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Direct Democracy in Switzerland and its Discontents

The conventional paper on Swiss direct democratic institutions given in a conference outside of Switzerland usually ends up praising and defending the use of popular initiatives and referendums. After an introduction of the basics about Swiss direct democracy, I try to address some of the more problematic and neglected aspects of Switzerland's semi-direct democracy. I thus try to challenge the conventional wisdom we find in the scientific literature about the preconditions of a vote, turnout as well as the effects of direct democracy in Switzerland.

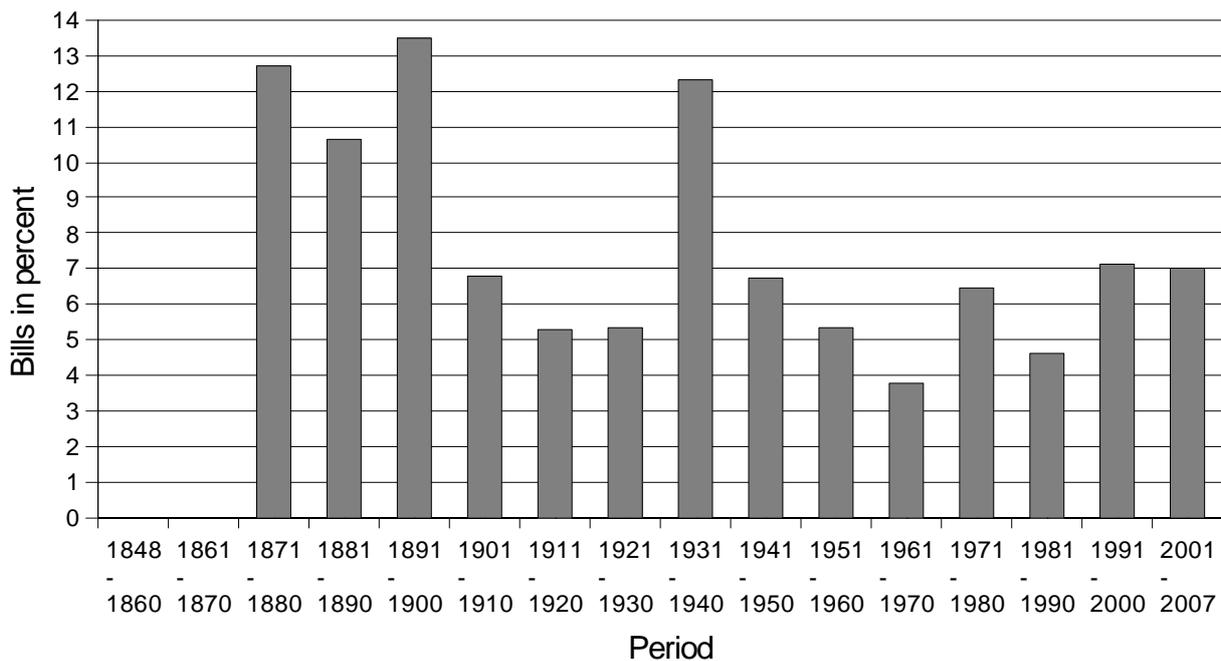
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1. Introduction

As it is widely known Switzerland's political system includes important elements of direct citizen participation for the creation, change and abolishment of binding legal norms. However, most legislation is passed by parliament without interference of the voters (see Graph 1). In fact, most of the bills going through parliament are prepared by the executive, namely the public administration. Hence, the literature often refers to the Swiss political system as being a semi-direct democracy.

Graph1: Percentage of parliamentary bills voted in a referendum



Source: Federal Chancellery and c2d

In an international comparison on the national level over time Switzerland usually stands out as the country with the most frequent and constant application of direct democratic mechanisms such as the referendum and the citizen's initiative (see Table 1). We can roughly identify three groups of countries for a chosen time frame in respect to the practice of direct

democracy.

Table 1: Number of referendum polls conducted in 30 European countries and in 9 Latin American countries, 1995 to 2005

# Polls	# Countries	Countries
1	16	Costa Rica, Cyprus, Czech Republic, Estonia, Georgia, Guatemala, Luxembourg, Malta, Moldova, Netherlands, Panama, Romania, Spain, Sweden, The Former Yugoslav Republic of Macedonia, Ukraine
2	10	Albania, Armenia, Azerbaijan, Bolivia, Brasil, Colombia, Denmark, Ecuador, France, Portugal
3	4	Hungary, Latvia, Lithuania, Poland
4	2	Uruguay, Venezuela
5	2	San Marino, Slovakia
7	1	Italy
8	1	Slovenia
9	1	Ireland
10	1	Liechtenstein
33	1	Switzerland

Source: c2d and Zellweger/Serdült (2006).

Countries with a low level of referendum practice organised one to two polls (26 countries in total), mainly in order to ratify a new constitution, to sanction important changes in the constitution, or in relation to EU membership (find out more about the latter in Alexander Trechsel's contribution for this conference). Countries with three to ten polls use direct democratic instruments more frequently and also to decide important political matters other than constitutional, territorial or supranational issues (12 countries). Switzerland, with 33 polls during the observed time frame, represents the well-known exceptional case and forms a category on its own (Zellweger/Serdült 2006).

In this conference paper I am only going to reproduce the most important institutional features of Switzerland's semi-direct democracy and refer to the literature for a more detailed account (see bibliography at the end). I am

mainly going to focus on the national level (but see Hug's account of Swiss direct democracy on the cantonal level).

2. Swiss direct democratic institutions

Historically, direct democratic institutions developed from bottom-up from the municipal and cantonal level to the national level. Between 1848 and 1873 only mandatory referendums and initiatives aiming at a complete revision of the Federal Constitution were allowed. The optional legislative referendum was introduced in 1874, and the citizen's initiative for a partial amendment of the Constitution in 1891. These institutions of direct democracy were advocated by the so called 'democratic movement' which stood in opposition to the dominating party (find more on the historical and philosophical roots of Swiss direct democracy in Andreas Auer's paper for this conference).

During the 20th century, only minor modifications were made to direct democratic institutions. The referendum for international treaties, introduced in 1921 and extended in 1977, provided participation of citizens in foreign policy decision-making. Furthermore, the right of the Federal Assembly to withdraw its decisions from the referendum procedure through the use of the so-called "urgency clause" (Article 165 of the Constitution) was limited in 1939 and 1949 by the introduction of the abrogative referendum. Six years after the introduction of women's suffrage in 1971, the number of required signatures for an optional referendum was raised from 30'000 to 50'000, and for a popular initiative from 50'000 to 100'000. At the cantonal level, the popular rights have developed considerably since the 19th century, and now include legislative initiatives, referenda on administrative acts, as well as referenda on one-time or recurring financial decisions (Linder 2006).

The most important direct democratic institutions that are actually in operation are the mandatory referendum, the optional referendum, and the citizen's initiative.

The mandatory referendum

A referendum is mandatory for all amendments to the federal Constitution and for membership to some international organizations (See § 140 of the Constitution). A popular vote must be held in such cases and a double majority is required. For adoption, a majority of the popular vote, the votes cast throughout the country, and a majority of the cantons, cantons in which the majority of voters adopted the proposal, is needed. In the case of a split cantonal vote (11.5 of 23 cantonal votes), the bill does not go through.

The optional referendum

Citizens can also challenge parliamentary decisions through optional referendums. Federal laws, generally binding decisions of the Confederation and some international treaties are subject to an optional referendum (See § 141 of the Constitution). In these cases, a popular ballot is held if 50,000 citizens request it within 100 days after a decree's publication. A double majority is not required for an optional referendum. In other words, only a majority of the people (not a cantonal majority) is needed. Optional Referendums were introduced in 1874.

The citizen's initiative

An initiative allows citizens to seek a decision on an amendment they want to add to the federal Constitution. A popular vote takes place if 100,000 signatures are collected in favor of the initiative within the legal timeframe of 18 months (See § 138 – 139b of the Constitution). For adoption of the initiative again a double majority is required, i.e. a majority of the popular vote (the votes cast throughout the country) and a majority of the cantons (cantons in which the majority of voters adopted the proposal) is needed.

3. Voting experience

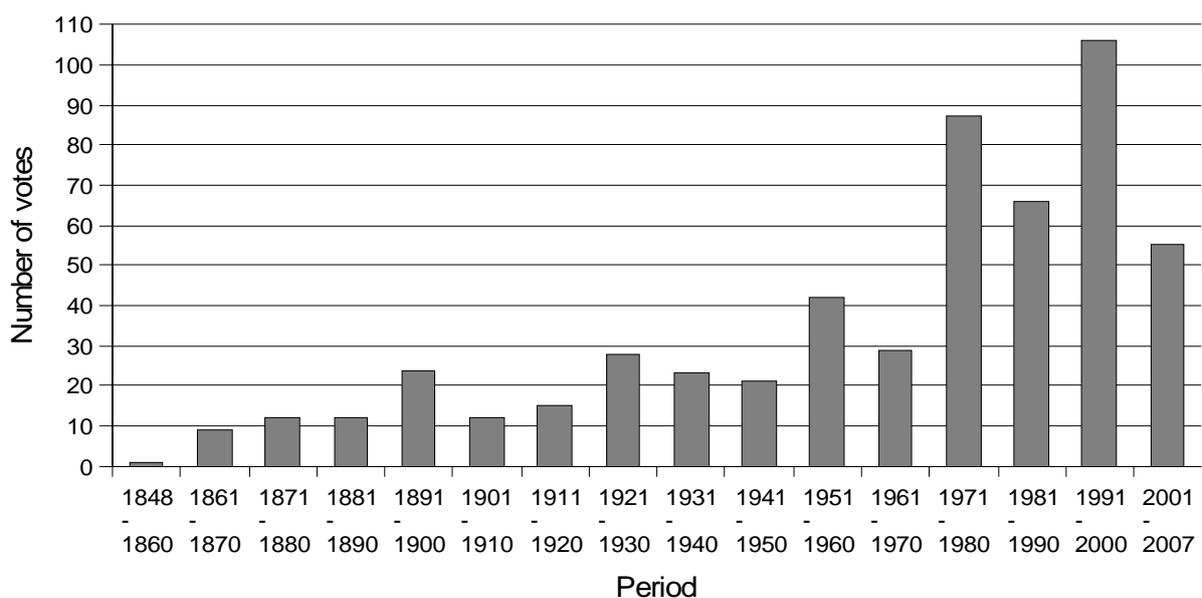
In Switzerland the scope of direct democracy is wide, and the decisions taken on a poll day are binding. It is possible to write a citizen's initiative demanding

the abolishment of the Swiss Army. Such a vote took place in 1989 but did not go through (although an astonishing 36% voted in favour of the initiative), as it is the fate for most of the citizen's initiatives. From all the 254 citizen's initiatives that were handed in between 1848 and last February, 77 were withdrawn by the initiators themselves, 161 were voted, but only 15 were accepted at the ballot box.

Just to cite the most recent example in Switzerland as an illustration for a normal polling day, the one which took place last week-end, with a national vote on the health insurance system trying to centralize health the several dozen insurance companies into one (did not go through). At the same week-end there were also many cantonal and local referendums, such as the one in Zurich, with the decision to introduce broadband network with the help of the infrastructure of the local public electricity provider (did you through).

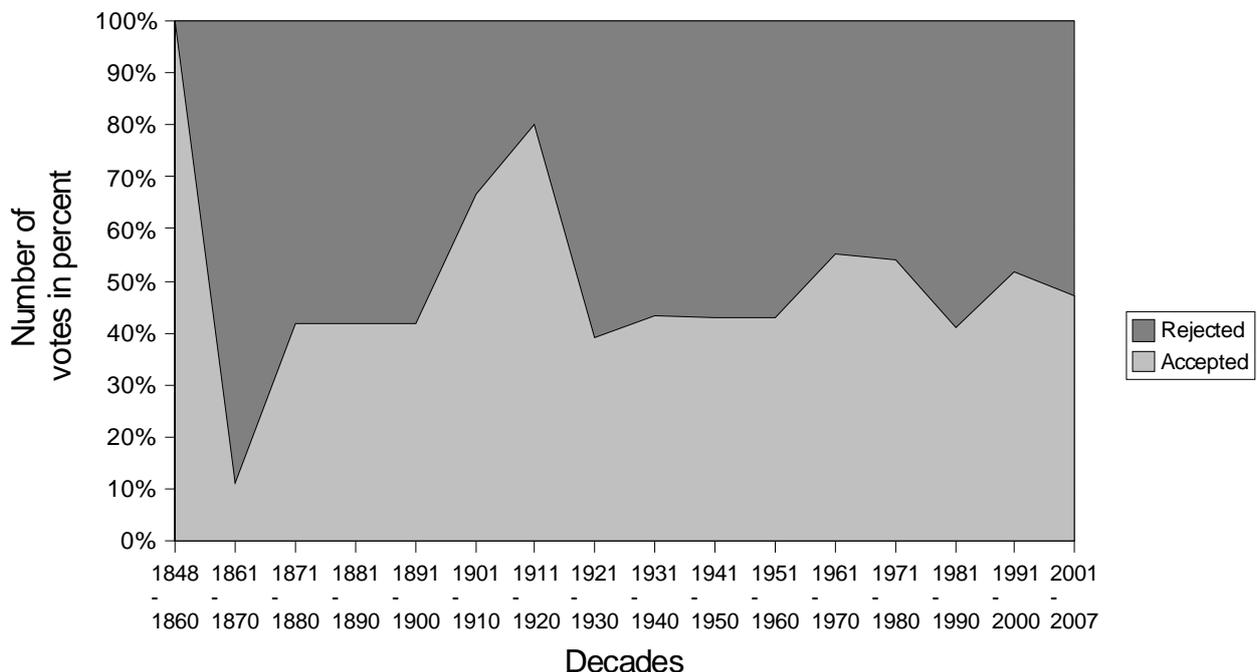
Also, it might be worth noting that postal vote (introduced 1994 on the national level) is the preferred way of voting for most citizens. In bigger cities 80-90 percent of the voters vote by correspondance. Voting via internet and in one case even cell phone are operational in three selected cantons on a trial basis (see Fernando Mendez' contribution for this conference).

Graph 2: Number of votes per decade (all referendums and citizen's initiatives)



Referendum votes can take place up to four times a year (as a rule of thumb rather) and are often combined votes on all three state levels (national, cantonal, and municipal). Over time the number of votes on the national level has increased (see Graph 2). Since direct democratic institutions are in the first place a political weapon for parties contesting majorities or in general the political opposition, an increase in the use can be interpreted as a period of intensified political struggles often related to uncertain or unstable economic or social conditions. Such was for example the case during the 1970s with the economic crisis and to a lesser degree in the 1980s with cultural unrest and then again during the economic recession of the 1990s. In these three decades Swiss society and economy underwent major transformations. These phases are usually also marked by an increase in party competition.

Graph 3: Share of rejected and accepted referendums as well as citizen's initiative votes per decade.



Sources: Federal Chancellery and c2d.

As one can see in Graph 3, at least in modern times the success rate of direct democratic referendums and initiatives together are relatively high and well balanced.

4. Discontents of Swiss Direct Democracy

For the remaining time I would like to bring up the issue of campaign financing as well as a few thoughts and more or less provocative theses on selected topics related to Swiss direct democracy.

Campaign Financing

One would expect Switzerland, with its longstanding and frequent use of direct democracy institutions, namely the popular initiative, the optional referendum and the mandatory referendum, to have developed an extensive regulation on referendum campaigns, including rules on campaign financing and on media access. Surprisingly, this is not the case.

The referendum at the federal level is governed by provisions of the Federal Constitution and by the Federal Act on Political Rights. None of these contain rules dealing with referendum campaigns in particular. However, several fundamental rights guaranteed by the Federal Constitution have to be considered while examining the legal framework of referendum campaigns. According to article 34 paragraph 2 of the Federal Constitution, the guarantee of political rights protects the free formation of opinion by the citizens and the unaltered expression of their will. This provision does not impose strict neutrality on political authorities during the referendum debate. Authorities are allowed to take a position and to recommend the approval or the refusal of a referendum question. However, any kind of political propaganda by political authorities would be contrary to the constitutional guarantee of the political rights, even more so if public funds were to be used for such propaganda. It is also forbidden to grant public funds to private referendum committees.

Other fundamental rights guaranteed by the Federal Constitution ensure that a referendum debate is fair are the freedom of opinion and information, the

freedom of the media, the freedom of assembly and the freedom of association. However, there is no specific regulation on the financing of referendum campaigns by political parties and other civil society groups. Therefore, no public funds may be used for political propaganda, campaign spending is not limited, and there is no obligation for campaigners to reveal their donors or the amount of money spent on a referendum campaign. In this context we should also mention that the financing of political parties is not regulated in Switzerland. Political parties do not receive any public funds for their activities. As a result, they finance themselves from membership fees, from donations of party members, non-members, private companies and organisations, as well as from contributions from office holders. On the federal level, there are no transparency rules at all. Whereas this is generally also the case at the cantonal level, two cantons have introduced transparency rules. In the canton of Ticino, donations of more than 10'000 Swiss francs to political parties have to be published. In the canton of Geneva, anonymous donations are forbidden and transparency rules apply not only to political parties, but also to other political groups engaged in campaigns. But for the time being, such rules are still exceptional.

Regarding the access to media by political parties and other civil society organisations engaged in a campaign, there are no rules that would apply during referendum campaigns only. Contrary to the situation in other member states of the Council of Europe, Swiss law does not determine an official time frame for the referendum campaign.

Turnout

The on the longterm decreasing turnout rates for direct democracy votes in Switzerland are recurringly deplored and debated. While the average turnout was approximately 60 percent just after World War II, this figure dropped to 40 percent by the mid-1970s. Turnout for referendum votes in the last few years (from 1970 onwards) fluctuated between 55 percent per year and around 32 percent on average.

I would like to make the statement that average turnout rates are misleading because they don't measure political participation in an adequate way. My critique has to do with the validity of the measurement. Most of the Swiss citizens do participate occasionally in one or a few referendum votes per year. They might not participate in all the four votes per year but let's say in two. In my understanding these citizens had then been politically active in this year and therefore participation in a referendum poll should rather be cumulated over the year and not averaged. Calculated that way turnout rates would look much less dramatic than they seem and be in addition a better, more valid measurement of political participation.

Direct Democracy and Federalism

For direct democracy to work and to be overall beneficial (and be it only in the subjective understanding of citizens) certain preconditions need to be fulfilled. Among the most important for me is the presence of strong, competing political parties. Party competition has positive effects on the use of direct democratic instruments. In general, direct democracy needs powerful political actors besides the government, providing the connection between the state and society. In federal political systems these actors can also be territorial subunits. Federalism is therefore a component in a political system enhancing the beneficial use of direct democracy. Or to put it the other way round, direct democracy is more problematic in centralized systems without a sound powerbalance between the state and organized civil society.

Development of direct democratic institutions over time

The introduction of direct democratic elements into a Constitution can be perceived as a 'critical juncture' on a historic path, to put it in the jargon of neo-institutionalist theorists. Once it is in the system there is hardly ever a return to the status quo ante. Some direct democratic institutions might be ill-designed or not work well, they might even stagnate and not be used much, however, since direct democracy provides the means to redesign itself by its

own mechanisms, such difficulties can in the long run usually be overcome. Especially political elites making use of direct democracy or advocating it also have to keep in mind that the instrument could one day be turned against them.

The 'people' in Swiss direct democracy

Last but not least, let me say a few words about the notion of the 'people'. The best metaphor I can think of to describe the role of the people in Swiss direct democracy is that they are a phantom. They are certainly there and in the end as individuals have the final say over important political matters. However, they only on very rare occasions intervene directly and try to organize a referendum or an initiative.

In the first place, the arsenal of direct democracy is an institutional weapon for organized interests (political parties, interest groups, employer's and employee's associations) and not for the people.

5. Literature

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