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2.3 The Parliament

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1 The Federal Assembly Within the Swiss System of Semi-Direct Democracy

Complaints about the weak position of the parliament within the system of political decision-making have a long tradition. For instance, more than 80 years ago, Lord Bryce claimed to observe the “decline of the parliaments” (Bryce [1921] 1990: 47–56), and in Switzerland, Kurt Eichenberger was not alone in his criticism of the parliament which, in his view, was “walking with an administrative-governmental crutch” (Eichenberger 1965: 285). In the literature on constitutional law, as well as in political practice, the notion of a “powerless parliament” – most often referring to the parliament’s lack of power vis-à-vis the government – has become increasingly popular.

But what exactly is meant by these references to “the decline of parliaments”? During the last 25 years, political scientists have increasingly taken up this interesting issue in their empirical analyses.

The parliament, the government and the administration

The Swiss parliament, i.e. the Federal Assembly, enjoys a relatively independent position within the political system. For instance, members of the government (the Federal Council) cannot hold a seat in the Federal Assembly. This stands in stark contrast to classical parliamentary democracies, where ministers are often also members of parliament. Moreover, the Federal Assembly cannot be dissolved by the Federal Council. MPs are elected for a fixed term of four years, and the Federal Council has no possibility of holding new elections before the end of their term. On the other hand, the parliament – again in contrast to parliamentary democracies – cannot dismiss the government. The Federal Council remains in office, even if the parliament refuses to support its policies, as in presidential systems, such as the American one.

Despite these similarities, the drafters of the 1848 Constitution did not grant the Federal Council the same powers as those of the American president. The Federal Council is elected by parliament, not by the people, and it cannot veto the decisions taken by parliament. Thus, government and parliament have been attributed unequal powers by the Constitution – the Federal Assembly is clearly the more powerful institution of the two. In fact, the Constitution explicitly declares the Federal Assembly as the “highest authority” within the Federation. Below, we will examine how far the parliament’s superior legal position translates into actual political power.

The lack of constitutional jurisdiction

The Federal Assembly is also relatively independent of the so-called “third power”, the judiciary. The laws enacted by the Federal Assembly are binding on

Switzerland’s highest Court, the Federal Supreme Court, which means that the Court cannot examine whether or not the laws are in conformity with the Constitution. In other words, parliamentary acts are exempted from constitutional review. This stands in contrast to the system found in many modern democracies, especially in countries such as the USA or Germany. Given that the Federal Assembly elects the members of the Federal Supreme Court, there is an asymmetry in power between these two institutions as well.

Federalism

The two-chamber parliament, which is composed of two houses with equal powers – the National Council representing the people, and the Council of States representing the cantons – is a central feature of Swiss federalism. As all cantons, independently of size, are represented by two delegates¹ in the Council of States, and since this upper house has exactly the same powers as the National Council, the federalist principle is at least as important as the principle of democracy. In addition, the powers of the Federal Assembly are limited as a consequence of the federalist system, under which the cantons are responsible for numerous policy domains. The constitution presumes that responsibility for a given policy area lies with the cantons unless the Federation is explicitly declared responsible. Accordingly, the attribution of new powers to the Federation requires a constitutional amendment. Moreover, the cantons participate in both the pre- and the post-parliamentary phase of the political decision-making process. During the pre-parliamentary consultation procedure, the cantons can voice their opinion before a proposal reaches the Federal Assembly. Finally, if the Federal Assembly decides to amend the constitution, this requires not only the approval of the population, but also of a majority of cantons.

Direct democracy

In contrast to the Federal Council and the Federal Supreme Court, the people have the possibility to “veto” parliamentary decisions through the use of popular rights. However, it is not entirely justified to describe this as a situation of competition between the people and the parliament. While there has been a general increase in popular initiatives and referenda, these are only rarely successful. In other words, popular rights do not represent a serious challenge for the parliament (Sciarni/Teichsel 1996: 201ff).

On the other hand, it can be assumed that the existence of popular rights has reduced the population’s interest in elections. It is obvious that the voters are more keen on taking decisions on concrete issues than to participate in elections, the result of which have, at the most, indirect effects on the composition of the government and thus on policy. In this context, Linder has referred to a trade off

between direct and indirect democracy: parliamentary elections lose in importance in cases where the former is well developed (Linder 1994: 132f).

The fact that parliamentary decisions are subject to referenda can also have an effect on the pre-parliamentary process, since the Federal Council seeks to submit only "referendum proof" bills to parliament. Accordingly, when drafting a proposal, the Federal Council consults directly with those groups interested in the issue, while it will be brought to parliament's consideration only much later. It should be noted, however, that lobbying during the pre-parliamentary phase is not a uniquely Swiss phenomenon.

The system of concordance

The interplay between the governing majority and the opposition, which is a central feature of most parliamentary democracies in Europe, is unknown in Switzerland. Direct democracy has forced the four largest political parties to form a joint government, which has had the same composition since 1959. The Swiss government is not, however, a coalition government, since the four parties are not committed to a common political programme. Rather, one of the governing parties occasionally plays the role of the political opposition by taking a critical stance towards the policy of the government. Thus, instead of an institutionalised opposition within the Federal Assembly, there is, at most, an ad hoc opposition. Finally, since there is no vote of no confidence in the Swiss system, nor the possibility to dissolve the parliament, the government and the parliament may be dominated by different political parties.

2 Organs and Services of the Federal Assembly

The National Council, the Council of States and the "Federal Parliament in Joint Session"

The principle of equality of the two houses of parliament manifests itself in various ways. First, the fact that the two chambers deliberate separately prevents the National Council from dominating the Council of States. Second, the two chambers do not only have identical spheres of responsibilities, but also the same procedural rights. Neither of the chambers has a general priority to deal with certain issues. Rather, the presidents of the two houses reach an agreement – usually on the basis of the workload of the two chambers – on which house will deal first with a given question. Finally, every decision of the parliament requires the consent of both chambers. If necessary, an agreement is reached through a special reconciliation procedure (so-called *Differenzbereinigungsverfahren*).

When the Federal Assembly deliberates in joint sessions (so-called "Federal Parliament in Joint Session"), the National Council has a numerical advantage.

The main issues for which such joint sessions are held are elections to the Federal Council and the Federal Supreme Court.

Both chambers convene four times a year for a three-week session.² The public meetings of the two houses follow certain rules which are stricter for the National Council than for the Council of States. For instance, in the National Council there are not only time limits for speeches, but procedures also differ according to the importance of the question being debated. It is rare that an issue is treated according to Procedure I, the so-called "open debate", where all members have the right to express their point of view. Nevertheless, in international comparison, debates in the Swiss parliament are relatively open. This is mainly a consequence of the unlimited right to put forward parliamentary proposals, implying that every deputy has the possibility of voicing his or her opinion at any moment in time.

Since 1994, votes in the National Council are held with the help of an electronic voting system. After votes on entire bills, final votes, votes on urgent measures, and votes that have been requested by 30 members of parliament (so-called *Namensabstimmungen*), the voting behaviour of the deputies is made public. The members of the Council of States vote by a show of hands.

The chairmanship of the two chambers

Both houses elect a president and two vice-presidents. Their term of office is only one year, which is considerably shorter than in many other parliaments. This short tenure is mainly a consequence of the general Swiss aversion against personalised politics. The presidents are assisted by a so-called bureau. The bureau of the National Council is composed of the president, the two vice-presidents, four tellers, and the heads of the parliamentary groups. In the Council of States, the president, the two vice-presidents, one teller, and one reserve teller sit on the bureau. Together, these two bodies form the head office of the Federal Assembly, which is responsible for overall coordination.

The most important task of the two bureaus is to determine the programme of the parliamentary sessions. In other words, the parliament sets its own agenda. This is not self-evident; in Great Britain, for instance, the programme of the lower house is determined by the government. The British parliament is thus deprived of an important element of its agenda-setting power.

The committees

A considerable amount of the parliamentary work is done by parliamentary committees. These meet behind closed doors, rather than during the plenary sessions, which are public. In the literature, a distinction is commonly made between "working" and "debating" parliaments. For instance, the British parliament is

considered a debating parliament because of the importance of plenary debates. In the French *Assemblée nationale*, as well, the parliamentary committees are less significant, their number being restricted to six by the French constitution.

By contrast, the Swiss Federal Assembly is generally referred to as a working parliament (Ochsner 1987). This description seems even more appropriate since the reform of the committee system in 1992. Currently, the two chambers have 12 permanent committees each. There are ten legislative committees, each responsible for one particular area of federal politics, as well as a finance committee and a control (supervisory) committee in both houses.² The basic task of these committees is to prepare the work of the Federal Assembly. They are also responsible for following up on current developments within their respective domain. They have the possibility to launch a discussion on any topic and, if need be, initiate the legislative process. In Germany, the parliamentary committees have this right as well; the main difference is that in Germany, bills are not drafted by the committees themselves but rather by the ministries.

The members of the committees are elected by the parliamentary bureaus, usually on the basis of proposals of the parliamentary groups. Seats are distributed according to the strength of the parliamentary groups. The term of office is four years, and re-election is possible. The committee presidents, however, can serve for only two years. Most committees of the Council of States have 13 members. In the National Council, committee size is determined by the bureau. Usually they have 25 members.

Parliamentary groups

Parliamentary groups are made up of all MPs of a given political party. Parliamentary groups must have at least five members in one chamber. Members of smaller parties can jointly form a parliamentary group. Only members of a parliamentary group can hold a seat in the committees. The secretariats of the parliamentary groups are funded by the Federation.

Parliamentary services

The so-called parliamentary services (*Parlamentsdienste*) are at the disposal of all parliamentary bodies as well as individual MPs. In international comparison, the parliamentary services have only rather limited resources: in 2001, their staff amounted to only 146 employees.⁴

3 The Tasks of the Federal Assembly

Apart from legislation, the central tasks of the parliament are to supervise the government and the administration, and to take decisions on the budget. Moreover,

the parliament is responsible for electing the members of a number of other state bodies. The parliament is also active in many areas outside its primary sphere of responsibility. For instance, in recent years, it has become increasingly involved in foreign policy. Finally, another important function of the parliament is the one of representation.

Legislation

The Federal Assembly enacts federal laws and decrees. As federal laws are subject to referendum, the decisions of the Federal Assembly are not final. Even though legislation – i.e. the issuing of general norms – stands in the foreground, the Federal Assembly also takes decisions on certain individual cases. For instance, it has the right to decide on the construction of parts of the national highway system or on the procurement of fighter aircraft. These “administrative acts” are passed in the form of federal decrees and simple federal decrees. Federal decrees are subjected to referendum. Thus, the new constitution allows to subject important “administrative acts” to referendum.

The initiation of the legislative process

The legislative process can be initiated by various actors: the citizens, the cantons, the parliament or the government. In quantitative terms, the parliamentary initiative is certainly more important than the popular or the cantonal initiatives. A distinction should be made between the parliamentary motions, which call upon the Federal Council to take action in a given area, and the parliamentary initiative in the narrow sense of the term, in which case the parliament itself drafts a bill.

Most important, however, are the initiatives launched by the Federal Council. According to the Constitution, the Federal Council has the possibility to submit proposals for new bills to the Federal Assembly; a right that is frequently used. A study covering the bills passed between 1959 and 1971 showed that 57% of these bills originated from proposals of the Federal Council, 43% from parliamentary motions, while none at all were the result of cantonal or popular initiatives (Riklin 1977: 376f).

However, the indirect effects of popular, cantonal and parliamentary initiatives should not be underestimated. Often, the concerns expressed in such initiatives are at least partially taken up by the Federal Council. While during the period examined by Riklin, parliamentary initiatives were rather insignificant, this instrument has recently gained more importance. During the 44th legislature period (1991-1995), 30 of a total of 520 parliamentary bills stemmed from parliamentary initiatives. In these cases, the Federal Assembly itself drafted the bills, at times in collaboration with the administration (Jegher/Lanfranchi 1996: 12).

Overall, Swiss MPs nowadays show a greater willingness to launch initiatives. While during the legislature period 1975-1979, 333 motions were submitted, there were twice as many (665) between 1987 and 1991.² A similar development has taken place with regard to parliamentary initiatives. Between 1975 and 1979, 53 such initiatives were submitted, whereas between 1987 and 1991 there were as many as 144. As far as parliamentary motions are concerned, the success rate is rather sobering. It has been shown that, of the 426 motions that were launched between 1987 and 1990, only 35 were successful. A large part of these motions were discarded after they had been pending for two years (Graf 1991: 207f.). This shows that the parliament does not take proposals of its members very seriously. After all, it is the parliament itself that plans the sessions, and is thus responsible for placing the motions far down on the agenda. There seems to be a desire to counteract individualist tendencies, which can be observed in the parliament as well.

From the draft to the bill

In the great majority of cases, proposals for new bills are drafted by the Federal Council and the administration (between 1991 and 1995 this concerned 94.2% of the bills). The proposals are submitted to parliament, together with an explanatory note, a so-called "message to parliament" (*Botschaft*). It is then examined by the responsible legislative committee, which submits its suggestions to the rest of the house. It proposes to either accept or reject the proposal, or to accept it with certain modifications. It can also suggest that the proposal be dismissed without debate, or be sent back to the government.

In-depth discussions of the Federal Council's proposals take place in the committees, which often charge the administration with making additional clarifications. It is possible that proposals of the Federal Council are modified by committees to a great extent. By creating permanent committees in 1992, the parliament hoped to enhance the committees' expertise, which in turn would strengthen the position of the parliament vis-à-vis the Federal Council. Studies have indeed shown that, since the shift from ad-hoc to permanent parliamentary committees, the committees have increasingly modified and reworked the proposals of the government. Moreover, interviews with parliamentarians have shown that, nowadays, the committees are more critical towards the proposals of the Federal Council (Lüthi 1997: 59f.).

Thus, the committees have overall become more innovative and effective. Moreover, the chambers usually follow their lead; almost 95% of the committee proposals are adopted. This does not mean that disputes no longer take place in the chambers; the parliamentarians have several possibilities of making additional requests. First, those MPs who were outvoted in the committee have the right to state their opinion in the form of a minority request. Moreover, each individual

parliamentarian, as well as the parliamentary groups, which debate the proposals subsequently to the committees, have the right to call for modifications during the plenary session. Thus, the parliamentarians have numerous instruments at their disposal, which they use on a regular basis. Between 1992 and 1994, 25 minority requests and an almost equal number of individual requests were made for every hundred committee proposals. In the Council of States, by contrast, there were considerably fewer requests (six and eight, respectively). However, these requests are not always successful: during the same period, only 11% of the minority requests, and 20% of the requests submitted during the plenary session were followed. In the Council of States, the more sparingly used requests stand a greater chance of success, at roughly 30% (Lüthi 1997: 67).

After a proposal has been debated by one of the two chambers, it is passed over to the other, which follows the same procedure. In case the two houses arrive at diverging decisions, the bill is sent back to the chamber that first examined the proposal. If no agreement is reached after three readings in each chamber, 13 members of each house are appointed to a reconciliation committee (*Einigungskonferenz*), which has the task of finding a solution acceptable to both houses (so-called parliamentary reconciliation procedure, *Differenzberemungsv erfahren*).

Studies have shown that the relations between the two chambers are not as conflictual as is often assumed, and that the parliamentary reconciliation procedure is used less often than before (Trivelli 1975: 307, Huber-Horz 1991: 175f.). Many authors also point to the positive effects of the bicameral system. Instead of leading to blockage, it actually enhances the quality of legislation. However, the fact that the Council of States has lost its original function as a representative body of the cantons is often criticised. Jaag, for instance, has argued that the Council of States "in no way contributes to the promotion of specifically cantonal interests within the Federation" (Jaag 1976: 130). In a recent empirical study this assertion has been partly sustained. An analysis of the number and success of proposals concerning federalist interests has shown that both chambers take into account the interests of the cantons in a same way. However, in a survey, the members of the Council of States pretended to defend interests of the Cantons more than members of the National Council pretended to do. The members of the Council of States have intense contact with the members of the government of their canton and consider the interests of the cantons as being more important than the interests of parties and interest groups. Finally, the study has showed, that there have been made more proposals concerning federalist interests if the bill was first treated in the Council of States (Wiesli/Linder 2000: 6ff.).

The legislative process follows a somewhat different path when it is triggered by a parliamentary initiative. The main difference is that, in this case, the parliament itself drafts the bill. If one of the chambers accepts an initiative, a committee is set

up to make a proposal. However, given that the committee secretariats have only very few collaborators, they are often unable to accomplish this task and thus delegate part of their work to the administration. This is not entirely unproblematic, since parliamentary initiatives are often launched when, for political reasons, the parliament is reluctant to implicate the government. One possible solution to this dilemma would be to consult with external experts.

For the committees in particular, the parliamentary initiative seems to be an effective instrument in the legislative process. Studies have shown that initiatives of individual MPs stand little chance of success, whereas initiatives launched by the committees often lead to the adoption of a bill (Lamprecht 1989: 90ff). This instrument is especially appropriate when laws are to be enacted rapidly on hardly contested issues, as it allows to bypass the lengthy pre-parliamentary consultation process. Moreover, in cases of conflict between the parliament and the Federal Council, it can be used by the parliament as a bargaining chip.

Political planning

To what extent does the parliament influence political planning? A study published in 1977 came to the conclusion that while the parliament plays an active role in initiating the process of political planning, it remains largely passive during the rest of the process (Lanz 1977: 104ff).

One institutionalised instrument to exert influence on political planning is the Federal Council report on the main guidelines of government policy (*Bericht des Bundesrates über die Richtlinien der Regierungspolitik*). This report is submitted to the Federal Assembly at the beginning of each legislature period and provides an overview of all activities and the strategic goals of the government. Formally, the Federal Assembly is obliged only to take notice of the report, but if it wishes to have a stronger impact, it can amend the report through parliamentary motions.⁷ Overall, it seems that the strength of the parliament lies more in its occasional political leadership, than in its impact on long-term political planning.

The impact of the parliament on the legislative process

Turning to the question of the Federal Assembly's actual impact on the legislative process, it is interesting to note that constitutional lawyers arrive at a more negative assessment than more empirically-oriented political scientists. Schmid, for instance, has argued that "the government dominates the legislative process in both substantive and procedural terms. In practice, the phase during which the executive drafts proposals has become an increasingly important part of the legislative process. The parliament is entirely dependent on the Federal Council, since at the federal level, all legislation passes through the Federal Council and its administrative apparatus" (Schmid 1971: 194).

One study on the impact of the Federal Assembly on legislation between 1971 and 1975 came to a more positive conclusion. It argues that "the parliament had a considerable impact on legislation. The fact that roughly 40% of the 312 proposals under analysis were modified is, in itself, a clear sign of parliamentary activism" (Zehnder 1988: 108).

A more recent study shows that the number of proposals which are modified by the Federal Assembly has risen even further. Between 1991 and 1995, the Federal Assembly amended 43.3% of the Federal Council's proposals, whereby the rate was especially high for constitutional amendments, federal laws and ordinances under the urgency clause (Jegher/Lanfranchi 1996: 14). Finally, case studies conducted in this context showed that parliament nowadays plays a more active role in the legislative process than in the 1970s. According to this study, "the Council of States and the National Council, if they wish to do so, are able to control the legislative process" (Jegher/Lanfranchi 1996: 75). Thus, the parliament does intervene in the legislative process, albeit selectively. As long as its members are only semi-professionals, it is very important that the Parliament makes a real selection.

Supervision of the government and the administration

In classical parliamentary democracies, opposition parties have an interest in closely supervising the activities of the government. With an eye on the next elections, the opposition seeks to pinpoint the government's shortcomings and failures in the public debate. Moreover, if even MPs of the governing camp, dissatisfied with the performance of the government, join the opposition, the government can eventually be dismissed.

In the Swiss system of concordance, by contrast, this control mechanism does not exist. This is one of the reasons why Mastroiardi has called for more effective parliamentary control of the government. In his view, "the parliament must exercise its control function vigorously in order to counterbalance the principle of concordance, which otherwise determines most of its activities" (Mastroiardi 1991: 367).

Supervisory bodies and their powers

The Federal Assembly exercises its supervisory functions through several bodies. The main agencies of parliamentary oversight are the parliamentary control committees (*Geschäftsprüfungskommissionen [GPK]*), which are responsible for monitoring the activities of the Federal Council, the administration and the judiciary. The annual reports of the Federal Council and the Federal Courts are an important instrument in this respect. These reports are first examined by the GPKs and then discussed in parliament during its summer session. The GPKs also exercise

control on a continuous basis, mainly through regular inspections. If shortcomings are detected, the GPKs can make recommendations to the Federal Council or to the ministry in charge.

In the aftermath of the so-called "files scandal" (*Fischen-Affäre*) at the end of the 1980s, which brought to light grave irregularities in the work of state security and intelligence agencies, it became apparent that the control committees had insufficient powers to ensure effective oversight in this area. As a consequence, in 1991, the Federal Assembly decided to create a so-called control delegation (*Geschäftsprüfungsdelegation*). It is composed of three members of each of the two control committees, and is responsible for monitoring the activities of state security and intelligence agencies. This body has a wider mandate than the GPK. It can, for instance, oblige federal and cantonal authorities as well as private citizens to produce documents, even if these contrain official or military secrets. In case the GPK is incapable of exercising effective oversight over a given sector of the administration, the delegation can be charged with examining the case.

While the work of the control committees and the control delegation rarely arouse the curiosity of the wider public, the opposite is true of the parliamentary fact-finding committees (*Parlamentarische Untersuchungskommission (PUK)*). These committees were created by the parliament in order to investigate important issues within the federal administration. They have far-reaching powers, but are confined to a single issue. Well-known examples are the Parliamentary Fact-Finding Committees for the Ministry of Justice (*PUKEPPD*) of 1989, and the 1990 Parliamentary Fact-Finding Committee for the Ministry of Defence (*PUKEMD*), which investigated the aforementioned abuses in the areas of state security and intelligence.

Finally, each individual member of the Federal Assembly can oblige the Federal Council to provide information on a given topic by means of parliamentary motions (interpellations and simple questions). The Federal Council must respond in writing. For the parliament, however, these instruments are of only marginal importance. Simple questions are not even taken into considerations, and interpellations only occasionally. In the National Council, questions on current problems are often raised during the question-time at the beginning of the second and third weeks of session. Here, the Federal Council gives brief answers to questions that have been submitted beforehand.

In Switzerland, the MPs right to pose questions is clearly of lesser importance than in parliamentary democracies such as Great Britain, where especially the members of the opposition, but also the backbenchers of the governing party, often manage to embarrass the government by asking tricky questions in front of a large audience.

The effectiveness of parliamentary control

Under the American system of checks and balances, there are effective mechanisms to control the executive, even though there is no possibility to dismiss the government. In the US, Congress has a broad range of instruments at its disposal through which it can have a direct impact on the government. For instance, Congress can demand or prevent the creation of government agencies, and it has a considerable say in selecting the leading officials of these agencies. In general, "oversight" of the American type can be even more effective than control by the opposition in parliamentary democracies. As argued by Lösche, "the control exercised by Congress over the president and parts of the 'permanent government' is much stricter and much more far-reaching than control by the opposition in a parliamentary system. The committees and sub-committees devote about half of their time to 'oversight'. In addition, in performing its control function, Congress is seconded by a number of agencies such as the Congressional Budget Office, the Office of Technology Assessment, the General Accounting Office, and the Legislative Reference Services, which act as 'counter-bureaucracies' to the executive" (Lösche 1992: 226).

Herein lies the main difference to the Swiss Federal Assembly. Even though the Swiss parliament, as a consequence of various scandals, has been able to strengthen its position somewhat, it still lacks the necessary resources to examine the work of the government and the administration in a more consistent and thorough manner. In 1990, a parliamentary agency for administrative control (*Parlamentarische Verwaltungskontrollstelle*) was created with the task of monitoring certain parts of the administration and to evaluate their activities. However, with its four employees, this body can hardly be compared to the General Accounting Office of the American Congress.

An additional problem is that the parliament has no direct means to influence those government activities which the GPKs have identified as problematic. The only measures these bodies can take is to submit recommendations to the Federal Council. A study by Mastronardi has shown that, in quantitative terms, this instrument seems effective. 62 of the 93 recommendations submitted between 1983 and 1987 were either approved by the Federal Council or followed immediately. In his qualitative evaluation, however, Mastronardi came to a more sceptical conclusion: "Overall, the regulatory capacity of the control committees appears to be rather mixed: In matters of minor importance, it seems strong; with regard to more basic issues, however, rather weak" (Mastronardi 1991: 365).

Participation in decisions on budgetary matters

Public finances are an increasingly important instrument of political governance. There are thus good reasons for examining the role of the parliament in this area more closely.

Parliamentary instruments

At the beginning of each winter session, the Federal Assembly decides upon the budget. The budget is based on a proposal by the Federal Council, but the parliament is free to change any item of the budget if requested by the parliamentary committees, the parliamentary groups, or individual MPs. The decisions of the Federal Assembly on budgetary matters are final, since at the federal level, there is no finance referendum.

Apart from the regular budget, the Federal Assembly also takes decisions on expenses for specific purposes. If unforeseen expenses become necessary, for which no or insufficient funds were allocated in the original budget, a so-called supplementary credit (*Nachtragkredit*) must be authorised. In case a particular project entails financial liabilities beyond the current fiscal year, the Federal Council is obliged to apply for an extended credit (*Verpflichtungskredit*). Finally, during the summer session, the Federal Assembly formally approves the federal account; that is, it examines whether or not the budget has been respected.

Supervisory bodies in financial matters

The finance committees of the parliament (*Finanzkommissionen*) are responsible for supervising the finances of the Federation and for analysing their long-term development. They examine the budget, the supplementary credits, and the federal account.

During each legislature period, the two finance committees each appoint three members to the so-called finance delegation (*Finanzdelegation*). In contrast to the finance committees, the finance delegation has the right to take certain decisions: in case of urgency, it can decide upon credits or extended credits. Moreover, it can, at all times and regardless of official secrets, consult those documents relevant for the budget and interrogate officials at all levels of the administration.

The highest federal agency responsible for supervising public finances is the Federal Office of Fiscal Control (*Eidgenössische Finanzkontrolle*). It is part of the Ministry of Finance, and reports to the Federal Assembly as well as to the Federal Council.

The powers of the parliament in budgetary matters

The Federal Assembly frequently makes use of its right to modify individual items of the budget. In 1993, for instance, the finance committee of the National Council proposed 170 such modifications, of which 167 were approved by the Council. 46 such proposals were made during the plenary sessions, although only 6 of these were eventually accepted. The Council of States made an additional 61 modifications. Thus, in purely quantitative terms, the Federal Assembly is extremely active in this context. The question remains, however, to what extent

the Federal Assembly is able to influence decision-making in budgetary matters. Critics of the budgetary process often point to the parliament's excessive concern with operative details, its lack of a more long-term perspective, and its inclination to increase expenditures instead of savings (Kompetenzverteilung 1996: 487).

Participation in foreign policy

The constitution allocates responsibilities in the field of foreign policy to both the Federal Council and the Federal Assembly. However, even though the two institutions have "parallel powers", in practice, the Federal Council clearly plays a leading role. The function of the parliament in this area is largely confined to the approval of international treaties.

Although Switzerland is not a member of the European Union, it must nevertheless face the fact that laws are increasingly determined at the international as opposed to the national level. International law, which is either directly applicable at the domestic level or must be transformed into national law, is not created by popular representatives but by governments. In order to alleviate the resulting democratic deficit, parliaments of some EU member-states, such as the German *Bundstag*, have set up committees responsible for monitoring the development of European law.

In the context of the discussions on Switzerland's adherence to the European Economic Area (EEA), the Federal Assembly decided to upgrade its foreign policy instruments. Since 1 September 1992, the Federal Council has the obligation to consult the foreign policy committees of parliament (*Aussenpolitischen Kommission [APK]*) about its negotiations with international organisations (Article 47bis a of the Law on Parliamentary Proceedings [*Geschäftsverkehrssetzung*]).

This provision applies to negotiations on laws that would either be directly applicable within Switzerland or would oblige the parliament to enact new laws. The foreign policy committees also participate in foreign policy-making by contributing to the definition of the Federal Council's negotiating mandate. These committees are therefore not legislative committees in the usual sense of the term as they only marginally deal with legislation. Rather, their purpose is to gain influence on foreign policy by engaging in a constant dialogue with the Federal Council. This also implies that foreign policy issues are not discussed by the parliament as a whole, but only within these specialised committees.

Elections

According to the Constitution, the Federal Assembly is responsible for electing the members of the Federal Council and the Federal Supreme Court, the Chancellor, and, during times of war, the supreme commander (general) of the armed forces. The Federal Assembly is thus the electoral body of both the executive and

the judicial branch, a clear sign of its strong position within the Swiss political system. Most often, however, the Federal Assembly leaves the selection of candidates to the parliamentary groups.

Elections to the Federal Council are governed by numerous informal rules, such as party affiliation, language and, more recently, gender. Even though this restriction in the parliament's freedom of choice is often deplored, the advantages of a broad governmental coalition, based on party-political and regional criteria, seem to outweigh these disadvantages.

Elections to the Federal Supreme Court also follow the proportionality principle. While the candidates are proposed by the parliamentary groups, the elections themselves are organised by an informal electoral body composed of members of those parties which are represented in the Federal Supreme Court. This body convenes before the elections and examines the proposals of the parliamentary groups. Elections to the Federal Supreme Court can nevertheless be quite contested and lead to unexpected outcomes.

Popular and cantonal representation

Parliaments derive their legitimacy from the principle of representation, since they have been created as substitutes for assemblies comprising the entire population. Moreover, parliaments are supposed to be open to the opinions and interests of different groups of the population, including those that are not directly represented.

Elections to the two chambers

The electoral system is an important institutional element in the context of political representation. While it can hardly be claimed that electoral systems determine political outcomes in a direct causal sense, it is generally assumed that the proportionality principle favours multi-party systems, and is relatively open to new political trends. In Switzerland, the proportional system, introduced in 1919 for elections to the National Council, has indeed led to a broad party-political representation in the lower house: during the 46th legislature period (1999-2003), there was a total of seven parliamentary groups, and some of these resulted from mergers of even smaller groupings. This fragmentation is subject to frequent criticism, however. In the canton of Zurich, where 34 candidates were elected to the National Council in 1999⁸, it is nowadays sufficient to achieve 2.8% of the votes in order to obtain a seat. By contrast, in smaller cantons with only one representative in the lower chamber, elections are de facto determined by the majority principle, whereby even large minorities are systematically excluded from political representation.

This division of electoral districts generally favours the conservative political parties. These usually have their strongholds in small electoral districts, where they stand a good chance of winning the only seat available. At the same time, the

conservative parties also have the possibility of obtaining seats in the urban and populous cantons dominated by the more progressive parties, given the large number of mandates to be distributed in these cantons (Nohlen 1989: 70). A rearrangement of electoral districts that would not strictly follow cantonal borders could eliminate this bias (Linder/Hirter 1994).

Under a proportional system, the political scene tends to be dominated by the political parties. Nevertheless, during elections to the National Council, also individual candidates can play an important role. In these elections, the voters have the possibility to compose their own lists of candidates and thus express their preferences for certain candidates rather than for a political party.

Elections to the Council of States are under cantonal jurisdiction. Since most cantons follow the majority principle, the party-political composition of the Council of States differs considerably from that of the National Council. The Social Democratic Party (SP) and the Peoples Party (SVP) are clearly underrepresented with only 6, respectively 7 seats, while the CVP and the FDP with 15, respectively 18 seats hold most of the total of 46 seats. The distribution of seats in the National Council, by contrast, mirrors the relative strength of the political parties more closely. Here, the SP holds 52 seats, the SVP 45, the FDP 42, the CVP 35, while the remaining seats are divided up between smaller parties.

Cantonal representation

The Council of States has frequently been criticised for its biased composition. In particular, political scientists have argued that, due to uneven demographic growth, the smaller cantons are increasingly over-represented (Germain 1991: 263; see Chapter 2.1).

Overall, the cantons no longer seem to consider the Council of States as the institution which best represents their interests. Instead, they increasingly turn to more informal channels of political influence, such as the pre-parliamentary process. In this context, the Conference of the Cantonal Executives (*Konferenz der Kantonsregierungen*) is worth mentioning. In recent years, this institution has evolved into a very effective instrument during the pre-parliamentary phase. Therefore, proposals have been made to turn the Council of States into a representative body of the cantonal executives, comparable to the German *Bundesrat*. As the German example shows, an upper house can have a considerable impact on political decision-making, even if it does not have the same power as the lower house.

The composition of the Federal Assembly

After having discussed the party-political composition of the Federal Assembly, we now turn to socio-demographic aspects of political representation. It is beyond doubt that some segments of the population are over-represented while others are

underrepresented in the Federal Assembly. A man of about 50 with a university degree and an above-average income can be confident about being well-represented. The full-time members of the communal and cantonal executives, as well as the farmers, are also well-represented. By contrast, the younger generations, and persons with lower incomes and without a university education, as well as women of all age groups and social backgrounds are underrepresented. Nevertheless, since the introduction of female suffrage in 1971, the number of female MPs has increased steadily. In international comparison, Switzerland is located just above average, with 23.5% women in the National Council and 19.6% in the Council of States. This, however, should not obscure the fact that overall, women remain underrepresented.

The parliaments of other countries suffer from similar representation deficits. In Switzerland, however, access to parliament is additionally restricted to those who can actually afford to hold such an office: even though the workload of an MP corresponds to a half-time position, and one could thus speak of a "semi-professional parliament", the parliamentarians receive only a meagre salary. In this context, as well, the *Milizsystem* is still dominant (Riklin/Möckli 1991: 156). Following to a recent survey, nearly half of the 160 responding members of the Federal Assembly declare themselves as "semi-professional politicians", and a fifth even feel as professional politicians. Only a third declare themselves as "militia" politicians (Eco Diagnostic 2001: 21). Consequently, active participation in the Federal Assembly implies setting aside one's professional activity for a certain period of time without full financial compensation, something which only few citizens can afford. Since in Switzerland, the law regulating financial compensation for parliamentarians is subject to a referendum, this is unlikely to change. In some ways, the Swiss population is in favour of a stronger parliament. In 1992, for instance, it accepted a law granting the parliament more powers in the field of foreign policy. On the other hand, the Swiss are unwilling to pay a single franc more for a stronger parliament. On the very same day, they rejected a proposal to increase the financial compensation for MPs, as well as a law providing for new infrastructure. Comparing studies therefore show, that financial compensations for Swiss MPs are far lower than those for MPs in other countries (Brändle/Wiesli 2001: 18).

Overall, political representation implies far more than that the parliament simply mirror the population as nearly as possible. Kerr, in his comprehensive work on the representation function of the Swiss Federal Assembly, comes to the conclusion that "the Federal Assembly is without doubt representative of the population" (Kerr 1981: 254). This is so even though, as he shows at length, in strictly numerical terms, certain social groups are over-represented while other are underrepresented. However, for Kerr, as for many researchers on representation, the substantive dimension of political representation – i.e. the fact that

representatives defend the interests of a given group independently of their position within society – is more important. As argued by Kerr: "Even a representative from a higher social class may identify with the working class, another with the middle class, and a third with the bourgeoisie" (Kerr 1981: 32).

Who should be represented?

The Swiss Constitution provides that the members of the Federal Assembly shall vote without instructions. The purpose of this provision was to abolish the practice of the so-called *Tagatzwang*, according to which the cantonal delegates had to cast their votes following the instructions of their cantons.

Even though the parliamentarians have a free mandate, they nonetheless often feel committed to defending the interests of certain parts of the population. After all, they have been elected as "representatives". But whom do the members of the Federal Assembly represent or feel obliged to represent? Do they feel committed mainly to their canton, their party, their regional constituency, or to particular interest groups?

Analyses of votes in the National Council have shown that party membership is an important factor in explaining voting behaviour (Lüthi et al. 1991: 53ff; Lanfranchi/Lüthi 1999). All parliamentary groups show a high degree of cohesion, the SP more so than the governing bourgeois parties. While from 1920 to 1994, the value of the Rice index of the SP varied between 89 and 96, the index² of the FDP oscillated between 69 and 79. For the CVP, this index was only 60 during the legislature period 1983 – 1987 and never exceeded 76. These figures indicate that factors other than party affiliation occasionally have a stronger impact on voting behaviour, at least as far as the large bourgeois parties are concerned. This was also the conclusion of a comparative study by Loewenberg and Mans (1988), which shows that party loyalty among Swiss parliamentarians is generally lower than among MPs in Italy or Belgium. Similarly, a 1980 study by Herrig revealed that cooperation across political parties is relatively intense in Switzerland. About three quarters of the members of the Federal Assembly declared during interviews that they had collaborated or exchanged information with MPs from other parliamentary groups, if these showed a particular interest in the issue concerned (Herrig 1980: 85). Party alliances of various kinds can also be found, whereby the large bourgeois parties are usually part of the dominant alliance, while the SP and the Greens tend to be on the losing side (Lanfranchi/Lüthi 1999).

Apart from party membership, links to interest groups have the strongest impact on voting behaviour in parliament. In their study, Lüthi, Meyer and Hirter (1991: 67) created a Rice index for groups of MPs belonging to interest groups with a similar political orientation. These groups had values similar to those of the

large bourgeois parties. This implies that members of similar interest groups tend to vote with the same consistency as the members of these parties.

Geographical origin, that is, the electoral district of the MPs, can also have an impact on voting behaviour. Economic theories of politics in particular emphasise the influence of electoral districts. According to these theories, representatives vote in line with the needs and preferences of their constituency since they want to be re-elected. Vatter (1994) has demonstrated the impact of electoral districts on voting behaviour in the cantonal parliaments, especially with regard to infrastructure projects. However, this study has also shown that other factors can have an impact as well.

With the introduction of electronic voting devices, the names of the voting MPs are nowadays often made public. Consequently, a large amount of data for future research on representation is now available, allowing for in-depth analyses of voting behaviour in parliament, taking into account a large number of factors.¹⁰ In this context, it would also be interesting to analyse how parliamentarians themselves understand their role. For instance, to what extent are the conclusions of Kerr's survey (1981: 169-206) that Swiss MPs' primary points of reference are either sociological or geographical in nature still valid today?

Another interesting aspect of research on representation concerns the relationship between the representatives and their voters. In the USA, for instance, members of Congress maintain close relationships with their electorates. Grassroots work at the level of the constituency is an important part of an American MP's political work. In Switzerland, by contrast, as Hughes has shown, parliamentarians are hardly the first contact persons to which citizens address their concerns. This can be explained by the fact that the Swiss system of direct democracy is very open to well-organised interests. Consequently, contacts with parliamentarians play a lesser role in promoting one's interests. As argued by Hughes, "the system is fairly open: for about two fifths of the resident population it is very open indeed. Why concentrate on MPs?" (Hughes 1985: 235).

4 Outlook

The Swiss Federal Assembly has various legal instruments at its disposal to influence the legislative process, exercise supreme oversight, and participate in fiscal and foreign policy. Whereas the "weak position" of the parliament has been deployed for several decades, more recent studies indicate that, nowadays, the Federal Assembly is more willing and able to play the role it has been assigned by the Swiss Constitution. The main obstacles remain overly tight time frames and the lack of human and material resources. The parliament should therefore concentrate its resources on a limited number of issue areas.

The position of the Federal Assembly within the political decision-making system as a whole is a different issue. In general, the reasons for the parliament's weakness are not to be found in the parliamentary phase, but rather in the fact that it becomes involved at a relatively late stage of the political decision-making process. As a consequence, by the time proposals reach the parliament, they have been commented on by a large number of actors. Through the reform of the committee system, the parliament has been able to improve this situation somewhat. In particular, the committees are nowadays no longer composed of those same lobbyists who already dominate the pre-parliamentary process. Accordingly, the parliament is also less willing to simply accept the end-result of the pre-parliamentary process. Finally, the Federal Assembly is increasingly resorting to parliamentary initiatives in order to influence the legislative process from the very beginning.

The instruments of the Federal Assembly must also be constantly adapted to changing needs and circumstances. For instance, as "New Public Management" (NPM) was introduced in some departments of the administration, the Federal Assembly had to find ways to influence the instructions that the ministries gave to their departments. Consequently, a new legal instrument was created, giving the parliament this possibility.

Moreover, in the context of the reform of the constitution, the parliament has taken the opportunity to define some of its responsibilities more clearly, and it has established a more logical system for the legal forms of its acts.

Overall, however, the changes decided in this context are largely confined to minor issues, and thus will probably have only a limited impact on the position of the parliament within the political system as a whole.

Notes

- 1 Half-cantons elect one member to the Council of States.
- 2 If the workload is very heavy, additional sessions are held. Under certain circumstances, the Federal Council, one fourth of the members of the National Council or a minimum of five cantons (according to the new constitution, one fourth of the members of the Council of States) can request an extraordinary meeting of the Federal Assembly.
- 3 The two chambers have the following legislative committees: The Foreign Policy Committee (Auswärtige Kommission [APK]), the Committee for Science, Education and Culture (Kommission für Wissenschaft, Bildung und Kultur [WBK]), the Committee for Social Security and Public Health (Kommission für soziale Sicherheit und Gesundheit [SGK]), the Committee for the Environment, Regional Planning and Energy (Kommission für Umwelt, Raumplanung und Energie [UREK]), the Committee for Security Policy (Sicherheitspolitische Kommission [SKP]), the Committee for Traffic and Communications (Kommission für Verkehr und Fernmeldewesen [KVE]), the Committee for Economics and Taxation (Kommission für Wirtschaft und Abgaben [WAK]), the Committee for Political Institutions (Staatspolitische Kommission [SPK]), the Committee for Legal Questions (Kommission für Rechtsfragen [RK]), the Committee for Public Works (Kommission für öffentliche Bauten [KöB]).

- 4 In comparison, the German parliament had a staff of about 1700 employees in 1988, and the American Congress about 25'000 (the representatives' personal collaborators are not included in these figures) (Thaysen et al. 1988: 234).
- 5 Recent studies show that members of parliament continue to submit numerous motions: 790 motions were submitted between 1995 and 1999. You will find these data in the report of the parliamentary agency of administrative control (Parlamentarische Verwaltungskontrolle, PVK) (1999)
- 6 Following to von Wyss Swiss MPs like to behave very independent. This individual behaviour has consequences on the procedures. (von Wyss 2001: 241)
- 7 Following the project for a new law of Parliament the Federal Assembly shall, in future, decide in form of a simple decree the goals proposed by the Federal Council in the report on the main guidelines of government policy. The same it shall do with the incomes and expenses provided in the financial plan. This reform will allow the Federal Assembly to pronounce itself in a more detailed way than it is possible today, when the Parliament only can take notice of the reports of the Federal Council.
- 8 The 200 seats of the National Council are distributed among the cantons and half-cantons according to their population size. Each canton and half-canton has the right to at least one seat. The fixed number of 200 was agreed upon in 1962. According to the constitution of 1848, there should be one National Councillor per 20'000 inhabitants.
- 9 If a parliamentary group achieves the value of 100, this means that all members voted in the same way. 0 means that half of the parliamentary group voted Yes, while the other half voted No.
- 10 Jeitziner/Hohl have developed new methods to analyse the voting behaviour of MPs (Jeitziner/Hohl 1997).

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