

Decentralized Government in Switzerland

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INTRODUCTION

What makes decentralized government work? What are the factors which are conducive to the creation and existence of strong local governments and what factors hamper such a development? From the experiences made in countries in different parts of the world some general conditions for successful decentralization can be deduced: (1) A first necessary condition for strong local government is security of existence. Clearly, local governments cannot perform properly if their existence is in jeopardy by the ability of authorities on higher levels of government to dissolve them or their Councils easily at any time. (2) The success of decentralization efforts depends to a very large extent on the availability of sufficient resources and the possibility of using these resources autonomously. (3) Accountability and transparency at the local level must be guaranteed. (4) The success of decentralization efforts depends, to a large extent, on a clear vision regarding the position and function of local governments and on a strong political will to implement that vision. It also depends on the willingness of both the central and the local level to see each other as partners in an ongoing process. (5) Finally, without a strong legal framework setting out the powers, rights and duties of local governments clearly, it is often impossible to know who is responsible for what. This allows central authorities to interfere easily with local affairs and leaves the local authorities with no possibility of stopping such interference. cantonal

From a pure technical perspective, these factors are sound and they apply to most contexts. Experience, however, indicates that such an approach might not be sufficient and that both the constitutional framework applicable to the center as well as the political culture prevailing at that level are more important for the well-being of the local level as might seem at first glance. Therefore, this paper attempts to identify some factors which have been and still are important for federalism and local autonomy in Switzerland.

I. A SHORT DESCRIPTION OF DECENTRALIZED GOVERNMENT IN SWITZERLAND

1. THE CANTONS

The role of local governments in Switzerland at the grassroots-level (villages and towns) cannot be properly understood without a look at Swiss federalism in general and the position of cantons in particular. Switzerland with its 41,293 km² and approx. 7 million inhabitants is divided into 26 cantons and 3000 communes. Historically, Switzerland was not a nation but a confederation of small independent States bound together by treaties¹. In 1848, these cantons

¹ Wolf Linder, *Swiss Democracy, Possible Solutions to Conflict in Multicultural Societies*, New York 1994, 38.

decided to join in the erection of a federal nation-state. Their were two main grounds for this step: (a) an inability of the old system to allow for reforms as only unanimous decisions which had to be ratified by all cantons were possible; and (b) a need to integrate, i.e. to create a common market allowing for the free flow of goods and the free movement of persons across cantonal frontiers. This also meant the introduction of a common currency. The main motive for this integration was the fact that the territories of the cantons proved to be too small to face the challenges of early industrialization and modernization in Europe: Building a railway system, for instance, required planning across cantonal borders.

However, in 1848, the cantons were not ready to give up their sovereignty entirely and to melt into a unitary state. Much like in the case of the European Union today, the cantons, in 1848, agreed to create a central authority to which they would delegate some - and only some - of their responsibilities. They retained the right to enact their own constitution. This means that they have the right to organize themselves: They all have their own parliament, their own government and their own judiciary. In addition, all cantonal constitutions grant their citizens the right to vote not only in elections but also in the case of a referendum. Further, they recognize the right of initiative which is the right of a certain number of citizens to make a proposal for some legislation that will then be submitted to a popular vote. Despite these common traits the specific solutions adopted by the cantons in their constitutions are extremely diverse.

2. THE COMMUNES

Let us turn now to the 3000 communes in Switzerland. Their share of total public expenditures is close to 30%; they also raise almost 30% of all public revenue and thus, at least theoretically, are able to finance themselves. This is a first indication of their importance. They are also the corner stone of the Swiss political system with its three layers of government. The size and population of communes varies enormously - the smallest having less than 100 inhabitants and the largest almost 400,000 inhabitants; despite this fact, all the communes are real local governments with elected authorities. An unwritten constitutional tradition grants them political autonomy. This autonomy is characterized by the following aspects (Linder, at 49):

1. The right to exist, including the freedom to merge with other communes or to remain independent: Neither the cantons nor the federal government can merge communes or change borders against the will of the communes affected.
2. The freedom to choose, within the boundaries of cantonal legislation, their own political structure and administration. Again, the variety of solutions is big and depends on local political traditions as much as on population size. Small rural communes have very simple structures with the citizens assembly as the legislator and an executive council whose members are hardly paid and work part-time; in addition, there is a communal secretary and maybe a few persons constituting an administrative staff. Here, the citizen's "assembly decides on propositions submitted by the executive council of the commune and by ordinary citizens. All important communal matters can be the subject of discussion" (Linder, at 53). In large communes, including cities, there often is a communal parliament

which is elected by the people. However, important decisions of this parliament are submitted to a referendum and must be approved by the citizens. Larger communes also have a full-time government and a large administration with professional staff, which - in the case of the largest Swiss city - Zurich with its almost 1 Mio inhabitants- amounts to 18,000 persons (that is more than the total population of the smallest Swiss canton! see Linder, at 50).

3. The freedom to legislate and to plan and implement, within the boundaries of cantonal legislation, those activities which belong to the responsibilities of the commune: These responsibilities most notably arise in connection with the following: a) constructing and maintaining local roads, b) developing local transportation - in urban communes, c) supplying water and in some areas electricity, d) collecting garbage and managing general sanitation d) running of primary and secondary schools including construction of buildings and employment of teachers, e) planning of land use and - in larger communes - issuing of construction permits f) providing public assistance to poor people, g) regulating local police matters, and h) administering local taxes.
4. The right to impose taxes, namely an income-tax. The tax rate is decided by the commune itself, either at the citizens assembly or in a vote on a referendum.
5. The right to act in all areas which are not covered by cantonal or federal legislation: This is an expression of the principle of subsidiarity according to which tasks should be carried out at the lowest level possible.
6. The right to judicial protection of autonomy: All these rights are not just of a theoretical nature as the Swiss Federal Tribunal - our Supreme Court - protects the autonomy of communes much in the way it protects individual freedoms. Communes can therefore appeal to this court if their autonomy is violated by cantonal acts.

3. FINANCIAL DECENTRALIZATION: INCOME AND EXPENDITURE SPLITS BETWEEN THE THREE TIERS OF GOVERNMENT

a) Income Split Between Federal, Cantonal and Local Level

The strength of local governments becomes apparent if we look at the incomes at the different levels of government. In Switzerland, the most important source is the income tax levied on the income of individuals, followed by VAT (Value Added Tax). Whereas VAT is a purely federal tax, the income tax goes to all levels of government: The cantons get the highest share (45% in 1997), followed by the communes (36,8% in 1997) and the federal government (18,2% in 1997).

The overall repartition of income shows the following pattern: The federal government gets approx. 30%, the cantons have a share of approx. 40% and the communes get almost 30% and, thus, generate almost the same amount of income as the federal level.

The following chart reproduced from Stalder² gives the details:

type of income	income federal level 1997		income cantonal level 1997		income local level 1997	
	<i>in Mio. SFR</i>	<i>in %</i>	<i>in Mio. SFR</i>	<i>in %</i>	<i>in Mio. SFR</i>	<i>in %</i>
income tax	6'483	18,2	16'039	45,0	13'100	36,8
property tax	-	-	1'734	55,3	1'400	44,7
income tax companies	2'805	41,9	2'442	36,5	1'450	21,7
property tax companies	384	22,2	829	47,8	520	30,0
tax on real estate property	-	-	167	26,0	475	74,0
withholding tax	2'320	100,0	-	-	-	-
tax on the profit of real estate transactions	53	5,9	414	45,9	435	48,2
tax on legal transactions, tax on capital and insurance market transactions	2'513	76,9	533	16,3	220	6,7
inheritance tax	-	-	963	87,3	140	12,7
tax on cars	-	-	1'526	100,0	-	-
value added tax	20'136	100,0	-	-	-	-
fees, sales of public goods	963	5,0	8'120	42,2	10'150	52,8
interest payments (income)	1'648	26,0	1'989	31,4	2'700	42,6
non affected payments (equalization-system)	-	-	3'430	75,6	1'108	24,4
affected payments of other federal levels	-	-	10'978	70,9	4'500	29,1
TOTAL OF THE IN-COME	38'852	29,8	53'722	41,1	38'000	29,1

b) Expenditure Split between Federal, Cantonal and Local Level

Turning to expenditures, the relations remain about the same, the cantons spending about 40% and the federal government and the communes spending each approx. 30%. The following chart shows very well where the cantons and local governments play an especially important role: Examples are: 67% of all expenditures at the cantonal level in the area of justice and police, 53% and 34% of expenditures in the area of education at the cantonal and communal level respectively. Cantons spend more than 54% and communes more than 44% in the area

² Kurt Stalder, Fiscal management at the cantonal level in Switzerland, Manuscript 1999.

of public health, leaving just 1.1% for the federal level. With 63%, communes are the largest spenders in the area of environmental protection and urban planning.

Decentralization can be costly when it comes to general administration costs: Here, the share of communes is 43.2% as compared with 37.6% for cantonal administrations and as little as 19.2% for the federal administration. This is the prize to be paid for better service delivery and participatory decision-making at the local level. Stalder gives the following details:

function	expenditures federal level 1997		expenditures cantonal level 1997		expenditures local level 1997	
	<i>in Mio. SFR</i>	<i>in %</i>	<i>in Mio. SFR</i>	<i>in %</i>	<i>in Mio. SFR</i>	<i>in %</i>
administration costs	1'429	19,2	2'799	37,6	3'220	43,2
justice, police and fire brigades	447	6,6	4'557	67,0	1'800	26,4
defence	5'395	89,6	315	5,2	310	5,1
foreign affairs	2'043	100,0	-	-	-	-
education	3'075	11,9	13'956	53,8	8'900	34,3
culture and sport	336	9,6	1'138	32,6	2'020	57,8
public health	177	1,1	8'432	54,4	6'900	44,5
social welfare	12'857	43,9	11'082	37,8	5'370	18,3
railways, highways	7'002	46,5	5'186	34,4	2'870	19,1
protection of the environment, planning	689	12,6	1'336	24,4	3'450	63,0
agriculture, economy	4'561	51,0	3'626	40,5	760	8,5
interest payments for the debt, payments to other federal levels	6'372	48,5	3'773	28,7	3'000	22,8
TOTAL OF THE EXPENDITURES	44'383	31,8	56'790	40,6	38'600	27,6

II. LESSONS FROM SWITZERLAND: SPECIFIC FACTORS IN FAVOR OF STRONG LOCAL GOVERNMENTS

If we look at the case of Switzerland, it becomes apparent, that these factors are important but not sufficient to explain the success of decentralization in Switzerland. Besides these general conditions which are applicable everywhere and constitute a minimum for successful decentralization, specific historical, cultural, political and constitutional factors may enhance or limit the potentials of strong local governments. The following factors which played a paramount role in Switzerland.

1. AT THE LOCAL LEVEL

- (1) *A strong tradition of participation at the local level:* Switzerland has a long tradition of village and cantonal assemblies where all citizens participate and play an active role in the political life at the local level. While the tradition of "Landsgemeinde" (literally "community of the canton's inhabitants" has been abolished in all but a few small rural cantons, it still prevails in the form of "Gemeindeversammlung" (communal assembly) in most communes with less than 8'000 inhabitants (i.e. the majority of the Swiss communes). In larger communes and municipalities as well as at the cantonal level citizens can participate through their rights of initiative and referendum which go beyond those granted at the federal level.
- (2) *A strong identification of elected politicians at local level with their community:* Most elected people at village level don't seek a political career at the cantonal or federal level, although almost every federal politician has started at the local level. Local politicians are most often elected because of their involvement in several associations or user groups at the village level. In other words, their election relies more upon their social involvement in the community than upon their political affiliation. Some elected people at local level don't even belong to a political party or they belong to a very small local party.
- (3) *A strong identification of citizens with their commune or canton:* Many Swiss people identify first and foremost with their canton and not with Switzerland. In the rural areas, the village comes first. At the communal level, this identification with the local level finds its expression in the fact that many administrative tasks are not carried out by professional staff but by ordinary people who devote between a few hours per month and up to several days per week to specific tasks.
- (4) *A strong tradition of constitutional making at the local level:* Cantons have their own constitutions which allow for a great diversity both regarding the internal organization of the canton and the position of communes. The communes can, within the limits set by the cantonal legislation, determine their own organization. The result is a large variety of solutions, especially regarding the communes. They are very strong and independent in some parts of Switzerland and have only limited functions and resources in other cantons with more centralist traditions. To grant constitution-making power to the cantons and communes not only enhances their sense of ownership but also allows for diversity which can accommodate many different interests and thus reduce conflicts.

3. IN THE AREA OF RELATIONSHIPS BETWEEN THE CENTER AND THE LOCAL GOVERNMENTS

The quality of relationships between the center and the lower levels of government is crucial for the proper functioning of decentralization in Switzerland:

- (1) *The Bottom-Up Approach of the Swiss Constitution:* In Switzerland, the cantonal governments created the nation-state. Looking at the process, Switzerland, therefore, has a history of centralization and not of decentralization. However, this centralization is based on a bottom-up approach. In 1848, the cantons made sure that not only at the moment of the creation of the federal state but also in the future they, and not the federal authorities,

would have the right to decide about the specific content of the federal powers. According to Article 3 of the present Swiss Constitution all powers rest with the cantons unless the federal constitution explicitly transfers a specific power from the cantons to the federal level. Such constitutional amendments are automatically submitted to a referendum and they only enter into force if they are accepted not only by a majority of the voters but also by a majority of the cantons. This means that in a majority of cantons the voters must have said yes to the amendment. In the course of time, many such amendments have been accepted and today the cantons have in fact lost much of their original powers. However, the shifting of power from the cantons to the federal level does not mean that the cantons lose all influence as these amendments very often delimit the federal and the cantonal powers in a very detailed manner, thus limiting federal interference to what is necessary. In addition, cantons have the right to legislate in federal matters as long as the federal level does not use its constitutional power to enact its own legislation. Concerning the distribution of responsibilities between the federal level and the cantons, we find a variety of solutions: In some areas such as national defense, tariffs, currency, postal services, railways, aviation and nuclear energy, the federal level has exclusive legislative power. In other cases, including areas such as agriculture, civil and criminal law and social insurance, the federal authorities legislate; the cantons, which are responsible for the implementation, may, however, regulate the details as well as the procedural aspects of such implementation. Still in other areas, and they are rather common, legislative power is shared by the federal level and the cantons; examples are the utilization of water power, roads, trade and industry, education and taxes. Finally, some areas are left entirely to the cantons: Here, the areas of police and churches provide important examples.

- (2) *Implementation by the lower levels of government:* Finally, federal law is normally not implemented by the federal ministries and their agencies but by the cantons or even the communes who hire and appoint their own staff for carrying out these federal tasks. Thus, for instance, forests and forestry services are regulated in a federal law. However, it is the cantonal forestry agency which is responsible for applying this law. The so-called Federal Office for Environment and Forests only supervises the cantons by carrying out some inspections and issuing guidelines if this is necessary for a uniform application of the law; in addition, it examines and approves requests for federal subsidies. It is only in a few limited areas that the federal administration implements its laws either through the ministry concerned as in the cases of the army or of border and custom controls, or through specialized, semi-autonomous agencies such as the railway and postal services. In some other cases, such as the construction of national highways, federal and cantonal agencies work together very closely. On the cantonal level, the situation is similar for the communes: They implement not only their own laws and projects but are also responsible, in many areas, for the implementation of cantonal laws and programs, e.g. in areas such as education, health or environmental protection. Together with the clear delimitation of tasks between the central and the cantonal, as well as the cantonal and communal level, the almost total absence of line agencies at the regional and local level reduces the problem of overlapping powers and activities to a very large extent.
- (3) *Institutionalized possibilities to influence the central level:* In Switzerland, cantons have many such possibilities. The cantons can influence federal law-making as they are repre-

sented in the second chamber of parliament - the Council of States - which is composed of two elected representatives per canton (a solution inspired by the US Senate). They also must be consulted before the federal government proposes a law to parliament. Finally, they have organized themselves in a so called "conference of the cantons" where they coordinate their positions vis-à-vis the federal government.

- (4) *A balanced distribution of financial strength*: The importance of the cantons is reflected in their strong financial position (see the discussion above).

4. AT THE CENTRAL LEVEL

At the central level, there is a one single element which is probably more important than all the other factors for the effective functioning of decentralized government in Switzerland: Power-sharing. Power-sharing is institutionalized in different forms and at different levels:

- (1) Government and Parliament have to share their power with the people who can interfere through initiative and referendum.
- (2) Parliament consists of two Chambers, one (the National Council) representing the people, the other (the Council of States) representing the cantons. Thus the people and the cantons have to share their powers, through their representatives, already at the stage of making the federal laws. The members of parliament are elected on the basis of proportionality and their composition very clearly reflects the wishes of *all* voters: Thus, the majority has to share its power with the minority.
- (3) The Government consists of seven Ministers only: The composition mirrors power-sharing between different parties and cultures. The four largest parties are represented according to their strength and at least two of the members of government must be from the French- and Italian-speaking parts of Switzerland. The members of government are elected by Parliament and only have to leave if they are not reelected. The fact that the Government loses in Parliament or in a referendum does not affect its position. There is no vote of confidence. This system has led to a very stable coalition which is in power since 1959.
- (4) The Federal Court, the highest Court in Switzerland, also reflects in its composition the relative strength of political parties, cultures and regions. The same is true, although to a lesser extent, for the higher positions in the federal administration.

All of this leads to a political culture which forces decision-makers to search for compromises and consensus if they want to achieve any result at all. This is not only true for the federal level but applies similarly to the cantons and communes. Decentralized government with the strong cantons and communes is just the vertical dimension of this culture of power-sharing. It forms part of what has been called "consensus democracy". This type of democracy which can be contrasted with majoritarian democracy which is based on the Westminster model where "the winner takes all" and the political majority in Parliament holds all the power "avoids majority decisions thanks to negotiations and compromise" (Linder, *Swiss Democracy*, 171). This pattern of trying to reach a compromise also applies for the relationship be-

tween the central and the lower levels, thus giving the decentralized units considerable possibilities to negotiate decisions by the central level. It seems to me that consensus democracy at the national level facilitates the introduction of decentralized government at the local levels as the idea of power-sharing in the vertical dimension can be more easily accepted if it is already a reality at the central level.