

Reflections from the Former President of Switzerland

As a member of the government of Switzerland, the first step I would take when contending with a political or constitutional problem was to always see how other countries had approached similar issues. Then I could determine how the solution for Switzerland should be tailored. In this light, I have been a great supporter of the Global Dialogue Program. Its approach is designed to develop comparative knowledge about federal countries and good federal practices that are unique in scope, up to date, and cover the practices of federal systems not only as they are written, but as they are implemented. To some extent, participation in the program is like listening to the wisdom of experience that other countries have to offer.

Over the last several years I participated in several national and international Global Dialogue roundtables. Through those experiences I came to the conclusion that what makes the program unique and effective is its comprehensive process; national and international roundtables motivate the participants, who represent diverse viewpoints about a given topic, to share with and learn from each other in a nonpoliticized environment.

Thus, it was with considerable anticipation that I looked forward to participating in the fifth theme of the Global Dialogue Program, that of *Foreign Relations in Federal Countries*, as it was considered to be a timely topic. As a member of the Swiss government, I faced mounting tensions between the federal government and the constituent units, called Cantons. At the time, Cantons were requesting increasingly a say in foreign policy, especially when their internal powers were concerned.

Foreign policy had traditionally been the responsibility of central governments. However, the scope and nature of constituent unit involvement in Switzerland and in many other federations has grown as the volume of international transactions and the number of international treaties and international organizations has increased dramatically in the last half century. These changes led in turn to ever-growing cross-border relations and to numerous interferences of the federal governments into the competencies of the constituent units. As a result, constituent units in many countries have become more engaged in international activities because the exercise of their constitutional responsibilities has been increasingly affected by globalization.

This is in particular true for Switzerland, and it was one of the reasons I insisted that in the revision of the federal constitution in 1999 the principle that foreign relations are a federal matter was repeated, but that the Cantons shall participate in the preparation of decisions of foreign policy that concern their powers or their essential interests and that the Cantons may conclude treaties with foreign countries within the scope of their powers.

In this light it was interesting for me to explore with my Swiss colleagues at the Global Dialogue roundtable issues such as: What constitutional powers do the federal governments and constituent states have to conduct foreign affairs? To what degree are relations between orders of government

regularized by formal agreements or informal practice? What roles do constituent governments have in negotiating and implementing international treaties? How are international activities and interests managed? To what degree are the foreign activities of constituent governments in the federal system competitive, and to what degree are they cooperative?

As a former Minister of Justice of Switzerland, I was particularly interested in constitutional issues, and I was curious to learn, at the international roundtable, the broad spectrum of how other countries deal with these questions. For example, at one end of the spectrum are Canada and Australia, in which constitutional conventions and court rulings define the terrain and give constituent units significant scope for action. In other countries, including India, Malaysia, and South Africa, the constitution explicitly assigns powers over foreign relations only to the federal government. At the other end of the spectrum are countries whose constitutions assign explicit powers to the constituent units—Argentina, Germany, and Belgium. At our national roundtable we concluded that Switzerland belongs to this latter group and it is important to keep a balance between the participation of the constituent units and the necessary freedom of action of the federal government in foreign policy.

One of my further conclusions was that both orders of government have their particular expertise, and both contribute to the development and maintenance of an effective foreign relations policy. Governments of constituent units on one hand do have a detailed understanding of the cross-border interests and concerns and do have much relevant technical expertise. On the other hand, federal governments do bring greater experience to bear in dealing with the international environment and wield greater political and economic clout than single constituents or groups of constituent units do. Their cooperation requires consultation through durable and adequately conceptualized institutions of intergovernmental relations, and it requires the willingness to make compromises.

In summary, I learned a lot from participating in Global Dialogue roundtables as well as from the publications emanating from the program, and I was not surprised when a recent independent evaluation of the program concluded that the roundtables and the resulting materials are of great value for states that are designing their federal system or struggling with developing new policies, because they get an opportunity to learn how others have resolved similar challenges. It is therefore not surprising that the program has become a useful tool for practitioners and academics alike to acquire a comparative view of a variety of solutions to problems federal governments typically encounter. The program encourages participating practitioners and scholars to use the knowledge they gained to inspire new solutions, thereby improving democratic governance, and to join the many active participants around the world in expanding and strengthening the growing international network on federalism.

Arnold Koller, Appenzell, Switzerland, December 8, 2009