The “landsgemeinde”: the cantonal assembly of Glarus (Switzerland), history, present and future

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1. Introduction

The Swiss Confederation has its own system to divide the powers between federal, regional and local levels. Especially the regional level (= Cantons) has in – in accordance the Swiss Constitution – its own and splitted powers beside the duty to fulfil the federal laws. Examples of such own or splitted powers are taxes, the education sector, public health, public welfare, public construction and others more.

Switzerland has on the regional level 26 Cantons, the biggest one (Zurich) with more than one million people, the smallest one (Appenzell Interior) with about 15’000 people. Every Canton has his own political system with cantonal Governments and Parliaments. A Swiss speciality in comparison with other European political systems is the high grade of direct democracy. Most of the Cantons know a parliamentary system in combination with compulsory or mandatory voting on laws and expenses by ballots. Only two Cantons, Glarus and Appenzell Interior know the ancient system of the Landsgemeinde, an annual an open-air people's assembly and voting ceremony.

Glarus is a highly industrialised Canton with 38’300 people and 25’000 voters, located 60 kilometres southeast from Zurich in the mountains. Glarus joined the Swiss confederation in 1352.

2. History

2.1 Origin

No documents have survived which indicate when the citizens of the Canton of Glarus first gathered for a Landsgemeinde. In any event, the roots of the Landsgemeinde, go back at least as far as the 13th Century, when the Monastery of Säckingen and, since 1266, the House of Habsburg held sway in Glarus. A document from 1282 refers to the "Men's Association of the Entire Valley", and bears the seal of the said body. However, the organization and the rights of this Glarus fraternity are not known with any certainty.

2.2 1387 - 1623 Beginning

On 11. March 1387 the country folk of Glarus assembled for a Landsgemeinde and drew up the first articles of association, a basis for the creation of a democratic, free state. At the time, they established the principle, still valid today, which the minority should submit to the wishes of the majority in decisions taken at Landsgemeinden as well as at gatherings of the individual communities. With its victory at the Battle of Näfels in 1388, the people of Glarus finally freed themselves from Habsburg rule.

Since then the Landsgemeinde represents the highest authority in the free state of Glarus. Originally it was not only responsible for legislation and the election of cantonal and court
officials; it also decided whether to go to war, and whether to enter into or renew alliances. It issued land rights and decided whether to grant reprieves. Up until 1457 it could also issue the death penalty. All citizens of Glarus over the age of 16, and for a time even those over 14, had the right to vote. The council, the Landsgemeinde committee, dealt with current governmental and judicial business. Originally made up of 15 or 30 members, committee membership was later increased to 60.

The Landammann, or cantonal President, has always been head of the body politic. He chaired the Landsgemeinde and the meetings of the council, was at one time the supreme judge and was originally also head of the army. The cantonal sword, which he bears at the Landsgemeinde to the present day, is a reminder of his former military and judicial authority. Since the middle of the 15th Century, the Landsgemeinde has repeatedly curtailed the almost royal powers of the Landammann by means of new official decrees. However, as chairman of the Landsgemeinde, the councils and important courts as well as the regular representative of the canton at federal proceedings, he maintained an excellent position until as late as 1837.

2.3 1623 to 1837: Three Landsgemeinden

The Reformation split the Canton of Glarus into a Reformed Church majority and a Roman Catholic minority. In 1530 both parties acknowledged the equal rights of the two denominations. This parity ultimately led to a denominational division of governmental authority, which remained a special feature of the Canton of Glarus until 1837. The third Cantonal Contract of 1623 introduced three Landsgemeinden: one for Catholics, one for Reformed Church members, and a joint assembly. One week before the joint Landsgemeinde, the denominational "Particular Landsgemeinden" held their assemblies and elected the cantonal officers in predetermined rotation. Under this rotational System, the Landammann was a Protestant for three years, followed by a Catholic for two years. In each case, the party not in power provided the deputy President. Since 1623 Protestant and Catholic councils met in addition to the joint councils.

The fifth Cantonal Contract of 1683 resulted in the division of the Canton of Glarus into two substantially independent states, which held the official authority over, and was responsible for, criminal justice concerning their respective members. Apart from its own councils, each denomination now had its own courts. The Landammann and the Landesstatthalter chaired the Landsgemeinde, the council and the most important courts of their denominational division. The joint Landsgemeinde retained the supreme authority, especially in respect of legislation relating to general cantonal matters. This peculiar constitutional arrangement involving the tripartition of the canton had - and achieved - the purpose of protecting the Catholic minority against loss of political power.

Between 1798 and 1803 France forced a new, foreign national order on Switzerland. Glarus now belonged to the Canton of Linth and lost its Landsgemeinde. Under the Mediation Act of 1803 Napoleon I not only gave back the Canton of Glarus its former boundaries, but also restored its denominationally divided Status as well as the three Landsgemeinden. At the Landsgemeinde of 29. May 1836 the Protestant majority decided to abolish the division of the canton and introduce a new cantonal constitution, despite the unyielding resistance of the Catholics.
2.4 1837: Return to a single Landsgemeinde

In July 1837 the Landsgemeinde put the new constitution into effect. This abolished the division of the canton and made Glarus an undivided state again. Since then there has only been one Landsgemeinde, as was originally the case. The new constitution separated judicial authority from legislative and executive powers. But it was not until the cantonal constitution of 1887 that the Separation of parliament (Landrat), which prepared legislation, from government (Regierungsrat), which held the executive authority, was brought about. The cantonal President (Landammann) is the first representative of the canton and President of the government; and as from time immemorial he also chairs the Landsgemeinde.

2.5 1972: Full political rights for women

The last "Men's Landsgemeinde" in Glarus was held in 1971: it granted full political rights to women in cantonal matters - in accordance to the same decision on federal level. Since 1972 women with voting rights have therefore been able to play an active part at the Landsgemeinde and vote both there and at the ballot box, and be elected to Office.

3. Present

3.1 Proceeding and power in accordance to the actual Cantonal Constitution (CC)

Status: The Landsgemeinde is the assembly of citizens of Glarus with the right to vote. It is the canton's supreme executive body (Art. 61 CC).

Landsgemeinde Information pack (Memorial): The Landsgemeinde information pack contains the business agenda for the forthcoming Landsgemeinde, especially the draft laws and the draft resolutions submitted by parliament as well as motions from the people. The information pack must be distributed to the electors four weeks before the Landsgemeinde takes place (Art. 62 CC)

Convening: The regular annual Landsgemeinde assembles in the town of Glarus on the first Sunday in May. The government decides whether there are any grounds for postponement. An extraordinary Landsgemeinde is held if the Landsgemeinde so decides, if at least 2,000 electors request such an assembly or if parliament calls one (Art. 63 CC).

Chairmanship and Inauguration: The Landammann chairs the Landsgemeinde. If he is unable to do so, the Landesstatthalter takes his place, and in he is unable to do so, the government's senior executive officer chairs the Landsgemeinde. The Landam-mann opens the Landsgemeinde with an address. Thereafter the participants with voting rights are sworn in (Art. 64 CC).

Proceedings: The proceedings are based on the motions put forward by the parliament that appear in the information pack and as published in the official cantonal gazette; no other items of business may form part of the proceedings. Every elector present has the right to request the support, amendment, rejection, postponement or withdrawal of individual motions. Amendment motions must relate materially to the respective item on the agenda. Those who wish to comment on an item of business must first formulate their motion and then briefly justify it (Art. 65 CC).
Voting procedure: A motion put forward by the parliament is carried if no alternative motion on the subject is proposed. If an alternative motion is proposed, the Landsgemeinde is required to vote. If two or more amendments have been carried, a final vote must be held. At elections voting takes place in any case (Art. 66 CC).

Determination of the majority: The Landammann determines the majority by estimation. In cases of doubt he can call on the help of four members of the government. His decision is final (Art. 67 CC).

Election powers: The Landsgemeinde is responsible for electing the Landammann and the Landesstatthalter, the judges, the public prosecutor and the examining judges (Art. 68 CC).

(The members of Government (Regierungsrat), of Parliament (Landrat) and the federal deputies were elected by an ordinary poll, Art. 70 to 72 CC)

Legislation and specific powers (Art. 69 CC)

The Landsgemeinde is responsible for
- amending the cantonal constitution;
- enacting, amending or abolishing laws, including enforcement laws under federal law;
- approving concordats and other agreements if these affect an article of the constitution or legislation or expenditure;
- tabling resolutions concerning all freely determinable one-off expenditure for the same purpose exceeding CHF 1,000,000 as well as for all freely determinable recurring expenditure for the same purpose exceeding CHF 200,000 in the year;
- acquiring plots of land as an investment or for precautionary social security for an amount exceeding CHF 5,000,000;
- tabling other resolutions submitted by the cantonal parliament;
- setting the tax multiplier.

Cantonal Parliament (Art. 82 to 93 CC)

The cantonal parliament is responsible for discussing motions and submitting them to the Landsgemeinde. It is also responsible for checking and approving the minutes of the Landsgemeinde as well as for convening extraordinary Landsgemeinden. Landsgemeinde. It has 80 members.

Cantonal government (Art. 94 to 101 CC)

The cantonal government is responsible for drafting decrees and resolutions for the attention of the Landsgemeinde and for carrying out the associated procedures to obtain points of view from all persons concerned. It is the highest executive body and has actual seven (from 2006 five) members.

3.2. External procedure

At 9.30 the members of the cantonal government, the Land council and the courts walk in
ceremonial procession from the Town Hall to the oval (Ring) on the Zaunplatz (now an oval since women were given the vote); they are accompanied by the Glarus Band playing the Landsgemeinde march, a guard of honour of a military unit. The two council ushers carry the Glarner sword and the Glarner sceptre, the court usher carries the court staff, as Symbols of the fact that the people of Glarus are entitled to supreme jurisdiction and supreme military and sovereign powers.

In the oval (German: Ring) there are normally about 6000 to 8000 voters, which correspond to a turnout of 20% to 30%; the highest participation in our days was about 13'000 voters in 13'000. All those entitled to vote receive a voting card, given out by their local parish, and this allows them to enter the oval, although in actual fact hardly anyone bothers to take it along. It only needs to be shown by those who wish to speak. Inside the oval itself, rows of benches are set up for the benefit of the elderly, guests and the authorities. In the centre is the stage, from where the Landammann conducts the Landsgemeinde and where the Speakers address their "dear fellow countrymen", as the traditional phrase has it. Seated at a table are the state secretary (council clerk) and the deputy council clerk, who assist the Landammann in legal matters during the meeting. Around the stage there are young people who are not yet entitled to vote and are not allowed into the Ring; they enjoy a close-up view of civics in action.

The Landsgemeinde is opened (the ceremonial side is very low-key) with an official speech by the Landammann. Once the guests have been greeted, the regulations concerning the right to vote are read out, the Landammann and the Landsgemeinde are sworn in and the agenda is dealt with.

The meetings vary in length, depending on the number of items on the agenda and their importance, as well as the loquaciousness and patience of the people, which, among other factors, depend on the weather. If one of the speakers goes on for too long or people think an item has been discussed and then another Speaker is announced, they are protesting against it. The Landammann has the right to stop the discussion and to admonish a speaker.

### 3.3 The debates at the Landsgemeinde

The basis for the negotiations is the Memorial, in which the individual items are explained in detail and the draft laws and decisions are set out. The Memorial is delivered to every household where there are residents entitled to vote. It also contains the state accounts and the funds accounts as well as the estimate of expenditure.

Anyone wishing to comment on a bill (there is no discussion about the elections, just the name of the candidate is shouted out) must go to the Landammann on the stage; here he must first formulate his motion and then briefly give reasons for it. Anyone with the right to vote is entitled to "have his say on any issue", in other words, he can propose motions of support, amendment, disapproval, deferment or rejection. This is the basic difference between this Landsgemeinde and other Landsgemeinden and the voting at the polls, where people can just say yes or no and thus have no direct influence on the contents of the questions. Here one can say "yes, but" and thus modify the bills. The majority vote is decided by the Landammann on the basis of an estimated count. In doubtful cases he can call on four members of the cantonal government to help out, and ask those in favour to stand up so as to give a better overview. Then he makes his decision, and this he does, as it says in the cantonal constitution "indisputably".
A special feature is the voting procedure with matters of business that are not disputed. If there is no dissident motion, then the motion of the Landrat is approved without voting. In elections, however, a vote is always taken.

Every person entitled to vote - no signatures need be collected - has the right at any time to propose a motion to the Landsgemeinde. The only condition is that the motion must not conflict with the federal and cantonal constitutions and must be declared important by the Landrat or the Landsgemeinde itself.

The Regierungsrat (government) reports to the Landrat (Parliament) whether the motion is admissible; the Landrat declares the motion to be admissible and then as important, for which 10 votes are needed. If the motion does not receive 10 votes, a vote is taken at the Landsgemeinde in what is called the "sidecar" in English as to whether the cantonal government and the Landrat should not deal with the motion anyway. But if the motion does receive the 10 votes, the cantonal government draws up a motion for the Landrat, which then has to put the motion to the Landsgemeinde.

4. Future

4.1 Advantages and disadvantages

The Glarus Landsgemeinde has preserved fundamental features and rights from 1387 right through to the present time. Even today it is still the focal point of public life in the Canton of Glarus. Admittedly it has adapted to changed circumstances and requirements over the centuries. But under no circumstances is it a folkloristic political happening but a political Institution with a unique tradition and effectiveness. Even today it fulfils its clearly prescribed constitutional duties very well. In 2001 only one other canton - Appenzell Innerrhoden - has retained the Landsgemeinde. Holding a Landsgemeinde with representative participation is of course only possible in a canton that has a small population.

An important feature of the Glarus Landsgemeinde is that the electorate can not only vote "yes" or "no" to a motion; it can eliminate provisions and amend or augment motions. To an extent that is unparalleled elsewhere at cantonal level, an elector can intervene directly in the opinion-forming process. Because of this, the Glarus Landsgemeinde is an exemplary form of direct democracy. The electors here are not a mere nameless mass, but manifestly an association of people who exercise their supreme authority in the interests of the population. The Landsgemeinde creates a personal relationship between the people and the government authorities and reinforces their shared identity.

In addition to these significant advantages there are also well-known disadvantages. Elections and voting are open, rather than secret. So one can see how others vote. For various reasons, it is impossible to gather all the electors together in one place at the same time. Not everyone who visits a polling Station or could vote by post may participate at the Landsgemeinde. A further shortcoming is the estimation of the majority at elections, or when voting on items of business, when the voting is close. The Landammann remains the most important person at the Landsgemeinde. This is because it depends very much on how he justifies the individual motions, how he leads the discussion, when he decides that voting should take place and how he decides in cases of doubt. Since 1837 cantonal presidents
have usually chaired the Landsgemeinde prudently and competently.

4.2 Conclusion

Until the ninety's, five other minor Cantons knew this political system. In three Cantons, they abolished the Landsgemeinden. The reasons were various: no real power, only tradition, few possibilities to discuss, problems with the behaviour of some Speakers and others more.

They are no ideas to abolish the Landsgemeinde in Glarus. Although the Landsgemeinde has preserved fundamental features and rights from 1387 right through to the present time, it always changed and adapted his character to the present times. For example, the Government is now planning to introduce a new voting system: each voter will receive every year a new voting card with another colour. All voters have to vote by holding up the voting card. The Government intends to improve the check of the right to vote and the visibility of the majority.

In no other form of democracy, a citizen has so many rights to form and influence the political process. And if the citizens of Glarus are dealing with in the same prudent way and consideration as today, the Landsgemeinde will have a bright future.

The Landsgemeinde enjoys a very good reputation by the people of Glarus. But the Landammann remains the most important person at the Landsgemeinde; if he will lead the Landsgemeinde as prudently and competently as to our days, there is a good chance that the Landsgemeinde plays its role as the canton's supreme executive body also in the future. But we have to be aware, that the Landsgemeinde is only a model for smaller units like the Canton of Glarus.

5. Annex

5.1 Bibliography

2) Schwitter Josef/Heer Urs, Glarnerland – a short portrait, Page 18 to 21, Verlag Baeschlin, 2000

5.2 Biographical sketch

Hansjörg Dürst, lic. iur., was born at 11. May 1958 in Glarus. He studied law at the University of Zurich from 1977 to 1982 and finished his studies with a master degree. In 1984 he was elected secretary of the cantonal health and welfare department of Glarus. Beside, he finished a practical training at the Canton’s Court and made a degree as an attorney at law. In 1998, he was elected State Secretary (=council clerk) by the Cantons’s Parliament and is since then on duty.