



Swiss direct democracy: a brief history and current debates

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Introduction

Switzerland is politically well known for its three major institutions: neutrality, federalism and direct democracy. The latter is especially interesting in the current European context. People were called to take part in referenda (or plebiscites) in various countries and various political parties speak out in favour of more direct democracy instruments. In this article, we will be looking at the Swiss direct democracy in order to illustrate how it can work and what the consequences are for the political and public arenas.

What is direct democracy?

What we call *direct democracy* is deeply rooted in the first meaning of *democracy*. *Demokratia*, in Greek, means that the citizens (*demos*) have the power (*kratos*). The ancient Greek democracy was the first example of a direct democracy, although not everyone could be a citizen at that time (as this status excluded women or slaves for example). There was no election for representatives and therefore individuals were taking part in the assembly by sortition (chosen by lottery) (Ober, 1998). Nowadays, citizens don't represent themselves but are represented by people who chose to become political representatives. This implies that politicians are supposed to express and act for the interests of the people.

However in Switzerland the political system includes various instruments to properly allow people to take part in politics. Direct (or semi-direct) democracy refers to "citizens directly voting on substantive issues elected representatives normally vote on" (Leininger, 2015). Referenda and popular initiatives give the people the opportunity to vote for communal, cantonal or state legislations or proposals. In the next section a short analysis of how these tools work will be given.

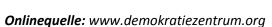
Referenda and popular initiatives: tools in direct democracy

We distinguish three institutions of direct democracy in Switzerland¹:

(a) Mandatory referendum: people have to vote on the law decided in parliament. For instance, a referendum is said "mandatory" when the parliament wants to revise the Constitution or adhere to supranational organisations. The agreement from the people is compulsory. This vote requests the double majority (this is discussed later).

For instance, on the 6th December of 1992 people rejected by referendum the adhesion to the European Economic Area. Even if this referendum wasn't exactly about the accession to the European Union, the result can be seen as a refusal to a potential accession.

¹ For more details, consult the Swiss Constitution, articles 138 to 142 are dedicated to these three instruments. https://www.admin.ch/opc/en/classified-compilation/19995395/index.html (01.12.2016)





(b) Optional referendum: this is the "normal" referendum where people take initiative against a decision made by the parliament. For the law to be voted, citizens (or the group who initiates this referendum) must obtain 50'000 signatures within hundred days. Eight cantons can also ask for a referendum. This vote only requests the popular majority.

In 2005 for example, the people accepted the *Schengen Agreement* after a committee launched a referendum against the decision of the government.

(c) Popular initiative: a group of citizens, a party or any organization can launch a popular initiative. It emerges directly from citizens and is not a readjustment of a previous legislation. Initiators must collect 100'000 signatures within 18 months. It is powerful, as people can not only vote but also submit a principle or a law. This vote requests the double majority.

For instance, Swiss people accepted the popular initiative in 2002 on the accession to the United Nations.

Could any country have a direct democracy? Many countries allow to hold referenda, but a full implementation of tools as it is in Switzerland would be difficult. Direct democracy and its tools have been integrated little by little, following a logical political spirit.

The Swiss federal state: an overview

The Swiss federal state is the result of a civil war. In 1847 (from 3rd to 29th of November), Catholics and Protestants were opposed in the *Sonderbund's* war. More than religion, it was also the conception of the state that created tensions between them. While the Catholics were conservative and refused the state's centralization, the Radicals (mainly Protestants) wanted a centralized state where decisions could be taken.

After 26 days of war and a hundred dead people, the Protestants eventually won the war. In 1848, Switzerland became a federal state and adopted a new federal Constitution. Actually, this Constitution gave the cantons a lot of power and didn't fit the will of a "centralized state" from the Protestants. The Constitution of 1848 can be seen as a *compromise* between the two parties. Moreover, at that time it was not possible to hold referenda, which means that the decision of a federal state was under no pressure (Papadopoulous, 2001). The referendum later appeared in the Constitution of 1874. In fact, even if the Catholics had to accept the Constitution of 1848, they were able to keep a political authority over their cantons: "Consociationalism appears then much as a strategy for preventing the repeat of past traumas" (ibidem).

Federalism can be seen as a way to protect minorities, as Catholics were concentrated geographically at that time and could apply their own power. Are the minorities nowadays still concentrated? Does it still make sense to protect the Catholic minority in Switzerland? These questions are fully relevant today.

We should now have a look at the Swiss concordance to understand how this first compromise had given rise to a consensual practice.



Swiss concordance and Neidhart hypothesis

Switzerland appears to be a country were no strong and recurrent opposition is possible. We can name the "integrative impact of direct democracy", the semi-direct democracy and semi-representative system as impediments to opposition (Church & Vatter, 2009). Beyond the system (direct democracy, federalism), there are indeed a few criteria that allow Switzerland to avoid political struggle and to rather practice concordance between parties.

Firstly, Swiss executive (the Federal Council, seven members) is often called a "magic formula" owing to its composition. If we go back to the historical perspective, the Protestants (or Radicals) were the only ones to sit in the executive (seven seats, equal power). It was only in 1891 that the first Catholic-Conservative joined the Federal Council, after pressure through referenda (Papadopoulos, 2001; 2002). The referendum right that appeared in the Constitution of 1874 gave the possibility for proper opposition.

The "power-sharing" was implemented then by integrating other parties in government little by little (Papadopoulos, 2002). This magic formula aims today to represent the four major forces in parliament (Radical, Christian democrats, Socialist and the Swiss People's party, a nationalist populist party). As being a college, the members of the Federal Council have to speak in the voice of the executive and not for their own political and partisan interests.

Secondly, a referendum and more over the "threat" of a referendum can be seen as a factor of concordance. Neidhart's hypothesis (1970) is well known in Swiss politics. Basically, it says that direct democracy (especially referenda) forced not only politicians to negotiate but also to integrate other actors in policy-making (experts, lobbies, etc.). Direct democracy is "a constraint that forces political elites to adopt a strategy of co-operation rather than confrontation" (Papadopoulos, 2001).

The objective is rather clear: avoiding a referendum (which would mean challenging political decision) by limiting opposition. With this in mind, it is important to consult every group, party, canton or lobby that would be able to launch a referendum. The referendum threat has developed a strict and institutionalized consultation process (Sciarini, 2011). New actors are involved in the process and Swiss democracy appears, according to Neidhart, as a "negotiating democracy" (ibidem).

However, even when the pre-parliamentary phase is taken seriously, the political acceptability is not always evident and the risk of a referendum remains unpredictable. Thus, Neidhart's hypothesis is not confirmed in practice (ibidem; Papadopoulos, 2001).

Although politicians may want to avoid referenda or even popular initiatives by anticipating the needs, it is sometimes unavoidable. In this case, the people will be called to vote. In the next section, we will examine the meaning – in theory and in practice – of "double majority", as it is a significant element in voting.

The issue of double majority

As we have seen, mandatory referenda and popular initiatives require the double majority. What does that mean? For a law to be passed, it needs both the popular majority and the cantonal





majority. As Switzerland consists of a federal state with 26 cantons, every canton should have the same weight.²

Two principles are needed here: the "democratic" principle, that allows the same weight to each citizen's vote, and the "federalist" principle, that allows the same weight to each canton. At the national level, we call "collusion" the phenomenon in which the two principles are confronted: when the majority of people said "yes" but the majority of cantons said "no" and vice versa.

Actually, the double majority ensues from the federal logic. The Swiss parliament consists of two chambers: the National Council (200 seats, representing the people proportionally to each canton's population) and the Council of States (46 seats, representing the cantons). In the latter, every canton obtains 2 seats (and 1 per "semi-canton"). We won't examine further how the chambers work but it is important to say that the phenomenon of double majority is the same as in the Council of state: according the same weight to every canton, no matter its size or its density of population.

If the "majority of the people" is no source of debate, the second majority (i.e. cantonal majority) is often questioned. Originally, the idea was to represent the small catholic cantons equally but today this overrepresentation can lead to some tensions. In fact "representative bodies have 'frozen' power relation between groups in spite of changing social conditions" (Papadopoulos, 2002). At the present time, it means that a canton like Uri, with 35'000 inhabitants, has the same weight as Zurich (where more than 1.4 million inhabitants live) (OFS, 2016).

As the Swiss history has showed us, the first cleavage that gave rise to a federal state was the religious one: Catholics and Protestants. The representation in Council of State and the double majority principle would then safeguard against supremacy from the Protestants. Is this cleavage still present? We can first note that the social structure of cleavages has changed and our way to define what a minority is as well (Papadopoulos, 2002).

For instance, a very basic characteristic of a minority is its geographic concentration. However, it seems that many social changes make the religious minority obsolete. For example, we can mention the rural flight (taking into account that Catholics used to rather live in the countryside), the secularisation, a greater mobility (working and living in two different cantons) and the diversity of religious belongings in one canton (ibidem).

Moreover, population has increased much more in urban centres than in the countryside. In spite of these differences, small cantons in the centre of Switzerland have the same weight as the biggest or more densely populated cantons. The loss of population concentration and the population movement show that equal representation can lead to an overrepresentation of rural cantons and therefore underline divergent interests between city and land.

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² Actually, six of them only have half a cantonal vote. Consult Swiss Constitution, Art. 142.4 to see the list. We used to speak about "26 cantons and half-cantons" because six of them only have half of a vote, which places the majority of cantons as 12 on 23 cantons. They are the result of a cantonal split. Nevertheless, we don't use the term "half"; instead, we would say "Obwald and Nidwald" (historically the united Unterwald canton) for instance (Schmitt, 2007. Institute of Federalism, University of Fribourg).





A focus on popular initiatives

Referenda and initiatives: a different meaning

As we have seen before through the controversial hypothesis of Neidhart, politicians tend to avoid referenda, by taking into account different positions. A referendum challenges what the parliament has decided. The people can thus show if the government deserves to be trusted.

As for the popular initiative, it can be regarded as a real "counter power" (Chollet, 2016). For the political system, it is impossible to control popular initiative because it is not an answer to a political decision but rather a new offer. It can be seen as a constraint: for example, it can modify priorities in parliament, forcing deputies to address the issue (Papadopoulos, 2001). The parliament can act in the sense of the initiative proposal in order to negotiate with the initiators and make them take back their initiative. It is also possible to write a counter project on which the people will also vote (they will vote on an initiative and on its counter-project and say which one they prefer).

For instance, in 2014, a group of family doctors (or general practitioners) launched an initiative about basic health needs and the role of family doctors. The government opposed a counter-project that apparently convinced the initiators because they took back their initiative. Here is a good example of the power of popular initiative: it can force the parliament to legislate and to offer a law to be submitted to vote. It permits then to focus on one campaign and not two and, in this case, to obtain a successful result (more than 88 % of "yes" and all cantons).

To conclude, we can say that the result of a referendum is clear: the people agree with the law or reject it and force the parliament to work further. On the contrary, when an initiative is accepted, it is generally a principle that is accepted. The translation into law remains uncertain.

Legislative achievement and empirical issues

Defenders of direct democracy put emphasis on the power of the people. They say that through direct democracy, and even more through popular initiative, the people has the right to decide. However, the Swiss case shows that it is always difficult to transform a principle (initiative) in a concrete law. What the initiators want is not always what the legal outputs say (Tauxe, 2007). As we will see, it is sometimes also complex to write a law that respects previous commitment (with the EU for instance) while the principle in the initiative goes directly against it. Before that, we can quickly sum up four factors that make the legislative achievement difficult (all of them come from Tauxe, 2007).

Firstly, the text of the initiative is sometimes vague. It can be seen as a strategy to gather members of the referendum committee but also voters. An evasive text leads to free interpretation: the first content can then be distorted in the law.

Secondly, there is the financial constraint. When the initiative doesn't match the parliament's interests, time and financial resources may not be invested, as it would be for another implementation.

Thirdly, there is the "internalisation of politics", which means that the Swiss administration and political system aren't independent from their environment (international law for instance).



Finally, the parliament is the place where the principle becomes a law: it means that a majority in the parliament can "modify" the principle by interpreting it from its own perspective.

A recent example is the initiative launched by the Swiss People's Party (SVP). The Swiss voters were called to vote in 2014 on an initiative "against mass immigration". The initiative was accepted only by 50,3 % of the population. The majority of cantons was also needed as a popular initiative requires the double majority. 12 cantons and 5 "half-cantons" accepted the initiative against 8 cantons and one "half-canton". Here we can see a perfect example where cantons from the French part and urban cantons (like Zurich) have rejected the initiative whereas smaller and rural cantons have accepted it.

If we have a look at the canton Uri, the initiative was accepted with 7'595 voters in favour and 5'462 against; in comparison, canton Zurich has rejected the initiative with 265'973 votes (239'139 voted in favour of the initiative).³ Although the amount of voters is completely different, Uri and Zurich have the same weight.

We can obviously understand the link to legitimacy of "double majority" here. Some cantons are dependent from foreign workforce and the fact that small cantons non-concerned with immigration have voted in favour of this initiative can create a conflict of interests. What is more important, at a national level, is the difficulty for the executive to *apply* this initiative. In fact, restricting immigration (by quotas, for instance) goes against the free movement of persons in the Schengen convention, yet accepted by the Swiss people in 2005 (as a mandatory referendum, accepted by 54,6 % of the people). This example also shows that Swiss political authorities can be weakened as their agreements are always under the threat of an initiative.

It can be questioned *why* do people have to vote on an initiative that goes against international law or human rights.⁴ It may be the idea that direct democracy is a place where every topic can be submitted and where the "democratic process" is preeminent. Due to the amount of controversial initiatives (in the sense that they reconsider international treaties or are dangerous for human rights), some authors warn against an "excessive" direct democracy. Before exploring this debate, we can conclude our part on popular initiative by questioning *who* is really involved in this process.

Use of initiatives: Is the people really concerned?

We often hear that direct democracy allows minorities and outsiders to take part in decision-making processes through popular initiatives. In this section, we will discuss if the *people* is really privileged by this tool. Popular initiative gives the parties, organizations, lobbies or groups of citizens the opportunity to strongly participate in the policy-making process. If this definition is attractive, popular initiative is nonetheless source of debates and controversies.

The major argument of popular initiative is to give power to the ones who usually can't or don't take part in politics. For instance, a small party can introduce a political topic they would like to be

³ Results by canton can be consulted: https://www.admin.ch/ch/f/pore/va/20140209/can580.html#

⁴ The Swiss people is called to vote on the initiative "Swiss law instead of foreign judges". You can read more here (French and German): http://www.humanrights.ch/en/switzerland/internal-affairs/law/svp-anti-human-rights-initiative-submitted



debated (Leemann, 2015). That also forces all the actors in the political arena to formulate a clear position on this topic.

On the other hand, the use of popular initiative by a bigger party can reinforce the focus on a particular issue. This approach generally leads to the will of a party to claim the ownership of this issue (environment, immigration, security, etc.). This is what we call "issue competition" (Green-Pedersen, 2007): parties focus on topics they have the leadership of or over which they want to have the control. Doing so, they firstly force other actors to debate and position themselves and secondly establish their party as the more competent and skilled. Moreover, that can also be used as an argument for the coming elections: "Political parties may use the initiative not because they expect to change policy outcomes directly ... but as a means to take a political position in a very visible way and to campaign" (Leemann, 2015). This use with electoral and political purpose can be criticised and seen as an "ideological game" between parties more than the achievement of people's rights. In addition, we can point out another characteristic of popular initiative. In Switzerland, 100'000 signatures in 18 months are required before an initiative is analysed by the parliament and, if applicable, voted for by the people.

The number of signatures is a matter of debate today. For some, too many initiatives are launched and that is why one may want to increase the number of signatures required. As it is a fixed number, it doesn't take into account the fact that the population increases, which makes it easier to collect the affordable number of signatures. By contrast, the inherent role of popular initiative is precisely to include small actors in the game, giving them a feasible challenge. The initiators must have financial and temporal resources: this necessity directly excludes stakeholders that are too "small" and supposedly concerned by this instrument.

In a nutshell, there is on one hand an "elitist" position that argues for a higher number of signatures, in order to reduce the frequency of popular initiatives. On the other hand, there is the "democratic" approach that aims to make the access to popular initiative easier by decreasing the number of signatures (Sciarini & Tresch, 2014). One can say that the number of signatures should be increased because too many initiatives are voted for (Cherix, 2016, 71). However, it seems that not only initiatives have increased but also mandatory and facultative referenda, as the parliament passes more legislation (Sciarini & Treschel, 1996). Plus, the support for the government (which means that the people follow the recommendation given by the Federal Council) is still high. If to some authors initiatives may look dangerous and too often used, it may also be part of the media's and social networks role.

To sum it up, popular initiative is not always taken as a "popular" instrument, but more often as a strategic tool for political stakeholders. It can give a voice to the small parties or citizens but it is also a source of frustration and can provoke feelings of injustice in regard to the number of signatures and the "double majority" requirements.



Reforming direct democracy: a debate

As we have seen with the use of popular initiatives, we can distinguish two visions of direct democracy. On the one hand, there are authors that want direct democracy to go further, through enhancing the people's possibilities to participate. On the other hand it is often said that too much direct democracy can lead to negative ends (populist parties, media's overuse). In this part, we will review some of the main arguments of both sides.

Direct democracy should go further

The aim of direct democracy is to include and involve the people. By voting, signing a referendum or launching an initiative, citizens have the possibility to embrace public debate. However, as explained before, institutions like popular initiatives are not always used by the people but by the parties, the "elites". It is said that it is precisely these elites that want to reduce the "level" of direct democracy.

For the partisans of this direct democracy, politicians too often use a negative discourse against voters, accusing the people to be "ignorant" for example. The elites question the capacities of the voters because they may not take the same decisions as them and are characterized as non-competent (Chollet, 2011). Partisans of direct democratic institutions think that the people, as a sovereign, can't be wrong. When more people take part in the vote, this power is reinforced and it appears then to be logic to act in favour of extended participation.

In fact, direct democracy has to be used, and reducing it by saying that processes take too much time is an excuse to exclude the people from decisions. One can argue that for a real "democratization", democratic institutions must be extended, increased and intensified (ibidem). This idea follows the desire of a great participatory democracy. Citizens are political actors that take part in democratic processes, not to criticise or correct what has been done but to be part of the system (ibidem).

This position raises the question if the people are allowed to *not* get involved in politics. Even if the number of required signatures for an initiative or a referendum gets lower, would "minorities" or more generally the people (by opposition to the parties, lobbies or organisations) participate more? When we make the access easier, it doesn't seem to have any effect on the use of democratic institutions: "Institutional openness has hardly any impact on the use of direct democratic institution" (Barankay, Sciarini & Treschel, 2003). On the opposite, the fact to have to collect more signatures can increase voter turnout (ibidem).

Every person or every group can be seen as a potential user of democratic institutions. The problem is then to know why people don't use it. Is the access to difficult? Is their claim not political enough? Even when we reduce the number of signatures, resources are still needed to "politicise" a topic. Moreover the people's participation takes place not only in initiatives, but also primarily in voting. If we take Switzerland as an example, there are rarely more than 50 % in voter turnout; so should we facilitate the access to the institution or reinforce the general interests?

Direct democracy, populism, information

Although there is not a clear position against direct democracy, there are some warnings on its use and the context in which it takes place. The critics say that direct democracy has no limits and needs safeguards; this opinion seems to stem from controversial initiatives that have been launched in the



last years. For instance, we can mention three accepted initiatives that were generally launched by the SVP or a part of its members: the initiative against the construction of minarets (2009), the initiative to expel foreign criminals (2010) and the initiative against mass immigration (2014). These subjects were disputed and could easily divide people in supporters and opponents. The political campaign from the SVP was also extreme: key words, shocking images, clichés and fear.

It seems that it is essentially in reaction to these kinds of initiatives that some authors are criticising direct democracy. More precisely, it is not the institution *per se* which is criticised, but rather the power if offers to populism (Cherix, 65, 2016). If the parliament wants to follow a great democratic process, there is not much it can do against initiatives (it could refuse the text before the initiators start collecting signatures, it can propose a counter project and it can make a voting recommendation).

As we have seen, even when the principle could go against previous agreements or threat human rights once it becomes a law, the initiative has the right to be voted on. This instrument can be dangerous in the sense that any public debate can become a law; a societal discussion gets institutionalized (ibidem, 92-3). This concern goes generally hand in hand with a critique of populist parties (in our case the SVP) and the media.

Instead of "direct democracy", campaigning and debating creates a "direct demagogy", even more when an initiative is about foreign relations (Kuntz, *Le Temps*, 2016). In a direct democracy, people vote and by doing so they also determine a political line; whether their decisions are good or bad is relative, we cannot deny that 8 millions of people don't have the same opinion. However, it is acceptable to ask for an informed decision that is not driven only by feelings like fear, hate or by squabble between political stakeholders. When parties try to convince voters and the media covers debates and opinions, citizens receive a lot of information. It also means that sometimes a personal opinion is considered as certitude and relayed as such (Cherix, 76, 2016). The voter will then take a decision according to it. The problem here is obviously that information is never objective neither complete; sometimes a referendum or initiative appears to be a media or campaign fight more than to be a political concern.

The media have this uncomfortable place as they are criticized by lots of politicians (those who however go to interviews). Maybe the problem doesn't come from "the media" as a whole but more precisely by the image people have from the media. A newspaper for instance always has a tendency (through the people interviewed, the topics addressed, the language used, etc.). It is clear then that "objective information" is far from reality; the diversity of information (arguments from supporters and opponents) appears as the second best choice (where the first would be this "perfect and objective information"). Added to this, social networks are also a huge platform for political disinformation, where facts are consciously skewed and where it is difficult to have any control.

In conclusion, direct democracy is not to be taken as a concept free from context: campaigning, media coverage and populist discourses are also shaping the meaning of this institution.



Conclusion

Direct democracy as a remedy for the "democratic decline"?

The argument of direct democracy as a remedy for non-participation or disinterest in politics is often heard. In a context of "democratic recession", characterized by realignment and increase of global governance (Leininger, 2015), direct democracy is thought to be the best solution. Is there a clear link between political participation and direct democracy? In Switzerland, participation varies among voter turnout. When the salience of an issue is high, the percentage of participation will probably increase. Otherwise, people are also subject to disinterest or a lack of understanding about politics. Direct democracy may increase participation on a particular object but it doesn't mean that people will be more involved in politics. What we can suggest though is that direct democracy tends to increase the satisfaction with the quality of the democracy; it gives people more possibilities in political processes and gives them the assurance the government has to care and to listen to the citizens (Bernauer & Vatter, 2012).

In Switzerland, people vote four times a year about all kinds of subjects and at different levels (communal, cantonal and state). We could say that there is a "vote culture", but it also implies that voters may experience fatigue instead of the enthusiasm others would feel in a country where referenda are occasional. Participation may increase in the short-term (or on one-time turnout), but Switzerland shows us that participation is not obvious (see also Altman, 2012).

The lack of participation unfortunately raises the question of legitimacy of decisions (Sciarini & Tresch, 2014). If direct democracy is seen as an inclusive instrument, it can also be limited by the recurrent abstention of some citizens and therefore weakens the acceptability of the outcome.

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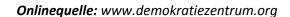
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