

CANTONAL AUTONOMY AND FEDERAL BALANCE: THE SWISS MODEL OF DECENTRALIZED FEDERALISM

by

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ABSTRACT

The paper studies the case for federalism in Switzerland. While the Switzerland due to its historical reasons called itself a confederation, however in practice it is a federation as in its name itself they have incorporated the word 'federal constitution'. Switzerland follows a unique model of federalism which is decentralized federalism. Danile Elazar has preferred to call Switzerland as a system of "Self- rule, Shared Rule" which shows the unique decentralization in Switzerland. While Art. 3 of Swiss Constitution guarantees the autonomy of Cantons at the same time it puts the limitation of consistency with federal law. While Art. 49 explicitly mentions the predominance of Federal Law and restricts Cantons from making any provision inconsistent with such law, yet it also restricts Federal Govt. from interfering in the internal matters of Cantons. The paper has studied and critically examined the federalism and Decentralization of power in Switzerland on the basis of Written or Unwritten constitution, Rigidity of Constitution, Independence of Judiciary, Distribution of Power, No. of Constitutions, Amendment Procedure, Citizenship, emergency Provisions, Fiscal Federalism and relation between Confederation, Cantons and Communes. It also contends that the history of Switzerland has played a pivotal role in structuring the constitution and federal structure of Swiss Federalism.

Keywords: Asymmetrical Decentralization, Cantonal Sovereignty, Co-operative Federalism, Intergovernmental Relations, Direct Democracy.

Introduction:

The basic structure of any government and nation is dependent on the origin of power having its foundation in its own history and experience of the people. It can be said that federalism is a migration of power from central to subnational governments.¹ It is long been regarded as an instrument to protect the diversity, geography and unity of a nation but its practical implementation varies from jurisdictions. India, Canada, USA all have federalist character but its implementation varies which is based on its history. The term federalism was 1st coined by the founding fathers of the United States at Philadelphia in 1787.² Switzerland having an impact of US constitution and French revolution adopted the most modern form of federalism that is decentralized federalism. Switzerland as a country never been under any monarchical government. From the initial days it had the autonomy of Cantons. The idea of confederation was 1st time used in Switzerland in 1291, when three communes of Uri, Schwyz and Unterwalden Signed a federal charter also known as founding document of Swiss confederation.³ Switzerland became a federal state in 1848, inspired by US it established bicameral parliament with national council as lower house and upper house as council of states.⁴ Over the year through total revisions in 1874 and 1999, It has also well-defined the relationships between Confederation, Cantons and Communes in its Constitution. However, it is yet to know that whether the constitution of Switzerland actually adopted decentralized Federalism.

The contemporary relevance of this inquiry is underscored by the scale of federal arrangements adopted worldwide, with comparative scholarship estimating that approximately twenty five countries, together accounting for over forty per cent of the world's population, presently function as federations of one form or another.⁵ This wide but far from uniform adoption of the federal idea lends comparative weight to a focused study of Switzerland, whose model of decentralization is often regarded as amongst the most far reaching of any federation in practice.

¹ Jonathan Rodden, Comparative Federalism and Decentralization: On Meaning and Measurement, 36 COMPARATIVE POLITICS 481 (2004), <https://www.jstor.org/stable/4150172>.

² Douglas V. Verney, Federalism, Federative Systems, and Federations: The United States, Canada, and India, 25 PUBLIUS 81 (1995), <https://www.jstor.org/stable/3330829>.

³ Magnaghi, Russell M. & Plummer, Marguerite R., Swiss Confederation, EBSCO (2023), <https://www.ebsco.com>.

⁴ Paolo Dardanelli & Sean Mueller, Dynamic De/Centralization in Switzerland, 1848–2010, 49 PUBLIUS: THE JOURNAL OF FEDERALISM 138 (2019), <https://academic.oup.com/publius/article/49/1/138/4259427>.

⁵ SAGE Publications, 'Federalism' in International Encyclopedia of Political Science (SAGE Reference 2011) <<https://sk.sagepub.com/ency/edvol/embed/intlpoliticalscience/chpt/federalism>> accessed 19 September 2026.

The researcher has adopted doctrinal, explanatory, exploratory and descriptive form of research model to study and understand the decentralized federalism in Switzerland with the help of Constitution of Switzerland, Books and Research Articles. As Alexis de Tocqueville has argued that the modern democracies should be politically centralized but administratively decentralized. The study aims to understand the decentralization of power in Swiss Confederation.

Research Question:

1. Whether the history of Switzerland has played a role in shaping the structure of its Federalism?
2. Whether the Constitutional Model of Switzerland allows it to have decentralized federal structure?

Hypothesis:

The History of Switzerland has played a very important role in determining structure of government and Swiss Constitution allows the Cantonal Autonomy and the Constitutional Decentralized structure of Federalism.

Literature Review:

The researcher has review six books and three journal articles for the better understanding of this research. Dr. Durga Das Basu has written two books, Selected Constitutions of the World (Including International Charters)⁶ which only a compilation of Constitution of 27 Countries. It does not go beyond the original texts of the said countries, among this the constitution of Swiss is mentioned in Chapter No. 24 where he has incorporated the constitution of 1874 . His second book named as Comparative Federalism⁷ has explained and compared Indian federal features with other countries on the basis of nature of Federalism, Citizenship, Distribution of power among organs of government at central and state, Emergency Provisions, Union State relations, Relation between state inter- se, etc. Constitutions and The Classics Patterns of Constitutional Thought from Fortescue to Bentham by D. J. Galligan,⁸ In this book the author has discussed the view of Alexander Hamilton a philosopher and his understanding of the term

⁶ Dr. D.D. Basu, Select Constitutions of the World (Including International Charters) (4th ed. 2009).

⁷ DR. D.D. BASU, COMPARATIVE FEDERALISM (2nd ed. 2007).

⁸ D. J. Galligan, Constitutions and the Classics Pattern of Constitutional Thought from Fortescue to Bentham (1st ed. 2014).

“Confederate Republic” according to him the term signifies the association of several states into one larger and more powerful Union. He claimed that this arrangement could prevent encroachment of any single member against the rest and help in preventing insurrection that might arise in any constituent republic. In the book *Constitutions of the World* written by M. V. Payee⁹, the author has compiled the bare text of constitutions of 66 countries, it is published in 2 volumes among which the 2nd vol chapter 62 is about Constitution of Swiss Confederation with amendments till 2017. Then in the book of *Comparative Federalism Constitutional Arrangements and Case Law* by Francesco Palermo and Karl Kossler,¹⁰ the author has coined three essentials of a confederal federalism which are first, it is a union of independent states ruled by international law. Second, there should be unanimity in fundamental decisions thus providing each state the power of Veto. Third, Confederation is dependent on the financial power provided by the states and lacks its own fund. It will help the researcher to understand and compare the Swiss federation. Teresa Ter-Minassian has written a book on fiscal federalism and its impact on the country, the book is written in 1997 titled as *Fiscal Federalism in Theory and Practice*¹¹, the author has emphasized that Swiss government has tried to overcome the tax jungle created by the association of Cantons by their Fiscal policies. All this works of author will help the researcher to understand the Cantonal autonomy and the decentralized federalism in Switzerland.

Methodology:

The researcher has adopted doctrinal, explanatory, descriptive and analytical research methodology to study and examine the functioning of cantonal autonomy in the federal structure of Switzerland. The researcher has used Constitution of Switzerland and India to study and compare the feature, while the study has mainly used secondary data which includes Books, Scholarly articles, policy reports and official document which will help the researcher to analyze and study the structure and governance of Swiss federation.

Concept of Federalism and Decentralization:

Federalism is a constitutional and political concept, it refers to a system of governance in which power is divided between a central authority and regional units, where both operate within their

⁹ M. V. Paylee, *The Constitution of Swiss (Switzerland) Confederation*, 1999, in *Constitutions of the World* 2239 (5th ed. 2017).

¹⁰ FRANCESCO PALERMO & KARL KOSSLER, *COMPARATIVE FEDERALISM CONSTITUTIONAL ARRANGEMENTS AND CASE LAW* (2019).

¹¹ Teresa Ter-Minassian, *Fiscal Federalism in Theory and Practice* (1997).

own competence and power given by the Constitution. According to Daniel J. Elazar, it is fundamentally based on the principle of “Shared Rule and Self- rule”, which he explains as a type of government where that both levels of govt. derive their authority from the constitution and they are not subordinate to each other while working in their own domain.¹² Depending upon the extent of autonomy granted to constituent units and the powers available for intergovernmental cooperation the federal system significantly varies in practice.¹³ On the basis of variation in autonomy and power the federalism is divided into two categories Dual Federalism and Co-operative Federalism. Dual federalism is characterized by a clear division of powers, where central and regional governments function independently within their respective domains. In contrast, cooperative federalism involves overlapping responsibilities and a greater degree of interaction and collaboration between levels of government.¹⁴ Daniel Elazar in 1994 estimated that half of 180 states in all around the world are Federal States but later in 2013, Ronald Watts a leading scholar determined that only 23 states have Full fledged federal states.¹⁵

Decentralization is often viewed by scholars as a shift of authority from central to local government where the central government's authority over economy and society is fixed.¹⁶ Currently there is no precise definition of Decentralization but the Center for the study of Federalism at Temple University, Philadelphia founded by Daniel J. Elazar in 1967, has attempted to define it. According to them it is a transfer of specific type of decision- making or administrative authority from central or higher- level entity to subordinate field, regional and/or local entities.¹⁷ The definition shows that decentralization can be between any government entity, it can be either Central- State, or any other administrative agency, it can be transferred through constitutionally or legislatively. Some scholars consider that the transfer of certain specific government function to the private entity is also decentralization however, the center argues that it will not be decentralization but “Privatization”.¹⁸ It can be said that in federalism when a power is transferred from one Government body that is constitutional or statutory to another then only it can be called as decentralization in its strict sense.

¹² Ronald L. Watts, Daniel J. Elazar: Comparative Federalism and Post-Statism, 30 PUBLIUS 155 (2000), <https://www.jstor.org/stable/3330936>.

¹³ Verney, *supra* note 2.

¹⁴ S.A. Palekar, Federalism: A Conceptual Analysis, 67 THE INDIAN JOURNAL OF POLITICAL SCIENCE 303 (2006).

¹⁵ FRANCESCO PALERMO AND KARL KOSSLER, *supra* note 10.

¹⁶ Rodden, *supra* note 1.

¹⁷ Decentralization, CENTER FOR THE STUDY OF FEDERALISM, <https://federalism.org/encyclopedia/no-topic/decentralization/> (last visited Apr. 6, 2026).

¹⁸ *Id.*

There is major three types of Decentralization:

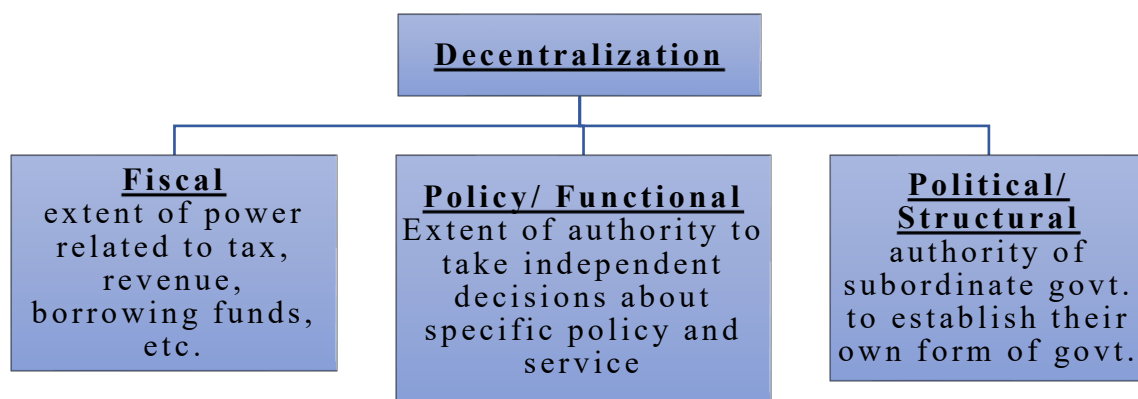


Table No. 01 Types of Decentralization¹⁹

Decentralization can be symmetrical meaning the same level and scope of decision making or administrative power to all regional and local govt. and another is asymmetrical which means unequal distribution of power among the subordinate entities.²⁰ The federalism is a concept of division of power whereas decentralization is a transfer of power. This both concepts derive their power from the constitution or legislature and theoretically works independent from their parent entity.

History of Swiss Federation:

Switzerland was made up of Cantons was originally a fully independent and sovereign entities. It was first created to defend the valley of the central Alps and facilitate commerce by securing trails through the mountains, the alliance was formed under special authorization of the Holy Roman Empire to create political union of towns and villages that are part of then Cantons.²¹ In 1291 a Federal Charter was signed between the communes of Uri, Schwyz and Unterwalden which is considered as the founding document of the confederacy, later in 1388 an agreement was signed between cantons which prohibited them from initiating a war against third party without prior consent from all other cantons.²² It is worth noting that the significance now attached to the 1291 Charter is itself substantially a product of later historiography, as the original parchment received little contemporary attention and lay largely forgotten for centuries, only being rediscovered in the Schwyz archives in 1758 and subsequently elevated

¹⁹ Rodden, supra note 1.

²⁰ Decentralization, supra note 17.

²¹ A Short History of Confederations, (Apr. 4, 2026),

https://www.culturaldiplomacy.org/index.php?en_hlc_appendix-a-short-history-of-confederations.

²² Id.

to the status of a national founding symbol during the nineteenth century.²³ This later commemorative construction does not diminish the document's legal significance but situates the conventional historical narrative of Swiss federalism within its proper historiographical context. From then onwards many initiatives were taken like in 15th century a federal diet was created which mediated and adjudicated internal conflicts, 17th century the era of religious conflict which resulted into the toll of French revolution in Swiss confederation where the French community invited French army to invade the confederacy, leading to its collapse in 1798.²⁴ In 1798 Napoleon's troops invaded the territory and established the unitary Helvetic Republic, but the system failed and after five years Napoleon took another measure that is decentralization by means of a decree called as "Mediation Act", after the death of Napoleon Bonapart the Swiss Reverted back to its original system of independence of Cantons.²⁵ In 1840's the Switzerland liberal movement consisting of 22 Cantons came into conflict with the conservative Roman Catholic cantons over the issue of taxation of church property, abolition of monasteries and abolition of Jesuit order.²⁶ With the experiences from past Switzerland became a federal state in 1848, after the USA Swiss can be considered as second oldest federation in the world. This change was not peaceful at all after the centuries of experience the seven catholic cantons were opposed to the change resulting into the eruption of civil war which lasted till three weeks and left very few casualties.²⁷ Historical accounts of this conflict, known as the Sonderbund War of November 1847, confirm its comparatively restrained character, recording roughly one hundred combat deaths out of nearly one hundred and fifty thousand men mobilised on both sides, a remarkably low casualty count for a civil war of that scale.²⁸ This restraint has often been attributed to the discipline of the federal commander, General Guillaume Henri Dufour, whose conduct during the campaign later informed his role in founding the International Committee of the Red Cross. The Document consisting of 104 Articles was passed on 12 September, 1848, which is heavily influenced by USA and French Revolution. The very 1st Article defines Switzerland as a confederation of the united people of

²³ Federal Chancellery of Switzerland, 'Das Spätmittelalter' (post2015.admin.ch) <https://www.post2015.admin.ch/content/dam/PRS-Web/en/dokumente/das-spaetmittelalter_EN.pdf> accessed 19 September 2026.

²⁴ Id.

²⁵ Peter Schweizer, Federalism in Switzerland, 18 INDIA INTERNATIONAL CENTRE QUARTERLY 161 (1991), <https://www.jstor.org/stable/23002254>.

²⁶ Magnaghi, Russell M. and Plummer, Marguerite R., supra note 3.

²⁷ Peter Schweizer, supra note 25.

²⁸ 'A Very Civil War – Inside Switzerland's Astonishingly Polite Armed Conflict of 1847' (Military History Now, 27 February 2019) <<https://militaryhistorynow.com/2019/02/27/charm-offensive-switzerlands-polite-war-of-1847>> accessed 19 September 2026.

the Cantons. In 1848 there were initially 22 cantons but later after revisions the New Constitution of 1999, named as Constitution of Swiss Confederation (Switzerland), 1999 came into force on 1st January, 2000 It became 26 cantons read as “The Swiss people and the Cantons of..... (26 cantons) form the Swiss Federation”.²⁹ Article 3 of Swiss Constitution defines Cantons as Sovereign entity so far as they can exercise the rights which are not transferred to the Federation.³⁰

Since 1291 to 1999 the Swiss Government has gone through significant changes. Even although the Siss became federal in 1848 which is the second federal after US, having influenced by them the Swiss government did not accept executive form of Government as from their past experiences they feared the never-ending loop of Tyranny. Hence, they did not confer the absolute power in the hand of one authority and adopted decentralized model.

The concept of Confederation:

Palermo and Kossler have provided a stringent definition of Confederation. They define it as a union of independent states that transfer only limited parts of their sovereignty to a government with enumerated and rather limited scope of responsibilities.³¹ However the scope can not be only limited to one or two powers. Hence, they have also provided three essential elements that are needed to exist to call a federation or organization a Confederation.

Three Elements of Confederation:³²

1. A Confederation is a union of independent states which is ruled by international law rather than by constitutional law.
2. The Fundamental decision shall be taken by unanimity, which grants power to each state to participate and have Veto power in every Federal decision.
3. The confederation is highly dependent upon the funds transferred by the states which means it does not have their own funds.

Traditionally, even although the Switzerland calls itself a confederation, yet it does not fit itself into the water tight compartments of the essentials provided by Palermo and Kossler. The first constitution of Switzerland in 1848 was approved by 15 and one-half Cantons and rejected by 6 and one-half Cantons, by majority rule they adopted the said documents. Even in 1999 the

²⁹ M. V. Paylee, *supra* note 9.

³⁰ *Id.*

³¹ FRANCESCO PALERMO AND KARL KOSSLER, *supra* note 10 at 35.

³² *Id.* at page. 35.

Constitution was adopted by the majority of 59.2% and 14 out of 26 Cantons.³³ So, in stricter sense it cannot be said as confederation of cantons but a federation of Switzerland.

This terminological inconsistency is not confined to constitutional theory alone, as the country's official Latin name, Confoederatio Helvetica, continues to be used precisely because a Latin designation avoids favouring any one of the country's four national languages.³⁴ The persistence of this nomenclature illustrates how considerations of linguistic neutrality, rather than a strict constitutional classification, have shaped Switzerland's continued official self-description as a confederation notwithstanding its federal structure.

Constitutional Structure of Swiss Federalism and Decentralization:

In the Swiss Constitution of Swiss Confederation, 1999 the various provisions provide for the federal system. This system consists of three levels namely Federal Govt, Cantons and communes. There is no exclusive list of subject matter in mentioned in the constitution of Switzerland. The constitution of Switzerland was after its enactment revised two times 1874 and 1999. K. C. Wheare while defining classical federalism gave a traditional concept of Federalism and applied a test to access whether a govt. is federal or not, the test is simply determines whether the government embody predominantly a division of power between general and regional authorities, which in its own sphere independent and coordinate to each other.³⁵

According to Palekar the classical theorist has enunciate some conditions for a system to be a federal system, which is as following:³⁶

1. A written constitution

Swiss Constitution is a written constitution. It has been completely revised twice since its enactment in 1848. The first revision was in 1874, after 16 years of the enactment of original constitution. This gave federal government centralized power over military matters. The second revision was in 1999, which is also known as third federal constitution of the country, by which the present administration works.

³³ Swiss Constitution, PARLAMENT OF SWISS FEDERAL CONSTITUTION, <https://www.parlament.ch/en/%C3%BCber-das-parlament/how-does-the-swiss-parliament-work/Rules-governing-parliamentary-procedures/federal-constitution> (last visited Apr. 7, 2026).

³⁴ Rosie Frost, 'Why Is Switzerland CH? The Swiss Country Code Explained' (IamExpat in Switzerland) <<https://www.iamexpat.ch/expat-info/swiss-expat-news/why-switzerland-ch-swiss-country-code-explained>> accessed 19 September 2026.

³⁵ S.A. Palekar, supra note 14.

³⁶ Id.

2. Rigid Constitution

The Swiss constitution can be called as rigid as the procedure is quite complex. The method of constitutional revision is discussed in chapters III (Section III) of the constitution of, 1874. The process can be initiated by either house of parliament, but to revise it shall be approved by both houses of federal assembly, majority of Cantons and Majority of Citizens of Switzerland. The provision of referendum given under Art. 140 ensure the rigidity and democracy in the Constitution.³⁷

3. Independent Judiciary

The Switzerland has a federal court established under Art. 188 which is known as Federal Tribunal, established to settle disputes between the Cantons. Each Cantons has their own Court of Justice Known as Cantonal Court elected and administered through the Cantonal Constitution, established under Art. 191 B and the District Court elected by the authority or by the people of district. Switzerland is Civil law country hence each case is decided by its own merits rather than Doctrine of Precedence.³⁸ While Art. 191 C explicitly talks about Independence of the Judiciary, as they are independent in exercising their power and only bound by Law.³⁹

4. Distribution of Power

The Swiss federation enjoys decentralization as cantons enjoys their autonomy. As Daniel Elazar Staed it as a “Self-Rule, Shared rule”.⁴⁰ The structure of Swiss Federation can be broken down into three branches of govt. namely:

A. Legislative: The Federal Govt. in legislative branch is composed of two houses: Council of States and National Council. It is Addressed formally as Federal Council in art. 148 of Swiss Constitution, 1999.⁴¹

Council of States: It is the Upper house of Federal Assembly. Irrespective of the population and size of the Canton, entitled to two representatives and one from each half Canton.

³⁷ M. V. Paylee, supra note 9.

³⁸ Wolf Linder, Federalism: The Case of Switzerland, 1 INTERNATIONAL RELATIONS AND DIPLOMACY (2013), <https://wolf-linder.ch/wp-content/uploads/2021/01/Federalism-The-case-of-Switzerland-2013.pdf>.

³⁹ M. V. Paylee, supra note 9 Art. 191 C.

⁴⁰ Ronald L. Watts, supra note 12.

⁴¹ M. V. Paylee, supra note 9 Art. 148.

According to Art. 150 Presently there are 20 Cantons and 6 Half Cantons making the composition as 46 members.⁴² Each Canton decides the procedure of election, tenure, salary and allowances of their own representative, therefore there is no uniform method of election.

National Council: It is the Lower house of parliament, also known as house of Swiss people. According to Art. 149, there shall be 200 members representing the people of Switzerland, the seats will be distributed among the cantons according to the population.⁴³ However it also states that each Canton and a half Cantons shall minimum of 1 seat in the national Council. These members are elected for the tenure of 4 yrs. The council elects its own Chairperson, and Vice Chairperson for ordinary and extraordinary seating for the term of 1 yr.

B. Executive Branch:

The executive branch of Swiss Government is known as Federal Council. All executive power of federation is vested in the council. The following table will explain the structure and composition of Executive branch:

Article	Provision
Art. 174	It defines Federal Council as the highest governing and executive authority of the confederation.
Art.175	Deals with Composition and election of the members of Council. Total 7 members are elected from the National Council of Federal Assembly for the term of four years.
Art. 176	From the seven members 1 member is elected as the President, another as Vice- President. They can be re-elected infinitely. They are also elected by the National Council.

Table No. 02 Executives Branch of Swiss Federation.⁴⁴

This federal Council is heterogeneous group of politicians. They are not chosen on the basis of parties but their ability of Administer. They can be of different Parties, but according to Art. 177 they have adopted the principle of Collegial which stated that all decisions shall be taken collectively.⁴⁵ Lord Bryce has remarked that the Federal Council, ‘stands outside party, is not chosen to do party work, does not determine party policy, yet is not wholly without some party color’.⁴⁶ The President and Vice president enjoys same powers, functions, status and facilities

⁴² Id.

⁴³ Id.

⁴⁴ The Constitution of Swiss Confederation, 1999 Id. Art. 174, 175, 176.

⁴⁵ The Constitution of Swiss Confederation, 1999 M. V. Paylee, supra note 9 Art. 177.

⁴⁶ Peter Schweizer, supra note 25.

as that of other members of the Federal Council. However, President is a ceremonial head in all official settings whenever requires and can cast a vote in case of tie.

C. Judiciary⁴⁷

Art. 188 provide for the status of Federal supreme court as Supreme Judicial Authority of the Confederation. Art. 189, enumerates the jurisdiction of Federal Supreme court as it hears disputes concerning violation of: Federal Law, International Law, Inter- Cantonal Law, Cantonal Constitutional Rights, The autonomy of the communes and other cantonal guarantees in favour of public law corporations, federal and cantonal provisions on political rights. It also hears disputes between Confederation and Cantons or between Cantons.

5. Two Constitutions:

Federal Structure of Switzerland provides for two constitutions. One for the Federalism while the other will be regarding internal administration of the states. It can be better understood by following Articles:

Art 51: Provides for each canton shall have democratic constitution and all modification to existing constitution or the new constitution shall be submitted to Federation which will guarantee that it is not contrary to federal law.⁴⁸

Art. 3: Provides that the Cantons are subject to Federal Constitution.

These two provisions provide for the two constitutions of the Swiss Federation while one handles the Federal matter and other deals with the internal administration of the Cantons.

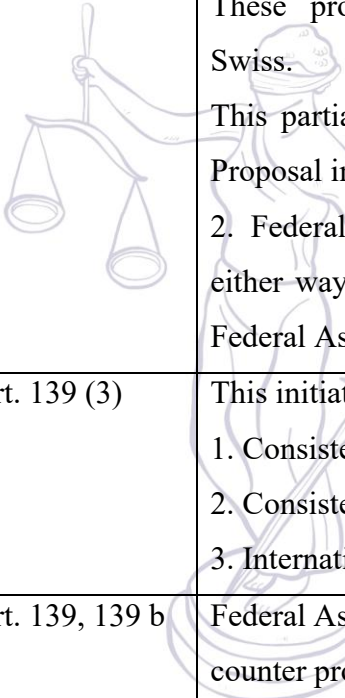
6. Amendment Procedure:

Amendment in Switzerland can be initiated by both houses of Federal Assembly and People as well with the voting of 100,000 citizens. Federal Assembly can Accept such proposal, reject it or propose a counter proposal nevertheless it is in the hand of people and canton whether such proposal is accepted or rejected. This procedure shows the popular sovereignty and will of people. We can understand it in a better way through following table no 03.

Aspect	Articles (1999 Constitution)	Explanation

⁴⁷ M. V. Paylee, supra note 4 Art. 188, Art. 189.

⁴⁸ Id. Art. 51.

Total Revision of Constitution	Art. 138	This provision allows complete revision of the Constitution. It may be initiated by: Federal Assembly or People 100,000 eligibles citizen to vote may within 18 months of the official publication of their initiative can propose a total revision.
Partial Revision by Popular Initiative	Art. 139	 100,000 Citizens who are eligible to vote can propose specific amendment These provisions show direct democracy in Swiss. This partial proposal can take form of General Proposal in federal Assembly. 2. Federal Assembly shall submit it to voting either way even if it is Rejected or approved in Federal Assembly.
Validity of Popular Initiative	Art. 139 (3)	This initiative must Comply with: 1. Consistent with Federal subject matter 2. Consistent with Federal character 3. International Law
Procedure for Popular Initiatives	Art. 139, 139 b	Federal Assembly may accept, reject or propose a counter proposal. Either way it shall be submitted for citizens voting.
Mandatory Referendum	At. 140	All constitutional amendments must be submitted to a vote of the people and cantons.
Optional Referendum	Art. 141	If within 100 days of the official publication of the enactment of following matters, are requested by 50,000 people eligible to vote or eight cantons request it then it shall be sent to vote of people. 1. Federal Act 2. Emergency federal acts whose term of validity exceeds one year;

		3. Federal decrees, provided the Constitution or an act so requires; 4. International treaties that: a. is of unlimited duration and may not be terminated, b. provides for accession to an international organisation, c. Contain important legislative provisions or whose implementation requires the enactment of federal legislation.
Voting Procedure	Art. 142	Provides for the majority required. 50% + 1 of the voters who have voted and Cantons. All six half cantons will have half vote in it.
Double Majority	Art. 140 & 142	Amendment in Switzerland Federal laws require double majority: 1. People 2. cantons
Canton's role in amendment	Art. 140 & 142	Each Cantons vote is counted to determine the majority. It ensures the federal balance in Swiss.

Table No. 03 Amendment procedure in Switzerland ⁴⁹

The frequency with which Switzerland resorts to these amendment and referendum mechanisms is itself remarkable by international standards. Between 1900 and 2020 alone, Swiss citizens were called upon to decide six hundred and twenty one national ballots, a figure that accounts for over half of all national popular votes held anywhere in the world during that period.⁵⁰ This intensity of direct democratic participation, occurring on average four times a year, reinforces the earlier observation that popular sovereignty, rather than executive or parliamentary discretion alone, lies at the heart of constitutional change in Switzerland.

7. Citizenship:

⁴⁹ Id.

⁵⁰ SWI swissinfo.ch, 'Swiss Direct Democracy' (swissinfo.ch) <<https://www.swissinfo.ch/eng/direct-democracy/47697554>> accessed 19 September 2026.

In many Countries like USA, we have observed dual citizenship while in India Single Citizenship is observed. However, Switzerland is one of the rare countries where Tripple Citizenship is observed. According to Art. 37 of Swiss Constitution, 1999 a person who is citizen of commune becomes a citizen of canton, and through Cantons he becomes the citizen of Switzerland.⁵¹ Art. 38 provides that Confederation shall make laws for the acquisition of loss of Citizenship but the implementation of such laws are in the jurisdiction of Cantons and Communes, they can under Art. 37 & 38 make local laws for naturalization procedure which makes it multi-tier process as it requires approval from all Communes, Cantons and Federal Govt.⁵² However according Schweizer one can attain the citizenship of Switzerland if they are citizen of Communes and Cantons but this automation is Vice a versa is not available in Switzerland.⁵³ One cannot become a Citizen directly but has to go through the procedure by communes where each Cantons has specified their own laws.

The discretion enjoyed by communes in naturalisation matters has, on occasion, generated considerable controversy, most notably when the commune of Emmen in canton Lucerne began deciding citizenship applications by secret ballot from 1999 onwards, resulting in the rejection of a disproportionate share of applicants from the former Yugoslavia despite their fulfilling the statutory requirements for citizenship.⁵⁴ The episode drew sharp criticism from the Swiss Federal Commission against Racism and from the federal justice ministry, illustrating the tensions that can arise between direct democratic practice at the local level and constitutional guarantees against discrimination.

A well- known illustration of this unwritten right arose in 1995, when three brothers who had lived in Switzerland as recognised refugees since 1980 were denied social welfare support after re- entering the country illegally in 1991, having earlier been expelled in 1987 on account of criminal convictions and being unable to return to their country of origin after it rescinded their citizenship. On a constitutional complaint, the Federal Court held in 1995 that the brothers, irrespective of their unlawful residency status, could invoke an unwritten constitutional right to a minimum guarantee of subsistence.⁵⁵ The right to subsistence is nowhere to be found in

⁵¹ Id. Art. 37.

⁵² Id. Art. 37 & 38.

⁵³ Peter Schweizer, *supra* note 25.

⁵⁴ SWI swissinfo.ch, 'Federal Court Says Democracy Has Its Limits' (swissinfo.ch, 10 July 2003) <<https://www.swissinfo.ch/eng/federal-court-says-democracy-has-its-limits/248424>> accessed 19 September 2026; SWI swissinfo.ch, 'Government Wants to Streamline Naturalisation' (swissinfo.ch, 14 March 2000) <<https://www.swissinfo.ch/eng/government-wants-to-streamline-naturalisation/1444258>> accessed 19 September 2026.

⁵⁵ BGE 121 I 367 (Federal Court of Switzerland).

the Constitution of Switzerland but it is an unwritten right adopted through European Convention of Human Rights.

8. Emergency Provisions:

Switzerland does not rely on any single provision regarding Emergency but the powers are distributed across many articles. The Constitution only allows emergency in for national defense, external threat and Internal Security however, it is silent about what will amount to the external and internal threat. While the Preamble provides an agreement between cantons to protect the alliance, peace and security of the federation,⁵⁶ meaning they cannot invade another Canton, but it is silent about other aspects of the provisions. The Constitution have provided certain provision related to emergency which are as follows:

Aspect	Articles	Explanation
External Security and Defense	Art. 58 & 60	Provides for that confederation is responsible for national defense and armed forces can be mobilized to protect the country in case of emergencies.
Internal Security	Art. 57	Confederation and Cantons within the scope of their power shall ensure internal and external security.
Emergency Powers of federal Assembly	Art. 173 (1) (c)	Federal Assembly may take measures to protect the internal and external security in urgent situation.
Emergency powers of Federal Council and use of armed force	Art. 185	Federal Council in case of emergency can deploy and mobilize more than 4,000 members of armed forces.
Cantonal Role in Emergencies	Art. 52 & 57	Confederation must protect the Cantonal Order and Cantons must Co-operate in Maintaining the security of the federation.
Limitation on Emergency Power	Art. 36 (Fundamental Rights)	Any emergency measure taken by the Federation or Cantons must respect proportionality, legality and public interest.

⁵⁶ Constitution of Swiss Confederation (Switzerland), 1999 of 2000, Sr. 101.

Table no 04. Emergency Provisions in Switzerland⁵⁷

Even although the Constitution has tried to adapt the provisions for emergency it only talks about the Internal and External Emergency it is silent about who will decide the existence of emergency, its procedure or any other action to be taken after the invocation of emergency apart from deployment of troops. Where as in India by virtue of Art. 352, 356 and 360 the emergency can be declared as National emergency, State Emergency and Financial emergency respectively and the Power to administer and decide is with President making it Unitary Government for the time being,⁵⁸ Switzerland is silent about all these aspects.

The Indian experience offers a cautionary illustration of the risks inherent in vesting broad emergency powers without adequate procedural safeguards, as the internal Emergency declared in June 1975 remained in force for twenty one months and came to be associated with the suspension of civil liberties, press censorship and the mass detention of political opponents.⁵⁹ The episode continues to be invoked in Indian constitutional discourse as a reminder that procedural checks, rather than reliance on executive restraint alone, are essential to any workable emergency framework, a lesson that resonates with the ambiguity noted above in the Swiss constitutional scheme.

9. Fiscal Federalism and Autonomy:

In Switzerland by virtue of Art. 3, 42 and 43a the financial powers and responsibilities are divided among the Cantons and Confederation. The Primary autonomy over taxes and fiscal policies lies with Cantons only. In Switzerland the fiscal federalism is based on the principle of subsidiarity, which means that the federal govt only intervenes in areas where the cantons cannot effectively manage affairs.⁶⁰ Confederation have power to levy direct federal tax (Art. 128), VAT (Art. 130), special consumption taxes (Art. 131), and stamp duties (Art. 132).⁶¹ Other broad taxation powers which reflect Fiscal Autonomy lies with the Cantons thereby Communes as well. Each Canton having their own Constitution have autonomy to determine which tax they want to impose and as long as such provision does not undermine Federal Constitution, they are legal. However, Art. 135 provides for the Equalization of Financial

⁵⁷ Id.

⁵⁸ The Constitution of India, 1950.

⁵⁹ '50 Years After Emergency: Lessons and Consequences' (Outlook India, 25 June 2025) <<https://www.outlookindia.com/amp/story/national/50-years-after-emergency-lessons-and-consequences>> accessed 19 September 2026.

⁶⁰ Ishita, A Comparative Study on Federalism in Relation to India and Switzerland, 3 INDIAN JOURNAL OF INTEGRAL RESEARCH IN LAW (2023), <https://ijirl.com/wp-content/uploads/2023/05/A-COMPARATIVE-STUDY-ON-FEDERALISM-IN-RELATION-TO-INDIA-AND-SWITZERLAND.pdf>.

⁶¹ Sr. 101.

resources and burdens meaning the Confederation can issue regulations on the equalization of financial resources and burdens between the confederation and Cantons, cantons and Cantons.⁶²

This equalisation framework was itself substantially overhauled through the New Fiscal Equalisation reform, approved by nearly sixty five per cent of voters at a 2004 referendum and brought into force in 2008, which amended twenty seven articles of the Federal Constitution to clarify the division of tasks between the Confederation and the Cantons.⁶³ The reform sought to reduce disparities between financially strong and financially weak Cantons while preserving the underlying principle that fiscal autonomy remains, in the first instance, a cantonal responsibility.

In 1998, The Canton of Geneva informed the people who were working on its territory but living in the neighboring canton of Vaud that they need to pay taxes to their working canton as well. The rationale of Geneva was these people are using the services and infrastructure of Geneva but are not contributing to the tax. The federal court ruled that Geneva's attempt to impose tax is Unconstitutional and undermining the fiscal autonomy of Vaud.⁶⁴ In Switzerland one Canton cannot tax the resident of another Canton when they are commuting. As the taxes can only be imposed on the person who is domicile of that canton. It shows the Fiscal autonomy of a Canton to determine the taxes on the subjects of its own.

10. Relationship between Confederation, Cantons and Communes:

The Switzerland is a confederation of Cantons and cantons is made up of communes. According to Wolf Linder Switzerland is the most decentralized countries, despite some centralization over the years, Cantons and communes still control over the two third of the public financial and personal resources.⁶⁵ This relationship can be understood under following heads:

Relationship	Articles	Explanation
Confederation and Cantons	Art. 3	sovereignty to the Cantons subject to Federal law of Switzerland and the residuary power unlike India and Canda lies with Cantons only

⁶² Id. Art. 135.

⁶³ René L Frey and Gérard Wettstein, 'Reform of the Swiss Fiscal Equalisation System' (2008) 6(1) CESifo DICE Report 21 <<https://www.ifo.de/DocDL/dicereport108-forum4.pdf>> accessed 19 September 2026.

⁶⁴ BGE 125 I 458 (Federal Court of Switzerland.).

⁶⁵ Wolf Linder, *supra* note 38.

	Art. 42	Confederation shall fulfill the assigned duties to it by federal constitution
	Art. 43	While Cantons shall decide on the duties that they must fulfil within the scope of their power. Which read with Art. 3 Gives power to Canton to make their own Constitution.
	Art. 43 a	Adopted in 2004, and is in effect from 2008. It states that Confederation shall only take on tasks which the Cantons are unable to perform.
	Art. 44	It states that the Confederation and Cantons shall support each other in Administrative and Judicial matter. Further it states that the disputes between Cantons or between Cantons and Confederation whenever possible shall be resolved by Mediation.
	Art. 45	Whenever the interest of Cantons is in question the Confederation shall Consult with Cantons.
	Art. 46	cantons should implement Federal law in accordance with Federal Constitution and Legislation.
	Art. 47	It provides for that the Confederation shall respect the autonomy of Cantons
	Art. 49	It states that if there is any conflict between federal and Cantonal law then federal law will prevail.
	Art. 52	The Confederation shall protect the Constitutional order of Cantons.
Relation Between Cantons and Communes	Art. 50	Autonomy of Communes is guaranteed by the Cantonal law. As they are governed by Cantonal Law. Which reflects the decentralization at grassroot level.
Relation between Confederation and Communes	Art. 50 (2)	The Confederation does not directly communicate or control the Communes but through Cantons However, they shall always take into consideration the consequences and effects of policies on Communes as well.

Inter cantonal Relations	Art. 48	Cantons may by agreement establish a common organisation and institution, they can also take on tasks of regional importance, Confederation can also take part in it within the scope of its power.
	Art. 48(3)	If they intersect with the interest of other cantons then the confederation shall be notified of such in writing. It will be approved by the same procedure as that of the legislation.

Table No. 05 Relationship between Confederation, Cantons and Communes.⁶⁶

The Table no. 05 has effectively organized and explained the decentralization of powers between Confederation and Cantons. Cantons as long as it is within the preview of Federal law, they can exercise and enjoy their autonomy. The communal tier of this structure has itself undergone considerable consolidation in recent decades, with the number of political communes falling from over three thousand at the founding of the federal state in 1850 to just over two thousand one hundred by 2024, largely driven by voluntary mergers aimed at achieving administrative and financial economies of scale.⁶⁷ This gradual reduction in the number of communes has not been accompanied by any corresponding transfer of communal autonomy to the Cantons, underscoring the durability of the three tier structure described above. While Art. 49 states that the federal law will prevail over the Cantonal law, From 2007 the Cantons do not have concurrent law making power and various national legislations have also restricted their powers to enact a temporary legislation in acute crisis observed by the federal court of Switzerland.⁶⁸

While discussing the relations and decentralization in Switzerland one can say that the Switzerland observes Asymmetrical Decentralization. Daniel Elazar has quoted Switzerland as “Self-rule and Shared rule”⁶⁹ The relation between Confederation and cantons shows the exact overview and reason behind his statement. While the Cantons have their autonomy whenever the matter it out-off the preview of their power the confederation can help mitigate it with the consent of cantons.

⁶⁶ Constitution of Swiss Confederation, 1999 Sr. 101.

⁶⁷ Le News, ‘Switzerland’s Disappearing Municipalities’ (Le News, 19 January 2024) <<https://lenews.ch/2024/01/19/switzerlands-disappearing-municipalities/>> accessed 19 September 2026.

⁶⁸ BGE 121 I 334 (Federal Court of Switzerland).

⁶⁹ Ronald L. Watts, *supra* note 11.

Conclusion:

Switzerland as one of the world's oldest independent nations, having its constitution on 1848 has a huge impact of American Constitution. Initially there were a confederation or rather an alliance between three Cantons for the specific purpose of trade but after the subsequent Historical development and with the lived experience from French revolution, Invasion by Napoleon, Civil War the Cantons understood and adopted the concept of Confederation in 1848. The provisions incorporated in the Constitution shows the autonomy of Cantons while securing federal system as well. The Hypothesis of the said research is being proved through the above-mentioned analysis throughout the paper that the History and Lived Experiences of the Cantons have a huge impact on its Decentralized Federalism. The researcher wants to contest that even although the Swiss call itself a Confederation but in stricter sense it is not a Confederation as Palermo and Kossler have discussed that the confederation needs a unanimous voting for its adoption and enactment however the Switzerland in its two Total revision in 1874 and 1999 have not even once have passed through unanimous voting in federal assembly. Furthermore, the researcher has also observed that the Switzerland follows asymmetrical decentralization as the power to vote where out of 26 cantons 20 cantons have full one vote while 6 half cantons have 6 halves voting right in any Constitutional amendment, Federal legislative amendment and passing of any Federal Legislature. Even in the Composition of Council of State 20 cantons will have 2 representatives each while the 6 halve cantons will have 1 representative each making it total 46 members. Which makes it unbalanced. however, there is a need to study this arrangement further and the reason of such arrangement. Each canton having power over the tenure, office and salary of the member of council of state makes it unequal as each election process for this representative differ from each other. Switzerland not experienced in emergencies have failed to incorporate the provisions for any unforeseen situation. The Swiss experience of tying decentralization to durable mechanisms of fiscal and popular accountability also carries lessons beyond its own borders. In India, for instance, contemporary debates over the adequacy of tax devolution recommended by successive Finance Commissions, and the resulting calls from several States for a larger and more assured share of the divisible pool, reflect a comparable tension between central coordination and subnational fiscal autonomy.⁷⁰ A closer comparative engagement with

⁷⁰ Drishti IAS, 'Fiscal Centralisation Concerns in India' (Drishti IAS, 7 February 2024), based on 'Union Government's Reins on Financial Transfers to States' The Hindu (Chennai, 7 February 2024) <https://www.drishtiias.com/daily-updates/daily-news-editorials/fiscal-centralisation-concerns-in-india/print_manually> accessed 19 September 2026.

mechanisms such as Switzerland's equalisation framework may therefore offer useful insights for ongoing discussions on strengthening fiscal federalism in India. It also made the researcher more assertive on the history of Switzerland has played a pivotal role in shaping its structure.



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