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Switzerland: Moving towards Evaluation

Katia Horber-Papazian and Laurent Thévoz

Introduction

If evaluation is taken as being an attempt to explain the outcomes of legislation or a policy, and to measure its effectiveness and efficiency against preset objectives, it must be admitted that evaluation of this kind is uncommon in Switzerland. Which is effectively to say that the Swiss system currently contains few evaluative processes operated to formal, explicitly stated rules.

And yet evaluation does occur in the form of the expressly provided control mechanisms applied by a variety of agencies. But that type of evaluation appears to be inadequate and ineffectual in coping either with the new demands emerging from a spectrum of political outlooks or the increase in volume and complexity of state programs to be implemented. These various factors raise four main questions, which the present paper seeks to answer:

- What features peculiar to the Swiss politico-administrative system condition the implementation of all public policies?
- How has the system operated to date with regard to evaluation?
- Why and by whom have doubts been raised about the existing machinery?
- How is evaluation of legislation and public policy to enter the Swiss system?

Description of the Swiss System

The peculiarities of the Swiss system arise out of its politico-administrative framework (federalism, local implementation, and "subsidiarity")

or last-resort intervention), its political culture based on consensus, and its financial rigor. These characteristics may be at once assets and liabilities in the implementation of public policies.

Federalism

The Confederation, cantons (26), and communes or municipalities (3,029) are all units of government with autonomous, historically established powers (Knapp 1987) deriving from their own legal, financial, political, and human rights and resources.

Given that, all—or nearly all—federal policies require cooperation between authorities from all three tiers of government who must be capable of intervening throughout the implementation process.

The areas in which the Confederation has exclusive jurisdictional autonomy are limited to defense, foreign policy, and external trade policy.

The communal (municipal) and cantonal authorities are very close to their publics in the geographical, social, and electoral senses. The resources available to these subnational governments enables the needs of the population and special interest groups to be taken into account and met at the lowest levels of administration.

This local government autonomy frequently leads to new federal laws being passed after cantonal or communal ordinances covering the same matter, producing a situation in which the overlay of public policies deriving from different levels of government leads to an intermeshing, if not a contradiction in objectives and means, which can only be untangled or reconciled with difficulty (Morand 1987).

Local Implementation

By “local implementation” we mean the rule by which—save in very rare instances—cantons have the power to make decisions and implement federal policy locally, in the great majority of cases with federal funds. As a general rule, there are no decentralized federal agencies operating at cantonal or communal level to accomplish, direct, and supervise the application of federal laws.

The Confederation’s ability to step in and take over from a canton which has failed to perform its implementing tasks represents the federal government’s chief concurrent right over the application of federal laws. While that right is very rarely exercised, the Confederation may, by contrast, request any federally aided canton to report on its activities.

The advantage of this implementing federalism is the ability, where cooperation exists between the authorities and where pressure groups

are favorable to the policy followed, to adapt implementation of federal laws to space- and time-specific cases and situations.

Where a federal law is an outline law, or merely reserves ultimate policy supervision powers to the Confederation, then that alone devolves full implementing responsibility to the cantons.

Subsidiarity, or (Last-Resort Intervention)

The principle of subsidiarity, widely accepted and applied in Switzerland, effectively provides that government will not intervene to meet an identified social need unless and until civil society (in the form of individuals, private organizations, associations, or market forces) have proved manifestly incapable of responding to it. The further consequence of that is that the federal government will not assume a responsibility which can be assumed by the communes, the cantons, or both. The same principle governs relations between canton and commune. The simplicity and clarity of this principle, however, falls down over the difficulty of ensuring adherence to it in all cases of public-authority intervention.

Consensus

To lessen the risk of referenda and assure institutional stability, the Swiss system endeavors to come to terms with (almost) all interests and to attract the support of the great majority. This is not made any easier by the fragmentation of Swiss society by language divisions (French, German, Italian, and Romansch), religious divisions (Protestant and Catholic), political differences (a dozen or so parties), and marked regional disparities.

To obtain a consensus, the federal government embarks on consultation with cantons and with leading established associations and interest groups. This consultation, of vital importance in the preparation of legislation, is supplemented by consultation channeled through a network of extra-parliamentary committees. Some 10 percent of the 370 or so committees of this type are involved in the preparation of legislation. The composition of these committees is: 21.6 percent federal administrators, 20.5 percent cantonal and communal representatives, 22.1 percent business-representatives, and 11.3 percent university representatives (Ger-mann and Fruttiger 1981).

It is at these different levels that compromises are negotiated and consensus is forged, the price for the latter being guarantees that each party’s interests will be taken into account on the one hand, and the assurance of public support on the other—sometimes at the expense of a solution to the real underlying problem.

Financial Rigor

Switzerland has a time-honored, all-pervading attachment to savings and the containment of public spending. The influence of this tradition is hard to pin down in any practical sense; nonetheless it manifests itself, diffusely but in a real sense, throughout all levels of all public agencies. The effect has been to instill in government agencies and the public alike, as an item of faith, the principle that a sound policy is a low-cost policy or one unlikely to produce a deficit in the local authority budget. This attitude finds concrete expression in federal, cantonal, and communal fiscal legislation setting public agencies the medium-term objective of balancing their budgets. It is open to question, however, whether the quest for financial break-even at all costs does not in fact lead to budget cuts whose effect is to jeopardize and cast doubt on the implementation of centrally decided measures.

The Machinery of Control

How, in the context described above, are comprehensive policies to be conducted, needs appraised, objectives defined, and the steps taken towards attaining them monitored, target publics identified, and resources determined; most of all, how are we to evaluate whether the expected outcomes have been attained or not, whether the results are due to the efforts made or other factors, and whether the resources mobilized have been deployed to good purpose?

Do the available methods of control fulfill those functions?

Parliamentary Control of Government Activity

The Federal Assembly (Parliament) is composed of two chambers, the National Council (two hundred members elected directly, generally for four years, by proportional representation) and the Council of States (forty-six members representing the cantons, elected by majority vote for four years). The Federal Assembly is the supreme supervisory agency of federal government and management. Both chambers have identical powers, and statutes are passed by assent of both chambers.

The Parliament elects the federal government, which comprises seven members drawn from the four largest parties: the Radicals (Liberals), the Socialists, the Christian Democrats, and the Center Democrats (People's Party), which between them represent some 85 percent of all votes.

The government is collectively responsible for its decisions, and is the supreme managerial and executive authority of the Confederation. It

directs federal business and public administration, and exercises constant supervision over the administrative system (Aubert 1967).

The Assembly has various methods of control at its disposal:

- questions or challenges to members of the executive branch;
- requests that the government examine whether particular measures should not be adopted;
- motions calling upon the government to take certain steps;
- the creation of parliamentary committees as watchdogs to monitor developments in specific issue or sectors;
- management committees in both chambers; these are Parliament's chief means of control.

These committees enable the Federal Assembly to examine past activities (after-the-event control) of the Federal Council and the administrative and judicial branches, chiefly to determine whether the authorities concerned have correctly discharged the responsibilities devolved to them by the Constitution and by statute, and whether the decisions taken are politically timely and advisable (Mastronardi 1987).

The government also lays before the Federal Assembly a detailed annual report on its management of federal business, in addition to which it must prepare an entirely separate report on measures put into effect and the actual outcomes in specific areas of exclusive jurisdiction (assistance to universities, external economic measures, international humanitarian aid, and agricultural policy).

These various controls are limited by factors inherent to the separation of powers, the type of controls implemented, and the characteristics of Parliament.

Separation of powers Its examination once completed, the Federal Assembly can only accept the report submitted to it or request further information on any particular matter. It could virtually refuse to accept political responsibility for the decisions taken, but has no powers whatever to squash a decision. Its role is confined to pointing out mistakes and illegalities and drawing the government's attention to them.

Type of control The Federal Assembly operates after-the-event controls, chiefly regarding opportuneness; these therefore vary with the political majority and current trends in thinking.

Characteristics of Parliament Parliament is a body of nonspecialists which, given the complexity of the matters before it and the limited time available, does not always have the resources to carry out its supervisory duty and finds itself obliged to devolve the lion's share of its control duties to parliamentary committees. The dispersion of supervision

among different committees produces a lack of coherence in supervision policy and, given the volume of work, leads to control very much on a case-by-case basis (Mader 1985).

Financial Control

Switzerland has no Court of Audit. Financial supervision is handled by a relatively independent division of the Department of Finance: the Financial Control Division.

Parliamentary control over finances is exercised by a finance committee for each chamber and a standing committee, the Office of the Delegate for Finance.

The chief criteria for financial control lie in the justifications of expenditure and compliance with their statutory basis.

The main liability of this form of financial control — and it is a substantial one — is its failure to address the question of variance from the objectives of expenditure, or to permit any genuine questioning of expenditure. This drawback is inherent to the type of control applied and the paucity of information available to the controlling agencies.

Administrative Control

Tentative experiments with policy evaluation have been tried by the federal administration (road safety, old-age insurance), but currently operated administrative controls reflect a preoccupation with rationalization, practicability, and the efficacy of administrative activities more than a concern with the effects of central government measures whose implementation is often in the hands of different departments and authorities. This can partly be explained by the poor information flow between departments and layers of government (federal, cantonal, and communal), and partly by the additional work load that evaluation means for an administrative system with a virtually zero-growth establishment.

Judicial Control

Judicial controls are exercised by the cantonal courts and the Federal Tribunal (a court of final resort, one of whose chief tasks is to ensure the unified application of federal law).

The purpose of this judicial control is chiefly to ensure that the administration does not exceed its legal power and does not infringe on personal freedoms. These controls are exercised only in legal proceedings, and are thus merely case-by-case controls. Chiefly concerned with whether the

law has been validly applied (that is, concerned with constitutionality and legality), they do not address the question of opportuneness, and only very occasionally do they allow for measurement of the true impacts of norms in social reality (too few controls on too few occasions) (Mader 1985).

Federal Supervision of Cantons

In the majority of cases, the Confederation formulates the broad outlines of laws, and cantons put them into effect.

The Federal Council, or the appropriate departments, have the power to monitor implementation by requesting activity reports from the implementing authority. These reports are most usually called for in areas of federally aided activity. If irregularities are found to have occurred, the responsible central department will ask the canton to rectify it. The Confederation can exert financial pressure on recalcitrant cantons (withdrawal of grants or of their share of federal revenues) or even implement the policy on behalf of the canton. These sanctions are rarely applied.

Political Control by the Citizenry

In a semi-direct democracy such as Switzerland, citizens have a number of political rights. In addition to freedom of expression through elections and ballots, Swiss citizens can also make their views known through petitions, referenda, and initiatives.

Referenda Referenda at cantonal and federal levels are compulsory for amendments to the Constitution. In contrast, federal referenda are optional for legislation, and are held only where requisitioned by fifty thousand electors or eight cantons (optional referenda are requisitioned for some 10 percent of statutes).

Initiatives The right of initiative enables voters in cantons to propose laws and legislative and constitutional amendments. Federal initiatives exist only for constitutional amendments. One hundred thousand signatures are required for a total or partial revision of the Constitution (only three initiatives have been accepted by the electorate since 1891.)

These two important rights allow Swiss citizens to veto proposed parliamentary bills, to force popular consultation by way of referenda, and, in the case of initiatives, to prompt the authorities to address previously ignored problems. While such manifestations of public opinion enable the legislature to take the pulse of the nation or reveal the existence of a problem, they provide no real feedback on government initiatives in that they emerge in an indeterminate manner on specific problems evinced by disparate special interest groups.

Comments

The various mechanisms described above show that, in Switzerland, evaluation (if evaluation there be) is first and foremost after-the-event control of legality or opportuneness, and very rarely control of efficiency or effectiveness. This is equally true at all levels of government—federal, cantonal, and communal. This type of control provides only an incomplete picture of the impacts of centrally determined measures, and only in rare cases does it resolve the problems of public policy formulation and implementation.

Very generally prompted by a ground swell of public opinion (calls for information by organized groups or by the opposition), the evaluation undertaken, or whatever type, is applied only on a spot basis to meet actual problems, doubts, or crises. Conducted by administrators or extra-parliamentary committees, its rules are imprecise and rarely formalized.

Descriptive of a situation at a given moment in time, it offers only a superficial diagnosis in the absence of a complete checkup. Moreover, it works on the assumption that positive-control results (for example, lawfulness, opportune policy, no cost overrun) indicate a sound policy which must, perforce, have the desired outcomes. The measure-to-outcome link is thus considered to be direct. But our brief sketch of the peculiarities of the Swiss politico-administrative system has revealed that its complexity, coupled with the intermeshing of responsibilities, gives considerable cause for doubting the validity of that assumption, chiefly on the following grounds.

- The Confederation has limited power to conduct a comprehensive policy on its own; that is, it relies on the implementing actors.
- The implementing actors are close to the target public. While highly favorable to the implementation of cantonal and communal policies, that very closeness may, when it comes to federal policies, lead to the policy objectives being interpreted in the light of local interests and hence to a diversion of its primary objectives.
- The intermeshing federal and cantonal objectives occasionally conflict.
- It is difficult, because of the need for consensus, to set clear objectives directly referable to the problem at hand and to the needs of those affected.

Together, these problems highlight the need for the politico-administrative system to develop formalized machinery for evaluation, to be used systematically and unambiguously at all stages from the making of public policy to analysis of its impacts.

But is the political climate conducive to such an approach?

A Political Climate Conducive to Evaluation

The growing complexity of government tasks and the problems to be addressed leave the citizen feeling increasingly "left out and left behind".

The citizen has three available options: be resigned to the fact, continue to have confidence in the authorities, or call the authorities to account. For decades, the Swiss have had confidence and closed ranks, and nothing seemed about to change that.

Two major incidents in Swiss political life upset this particular apple cart, however. The first was the 1964 "Mirage" affair. A massive overexpenditure for the purchase of Mirage fighter aircraft, disclosed by the government to the Federal Assembly, brought home to the parliamentarians the extent of their dependence on the federal executive, particularly with regard to information, and they resolved to strengthen their means of control (Urio 1972).

The second incident occurred in the 1970s when, following the approval of an initiative to halt all foreign immigration into Switzerland, the Swiss had to face up to their new image as xenophobes. These crises brought latent conflicts to a head, throwing the sometimes highly rose-tinted image of Switzerland into question (Reszler 1986).

The discontent, initially confined to a few lone voices crying in the wilderness, swelled with the economic crisis into a broader debate just as the federal, cantonal, and communal executives were acquiring wider tasks in economic, social, transport, and environmental policy. The questioning of the choices made, the desire to contain public spending, the year of state interference in too many areas (such as health and agriculture), and fierce opposition to federal policy planning (for example, national trunk roads) or constrictive policies (such as energy policy) saw the role of the state and the technocrats being questioned in an increasing number of circles.

The Right wants to "roll back the state," the Left seeks "a more caring state." Proponents of both views need arguments to back up their claims. But arguments are built on information about state activities and their outcomes, the effectiveness and efficiency of lawfully taken decisions. This quest for information is reflected in Parliament by questions and motions addressed to the government. The answers received often appear very vague and inadequate. At the same time, a wind of rationalization and cost-consciousness is blowing through the Swiss administrative system, reflected in a freeze on new recruitment and budget cuts. Here again, information is lacking with which to define the criteria on which reductions are based in the areas affected.

Existing machinery does not seem appropriate to cope with these new demands. And while lawyers and political analysts may have been the first to say so, the government is now taking up the baton.

The backdrop to the situation just described is a steady and regular withdrawal by electors from participation in public affairs, most markedly at the federal level. Some observers interpret this loss of public interest as a questioning of state activities. The issue then is the credibility and legitimacy of the public authorities. Given that, politicians may see evaluation as a way of demonstrating their determination to go further towards meeting the electorate's needs and of investing the interventions by public authorities with legitimate authority.

Which Way Forward for Evaluation in Switzerland?

In the face of the as-yet hazy perception of this very slowly emerging new need, the Federal Department of Justice and Public Order assumed responsibility, after intervention by Parliament, for setting up a think tank of civil servants and outside experts on the need for, and conditions of, legislative evaluation. The group was set up in late 1987.

At the same time, a five-million-franc national research program was announced, to be run under the aegis of the Swiss National Research Fund, beginning in 1989. The aim will be to increase understanding of the methods of funding, of optimization, and of the effects of the various implementing instruments, and to address a major need felt by the official political and scientific bodies and administrative agencies. The research will be expected to provide answers to these questions. Should the objectives be fixed and should expected outcomes be legislated on or not? Is state intervention justified? What cases should be left to self-evaluation, placing reliance on the actors of economic and social life or market forces? (All these are taken from the national program.) This first real effort at scientific research into evaluation in Switzerland — where studies to date on public policies have centered chiefly on the decision-making and implementing processes (Linder 1987) — should result in cross-disciplinary studies conducted in close cooperation with practitioners, focusing on concrete problems.

While the group of experts in overall charge of the program has still to define the areas for analysis, central importance will nonetheless attach to determining what type of evaluative procedures will be most suited to the Swiss politico-administrative system, and in what conditions they should be applied to ensure that their findings are usable and used.

References

- Aubert, J. F. 1967. *Traité de droit constitutionnel*. Vol. 1 et 2. Paris: Dalloz.
- Bundesamfur, J. 1985. *Bericht der Arbeitsgruppe "Gesetzevaluation"*. Bern: Eidg. Justiz- und Polizeidepartement.
- Buschor, E. 1987. *Les buts et les limites du contrôle administratif*. Rapport de la Conférence annuelle de la Société Suisse des sciences administratives 7. Bern.
- Delley, J. D. 1984. *La mise en oeuvre des politiques publiques in Manuel Système politique de la Suisse*. vol. 2. Bern-Stuttgart: Haupt.
- Germann, R., and A. Fruttiger. 1981. *Ausserparlamentarische Kommissionen: die Milizverwaltung des Bundes*. Bern.
- Jans, A. 1985. "Einige Bemerkungen zur Politikevaluation in der Schweiz." Paper for the European Group of Public Administration. Leuven, Belgium. 3-6 September.
- Knapp, B. 1987. "La Confédération et les cantons; l'influence des crises sur l'évolution de leurs relations." *La Suisse, Pouvoirs* no. 43, Paris: PUF.
- Kloti, U. 1987. *Regierungsprogramm und Entscheidungsprozess*. Bern-Stuttgart: Haupt.
- Linder, W. 1987. *La décision politique en Suisse: Genèse et mise en oeuvre de la législation*. Lausanne: Réalités sociales.
- Mader, L. 1985. *L'évaluation législative: Pour une analyse empirique des effets de la législation*. Lausanne: Payot.
- Mastronardi, P. 1987. *Les commissions de gestion et le contrôle de l'impact de l'action étatique*. Lausanne: IDHEAP.
- Morand, C.-A. 1987. "La formation et la mise en oeuvre du droit." *La Suisse, Pouvoirs* no. 43, Paris: PUF.
- Reszler, A. 1986. *Mythes et identité de la Suisse*. Genève: Georg.
- Schmid, G. 1983. "Funktionen des Rechts im politischen System der Schweiz." in *Manuel Système politique de la Suisse* 1. Bern-Stuttgart: Haupt.
- Urio, P. 1972. *L'affaire des Mirages: Décision administrative et contrôle parlementaire*. Genève: Médecine et Hygiène.