

# Democracy, decentralisation and governance: A Swiss experience

REZAUL KARIM, back from Switzerland

**P**ARTICIPATION of citizens in voting has reduced drastically in Switzerland and this has raised question how legitimately elected are the Member of Parliament, Cantons and Government. In Switzerland, where people are the main opposition, governments and the local bodies are being elected by about 19 percent of votes in recent years, said a research fellow at the Institute for Federalism of University of Fribourg, while briefing a Bangladesh delegation. A 12-member Bangladesh delegation led by LGRD and Cooperatives Minister Abdul Mannan Bhuiyan took part in a study tour on decentralisation in Switzerland late last month (October).

Research Fellow Jeremias Blaser said there are about 30 per cent regular voters who participate in most voting while rest of the 70 per cent people take part in voting occasionally. Of the 70 percent, 20 per cent never goes to cast vote in any polling. He said all Swiss citizens over the age of 18 may take part in elections to the National Council both actively and passively, in other words, they may cast their votes and also stand for election themselves. Only federal civil servants are required to choose between their profession and elected office should they be elected. Elections to the Council of States are not organised at federal level, they are governed by cantonal provisions.

About referendum system, he said, there are two types - Facultative and Mandatory -- in Switzerland. The mandatory referendum is for constitutional modification and facultative is optional referendum for laws. Referendum in Switzerland can take place anytime whenever needed. Citizens may seek a decision on an amendment they want to make to the Constitution. For such an initiative to take place, signatures of 100,000 voters must be collected within 18 months. A people's initiative may be formulated as a general proposal or much more often be presented as a precisely formulated text whose wordings can no longer be altered by Parliament or the Government.

A referendum is compulsory for all amendments to the Constitution and for membership to some international organisations. A voting must be held in such cases and a double majority is required for adoption: namely, a majority of the popular votes cast throughout the country, and a majority of the cantons in which the majority of voters adopted the proposal. Amended or new laws and similar decisions of parliament as well as certain treaties in international law are only put to vote if an optional referendum is sought. For such a proposal to be adopted only a simple majority of the popular vote is required.

The people are entitled to pronounce on parliamentary decisions after the event. Federal laws, generally binding decisions of the Confederation

There are very few countries in which the people have such far-reaching rights of co-determination as in Switzerland. The long democratic tradition, the comparatively small size, both in terms of size and population, and ultimately also the high level of literacy and diversity of media are decisive factors in ensuring the proper functioning of this particular form of State.

and international treaties of indefinite duration are subject to an optional referendum: in this case, a popular ballot is held if 50,000 citizens so request. The signatures must be collected within 100 days of a decree's publication. The referendum is similar to a veto and has the effect of delaying and safeguarding the political process by blocking amendments adopted by the Parliament or the government or delaying their effect. The referendum is therefore often described as a "brake" applied by the people.

According to the federal principle, there has to be a supportive majority not only of the Swiss people as a whole but also of the Cantonal votes in a majority of the Cantons in all constitutional referenda. The double majority effectively protects the interests of a historic minority, the Catholic cantons that lost in the civil war of 1847.

He said that today a voter of the smallest Canton has roughly 40 times the weight of a voter in the most populous Canton. Another illustration of this inequality is the fact that theoretically less than 10 per cent of the voters may veto any constitutional change, while in practice 20-25 per cent of the votes is needed to sink an amendment. The research fellow said that there is disadvantage of direct participation of citizens in political decisions in today's Switzerland because sometimes it blocks implementation of government decisions. He said innovations become very difficult to implement because of people's mandate and people and the society here are very traditional.

In this context, he cited that people of the country voted against Switzerland's membership of UN for years, but the government finally won in the referendum held recently and thus joined the UN. However, the government won in the referendum with a marginal vote. Similarly, people of the country rejected the proposal of Switzerland's joining in the European Union through referendum and there is no scope to put the issue for fresh referendum in next couple of years. He said from 1948 to 1997, people of the country accepted only 12 initiatives while rejected 105 through referenda.

There are some reasons which are responsible of citizens' lesser participation in voting in Switzerland. According to Jeremias Blaser, there is voting in almost every month, which discourages the people to participate in all the polls. People also do not feel to go for voting because everything is functioning quite well and moreover the people have full trust in the government that it would not take any decision which might go against their interest.

About Swiss political system, Director of the Institute Prof Dr Lidija R. Basta Fleiner told the delegation that everything in the country starts from grassroots and governments always take opinion of all people before taking any decision. Switzerland is a multi-ethnic, multi-lingual and multi-confessional nation shaped by the will of its people. It has been a federal State since 1848 -- the world's second oldest after the United States of America.

She said Switzerland has a federal structure with three different political levels -- the Confederation, the Cantons and the Communes. Confederation is the term used in Switzerland to describe the State. The Confederation has authority in all areas in which it is empowered by the Federal Constitution, such as in foreign and security policy, customs and monetary affairs, nationally applicable legislation and certain other areas. Tasks which do not expressly fall within the domain of the Confederation are matters for the cantons.

The Cantons: Since the creation of Canton Jura in 1978, Switzerland has consisted of 23 cantons, three of which namely, Unterwalden, Appenzell and Basel, are for historical reasons divided into two half-cantons. The cantons are the original States, which joined together in 1848 to form the Confederation to which they ended part of their sovereignty. Each canton and half-canton has its own constitution, parliament, government and courts. The size of the cantonal parliaments varies between 58 and 200 seats, while the cantonal governments have 5, 7 or 9 members. Direct democracy in the form of the "Landsgemeinde", or open-air people's assembly

is now confined to Appenzell Innerrhoden and Glarus. In all other cantons, the people express their decisions at the ballot box.

The Communes: All the cantons are divided into communes, of which there are currently 2896. Their number is in decline due to amalgamations. Around one-fifth of these communes have their own parliament; in the other four-fifths, decisions are taken by the process of direct democracy in the local assembly. In addition to the tasks entrusted to them by the Confederation and the canton -- such as the population register and civil protection -- the communes also have their own competencies in the areas of education and social affairs, energy supply, road building, local planning, taxation etc. To a large extent, these powers are self-regulated. The degree of autonomy granted to the communes is determined by the individual cantons and therefore varies considerably. "In Switzerland each people have the right to take part in decision making activities and question does not arise at all regarding differences of opinion as compromise is the solution. Here we do everything through arguments and our principle of diplomacy is, say, less," Fleiner added.

Another research fellow Urs Thalmann said Switzerland is often referred to as a country in which people of four languages, two religions and many different cultures live together peacefully in mutual respect and solidarity -- something like the perfect example of multicultural society. He said there are more than five per cent people of other religion and most of them are Muslim and this section is growing in Switzerland. He said currently there is about 23 percent of women representation in parliament and it goes up and down, but there is no quota system for women.

About financing of political parties, Jeremias Blaser said funding of parties are basically come from membership and donations, and there is no law to check it. "Law is not required to inquire about the funding of the political parties because political culture is very high in Switzerland. There is no way to enter dirty money in the political parties," he added. However, he said "politics here is also costly because political leaders need consultants to survey their image and how to enhance image".

In conclusion, there are very few countries in which the people have such far-reaching rights of co-determination as in Switzerland. The long democratic tradition, the comparatively small size, both in terms of size and population, and ultimately also the high level of literacy and diversity of media are decisive factors in ensuring the proper functioning of this particular form of State.

Rezaul Karim is a senior reporter of The Daily Star. He took part in the study tour of Switzerland and Sweden as a member of Bangladesh delegation.

## Loopholes, legal fog cover who's to blame for tanker disaster

AFP, Paris

**W**HOS to blame for Europe's latest oil tanker disaster?

And who will pick up the tab for cleaning it up? The byzantine maze and legal haze in which international maritime shipping operates means those questions may never be satisfactorily answered.

The Prestige, which broke apart off northwestern Spain on Tuesday carrying more than 70,000 tonnes of crude oil, was a creaking 26-year-old single-hulled tanker whose cargo was liable to start spewing into the sea at the slightest breach.

After the previous disaster, when a decrepit tanker with a similar design, the Erika, foundered off Brittany, western France, in December 1999, the European Union decided to get tough.

It passed laws requiring tankers that entered its waters and ports to be double-hulled.

Bowing to shipping operators, it gave a lot of time for the phaseout. Tankers of the Prestige's build and age were given until 2005, and the ban would apply to the most recently-built single-hulls from 2015.

But however sharp-toothed they are, EU laws and international maritime regulations run smack into the global shipping business.

In this murky sector, a myriad of front companies can make it almost impossible to apportion responsibility and gain redress.

The Prestige, for instance, is registered in the Bahamas, owned by a Liberian company, Mare Shipping Inc., and managed by another Liberian company, Universe Maritime, via an office in Greece.

It carried oil for Crown Resources AG, a company with a Swiss headquarters and whose ultimate owners are Russian, the Alfa Group Consortium. Its insurers



PHOTO: AFP

Picture released by the Spanish Navy on Wednesday of the stricken Bahamas-flagged oil tanker Prestige, split in two, sinking the day before about 233 kilometers off the northwestern Spanish coast.

are the London Steamship Owners Mutual Insurance Association Ltd., based in Britain.

"This is corporate globalisation in action. Behind this disaster are companies registered in tax havens and loophole locations all over the planet," Friends of the Earth's director designate, Tony Juniper, said.

"The shipping and oil industries spare no opportunity to hide behind a legal structure so complex that liability for their actions is almost impossible to enforce."

In theory, Spain, facing a cleanup bill that could reach into the hundreds of millions or even billions of euros (dollars), can get compensation from Mare Shipping Inc.

This is because of a 1992 agreement, the Civil Liability Convention, which says that responsibility lies with the ship's owner.

But insurance covers just a fraction of the cost: in the case of the Erika, the payout was just over 80 million French francs (12.3 million euros, dollars) out of a final bill of more than two billion (305 million euros, dollars).

Getting more by filing suit against the owners is in itself a wishful business, given that many owners have few assets to cover such liabilities and in any case are headquartered in Third World tax havens where a legal fight would be long, costly and probably pointless.

Another potential source of compensation is the International Oil Pollution Compensation Funds.

This is a London-based fund to which 71 states (82 by next May) contribute, but which limits payouts to 119 million pounds (180 million dollars).

Corinne Lepage, an environ-

mental lawyer and a former French minister of the environment in the 1990s, says that, because the payouts are small and in effect spread among the shipping community rather than pinned on individuals, companies are easily tempted to own, operate and charter rust-buckets.

In the case of the Erika, the Belgian-French oil giant TotalFinaElf, which had chartered the vessels but not owned them, paid most of the bill.

"It went beyond its legal obligations because of the pressure of public opinion. You can hardly imagine a Liberian shipowner doing the same thing," said Michel Girin, director of the French agency CEDRE, which specialises in maritime pollution.

AFP, Madrid

**A**T least five companies and nine governments bear some responsibility for the oil tanker Prestige, which broke up and sank off Spain's west coast after spewing thousands of tonnes of fuel oil into the sea.

The complex web of relationships between the ship's owners, operators, insurers and inspectors, as well as the countries supposed to regulate them, is making it hard to determine who is ultimately to blame for the catastrophe.

Some 295 kilometres of Galician coastline have already been coated in the heavy oil leaked from the sunken tanker - which environmentalists say still threatens to unleash one of the worst environmental disasters the world has seen in decades.

The Prestige was built in Japan 26 years ago, owned by a Liberian company, Mare Shipping, but operated by a third firm, Athens-based Universe Maritime.

Although Universe is headquartered in Greece, Athens insists it too is a Liberian company.

The 42,000-ton vessel was registered in the Bahamas, one of 27 so-called "flag-of-convenience" countries and territories that attract ship owners and operators with low registration fees and minimal requirements for crewmembers' working conditions.

It was chartered by Swiss-based trading group Crown Resources - the owner of part of its cargo - which is in turn wholly owned by Russian holding company Alfa Group.

The Prestige was insured by the London Steamship Owners Mutual Insurance Association Limited Pelt, a British fund, and checked by inspectors from US firm ABS.

Its last inspection, according to the Greek shipping ministry, took

place in 1999 at the Dutch port of Rotterdam.

It had more recently stopped off at ports in the US, Spain, Gibraltar and Dubai, before setting sail on its last ill-fated journey from the Lithuanian port of Ventspils.

Crown Resources said on Wednesday it would cooperate fully with any investigation into the maritime disaster.

"Part of the cargo belonged to us, and we are prepared to do whatever we can to help in the investigation, and if necessary help to eliminate the consequences," said a company official in Moscow.

The company was "also a victim" of the disaster, he said, noting that "the ship's captain was experienced and the tanker did not seem excessively old".

Angry recriminations have already broken out over who is responsible for the disaster.

In a letter to the European Commission on Tuesday, Britain strongly hit back at insinuations that port authorities in Gibraltar were partly responsible for the catastrophe.

"The brief call by this ship at Gibraltar five months ago for refuelling could not reasonably have been expected to attract a full port state control inspection," said

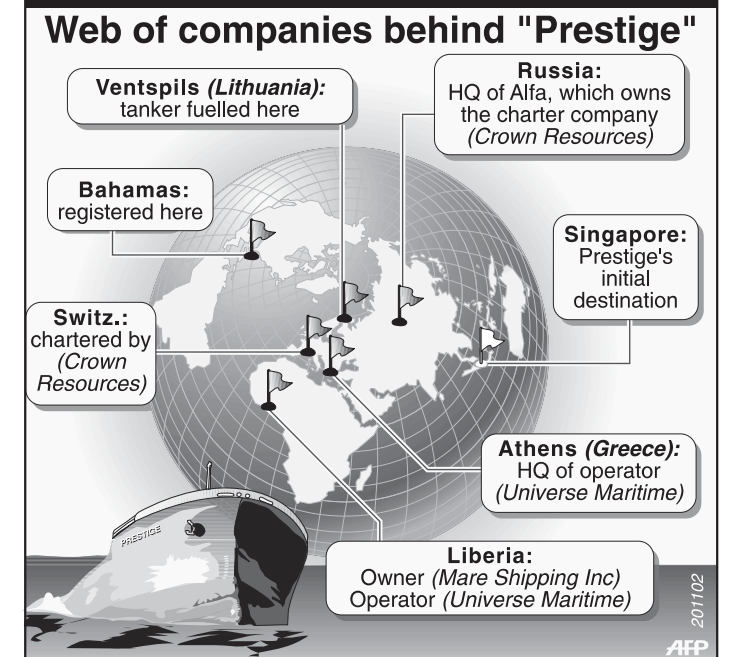
British Ambassador Nigel Sheinwald in the letter.

Spain has meanwhile launched legal action aimed at recovering damages from the insurers of the Prestige, which split in two and sank on Tuesday, five days after it began leaking oil into the sea along one of Europe's most picturesque and wildlife-rich coastlines.

Madrid said it had valued the

damage at around 42 million euros (dollars).

But the devastation seen so far and its estimated cleanup bill could turn out to be just the tip of the iceberg if, as environmentalists fear, the two parts of the rusting tanker end up releasing some or all of the remaining 70,000 tonnes of oil on board from its resting place, 3.5 kilometres beneath the waves.



## EU to shore up maritime safety rules

AFP, Paris

**A**FTER years of political wrangling and several major environmental disasters off its coasts, Europe is shoring up maritime safety rules in a bid to prevent future oil spills like the one threatening to spoil a stretch of northwestern Spain.

The sinking Tuesday of an ageing, single-skinned tanker off picturesque Galicia, which has so far dumped more than 10,000 tonnes of heavy fuel oil into the sea, has left political leaders backing a raft of EU rules meant to keep outdated and potentially unsafe ships from its waters.

The sunken Prestige - a 26-year-old "rust bucket" with a record of complaints about safety lapses and flying the Bahamian flag of convenience - which Greenpeace describes as lax on safety matters - was a model of the type of vessel that would be phased out of European maritime traffic.

After it went down on Tuesday, French President Jacques Chirac slammed what he called "the inability of both national and European political officials to implement measures that fight against the leniency that allows the increase in use of these floating rust buckets."

"It is urgent that we take draconian, serious and severe measures" to stop further ecological disasters from occurring, he added.

The 1999 wreck of the Erika oil tanker off France's northwestern coast, which spilled 20,000 tonnes of fuel oil into the Atlantic and polluted some 400 kilometers (250 miles) of coastline, led to a massive public outcry for stiffer standards.

Tougher EU-wide rules on maritime safety were drawn up immediately, but implementation has been slow at the national level, and it could take years for them to have a direct effect on the type of ships travelling to and from Europe.

The European Commission on Tuesday called on EU states to "urgently" implement the rules, agreed upon in 2000.

Transport Commissioner Loyola de Palacio has written to EU governments reminding them of their obligations, saying that instead of tinkering with the rules, officials "should concentrate on (their) effective application across the whole territory of the Union," said her spokesman Gilles Gantelet.

Port checks on single-skinned tankers will be mandatory under EU law from July 2003. A tanker of the Prestige's build and age would be banned from EU waters in 2005, and all single-hull freighters would be phased out by 2015.

French Transport Minister Gilles de Robien said on Tuesday the European Union needed a "maritime police force" to prevent unseaworthy vessels travelling through EU state's waters.

Ships with flags of convenience -- flags of a country other than the country of ownership -- remain "a real problem", Robien added.

The Japanese-built Prestige -- which appears not to have been inspected since 1999, when the ports of Rotterdam and New York both complained about security lapses -- is owned by a company registered in Liberia and flew the flag of the Bahamas.

Eco Matsers of Greenpeace in

Amsterdam agreed, saying countries like the Bahamas or Liberia often used for tankers' registries, "do not demand high standards for the ships they register, and the risks with such ships are high".

But the EU measures, some of which will take effect next year, leave certain experts skeptical.

"The European safety agency, if it were in place, would not have been able to stop the vessel from leaving (its Latvian port of origin)," said a maritime safety expert speaking on condition of anonymity.

"The boat did not come from Europe, was not loaded with European merchandise and was not going to Europe," he told AFP.

The specialists underlined that a reinforced hull -- as opposed to a single-hulled ship -- was no guarantee of safe transport.

"The reinforced hull is not a universal solution either," he said, evoking the shipwreck of the Italian chemical tanker levoli Sun off France's Normandy coast two years ago.

He, too, blamed the flags of convenience for keeping substandard vessels in use.

Their ports, less regulated and far cheaper than a European port, cannot guarantee more than "haphazard" quality.

Last March the International Maritime Organization denounced countries that serve as flags of convenience for "delegating controls and competences to opaque private companies".

They are "off-shore systems", like tax-evading off-shoring banking schemes, the specialist said.

## Oil slick menace could spell disaster for marine aquarium

AFP, La Coruna

**T**HE first sign of trouble at a huge marine aquarium on Spain's oil-slick threatened coast came Sunday last, when the resident seals clambered out of the water and refused to get back in, staff said.

Since then, a sense of foreboding has descended on the Finisterrae sea life centre, with staff fearing for the 2,000 fish from 150 species it houses, as more oil from the sunken tanker Prestige threatens to wash up on the coastline.

Finisterrae was built in 1999 at the spot where another tanker, Aegean Sea, ran aground 10 years ago, releasing 79,000 tonnes of crude oil that devastated over 200 kilometres of the Galician coastline and killed thousands of sea birds.

The ship's anchor is still on display on one of the terraces of the aquarium, as well as engravings from Jules Verne's novel Twenty Thousand Leagues Under the Sea, leading to an underwater gallery where dogfish, rays and wreckfish can be seen swimming freely.

La Coruna is so far untouched by the slicks from the Prestige that have already coated some 295 kilometres of coastline to the south, causing damage estimated at 42 million euros (dollars) and covering around 90 once-pristine beaches in the heavy oil.

With the Prestige now sunk and the remaining

slicks still far out to sea, staff hope the danger has subsided.

After their brief rebellion on Sunday, the aquarium's seals took to the water again the following day and resumed their normal lives.

"It was probably something they smelled in the air," said director Ramon Nunez Centella.

But with two large openings that let the sea rush in at high tide, the aquarium's two natural pools could be devastated if the weather changes, bringing with it slicks of fuel oil leaked from the 42,000-tonne tanker.

Despite a double floating barrier preventing surface pollution from entering the aquarium, there is a risk that strong winds could blow any oil over the barriers and into its pools.

"The worst situation would be if the oil begins arriving in small quantities just under the surface of the water," said biologist Antonio Vilar Peron. "The fish would start dying before we even realised what was happening."

The aquarium holds around seven tonnes of seawater in emergency reserve and has made plans to evacuate its marine life to local swimming pools in the event of a catastrophe - a move staff would resist until the last possible moment, because it would mean closing the centre.

"It's a bit like a game of Russian roulette, we'll have to wait and see," said Vilar Peron. "When the sea dies, we die too."

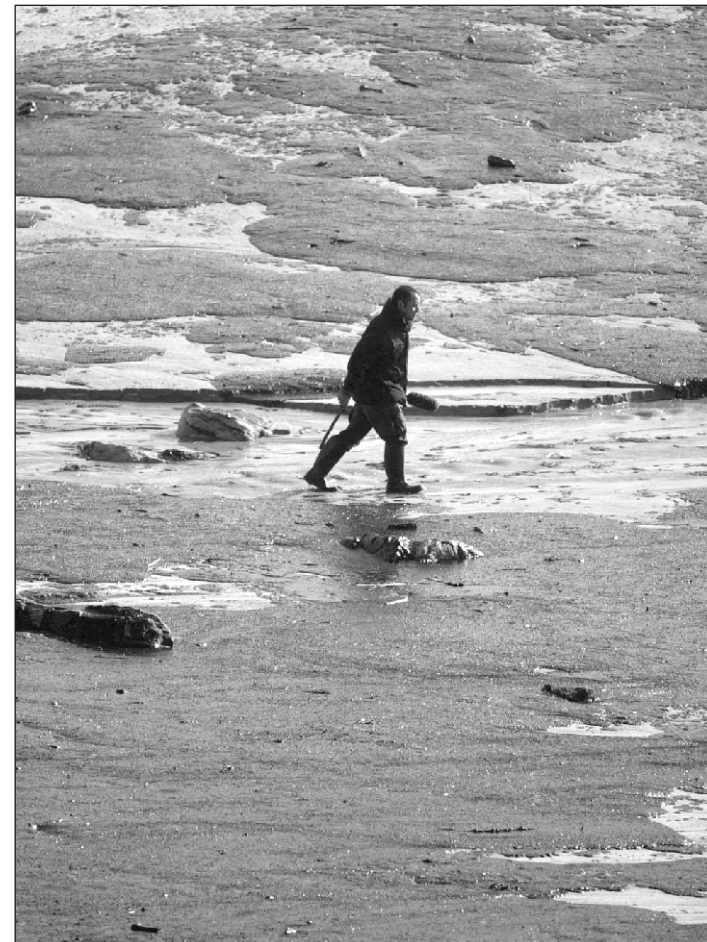


PHOTO: AFP

A journalist walks on the beach Mar de Fora in northwestern Finisterrae Cape yesterday, where sand is covered with fuel oil from the sunken oil tanker Prestige.