping legislation (Sciarini et al. 2015; Sciarini 2007), but due to globalisation some of the strongest interest groups in the domestic market, namely those of agriculture and industry, have lost some influence. Also, many traditional coalitions, such as those in industry or between employers and unions, are split into trade-oriented versus protectionist, often neutralising each other.

5.4.2 *Inequalities of Influence*

The weak spot of democratic pluralism is that it cannot guarantee fair competition in the sense that all interest groups and parties have the same chances of political influence. According to the theory of collective action (Olson 1965), the negotiating power of a group depends on two factors: its organisational ability (e.g. to mobilise members) and its capacity to

deny contributions that other actors need. This leads to stark inequalities of influence. In negotiations and law-making by mutual adjustment, the ‘haves’ are better off than the ‘have-nots’, whose refusal to compromise remain without effect. Moreover, organisations which defend specific short-term benefits for their members are likely to be stronger than those promoting general and long-term interests.

Big companies, for instance, can easily mobilise against new regulations on their market. Their threat to leave Switzerland is a strong argument for parliament not to pass such a bill. Consumer organisations, on the other hand, have more difficulties. They constitute much larger but probably less powerful groups. Their interests may conflict, as can be shown in the case of genetic engineering: part of the consumers may favour genetically modified products, so only the other part will mobilise against them. The consumer organisations’ only means is the consumer boycott, rarely efficient in the short run. Therefore, they do not wield a plausible threat and possess no trade-in in negotiations. Environmental groups in particular face the problem of having to fight for a long-term public good from which nobody can be excluded, such as clean air and rivers. They are popular and outnumber the biggest political parties in membership. Faced with vested business interests, however, they are not able to articulate comparable threats.

On the whole, negotiations do not necessarily eliminate the twofold objections to political pluralism: the ‘haves’ retain their advantage over the ‘have-nots’, and negotiations amongst interest groups favour particular short-term benefits at the expense of general long-term interests (Scharpf 1970; Huber 1971, 589–630). One may object that these inequalities are not peculiar to Swiss semi-direct democracy but apply to all pluralist systems. What is more, negotiating in the shadow of direct democracy offers even weaker actors defending diffuse interests a chance to use the referendum as a last resort.

5.4.3 *Lack of Innovation?*

Negotiation and compromise seem to have provided important advantages. In the absence of electoral change, there are no abrupt discontinuities in federal policy. The sobering effect of negotiation cools down ideological intransigence and promotes pragmatic solutions. Cooperation in committees, government and parliament leads to mutual adjustments

where learning processes occur over the substantive issues of legislation. Reaching a satisfactory compromise may take more time than a majority decision, but once the agreement becomes law most actors are prepared to accept it. This increases the chances of new laws and programmes being implemented (Abromeit and Pommerehne 1992; Armingeon 2003; Abromeit 1993; Poitry 1989) and makes for sustainable policy decisions (Hirschi et al. 2002).

Yet, criticism of consensus democracy is as old as its praise. Political scientists have noted that consociationalism renders a strong opposition impossible. Elections do not provide an opportunity for government and opposition to alter places as they do in pure majority democracies. Therefore, the Swiss system lacks the larger innovatory and social learning processes that are brought about by complete changes of power—it is not the country of revolutions but evolutions.

Two scholars proposed radical modifications to stimulate innovation. The political scientist Raimund Germann (1975) proposed scenarios for a comprehensive institutional transformation into a majoritarian parliamentary system. He focused on the problem of incrementalism in domestic politics and later European integration. In his view, the Swiss had to adapt to the much faster pace of decision-making in the EU (Germann 1990). The economist Silvio Borner (Borner et al. 1990, 153ff. and 169ff.; Borner and Rentsch 1997), in turn, focused on the negative economic impact of negotiation practices. In this view, the strong position of interest groups in the legislative process led Swiss enterprises towards seeking state rents instead of taking their chance on the market. Industries, getting short-term benefits from protectionism, would in the long run lose their capacity to innovate and compete on the international markets.

The proposition of both Germann and Borner was clear: more competition is necessary for Swiss politics and for the Swiss economy as well. Their message was appreciated neither by politicians nor the public. The reason was simple: both were honest enough to name the price of more political competition. Installing a bi-polar competitive system would require not only less direct democracy but also more centralisation and less bicameralism. Direct democracy and federalism, however, are sacrosanct in the eyes of both citizens and politicians. So, the Swiss stay with their consensus democracy.

5.5 CONSENSUS DEMOCRACY UNDER STRESS

5.5.1 The 'Konkordanz' Crisis of 2008

The last three decades have brought increasing volatility in elections. Between 1991 and 2007, the Swiss People's Party (*Schweizerische Volkspartei* [SVP]) more than doubled its share of the electorate, became the biggest political party nationwide and was given a second seat in the Federal Council in 2003. Their success came at the cost of the political centre, Radicals (*Freisinnig Demokratische Partei* [FDP]) and Christian-Democrats (*Christlichdemokratische Volkspartei* [CVP]), while the left with Social-Democrats (*Sozialdemokratische Partei der Schweiz* [SPS]) and Greens gained initially, then stagnated for a long time and eventually gained again at the 2019 elections (Fig. 5.2).

Many of the smaller parties did not survive, disappeared from the political arena or merged with others, such as the Liberals with the Radicals (FDP). Higher electoral volatility is nothing extraordinary as such, but it was accompanied by increasing political polarisation. The SVP, in taking over the old xenophobe parties, moved to the right and in many issues attacked not only the left but also the centre. This considerably changed the Swiss party system. The bourgeois alliance is partly broken, leading to a tri-polar system of political forces: a populist right, a green-socialist left and a fragmented centre.

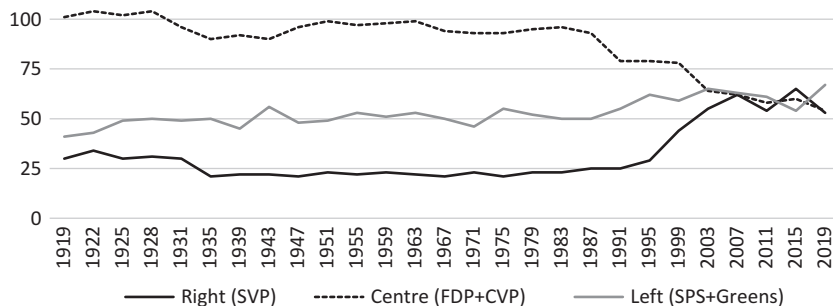


Fig. 5.2 Seats in the National Council of the five main political parties, 1919–2019. (Source: own figure based on data from *Bundesamt für Statistik* [BFS; 2019])

The rise of the SVP began in 1992 when its de facto leader, Christoph Blocher, successfully mobilised against the European Economic Area (EEA) Treaty. It became the party of Eurosceptics and later systematically opposed the *Konkordanz* also on issues of immigration, social policy, and institutional reform. Originally confined to an electorate in the Protestant German-speaking cantons, the SVP went on to win new voters all over Switzerland and from all social strata. The party is much more professionalised in its organisation and has many resources for costly campaigns. It fosters its nationalist-conservative profile in an aggressive, often populist style (Mazzoleni 2003), thus becoming the political agenda setter in the media.

This began to amount to much more than ‘just’ issue-specific opposition. The other parties accordingly accused the SVP of betraying the spirit and workings of the *Konkordanz*. This was a blame levied particularly against Blocher. Elected in 2003 as the second representative of his party to the Federal Council (see above, Sect. 5.1.1), Blocher continued to act as an informal leader of the SVP. In late 2007, a coalition of Social-Democrats, Christian-Democrats and Greens successfully plotted his replacement by a more moderate SVP member. The reaction of the party was furious. It declared that it felt no longer represented in the Federal Council, excluded the two serving federal councillors elected as SVP members from its parliamentary group and declared ‘fundamental opposition’ to the government.

This incident developed into a real crisis of the *Konkordanz*, even if only for a rather short period.⁴ The SVP’s ‘fundamental opposition’ itself lasted only a year (Church and Vatter 2009). Its leaders realised that a single party alone could not break up the system of power-sharing: the institutional constraint for cooperation among the rest of the governmental parties was stronger. Thus, when one of the two (former) SVP ministers resigned in late 2008, the party was quick to claim his seat and even re-proposed Blocher, to whom most other parties still strongly objected.

⁴As Widmer & Häusermann (2018) rightly observe, the willingness of political parties to compromise varies greatly from year to year. Years of low agreement, notably between 2003 and 2015, have been called ‘discordance’ (Widmer 2013, 234; Widmer 2015, 294). We doubt, however, if this concept is of analytical value because we cannot see significant correlations with the political events leading to a crisis of the consensus system. More importantly, ‘concordance’ is an institutional arrangement. None of its elements—with the exception of one or two partisan seats on the Federal Council—have ever been seriously put into question (cf. also Vatter 2016, 72; O’Leary 2019, 570).

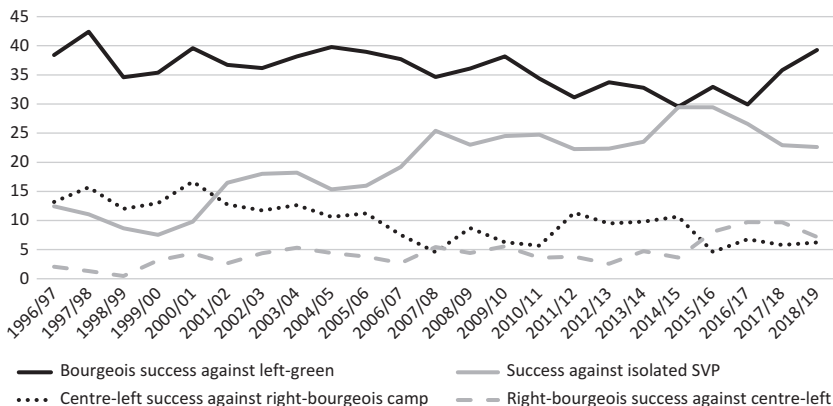


Fig. 5.3 Most frequent winning coalitions in the National Council, 1996–2019 [%]. (Source: own figure based on data from Smartmonitor [2019]. Note: shown are the shares of different winning coalitions. Bourgeois parties = CVP, FDP and SVP; Centre-left = SPS [and Greens] and SVP; right-bourgeois = FDP and SVP)

The result was a compromise in that not Blocher but the former leader of the party was elected—even if only just, with 122 votes against 121 for a more moderate SVP member (APS 2008).

The final step of the governmental reintegration of the largest political party occurred in late 2015, when the other former SVP member resigned. This time, Blocher signalled no interest at all and the party put forth three official candidates, one from each linguistic region. Eventually, the French-speaking Guy Parmelin was chosen, thus becoming the first SVP Federal Councillor speaking that language (APS 2015). Thus was restored the (adjusted) magic formula of 2003: two SVP, two SPS, two FDP and one CVP member. All government elections since then (in 2018 and 2019) have confirmed this distribution of seats.

5.5.2 *Power-Sharing in a Polarised Parliament*

Growing political polarisation raises the question whether parliamentary compromise is still possible. Indeed, until the end of the 1980s, a relatively stable block of the three bourgeois parties had few difficulties to find a majority in cases of opposition from the left. With the partial disintegration of the bourgeois block, this seems no longer to be the case. The SVP

acts as an issue-specific opposition almost as often as the Social-Democrats (Smartmonitor 2019), so the government coalition is exposed to opposition from both sides. No wonder that the media today often blame parliament for being incapable to reach a consensus.

An exhaustive analysis of about 8000 decisions of the National Council from 1995–2004, however, reveals a slightly different picture (Schwarz and Linder 2007). Blocked situations in which parliament cannot decide on a governmental proposition are, at least statistically, very rare, and parliamentary decisions are still characterised by manifold winning coalitions that vary from issue to issue. Particularly Christian-Democrats sometimes vote with the Social-Democrats and Greens, which means that the National Council is practising the game of power-sharing in a more open way than in the 1980s. In the long run, issue specific coalitions also change, an indication that political trends are more important than stark ideologies. Finally, the study shows that the political centre—the Christian-Democrats and the Radicals—is the most important policy shaping actor in the parliamentary arena. Their coalition is most successful in forging winning coalitions (Fig. 5.3). The centre also benefits from situations found in many controversial issues in which propositions from the left and from the conservative right cancel each other out. These findings contrast with public opinion, which perceives the SVP as the strongest force and agenda setter. The SVP has electorally benefitted from polarisation but in some way pays for its strategy of fierce and sometimes populist opposition with less influence in the parliamentary arena.

Foreign observers sometimes designate the SVP as the prototype of European populist parties. Indeed, the SVP was one of the first to be anti-elitist, and to denounce its political antagonists with a blunt rhetoric, claiming to be the only legitimate voice of the people. Constant fundamental opposition and sometimes radical proposals against European integration and immigration were key to its political success. The SVP became the favourite political party of all segments of society which were the real or imagined losers of modernisation or threatened by the process of globalisation. All of these elements resemble the populism of right-wing parties in other European countries.

Yet there are also substantial differences. The SVP has been part of the Swiss government for several decades, remaining bound and integrated into the ‘grand coalition’ with the other main parties. Also, the party does not have to call for *more* direct democracy to better reflect the will of the people. Instead, it used the instruments of direct democracy and in fact

made the experience that it does not always represent ‘the will of the people’. Other parties complain about the populism and radical proposals of the SVP, but no one would try to exclude them from the pluralist discourse as we can observe in other countries. Instead, the other parties have learned to live with a ‘tamed’ form of populism, which is not only the privilege of the SVP. In that sense, the SVP is both emblematic and antinomic of populist parties elsewhere.

5.5.3 *The Pressure of Globalisation*

Globalisation opens national economies, reduces economic protectionism, and stimulates market competition, liberalisation and privatisation. Politically, international authorities and supranational organisations become important regulators. The sharp distinction between domestic and foreign policy fades away, the national state loses autonomy and sees its own sphere of influence vanishing. Switzerland is exposed to all these general effects. In Chap. 3, we presented the particular situation of Switzerland in the process of Europeanisation. Good relations with the EU are paramount for the Swiss economy. In not being a member of the EU, the Swiss government tries to develop them by the way of ‘bilateral treaties’. It pays a high price for the bilateral way. Equal treatment of Switzerland with regard to its member states is a legitimate interest of the EU. This means that Brussels influences regulation much beyond the bilateral treaties, without the Swiss having any influence on the content and development of the EU’s *acquis communautaire*. Therefore, Switzerland today is highly integrated into the European market and has little chance not to do so. Globalisation in Switzerland, to a high degree, means Europeanisation. This has also changed the political structures and processes of power-sharing (Fischer 2007, 2014):

- The dynamics of EU economic integration put Swiss politics under permanent pressure. This may be one of the reasons why power-sharing, despite polarisation, is working.
- The agenda of Brussels is conceived in Swiss politics as an imperative for liberalisation, privatisation and economic reform. Europeanisation has changed the balance of powers. Export industries and parts of the consumer interests use ‘Brussels’ as their ally and have become stronger. In contrast, unions, farmers, artisan industries and other actors of the domestic market have lost a considerable part of their influence.

- Internationalised regulation in Switzerland exceeds domestic law in volume and growth. It is the government and its diplomacy which control the agenda in international relations and who are the actors of treaty making. Parliament is involved in early consultations but in cases of a treaty can only reject or accept the government's proposition. Thus, it loses influence in many issues.

These developments have led to kind of a two-pace regime. Decision-making in globalised affairs has become different to conventional patterns of power-sharing. In the 'globalised regime', the executive is much more in the centre of the process. Some of the classical veto positions are weakened: pre-parliamentary consultation is more selective, vested interests of domestic policies have less bargaining power and the policy-shaping role of parliament is reduced. Federalism, the strongest veto position besides the referendum, can be overruled, as was illustrated in Sect. 3.5.3 of Chap. 3. In contrast to the incremental process in domestic issues, policy-shaping and -making in Europeanised affairs are developing a different pattern (Mach et al. 2003): innovation passes more quickly and makes bigger steps.

However, the shortcuts of this process, which bypass or reduce the veto power of many actors, have their price. Europeanisation and globalisation (re)produce many salient issues fuelling polarisation among the political elites and sometimes also between them and 'ordinary' people. Moreover, also the cleavages between urban and rural areas as well as between different social strata have become stronger, both in the perception of citizens as well as during certain popular votations (Linder et al. 2008; Seitz 2014; Swissvotes 2019).

5.6 CONCLUSIONS

5.6.1 *Swiss Democracy: An Exceptional System*

Thus far, we have discussed three main features of Swiss democracy: federalism, direct democracy and power-sharing. At first sight, these three are anything but Swiss particularities: worldwide, we count about 30 federal systems. Direct democracy is practised also in the individual states of the US, and power-sharing can be found in the Netherlands and Belgium as well. Moreover, direct democracy can combine with majoritarian democracy, and consensus democracy with a representative system (Table 5.2).

Table 5.2 Different types of democracy: some examples

<i>Type of democracy</i>	<i>Representative</i>	<i>Semi-direct</i>
<i>Majoritarian</i>	The UK New Zealand	States of the US
<i>Consensus</i>	The Netherlands Belgium	Switzerland

It is the *combination* of power-sharing and direct democracy that puts the Swiss system at odds with much political theory and mainstream political thought. In contrast to other countries like The Netherlands, for instance, Swiss consensus democracy is *not* the result of negotiations among the political parties after elections but a permanent institutional constraint due to the referendum. In the US, direct democracy is not practised at the national level as in Switzerland, nor has it led to power-sharing in its individual States. And while elections to parliament are the decisive element in the competition between government and opposition in the UK and New Zealand, they have no such effect in Switzerland. Thus, the same institutional elements may function differently in different contexts, which is why it is important to look at them as a whole.

Let us compare the most different countries of Table 5.2: the UK and Switzerland (Table 5.3). In the former, which provides an almost ideal example of a majoritarian and representative system, political power is concentrated in the hands of the political party that wins a majority.⁵ Intense election campaigns are linked to fierce interparty competition, and the winner ‘takes it all’. The electoral system is designed to bring about strong and stable parliamentary majorities, formed of usually just one party. The elected government sets out to implement the programme it had laid before the electorate, but if it fails to carry its programme through the opposition has a chance to hold it accountable and form a new government in turn. Strong innovation is possible, also against the opposition. The influence of voters can be described as programmatic, since it is they

⁵We are aware that at the time of writing (October 2019), these statements need some qualification. Yet it is probably not by coincidence that the current chaos is due to three ‘un-British’ elements, namely direct democracy (the Brexit vote of summer 2016), lack of a parliamentary majority (the so-called hung parliaments returned in both 2010 and 2017) and the Fixed-Terms Parliament’s Act of 2011, which curbs the power of the prime minister to call an early election.

Table 5.3 A system comparison between Great Britain and Switzerland

<i>Great Britain:</i> <i>Representative, majoritarian democracy</i>	<i>Switzerland:</i> <i>Semi-direct, consensus democracy</i>
Strong competition between parties Winner takes it all Salient elections lead to periodical alternation of power	Weak party competition Proportional representation Low salience of elections; power-sharing amongst political parties prevents alternation of power
Enactment of the political programme of the government, backed by a parliamentary single-party majority Big innovation possible Political legitimacy through changes in power or re-election of a government satisfying voters' expectations	Integration of cultural minorities and conflicting group interests; changing coalitions for different issues Incremental innovation only Institutional legitimacy through different forms of participation: the most important decisions are taken by the people, important ones by parliament and the rest by the government
Underlying idea: politics for the people Participation as a form of general and programmatic influence: voters elect a government and its programme for the entire legislative period	Underlying idea: politics through the people Direct participation as 'single-issue' influence: people vote on specific questions. No strategic government policy, no influence of voters on a specific government programme

who choose among the programmes of the major parties and thus define the political agenda for four to five years. Sometimes party manifestos propose major policy changes, so elections provide popular legitimacy, policy innovation and political change at the same time.

In a semi-direct consensus democracy, on the other hand, party competition is low because elections cannot lead to a change of roles between government and opposition. The system places its trust in the final control by the people over all important issues. Legitimacy comes from the most important decisions being taken by the people directly. Proportionality in elections and mutual adjustment in legislative decision-making favour the idea of 'no single winner takes everything, everybody wins something'. In direct democracy, voting is on a single issue at a time, and each case produces different winning coalitions, which are barely foreseeable by the political elites. A popular vote, even when settling a fundamental issue, involves just one clear decision independent from the others. The Swiss government, free from the fear of not being re-elected, will not spend much time on programmatic strategy. The narrow limits of manoeuvre imposed by an all-party government and the permanent risk of a referendum defeat drastically curtail any effort to design comprehensive

programmes and, at least in domestic policies, allow for incremental progress only.

Both countries, in their particularities, are unique. But while the UK and its Westminster system have become a mainstream model for democracy all over the world, the Swiss polity with its combination of direct democracy and power-sharing has remained exceptional. Swiss democracy is at odds with the prevailing idea of democracy as *just* a competition among elites.

5.6.2 *Who Has More Influence: The British or the Swiss Voter?—The Trade-off Between Elections and Direct Participation*

The comparison between the UK and Switzerland has revealed fundamental differences in the way the idea of democracy as ‘rule by the people’ is realised. These are not only differences of ‘systems’ but also differences of how citizens can influence politics. A British voter chooses—by means of her ballot for a single candidate—which political party, its leader and its programme should be confirmed or voted out of office. The electoral choice of every British voter is of utmost importance. Victory or defeat of a party in parliamentary elections determines the political future of the country, and even London stock markets react by going up or down. Between two elections, however, the British voter has little to say, and the ruling government is not too much impressed by bad records of popularity in surveys. The prime minister, as long as her majority in parliament is not put at risk by a vote of no confidence, has little to fear from the polls. That should provide ample time to implement what she promised before the elections.

In contrast, the Swiss voter knows that after the elections there will most probably be the same four-party government as before. Electoral swings may lead to some changes in the relative influence of parties in parliament and even minor adjustments in the composition of government. But looking back at the last 60 years, the voter can rest assured that an all-party government, composed proportionally to the relative strength of the biggest parties, will be in power. The Swiss stock market is not impressed either. Between two elections, however, the Swiss voter additionally exercises her rights of direct participation: saying ‘yes’ or ‘no’, she has the last word on many important decisions prepared by parliament. Obviously, British citizens have maximal electoral influence, but no say through direct-democratic choice. For Swiss citizens the reverse is true. This raises two questions.

The first is, could we have it both ways, that is: having a maximum of influence through elections *as well as* by direct participation? The answer is no. While the idea of more democratic influence by both elections and direct democracy is tempting, it simply cannot be realised within the same political system. In Switzerland, an institutional change to more electoral competition is possible only by reducing the import of direct democracy, notably the referendum which requires parliamentary and governmental power-sharing. Similarly, regular referenda in Great Britain would destroy the basic idea of its political system, namely to concentrate power in the hands of a strong government which, based on its parliamentary majority, can realise its programme also against the will of the opposition. There is a trade-off between influence by elections and direct participation: the more a political system realises high voter influence by elections, the less it can grant influence by direct participation, and vice versa (Linder 1991, 49). Figure 5.4 visualises this trade-off and locates some exemplary polities.

At the either end of the spectrum ranging from representative and majoritarian to direct and consensus democracy, we locate the UK and Switzerland, each of which maximises influence through one of the

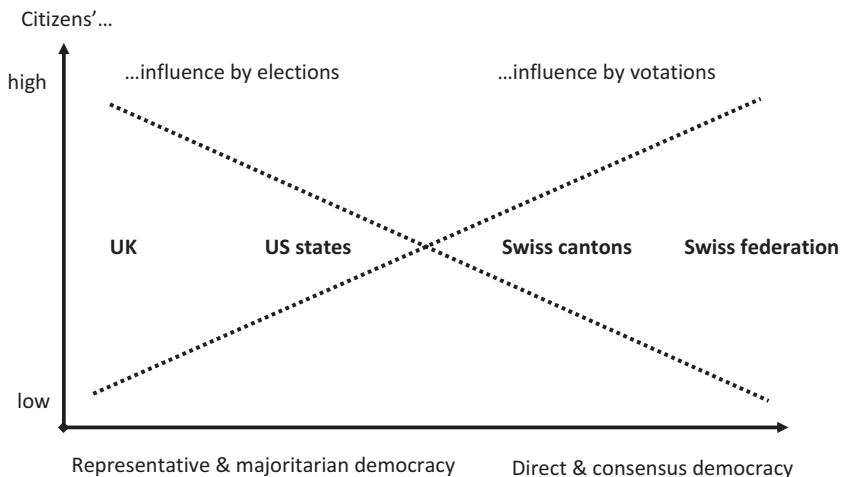


Fig. 5.4 Citizens' influence in majoritarian parliamentary and semi-direct consensus democracies: a theoretical model

two forms of participation—elections or votations—while offering the least influence through the other. Between these two there are some intermediate types. Swiss cantons differ in their extent of direct democracy. Yet all of them offer a higher degree of influence through elections than the federal level because also the executive branch—the cantonal governments—is elected by the people. The US states are situated more on the side of representative-majoritarian democracy. As in the UK, the competitive and majoritarian election of state legislatures and governors provide an opportunity for complete political change, yet in many US states we also find a frequent use of the initiative and referendum.

The hypothesis of an institutional trade-off between elections and direct democracy is in contrast to arguments of US political scientists Tolbert and Smith (2005), who argue that the political culture of direct democracy has a positive effect on electoral participation. However, Stadelmann-Steffen and Freitag (2009), in their exhaustive analyses of the Swiss cantons, confirm this trade-off: the more open a canton to direct democracy, the lower electoral participation.⁶

The trade-off means that voters cannot have the maximum of political influence by both elections and direct participation. This leads us to the second question: which combination of the two is ‘best’ in terms of maximum voter influence? This is not easily answered because we would have to know how citizens themselves evaluate these two forms of influence. The fact that social movements in many European countries seek some forms of direct democracy may be a sign that majoritarian parliamentary systems today need some complement to their purely electoral democracy. It is obvious, however, that regular referenda in Britain, for instance, would weaken not only the ability of government to achieve its programmes, but also depress the importance of elections, which would be a disenchantment for the British voter. Similarly, competitive elections in Switzerland could give more influence to the electorate, but the same electorate would not accept cut-backs in direct democracy. There is no

⁶A comparison of all 26 cantons makes sense because although both government and parliament are popularly elected everywhere, there is a wide difference in the extent of direct democracy. For instance, Glarus and Appenzell Inner-Rhodes still practice the *Landsgemeinde*, an annual citizen assembly comparable to US town meetings. In turn, notably in the French-speaking cantons the representative element is much stronger (cf. Bühlmann et al. 2014).

panacea, and all we can do therefore is to look for ‘optimal’ voter influence, which depends on further particularities of a polity. In other words: finding combinations of single-issue direct participation and programmatic elections that in the eyes of the electorate best serve them to shape their own democracy.

5.6.3 *Consensus Democracy: Its Past and Its Future*

Looking at the past, we can distinguish three different features of consensus democracy. The first is integration, which in the twentieth century had different meanings. In earliest times, power-sharing helped overcome the religious divide and prevented the linguistic minorities to be dominated by the German-speaking majority. Later, the social partnership and governmental inclusion of the political left helped reduce class conflicts. In the most crucial period before World War II, a high national consensus helped overcome threats to the country’s independence.

The second feature is political stability and efficiency. The perfection of power-sharing after World War II was undoubtedly beneficial. Switzerland passed smoothly through growing wealth to societal modernisation: the stability of its political system was an advantage for its economy in many respects. Whereas some West-European democracies went from liberalism to socialism and back, Swiss politics held its middle course. The policy of integration and prudent adaptation rather than risky innovation proved effective.

The third one is the development of a specific political culture. British scholar Clive Church, already mentioned as a life-long observer from the outside, provides a definition that goes well beyond the scope of conventional surveys (see Box 5.4). Many of these items are closely related to power-sharing. We may leave open the question whether this political culture was influenced by Swiss institutions or vice versa. The important point is that the functioning of power-sharing also depends on the cultural attitudes and political willingness of political elites and citizens alike.

Box 5.4 Swiss Political Culture, as Defined by a British Scholar

Cognitive	Limited collegiate authority Constitutionalist Decentralist and federalist Democratic Neutral Pluralist Republican
Affective	Desire for decisions to be made directly Enthusiastic support for federal and other institutions Multiple loyalties Positive belief in compromise and cooperation Strong sense of patriotism and independence Tolerance of domestic differences Willingness to accept adverse decisions
Judgemental	Acceptance of the obligation to take part in politics Agreement that nation depends on acts of will Belief that the country is fragile Cautious attitude to policy change High levels of satisfaction with outcomes Positive evaluation of Swiss democracy and neutrality Trust in authorities

Source: Church (2004, 183)

It would be wrong, however, to overlook the shadows of consensus democracy which began to grow longer since the 1990s. Economic recession made political consensus more difficult. In such periods the lack of innovation and coherent government policies was particularly felt. Political power-sharing does not include foreign residents who represent 25% of the population, and efforts at social integration were insufficient. Moreover, new social movements—progressive as well as conservative (cf. Kriesi 1995)—indicated a loss of the Swiss system’s capacity to integrate all parts of society. The basic consensus among the political elite vanished, and the defeat of the government in the vote of 1992 on joining the European Economic Area left a divided nation.

Since the 1990s, pressure from the outside in the form of globalisation and Europeanisation has stimulated innovation. Power-sharing, despite growing polarisation and the crisis of 2008, is still working. The grand government coalition is sometimes defeated in referenda, but not more often than in earlier times. In parliament, growing antagonisms between the national-conservative right and the progressive-interventionist left are compensated by changing issue-specific coalitions in which the political centre plays an important role. The partial break-up of the bourgeois camp has made this possible. Under the conditions of a tripartite system of the right, the centre and the left, consensus democracy has the chance to work even better than in the 1980s, when the bourgeois majority made the left a permanent loser.

Informal rules play a prominent role for Swiss consensus democracy. The spirit of these rules is more important than their strict application. So in a short period of time, namely in 2003 and 2007, parliament twice broke with the unwritten rule that serving ministers are re-elected if they so wish. In both instances it meant saving one of the most important elements of Swiss democracy, namely a functioning and inclusive government. In 2003, parliament adjusted the magic formula to match the respective parties' electoral strength. In 2007, it affirmed that Swiss government members are elected to practice collective leadership, not to implement their party's electoral pledges. The electoral success of the Greens in 2019 did not lead to personal changes of the Federal Council—with the effect that at present, the principle of proportional representation is not fully respected.

Problems for the future remain. There are strong indications that decision-making on issues exposed to globalisation follows a different pace. Europeanisation, especially, leads to quicker and bigger innovations but bypasses many of the veto positions and interests relevant in domestic politics. This could lead to further polarisation between winners and losers of globalisation. Another problem is governmental reform. In a globalised world, the Federal Council and its administration have become key players, but the collegiate structure of the council—seven members with equal competencies—is still the same as in 1848.

Institutionally, consensus democracy has proven its worth in stormy weather. Surveys show that consensus democracy gets rising popularity and is even more appreciated by ordinary citizens than by the Swiss elites (MIS Trend 2008; Credit Suisse 2018). Here, however, we may identify the real weak spot of Swiss consensus democracy today. Polarisation,

stimulated by the political parties of the right and of the left, leaves its traces in political culture. Pluralism, belief in compromise and cooperation, tolerance towards differences and willingness to accept adverse decisions are declining among parts of the political elite, and parts of the electorate as well.

With good reason, adherents of the Swiss *Konkordanz* worry about the loss of the ‘spirit of accommodation’. It could paralyse power-sharing in the long run. As a strategy towards majoritarian politics, however, the politics of confrontation would not be enough. A gradual transformation towards majoritarian politics seems feasible only given electoral change which sees a leading party, capable to formulate a convincing political programme but also to carry out the necessary institutional reforms. And the trade-off mentioned earlier will impose limits to such a transformation: in the near future, one should not expect the Swiss to be willing to abandon consensus democracy in favour of a majoritarian system with less direct democracy.

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Comparative Perspectives

6.1 DIRECT DEMOCRACY

6.1.1 *Experiences of Direct Democracy Compared*

The first worldwide comparative study on direct democracy in 1978 produced some astonishing results: its authors, Butler and Ranney (1978, 7), counted more than 500 nationwide referenda in countries all over the world. Their distribution, though, was uneven. They counted 300 referenda for Switzerland, 39 for Australia, 20 for France and 13 for Denmark. In all other countries the number was below ten. Forty years later, Qvortrup (2018, 264) counted already 331 nationwide referendums in democratic polities between 1900 and 2017 *without* Switzerland's 556 votes in the same period. Table 6.1 provides an overview over the past 70 years.

Concerning the issues of votes, one can distinguish three general categories. The first one comprises the establishment or secession of a state, of a new constitutional order or regime. In these cases, the principle of self-determination of a people, and the attempt to provide legitimation for fundamental changes in the political order are important motives. Some historical examples are the separation of Norway from Sweden in 1905, the vote of English Togo (under UN supervision) to join Ghana and of French Togo to become independent in 1965, or the case of the Philippines

Table 6.1 Number of nationwide referenda, 1950–2019

<i>Area</i>	<i>Number</i>	<i>Share</i>
Europe (excl. Switzerland)	552	30%
Switzerland	479	26%
Australasia and Asia	265	15%
Africa and Middle East	259	14%
Americas	256	14%
<i>Total</i>	<i>1811</i>	<i>100%</i>

Including post-colonial independence votes if successful. Data from www.sudd.ch, 19.12.2019

where, in 1986 after the end of the Marcos regime, President Corazon Aquino allowed the people to ratify the new Constitution. At the beginning of the 1990s, the transformation of communist regimes to democracies in Eastern Europe saw many referenda in Kyrgyzstan, Azerbaijan, Turkmenistan and in the Baltic states. In the reunion of Eastern and Western Germany, however, the peoples were not granted a say.

A second category, relatively new, comprises decisions on membership in transnational organisations or changes in the status of such membership. In both cases, votes are held because the member states agree to share part of their sovereignty with the trans or supranational organisation. Spanish citizens, for instance, voted to remain in the North Atlantic Treaty Organization (NATO) in 1986. On EU issues, Denmark has so far held eight and Ireland nine referenda. In 2005, the people of France and the Netherlands famously voted against the adoption of the European Constitution. Before the EU enlargement of 2004, referenda were held in nine out of ten candidate countries (Slovenia, Czech Republic, Slovakia, Estonia, Latvia, Lithuania, Hungary, Poland and Malta; Szczerbiak and Taggard 2004; C2D 2019). The most recent example, of course, is Brexit: in June 2016, a majority of UK voters decided to leave the EU.

A third category deals with important national policy decisions for which a government wants to be given additional legitimacy. Chapter 3 already mentioned French President de Gaulle's plebiscite on Algerian independence in 1961, which put an end not only to the colonial regime but also to the deep divide of the French nation on this question. In some East-European countries, plebiscites were used from the very beginning of the liberalisation process. Whereas the Polish authorities failed to obtain the support of the people when trying to pass early reforms for economic liberalisation, the Hungarian opposition in 1989 won a referendum on the

question of election procedure against the wishes of the still communist-controlled government.

These examples illustrate the vast variety of occasions on which people are able to express their preferences. For a better understanding of the different uses made of the devices of direct democracy, a classification according to the following criteria is useful:

- A. *Binding versus non-binding referenda*: It is obvious that binding referenda have a higher impact than non-binding ones which are merely consultative or advisory (cf. also Cheneval and el-Wakil 2018, 300). In New Zealand, for instance, the referendum is non-binding and it is left to the government or legislature to interpret the results. For binding referenda, the consequences depend much on the type of the popular vote.
- B. *The authority empowered to call a popular vote*: With regards to who has the authority to demand that a popular vote be held, we can distinguish four basic types:
 - (1) Government-controlled: The majority of parliament or the president have the sole power to decide whether or not a referendum is held. They decide the subject matter and the wording of the proposition to be voted upon. This type is often referred to as a plebiscite.
 - (2) Constitutionally required: The Constitution requires that certain decisions (constitutional amendments, ordinary laws, decisions on financial or international issues) be approved by the voters before they take effect. The government might still have a free hand in formulating the proposition, but is legally bound to a direct-democratic procedure.
 - (3) Referenda called by the people: A certain number of voters are authorised to demand a popular vote be held on specific government decisions, either before or after these have taken effect. Thus, it depends on a group of citizens to decide whether a government decision has to be ratified by the people. A similar device is the recall, which allows a certain number of voters to demand the removal of an authority or a single person from office.
 - (4) Popular initiatives: A certain number of voters are authorised to demand a popular vote on broad statements of intent or specific

measures which they themselves have proposed. Thus, it is a group of people who, acting as ‘lawmakers’, decide the subject matter and the wording of the proposition to be voted on.¹

Most countries know only the first type, the plebiscite. Under such an institutional arrangement, direct democracy is limited in use and purpose. If it is left to the discretion of the government to put issues before its voters, the referendum tends to serve as an occasional device to obtain wider support for a presidential or parliamentary policy. This is especially the case with non-binding plebiscites, in which the government can realise its projects also if defeated in the vote. A special case is the UK’s vote on its continued EU membership held in 2016 (Brexit), which although merely advisory the government had promised to honour whatever the outcome.

Types (2)–(4) are fundamentally different from plebiscites. In those cases, a pre-defined class of government decision is always subject to a constitutionally required (mandatory) referendum; and citizens can, by petition, challenge government decisions (optional referenda) or even hand in their own proposals for constitutional or legislative reform (popular initiatives). The difference is that all these devices sanction or correct government policies and politics even when the government might *not* wish for popular interference. Under these institutional arrangements, direct democracy thus gives citizens an independent voice in politics and policies. This may be in accord with governmental policies, especially in the case of constitutionally required referenda. But the voice of the citizens can be, and often is, also raised against the government. To challenge government decisions in a selective way is the ‘natural’ use of popular referenda. The idea of ‘correcting’ representative democracy is further developed by the popular initiative, which allows the people to not only approve or reject government decisions, but also offers a group of citizens the chance to have their own propositions put to a popular vote.

The list of countries where direct democracy is used to challenge or correct the parliamentary process is short. In Australia national referenda, which are required for certain constitutional amendments, are held quite frequently. The Italian Constitution provides for referenda with the proviso that citizens can challenge a parliamentary law only sometime after its

¹Separate aspects to consider are the existence of a quorum and/or the type of majority required. In fact, all four types may exist with or without a quorum and necessitate simple, qualified or compound majorities (cf. Altman 2019, 8).

introduction and application. This unique ‘abrogative referendum’ was used in the divorce issue for instance, when part of the Catholic population wanted to abolish the secular and liberal divorce law. The Philippine Constitution of 1986 has institutionalised both the initiative and the referendum. Recently, Slovakia, Hungary, Lithuania and some South-Caucasian states have introduced referenda on constitutional reforms.

A final distinction separates *national from sub-national referenda*. While in Switzerland direct democracy is known on all three federal levels, other countries practice direct participation only on the sub-national levels. This is the case, for instance, in Germany where votes are held in some *Bundesländer* and their communes. A prominent case are the US States, where direct democracy is as widely institutionalised and used as it is in Switzerland. In all US States with the exception of Delaware, any amendment to the State constitution requires a popular vote. In about half the States we find one or another type of referendum for parliamentary laws, often complemented by a financial referendum. Moreover, citizens in many States can propose legislation by means of the popular initiative, or initiate a ‘recall’, which allows voters to remove or discharge a public official from office. In no other part of the world but California have citizens had so much opportunity to express their political preferences: from 1884 to 2018, Californians voted on more than 2000 issues.²

6.1.2 *The Practice of Direct Democracy in US States and Switzerland: Similarities and Differences*

US direct democracy is fundamentally different from Switzerland’s in one point: it is limited to the sub-national level. Populist forces in the late 1970s demanded nationwide referenda without success. They had no real chance to change the tradition of republican belief in the system of ‘checks and balances’, which is opposed to any form of plebiscite at national level. Yet, the US States’ and Switzerland’s experience of direct democracy are the richest: the instruments of the referendum and the popular initiative are practically the same, and one can find many similarities in their use. For an assessment of direct democracy, it may thus be most useful to compare their experiences.

In his overall appraisal of direct democracy in US States, Cronin (1989, 222) comes to the following conclusion:

² See <https://www.sos.ca.gov/elections/ballot-measures> [10.12.2020].

In sum, direct democracy devices have not been a cure-all for most political, social, or economic ills, yet they have been an occasional remedy, and generally a moderate remedy, for legislative lethargy and the misuse of legislative power. It was long feared that these devices would dull legislators' sense of responsibility without in fact quickening the people to the exercise of any real control in public affairs. Little evidence exists for those fears today. When popular demands for reasonable change are repeatedly ignored by elected officials and when legislators or other officials ignore valid interests and criticism, the initiative, referendum and recall can be a means by which the people may protect themselves in the grand tradition of self-government.

This assessment could also be largely subscribed to in the case of Switzerland, whose ideas of popular control of representative government in fact influenced the development of direct democracy in the US between 1890 and 1920 (Auer 1989). Another common conclusion can be drawn: historically speaking, critics as well as proponents of direct democracy overestimated the power of the referendum and the initiative, whether for ill or good. Finally, even if voters in the US and Switzerland are aware of its limited effects and deficiencies, direct democracy constitutes an element of political culture that citizens are unwilling to relinquish.

Further similarities show up when comparing a number of Cronin's (1989, 224–32) points on the 'general effects of direct democracy devices':

1. *Uncertainty on the question if 'direct democracy can enhance government responsiveness and accountability'.* For Switzerland, we have noted several characteristics of the public sector (the small budget of central government, limited public administration, the modification of a proposed policy programme after its defeat in the first popular vote, etc.) that indicate a high level of responsiveness to the 'will of the people'. On the other hand, the power-sharing coalition of an all-party government can also work as a political cartel and thus reduce responsiveness. Valid comparisons, though, cannot be made. In the US, where comparison with purely representative States is possible, Cronin notes that 'few initiative, referendum and recall States are known for corruption and discrimination. Still, it is difficult to single them out and argue persuasively that they are decidedly more responsive than those without the initiative, referendum, and recall'.

2. *As in Switzerland, 'direct democratic processes have not brought about rule by the common people'*. In both systems, more than 90% of important parliamentary decisions are not challenged. Popular initiatives alter and influence the political agenda, but do not call into question the role of parliament as the chief lawmaker. At more than 45%, the rate of successful initiatives is higher in the American States than in the Swiss federation (10%) and its cantons (30%) (Linder and Mueller 2017, 328). But in both countries direct democracy is fraught with inequalities in participation. It is the better educated, older and financially better-off citizen who engages and participates significantly more in direct democracy. Empirical data indicate that the more complicated the procedure and the issues at stake, the more direct participation is socially discriminatory. This selective bias affects the devices of direct democracy, whose specific policy ramifications can be much harder to grasp than simply casting a vote for a person or party based on sympathy or habit (see Chap. 4 and Cronin 1989, 76). Finally, direct democracy requires citizens to get organised. Cronin states that 'direct democracy devices occasionally permit those who are motivated and interested in public policy issues to have a direct personal input by recording their vote, but this is a long way from claiming that direct democracy gives a significant voice to ordinary citizens on a regular basis'.
3. *'Direct legislation does not produce unsound legislation and unwise or bad policy'*. There are strong arguments for this value judgement, despite empirical evidence in both countries that citizens are not always well informed about the issues on which they vote. For the Swiss case, Kriesi's (2005) analyses show that simplifying strategies such as heuristic voting based on cues or party recommendations do not lead to irrational choices. For the US case, Cronin states that the contributions of direct democracy do not essentially differ from those of parliament. As with every procedure based on majority rule, minorities can lose, and this risk, according to Cronin, may even be slightly greater under direct than representative democracy. The same can be said for Switzerland, where recently three popular initiatives gave rise to questions about their compatibility with the Constitution and fundamental rights (cf. also Christmann and Danaci 2012). But voters in direct democracies 'have also shown that most of the time they too will reject measures that would dimin-

ish rights, liberties, and freedoms for the less well-represented or less-organized segments of society' (Cronin 1989, 123).

Kriesi's and Cronin's arguments, however, compare only direct and parliamentary legislation. How about the fundamental question: does direct participation lead to more or less democratic stability? The quality of direct democracy will depend on the consolidation and quality of democracy as a whole. Even for the consolidated case of Switzerland, there is empirical evidence that direct democracy is ambiguous. On the one hand, it has integrating effects. On the other, it allows political elites to use fundamental societal cleavages for mobilising voters. The latter effect may be detrimental for an unstable, not-yet-consolidated democracy. Germany's regression from a democracy to an authoritarian regime was 'legitimated' by three plebiscites in 1933–1938, and Austria too approved its *Anschluss* in a popular vote. If Switzerland at that time rejected the popular initiatives of the Frontist movement, an important reason for this was that besides the people, a clear majority of the political elite was also hostile to the idea of fascism (Neidhart 1970, 238–43). These historical examples illustrate that direct democracy is vulnerable: instead of contributing to political integration, it may be a factor of de-stabilisation in deeply divided societies and unconsolidated democracies (Linder et al. 2008).

4. *'Direct democracy can influence the political agenda in favour of issues important to less well-organized interests'*. Environmentalists provide a good example of this for California and Switzerland. The popular initiative widens the political agenda and the horizon in respect of what is politically conceivable. We have to note, however, that these innovative effects may become unwelcome. In California, for instance, there is criticism that direct democracy is part of the reason why the state has become 'ungovernable': an abundant number of popular initiatives is launched by a professional campaigning industry that promotes special vested interests rather than those of the ordinary citizens (The Economist 2009). In Switzerland, the smaller 'political market' and lower success rates of popular initiative may have set closer limits to a professional referenda industry.
5. *'Direct democracy tends to strengthen single issue and interest groups rather than political parties with larger, general interest, programmes'*. Popular democratic rule partially loses or changes its meaning when devices of direct democracy, originally used by social movements,

pass into the hands of interest groups (Hofstadter 1955, Croly 1914; also Bühlmann and Kriesi 2007, Schneider and Hess 1995, and Schneider and Weitsman 1996). The ‘normal’ form and function of direct democracy are not what they were at the beginning. This statement for Switzerland can be complemented by the US experience that ‘Initial achievements or victories were won by the populists and progressives, but the very bosses or interests against whom these devices were aimed soon learn to adapt to the new rules, deflect them, or use them to advance their strategic interests’ (cit. in Cronin 1989, 231). Yet Cronin, who partially agrees with this critique made by both Croly and Hofstadter, also emphasises that special interest and single-issue groups regularly take part in both direct as well as representative democracy. If the US has become a nation of interest groups, it is the very task of politics to blend divergent interests into great governing coalitions. This, in Cronin’s view, parliament is best placed to achieve.

6. *‘Money is, other things being equal, the single most important factor determining direct legislation outcomes’.* It costs money to collect signatures for a referendum or initiative, to create and maintain an effective campaign organisation, to formulate and pass a political message on to voters by direct mail, to finance propaganda and attract the attention of the mass media. The frequent use of the devices of direct democracy has led to the professionalisation of campaigns, an evolution well known in the US and observable also in Switzerland, albeit with a time lag. Unequal distribution of money leads to unequal campaign spending, sometimes up to ratios of 1:20 or 1:50. In Switzerland as in the US States, the high-spending side wins in many cases, yet only in the US do strict rules on financial transparency exist (Garret & Smith 2005). It is exceptional for underdogs to win against ‘big money’. Some American scholars speak of campaign money as the single most powerful predictor of who wins and who loses (Zisk 1987, 90–137; Loewenstein 1982, 505–641). In the Swiss case, there is evidence that money cannot play the same role with all votations (Kriesi 2009). In the case of pre-dispositioned issues, where citizens’ preferences are related to first-hand experience and their own values, campaigns have less effect than on non-pre-dispositioned, mostly complex and abstract issues. Moreover, money is absorbed into political parties’ campaign strategies, which include not only propaganda but also ‘argument

based' reasoning to convince voters. Votations cannot generally be bought. But on highly controversial questions with heavy campaigning because of an expected tight vote, money can be the decisive factor (see Sect. 4.5.5). To a certain extent, money can be substituted by voluntary work of political activists. Together with socially unequal participation, however, the distorting effect of money remains probably one of the most serious deficiencies of direct democracy. First, unbalanced campaign spending devaluates the fundamental idea of a democracy based on 'one person, one vote'. We could draw an analogy with a town meeting or a television debate where one side gets to speak twice, five or 20 times more often than the other side. Second, the risk of deceptive advertising can be greater if there is no counterbalance. Citizens can be prevented from making a fair judgement of the real issue. These deficiencies, however, are not specific to direct democracy. The distorting influence of money (and the media more generally) can also be observed during elections in representative systems, as regular discussions in the US show. The money question is as unresolved in Switzerland as in the US, where attempts to regulate the financing of direct-democratic campaigns have been thwarted in the courts.

After all these similarities, there are three main differences:

1. *In the US States, direct democracy is not an element of political power-sharing.* With their two-party systems, winner-take-all elections and relatively homogeneous majorities installed by a white Anglo-Saxon Protestant hegemony, the referendum has not become a device to permit cultural minorities—African Americans or indigenous peoples, for instance—to gain better access to power or achieve proportional representation. Nor do we know about negotiation processes carried out in the shadow of the referendum challenge, which so much characterise Swiss decision-making. One reason for this might be that US interest groups find it much easier to exert their influence through parliamentary bargaining. Lobbyists in the US legislative tradition can try to get their interests to appear in many bills by attaching their desires as 'riders' (non-germane amendments). This leads to bills that are sometimes a conglomerate of matters such as money for agriculture, schools, highway construction and so on. Non-germane amendments facilitate the finding of 'constructive

majorities' between interest groups. In Switzerland—as in other European legislative traditions—these deals would not be possible because different matters must be regulated by different bills. In the US, however, they allow interest groups to influence legislation in a direct way without the 'referendum threat', which anyway is riskier. US States' direct democracy, therefore, is neither an incentive for cooperation and power-sharing as in Switzerland, nor does it have the institutional function of political integration. In turn, because of the strong two-party system, US direct democracy has not devalued elections as the mechanism of government-selection as much as in Switzerland.

2. *Direct democracy in the US complements the representative polity, while in Switzerland it has transformed the entire political system.* With the introduction of the referendum in 1874, Swiss political institutions—which originally followed both representative *and* majoritarian ideas—were completely restructured. Majoritarian democracy was transformed into a system of consensus democracy. Negotiated legislation, compromises and permanent power-sharing became necessary if the government was to avoid defeat in referenda. This institutional transformation has not happened in the US. Especially the idea of proportional representation seems to contradict American political culture, which favours competitive elections and 'clear', that is, majority decision.³ To the Swiss observer it seems as if representative and direct democracy in the American States were much more independent of each other. In terms of political culture, the predominant ideas in Switzerland are participation and voice, while in the US they are competition and victory.
3. *In one respect direct democracy is of much greater consequence in Switzerland than in the US.* The referendum and the popular initiative are also used at national level. This distinction is important. In Switzerland, not only national but also foreign policy issues can become the object of direct democracy. The latter is even more astonishing as the Swiss Constitution was influenced by nineteenth century doctrines which put foreign policy firmly into the hands of the executive so that it has complete autonomy in its dealings with

³ Even if, due to the winner-take-all rule within States, twice in the last 20 years a president got elected with *less* popular votes than his direct rival (George W. Bush in 2000 and Donald J. Trump in 2016).

other nations. In practice, the Federal Council is under much less parliamentary control for its foreign policy than for domestic affairs (Kälin 1986). Three constitutional amendments, passed in 1920, 1977 and 2003, introduced and further extended the people's rights in foreign policy. Today, membership in international organisations and all international treaties implying substantial unifications of law are subject to mandatory referenda (Aubert and Mahon 2003, 1102–20; Häfelin et al. 2016). If the government should want Switzerland to become a member of a supranational organisation such as the EU or a system of collective security such as NATO, a referendum is obligatory. The Swiss polity thus empowers the people to participate in matters which used to be the sovereign right of the monarch in earlier times and which have largely remained the prerogative of the executive in most other states (Delley 1999).

6.1.3 *The Theory of Direct Democracy: Between Ideal and Reality*

6.1.3.1 *Direct Versus Representative Democracy*

In the US, where the development of modern democracy was accompanied by theoretical debates among the Fathers of the Constitution, the two different strands of direct and representative democracy were present right from the start. On one side were Benjamin Franklin and Thomas Jefferson, suspicious of government but confident of the common sense of the people. Jefferson, especially, held that the will of the people was the only legitimate foundation of government, and 'wished to see the republican principle of popular control pushed to its fullest exercise' (Cronin 1989, 13). On the other side, John Adams and James Madison, advocates of informed, wise and responsible decision-making by elected representatives, were sceptical about possible abuses of democracy by an ill-informed, irrational general public. The US Constitution, as a purely representative system with its checks and balances and filters such as the—nowadays purely formal—indirect election of the president, much resembles this model of prudence. Representative government, besides having become the standard all over the world, serves as a normative reference point in much democratic theory of today. And many of the arguments against direct democracy have not changed much since Madison's times:

participation beyond elections transcends the horizon and competence of most people, who are not willing to engage in or spend much time on the study and discussion of complex public affairs. The building of consensus, they say, should be left to political elites.

The case for direct democracy in modern theory, as represented by Benjamin Barber (1984) and others, can be made on two grounds. The first argument is a critique of the representative model: if representative government is more than an elitist power arrangement, its elected officials must somehow be *responsive* to their constituency. But on this point the theory of representative democracy was never clear. The debate between ‘mandate’ (elected representatives have to present their voters’ views as faithfully as possible) and ‘independent’ theorists (the representative’s duty is to deliberate free from particular interests and in the general interest of all) is still unresolved. The ambiguity and weakness of the representative model—‘thin democracy’—can be remedied only through the direct participation of the people to produce a ‘strong democracy’ (Barber 1984).

The second argument concerns the role of democracy in and for society. Whereas part of modern theory—especially economic theory, beginning with Joseph Schumpeter (1942) and Anthony Downs (1957)—considers democracy merely as an instrument for choosing the governing elites, populist-plebiscitary proponents share the unbroken tradition of a broader normative concept: democracy has to *liberate* women and men alike. Democracy as citizens’ deliberative involvement and participation in public affairs becomes part of an individual’s social and individual self-development and creates citizenship and political community (Barber 1984, 179ff.; Rosenberg 2007; Dryzek 2002).

6.1.3.2 ‘Sensible’ or ‘Semi-Direct’ Democracy: A Third Model?

The sharp contrast between models of direct and representative democracy disappears when looking at actual practice. Despite the many weaknesses in the theoretical model, representative government has become the predominant type of democracy. Competitive elections with the real possibility for a change in power seem to be responsive enough, at least in economically developed countries, to work satisfactorily for most citizens. Democratic government ‘for’ the people is realistic in the sense that a large majority of citizens are not, and probably will never want to be, political activists—or ‘vulcans’, as Brennan (2016) calls the ‘ideal-type’ voter.

But in some democracies, such as in the US States and in the Swiss federation and its cantons, citizens wanted more. It was the deficiencies of

representative government as well as the citizens' claim for personal expression and political participation that gave populist movements their successes when introducing the devices of direct democracy into initially representative systems. The experiences of this amalgam have dashed the original hopes of populists and contradicted most of the fears of elitists—at least in practice. Regarding the debate between proponents of direct and indirect democracy, the predictive value of democratic theory has been rather disappointing, except for one important point: direct democracy, by giving people the power to define when and on which issue to take things into their own hands, has always acted as a corrective to representative government.

In the view of Thomas Cronin, this amalgam of representative government and corrective direct democracy constitutes a third model, sensible democracy or 'semi-direct democracy' in the case of Switzerland. This model is realistic in a double sense. It reminds us that on a large scale, direct democracy is only feasible in combination with representative government. And, as a supplementing element, its effects on policies and political processes should not be overestimated:

Sensible democracy, with its referenda, initiatives and the recalls:

1. Values representative institutions and wants legislators and other elected officials to make the vast majority of laws;
2. Values majority rule yet understands the need to protect minority rights most of the time;
3. Wants to improve legislative processes;
4. Wants occasionally to vote on public policy issues;
5. Wants safety-valve recall or vote-of no-confidence procedures as a last resort for inept and irresponsible public officials—but is willing to make these options difficult to use;
6. Wants to improve the ability of the ordinary person both to run for office and to use direct democracy procedures;
7. Wants to lessen the influence of secrecy, money, and single-interest groups in public decision-making processes;
8. Trusts representatives most of the time, yet distrusts the concentration of power in any one institution;
9. Trusts the general public's decision some of the time, yet distrusts majority opinion some of the time;
10. Is indifferent to most initiatives and referenda except when it comes to its own pet initiative issue;

11. Agrees with the central arguments of both the proponents and opponents of populist democracy, hence favours a number of regulating safeguards for direct democracy devices;
12. Is fundamentally ambivalent toward popular democracy—favouring it in theory and holding a more sceptical attitude toward it as it is practiced in states and localities. (Cronin 1989, 249–51)

Taking into account the slightly different experiences of Swiss semi-direct democracy, four points deserve closer scrutiny. All are based on the central argument that relations between direct democracy and representative government can also develop in a less harmonious way than argued by Cronin:

1. *Participation and the problem of social equality*: As mentioned earlier, direct democracy is particularly sensible to the unequal participation of citizens, and to the inequality between different groups in gaining the attention of the public at large and in influencing public opinion. Under these conditions, point 7 of Cronin's list may be too optimistic. As Macpherson (1977) mentions, it is hard to escape a vicious circle of the sort that better participation first needs more social equality—and that more social equality in turn requires better participation. Whenever democratic theory makes its normative point about equality in society (Dahl 1989, 323ff.), it rests mostly on a moral appeal that is unconvincing because of its essential point that democratic procedures *by themselves* have an equalising effect. In practice, sometimes they do, sometimes they don't. Neither the model of direct nor that of sensible democracy provides a convincing answer.
2. *Normative orientation*: Cronin's model of sensible democracy does not imply that certain subject matters be excluded from the people's vote. In his concluding remarks, however, he opposes national referenda and initiatives being held in the US, among other reasons on the ground that 'too many issues at the national level involve national security or international economic relations' (Cronin 1989, 251). We encounter here one of the discrepancies (nr. 12 of his model) between theory and practice. In practice, Cronin makes a good point: military power and negotiation of global terms of trade, on which the 'way of life' of US people depend, may be better left in the hands of a strong presidency and Congress. Thus US citizens,

renouncing on direct participation at the national level, may make a rational choice as long as they prefer benefitting from international strength and supremacy. Theoretically, however, there is no reason why the model of ‘sensible democracy’ should not also apply at national level—at least in domestic affairs.

3. *Optimal influence of citizen preferences:* The term ‘sensible democracy’ suggests that institutional arrangements are such that the preferences of citizens have the utmost influence on government politics and policies. Sensible democracy, complementing representative decisions with occasional popular votes, seems to fulfil this criterion. But it depends on additional specificities of the institutions whether the optimum influence of citizens can be achieved, and sensible democracy has many forms. Taking first the Swiss case, we observe a high interdependence between representative and direct-democratic procedures. Because direct democracy is also a means for the political opposition, the referendum challenge enforces legislation by negotiation and power-sharing. As discussed in Chap. 5, proportional representation can devalue elections, however. As to the responsiveness and sensibility of government, there is a clear trade-off between elections and voting: Swiss citizens lose in ‘programmatic control’ through elections what they win in ‘issue control’ through direct democracy. Thus, empirical evidence casts some doubts on whether *any* combination of direct democracy and representative government can always give citizens optimal influence. Second, there may be other models. Fritz Scharpf, in his *Democratic Theory* (1970, 54ff.), provides some strong arguments in support of the idea that enhancing participation in practice leads to a group pluralism that favours the status quo of ‘haves’ and which eliminates basic reform issues that ‘have-nots’ need most. He therefore proposes a model that maximises voters’ preferences through elections, the simplest and socially least discriminatory mechanism. According to Scharpf, the system most responsive to voters’ preferences for structural reform is given by a two-party parliamentary democracy sensitive to small electoral changes, with enough power to overrule resistance by pluralist interest groups. Consequently, Scharpf puts priority for enhancing participation not in the field of political institutions but with society and the economy.
4. *Population size—a limiting factor for sensible democracy?* Historical experience provides evidence that semi-direct democracy may work

not only in a small, 8.6 million country like Switzerland but also in California with a population of some 40 million. But could the practice of referenda and initiatives also work nationwide for the US with over 300 million, or India with 1.3 billion inhabitants? The idea is regarded by many with scepticism, yet the reasons remain vague. Is direct democracy the most vulnerable part of democracy in large countries because of increasing manipulation by big money and the mass media? Or is direct democracy an appropriate way to make central government more responsive? Nobody knows, but one point seems clear: the political culture of direct participation is a collective learning process that needs time to develop, as well as possibilities to correct errors. From this perspective, a bottom-up development from the local via the regional to the national level seems more appropriate than top-down imposition, both in respect of democracy and direct participation.

6.1.3.3 Perspectives of Direct Participation

Sensible or semi-direct democracy, the amalgam of parliamentary decision-making by way of referenda and popular initiatives, is not the only way to give people a say beyond elections. In the last decades, direct participation has made its way in different forms from the local up to the national level. If in European countries nationwide plebiscites and votes on EU-affairs have become more and more frequent, this may be seen as the result of strong grass-roots movements that started half a century ago. Civil rights movements in the US, and students and many other populist movements in European countries were dissatisfied with the lack of government responsiveness, challenged elitist politics and claimed more political participation. New social movements, grassroots politics and non-governmental organisations have made civil society more active in daily politics. Instruments of direct participation, especially at the local and regional levels, have developed in many forms, including advocacy planning, citizens forums, participatory budgeting, panels or citizens networks, to mention just a few (e.g. Ekman and Amnå 2012). With the development of the internet, the range of mobilisation has drastically increased. The local and the global are more and more interconnected (Tarrow and della Porta 2005).

Direct participation also plays a role for young democracies. In Central and Eastern Europe, we find experiences with direct democracy despite a

difficult situation: having to walk the arduous path of developing a civic culture, democratic institutions and a market economy all at the same time. In Brazil or South Africa, landless workers' and farmers' movements are claiming their rights through combinations of direct confrontation and negotiation with government. Decentralisation projects in sub-Saharan countries often go hand in hand with the direct participation of locals in planning and budgeting, including procedures allowing even illiterates to participate. In these cases, direct participation allows for more than people expressing their needs—it is also a device to make people familiar with the functioning of the local state and democracy (Linder 2010).

All these experiences of direct participation, made in completely different contexts, have some characteristics in common. They are still at an experimental stage, punctual if not exceptional, and they are able to influence institutional politics only in a modest way. Even so, they all are driven by the motives of people to have better voice for their values, interests and rights, which may lead to sustainable forms of participative democracy eventually.

It would be wrong, however, to see more participation as the only means of improving democracy, or to hope that direct democracy will provide the answer to all problems of governance. Governing also always implies making decisions for groups and interests which cannot be democratically represented, and which cannot adequately participate. Decisions about the education system, for instance, mostly affect young people who cannot vote yet but are made by adults. Many social reforms, such as of criminal law or psychiatry, need the advocacy of professionals, journalists and other members of an 'active public'. Most importantly, all societies have to take account of future generations. Especially people living in highly industrialised democracies are consuming in a few decades natural resources that took millions of years to develop. Ever-increasing energy consumption and CO₂-emissions have become a threat to the climate itself. Such long-term effects of industrial activity are neither integrated into the price system of the market nor taken care of in today's democratic procedure. Can we think of finding democratic majorities for decisions renouncing on the short-term advantages of most voters in favour of long-term gains for future generations? Under what kind of political structures dare we hope to see such communitarian and enlightened behaviour? Democratic theory and practice have to face up to such issues (Peters 2019).

6.2 FEDERALISM

6.2.1 *Basics of Federal Institutions*

We have considered Swiss federalism as an institutional arrangement that has enabled national unity while maintaining cantonal and regional autonomy. This amounts to a first approximation of most existing federations. Duchacek (1985, 42) put it thus: ‘What water is for fish, the federal system is for the territorial communities that desire to manage their affairs independently (near sovereignly) yet within the confines of an all-inclusive national whole’. Federalism is therefore a political answer to provide a common biosphere for segmented parts of a larger population. Yet it is only an answer to the *territorial* segmentation of society, responsive to the cultural autonomy of language, ethnicity, and so on merely to the degree that these cultures overlap with territorial communities. The carp swimming in a school of pike is not protected against being eaten. There is, therefore, a fundamental difference between federalism and plural democracy. While political pluralism also aims at respecting societal diversity and cultural segmentation, it has no connotation for territorial boundaries.

What characterises federations in the universe of nation-states, where we find a large spectrum ranging from unitary systems like that of France to loose confederations or treaty-like federacies (the US–Puerto Rico) and leagues (e.g. the Arab League)? On the basis of his comparative work on federalism, Duchacek (ibid. 44) finds the following six yardsticks to be the most important:

1. Indestructible identity and autonomy of the territorial components;
2. Their residual and significant power;
3. Equal or favourably weighted representation of unequal units;
4. Their decisive participation in amending the constitution;
5. Independent sphere of central authority;
6. Immunity against secession, that is a permanent commitment to build and maintain a federal ‘union’ in contrast to a confederal system which lacks such a commitment.

Commonly, the first five criteria may be realised as part of the constitutional framework. The sixth yardstick, however, tells us that federalism is more than a constitutional tool used to divide up governmental powers. It refers to the political culture and indeed the political will of a society to

constitute and remain a single nation or state. Secessions of the Yugoslav regions and the republics of the Soviet Union show that this political commitment can evaporate if a central government loses its control over centrifugal forces.

Federalism is thus usually adopted by societies where territorial segmentation has led to a political division between forces preferring either centralisation or decentralisation. All federations practise different forms and degrees of shared rule and self-rule (Watts 2008, 35ff.; Hooghe et al. 2016). But this definition is not as clear and distinctive as it seems. A first ambiguity lies in the very word ‘federalism’, which is sometimes associated with ‘centralisation’, as in Anglo-American parlance, but sometimes a password for decentralising forces, as in Germany or Switzerland. However, this is not just a question of semantics—federalism itself is fundamentally ambiguous. When at least two territorial entities create a new, common government, they give up part of their sovereignty. This process is not only unifying but also centralising. Once the central government is created, the problem of living federalism may well be to guarantee the territorial autonomy of the components, their differences and therefore their relative independence from each other. As Elazar (1985, 23) put it: ‘Federalizing does involve both the creation and maintenance of unity and the diffusion of power in the name of diversity’.

Amongst the 193 member states of the UN, some 25 are known as federations, representing about 40% of the world’s population. We find many other countries which have strong regional authorities, governments and even elected parliaments, such as Italy, Japan, Columbia, France, Peru, the UK (Anderson 2008; Hooghe et al. 2016). Despite considerable devolution of powers and autonomy of the regional governments, these states are not federations but unitary states that—for different reasons—have undergone a process of decentralisation.⁴ What is the difference between a federation and a decentralised unitary state? Looking at Duchacek’s definitions, we find that decentralised unitary states may well meet yardsticks no. 1, 2, 5 and 6. The decisive difference lies in yardsticks no. 3 and 4: only federations let sub-national units participate substantially in national affairs to the extent of amending the constitution (shared rule), and this under the rule of a favourably weighted representation of unequal units (‘one region, one vote’).

⁴Alternatively called ‘regionalization’ or ‘devolution’.

6.2.2 *Structure, Processes and Political Culture*

So far, we have considered federalism mainly as an institutional structure, or even as a constitutional framework. Scholars comparing different federal systems all over the world found this institutional scheme useful. But there are limits: ‘Many polities with federal structures were not at all federal in practice—the structures masked a centralised concentration of power that stood in direct contradiction to the federal principle’ (Elazar 1985, 22).

Evidently federalism can be ‘strong’ or ‘weak’, and it is more than a structure. Besides varying structural types of shared rule and self-rule, the political process, too, can be federal to different degrees: a strong veto power of sub-national units leads to processes of co-decision in which the central government must respect sub-national interests also in its own fields of competency. Conversely, weak fiscal powers of sub-national units can lead to financial dependency and processes in which the central government controls the use of resources despite formal regional autonomy. Different equilibria of power imply a different appropriate behaviour, which may crystallise into political cultures, too: high veto power of sub-national units favours power-sharing, negotiations on a par and respectful dealing with sub-national units from the side of the central government. In the opposite case, processes between the central government and sub-national units are characterised by hierarchic subordination and majority rule.

Figure 6.1 illustrates the position of a series of countries on two of these dimensions, constitutional structure and political process. The spectrum ranges from the most federal (upper right) to the most unitary systems (lower left). It presents the situation of the 1980s and is a historical document of the time before the breakdown of the Soviet Union. It shows that some elements of federalism can be found not only in liberal democracies but also in authoritarian regimes. Moreover, the document helps to understand the nature of federalism under a strong central authority: the institutional structures of former Yugoslavia and the Soviet Union were federalist, but central governments monopolised all decisions over resources, controlling the economic activities by way of highly centralised government planning. Meanwhile, the Soviet Union and Yugoslavia ended in implosion or civil war or both. Whereas the extreme concentration of power in these one-party regimes was well known, most observers underestimated the fact that their centralised power also kept together different



Fig. 6.1 Structure and process in selected polities. (Source: Elazar 1985)

territorial units with different histories and cultures—artificially, we may say in retrospect, but under structures that were as ‘federal’ in name and structure as those of liberal democracies.

The US and Switzerland are similar cases, being federal in both structure and process. These two oldest federations developed by a bottom-up process, with sub-national units keeping much of their ‘sovereign’ rights as formerly independent states. The veto power of the sub-national units is high, especially in Switzerland where subsidiarity can ally with direct democracy (Mueller 2020). We have already seen that the cantons possess a high financial autonomy and are mandated with the implementation of federal policies (also Vatter 2018). Federal law-making is accompanied by a process of consultation with the cantons. If their reaction to a proposed bill is negative, the federal authorities drop the project or modify it until a solution satisfactory to the cantons is found.

And although the Federal Supreme Court has extensive constitutional power to review cantonal and local legislation, it is reluctant to intervene if sub-national autonomy would thereby be restricted. The federal authorities often do not exercise all the powers they have and, when dealing with the cantons and communes, use their competences with caution. Instead of deciding unilaterally, federal authorities negotiate and respect the cantons or communes as equivalent partners. These non-hierarchical procedures also stem from the need to cooperate. The process of accommodation by the federal authorities of the sub-national units is an appropriate behaviour to find solutions under the conditions of the cantons’ high veto power. It has become an element of political culture, mostly informal, and just occasionally prescribed as a legal procedure. Intergovernmental structures have further stimulated horizontal accommodation among the cantons; they do not compete as much with each other as they could, for instance regarding taxes (Gilardi and Wasserfallen 2016; Wasserfallen 2015).

Taking the two dimensions of process and structure into consideration provides a preliminary picture of the variety of federations and decentralised polities. Elazar’s comparative work showed that there are additional dimensions—such as the coincidence of social and political unity and diversity—which can further describe and explain the operation of federalism. This coincides with the observation of cultural differences that exist between the US and Switzerland, even though both figure at the high end of federalism with regard to structure and processes. Already Chap. 3 mentioned that Swiss federalism aims at creating equal opportunities in all regions and at equalising policies among the municipalities. US

federalism, in turn, stresses territorial competition of state governments, which gives citizens the choice of ‘voting with the feet’. Another cultural difference can be found in the fact that Swiss federalism was conceived to protect territorially entrenched cultural minorities—US federalism was not. This explains why there is not a single federal model, but a rich variety of different types. They depend not only on political structures and processes but also on the history, the specific political culture and the socio-economic challenges and cleavages present in a polity.

6.2.3 *Modern Meanings of Federalism*

6.2.3.1 *Cultural Autonomy and Difference*

The case of Switzerland is instructive for the realisation of political unity whilst maintaining cultural diversity: the 26 cantons, with their different traditions, histories, languages and religions, most of them having enjoyed centuries of political autonomy, were able to create a modern territorial state as early as in 1848. Without federalism and its principle of dividing power between the new central government and the ‘old’ cantonal authorities, and without the federal promise to maintain and even safeguard regional differences, this historical process of the nineteenth century would not have resulted in successful nation-building.

Meanwhile, religious differences have faded. And even if we can still distinguish German-, French- and Italian-speaking cantons, the language boundaries, which never coincided entirely with cantonal ones, have been penetrated by print, electronic and social media and thus become more fluid. Switzerland today is a comparatively homogeneous society. But the Swiss would never contemplate giving up federalism. Despite complaints about federal particularities that may sometimes become obsolete or troublesome, the Swiss like the formal autonomy of their 26 cantons and ca. 2200 municipalities, which in many respects may be fictive and appear to the foreign observer as an institutional luxury in a country of only 8.6 million inhabitants.

Bottom-up state-building and the (con)federal experience are a historical legacy that has shaped a strong preference for ‘small government’ up to our days and helped to develop the idea of subsidiarity: central government should not meddle in things that the cantons are capable of doing themselves, and the cantons should not bother with problems that the municipalities can handle. However, subsidiarity can lead to too small

solutions, because the lowest federal level defines *what* the problem is. If the refusal of necessary centralisation is sometimes deplored, it offers opportunities for living ‘differently’. Decentralised trial-and-error processes allow for political innovation, and successful experience can be transferred to upper levels in the sense of ‘best practice’.

Political institutions are not only rooted in and adapted to specific cultural needs, they are part of the social culture. Some say the Swiss feel Swiss only when abroad—when at home they are *Genevois*, *Thurgauer* or *Ticinesi*. Nationalism in the sense of exaggerated pride in the one and only, the chosen people, its language and superiority is thus not possible: between regional cultures and awareness of four linguistic groups, the Swiss are part of a greater, international culture of French-, German- and Italian-speakers. Thus, the Swiss federal structures have remained intact, even though many of their original rationales have disappeared over the last 170 years.

Are these connotations of a federal structure and its associated way of living just a styled reminiscence of the past or are they meaningful also beyond the case of Switzerland and in today’s world? The following provides some answers by illustrating a few of the many facets of federalism.

6.2.3.2 *Federalism in Times of Globalisation*

Today, the nation-state seems to be too small to handle problems of national security and climate change, to guarantee human rights or to find answers with respect to growing inequalities between industrially advanced and developing countries. With globalisation, international organisations have multiplied, and nation-states have transferred more and more powers to the inter and supranational level. To some extent, supranational organisations resemble ideas of federalism: they decide certain affairs by majority but respect Duchacek’s yardstick no. 3 of ‘equally or favourably weighed representation of unequal members’.

In the UN General Assembly, for instance, China, Liechtenstein and Switzerland are represented equally, each by one single seat. This gives small countries an over-proportional influence on decisions. But we also see that this advantage should not be overestimated: five big powers are permanent members of the Security Council and each has a veto. Closer to the ideas of federalism comes the EU. Besides favourably weighed representation of its unequal members in most of its institutions, the EU Commission, EU Parliament and the Council of Ministers allow members to influence decisions in different ways, and on matters requiring

unanimity every member has the right to veto the decision. We may say, therefore, that the development of the international community is to a lesser or stronger degree influenced by structural and procedural ideas of federalism. This is part of the solution to the problem of the nation-state having become too small.

Globalisation and internalisation, however, are contested on different grounds: that they widen inequalities between the first and the third world, that global capitalism tramples on the environment, that policies of the international community lack democratic legitimacy or destroy national structures and cultural identities—including the state itself, which in the high times of neoliberalism was often reduced to a ‘minimal state’. After the financial crisis of 2008/2009, however, the state had to intervene as ‘last resort’ in order to save the whole economy from a total collapse. All this could lead to a re-affirmation of the role of the nation-state—all the more so since despite worldwide capitalism the redistribution of wealth (social security) and the production of important collective goods (education and health) are still undertaken by the nation-state. Nothing showed this clearer than the coronavirus pandemic in 2020, with states suddenly outbidding each other for essential equipment.

If the nation-state is brought back in, what will be its future structure? While some scholars doubt that federalism can survive in a globalised world, others see modest impacts or even countervailing developments (e.g. Kelemen 2002). Indeed, in many European countries and beyond we observe some important and long lasting trends (Hooghe et al. 2016; Ladner et al. 2019): decentralisation, the rising salience of local and regional politics, social and political movements claiming greater territorial autonomy and the growing awareness of linguistic, ethnic or cultural minorities to defend their identity and to claim new, collective rights. For the protagonists of all these phenomena, the state is not too small but rather *too big*, incapable of dealing with societal diversity at nation-state level. Decentralisation or even federalisation are institutional answers to that problem. Spain, the UK and Belgium, once unitary-centralised systems, are examples where regionalisation took place in reaction to claims for greater regional autonomy. Others may follow.

6.2.3.3 *Federalism in Developing Countries*

The process of international development and modernisation is, in the first instance, a clash between the worldwide penetration by capitalist enterprises seeking new markets, on the one hand, and self-sufficient local

economies and cultures, on the other. In many developing countries, the structures of government that ought to mediate this encounter have not found solutions for dealing with the inevitably arising conflicts. Above all, young democratic regimes, often seduced by short-term gains of centralisation or a charismatic concentration of power, fail to combine selective economic modernisation with targeted backing of indigenous traditions and cultures.

There are structural reasons for this. Many states were created by colonial powers, artificially uniting different ethnicities under one common roof, a problem returned to in the next paragraph. Countries in sub-Saharan Africa, in contrast to many in Asia, lack the cultural heritage of a state overarching familial and clan structures (e.g. Wimmer 2018). Top-down state- and nation-building after the end of European colonisation was a moderate success: central governments not penetrating their peripheries, abuse of political power and widespread corruption are keywords associated with the phenomenon of unsuccessful or even ‘failed states’. Failed states, however, may be the wrong term and just an episode. European countries needed centuries for their nation-building and were not exposed to the global stress of ever faster socio-economic modernisation. Seeking to improve the political structures of developing countries in the long run, decentralisation and federalisation have become important concepts for developing agencies (Kálin 1999; Litvack et al. 1998; Linder 2002).

Decentralisation is said to bring the state ‘closer to the people’, giving them a better voice for their needs. But overcoming clientelism and clan politics is possible only if a ‘neutral’, non-familial institution like the state is trusted by citizens. People have to learn that public goods are not gifts from a Big Man but the return of their own fiscal contribution. And they must have the confidence that this return will be fair, effective and corresponding to their needs, which implies learning processes also for the political elites. Local autonomy, fiscal decentralisation or even federalism can increase the chances for this learning process to occur compared to unitary-centralised government (Oluvu and Wunsch 2004; Linder 2009). They represent a promising alternative to the mainstream politics of post-colonial period, namely bottom-up state- and nation-building.

6.2.3.4 *Federalism as a Guarantee for Cultural Difference and Diversity*

While federalism in Belgium, Switzerland and Canada serves to unite the diversity of only a small number of cultural groups, Nigeria or India are much more complex. In these cases, federalism must unite the cultural diversity of dozens of ethnic groups or hundreds of different languages. Thus, federalism is sometimes used as a synonym of the guarantee for cultural difference and diversity, regardless of history or socio-economic circumstances. But is this true, and to what degree can cultural minorities be effectively protected?

First, we have to note that not all federations were designed to ensure cultural diversity. Indigenous peoples in the US, for instance, are protected through reservation areas but do not benefit from political autonomy in the form of their own state. As a nation of immigrants, the US still favours the ‘melting pot’ concept: it trusts the idea that the dominating white, Anglo-Saxon and Protestant culture will assimilate all immigrants. The more important question, however, is whether federalism is really capable of protecting cultural difference and diversity, if that is the goal.

The experience is mixed. In South Africa, federalism seems to play an important role for the consolidation of a deeply divided society (Lemarchand 1997). But under the common roof of India’s or Nigeria’s immense cultural diversity, some shadows exist: there is evidence that in situations of serious crisis, federal structures in both countries are not used to solve conflicts (Iff 2009). In Canada, federalism could not prevent the French-speaking province of Quebec from twice calling a plebiscite on independence, in 1980 and 1995. In Belgium, which grants its two segments of French- and Dutch-speakers the utmost autonomy, national unity is said to be fading (Deschouwer 2012), held together only just by common symbols such as the monarchy, football, chocolate and beer.

This reminds us that federalism, giving either too little or too much way to minorities, runs the double risk of paving the way for unitary systems or breaking apart. One should not confound effects and cause, however. Modest success is partly due to the fact that it is primarily divided societies trying to integrate minorities through federalism (e.g. Walsh 2018). Such is the case with the most recent projects of federalisation in Nepal, Myanmar or Syria.

It may be useful to look at both the potential and limits of minority protection from a theoretical perspective (Kálin 1997; Linder 1997). The following conditions seem pertinent:

1. *Minorities not too small in size but sufficient in number*: Evidently a 20% minority has greater chances to benefit from federal autonomy than a minority of 2%. For a single minority group, however, size alone may be of little help: it is always the same (regional) conflict which is at stake, and despite federalism, the same majority will have the last word. Conflicts may accumulate, as for instance in the former Czechoslovakia, which dissolved in 1993. If instead regional autonomy is claimed by several and different kinds of minorities, chances of protection are better: the problem becomes more 'objective', coalitions change, and compensations between different actors and issues are possible. Too great a number of minorities divided up into many units, however, may become a disadvantage. Nigeria, for instance, started with three regions, in 1960; today, not less than 36 ethnic groups each have their own territory. While this may be reasonable from the point of view of a single ethnic group, it lessens the influence of sub-national units over the central government, which can resort to a strategy of 'divide and rule'.
2. *Cross-cutting cleavages*: A single region may be characterised by several political characteristics, for example, belonging to both a religious and linguistic minority whilst also being relatively poor. In this case, conflicts accumulate, as we have seen in the case of the Jura region, whose predominantly Catholic and French-speaking population also felt neglected economically by Protestant, German-speaking Bern (see Chap. 3), and chances of minority protection are less propitious than in situations of cross-cutting cleavages. If a minority region is not poorer but wealthier than others—as for instance the Basque Country in Spain—chances of its autonomy being respected are much more favourable.
3. *Effective political majority in a sub-national unit*: Federalism only protects territorially segmented minorities, as in a pond which is divided into two parts, one for pikes and the other carp. But a carp swimming in the pikes' part is not protected against being eaten. Similarly, even a large minority cannot benefit from federalism if does not constitute a political majority within the boundaries of at least one sub-national unit. For example, in Switzerland Muslims exceed the population of an average Swiss canton but are dispersed all over.
4. *No complete geographical division of ethno-cultural groups along the borders of sub-national units*: In situations of serious conflict, feder-

alisation is sometimes used to separate hostile ethnic groups. This was the case in Bosnia-Herzegovina, when the Dayton Agreement of 1995 drew the borders of the sub-national units along the geographical borders of the Bosniak, Serb and Croatian communities. This helped foster peace at that time but inadvertently continued the policy of 'ethnic cleansing'. It led to ethnic regions with the risk of creating their own, internal minority problems. With ethnic political parties, the ethnic cleavage and its conflicts may remain the central concern of all politics. To a certain extent, this point thus seems to contradict point no. 3: minorities should be able to constitute a majority in, but not be able to exclusively dominate, a sub-national unit. Yet, this is not a contradiction, rather an unresolvable paradox: every minority protection through federalism creates a new minority problem. After each opening of a Russian nested doll, a smaller Matryoshka becomes the biggest one. Under inversed roles, the minority in a country having become the majority of a sub-national unit has to find a new way to protect its own minority.

Looking at these four points, we notice that in Switzerland minority protection has benefitted from favourable conditions: the number and size of minorities was neither too small nor too large. Religious, cultural and economic cleavages were cross-cutting; this facilitated the development of national political parties which are not confined to language or ethnicity. Cross-cutting cleavages had the side effect that every member of the political elite is somewhat part of a minority *and* a majority. A Radical, Catholic and French-speaking candidate from Valais has the advantage of belonging to the linguistic and religious majority of her canton, but the handicap of politically representing a minority in a Christian-Democratic stronghold. Once elected to the National Council, however, she belongs to the bourgeois majority but the linguistic minority. Being in the majority and the minority at the same time is the experience of most Swiss politicians and citizens.

If these favourable conditions have aided a successful dealing with minority problems, it should be noted that federalism alone would probably not have helped much in the Swiss case. Federalism is only one part of the solution for minority integration, in Switzerland as much as elsewhere. To achieve minority protection, federalism must be embedded in other institutional devices such as a non-religious, non-ethnic concept of

the state, a strong and effective tradition of human rights and institutional elements of political power-sharing (Fleiner et al. 2003).

6.2.3.5 *Federalism and Democracy*

Democracy is basically majority rule founded on the number of votes cast, each voter having an equal weight, whereas federalism implies equal or favourably weighted representation of uneven units. A common pattern of institutionally combining the two modes is bicameralism: government proposals have to be voted on in two parliamentary chambers, one representing the people, the other the member states. Yet, there are many ways to proceed. While taking part in the deliberation of all federal laws, Germany's *Bundesrat* has full decision-making powers only in matters with consequences for the *Länder*. The chamber itself is composed of government representatives of the member states. Switzerland requires double majorities in parliament and a popular vote for any amendment to the Constitution, whereas the ratification of amendments to the US Constitution proposed by two-thirds majorities of Congress relies on individually organised procedures of the states, where a majority of three quarters is required. In all these cases important government proposals have to find a double—or 'compound'—majority.

Inevitably, the federal protection of territorial groups leads to a distortion of the democratic principle of equal representation. The votes of individuals or representatives of member states with a small population are weighted more heavily than those of large member states. They can organise a veto to block democratic majorities. For Switzerland, where cantonal population size varies at a ratio of 1:42, we have already discussed the implications of the theoretical veto power of the smallest member states, who represent just 21% of the population (see Chap. 3). In other countries, such as the US, with similar population differences between its units, the consequences may be less important because a divide between large and small states is unlikely to happen. But there is no doubt that federalism, with its compound majorities, implies an infringement on the democratic principle of equally weighted votes (see also Mueller 2020).

Federalism has, however, two main advantages that can compensate for this cost. First, when conflicts arise, federalism is a constraint that 'forces' democratic majorities to bargain with federal minorities. In general, this favours the status quo. In practice, however, the reverse has applied in Switzerland too. Minorities of cantons may introduce innovations within their boundaries for which majorities at the national level are not found.

Later, when the innovation proves successful at cantonal level, the innovation is accepted throughout. Federalism is therefore not only an institution ‘forcing’ negotiation to take place, but one that provides opportunities for social learning by trial, error and innovation.⁵

Second, the democratic costs of federalism at national level can be compensated for by democratic gains in the regions. In fact, democratic federations are mostly conceived as multi-level democracies whose constitutions prescribe the same standards of liberal democracy for member states and local governments. In such multi-level democracies, the political rights of citizens—the election of government officials, parliamentary members and so on—have a much greater significance. Not only can voters participate more often, but they can also vote for different parties and persons at different levels. A voter can express different preferences in local, regional and national politics. The frequency of elections provides citizens as well as authorities with permanent information on the popularity of ruling majorities. This phenomenon can be particularly well observed in Germany, where 16 *Länder* governments are elected during one term of the federal government. Changes of power in parliamentary democracies often make their way up and down the federal escalator. In a federation, not only the state but also democracy is closer to the people.

6.2.3.6 *The Question of Secession*

At a congress of East-European and Swiss constitutional lawyers held in Lausanne in 1990, one unforeseen issue dominated the discussions: how may a canton secede from the Swiss federation? Participants from Lithuania, Ukraine, Croatia and other places, eager to obtain advice on the then emerging desire for national independence, were somewhat disappointed to hear that neither the Swiss Constitution nor legal scholars had thought much about the question of secession. Meanwhile, the history of Yugoslavia has given a series of answers: the de jure recognition of the first de facto secession of Croatia through West-European countries, the breakdown of the federation in an atrocious and destructive civil war, the secession of what is now North Macedonia by popular vote and, in the

⁵ See the many scholarly contributions analysing subnational policy diffusion and/or inter-cantonal cooperation, for example, Bochsler (2009), Fischer and Jäger (2020), Füglistler (2012), Füglistler and Wasserfallen (2014), Gilardi and Füglistler (2008), Sager and Rielle (2013), Schaltegger (2004), Schnabel and Mueller (2017), Stadter (2018), Strelbel (2011), Strelbel and Widmer (2012).

case of Kosovo, again the *de jure* recognition of a *de facto* secession by several other countries and the international community. While civil war is to be rejected without discussion, the other answers leave many doubts. Should federations regulate secession? Can we think of a ‘right’ to secede, and if so, what should be the procedure and what would be its consequences?

International law provides only some general, fragmentary answers (Thürer and Burri 2009). Secession is lawful under the narrow circumstances of severe violation of human rights and in cases of de-colonisation. Nothing is said about federations and their paradoxical particularity: the federal polity gives its components ‘indestructible identity and autonomy’, which makes it more vulnerable to secession. At the same time, a federation is conceived as a permanent union—in contradistinction to a confederal system which lacks such commitment. From this perspective, a secession clause seems to be needless: federalism, in historical perspective, is successful when it transforms a constitutional arrangement into a commitment felt and accepted by all regions and their citizens, thus rendering the question of secession obsolete.

But this historical process can fail. Cultural segments may recall ancient dreams of independence well beyond federal autonomy. There may be territorial segments that are systematically discriminated against. Instead of shaping the collective memory of a respectful pluralist experience, the passing of time then provides undeniable ‘proof’ of discrimination, creating alienation and justifying hatred among different groups (Esman 1990, 14). Behind many ethnic conflicts we find the economic question of redistribution. One region is unwilling to share the wealth coming from its natural resources with others, or inequalities of productivity and wealth are growing instead of diminishing. Another part of the country may feel to be the permanent loser. Conflicts on questions of the economy, language, religion and culture may escalate and end up in deep divides. Once secession becomes unavoidable, a ‘peaceful divorce’ like the one in Czechoslovakia, where both parts in 1992 agreed to go separate ways, is unfortunately the rare exception. Rather we find a territorial minority seeking self-determination and secession against a majority of citizens who find it justified—and may even demand—that their national government defends the integrity of the state.

The case of Catalonia is highly instructive in this regard: as a reaction to the growing assertiveness of Catalan independentists in the 2010s, the far-right party VOX, which aims to defend Spanish unity and integrity, became

suddenly very popular. In the name of national unity, the conservative government of Spain was intransigent, even oppressive against the regional movement and its political leaders. As it refused to propose procedures designed to bring about a peaceful solution, the conflict is not overcome but stalled. The left-wing government of Pedro Sánchez, installed in January 2020, has at least agreed to a dialogue with the Catalan regional government.⁶ But at the same time it must be careful not to lose its political support in the rest of the country.

Thus, it may not be absurd to formulate future secession rules. Two questions would have to be answered. First, under what *circumstances* should a federation be obliged to let one of its members go? If any member is able to quit any time, the federation cannot function. If the decision has to be made unanimously by all members, the rules may be irrelevant because secession may become impossible. Therefore, the answer must lie somewhere in between. Second, *who* should have the right to claim secession? This question may be crucial because within the boundaries of a secessionist member state, we may find a (large) minority who would like to stay within the federation.

The case of the Jura region separating from the canton of Bern is instructive in this regard. As described in Chap. 3, first the people of every district and then also of every border municipality were given the right to decide on whether to stay with Bern or secede into the new canton of Jura. Thus, it was the popular majority in each district or even commune that defined the territorial boundaries of secession. The region was cut in two—one remaining with the old canton, the other founding its own. Although some political forces on both sides of the new border ended up unhappy, the division at least prevented the creation of a new minority problem: the minority that wanted to stay with the old canton was not overruled and was given the same right to self-determination as the separatist majority. Yet even here, fragments of the conflict linger on: in 2017, the city of Moutier voted anew and decided to join Jura, but the result was later cancelled by the courts because of anomalies during the campaign and voting process. At the time of writing, when the vote will be repeated is unclear.

This leads us to the following conclusion: in most cases, territorial secession gives rise to as many new minority problems as it claims to

⁶Sec, for instance, https://english.elpais.com/elpais/2020/01/07/inenglish/1578391109_970993.html. Accessed 1 April 2020.

resolve. This is inevitable where territorial segmentation is not perfect. In the Czechoslovak ‘divorce’, for instance, the Slovak minority wished to free itself of Czech majority rule. But on Slovak territory today we find a minority of about 9% Hungarians among the 5.5 million Slovaks, as well as other important minorities such as Romani, Czechs, Russians, Ukrainians, Romanians, and so on—we are reminded again of the matryoshka allegory mentioned above. Therefore, the once popular idea of a nation-state based on one language or culture—still claimed by many secessionist movements—is ill-founded.

International law may inadvertently promote this problematic idea. The right to a ‘people’s self-determination’ is increasingly used as an argument for secession also by ethnic groups. The difficulties in defining the ‘people’ that should be granted ‘self-determination’ may lead to inconsistent interpretation and opportunistic intervention by the international community. In this respect, a comparative look at the secession of Serbia’s Kosovo, Georgia’s Abkhazia and South-Ossetia and Ukraine’s Crimea is revealing (Hehir 2009, Nielsen 2009, Paech 2019, 93).

Federations, all other things being equal, are more vulnerable to secession than unitary states. Two policies may help safeguarding their unity: one, to find solutions other than secession; two, to find these solutions without interference from the outside. As to the first policy, giving problematic regions special autonomy status is a reasonable alternative to eventual secession. It is a compromise that may ease tensions and leave both parts better off, as with Spain’s Basque Country. Special arrangements with particular sub-national units are known as ‘asymmetric federalism’ in the constitutions of India, Malaysia, Belgium, Canada and others (Brown 2005; Watts 2008).

Second, rules for secession should serve the one and only objective of preventing future secession. This seems paradoxical at first but is not. Rules of secession may change the balance of power: openly and clearly specifying the conditions of eventual secession may strengthen the position of sensitive territorial minorities and give them more bargaining power against the central government. If installed well before a conflict breaks out, such rules may lead to more cooperative processes in the federal polity and reduce the risk of secession. Two young federations, both with considerable potentials of conflict, Ethiopia and Sudan, have installed rules for secession. While in the latter case the South seceded in 2011, time will tell whether in the former the provision works as proposed here.

6.2.4 *Non-Territorial Federalism*

The idea of a territorial state that has exclusive power over all the people living within its borders is relatively recent. The older concept of political power was based more on the idea of personality. For instance, following the Germanic invasions of various provinces of the Roman Empire, there lived—side by side and under the sway of the same ‘barbarian’ ruler—ex-Roman citizens and members of one of the Germanic tribal confederations (such as Goths, Vandals, Burgundians, Franks and Lombards). Yet in most cases, and over a considerable period of time, the two groups remained distinct entities, and what mattered before the law was *who* the defendant was, not where he was living. Romans were judged by Roman law, the new Germanic settlers by their old Germanic customary law. Both groups regarded this practice as proper and, indeed, as ‘a precious safeguard of their respective rights and privileges’ (Ra’anan 1990, 14).

With industrialisation and the development of bureaucratic statehood, West-European countries led the way in becoming territorial states. Under the principle of *ius soli*, the territorial state claims full jurisdiction over its citizens—whatever their origin. Earlier we described part of this evolution for Switzerland. In its religiously segmented society of the nineteenth century, marriage and education were regulated and organised separately for Protestants and Catholics by their churches. Whereas the label ‘State Church’ has not completely disappeared, churches have by now mostly lost their status as actors in public affairs in favour of the confessionally indifferent state which provides for Protestant and Catholic citizens alike and under the same laws.

Yet, the principle of *ius sanguinis* has not completely disappeared. In the last days of the Austro-Hungarian Empire, Karl Renner and Otto Bauer proposed forms of non-territorial or corporate federalism to resolve the nationalities problem: ‘Within each region of self-government, the national minorities shall form corporate entities with public judicial status, enjoying full autonomy in caring for the education of the national minority concerned, as well as in extending legal assistance to their co-nationals vis-à-vis the bureaucracy and the courts’ (cit. in Ra’anan 1990). Such corporate federalism was introduced for cultural minorities in Estonia in 1925, in Cyprus under the 1960 Constitution and lately for Burmese minorities (Coakley 2017).

The most prominent example, however, is Belgium where federalisation since 1970 has taken both territorial and non-territorial forms. The country is divided into the regions of Flanders, Wallonia and Brussels. But

Belgium is also divided into a Flemish- (comprising both the territorially defined area of Flanders and the corporately defined group of Flemish-speakers in Brussels), a French- (comprising both the region of Wallonia and francophone *Bruxellois*) and a German-speaking community (Eupen/Malmédy located within Wallonia) (Jans 2000; Deschouwer 2012).

Corporate federalism allows a minority to maintain its own public institutions without territorial segmentation. This raises two questions. The first is: what are the limits of cultural minorities' right to run their own public institutions? This eventually depends on the concept of the state, the constitution and a society's ideas of pluralism. Therefore, we find different answers even for the same issue. In Switzerland's public education, for instance, French-speaking schools in the German part of the country are well accepted as an element of multilingualism. Religious schools, however, were declared non-constitutional by the laic majority of the nineteenth century because in its view these schools violated the separation of state and church. Today, schools of religious and other communities are tolerated under certain conditions but at any rate must respect constitutional freedoms, such as gender equality or freedom of speech. Constitutional law sets the principles which are to be respected by all segments of a pluralist society. But these principles and concepts of pluralism vary considerably.

The second question deals with consequences: can non-territorial federalism keep the balance of unity and diversity, or do parallel institutions, exclusively reserved to cultural minorities, lead to ever deeper social divisions undermining unity? In the literature, the question remains controversial. While some observers of the Belgian case fear the latter, others see non-territorial federalism as a promising approach to 'identity politics' (White 2000; Deschouwer 2012).

6.3 POWER-SHARING AND CONSENSUS DEMOCRACY

6.3.1 *Majoritarian and Consensus Democracy: A Comparison*

If there is one continuous thread in Swiss political history, it is probably the desire to prevent winners from taking all, leaving losers with nothing—or, in other words, power-sharing. It is found in the Constitution, in the federal bargain between Protestants and Catholics, in the compromise between centralists and partisans of cantonal autonomy, and in the development of proportional representation—first for the election of parliament, then for the Federal Council, and later for the bureaucracy, expert

Table 6.2 Lijphart's types of majoritarian and consensus democracy

	<i>Majoritarian democracy</i>	<i>Consensus democracy</i>
1. <i>Executive</i>	Concentration of power in one-party and bare-majority cabinet	Power-sharing in broad coalition cabinet
2. <i>Relations between government and parliament</i>	Cabinet dominance	Balance of power
3. <i>Political parties</i>	Two-party system	Multi-party system
4. <i>Electoral system</i>	Majoritarian and disproportional	Proportional representation
5. <i>System of interest groups influence</i>	Pluralism	Corporatism
6. <i>Government structure</i>	Unitary and centralised	Federal and decentralised
7. <i>Parliament</i>	Concentration of legislative power in unicameral legislature	Strong bicameralism
8. <i>Type of Constitution</i>	Flexibility, simple procedure of amendment or unwritten constitution	Rigidity, complex procedure of amendment
9. <i>Judicial review</i>	Absent or weak	Strong
10. <i>Central bank</i>	Controlled by executive	High degree of autonomy

Source: Lijphart (2012)

committees and even the courts. All this gives minorities the opportunity to participate. The law-making political elites, in order to minimise referenda risks, try to arrive at a political compromise that includes all important political groups. Power-sharing provided the solution to the problem of integrating a heterogeneous, multicultural society by political means. It has led to a type of democracy different from others.

The combination of these elements through the Swiss *Konkordanz*, which avoids alternating government and opposition forces, may be unique but power-sharing, as a mode of democracy different from majority rule, is not. Arend Lijphart (1969, 1977, 1984, 1999, 2012), a prominent scholar comparing political institutions, has called this 'consociational', 'power-sharing' or 'consensus' democracy, a type of democracy different from the 'majoritarian' or 'Westminster' model of democracy (Table 6.2).⁷

⁷ See also Steiner (1974). For a recent comparative discussion of consociationalism, see the December 2019 special issue of the *Swiss Political Science Review*: 'Half A Century of Consociationalism—Cases and Comparisons' (Bogaards and Helms 2019).

These two types of democracy represent coherent and therefore ideal polities maximising the basic ideas of either majoritarian or power-sharing politics. It is easy to identify Switzerland and the UK as two polities that correspond to most criteria of one of the models. The UK systematically favours the logic of majority rule: competitive elections between two main parties based on one major political division (left-right) lead to clear parliamentary majorities. The winner-takes-all rule makes parliamentary majorities sensitive to even small changes in the electorate's preferences; the losing party becomes Her Majesty's Official Opposition. Because of its parliamentary majority, the executive cabinet is empowered to realise its policy programme, as long as there is no successful vote of no confidence, which may necessitate an early election. Power is concentrated among the parliamentary majority and the cabinet. The House of Lords has few competencies; almost all legislative power belongs to the House of Commons. The latter may change constitutional documents in the same way as any other laws, with very few judicial constraints. One may speak of a nearly 'sovereign' parliament, with the main exceptions of devolution of power to Scotland, Wales and Northern Ireland, and of some independence given to the Bank of England. A similar coherence of elements, but with the opposite goal of power-sharing and negotiating politics, is found in the consensus model of Switzerland. Lately, both Switzerland and the UK have somewhat moved away from the ideal models in becoming less consensual, the first, and less majoritarian, the latter.

Majoritarian and consensus democracy are more than descriptions of two special cases in abstract terms. Lijphart's typology was particularly seminal in a comparative perspective. His updated study of 2012 shows how 36 countries can be situated on a continuum from majoritarian to consensus democracy. In this two-dimensional Fig. 6.2, Lijphart's ten criteria are organised into two groups. The horizontal dimension sums up all indicators of the political process of parliament and government that lead to majoritarian or power-sharing politics (characteristics 1–5 in Table 6.2). On the vertical dimension, we characteristics 5–10, which essentially represent a unitary-federal continuum. Unsurprisingly, almost all federations—Canada, the US, Austria, Germany, India and Switzerland—are located in the upper part.

Federalism therefore shows up as an important structural element of consensus democracy but is not as decisive as one could expect. Canada and the US are two countries combining federalism with majoritarian processes of politics. In the Scandinavian countries, Lijphart found only

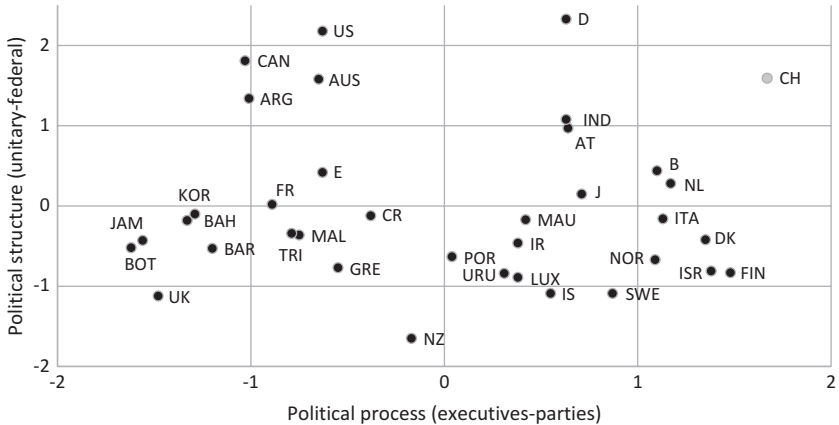


Fig. 6.2 Majoritarian and consensus democracy: a two-dimensional conceptual map. (Source: own calculations and figure, using Lijphart's (2012) data. Shown are average values for 1981–2010. Countries: *ARG*: Argentina; *AUS*: Australia; *AT*: Austria; *BAH*: Bahamas; *BAR*: Barbados; *B*: Belgium; *BOT*: Botswana; *CAN*: Canada; *CR*: Costa Rica; *DK*: Denmark; *FIN*: Finland; *FR*: France; *D*: Germany; *GRE*: Greece; *IS*: Iceland; *IND*: India; *IR*: Ireland; *ISR*: Israel; *ITA*: Italy; *JAM*: Jamaica; *J*: Japan; *KOR*: South-Korea; *LUX*: Luxembourg; *MAL*: Malta; *MAU*: Mauritius; *NL*: Netherlands; *NOR*: Norway; *NZ*: New Zealand; *POR*: Portugal; *E*: Spain; *SWE*: Sweden; *CH*: Switzerland; *TRI*: Trinidad and Tobago; *UK*: United Kingdom; *URU*: Uruguay; and *US*: United States)

characteristics of power-sharing unrelated to federalism: multi-party systems, proportional representation, grand coalition cabinets designed to integrate different political forces, corporatism and a balance of power between cabinet and parliament. We note that the UK and Switzerland, as mentioned above, still end up as 'ideal' majoritarian or consensual cases because their respective logics of structure and process coincide.

Does power-sharing make a difference? Yes, says Lijphart. In many of his comparative studies he found evidence for a different performance of politics in majoritarian and consensus democracies:

Indeed, the results could hardly be clearer: consensus democracy—on the executives-parties dimension—makes a big and highly favourable difference with regard to almost all of the indicators of democratic quality and with regard to all of the kinder and gentler qualities. (Lijphart 2012, 294)

With regard to the developing world, we could add a further point: power-sharing helps democratisation. Drawing on Lijphart, Linder & Bächtiger et al. (2005) developed a concept of power-sharing applicable also to non-consolidated democracies or even authoritarian regimes. In a comparative study of 62 countries from Africa and Asia, they found that between 1965 and 1995, power-sharing and the cultural element of low familism turned out to be the strongest predictors of democratisation. Economic factors—often viewed as the most important variables shaping democratisation—had only limited effects.

6.3.2 *Democratic Power-Sharing: A Key to Resolving Conflicts in Multicultural Societies*

Chapters 2, 3, and 4 of this book illustrate what political power-sharing has done for Switzerland: complementing federalism, it became the key element in integrating a community of two religions and four languages. Later it provided the Swiss with a collective identity strong enough to defend their political independence in periods of war abroad, and it helped to overcome some class struggles. Power-sharing—considered by political scientists as the most appropriate form of democracy for pluralist or segmented societies—has even turned Switzerland into a relatively homogeneous society, in spite of its different languages. From this perspective, the ‘paradigmatic case of political integration’ (Deutsch 1976) of Switzerland has been an undeniable success. Can power-sharing and consensus democracy also be used by other countries facing the problem of multicultural integration (see also Iff and Töpperwien 2008)?

The question is pertinent. The integration of different cultures through political institutions has become an important issue worldwide, at a much larger scale, and with more difficult problems than in the case of Switzerland. We mentioned India with its many hundred languages and idioms; some of Africa’s sub-Saharan states are faced with the challenge of forming conglomerates of dozens of ethnic tribes which never before in history had been united together under a common political regime. In the new order of worldwide liberalisation and open markets, if the money does not go to the poor, the poor will go where the money is. Millions of people are migrating within the Third World or from the Third World to more developed countries (Milanovic 2016).

This has also led to the intertwining and confrontation of different cultures which once had been quite separated. European countries are

experiencing growing immigration from overseas. In California or New Mexico, US states with strong immigration, a considerable part of the population are Spanish speakers. They do not identify with the culture of white Anglo-Saxon Protestants, and the melting pot idea of assimilation is fading. Today, a large majority of the countries considered as sovereign states constitute multicultural societies. Yet conflicts between different groups of language, religion or ethnicity are salient in all regions of the world. Historical minority problems in industrialised democracies have not faded away, and in Europe immigration has led to new social tensions.

Gurr (2000) estimated that at the beginning of the millennium, about 275 minority groups from 100 countries, representing one seventh of the world population, were politically endangered. Instead of classical war between states, we increasingly find armed conflict between different groups in deeply divided societies—such as in Syria, Libya, Sri Lanka or Pakistan, to mention just a few. In many cases, the causes of internal conflict boil down to conflict over resources, but political escalation, alienation and mass mobilisation are often based on cultural difference or intertwined with discrimination (Lake and Rothchild 1998).

In order to prevent minority problems becoming salient or even escalating into violent forms of ethno-politics, more, or better, political integration is needed. Is power-sharing or consensus democracy appropriate for the problems of multicultural coexistence and integration, and if so why?

To begin with, we notice that the predominant model of democracy is majoritarian. Before spreading all over the world, majoritarian democracy was invented and first practised by white Anglo-Saxon Protestants. They shared common cultural values and beliefs and spoke a common language. Westminster democracy is (or was, after Brexit) a perfectly adequate decision-making procedure for the solution of social conflicts in Britain's industrial society. Part of the voters, not being tied to an ideological position, are open to the question of whether the country needs more liberties for entrepreneurs or more social protection of workers. According to the economic situation and the performance of the last government, the British may vote in a pragmatic way: first for the Conservatives, twice for Labour and eventually again for the Conservatives. This change of individual preferences sums up to changing political majorities and to alternating roles of government and opposition.

In multicultural societies, however, majoritarian democracy may encounter serious difficulties. Cultural values, beliefs and languages are

not only heterogeneous, but may also lead to different political preferences that do *not* change: parents cannot opt out of sending their children to schools held in their own language, or discard their religious beliefs, without giving up part of their cultural identity. Individuals or groups cannot ‘free’ themselves from their cultural heritage, or only at great cost to themselves. In such situations, minorities cannot hope to gain much from majoritarian democracy. If the dominant cultural majority is large enough, it will not have to take into account the preferences of the minority (e.g. O’Leary 2019, 558).

In the worst case, a government’s chances of re-election under the winner-takes-all rule even increase if it offers special benefits to its own cultural group while discriminating against the minority. If majoritarian democracy does not offer a regular change of power, it suffers from three deficiencies:

1. Despite elections, the political majority becomes ‘eternal’, which goes against the basic idea of majoritarian democracy.
2. Such an ‘eternal’ government has no incentives to take into account the needs and preferences of minorities. It can afford not to learn, which is the pathologic use of power.
3. Majority rule may further alienate those cultural segments which find themselves always in a minority position.

Tocqueville’s, Madison’s or J. S. Mill’s criticism of democracy as a ‘tyranny of the majority’ is therefore well founded. This has led to corrective institutions, such as rule of law, basic rights for individuals, federalism or particular autonomy rights for regions and minority groups. A further corrective element is political power-sharing. Lijphart, already in the first versions of his theory, proposed that consensus democracy is better suited than majoritarian institutions for multiculturally segmented societies. The theoretical reason is obvious: consensus democracy gives societal minorities a chance to participate in political power and have a voice in the policies of the government which cannot be overheard. By mutual agreement and compromise, societal divides may be eased or even overcome.

Looking at the classical power-sharing democracies of Switzerland, Belgium or the Netherlands, Lijphart’s proposition makes sense. The case of Northern Ireland, where elements of power-sharing were introduced as part of the peace-process between Protestant Unionists and Catholic Republicans, is at least promising (e.g. McGlinchey 2019). Finally, India

shows that elements of informal power-sharing can be useful also in developing countries and under conditions fundamentally different from small European states (see, however, Adeney and Swenden 2019).

On the African continent, we find contradictory experiences (Remond 2015): in South Africa, power-sharing enabled the passage from Apartheid to democracy, allowing the white minority as well as different black ethnicities to participate. The power-sharing pact in Rwanda in 1993, however, could neither outweigh conflicts on resources nor put an end to the historical hostilities between Hutu and Tutsi, once fuelled by the colonial powers. An atrocious civil war followed. Moreover, peace agreements in divided societies such as in Bosnia, Cambodia, Burundi or East Timor, often arranged by the international community, proved to be of moderate success despite provisions for political power-sharing (Mukherjee 2004). Against this background, one is not surprised to find a controversial academic debate. Critics of Lijphart state that power-sharing is not helpful for peace-making or even that it undermines democratisation (e.g. Sisk 1996; Roeder and Rothchild 2005; Norris 2008; Lijphart 2008).

Much of this academic critique departs from an inadequate baseline, as it does not compare majoritarian with consensus democracy as a sustainable institutional arrangement under equal conditions. Rather, it evaluates the short-term success of power-sharing agreements as part of the peace-making process. It is obvious that the transformation of peace-treaties into stable democratic institutions bears high risks and can fail for many reasons. From a vast literature, one can learn that the consolidation of democracy entails a long process also under more favourable conditions than present in war-torn societies. In developing countries, much depends on the existence of a consolidated state, chances for economic development and the compatibility of the cultural heritage with social modernisation (Senghaas 1997; Carothers 1999; Leftwich 1996; Moore 2001; Przeworski et al. 2000; Linder and Bächtiger 2005).

Power-sharing peace arrangements after armed conflicts in deeply divided societies may be a good beginning, but that is not the same as an established constitutional order, and only part of a consensus democracy yet to be developed. When it boils down to the relevant question of comparing majoritarian with power-sharing institutions, empirical evidence favours the latter (Lijphart 2008; Norris 2008):

1. *Proportional representation has a high symbolic value, favouring the development of mutual respect between different cultural groups.* The

self-esteem and political recognition of minority groups are an essential precondition for any rational political discourse and accommodation among elites. To promote this objective, proportional representation can be practised in many places: in the electoral system, in parliament, in the executive, in all branches of the administration or also in the police and armed forces. Of course, proportional representation has some pitfalls. Under the conditions of one single minority or a single cleavage, there is a risk that proportional representation perpetuates societal conflict instead of cooling it down. With more than one minority and cross-cutting cleavages, however, proportionality may favour the development of non-ethnic, non-regional political parties, elites and cultures. The evolution from a divided into a pluralist society lets old cleavages fade into the background.

2. *Proportional representation favours negotiation and accommodation of conflicts whereby minorities have an effective voice.* The veto power of minorities does not suspend the formal rule of majority decision. Yet, where minorities are permanently participating in decisions, formal decisions imply negotiation and accommodation, avoiding ‘winner takes all’ situations and mindsets. For example, right since 1848, French-speakers have *always* had at least one, most often two representatives in the seven-seat Swiss government (Giudici and Stojanović 2016, 297). The effective voice of minorities depends on two conditions. The first is mutual recognition of the different parts of the political elite. This opens the door to cooperation on a rational basis. On such a basis, solutions turning zero-sum into positive-sum games become feasible. Cooperation then is more advantageous than non-cooperation because it leaves all parts better off. The second condition is alternating, issue-specific coalitions. If today’s opponent is tomorrow’s coalition partner, both are partly dependent on each other. This favours a political culture of mutual respect and support. Empirically, under power-sharing conditions politicians listen more to each other and give more weight to arguments of their opponents than in majoritarian situations (Bächtiger et al. 2005; Steenbergen 2009). Thus, proportional representation and power-sharing are more promising arenas for deliberative democracy.
3. *Political cooperation among political elites may encourage general patterns of amicable intercultural relations.* Cooperation in parliamentary and executive bodies not only promotes compromises on

political issues. It may also, through frequent interaction and mutual dependency, lead to a better understanding between different cultural segments and the development of common values. This process may at first be limited to the political elites, but it can then ‘trickle down’ to larger segments of society.

4. *Federalism or decentralisation may be more effective for multicultural co-existence if combined with other elements of power-sharing.* Federalism may be considered a structural element of power-sharing. While restricting the power of the central government, it can guarantee autonomy for different cultural segments in territorial sub-divisions. Like basic individual rights or statutory minority rights and vetoes, federalism is an institutional mechanism restricting majority rule and limiting majority politics. Federalism as a ‘vertical’ dimension of power-sharing has its deficiencies, however, as we have discussed in the previous part of this chapter. Yet in combination with the ‘horizontal’ elements of political power-sharing, federalism and decentralisation may become more effective for minority voice and protection (Fleiner et al. 2003).
5. *Consensus democracy rejects the hegemonic claims of a single group and avoids the fallacy of a monocultural nation-state.* Consensus democracy is viable only under conditions of recognition of equality of all societal cultures and their groups before the state. Thus, political power-sharing requires a certain acceptance of societal and cultural pluralism. This pluralism must be instilled into the basic concept of the state: the latter must guarantee equal rights to *all* its citizens and renounce on undue privileges for a specific culture and thus discriminate others. In contrast to the cultural or ‘ethnic nation’, this amounts to a political or ‘civic’ conception of the nation (*Verfassungspatriotismus*, for Habermas 1992), where citizenship is the only qualification for membership. Such a concept is basically indifferent to the religion, language or ethnicity of its different groups. Of course, every constitutional order, to a certain degree, is characterised by the heritage of a specific culture and its predominant values. The idea of separation of religion and the state, for instance, is realised in different ways and to different degrees in industrialised Western democracies (Madeley and Enyedi 2003). These differences may be greater still in developing societies where ligatures of religion are much stronger. Non-industrialised, traditional societies exposed to outside pressure of accelerating moderni-

sation are sometimes even pushed towards relying on religion and other cultural traditions. However, values that symbolise a precious good for one cultural segment may be threatening for another. Such divides can be overcome only by the development of equal rights, mutual respect among all cultural groups and the development of common—or at least neutral—values. Such a collective identity or political culture requires a high degree of indifference or impartiality on the part of state authorities towards particular cultures.

6. *The development of a political culture of power-sharing takes time.* A new constitution can be written in a few weeks, political parties founded, elections held, and a parliament and government installed in a few years. Successful democratisation, however, takes much longer because the consolidation of institutions, the functioning of the political process, and the appropriate behaviour of actors all necessitate the development of a democratic political culture. In times of global pressure towards accelerated modernisation and quick conflict intervention by the international community, it should not be forgotten that changes in social values, the development of common views among different segments and cultural pluralism are processes of social integration that take time. Even more patience is needed when it comes to power-sharing as a means to overcome societal divides and accommodate deep social conflicts. The wounds of discrimination and civil war take generations to heal (Esman 1990, 14ff.). More than majoritarian settings, power-sharing institutions incite a ‘spirit of accommodation’ (Lijphart 1968, 104), respect, trust or even ‘deliberative potentials’ (Steenbergen 2009, 287). But these incentives cannot be accelerated, are even weak and vulnerable. While trust in consensus democracy takes a long time to develop, it may quickly be destroyed by the hegemonic use of power.
7. *Consensus democracy provides better chances, but still no guarantee for the peaceful resolution of conflict in multicultural societies.* Peaceful conflict resolution in deeply divided societies depends on many circumstances: on the economy and resources, neighbours and foreign interests, on culture and history—and on the political institutions. The latter are just one of many factors. The only proposition here is made with regard to the type of democracy: if the choice is between majoritarian and consensus institutions, the latter provide better chances for the resolution of multicultural conflict. In theory, there are two major arguments against consensus democracy. First, it is

said that the political will to share power depends to a great extent on political elites, and that power-sharing can turn into an elitist model of democracy. Second, consensus democracy can be used by hegemonic groups as a veil to hide their real power in giving minorities the opportunity to participate but no substantial influence (McRae 1990). In this case, which can be observed for instance in the relations between the Jewish majority and the Arab minority in Israel, Ian Lustick (1980) speaks of a ‘control model’, with characteristics entirely different from the consensus model. Neither argument devalues the consensus model as such—but they illustrate its limits: the consensus model offers better chances or opportunities than majoritarian democracy, yet there is no guarantee that a successful political integration through mutual adjustment will actually occur.

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Switzerland in Europe and the World

Over the last few decades, worldwide politics was characterised by globalisation (e.g. Dreher et al. 2008, 64ff.). In Switzerland, globalisation has by and large become a question of Europeanisation (e.g. Gava et al. 2014; Hirschi et al. 1999; Jenni 2016). This development has had strong impacts on Swiss policies, its politics and even on its polity. In the first part of this chapter, we discuss how Swiss democracy has reacted to challenges coming from the outside. At the same time, other countries show a growing interest in Swiss institutions, which seem to offer several advantages such as political stability, participation and conflict resolution. How can other countries learn from the Swiss experience? We discuss this question in the second part of this chapter.

7.1 EUROPEANISED BUT NOT A MEMBER OF THE EU: WHY?

One of the most encountered questions of a Swiss abroad is, Why is Switzerland not a member of the EU? Indeed, it seems strange that this small country, so intensely interwoven with the European market and geographically situated at the heart of Europe, is not a member of the EU. How come that the Swiss are unwilling to participate in this common experience of 27 EU members? And how come that the Swiss, albeit staying out of Brussels' institutions, are sharing a good part of the *acquis*

communautaire, the entire body of EU law binding for all member states? Without going too much into the details of this development, the answer has three parts.

7.1.1 *Direct Democracy*

As explained in Chap. 4, in Switzerland all important international treaties are subject to a mandatory referendum and need, in case of constitutional amendments, a majority of the people and the cantons in a popular vote. This has strongly determined the way of Switzerland' European integration. EU politics began in 1972, when the people approved the free trade agreement signed with what was then the European Economic Community (EEC). In 1992, the EEC offered to the European Free Trade Association (EFTA) the European Economic Area (EEA). This offer was particularly interesting for EFTA members (among them Switzerland since 1960) who were sceptical of political cooperation beyond free trade arrangements. While the other EFTA members accepted, Switzerland said 'no' to the EEA treaty. The reason was direct democracy. Although a large parliamentary majority accepted the EEA, 16 cantons and 50.3% of voters rejected the treaty in a historical popular vote of December 1992 (Fig. 7.1). Opposition came mainly from rural areas in the German-speaking parts of Switzerland, and it was organised by the Swiss People's Party (SVP).

The vote of 1992 left a divided country (Seitz 2014, 149; Mueller and Heidelberger 2019).

The result was not only a shock for the government. The pro-European elites were most surprised that public opinion in many parts of the country expressed a preference for 'Switzerland staying neutral and sovereign'. Opposition against EU integration became the main and everlasting issue of the SVP and a magnet attracting all Eurosceptics. Subsequently, this national-conservative party became the strongest political force in Switzerland, its electoral strength almost tripling in 30 years. At the other end of the spectrum, the pro-European forces were not able to mobilise as strongly—not even close: Their popular initiative to start immediate negotiations with Brussels on EU membership was rejected by over 75% of voters and all cantons in 2002.

The Federal Council, aware of the strong opposition against EU integration, thus sought a compromise. In its will to consolidate and extend vitally important economic relations with the EU, it negotiated a minimal solution satisfactory enough for Brussels and gaining sufficient domestic

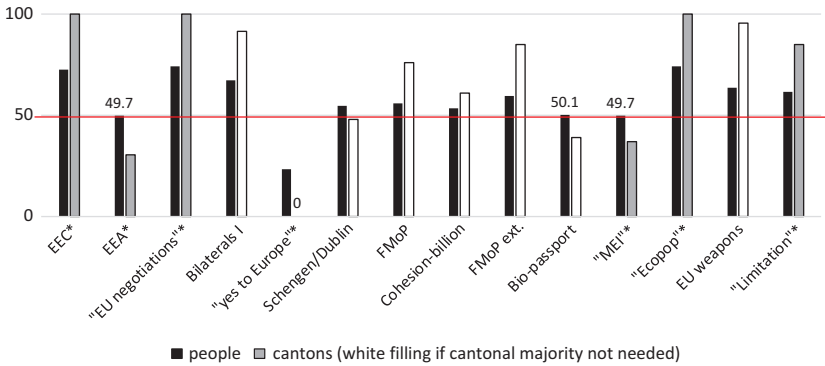


Fig. 7.1 Share of the pro-EU vote in 14 referenda, 1972–2020 [%]. (Note: shown is the percentage of people as well as of cantons approving a proposal, except for the ‘EU negotiations’ (1997), ‘MEI’ and ‘ECOPOP’ (both 2014) and ‘limitation’ initiatives (2020), where rejecting shares are shown since in these cases Eurosceptics vote yes. In quotation marks = popular initiatives; * = double majority of people and cantons needed. Data from Swissvotes (2020))

support to overcome the referendum challenge. That solution consisted in two series of bilateral treaties with the EU, a sort of participation *à la carte* but without the voice and influence of a full member state. The treaties were accepted by the people in 2000 and 2005. The strategy of ‘bilaterals’, a key political concept ever since, opened the EU market for Swiss companies, goods and persons in several economic areas. Even so, the EU-opposition did not miss a chance to challenge further integration steps which, in its eyes, went too far. Thus, through the optional referendum, the SVP challenged, albeit without success, extending the free movement of persons to the EU’s new members in 2005 and 2009; the payment of around one billion for ‘cohesion’ purposes in 2006; the introduction of biometric passports in 2009; and the tightening of the Swiss gun law in line with Schengen/Dublin requirements in 2019 (Linder et al. 2010, 658ff. and 667f.; Swissvotes 2019).

Yet in 2014 the people and cantons accepted the SVP’s initiative ‘against mass immigration’ (*Masseneinwanderung/MEI*). It demanded quotas on the number of people entering Switzerland for working

purposes every year. This was clearly an infringement of the bilateral treaties. Brussels was not willing to negotiate exceptions to the principle of the free movement of persons and, in the worst case, could have sanctioned Switzerland with cancelling the first series of bilateral treaties (*guillotine clause*). Reluctant to take this risk, the Swiss parliament passed a law that, instead of implementing quotas, strove for a better integration of unemployed persons. Although decried by the SVP as ‘betraying the will of the people’, the party refrained from using the optional referendum to fight the implementing law. Instead, it launched another popular initiative—one to simply cancel the agreement on the free movement of persons. However, in September 2020 more than 60% of the people and all but 3.5 cantons rejected the “limitation initiative” (Swissvotes 2020).

Meanwhile, the Swiss government and the EU have negotiated a new agreement covering five existing and all future market access treaties as well as defining a new dispute resolution mechanism. Besides the obligation to accept all future developments of the *acquis communautaire*, the draft of the treaty implies that also the Swiss social partnership, up to now autonomously regulated between capital and labour representatives, should fall under the control of the European Court. This and other provisions are highly controversial, also among the large majority of Swiss who so far have found the path of bilateral treaties to correspond almost ideally to their preferences of maximum economic but minimum political integration. By early 2021, the political fate of the new agreement with the EU remains uncertain.

Figure 7.1 displays the results of all 14 popular votes held in Switzerland between 1972 and 2020 that were more or less directly related to the EU. It shows the importance of direct democracy in all questions of European integration. While no other country grants people such direct participation in foreign policy, in Switzerland it is almost primordial. It includes not only the principled question of giving up autonomy rights in favour of European integration, but also all major legislative acts related to the EU. This applies also to further developments of the ‘bilaterals’. While these correspond to the preferences of the majority of the Swiss people, they are, as a special treatment, not well seen in Brussels. The far-reaching

consequences of direct democracy are clear: if Switzerland were a representative democracy, the majority of its parliament would have accepted the EEA and probably even EU membership by now. It is the majority of the people (and cantons) who think differently and who, so far at least, have made the difference.

7.1.2 *National Autonomy and Political Neutrality*

The voting campaign on the EEA in 1992 was dominated by two clearly opposing camps: on the one side, pro-Europeans highlighting the commercial advantages offered by the treaty and defending the idea of an ‘open Switzerland’. On the other side, opponents winning the popular vote with two catchwords: ‘sovereignty’ and ‘neutrality’. While it came as a surprise that the conservative idea of a ‘closed Switzerland’ triumphed, it can be explained by the wisdom of hindsight. Official history had excessively stressed the role of political neutrality as the decisive policy of national survival in World Wars I and II. Pretending that neutrality was seemingly compatible with the EEA was not credible for many and gave opponents a considerable advantage.

Similarly so regarding ‘sovereignty’. Swiss foreign policy was an advocate of free trade worldwide and closely connected to international economic organisations. But at the same time the government had been against international cooperation on the ‘political’ level for a long time. In this respect it was extremely cautious in the name of national sovereignty and neutrality. The opposition’s claim that Switzerland would ‘lose’ its sovereignty and neutrality as part of the EEA was certainly a populist exaggeration. But it seemed credible enough to an important part of the electorate—and the government had not yet developed an explanation for its policy change (see also Gabriel 2019; Mueller and Heidelberger 2019).

Finally, the Swiss highly value their political institutions as they are: they belong to the very few things which the multilingual Swiss have in common (see Chap. 2). Political neutrality, autonomy and federalism as a means to avoid any form of centralisation still belong to the core values of a popular (and especially cantonal) majority—and won’t change so soon. Even so, there are differences in the degree to which the linguistic communities, and people living in cities or on the countryside, favour international cooperation and European integration (e.g. Widmer and Buri 1992; Kriesi et al. 1996; Linder et al. 2008b; Seitz 2014).

7.1.3 *The Political Economy of Globalisation and Europeanisation*

Switzerland profits from globalisation. Its specialised industrial products and services (precision machinery, pharmaceuticals, watches, etc.) have better export chances on liberalised markets. Political stability attracts international capital, and Swiss businesses profit from abundant credit at low interest rates. Big multinational firms like Philipp Morris, Alphabet, Glencore and many others place part of their service activities in Switzerland. Big cities such as Zurich, Geneva, Basel and Lausanne, while small in international comparison, are flourishing. Political neutrality allowed Switzerland to be one of the first to recognise the regime of Communist China in 1950, then a poor developing country. This pays out 70 years later in bilateral treaties, China meanwhile being one of the most promising markets for Swiss exports. In 2013, Switzerland and China signed a comprehensive bilateral Free Trade Agreement, called a ‘milestone’ by a leading Swiss business association (Economiesuisse 2016). This fits into the big picture drawn by the economist Milanović (2019), according to whom small nations like Liechtenstein, Ireland or Luxembourg and cities are benefitting particularly from globalisation.

From this perspective, Switzerland should be happy with the EU. Because it is the EU which pushes the neoliberal agenda of globalisation by means of the free movement of goods, services, capital and labour. It could be pushed even further if Switzerland were to decide to become a member of the Union. But here lies a problem: globalisation and Europeanisation, like all free-trade policies, also bear economic disadvantages. Farmers, small- and medium-sized enterprises and entire branches producing at higher costs than those on the world market disappear, and their jobs and professions with them. Innovation and disruption, named a process of ‘creative destruction’ by economist Joseph Schumpeter (2006 [1942]), is accelerated. As everywhere, this process creates both winners and losers. In Switzerland, the winners concentrate in international export firms of industry and services with highly qualified jobs as described above, while the losers are found among the producers of domestic goods, crafts as well as among low qualified workers and in rural areas.

These conflicts between export and domestic industries, between urban and rural regions and between the different social strata are nothing new. But politically the traditional balance of political influence among these cleavages has changed considerably with globalisation. The bilaterals give

liberalising forces strong tailwind (Linder 2011). Thus, the framing of the conflict has changed completely: conflicts of globalisation and liberalisation became conflicts between the winners and losers of Europeanisation. It is well known that in EU countries, public opinion attributes the advantages of integration to their own government while Brussels is blamed for all mishaps. In Switzerland, one can observe a similar mindset—with two consequences: first, the losers of globalisation strongly oppose Brussels and any further step towards European integration. Second, the Eurosceptic camp also includes many who actually profit from Europeanisation but interpret these advantages as resulting from the autonomy of the Swiss government and the proficiency of Swiss industry. Thus, the political economy logic implies that Eurosceptics hold better cards than Europhiles.

7.2 CAN THE INSTITUTIONS OF SWISS DEMOCRACY AUTONOMOUSLY SURVIVE?

Direct democracy, highly valued national autonomy and neutrality as well as the political economy of globalisation are plausible reasons why Switzerland has not joined the EU so far. As all these factors are durable, we would not expect the country to join the EU anytime soon. At the same time, it is highly improbable that the Swiss will abandon the bilaterals at their own choosing—a ‘Swixit’ would hurt the more vulnerable country even more than the British in the case of ‘Brexit’. Thus Switzerland—without co-decision in Brussels—will be exposed to further Europeanisation and globalisation. In light of the last two decades of bilateralism and further internationalisation, the effects on the Swiss polity are considerable (Linder 2011):

Internationalisation of legislation: In 1982, domestic law represented 53% of all federal law, while 47% consisted of international treaties. In 2007, this proportion was exactly reversed, and the higher growth of international law is continuing (Linder 2017). Real internationalisation is even greater, as these statistics do not include domestic law which—in the euphemistic term of ‘autonomous adaptation’—is harmonised with EU provisions voluntarily (Jenni 2016).

Powers shifting away from parliament to the executive and to diplomacy: The internationalisation of law means a considerable loss of power for a parliament who cannot discuss and alter specific provisions of international

law. Despite being consulted in the process of negotiation, parliament is restricted to approving or refusing treaties already negotiated and signed by the government and its diplomacy. Moreover, important international treaties are subject to a referendum (see Chap. 4, Table 4.1).

Federalism: Europeanisation is curtailing cantonal legislation and autonomy. While in the past the cantons carefully defended their competencies against federal authorities, they are without institutional means to prevent their own legislation being harmonised with EU law. This in the end means a new type of ‘cold’ centralisation. As a reaction to EU decisions becoming ever-more important domestically, a ‘Law on the Participation of the Cantons in Swiss Foreign Policy’ was passed in 1999, when the Federal Constitution was fully revised the last time. The cantons, however, want more (KdK 2013).

Direct democracy: Through the referendum, the people can say ‘no’ to an important international treaty. A constitutional amendment, approved by a majority of the people and the cantons, can charge authorities to alter or to cancel an existing international treaty. These ‘exit’ options, partly introduced in 2003, seem to extend the people’s rights but also lead to a higher vulnerability of the Swiss government. The voice of the people can be in conflict with existing international law or the obligations of existing international treaties. We have described above how this led to a dilemma in the case of the popular initiative ‘against mass immigration’. The credibility of the government in negotiating international treaties might suffer because it cannot give guarantees that the result will pass a possible referendum challenge. As curtailing popular rights is not feasible, the government will be confronted with these dilemmas, risks and a loss of credibility in the field of international relations.

Policy changes under pressure from the outside: A number of substantial policy changes have happened under considerable pressure from the outside. The most prominent example is the renouncing on the banking secret. On the one hand, these changes can be seen as innovations for which blocking majorities for the status quo ante and the immobility of Swiss politics were overcome. On the other hand, it means that Swiss processes of power-sharing are partially bypassed. Less accommodation leaves more political conflict unresolved.

Shrinking national autonomy: The common denominator of all these developments is that Switzerland, to a large degree, is losing a part of its national autonomy. Yet one can say that this is the fate of all the countries taking the path of globalisation, be it inside or outside the EU. But the

government is pretending that the ‘bilaterals’ are the ideal way to prevent Switzerland from losing autonomy, and that the country is keeping its autonomy because it is not an EU member. Both assertions are dangerous illusions, for several reasons: they cement the existing relationship, which does not allow Switzerland to participate in the shaping of EU decisions, although direct participation is one of the fundamental tenets of Swiss democracy. This is all the more worrisome the more the Swiss economy depends on European law. While the government sells the bilateral way as a strategy to protect the autonomy, it actually undermines it. Finally, in this way even the winners of Europeanisation believe that non-membership pays off, which bars the way towards real alternative arrangements.

7.3 THE FUTURE

The vote on the EEA in 1992 was a vote on Switzerland’s political future and national identity, and that very question has been dividing the country ever since. What is more, the divide between pro- and anti-EU citizens threatens to swallow up the middle ground of pragmatic, selective voters and puts in jeopardy one of Switzerland’s hidden secrets: cross-cutting cleavages. For if Europhiles are found in the French-speaking, urban and prosperous areas and Eurosceptics in the German-speaking, rural and rather destitute lands (Widmer and Buri 1992; Mueller 2019), shifting majorities and minorities are impossible on this question.

As always, the choice is one between ‘innovation and stagnation’ (Deutsch 1976). The country’s political future is less certain and political compromise less easy than for a long time in the past. Even consensus itself might be on the line. Pressure from the outside has led to a two-speed political process: accelerated and asymmetrical in international affairs, incremental and balanced in domestic politics. Liberalising forces use globalisation as their tool; the traditional balance between the interests of the domestic and the internationalised economy has changed. Globalisation weakens many of the traditional veto points; federal autonomy of the cantons, similar to national autonomy, has lost significance in the economy, in policies and beyond. No wonder that Swiss politics, too, has become much more polarised (e.g. Bochsler et al. 2015; Traber 2015; Vatter 2016; Afonso and Papadopoulos 2015; Kriesi 2015).

‘Switzerland is on its way of becoming a divided society rather than the paradigm of cohesion claimed by Deutsch in the 1970s’, is the verdict of the British scholar Clive Church (2004, 223), a most reliable outside

observer of Swiss politics for decades. And, before a clear majority commitment for European integration would ever be possible, he adds, 'Europe may do damage to Swiss political integration'. For the moment, this outlook remains realistic rather than pessimistic. But other scenarios are possible, too. As long as the EU remains an elitist and bureaucratic project with little (direct-)democratic legitimation, Swiss voters will not accept to join. Direct democracy, while being one of the main obstacles for membership (though one that can be overcome), is at the same time the most robust political institution that holds the Swiss together:

- At the level of elites, it forces actors to share power and maintain cooperation, negotiation and compromise despite all other transformations of the Swiss polity.
- At the level of citizens, it creates commonality of voting opportunity and experience despite growing social and territorial divides and difficulties induced by globalisation.

In this sense, Deutsch's paradigm of integration through political institutions is still true.

7.4 WHAT THE CASE OF SWITZERLAND CAN BRING TO OTHERS

7.4.1 *Switzerland: An 'export model'?*

Because of its combination of direct participation with political stability and economic success, of federalism with political innovation, and of power-sharing with conflict resolution, Switzerland is often called a 'model'. In a time when democracy is under pressure worldwide, the Swiss are generally proud of theirs and would never trade it in. But can the Swiss system, considered as the 'ideal model' by themselves, really serve as a model for others?

History tells us that this is not unconceivable. In 1926, Kemal Atatürk, the Father of the modern Republic of Turkey, adopted the Swiss civil law for his country. After the fall of the USSR, many Islamic countries in the south of the Soviet Union, now independent, adopted the Turkish code of civil law. Today, over 350 million people live under direct or indirect influence of Swiss civil law.

In the meantime, Switzerland's polity offers many features whose export seems to be useful at many places: the Swiss institutions of power-sharing, for instance, which allowed for overcoming the cultural cleavages of language and religion, could play an important role in solving conflict in deeply divided societies such as Iraq or Syria. In countries struggling with secessionist movements like the Catalans in Spain, the Swiss case of the separation of Jura from Bern could help find a peaceful solution. Federalism and the use of decentralisation as a means of creative problem-solving could also be a valid option for over-centralised polities, that is states whose top-down policies are ineffective and fail. Finally, the call for more direct participation has become louder in many European countries. Could direct-democracy not become, just like chocolate, cheese and watches, one of the main export-articles of Switzerland?

Our answer on the appropriateness of such export strategies for Swiss democracy is 'no', and this for two reasons. The first is simple: Switzerland does not belong to the big powers capable of exporting their model of democracy as were the US and General MacArthur in 1946, who drafted the new Constitution of Japan and imposed it to that loser of World War II.

The second reason is more complex. Let us begin with the question of cultural differences. Political institutions have a different political and cultural context even amongst countries of similar socioeconomic level. The UK, for instance, which has to contend with secessionist forces in Scotland, Wales and Northern Ireland, would not welcome a Swiss mediator proposing federalist institutions. For the British, the word 'federalism' has connotations of centralisation and would be in contradiction to any own project of devolution of power. Or, if direct democracy would be introduced in the EU, one could not expect the peoples of the EU countries to behave like the peoples of the Swiss cantons simply because the common interests are much stronger among the latter (Armingeon 2009).

While 'difference of culture' as an obstacle to the direct export of institutions is obvious in these cases, it is often not respected with regard to developing countries. The agenda of big powers of the First World and their agencies is full of democratisation, good governance or even human right programmes lacking respect and empathy for the societal context of countries in transition. Their numerous failures can be explained by several factors: many of them are ethnocentric and blind for the sociocultural particularities of the addressed countries. Few of them take into consideration that before democratisation is feasible, the state as well as the economy must first have reached a certain degree of consolidation, and that in

traditional societies Western institutions of democracy cannot immediately take ground (Carothers 1999; Linder et al. 2008a). Finally, democratisation is often abused as a geopolitical strategy. The lesson is that all these forms of ‘exporting democracy’ are not recommendable and do not help. Therefore, we strongly doubt that the very idea of exporting political institutions is feasible. What we propose instead is a dialogue.

7.4.2 *The ‘dialogue model’*

Switzerland has an old tradition of offering ‘good services’ to the international community. These services include maintaining diplomatic relations when two countries cut them off (e.g. between Cuba and the US until 2015, or between Georgia and Russia, since 2008/9), peacekeeping such as controlling the de facto border between North and South Korea, peace negotiations as between Russia and Chechenia, or rendering independent reports to the UN (as in the case of the armed conflict between Russia and Georgia in 2008). In many of these cases, the long-standing neutrality of the country has played an important role: Switzerland was considered to be an impartial mediator or actor, having no stake in the game.

This practice of ‘good services’ could be extended further to the transfer of institutional knowledge, especially to young democracies. The ‘good services’ follow the idea of the ‘dialogue model’, which means that actors participate based on their own will and want to discuss questions of (further) democratisation on equal terms and on the basis of arguments. This implies respect and empathy—each is going into the other’s argument, willing to learn by mutual understanding and to review his own views.

While it is not perceivable that Swiss democracy can be introduced elsewhere as a ‘model’, its partners in dialogue could profit from the Swiss experience with the workings of particular elements. No matter whether in academic discussion, in expertise, or official cooperation, such dialogues have similarities and follow a certain logic. To begin with, ‘democracy’ is not a negotiation chip but an issue on which partners come together as equals with the objective to solve problems by mutual learning. It is useful that both partners expose the same issue in their own social and economic context. This includes their narrative of wars, conflicts, failures and successes, and the functioning of their institutions in their own social or economic environment. This is the common ground on which both sides are able to identify their interest on problem-solving, be it on the levels of institutions (polity), decision-making (politics) or actual issues (policies).

This allows a learning process on either side: both will realise that elements of reform cannot be exported or imported as such because they have their particular meanings and functions in different societal contexts. One side will learn, for instance, that the Swiss are not peaceful by nature but because of their institutions. The other side will become aware that direct participation is practised in many local societies from Asia to Africa. With such insights, partners can *draw* on the Swiss experience to then develop *their own* solutions for reform.

In such mutual learning processes, which we could personally experience in many countries in Eastern Europe, the Near East, Asia and Africa, Swiss democracy was not used as an export model but proved to be a most precious point of departure for a credible, respectful and open dialogue. What became increasingly obvious in the course of such dialogues is that democracy and its institutions can neither be imposed from the outside nor implemented top-down. We thus end this book on the belief that democracy and its institutions have the best chances when developed through the political will of a people, adjusted to its socioeconomic conditions, and in line with a country's own cultural heritage.

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