

Why can't we be more like Switzerland?

The Swiss system of open and direct democracy provides important lessons for those who wish to preserve the project of self-government

By Anthony Scholefield

What is it about Switzerland that enables it to go on resisting the dubious allure of EU membership decade after decade and to show no apparent sign of weakening? As in Britain the issue of EU membership remains a divisive one. As in Britain the political elites are more sympathetic to the European political project than the voters. But as a recent seminar at the Swiss embassy made clear no one believes that there is even a remote prospect of Switzerland joining the EU in the foreseeable future.

The formal position of Switzerland is that the 1992 application, to open talks on accession to the EU, remains frozen following the rejection by the electorate in a referendum of the signed agreement by the Swiss government to join the EEA in 1992. Since then the Swiss government has developed its EU relations by means of two sets of bilateral agreements, both of which have been approved by popular referendum. In 2001 a proposal to commence EU accession negotiations was massively voted down.

Double Majority

The continuous stream of referendums on EU matters put before the Swiss people since 1992 has led to well organised and vociferous opposition, spearheaded by the Swiss Peoples Party (SVP).

There are two notable characteristics of Swiss politics which have enabled the country to resist trends that elsewhere in Europe have proved irresistible.

The first and most important of these is its system of cantonal democracy which has existed largely unchanged since 1848. Under the system major constitutional changes must be approved by a double majority system - that is by a majority of voters and of

cantons. Such changes are also subject to a process of optional referendums which can be called for by 50,000 voters. This has made it all but impossible for ministers to bargain away democratic rights or to "share" sovereignty as has been the case in other European states. The system has also ensured that the Swiss people are now on the alert and opponents of the EU are ready and organised to resist further challenges.

Direct Democracy

Second, the confederal nature of Swiss politics together with the country's traditions of direct democracy requires full disclosure of the economic and political realities. For example, when the Swiss government produced its Europe 2006 Report which made a careful evaluation of the costs of various alternative arrangements to EU membership, this highlighted all the costs of joining the EU. The annual budgetary cost was put at SF 3.4 billion (£1.41 billion). As part of a rigorous cost/benefit study of the type the British government has been studiously avoiding for the last 34 years, the report frankly acknowledged the implications of abandoning the Swiss franc and spoke quite candidly of the *'negative fallout for the economy'* arising from membership of the eurozone. It was equally candid about issues relating to the country's external relations, *'...the purpose of Swiss foreign policy is to defend the national interests, whether material or immaterial'*.

Another attractive aspect of the Swiss political tradition is that while ministers are obliged to bargain firmly for the national interest they are scrupulous about observing agreements with the EU. *'Switzerland is the most punctilious observer of union directives, bar none,'* one pro-

EU academic acknowledged at the seminar referred to above.

Moreover, the recent bilateral agreements arranged with the EU are very different from the slipshod opt-outs negotiated by the British government from recent EU treaties. This is not altogether surprising: they have to be approved by a substantial majority of the population.

Take the free movement of persons. This is subject to the ability of Switzerland to introduce quotas if there is an unsustainable increase in the number of EU workers and is also subject to a referendum in 2009 on whether to maintain the present agreement or not. Moreover, the free movement of persons is subject to caveats about proof of ability of immigrants to support themselves. One could contrast this with the British government's carelessness about admissions of East European labour.

Slush Fund

The decision of the Swiss government to contribute SF 1 billion to the ten new EU states also provides the opportunity for an interesting comparison between the two countries. This sum will be disbursed over five years on specific projects and programmes selected by Switzerland in co-operation with the recipient states. There is consequently no 'Brussels-style' slush fund with its accompanying bureaucratic costs and opportunities for political manipulation. Indeed the Swiss government has publicly taken pride in its non-participation in the EU cohesion programme. Contrast this with the British position. Once its budget contribution is sent to Brussels there is no British control whatever over what the money is spent on.

Despite prudent decision-making and the ever-present necessity of heeding

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Chindamo controversy casts revealing light on British justice

The controversy over the decision not to deport Learco Chindamo, the killer of headmaster Phillip Lawrence, when he is released on parole next year, casts a profoundly depressing light both upon British politics and justice.

As Home Secretary Jack Straw has acknowledged, the principal reason Chindamo cannot be deported to his native Italy, where he was born to an Italian father and a Filipina mother, is not the Human Rights Act, as many supposed, but a European law. Under the 2004 Citizens Directive, which passed into British law a year ago, no matter how violent or terrible the crime the only possible grounds for deportation are "*a genuine, present and sufficiently serious threat to society's fundamental interests*" or "*imperative grounds of public security*". So long as a criminal has lived in this country for five years or more - even if some of this time has been spent behind bars - Britain can never deport a lifer on his release if he is a European citizen. Once released on parole the perpetrators of the worst and most heinous crimes are consequently free to remain in this country for as long as they wish. It is clear that when the Asylum and Immigration Tribunal reached its ruling the Human Rights Act played only a secondary minor role in its thinking.

One of the many disturbing aspects of the controversy arising from the Tribunal's support for Chindamo's wish to remain in Britain was its refusal to allow the media to attend the hearing. The Home Office and the Judicial Communications Office subsequently refused to make the Tribunal's ruling public. Indeed, the matter only came to light when *The Times* discovered that the ruling had been loaded on the Tribunal's website and blew away the shrouds of secrecy by placing it on its own.

Earlier this year the Prime Minister insisted that all foreign criminals "will be deported".

Was the secrecy surrounding the Tribunal decision intended to protect the Prime Minister? Or does officialdom instinctively grasp that it is not in its interest to make any disclosure that reflects adversely on Britain's membership of the European Union?

When the Prime Minister offered the assurance quoted above the Government was fully aware that his words were untrue; if he did not realise this himself it would surely have been pointed out to him soon afterwards. No one will be surprised that he has not taken the opportunity to correct the record on a matter on which public feelings understandably run high; that in itself should be cause for dismay.

Mr Cameron scarcely emerges better from this controversy. His reaction to the Tribunal's decision was to blame the Human Rights Act and to suggest that it demonstrated how right he was in calling for its repeal. Once he discovered what he should already have known - that its decision was firmly based on European law - his interest rapidly dwindled. Here was a controversy where public feelings were running high, where the Prime Minister had been shown to mislead the public, and where the leader of the Opposition had the opportunity to draw attention to the root cause of the problem and to channel public opinion accordingly. Instead, having got the facts wrong, he compounded his error by wasting the kind of political opportunity that does not come along every day.

In all of this the question of party advantage is obviously of less importance than that of the public interest. But it is striking that whereas the Prime Minister, in as far as it is practically possible, goes out of his way to court the *Daily Mail* readers and Middle England as a matter of political strategy, Mr Cameron, in his desperate desire not to appear rabid or right wing, goes out of his way to offend them. Can both their calculations be right?

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public opinion, the use of bilateral agreements, as well as the decision of the Swiss government to 'EU proof' its proposed laws so they cohere with those of the EU, have led to what critics call 'Europeanization'. However, this in turn has led to vigorous populist scrutiny and ever-increasing support for the SVP.

This has been quick to argue that while in some instances it may be sensible to harmonise regulations to fit in with its giant neighbours, this can have harmful effects. First, because EU-Swiss relations are on a

government-to-government basis, this causes centralising tendencies within Switzerland itself.

Second, while signing up to cooperation in a particular area might seem sensible at the time the dynamic nature of EU integration means the Swiss government may be forced to make unpopular decisions subsequently when its giant partner increases the scope of its regulations.

Third, such close ties to the EU must inevitably consign Switzerland to the EU's demographic, political and economic fate - that of inexorable

relative international decline.

In acknowledging and in resisting these trends as far as it is able to do so Switzerland can be seen as having effectively put itself at the forefront of the present world-wide distrust of the political classes. That it has been able to do this is due to its system of direct democracy and to the deep respect of the Swiss public for its constitution. There are important lessons for Britain here - and indeed for all who continue to believe in self-government.

