

Briefing Document for Constitutional Convention 8-9 June 2013

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Direct Democracy

Direct democracy is a form of democracy in which individual voters can influence political decisions.

Even in many of the older established democracies, citizens often express dissatisfaction with the quality of their democracy. Periodic elections alone cannot always guarantee sufficient choice or accountability. Nor are elections always the best mechanism for resolving contentious policies, or embarking on a programme of fundamental change. For these and other reasons greater interest is being shown around the world in institutions that promise to enhance the quality of democracy and particularly in referendums and initiatives, in other words forms of direct democracy.

Direct democracy differs from representative democracy where voters elect representatives to make political decisions on their behalf. While it can vary in the details, the basic idea behind direct democracy is that citizens can petition for items of concern to be put to referendum or to be considered in legislation. Thus full direct democracy is a qualitatively different kind of political process from referendum democracy. It is primarily practiced in Switzerland and in the Western United States particularly California.

The primary difference is that referendums in countries such as the UK, Canada or France are used relatively infrequently and the decision to hold them and the topics to be decided largely remain in the hands of legislators. In direct democracies the subject matter is much more a matter for citizens to determine. For example there are two initiatives being held on June 9 in Switzerland: one is an initiative to reform elections for the Swiss parliament and the other an amendment to the Asylum Act.

Background

Provisions for direct democracy were included in the 1922 Constitution of the Irish Free State. Under the 1922 Constitution there were three elements of direct democracy.

1. **Provisions for Constitutional referendums** where all constitutional amendments would be subject to a mandatory binding referendum. This provision is still in place in the current Constitution.
2. **Veto of legislation.** Various provisions for certain proportion of the Dáil and Seanad to be able to veto legislation within a short time frame. In addition within 90 days of any legislation being passed 5% of all registered voters could demand a referendum on the bill. This did not apply to money bills or those dealing with aspects of health and safety.

3. **The Initiative.** Citizens could draft either constitutional amendments or ordinary laws and have them put to a referendum. A proposal had to be initiated with the signatures of some 50,000 registered voters. The Oireachtas had two years to adopt the bill or put it to a referendum if demanded by 75,000 voters with no more than 15,000 in any one constituency.

A loophole allowed the Dáil to change the 1922 Constitution in its initial years and as a result the direct democracy provisions were removed by ordinary legislation. These provisions were subsequently left out of the 1937 Constitution.

Points in favour of direct democracy

1. Restores authority to the people, and makes them responsible, in conjunction with the political parties.
2. Curbs the imbalance of power, making politicians more responsible and accountable to the people than infrequent elections.
3. There is evidence that voters can make multiple decisions on diverse topics at the same time. This may lead to a more deliberative citizenry engaged with policy.

Points against

1. Voters can vote for contradictory policies such as cutting spending and not increasing taxes. The Swiss have tackled this with a tiebreak question if there are proposals that contradict one another: "If both proposals are adopted by the people, which proposal do you favor?"
2. Some argue that in small countries such as Ireland issues are easily aired in the media and politicians are close to the people and thus we may not need a formalized system of initiative.
3. An enduring question is whether voters are up to the task of dealing with direct democracy. With so many proposals on so many topics some argue that voters cannot have and process enough information to make educated choices. After all it is often thought that voters do not think very long or hard about most political issues, preferring to leave that to the representatives they elect to represent them. Overburdened voters may not only disengage from the process they will also grow to dislike the process of direct democracy itself.

Appendix: Recent international examples of direct democracy in action

- 1. The European citizens' initiative** allows EU citizens to participate directly in the development of EU policies, by calling on the European Commission to make a legislative proposal. The citizens' initiative has to be backed by at least one million EU citizens, coming from at least 7 out of the 27 member states. A minimum number of signatories is required in each of those 7 member states, in Ireland that is 9,000 and in Germany 74,250. The Commission is not obliged to propose legislation as a result of an initiative but it must give a reply within three months, meet the proposers and allow them to present at the European Parliament.
- 2. Californian Initiative.** Between 1912 and January 2013 some 360 initiative proposals qualified for the ballot in the US state of California. A further 1307 failed to qualify but made at least some progress towards the ballot. With so many proposals being made and put to the ballot it is not surprising that a wide range of issues are considered. November 2012, for example, saw Californians decide on ten initiatives and a referendum including measures on taxation, union dues, car insurance, the death penalty, labeling of GM foods and redistricting. By contrast to referendum practice none of these issues were placed on the ballot by legislature, but rather by pressure groups from outside the legislature. In order to qualify for the ballot, the initiative measure must be signed by a specified number of registered voters depending on the type of initiative measure submitted. For a proposal of a statute it is 504,670 signatories, for a constitutional amendment it is 807,615 while for a referendum on already enacted legislation there is a deadline of just 90 days and these are thus very rare.
- 3. Swiss National Initiative and Referendums.** Citizens can call both constitutional and legislative referendums. The Legislative calls do not allow citizens to propose new laws but just to pass judgment on laws already passed by the legislature. However, constitutional changes can be initiated by citizen initiative with 100,000 signatures. In addition they must be passed by a double majority of both the votes and the states. More than 550 referendums have occurred since 1858 and they often occur twice a year with between two and 10 items on the ballot. In 2012 for example there were questions on employment leave, second houses, building society savings, price agreements, gambling revenues, healthcare, foreign policy, home buying, a smoking ban, secure housing in old age and music lessons at school and finally on the Animal Diseases Act.
Switzerland also has local cantonal referendums and initiatives and in Germany there are also moves for local referendums for example a railway project in Stuttgart.

Referendums		Initiative	
Constitutional (binding)	Consultative (non binding)	Abrogative	Citizens' Initiative
<p>A vote that is required in order to effect a change in the constitution or basic law.</p> <ul style="list-style-type: none"> • Australia • Denmark • Ireland • Switzerland 	<p>A vote on any subject initiated by the government or legislature</p> <ul style="list-style-type: none"> • Britain • Canada • Finland • Sweden 	<p>A procedure <u>to</u> force a vote on a law already passed by the legislature. Generally initiated by a petition of citizens or sometimes by a legislative minority</p> <ul style="list-style-type: none"> • Austria • Italy • Sweden • Switzerland 	<p>A referendum on any subject which is brought by a petition of citizens. The number of signatures required varies. May be binding but can also be subject to review by courts or legislature.</p> <ul style="list-style-type: none"> • New Zealand • Switzerland • Many US states

Source: Le Duc:2003: 32