

Véronique Zanetti

Compromise in Politics and the Politics of Compromise: The Example of Switzerland

Politics is the practice of balancing and prioritizing collective objectives and values.¹ It is the arena in which attempts are made to bring divergent interests and values to a compromise in a process of negotiation. Politics also has to do with the distribution of power – who makes decisions and who is included or excluded.

It is well known that there is a tension between democratic pluralism and social integration. On the one hand, pluralism ensures that public opinion is formed through open processes that include multiple voices. On the other hand, a stable and well-functioning democracy needs a certain level of political and social cohesion. When consensus does not seem possible but a *modus vivendi* promotes too little community spirit (*Gemeinsinn*), compromise can offer an intermediate solution. A willingness to seek and accept compromise, to set aside what divides a group in favor of what unites it, is an indispensable condition of politics. It requires a number of virtues: the goodwill with which the parties approach each other, the priority they give to seeking a peaceful solution, and the consideration they show for the dissenting position. These virtues determine a style in politics; namely the willingness to strive for understanding and cooperation.

However, compromises become necessary when disagreements have not been resolved. They are not an end in themselves; they are not what political actors primarily want to achieve. They are what groups settle on instead of an optimal solution that cannot be implemented under the given circumstances. Each of the parties in search of an agreement by means of negotiation thinks that the position of the opposing party is wrong or unjustified. In this respect, those engaged in the act of compromise are entertaining a form of cognitive dissonance because they are agreeing to something that they consider to be wrong, or at least undesirable. Compromise differs from consensus. Compromise is negotiated; consensus, because it is based on insight, is not. Compromise solutions have different degrees of agreement; consensus, by contrast, requires total agreement among all parties. Compromises are problematic both epistemologically and in terms of content.

¹ I would like to thank the editors for their comments and suggestions. An earlier version of the text was published in German: „Kompromiss in der Politik und Politik des Kompromisses. Beispiel Schweiz“, in: Normative Konstituenzien der Demokratie, hrsg. von Julian Nida-Rümelin, Timo Greger und Andreas Oldenbourg, Berlin/Boston 2024, 131–151.

They risk watering down progressive decisions and they are open to manipulation because in the process of weighing up alternative positions, one of the parties can exaggerate its preferences to influence the outcome in its favor.

I shall look here at the advantages and disadvantages of compromise in a pluralistic democracy using the example of Swiss politics. The Swiss political system is a special case in many respects. It is characterized by a combination of strong federalism and autonomous cantons (the principle of subsidiarity: the federal government is only assigned the tasks that the cantons are incapable of), strong semi-direct democracy, and a so-called *concordance* (*Konkordanzdemokratie*)² between political parties. Although it is usually true that a coalition of more than three parties has more potential for conflict and is therefore less stable, Swiss consociational democracy has been represented for decades by a coalition of the four largest parties that is remarkably stable.

Consociational democracy is another term for consensus democracy. In the Swiss case, this means that the government (the Federal Council, the *Bundesrat*, which consists of a seven-member national executive) is supported by a broad-based coalition of the largest parties that communicates decisions to the outside world as if they are the outcome of a consensus. Negotiations at every stage of the decision-making process replace the political rivalry that prevails in a majoritarian democracy with a two-party system and a one-party cabinet. The Federal Council aims for a widely supported agreement. However, I do not feel that the terms “consensus democracy” or “consociational democracy” (*Konkordanz*) are accurate for the Swiss model. Rather, I shall argue that the Swiss model is a good illustration of a compromise democracy.

When all the political actors in a country – that is, parties, organizations, and individuals – have both a direct and an indirect influence on making political decisions, it makes sense for legislators to include as many relevant opinions as possible in the process. In Switzerland, that is because political actors can prevent the government from passing laws through two instruments: facultative referenda³

2 There is no direct translation of the term “Konkordanzdemokratie.” The term is sometimes translated as “consensus democracy” (e.g., Vatter 2000). Arend Lijphart uses the term “consociational democracy.” In *Patterns of Democracy* (1999), however, he classifies Switzerland and Belgium as examples of the consensus model (35–41). I shall use consociational democracy rather than consensus democracy here because I wish to emphasize that Swiss democracy is a good example of legislation based on compromises.

3 Facultative referenda are different from compulsory (or mandatory) referenda. A facultative referendum entitles part of the voting population to initiate a referendum, whereas in a compulsory referendum, only the government is entitled to do so. A facultative referendum is bottom up. It allows citizens to oppose laws voted by the federal parliament. For the referendum to go ahead, 50,000 eligible voters must provide their signature in support of the request within 100

and initiatives can both modify the constitution. The heuristics of compromise have been perfected in Switzerland to almost an art form. Minorities work together to form a majority, federalism is deeply rooted, and the threat of a facultative referendum that hovers over every political issue means that no entity forces policies through, in contrast to countries with parliament-backed governing coalitions. Switzerland's big coalition remains stable.

Is this continuous influence of multiple political actors to be interpreted as a welcome expression of direct democracy or is it a permanent short-circuiting of the process of balanced decision-making in Parliament? That is, is the Swiss governing process a delay or a dilution of decision-making? That is the question that concerns me. As can be expected, it does not have a simple answer.

I shall first present some essential aspects of Swiss democracy and its anchoring in compromise decisions. In a second step, I shall discuss some advantages and disadvantages of direct democracy and focus on four points of criticism of this form of government. Finally, I shall weigh up the advantages and disadvantages of compromise politics.

1 Consociational Democracy and Compromise Democracy

Switzerland's federal government has for decades been represented by a broad coalition. In 1959, the four parties with the strongest electoral support – the Free Democratic Party (FDP), the Christian Democratic People's Party (CVP), the Social Democratic Party of Switzerland (SP), and the Swiss People's Party (SVP) – agreed to form a government that consisted of two Free Democrats, two Christian Democrats, two Social Democrats and one representative of the Swiss People's Party. Thus, the so-called magic formula of 2:2:2:1 was created (two seats each for the three strongest parties, one seat for the fourth strongest party). This formula remained unchanged for 44 years, until 2003. That year, the influence of the right-wing SVP became so strong that the Christian Democrats had to give up one of their seats.⁴

days. If enough signatures are collected, the contested law is put to popular vote. See information on the website of the Swiss Confederation: <<https://www.ch.ch/en/votes-and-elections/referendum/>> (accessed 14 March 2024).

⁴ Power in Switzerland is divided between the central government (*Bundesrat*, the Federal Council) and the governments of twenty cantons and six so-called half-cantons (*Ständerat*, the Council of States and the Upper House). The Lower House of Parliament (*Nationalrat*, the National Council) consists of 200 seats, the members of which are elected in proportion to the population of the

In a consociational democracy, behavior is based on cooperation, balancing interests, and bartering. Political decisions are the result of negotiations between representatives of different segments of society who are involved in collaborative decision-making. They involve all direct political actors and all social groups and organizations that have the capacity to trigger a facultative referendum and thus have a voice in the legislative process. This inevitably leads to compromises because it is very unlikely that a large plurality of interests and views will ultimately reach a consensus, even if they should seek it.

Before I proceed further, I shall define the key terms that I am using. Compromise refers to the process of making a decision or participating in a negotiation in which the parties involved have divergent and irreconcilable beliefs. Despite this, they are willing to modify the goal of their action or their action itself in a way that is acceptable to all parties but is not considered optimal by any of them (Zanetti 2022: 21).

I use the word “process” to refer to a technique – a method that determines how an action is carried out through give and take, always with a view to the respective interests of the parties.

In consensus, several actors who previously held divergent positions reach some form of agreement. Consensus may mean that one or more parties (or even all of them) change their positions. However, if parties disagree about the resolution of a conflict or about political measures and are not able to reach a consensus, then they have no choice but to compromise if they want to live together in peace (Zanetti 2022: 22).

Switzerland seems to me to be an example *par excellence* of compromise democracy. Compromise is built into the structure of the decision-making process in Swiss governance. In addition, the need to compromise is increased by the fact that every legislative decision and every legislative amendment is made in the context of the possibility that the people will prevent the government from activating laws or amendments using a facultative referendum or that they will take a position against a constitutional amendment using a popular initiative.⁵ These

cantons. The two chambers (the Upper and Lower House) have equal footing: both must examine and vote on all proposals submitted to Parliament and their decisions must coincide for a proposal to come into force.

⁵ Switzerland belongs to the group of countries with the most fragmented party systems. The parties survive largely because of the unpaid commitment of their members and they depend on donations and contributions from their supporters (Linder and Müller 2017: 102–103). Swiss parties have always been shaped by differences in the political culture of the cantons. Religion, language, and population are the decisive factors that influence the shape of the cantonal party systems and have led to different types of party systems (Linder and Müller 2017: 110).

aspects of Swiss governance are structural: a possible reaction from the people must be anticipated and taken into account with every new law or amendment. Potential popular votes hang as a sword of Damocles over parliamentary representatives and indirectly induce them to compromise or legislate more inclusively.

Above all, compromise democracy aims at embedding compromise in the process of political decision-making. If “democracy” is understood not in a merely functional sense as governance by majority rule, but as containing a strong participatory element, namely the possibility for those affected by a decision to take part in legislation regularly, either directly or through elected representatives, then compromise democracy corresponds most closely to what democracy is supposed to stand for according to the German Basic Law (*Grundgesetz*): A state power that emanates from the people (Art. 20 II GG). A reasonable balance of interests is required at a parliamentary level (within the grand coalition), as well as at the level of the manifold interactions of the various political actors. This balance exists because all parties engage with each other’s positions.

The special feature of the structure of political decision-making in the Swiss system is that compromises may be necessary because the threat of facultative referendum or initiative forces decision-makers to consider the different positions and to adjust their objectives. I mention here only the direct democratic instruments. The Swiss consultation system provides a wide range of stakeholders the opportunity to express their views and to become involved with a motion at the different pre-parliamentary stages of the decision-making process.⁶

Facultative referenda are not to be confused with top-down referenda, which are initiated by presidents or prime ministers, as was the case with Brexit, for instance.⁷ In facultative referenda, any citizen can collect signatures to correct or overturn parliamentary decisions before the law passed by Parliament comes into force. To trigger a referendum, 50,000 signatures (equivalent to approximately 1% of the Swiss electorate) must be collected within 100 days of the refer-

⁶ Linder and Müller (2017: 369) present this process as a cycle of four successive phases. See also Vatter, who says, “The political decision-making process in Switzerland is characterised by the participation of a large number of actors. In the pre-parliamentary phase, parties, associations and other actors approach the Federal Council with their proposals via parliament (e.g. with a motion), by means of a popular initiative and other channels” (Vatter 2020: 44). The Federal Council prepares a preliminary project that the interested actors can comment on. The revised draft is then submitted to the National Council or the Council of States.

⁷ “Like Brexit, the Hungarian referendum on 2 October 2016 on the distribution of refugees within the EU showed how a referendum set from ‘above’ can be abused: The government formulates the question, sets the date and does not allow alternatives to be put to the vote. Such a referendum then only has an acclamatory function” (Beck 2018: 50).

endum team officially announcing the referendum. If the authors of the referendum have collected enough valid signatures, their bill must be submitted to the people for a vote. The law comes into force only if it is approved by a simple majority of votes.

In contrast to the facultative referendum, which has an effect in the post-parliamentary phase, popular initiatives can influence the course of political decision-making during the pre-parliamentary phase.⁸ To launch a popular initiative, 100,000 valid signatures (which currently corresponds to about 2 percent of the Swiss electorate) must be collected within 18 months of the announcement of that referendum. If the initiative committee succeeds in collecting the signatures, a referendum is mandatory, unless this committee decides to withdraw the initiative. An expert commission is appointed to work out a preliminary proposal with the responsible department, which Parliament engages with before the project enters the direct-democracy phase of a referendum (Vatter 2020: 44–45).⁹ Parliament can negotiate and, if necessary, offer a counterproposal to the initiative. This phase clearly shows the compromise-promoting function of popular initiatives. An initiative requires a vote within two to three years after Parliament has made a counterproposal. A majority of votes in Parliament is required for adoption, as well as a majority of votes in more than half the cantons.

In summary, the process of reaching a compromise (as a negotiation) and the compromise itself (the outcome) are structurally promoted in almost every phase of the political decision-making process in Switzerland. Consultation, facultative referendum, and initiative induce those in power to seek compromise, either by responding to dissenting views or by anticipating them in parliamentary decisions to make legislation “referendum- and initiative-proof” (Merkel 2011: 50). The influence is indirect because the mere threat of a facultative referendum or initiative pushes the government to move towards an anticipated median voter. At the same time, it is direct because Parliament integrates parts of the initiative into a counterinitiative if necessary. Ralf-Uwe Beck summarizes the result of this process nicely: “Note that this does not take the stage away from representative de-

⁸ An announcement of the intention to reach a referendum can have an anticipatory effect on the parliamentary process. I thank Ariane Willemsen for this insight.

⁹ See Art. 139, par. 3 and 4 of the Federal Constitution of the Swiss Confederation: “If the initiative violates the unity of form, the unity of subject matter or mandatory provisions of international law, the Federal Assembly shall declare it wholly or partially invalid. If the Federal Assembly agrees with an initiative in the form of a general proposal, it shall draft the partial revision in the spirit of the initiative and submit it to the people and the cantons for a vote. If it rejects the initiative, it shall submit it to the People for a vote; the People shall decide whether the initiative is to be accepted. If it approves the initiative, the Federal Assembly shall draw up a corresponding bill.”

mocracy; it is just that from this stage there is more talking to the people and less deciding over their heads" (Beck 2018: 59; my translation).

To what extent is this influence (by which I mean people's capacity to launch a referendum or an initiative, and therefore to indirectly push the government towards compromises) to be praised and what are its weaknesses? To answer these questions, I must consider some of the merits and dangers of direct democracy.

2 Advantages and Disadvantages of Direct Democracy

The debate that surrounds the merits and dangers of direct democracy is too extensive to cover fully in this chapter. Instead, I shall focus on four points of criticism. (1) Direct democracy, first and foremost the facultative referendum, gives financially well-off groups an advantage that is often at the expense of the socially disadvantaged. Wolfgang Merkel speaks in this regard of social selectivity (Merkel 2011: 50). (2) The facultative referendum gives small interest groups a veto instrument (Borner and Rentsch 1997: 21). (3) Referenda and initiatives are increasingly becoming instruments of organized interests, including right-wing populists. This results in a *de facto* threat to minority rights, especially because Switzerland does not have a strong constitutional court. (4) This threat to minority rights is increased by the fact that popular votes (like votes in general) are anonymous and require only a yes or no answer without any mechanism for voters to justify their votes. All four points of criticism are relevant to a compromise democracy because they draw attention to the direct and indirect influence of groups that can erode the core functions of democratic institutions in the long run by undermining the balance of voices in the process of collective decision-making. If this concern relating to the erosion of democracy can be confirmed, the principle of parliamentary representative democracy could be undermined, which would have worrying consequences for Parliament's contribution to legislative institutions. Indeed, the work of the representatives of the parties, which the people have elected to operate in coalition, would be thwarted by the activism of a minority. Under such circumstances, a compromise could be in tension with the mandate that the voters had given to the representatives of their parties. In other words, the program that voters elected party representatives to follow would be watered down by the compromise.

2.1 Social Selectivity

One objection to direct democracy is that most citizens lack the time “to devote to the complicated issues in making legislation” (Christiano 2008: 104–105). Voter turnout in Switzerland is low, with average voter turnout for the period between 2011 and 2020 being only 46.0 percent.¹⁰ With fewer than half of those eligible to vote participating in elections, the representativeness of politics can be called into question. Moreover, low voter turnout reinforces the tendency towards the overrepresentation of affluent and educated classes, and with it the danger that this overrepresented group will impose conservative or neoliberal fiscal policies that will have negative consequences for the lower income strata in terms of the distribution of resources (Merkel 2011: 54; Merkel and Ritzi 2017: 21; Mayer 2017: 60).

This danger is undeniable. A study by Freitag and Vatter (2006) has shown that facultative referenda in particular act as a brake on liberal fiscal policies. According to this study, government revenues and expenditures tend to grow more slowly and per capita debt is lower where citizens can participate directly in the legislative process (Freitag and Vatter 2006: 100). Civic control over state, cantonal, or municipal expenditure goes hand in hand with austerity policies.

Overall, the influence of initiatives, facultative referenda, and popular votes on economic, fiscal, and social issues at the federal level in the period 1980–2013 show a clear tendency towards restrictions of liberal distribution policies. Of the 54 popular votes related to the distribution of financial resources, “70.4 per cent took a restrictive outcome and only 29.6 per cent a progressive one” (Mayer 2017: 60). Municipalities with representative constitutions have up to 20 percent more tax revenue and expenditures than municipalities that had referenda in the period 1986–1997 (Feld and Kirchgässner 2000, quoted in Merkel 2014: 17).

Whether the direct democratic institutions in Switzerland work to the disadvantage of the socially weak is nevertheless questionable (Feld et al. 2010). Markus Freitag and Adrian Vatter see more of a pendulum swing between right- and left-leaning movements.

[T]he use of direct democracy, measured by the annual number of fiscal referendums, popular initiatives, and popular votes, turns out to be of little significance to fiscal policy. The annual number of popular votes has a slightly negative influence on the tax state. [. . .] The reason for this lies in the high degree of polarization between left- and right-wing parties

¹⁰ See the figures from the Federal Statistical Office: *Volksabstimmung vom 18. Juni 2023: Nationale und regionale Ergebnisse*, and *Das BFS-Angebot zur eidgenössischen Abstimmung vom 18. Juni 2023*.

within the Swiss party system, which leads to the fact that initiatives which are launched go in opposite directions. In line with social democratic views, left-wing parties try to impose a heavier fiscal burden on high-income taxpayers by means of tax increase initiatives; bourgeois parties, on the other hand, launch tax cut initiatives to reduce state intervention, given that low tax rates entail low public expenditure. In the end, the effects of the opposing requests neutralize one another. (Freitag and Vatter 2006: 100, 103)

The analyses also do not seem to confirm the assumption that initiatives or referenda favor financially strong actors (Mayer 2017: 68; Kriesi 2007: 90). Nevertheless, the powerful influence of groups, whether right-wing or left-wing, is never off the table, especially because referenda require the signature of only 1 percent of Swiss voters and initiatives require the signatures of only 2 percent.

2.2 The Influence of Populism

In 2003, Switzerland experienced a clear shift to the political right with the election of Christoph Blocher (SVP) to the Federal Council. This election gave the SVP a second Federal Council seat and broke the so-called magic formula.¹¹ This gain was at the expense of the Christian Democrats (CVP, now the center party). In addition, this was only the third time in the history of the Swiss Confederation that a candidate running for re-election to the Federal Council did not win. The SVP was resolutely opposed to Switzerland's membership of the European Union and in favor of a restrictive asylum policy (more on this below). Such a shift to the right is not unique to Switzerland; it can be observed in many European countries. The fact that right-wing parties are strongly committed to direct democracy (e.g., in 2014, the UK Independence Party, the Sweden Democrats, and the Alternative for Germany, among other right-wing parties, formed a European platform called the Alliance for Direct Democracy in Europe) is grist for the mill of skeptics of direct democracy (Mudde 2007; Merkel 2011).

I would argue that a well-functioning direct democracy can undermine the logic of populism and subvert the rhetoric of populist and ethno-nationalist politicians and movements (Trechsel and Sciarini 1998). According to Ralf-Uwe Beck, direct democracy even complicates the blame game that right-wing populists play:

¹¹ As I write these lines (October 23, 2023), Swiss people just voted in a new *Nationalrat* (National Council) and *Bundesrat* (Federal Council). The right-wing party SVP won 27.93 percent of the total votes with a campaign that focused almost exclusively on the issues of asylum, migration, and national security. *Nationalratswahlen: Korrektur bei den publizierten nationalen Parteistärken 2023*.

Social states of affairs can no longer be blamed on official politics alone. The finger with which people point at “politics” and suggest that “the people up there do what they want anyway” is turned back on themselves with direct democracy: if they do not agree with politics, they can seek a direct decision independently of it. The feeling of being left powerless with one’s own disappointment can be “worked on” and channeled into political activity. This also removes the ground [for] frustrated scolding or mobbing. (Beck 2018: 59; my translation)

In Switzerland, citizens can decide on a wide variety of issues, some of which affect them directly, such as health care, pension reform, road construction, and environmental regulations. This presumably ensures that the concerns of all stakeholders are considered politically. Voters who find themselves in the minority on one issue may be in the majority on another.

The frequent consultations that characterize Swiss politics create a context of constantly changing majorities and minorities at the voter level and undermine populist ideology and its projection of a unified popular will (Stojanovic 2011: 104–105). This fluctuation in majority coalitions can act as a counterforce against the channeling influence of populist movements, which feeds on the voters’ discontent and their sense of powerlessness against the “political elite.” According to Fatke and Freitag: “Our empirical findings suggest that the political opportunity of direct democracy is associated with a lower individual probability to attend demonstrations” (Fatke and Freitag 2013: 253).¹² Marc Bühlmann argues along the same lines, namely that the German Islamophobic populist movement Pegida has not succeeded in gaining a foothold in Switzerland; there have been numerous attempts from populist movements similar to Pegida to influence Swiss public opinion but they have never achieved much success (Bühlmann 2015: 582). Of course, this does not rule out the possibility that one of the reasons may be that the Swiss People’s Party (SVP) is already established as having an Islamophobic agenda. The point is that the protests may find their way to the voting booth instead of demonstrations.

It is important to remember that many critics of direct democracy have in mind a system in which citizens decide directly on all laws. However, the Swiss democratic system is hybrid in nature. Direct democracy complements but does not replace the institutions of representative democracy. The executive and Parliament have up to 30 months to submit a direct or indirect counterproposal to an initiative. Two paths are then open: either the initiative committee chooses to withdraw the initiative and the voters will vote only on Parliament’s counterpro-

¹² See also Kriesi and Trechsel (2008), Bühlmann (2015), Caroni and Vatter (2016), Stutzer and Frey (2000).

posal, or both proposals will be submitted to the people for a vote. This is the phase when the strong incentive to compromise becomes apparent. The activism of right-wing populist movements must not be equated with the influence of populist parties such as the SVP in Switzerland. Admittedly, the difference between the substantive political message of the populist movement and the SVP is not remarkable. However, because the SVP is part of the grand coalition, its representatives in the government are forced to negotiate with the other parties and thus moderate their demands (depending on the majority in the Federal Council). Thus, it is the political role of the parties within an overall structure that needs to be analyzed.

It is undeniable that populist parties have an influence on negotiations and that their positions shape compromises. My point, however, is that populist movements in a direct democracy like Switzerland do not have the influence on the population that skeptics of direct democracy attribute to them. The multiple popular votes on the COVID-19 law in the wake of referenda provide an interesting underpinning example. There have been three facultative referenda initiated by opponents of the COVID-19 measures. However, the majority of voters clearly rejected all of them, which enabled the Parliament to continue to take necessary measures against the pandemic. This gave the government a valuable signal of popular support for the parliamentary revisions of the law at a time when the COVID-19 measures were particularly contested in many other democratic countries.¹³

2.3 Protection of Minority Rights

Bruno Frey and Lorenz Goette (1998: 1344) listed twelve popular initiatives in Switzerland in the period 1970–1996 that aimed to limit the number of immigrants. Three of them (25 percent) had an anti-minority outcome. Discrimination against noncitizens and people of Islamic faith also increased in the results of referenda in the period 2006–2016 (Mayer 2017: 65). Six of the ten referenda were discriminatory against Muslims. These included the popular initiatives “Against the construction of minarets” in 2009 (which 57.5 percent voted in favor of) and “For the deportation of criminal foreigners” (“Ausschaffungsinitiative”) in 2011 (which 52.9 percent voted in favor of).

¹³ For official information from the Confederation on the second vote, see the vote of November 28, 2021 on the COVID-19 law: *Covid-19-Gesetz. Schweizerische Eidgenossenschaft*. I thank Ariane Willemse for this piece of information.

It should not be concluded from this that all minorities are threatened by direct democracy in Switzerland. These results do not apply to language minorities, for example, or to members of the LGBTQ+ community or to people with disabilities. Acceptance – or rejection – clearly has to do with the degree of integration of the group. And although Islamic communities are the largest religious minority group, comprising 5.4 percent of the population (Bundesamt für Statistiken 2022), Muslims – about 90 percent of whom are persons without Swiss citizenship – remain poorly integrated (Mayer 2017: 647; see also Christmann 2010, 2011). As Vatter and Danaci (2010: 205) point out: “The empirical findings indicate that direct democracy is not *per se* a majority-democratic sword with a sharp blade or, conversely, an effective shield for minorities, but that its effect depends strongly on the degree of social integration of the minority concerned and its perception as a foreign group.”

While Parliament has relatively great leeway to implement minority-friendly laws in a representative democracy, especially when the next election remains far ahead, its members must fear that a policy that is too inclusive will provoke a referendum or an initiative. In such a case, anticipatory compromise runs through parliamentary policy initiatives regarding inclusiveness and strengthens populist positions against religious minorities. Christmann (2011: 129) writes that “with the threat of referendums, drafts are checked in advance for broad consensus and modified towards the preferences of the median voter to prevent rejection. Regardless of whether referendums actually take place, politics thus moves closer to the median voter.”

According to Vatter, towards the end of the twentieth century parliamentary debates in the cantons on the recognition of Muslim religious communities made it clear that in many cases, the government would have been more willing to protect certain cultural rights if they had not had the threat of referenda or initiatives (Vatter 2011: 284–285). It seems evident that cantonal parliaments and the federal Parliament are more willing to protect religious minorities and asylum rights than their policies would suggest (Christmann 2010: 10).¹⁴ For example, a study by Hainmueller and Hangartner shows that naturalization rates increased by some 60 percent in municipalities where politicians, rather than citizens, made decisions about naturalization applications.¹⁵

These findings illustrate the restraining effect of potential compromises on parliamentary democratic procedures: Parliament is influenced by the prospect

¹⁴ In Switzerland, legislation on religious matters is the responsibility of the cantons.

¹⁵ “We find that naturalization rates surged by about 60% once politicians rather than citizens began deciding on naturalization applications. Whereas voters in referenda face no cost [for] arbitrarily rejecting qualified applicants based on discriminatory preferences, politicians in the

of a possible rejection of its proposals during the legislative process and formulates a minority-friendly bill that is more limited in scope than the views of the majority of parliamentarians (Christmann 2011; Mayer 2017: 65).

The insecure status of religious minorities and the danger for some minorities that have little chance of integration are magnified by the lack of a strong constitutional jurisdiction. In contrast to Germany, Canada, and the United States, Switzerland does not have a constitutional court (Vatter 2020: 481). The Federal Supreme Court, the highest judicial authority, shares with other state organs the task of ensuring compliance with the constitution (Vatter 2020: 501). The validity of popular initiatives, for example, is examined and decided by the Federal Assembly, not the Federal Supreme Court. Critical voices question the political neutrality of the Federal Supreme Court, especially because it is the Federal Assembly that elects judges to the Court. As Vatter points out: “The guideline for the political distribution of seats on the Federal Supreme Court is thereby *the strength of the parliamentary groups in the United Federal Assembly*” (Vatter 2020: 492; original emphasis). Because of this political reality, the number of independent federal judges has steadily decreased.

Although constitutional jurisdiction in Switzerland is considered to be weak compared with that of other Organisations for Economic Co-operation and Development countries (Vatter 2020: 512), it is bound by norms of international law and is responsible for reviewing federal laws for their conformity with that law (Tschanne 2016). For example, as a member of the Council of Europe, Switzerland is committed to guarantee its citizens the protection of the European Convention on Human Rights. In case of conflict, international law takes precedence over the Federal Constitution.

In summary, it has been established that with regard to certain cultural and religious minorities, namely those resulting from the immigration of persons and groups from non-Western and non-Christian contexts, structural compromises tend to strengthen conservative forces and hamper the ability of Parliament to pass more liberal measures. This effect might reinforce fears about the influence of populist movements on political decisions.

council are constrained to formally justify rejections and may be held accountable by judicial review. Consistent with this mechanism, the increase in naturalization rates caused by switching from direct to representative democracy is much stronger for more marginalized immigrant groups and in areas where voters are more xenophobic or where judicial review is more salient” (Hainmueller and Hangartner 2019: 530).

2.4 Lack of Deliberation

A final criticism of the influence of direct democracy on legislation that I would like to consider draws attention to the absence of a deliberative process. In contrast to decision-makers in the representative arena, who are under some pressure to justify their positions to their peers, voters express themselves anonymously with a simple yes or no.

Deliberative democracy theorists view direct democracy with suspicion. Critics have argued that direct democracy cannot properly satisfy any of the four ideal conditions of deliberative democracy that Joshua Cohen (1997) has articulated: (1) open participation and free deliberation among equals; (2) communicative competence and force of argument; (3) equality of resources, status, and respect among participants; and (4) decision-making by consensus. In parliamentary processes, different perspectives are included, experts are consulted, and views are exchanged. Bartering (so-called logrolling) is part of the typical process of reaching compromise decisions. Claus Offe (1992: 132–133) speaks of a “law of re-encounter” (“Gesetz des Wiedersehens”) in parliamentary bodies: participants have to count on the fact that other members of the Parliament can test their statements for credibility, expertise, and sincerity, which necessitates a minimum level of commitment and expertise. In public votes, in contrast, “there are no compromises, no inclusion, but only the naked yes or no” (Merkel 2014: 19).

This criticism is true regarding the vote itself. However, it underestimates the democratic commitment that should be emplaced for a public vote to take place, which is particularly strong when it comes to gathering votes for an initiative or a referendum. Sympathizers must be found for a specific cause. Committed groups collect signatures, organize demonstrations and debates, invite people to media conferences, launch fundraising appeals, operate Internet sites and discussion forums, and so forth. A social conflict is thus raised as a topic and deepened: not only are supporters and allies mobilized, but opponents are also encouraged to take a public stand (Linder and Müller 2017: 163). “[I]nitiatives and referendums have a particular advantage in incentivizing mass conversation-like exchanges about policy issues between ordinary citizens and their representatives” (el-Wakil 2020: 39).¹⁶ Similarly, “the availability of bottom-up referendum processes indirectly enhances electoral representation by bringing uncertainty to elected representatives, who have additional incentives to anticipate and stay in

¹⁶ Complementary survey data present empirical evidence that extended political participation rights increase citizens’ incentive to inform themselves on political issues (see Benz and Stutzer 2004). My thanks to Karsten Mause and Manon Westphal for both valuable references.

dialogue with larger parts of the citizenry" (Cheneval & el-Wakil 2018: 299; quoted in el-Wakil 2020: 41).

These additional incentives on both levels of deliberative democracy should not be overestimated. However, in the case of Switzerland there is no doubt that it contributes to a perception that political events do not take place exclusively behind the closed doors of Parliament. When citizens are directly involved in decision-making, they are more likely to accept decisions and to view the process as legitimate.

3 Final Remarks: The Ambivalences of Compromise Democracy

One of the norms of democracy is that it presupposes an equal standing of citizens (as expressed in the principle of one person one vote) and thus postulates an equal degree of individual freedom for all citizens. What is taken for granted in modern societies and has been praised as a value of liberal societies (at least since Rawls's *Political Liberalism* [1993]), namely the free expression of plural convictions, remains a challenge for political theory. Cultural diversity is characterized by sometimes incompatible conceptions of what is supposed to be good for a society and what holds it together. In a context of social and cultural pluralism, the certainty of a community-forming idea shared by all that could justify and thus legitimize a political system is lost. At the most, a *volonté générale* can be spoken of in the sense of the ideal of an "overlapping consensus" towards which one orients oneself to justify obligations that are assumed to be shared, but the attainability of that consensus cannot be relied on.

In a pluralistic democracy, willingness to compromise between decision-makers but also within a population is an indispensable condition of politics and of the cohesion of a society. A culture of compromise can help to curb or avoid strong polarization within the political landscape. Compromises qua compromises, however, are mere instruments in the service of conflict resolution. As such, they are neither good nor bad and offer little justification for systematizing their use. As instruments, they are neither principled nor governed by rules and norms. Like a buoy, they are tossed back and forth by shifting currents, and this makes them thoroughly suspect.

I have pointed out that a peculiarity of the Swiss political system is its systematic incorporation of compromise-building. "This fine art of political adjustment" is evident within the large coalition, which succeeds in communicating its "concordance" to the outside world as a respectful and peaceful balancing and bring-

ing together of different positions. It can also be seen at different levels of political decision-making, where the diversity of concerns is brought to the government from the outside in various forms. Instruments of direct democracy bring an agonistic element into politics, which must be leveled out by the grand coalition and molded into laws in a consensus or compromise process. Compromises, therefore, although structurally promoted at almost every stage of political decision-making, *de facto* take place at the level of the Parliament (Bundesrat).

“Democracy,” writes Prantl (2016), “is not the tearing of knots, but a sometimes very laborious unraveling, a long, persistent, joint tugging and pulling. This is laborious; but in the end, the cords are still intact and usable.” I view the highly integrative power of Swiss politics, the system’s inherent ability to lend an ear to and accommodate a diversity of voices, and the high potential flexibility in decision-making as particular democratic strengths. However, if one considers the compromises made within Swiss politics alongside these strengths, then the results of the balancing are mixed.

On a positive note, the consociational system is very inclusive because of the cooperation of the various governing parties with Parliament and among themselves. This leads to a policy of understanding among decision-makers and between decision-makers and committed citizens. The serious search for jointly supported solutions creates a climate of trust when those who are affected sense a real effort to ensure that their demands are being taken seriously and that they are being treated with respect. This climate of trust, in turn, contributes to a broadly shared sense of the government’s legitimacy and to greater political stability because the people are not inclined to elect new coalitions.

Like consensus, compromise is a cooperative rather than a disruptive mode of politics. Actors who are willing to compromise make concessions to each other to foster political cooperation. The instruments of the referendum and the initiative prompt the government and decision-makers (by which I mean broader political agents) to consider the opinion of the population in the form of anticipated median voters. The comparably strong involvement of the voters in political decisions is a considerable motivational factor for the population to get involved in political issues. It can also foster a culture of exchange and transparency in which the plurality of opinions is displayed and taken into account. The kind of demos that direct democracy produces, if it succeeds, is not “the people” that populists invoke, but rather a pluralistic political community.

However, the strong involvement of the electorate and the stabilizing craft of compromise come at a price. There is a danger that compromise can erode the plurality of the political space. This can take various forms. Certain parties are excluded from Switzerland’s consociational government, which, because of its established rigidity, provides them with little chance of governance. This can give

the appearance of avoiding real confrontations. Compromises in which a middle ground is achieved also run the risk of mitigating political differences and watering down ambitious goals. This can lead to deep disappointment among party supporters. Voters may even respond by voting for more extremist parties (Ruser and Machin 2017: 6). In Switzerland, this risk has been verified in relation to asylum and migration policies and in relation to the rights of religious minorities. Studies show that in many cases the political elite has proven to be more progressive and open-minded than the electorate. The pressure that referenda and initiatives exert in the direction of compromise can exclude genuine alternatives and pave the way for policies that tend to be culturally conservative instead of radical reforms, including in the areas of economic and social policy. Although analyses do not confirm the suspicion that instruments of direct democracy favor financially strong actors, they do confirm a clear liberal tendency in Switzerland's policies regarding the distribution of social and economic resources.

Just as compromises stand in the way of clear positioning, consociational democracy and the negotiation it requires make it difficult for political leaders to set priorities on their own. Opposing demands can also lead to political stalemate and narrow the room for the action of the Federal Council and Parliament (Linder and Müller 2017: 164). Thus, political leadership by the Bundesrat and clear prioritization of goals are hardly possible. Finally, complaints that popular initiatives and referenda have long failed to mobilize even half of the population are justified. Thus, these instruments cannot really be counted as the voice of the popular majority.

Living democracies cannot be better than their institutions and the citizens who use them and keep them alive. Compared with other democracies, Switzerland's democratic system entrusts citizens with an enormous potential to participate at different levels of decision-making. This is reinforced, as we have seen, by the fact that citizens' participation in draft legislation and amendments is partly guaranteed via the path of compromise. How good the compromises are will have to be judged on a case-by-case basis. As long as a culture of exchange of views in the spirit of freedom of belief and conviction, a minimum level of respect for the opinions of others, and tolerance for a diversity of lifestyles exist, one may rely on the wisdom of the judgement of the majority.

A compromise-based democracy needs an institutional framework in which a culture of exchange and dispute can flourish. The danger that the interest of a single group will become the will of the state can be contained only to the degree that the democracy's political norms ensure that as many perspectives as possible are included and will be heard. However, this presupposes that basic principles and rules of deliberative democracy are guaranteed by law and are not themselves the subject of compromise.

Works Cited

- Beck, Ralf Uwe (2018) "Mehr (direkte) Demokratie wagen in Zeiten des Rechtspopulismus," *Zeitschrift für Menschenrechte* 12.2, 46–64.
- Benz, Matthias, and Alois Stutzer (2004) "Are Voters Better Informed when They have a Larger Say in Politics? Evidence for the European Union and Switzerland," *Public Choice* 119.1/2, 31–59.
- Borner, Silvio, and Hans Rentsch (1997) *Wieviel direkte Demokratie verträgt die Schweiz?* (Chur/Zurich: Rüegger).
- Bühlmann, Marc (2015) "Reformbedarf in der direkten Demokratie? Elitistische Einsprüche, partizipatorische Ansprüche und prozedurale Gelassenheit," *Leges* 26.3, 571–583.
- Caroni, Flavia, and Adrian Vatter (2016) "Vom Ventil zum Wahlkampfinstrument? Eine empirische Analyse zum Funktionswandel der Volksinitiative," *Leges* 27.2, 189–210.
- Cheneval, Francis, and Alice el-Wakil (2018) "The Institutional Design of Referendums: Bottom-Up and Bringing," *Swiss Political Science Review* 24.3, 294–304.
- Christiano, Thomas (2008) *The Constitution of Equality. Democratic Authority and Its Limits* (Oxford: Oxford University Press).
- Christmann, Anna (2010) "Damoklesschwert Referendum? Die indirekte Wirkung ausgebauter Volksrechte auf die Rechte religiöser Minderheiten," *Swiss Political Science Review* 16.1, 1–41.
- Christmann, Anna (2011) "Direkte Demokratie als Damoklesschwert?," in *Vom Schächt- zum Minarettverbot: Religiöse Minderheiten in der direkten Demokratie*, ed. Adrian Vatter (Zurich: Verlag Neue Zürcher Zeitung), 121–143.
- Cohen, Joshua (1997) "Deliberation and Democratic Legitimacy," in *Deliberative Democracy. Essays on Reason and Politics*, ed. James Bohman and William Rehg (Cambridge, MA: MIT Press), 67–91.
- El-Wakil, Alice (2020) "Supporting Deliberative System with Referendums and Initiatives," *Journal of Deliberative Democracy* 16.1, 37–45.
- Fatke, Matthias, and Markus Freitag (2013) "Direct Democracy: Protest Catalyst or Protest Alternative?," *Political Behaviour* 35.2, 237–260.
- Feld, Lars, Justina Fischer, and Gebhard Kirchgässner (2010) "The Effect of Direct Democracy on Income Redistribution: Evidence for Switzerland," *Economic Inquiry* 48.4, 817–840.
- Feld, Lars, and Gebhard Kirchgässner (2000) "Direct Democracy, Political Culture, and the Outcome of Economic Policy: A Report on the Swiss Experience," *European Journal of Political Economy* 16.2, 287–306.
- Freitag, Markus, and Adrian Vatter (2006) "Initiatives, Referendums, and the Tax State," *Journal of European Public Policy* 13.1, 89–112.
- Frey, Bruno, and Lorenz Goette (1998) "Does the Popular Vote Destroy Civil Rights?," *American Journal of Political Science* 42.4, 1343–1348.
- Hainmueller, Jens, and Dominik Hangartner (2019) "Does Direct Democracy Hurt Immigrant Minorities? Evidence from Naturalization Decisions in Switzerland," *American Journal of Political Science* 63.3, 530–547.
- Kriesi, Hanspeter (2007) "The Role of the Political Elite in Swiss Direct-democratic Votes," in *Direct Democracy in Europe: Developments and Prospects*, ed. Zoltán Tibor Pállinger et al. (Wiesbaden: VS Verlag für Sozialwissenschaften), 82–93.
- Kriesi, Hanspeter, and Alexander Trechsel (2008) *The Politics of Switzerland: Continuity and Change in a Consensus Democracy* (Cambridge: Cambridge University Press).
- Lijphart, Arend (1999) *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New-Haven/London: Yale University Press).

- Linder, Wolf, and Sean Müller (2017) *Schweizerische Demokratie: Institutionen – Prozesse – Perspektiven* (Bern: Haupt).
- Mayer, Christoph (2017) "Direkte Demokratie in der Schweiz," in *Die Legitimität direkter Demokratie: Wie demokratisch sind Volksabstimmungen*, ed. Wolfgang Merkel and Claudia Ritzi (Wiesbaden: Springer), 51–72.
- Merkel, Wolfgang (2011) "Volksabstimmungen: Illusion und Realität," *Aus Politik und Zeitgeschichte* 61.44/45, 47–55.
- Merkel, Wolfgang (2014) *Direkte Demokratie: Referenden aus demokratietheoretischer und sozialdemokratischer Sicht* (Bonn: Friedrich Ebert Stiftung).
- Merkel, Wolfgang, and Claudia Ritzi (eds) (2017) *Die Legitimität direkter Demokratie: Wie demokratisch sind Volksabstimmungen?* (Wiesbaden: Springer).
- Mudde, Cas (2007) *Populist Radical Right Parties in Europe* (Cambridge: Cambridge University Press).
- Offe, Claus (1992) "Wider scheinradikale Gesten. Die Verfassungspolitik auf der Suche nach dem 'Volkswillen,'" in *Die Kontroverse: Weizsäckers Parteienkritik in der Diskussion*, ed. Gunter Hofmann and Werner A. Perger (Frankfurt a. M.: Eichborn), 126–142.
- Prantl, Heribert (2016) "Ein Hoch auf den Kompromiss," *Süddeutsche Zeitung*, 3 April 2016, <<https://www.sueddeutsche.de/politik/essay-ein-hoch-auf-den-kompromiss-1.2927339>> (accessed 23 October 2023).
- Rawls, John (1993) *Political Liberalism* (New York: Columbia University Press).
- Ruser, Alexander, and Amanda Machin (2017) *Against Political Compromise* (London/New York: Routledge).
- Stojanovic, Nenad (2011) "Limits of Consociationalism and Possible Alternatives. Centripetal Effects of Direct Democracy in a Multiethnic Society," *Transitions* 51.1–2, 99–114.
- Stutzer, Alois, and Bruno Frey (2000) "Stärkere Volksrechte – zufriedenere Bürger: eine mikroökonometrische Untersuchung für die Schweiz," *Swiss Political Science Review* 6.3, 1–30.
- Trechsel, Alexander H., and Pascal Sciarini (1998) "Direct Democracy in Switzerland: Do Elites Matter?," *European Journal of Political Research* 33.1, 99–124.
- Tschannen, Pierre (2016) *Staatsrecht der Schweizerischen Eidgenossenschaft* (Bern: Stämpfli).
- Vatter, Adrian (2020). *Das politische System der Schweiz*, 4th edn (Baden-Baden: Nomos).
- Vatter, Adrian (ed) (2011). *Vom Schächt- zum Minarettverbot: Religiöse Minderheiten in der direkten Demokratie* (Zurich: Verlag Neue Zürcher Zeitung).
- Vatter, Adrian, and Deniz Danaci (2010) "Mehrheitstyrannie durch Volksentscheide? Zum Spannungsverhältnis zwischen direkter Demokratie und Minderheitenschutz," *Politische Vierteljahresschrift* 51.2, 205–222.
- Zanetti, Véronique (2022) *Spielarten des Kompromisses* (Berlin: Suhrkamp).

Internet sources

- Das BFS-Angebot zur eidgenössischen Abstimmung vom 18. Juni 2023, Schweizerische Eidgenossenschaft*, <<https://www.bfs.admin.ch/bfs/de/home/statistiken/politik/abstimmungen.gnpdetail.2023-0369.html>> (accessed 20 October 2023).

- Covid-19-Gesetz. Schweizerische Eidgenossenschaft*, <<https://www.admin.ch/gov/de/start/dokumentation/abstimmungen/20230618/covid-19-gesetz.html>> (accessed 23 October 2023).
- Nationalratswahlen: Korrektur bei den publizierten nationalen Parteistärken 2023*, <<https://www.elections.admin.ch/de/ch/>> (accessed 23 October 2023).
- Volksabstimmung vom 18. Juni 2023: Nationale und regionale Ergebnisse, Schweizerische Eidgenossenschaft*, <<https://www.bfs.admin.ch/bfs/de/home/statistiken/politik/abstimmungen/gnpdetail.2023-0370.html>> (accessed 20 October 2023).