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Lecture 11

Direct Democracy

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1. Introduction

In a direct democracy, the **people decide policy initiatives directly** or they initiate decisions in a compelling way. Because today procedures of direct democracy are usually incorporated in representative democracies, the main question goes how direct and representative procedures are combined with each other.

In contrast in history, direct democracy was considered to be and handled as an institutional system at its own. The earliest known direct democracy is said to be the **Athenian democracy** in the 5th century BC, although it was not an inclusive democracy: women, foreigners and slaves were excluded from it. The main bodies in the Athenian democracy were the assembly, composed of male citizens; the council of citizens, composed of 500 citizens, and the law courts, composed of a massive number of jurors chosen by lot, with no judges. Decisions were made by the assembled people and the people controlled the entire process through the assembly, the council of citizens and law courts, and a large proportion of citizens were involved constantly in the public business.¹



Attic Machine to assigning by lot

The **Roman Republic**, beginning around 509 BC and ending in 43 BC, had a system of citizen formulation and passage of law, and a citizen veto of legislature-made law. The Roman Senate, formed in the first days of the city, lasted through the Kingdom, Republic, and Empire, and even continued after the decline of Western Rome; its structure and regulations continue to influence legislative bodies worldwide.

¹ In this chapter, I substantially follow: http://en.wikipedia.org/wiki/Direct_democracy



Assembly, of the Canton of Glarus, on 7 May 2006, Switzerland

Modern-era citizen lawmaking began in the towns of Switzerland in the 13th century. In 1847, the Swiss added the "statute referendum" to their national constitution. They soon discovered that merely having the power to veto Parliament's laws was not enough. In 1891, they added the "constitutional amendment initiative". Swiss politics since 1891 have given the world a valuable experience base with the

national-level constitutional amendment initiative. In the past 120 years, more than 240 initiatives have been put to referendums. The populace has been conservative, approving only about 10% of these initiatives; in addition, they have often opted for a version of the initiative rewritten by government.

Another example is the **United States**, where, despite being a federal republic where no direct democracy exists at the federal level, almost half the states and many localities provide for citizen-sponsored ballot initiatives (also called "ballot measures" or "ballot questions"). The vast majority of the states have either initiatives and/or referendums.

2. Two procedural typologies of direct democracy

Procedures (instruments) of direct democracy are to be found in many countries. Indeed, those instruments vary to a distinct degree regarding their specific designs, scopes, configurations, and degrees of practical significance. Unfortunately, until now there is no internationally accepted typology of those instruments. So the UN and North American based **ACE Electoral Knowledge Network** differentiates between the following types:

- **referendums**, which are votes on a specific single issue or piece of legislation (rather than for a party or candidate);
- **citizen initiatives**, whereby citizens can propose new legislation or constitutional amendments by gathering enough signatures in a petition to force a vote on the proposal;
- **recall**, under which citizens can force a vote on whether to oust an incumbent elected official by collecting enough signatures in a petition.²

That is, ACE comprises not only instruments on substantial decision-making by the people as direct democracy; also specific ways of electing respectively

² ACE Electoral Knowledge Network: <http://aceproject.org/ace-en/focus/direct-democracy/default>

ousting persons are considered to belong to those instruments. The term *referendum* is conceived of in a broad meaning that involves any voting of citizens on a specific single issue or piece of legislation.

In contrast, the *Navigator to Direct Democracy*, produced by the Initiative and Referendum Institute Europe, uses a typology that comprises ***initiative, referendum, and plebiscite***. That typology covers *all procedures of popular votes on substantive issues*. Hence popular votes on persons and parties, like recall procedures, are not included.³ A second difference concerns the usage of the term *referendum*: *The distinction between citizen-initiated referendums and authority-initiated plebiscites is crucial; whereas referendums are tools of the people, plebiscites operate as tools of power holders for legitimization and mobilization or for bypassing other representative institutions or for disengaging from tough policies*.⁴ Third, initiative, referendum and plebiscite are defined to differ concerning their initiators: *The initiative comprises procedures where the author of the ballot proposal is THE SAME as the initiator of the procedure, the referendum procedures where the author of the ballot proposal is NOT the same as the initiator of the procedure. Finally the plebiscite comprises procedures initiated by a representative authority*.⁵

Starting from these definitions, ten concrete procedures to compare the repertoires and instruments of direct democracy are presented (table 1).

Table 1: Forms of procedure (*Navigator to Direct Democracy*)

Form of procedure	Code	Type
Citizens' Initiative	PCI	Initiative
Citizens' Initiative + Authorities' Counter-Proposal	PCI+	
Citizen-initiated Referendum	PCR	Referendum
Citizen-initiated Referendum + Counter-Proposal	PCR+	
Obligatory Referendum	LOR	
Plebiscite	ATP	Plebiscite
Veto-Plebiscite	AVP	
Authorities' Minority Plebiscite	MTP	
Authorities' Minority Veto-Plebiscite	MVP	
Agenda Setting Initiative	PAX	Mixed

The used code in table 1 is to be explained as follows:

³ December 14, 2014: <http://direct-democracy-navigator.org/> December 14, 2014

⁴ <http://direct-democracy-navigator.org/> December 14, 2014

⁵ <http://direct-democracy-navigator.org/> December 14, 2014

- First letter = initiator of the procedure
A=Authority, L=Law, M=Minority of an Authority, P=Popular
- Second letter = characteristic feature of the procedure
A=Agenda setting, C=Citizen controlled, O=Obligatory, T=Top-down, V=Veto
- Third letter = type of procedure
I=Initiative, P=Plebiscite, R=Referendum, X=Mixed
- The “+” -sign indicates that the initiative or referendum procedure is combined with a counter-proposal.

For instance: **Citizens’ Initiative** is shortly designated as **PCI**, while **P** (Initiator) = Popular; **C** (Characteristic feature) = Citizen controlled; **I** (type of procedure) = Initiative.

The Navigator group describes the single procedures collected in table 1 as follows:

1) Popular or citizens’ initiative

Code: PCI

Category: Initiative

Description: A popular vote procedure and a political right that allows a given number of citizens to put their own proposal on the political agenda. The procedure is initiated by a prescribed number of eligible voters. The sponsors of a popular initiative can force a popular vote on their proposal (assuming that their initiative is formally adopted). The initiative procedure may include a withdrawal clause, which gives the sponsors the possibility to withdraw their initiative, for example in the event that the legislature has taken action to fulfil the demands of the initiative or part of them.

2) Popular or citizens’ initiative and authorities’ counter-proposal

Code: PCI+

Category: Initiative

Description: Within the framework of a popular initiative process a representative authority (normally parliament) has the right to formulate a counter-proposal to the initiative proposal. Both proposals are then decided on at the same time by a popular vote. If both proposals are accepted, the decision on whether the initiative proposal or the authority’s counter-proposal should be implemented can be made by means of a special deciding question.

3) Citizen-initiated referendum (also called popular)

Code: PCR

Category: Referendum

Description: A popular vote procedure and a political right that allows a specified number of citizens to initiate a referendum and let the whole electorate decide

whether, for example, a particular law should be enacted or repealed. This procedure acts as a corrective to parliamentary decision-making in representative democracies and as a check on parliament and the government.

4. Citizen-initiated referendum and counter-proposal

Code: PCR+

Category: Referendum

Description: This popular vote procedure combines a popular referendum against a decision by an authority with a referendum on a counter-proposal. If both proposals are accepted, the decision between the two can be made by means of a deciding question.

5. Obligatory referendum

Code: LOR

Category: Referendum

Description: This popular vote procedure is triggered automatically by law (usually the constitution) which requires that certain issues must be put before the voters for approval or rejection. A conditional obligatory referendum means that a specified issue must be put to the ballot only under certain conditions. Unconditional referendums are without loophole.

6. Plebiscite

Code: ATP

Category: Plebiscite

Description: A popular vote procedure whose use lies exclusively within the control of an authority. In this form the author of the ballot proposal and the initiator of the procedure are the same (for example parliament or president).

7. Veto-Plebiscite

Code: AVP

Category: Plebiscite

Description: A popular vote procedure whose use lies exclusively within the control of the authorities. In this form the author of the ballot proposal and the initiator of the procedure are NOT the same. For example, a government or a president may oppose (veto) a decision of parliament and refer it to a popular vote; hence the name veto plebiscite.

8. Authorities' Minority Plebiscite

Code: MTP

Category: Plebiscite

Description: A popular vote procedure and a political right that allows a specified minority of an authority (e.g. one third of the parliament) to put its own proposal on the political agenda and let the people decide on it by a popular vote.

9. Authorities' Minority Veto-Plebiscite

Code: MVP

Category: Plebiscite

Description: A popular vote procedure characterized by the right of a minority of a representative authority to put a decision made by the majority in the same authority before the voters for approval or rejection. This procedure enables a minority of a representative authority to step on the brakes and give the final say to the voters.

10. Agenda Setting Initiative

Code: PAX

Category: Mixed

Description: An agenda setting initiative is the right of a specified number of eligible voters to propose to a competent authority the adoption of a law or measure; the addressee of this proposal and request is not the whole electorate but a representative authority. In contrast to the popular initiative, it is this authority which decides what is going to happen to the proposal. An agenda initiative can be institutionalized in a variety of ways: for example as an agenda initiative without popular vote, as an agenda initiative combined with the possibility of a consultative or binding plebiscite or as a popular motion ("Volksmotion"). The popular motion can be the equivalent of a parliamentary motion; if adopted, it can also be treated like a popular initiative (this is the case in the canton of Obwalden, Switzerland).

The **Navigator to Direct Democracy**, an ongoing project under construction, hitherto appears to be predominantly influenced by experiences of direct democracy in Switzerland. The used definitions of procedures are pretty complex; the strict contraposition of referendum and plebiscite does not take aware of the often proven fact that any plebiscite respectively referendum is also used by the people to express their relationship to current government. And often planned plebiscites, in the end, turned into critical popular votes about current government. In spite of these neglections, the Navigator renders valuable information on procedures of direct democracy in many countries.

Just click on: <http://direct-democracy-navigator.org>.

3. Liquid democracy and conclusions

Some of the issues surrounding the related notion of a direct democracy using the Internet and other communications technologies are dealt with under terms such as ***e-democracy***, ***electronic direct democracy***, and ***liquid democracy***. The concept of open source governance applies principles of the free software movement to the governance of people, allowing the entire populace to participate in government directly, as much or as little as they please.

Liquid democracy is conceived of as a mixed form of representative and direct democracy. The term designates *a new form of democracy where in various fixed limitations are liquidized*.⁶ *Liquid Democracy is to enhance the citizens to decide about single law initiatives instead of deciding about nothing but packages solutions, mediated by the parties. Citizens are to participate in forming laws*.⁷ In the liquid democracy, a citizen holds his or her vote currently liquid, that is, he/she decides from case to case when he wants to delegate his vote or not.⁸

How far new approaches of direct democracy can and should be realized will reveal in political processes to come. In any case, direct democracy should not be taken aware as a possibly stimulating element of democracy.

⁶ <https://liqd.net/schwerpunkte/theoretische-grundlagen/liquid-democracy/> December 15, 2014

⁷ Frieder Vogelmann: Flüssige Betriebssysteme. Liquid democracy als demokratische Machttechnologie. Aus Politik und Zeitgeschichte, 22. November 2012

⁸ Substantially following http://de.wikipedia.org/wiki/Liquid_Democracy, December 15, 2014