From Law to Reality—a Critical View on the Institutionalization of Evaluation in the Parliament of the Swiss Canton of Geneva

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Introduction

Great efforts are undertaken throughout the world to reinforce the institutionalization of evaluation—efforts that have been particularly pronounced in Switzerland. In line with international criteria for comparing the institutionalization of evaluation in different countries (Jacob *et al*. 2015), evaluation has during roughly the last three decades found its way into the Swiss politico-administrative system, academic curricula, research, and professional societies (Balthasar 2015; Bussmann 2015; Horber-Papazian 2015; Sager & Mavrot 2015; Varone 2015; Widmer 2015). In addition, evaluation since 2000 finds an anchor in article 170 of the Swiss Constitution requiring the national parliament to ensure that the effectiveness of federal measures be evaluated. The advanced integration of evaluation into Switzerland's legal framework may be further underscored by the high number of evaluation clauses that are contained in Switzerland's legal provisions (Mader 2015; Bussmann 2008b). In this context, a study of the Swiss Federal Audit Office (SFAO 2011) highlights a common practice of the federal parliament, which is to incorporate evaluation clauses into federal legislation in order to ensure that the subjects addressed by laws and regulations be evaluated. This leads Jean Quesnel (2015, 79) to the conclusion that "the architecture of legislative evaluation in Switzerland is impressive and avant-garde. Few countries in the world have such a systematization of evaluation." It may thus not come as surprise that Switzerland is the only country that received the "maximum score" in the category "institutionalization of evaluation within parliaments" (Jacob *et al*. 2015, 19). Two questions arise in this regard: what reasons lead parliamentarians to demand evaluation clauses? And what influence does the legal inscription of evaluation exert on parliamentary law making?[1]

[1] If not indicated otherwise, the term 'evaluation' is used here to refer to public policy evaluation in the sense of retrospective impact analysis. All translations from French and German sources are the authors' own. The results presented in this chapter are based on the project "Policy Evaluation in the Swiss Political System—Roots and Fruits (SynEval)" directed by Andreas Balthasar, Katia Horber-Papazian, Fritz Sager, and Thomas Widmer and funded by the Swiss National Science Foundation. Finally, the authors would like to thank Damien Wirths, Charlotte Minder, and Marion Baud-Lavigne for their constructive comments and invaluable help in collecting data for this chapter.

While we are aware that evaluation is used more and more frequently by the federal parliament, government and public administration (Balthasar 2015; 2007; Ledermann 2012; Janett 2004; Widmer & Neuenschwander 2004; Horber-Papazian 2015), no systematic attention has been paid thus far to the legal inscription of evaluation at the cantonal level. This is why little is known as to whether cantonal parliamentarians are interested in the effects of the legal provisions they adopt and, more importantly, in the implementation of evaluation clauses. This chapter contributes to filling this gap by exploring reasons of the Genevan parliament to demand evaluation clauses on one hand and by discussing the impact these clauses exert on parliamentary law making on the other.

In view of the embryonic state of research, we first have to know how evaluation is incorporated into Switzerland's legal framework. In the first section of this paper, we therefore adopt a descriptive and exploratory approach to provide an inventory of evaluation clauses that are contained in both federal and cantonal constitutions, laws, and regulations. This overview permits us to show that the juridification of evaluation is more advanced in the canton of Geneva than in any other canton. Accordingly, we in the second section offer a case study on the canton of Geneva that illustrates the formation and impact of the legal mandate to evaluate in Genevan politics in greater detail. In other words, we have selected an extreme case where the relevant object of investigation—the juridification of evaluation—is visible in a particularly pronounced way (Gerring 2006, 101). In conclusion, we discuss the implications of our findings for an international discussion on the juridification of evaluation.

Case Selection: the Advanced Juridification of Evaluation in the Canton of Geneva

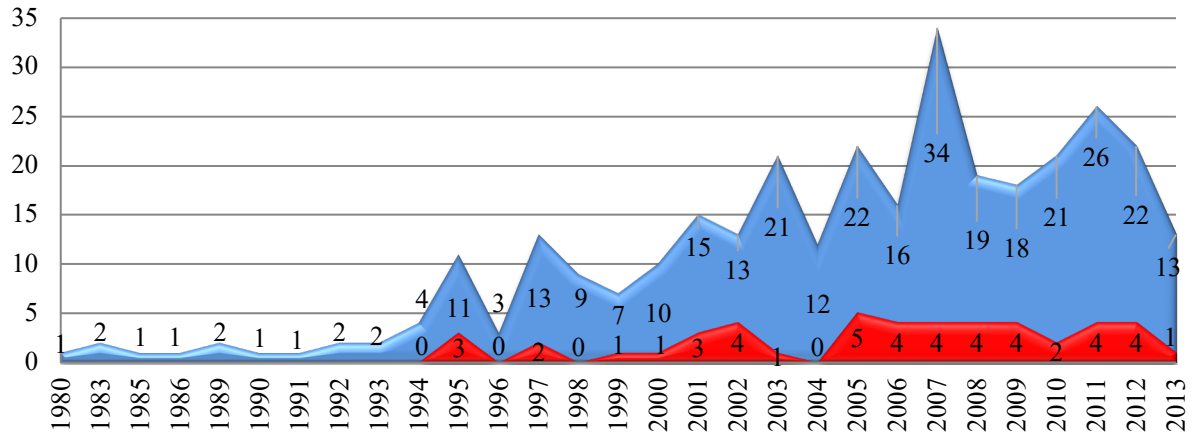
According to Valérie Pattyn (2015, 1479), "the development of formal institutional arrangements, which some would call the institutionalization of evaluation, is precisely intended to achieve regularity in evaluation practice." In the sense of formal rules, routines, norms, compliance procedures, and standard operating practices, institutions structure the relationship between individuals in various units of the polity by distributing decision power and coining actor identities and their interpretations of situations (Hall & Taylor 1996, 938). Institutions not only exert influence on political negotiation and decision-making processes (politics); by structuring political interaction they also affect the results of state activity (policy outcomes). It almost goes without saying that evaluation clauses in constitutional, legal, and

regulatory provisions represent an essential part of institutionalizing evaluation in the sense of formal rules and compliance procedures (Prognos 2013, 35).

There is wide agreement in the Swiss literature that article 170 of the Federal Constitution has provided a strong signal from the national parliament regarding the importance of evaluation (Bussmann, 2008a; Horber-Papazian 2006, 135; Horber-Papazian & Jacot-Descombes 2010, 95; Bättig & Schwab 2015, 3; Jacob *et al*. 2015, 18; Varone 2015, 261; Widmer 2015, 292). This constitutional article legitimizes the practice of transparency and empowers the federal parliament to request accountability for the policies that are being implemented by the executive including the administration at both the federal and the cantonal level. In Switzerland, the lion's share of evaluation clauses are issued with the aim of assuring that the impact of laws and regulations be analyzed and considered within the political decision-making process. Alternatively to this demand for ex-post evaluation, a smaller number of clauses contained in experimental laws demand that information and experience be gathered to lay the foundation for future legislative decisions (Mader 2015; SFAO 2011).

Our own research allows for an inventory of evaluation clauses that were incorporated into constitutions, laws and regulations at the federal and the cantonal level between 1980 and 2013 to ensure the realization of retrospective evaluation. Illustration 1 shows that seven clauses have come into force before 1990, while 53 have done so between 1990 and 2000 and 262 after the millennium. Illustration 1

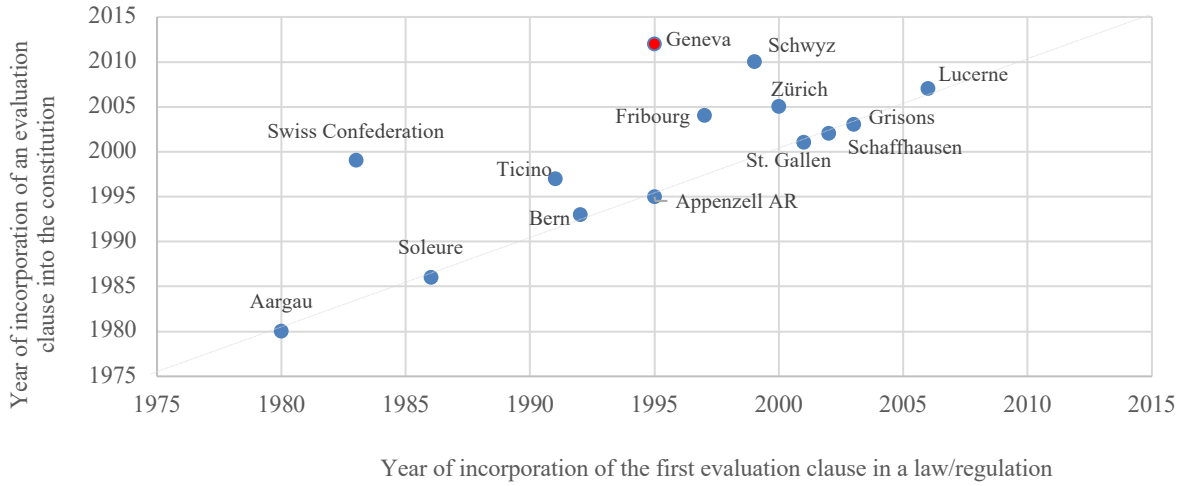
Illustration 1: annual distribution of evaluation clauses in federal and cantonal laws (in absolute numbers)



Key: In blue: evaluation clauses in federal and cantonal constitutions, laws, and regulations (N = 322)
In red: evaluation clauses in the constitution, laws, and regulations of the canton of Geneva (N = 47)

also suggests that article 170 of the Swiss Constitution has led to a substantial increase of the number of evaluation clauses.[2] The catalyzing effect of the constitutional anchoring of evaluation on the numerical development of such clauses can further be clarified by comparing the moment of the inscription of evaluation in a canton's constitution with that of the first evaluation clause in its laws or regulations. Illustration 2 shows that 13 cantonal constitutions including that of Geneva contain evaluation clauses.

Illustration 2: Comparing the introduction of evaluation clauses in constitutions and laws/regulations



While in eight cantons the constitutional evaluation clause was (one of) the first clauses, Geneva steps out of line. Here, the constitutional incorporation of evaluation did not happen before 2012, 17 years after the issuance of the first evaluation clause. It should also be mentioned that twelve of the 13 cantons that do not have a constitutional evaluation clause have incorporated a transversal evaluation clauses in their legislation (Wirths & Horber-Papazian forthcoming; Mader 2015; Bussmann 2005), which is why a general legal mandate for evaluation exists in 25 of the 26 Swiss cantons.

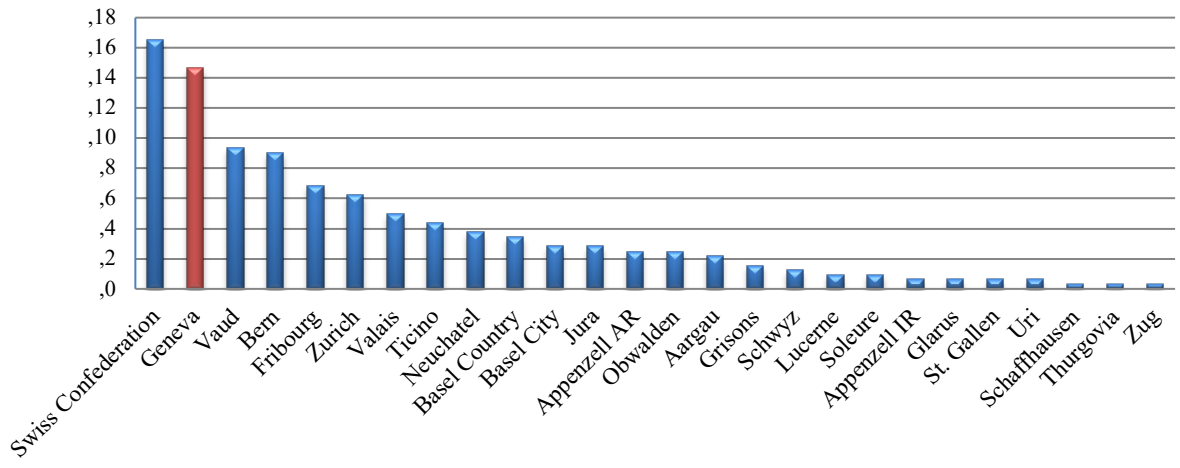
Rather than the constitutional anchoring of evaluation, it was the establishment of the external commission for public policy evaluation (CEPP) in 1995 that led to growing awareness of evaluation in the canton of Geneva and, as a consequence, to its increasing legal inscription. It is striking that the moment of the CEPP's creation coincides with the issuance of the first three evaluation clauses (see illustration

[2] According to Prognos' (2013, 44) expert report on the implementation of evaluation results in Canada, the European Commission, the UK, Germany, Sweden, and Switzerland, the constitutional anchoring of evaluation leads to intensified evaluative activity. In contrast, Andreas Balthasar (2010, 342) finds "no statistically relevant association between the anchoring of evaluation in the law […] and the number of evaluations conducted."

1). The CEPP was the Grand Council's (i.e. parliament) response to a popular initiative demanding more public oversight over the State Council (i.e. government) and the administration, making the CEPP a proactive and innovative institution (Grand Council 1995, PL 7123-A). The task of the CEPP was to assist the legislative and executive authorities of the canton of Geneva in conducting evaluations regarding cantonal policies and public services (Horber-Papazian & Buetzer 2008; Horber-Papazian 2006). The sensitivity of the administration and some politicians for evaluation at that time is certainly due to the influence of a number of academics specializing in evaluation in general and legal evaluation in particular. For example, a member of the Grand Council reported that the "canton of Geneva possesses the academic competence in this area to promote the acquisition of concrete essential experiences needed to develop a center of excellence in evaluation" (Grand Council 1994, PL7123). The CEPP was dissolved in 2014, when public policy evaluation was legally assigned to the Court of Auditors. It nonetheless becomes clear why the canton of Geneva can be called an extreme case in terms of institutionalizing evaluation within parliament.

This impression is further strengthened in view of the distribution of evaluation clauses within the constitutions, laws and regulations of the Swiss Confederation and the 26 cantons (see illustration 3).

Illustration 3: distribution of evaluation clauses within federal and cantonal legal corpuses (in %)



N = 322 evaluation clauses (100%)

While we discovered 53 clauses in the federal legal corpus, the total number of clauses at the cantonal level amounts to 269 (Wirths & Horber-Papazian forthcoming). Illustration 3 reveals that Geneva's legal texts contains by far the highest number of clauses demanding impact analyses (47), followed by those

of the cantons of Vaud (30), Bern (29), Fribourg (22), and Zurich (21). In contrast, only one clause can be found within the legal corpuses of the cantons of Zug, Thurgovia, and Schaffhausen.

Last but not least, we may want to know whether parliamentarians demand evaluation clauses. Table 1 illustrates that the members of the Genevan parliament have proposed evaluation clauses a lot more

Table 1: the demand of evaluation clauses by members of federal and cantonal parliaments (in absolute numbers and %)

	Swiss Confederation	All cantons without Geneva	Canton of Geneva	Total
No proposition of evaluation clause	61	1078	21	1160
	55%	77%	38%	74%
Proposition of evaluation clause	44	233	28	305
	39%	17%	50%	19%
No answer/Do not know	7	91	7	105
	6%	6%	12%	7%
Total	112	1402	56	1570
	100%	100%	100%	100%

Source: Widmer *et al*. (2014). The rounding differences of total percentages are settled.

frequently than the average of parliamentarians from other cantons. This still holds true when comparing the canton of Geneva with the three runner-up cantons: while 50% of Genevan parliamentarians have demanded evaluation clauses, 27.3%, 26.5% and 19% of their colleagues from the cantons of Fribourg, Vaud, and Berne have done so respectively (Widmer *et al*. 2014). Referring back to illustration 3, we find that the legal provisions of the four cantons displaying the highest political demand for evaluation clauses also contain the highest number of such clauses.

Reality Catching Up with Law

The previous section has demonstrated that the canton of Geneva represents an extreme case regarding the legal integration of evaluation. In what follows, we briefly illustrate the method for our case study before providing evidence as to whether and for what reasons the legislature or executive authorities take the initiative to propose evaluation clauses. We then address the influence these clauses may exert on parliamentary law making.

Methodological considerations

We first conducted a qualitative content analysis of parliament protocols. In order to establish an exhaustive body of sources, we consulted the internet database of the canton of Geneva to assemble a list of approximately 2000 miscellaneous reports (*rapports divers*) that were presented to the parliament between 2000 and 2013.[3] We used the search category 'miscellaneous reports', because it includes all sorts of parliament protocols such as reports of parliamentary and expert commissions, reports of the State Council, and bills of law. We then compared the titles and abstracts of all miscellaneous reports with the titles of Genevan laws containing an evaluation clause. For instance, as regards the Law on the Integration of Foreigners of September 15, 2001, we searched for the terms 'integration' (*intégration*), 'foreigner' (*étranger*), and 'evaluation' (*évaluation*) in the abstracts of all miscellaneous reports. Overall, we could thus identify 13 cases in which an evaluation clause or a law containing such a clause was referred to in parliament protocols (see table 2).

Based on these parliament protocols, we were able to identify the evaluation reports that were presented in front of parliament. Since these reports were either included in the appendices of parliament protocols or available online, we could examine the evaluations' recommendations and subsequently reconstruct their implications for parliamentary law making. Both the parliament protocols and evaluation reports were interpreted inductively, which means "immersion in the details and specifics of the data to discover important categories, dimensions, and interrelationships; exploring genuinely open questions rather than testing theoretically derived (deductive) hypotheses" (Patton 1990, 40).

In order to complement our findings, we interviewed four experienced parliamentarians who at least once demanded an evaluation clause. In open interviews, we discussed with them their reasons to demand evaluation clauses and asked them to estimate the influence the legal inscription of evaluation exerts on parliamentary law making. In addition, together with three senior civil servants of the cantonal administration, we elaborated on the administration's reasons for proposing evaluation clauses. Finally, we validated our findings with the help of a former member of the CEPP and renowned evaluation expert from the University of Geneva.

[3] http://ge.ch/grandconseil/memorial/recherche (March 13, 2016). Our research does not permit us to say anything about evaluations discussed exclusively in parliamentary commissions, since there is no data available that would allow us to do so.

By whom and for what reasons are evaluation clauses demanded?

The guidelines for the drafting of law of the Genevan State Chancellery hold that evaluation clauses ought to be harmonized and formulated as precisely as possible, specifying the moment and periodicity of evaluation, the object of evaluation, the form of the evaluation report, the authorities in charge of ordering and realizing the evaluation as well as the addressee of evaluation results (Uhlmann & Wohlwend 2011, 763).[4] It is around these categories that table 2 is constructed in order to provide a basis for the subsequent analysis.

The first insight that emerges from table 2 is that in most cases it is the government that calls for the legal incorporation of evaluation clauses. The parliament then follows the government when passing the law. In fact, out of the total of 47 evaluation clauses contained in Genevan laws and regulations, 34 clauses were demanded by the government or the administration, while eleven clauses were demanded by parliamentary commissions and two clauses by the parliament as a whole (Wirths 2015). This suggests that executive authorities have the strongest incentive to demand evaluation clauses. Our analysis of parliamentary protocols reveals that they usually did so in order to steer public policy on the basis of evaluative evidence (Grand Council, 2011, PL 10839; 2005, PL 9452; 2001, PL 8480; 2001, PL 8653-A; 1999, PL 7474-A). As suggested by the senior civil servants we interviewed, members of the State Council as well as senior civil servants have good reason to incorporate evaluation clauses into laws and regulations, because they are convinced that evaluation contributes to increasing the quality of public services. Alternatively, the administration may use evaluative evidence to avoid blame (Hinterleitner & Sager 2015). Evaluation results can help "to hide shortcomings and failures from their principals, to display attractive images of programs and in general to provide appearances more flattering than reality" (Widmer & Neuenschwander 2004, 394). Finally, the administration's motives to trigger evaluation legally may stem from professional routines in the drafting of law (Mader 2015, 76-77). Considering that evaluation clauses are often formulated in a similar manner, namely according to the Genevan guidelines for the drafting of law, supports this assumption.[5]

[5] The reasons for the administration to demand evaluation clauses will be addressed by Damien Wirths' research conducted within the SynEval-project. His preliminary findings corroborate those of Luzius Mader (2015).

Table 2: evaluation reports presented to the parliament of the canton of Geneva between 2000 and 2013 (N=13)

	1	2	3	4	5	6	7	8	9
	Adoption of law	**Evaluation Clause/law**	**Moment/ periodicity**	**Addressee of evaluation**	**Authority demanding clause**	**Reasons for demanding clause**	**Year of evaluation presentation**	**Level of evaluation recommendations**	**Outcome**
1	1996	Art. 10 of the Law on the Encouragement of the Provision, Protection, and Maintenance of Ecological Compensation Areas	Regularly	General Directorate	Parliamentary Commission	No information available	2007	Executive implementation	Parliament takes note
2	2001	Art. 15 of the Law on the Integration of Foreigners	2003 and then every four years	State and Grand Council	Parliamentary Commission	Control of the executive/administration	2007	Executive implementation	Parliament takes note
3	2001	Art 7. of the Law on Economic Development and Employment	Once per legislative period	Grand Council	Executive/ Administration	No information available	2005, 2009-2011	Executive implementation	Parliament takes note
4	2001	Art 5 of the Law on Public Action Regarding Sustainable Development (Agenda 21)	Not specified	Sustainable Development Council	Executive/ Administration	Steering of public policy	2002	Revision of the law Executive implementation	Modification of the law
5	2001	Art 12 of the Law on Continuing Adult Education	2005 and then every year	Grand Council	Executive/ Administration	Steering of public policy	2006, 2010	Revision of the law Executive implementation	Modification of the law
6	2002	Art. 4 of the Law on Centers for Social Work and Health	Every three years	Grand Council	Executive/ Administration	Uncertainty reduction	2004	Abrogation of the law	Abrogation of the law
7	2002	Art 4. of the Law on the Financing of International Solidarity	Regularly	Grand Council	Executive/ Administration	Steering of public policy	Every year	No recommendations	Parliament takes note
8	2005	Art. 4 of the Law on Domestic Violence	Regularly	Not specified	Executive/ Administration	Steering of public policy	2007-2011	Executive implementation	Parliament takes note
9	2006	Art 32 of the Law on the Commission for the Supervision of Health-Professions and Patients' Rights	2008 and then every two years	Grand Council	Executive/ Administration	No information available	2011	Revision of the law Executive implementation	Parliament takes note
10	2007	Art 3 of the Law Authorizing the State Council to Join the Inter-Cantonal Agreement in the Field of Basic Vocational Training	2011 and then every four years	Grand Council	Parliamentary Commission	No information available	2012	No recommendations	Parliament takes note
11	2008	Art. 54 of the Law on the Combat of Unemployment	2010 and then every four years	Grand Council	Parliamentary Commission	Uncertainty reduction/ political compromise	2011	Revision of the law Executive implementation	Modification of the law
12	2009	Art 15 of the Law on Temporary and Permanent Residence of Confederates	2011	Grand Council	Parliament (plenum)	Political compromise	2012	Executive implementation	Parliament takes note
13	2010	Art. 5 of the Law Aiming to Increase the Number of Federal Certificates of Competency in the Fields of Health and Social Work	Not specified	Not specified	Executive/ Administration	Steering of public policy	2013	Executive implementation	Parliament takes note

Source: http://ge.ch/grandconseil/memorial/recherche/ (17.03.2016)

Obviously, civil servants have more time to concern themselves with evaluation clauses than members of parliament. Since the administration is densely populated with jurists, it not only has superior expertise in legal methodology, but also more experience in the drafting of legal documents in general and evaluation clauses in particular. Accordingly, the territory of evaluation is to a considerable extent occupied by the administration. However, even though the administration drafts the lion's share of evaluation clauses, the Genevan parliament would have the authority to refuse them. It should be emphasized that it hardly ever does so. Moreover, 13 out of 47 or roughly 28% of all evaluation clauses contained in Genevan laws and regulations (see illustration 1) were demanded by the parliament.

Within the framework of this book, it is essential to ask whether parliamentarians' interest for evaluation clauses stems from a genuine concern to gain insights into the effects of legal decisions or whether other incentives trigger the demand for evaluation clauses. It would certainly be an exaggeration to say that evaluation clauses are unanimously viewed by parliamentarians as effective tool for providing guidance in law making and implementation. For instance, a member of parliament explicitly stated that "more and more laws contain evaluation clauses, but this is often a figure of style that is applied opportunistically" (Grand Council 2003, RD 441a, 6). Our analysis nevertheless suggests that, even though seldom observed, some parliamentarians are open to evaluation and view its legal integration as helpful instrument for the improvement of law. We write 'some', because the relevance of a Genevan group of parliamentarians in demanding evaluation clauses can hardly be overestimated. Certain Grand Councilors promoted and continue to promote the legal inscription of evaluation, since they share an educational background in evaluation and/or consider the use of evaluative evidence within parliament an apt way of keeping their promises to the electorate. This stands in line with the finding of Sandra Speer *et al*. (2015, 53) that parliamentary attention for evaluation in Germany and Flanders largely depends on some parliamentarians who "became 'political entrepreneurs' for evaluation."

In those cases, for which we found corresponding information in parliament protocols (see column 6 in table 2), the reasons for parliamentarians to demand evaluation clauses follow three different logics, which were confirmed during our expert interviews. Firstly, an evaluation clause may be introduced by the parliament as a means of controlling the executive. In the case of the Law on the Integration of

Foreigners (see line 2 in table 2), an external evaluation promised the parliamentary commission demanding the clause to solve alleged governmental failures in the implementation of integration policy (Grand Council 2001, PL 8431-A). In line with our expert interviews, it is evident that the parliament's confidence in the government is rather low. This is why the potential of keeping control over the executive branch and limiting red tape is perceived as a benefit of evaluation clauses. An interviewee regards the legal mandate to evaluate as "watchdog" and adds that "evaluation should run like a common thread through the whole policy-making process."

Secondly, an evaluation clause may be requested in order to find a political compromise that facilitates the actual adoption of a law. The tension between left and right in the Genevan parliament is generally conceived to be high. In fact, it has traditionally been more pronounced in Geneva than in other cantons. It thus almost goes without saying that evaluative evidence is being used by parliamentarians in a strategic way to strengthen their own position against that of the political opponent. Even though evaluation is in that context engaged as political instrument, rather than as instrument of policy making, it contributes to diminishing political conflict. Our interviewees explain that the legal mandate to evaluate facilitates the decision-making process in conflictual cases, because it is easier to adopt a controversial law in anticipation of the corrective of evaluation. In line with this observation, an evaluation clause was integrated into the Law on Temporary and Permanent Residence of Confederates to reach a compromise between the left and the right of the Genevan parliament (see line 12 in table 2). Especially liberal members of the Grand Council argued that they were going to accept the law upon the condition that an evaluation clause was added, making sure that an evaluation will be conducted and that this evaluation will be presented in front of parliament (Grand Council 2008, Protocol of Parliament Session of August 28).

Thirdly, it is argued that evaluation clauses reduce uncertainty by initiating a process that brings legal inefficacies to the parliament's attention. In the case of the Law on the Combat of Unemployment (see line 11 in table 2), an alliance of left-wing parliamentarians demanded the clause in the context of a left-right debate about the balance between the protection of employees and individual incentives to reenter the labor market. The majority of parliamentarians accepted the clause since they were uncertain about the effects of the law. The prospects of evaluative evidence assured them that the State Council

was going to be able to explain whether the law was implemented successfully or not (Grand Council 1997, PL 7496-A). The evaluation clause was thus adopted to both reach political consensus and to reduce uncertainty regarding a delicate legal issue. The importance of reducing uncertainty is corroborated by our interviewees, who report that they want to be sure whether adopted policies are effective or not. In conclusion, evaluation clauses are thus regarded either as useful device to reach political compromise, as means to control the executive, or as an instrument to reduce uncertainty.

Do evaluation clauses make a difference in parliamentary monitoring of legislation?

We would expect evaluation results and/or recommendations to be reported to the parliament when an evaluation clause defines the Grand Council as addressee of the evaluation on one hand and the moment of its presentation on the other. 20 out of the 47 Genevan clauses state the Grand Council as addressee, whereas one and three clauses stipulate that the evaluation be reported to an extra-parliamentary commission and the State Council respectively. Moreover, 35 out of 47 clauses are specific about when evaluations should be conducted. Accordingly, it does not make much sense to assume that the evaluation report has not *yet* been presented to the parliament. A striking result of our analysis is thus that the final evaluation report or a summary thereof was brought to the Grand Council's attention in no more than 13 cases. It is equally noteworthy that in four out of the 13 cases, the evaluation report was presented to the Grand Council, although the evaluation clause does not specify the Grand Council as evaluation addressee (see column 4 in table 2).

The findings of our analysis of parliament protocols should not directly lead to the conclusion that compliance with evaluation clauses is low. Genevan parliamentarians are habitually informed about evaluations conducted, before 2014 particularly by the CEPP. In addition, evaluation reports are usually made available online and distributed to the press. However, according to Speer *et al*. (2015, 54), awareness for completed evaluations does not necessarily mean that parliamentarians are receptive to using evaluative evidence to learn about the impact of laws, policies, and programs. As our expert interviews suggest, Genevan parliamentarians have little time to concern themselves with evaluation reports. Accordingly, they may well deal with evaluation at the monitoring level without paying substantial attention to the question of how evaluation clauses have been implemented. This argument seems reasonable

in view of the duration of a legislative period: if parliamentarians are not reelected after four years, the implementation of legal provisions they have adopted will often not be supervised.

A closer look at the 13 cases displayed in table 2 (see columns 8 and 9) nevertheless reveals that evaluation clauses can exert remarkable influence on parliamentary law making. In five cases, evaluation reports triggered by evaluation clauses not only contain recommendations for organizational and managerial reform, but also for revising or abrogating the respective law (e.g. CEPP 2010; 2006). In four of these five cases, the recommendations contributed to the modification or abrogation of the respective law. For example, we observe that each article of the Law on Public Action Regarding Sustainable Development was evaluated in view of its practical implications (see line 4 in table 2). Subsequently, recommendations for revising the law were made wherever they were considered necessary (Grand Council 2002, PL 8786-A; RD 447a). The only case, in which evaluative recommendations have not contributed to revising the law, is that of the Law on the Commission for the Supervision of Health-Professions and Patients' Rights (see line 9 in table 2). For the time being, we have to content ourselves with the observation that the law has not (yet) been modified, even though the State Council—the authority in charge of presenting the evaluation—advised that the "evaluation expert's reflections should be integrated into the new law which ought to be adopted on January 1, 2013" (Grand Council 2011, RD 882, 2).

In the remaining six cases, evaluation reports fulfilled the purpose of providing information to the parliament which was thereby able to do justice to its task of supervising the implementation of public programs. More specifically, evaluation reports were in four cases predominantly addressed to the government and the administration, since they almost exclusively provide recommendations for the implementation of new organizational and managerial structures and procedures. As regards the Law on the Integration of Foreigners (see line 2 in table 2), for instance, the evaluation report advises that "the law should under no circumstances be changed but orientation [i.e. directives] be given instead to the women and men implementing the law" (Cattacin *et al*. 2007, 22). Finally, in two cases, the evaluation reports do not contain any recommendations (see lines 7 and 10 in table 2).

Why do evaluation clauses have little impact?

Despite the fact that evaluation clauses would provide parliamentarians with the legal resources they need to demand responsibility and accountability for evaluation, the plenum of the Grand Council only rarely requests to be presented with evaluation results. This finding remains valid, even if evaluation results are usually sent to parliamentary committees. The lack of control can be explained by the absence of a systematic monitoring regarding the implementation of evaluation clauses as well as the rotation of parliamentarians—those demanding a clause do often no longer occupy a seat at the time of the clause's supposed implementation. Moreover, it has to do with the imprecise formulation or, in other words, normative density of evaluating clauses (Wirths forthcoming). More specifically, Genevan evaluation clauses often define the addressee and the moment of evaluation, whereas they are only rarely specific about evaluation aims and criteria. This allows the administration to monopolize the field of evaluation by focusing on managerial and administrative issues that are, by definition, of no interest to parliamentarians. This is consistent to the conclusion of Andrew. Oxman *et al*. (2010, 430) and Prognos (2013, 45) that it is above all the quality of formulated criteria and aims as well as the latter's alignment with policy objectives that facilitate the conduct of evaluations and the use of their results by the legislature. Especially if the aims of an evaluation are not specified according to those of the parliament, the latter loses oversight over the implementation of evaluation clauses after having adopted them. Parliamentarians thereby miss an opportunity to not only ensure policy effects and adjust policy measures, but also to use, as they claim, evaluative information in political debate.

Conclusion

This chapter has illustrated that the integration of evaluation into Switzerland's legal framework is advanced at both the federal and the cantonal level. In view of the broad legal basis for evaluation, the examination of its formation and impact on law making represents an essential ingredient of a complete understanding of the institutionalization of evaluation in Switzerland. Evaluation finds an anchor in the federal and 13 cantonal constitutions as well as twelve transversal evaluation clauses in cantonal laws or regulations, which means that all Swiss cantons, with the exception of one, dispose of a general legal

mandate to ensure that subjects addressed by legislation be evaluated. Especially the inscription of evaluation in the federal constitution in 2000 has had a snowballing effect on the number of evaluation clauses. More than 80% of the clauses demanding retrospective evaluation were incorporated into federal and cantonal laws and regulations after the millennium.

It has also been demonstrated that the legal institutionalization of evaluation is more advanced in Geneva than in any other Swiss canton: Geneva's legal provisions contain a remarkably high number of evaluation clauses and the members of the Genevan parliament have demanded such clauses considerably more often than their colleagues from other cantons. On one hand, this can certainly be explained by the active role a number of experts from academia have played in the dissemination of evaluation through their teachings, their involvement as consultants or politicians as well as their implication in the CEPP. On the other hand, the advanced juridification of evaluation may be due to the fact that evaluation reports were published online, distributed to the press and sent to parliamentary committees even before the Information Act requiring transparency for evaluation results was introduced (Horber-Papazian & Buetzer 2008).

The case of Geneva suggests that evaluation is not merely a routine that is influenced by the administration through the proposition of evaluation clauses during the drafting of law. Instead, several members of the Genevan parliament are both sensitive to the question of legal effects and open to evaluation as an instrument to establish these effects. What is more, especially in view of the tense relationship between the government and parliament, members of the latter appreciate the fact that evaluation clauses can force executive organs to demonstrate the effects of policies and, if necessary, to submit proposals to the parliament as to how the law may be modified. This corresponds with the finding of Pieter Zwaan *et al*. (2016, 15) that the chances for evaluation to be used by parliamentarians are increased by their anticipation of the risk of the executive shirking away from tasks the parliament has delegated to it. In addition, Genevan parliamentarians are aware that the legal mandate to evaluate can reduce uncertainty regarding the effects of a law, "encourage the prudent use of resources, increase the effectiveness of state measures and help decision-makers to concentrate limited resources on priority areas" (SFAO 2011, 12). On the whole, it thus becomes apparent that evaluation clauses exert an influence on evalua-

tion activity. Evaluation clauses trigger evaluation, whose results continue to have the potential to influence the debate in the Genevan parliament. Accordingly, our findings substantiate the expectation of Oxman *et al*. (2010, 427) that "making impact evaluation mandatory could have several advantages for a growing number of policy makers." As stated by Quesnel (2015, 83), other countries may thus be well-advised to take Switzerland in general and the canton of Geneva in particular as source of inspiration for an increasing juridification of evaluation.

In addition, the Genevan case provides insights as to how evaluation clauses may be formulated. Even though demanded and adopted by the Genevan parliament, evaluation clauses are often not presented and discussed in plenum. Particularly as regards subjects and aims of an evaluation and the addressee of the final evaluation report, the parliament leaves a great deal of discretion to the administration to use evaluations in view of its own managerial and administrative aims. This is why questions of operational effectiveness and efficiency are usually addressed in evaluation processes, rather than questions of, for instance, policy effectiveness, which would fall under the true responsibility of the legislature. Having superior knowledge and experience regarding the formulation, legal inscription, and implementation of evaluation clauses, the administration has been able to take possession of evaluation while at the same time depriving the parliament of an effective instrument of policy guidance and self-legitimation. This arguably contributes to a shift of power in favor of the administration. It should not be forgotten, however, that evaluations that were initiated by an evaluation clause contributed to a modification or abrogation of law in roughly 30% of the 13 cases we examined. This is particularly remarkable in view of the conventional conclusion that evaluation results have little direct impact on policy decisions (see, e.g., Young et al. 2002; Weiss 1998).

Finally, examining the institutionalization of evaluation within the Genevan parliament is thought-provoking, because it demonstrates how evaluation can be applied as strategic tool, not only to reduce uncertainty, but also to reach political compromise and break up existing majorities (Jacob *et al*. 2015, 20). Ideally speaking, evaluators may expect their work to be valued for 'noble' reasons, such as providing evidence for whether certain policy measures are effective in solving socially relevant problems. In this context, the Genevan case suggests that parliamentary attention and credit are given to the prospects of evaluation, whatever parliamentarians' motivations for demanding evaluation clauses

may be. This is remarkable and may make many of us happy. However, in a country where the institutionalization of evaluation is advanced, the expectations of evaluation experts from both academia and practice towards the use of evaluation are also high. Hence, rather than declaring victory, the exchange of ideas between evaluation stakeholders needs to be promoted. Not only is the permeability between the realms of academia, evaluation contractors and policy makers essential in terms of raising the latter's awareness for the role and place of evaluation among other means of controlling and modifying the implementation of their decisions; it is equally important in terms of educating policy makers as to how evaluation clauses may be formulated and finding solutions for an effective monitoring of the implementation of such clauses. It thus becomes apparent how important the birth of a true evaluation culture is in Switzerland.

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