I

Direct Democracy at the Turn of the Century

Direct Democracy Worldwide addresses the relationship between direct and representative democracy and uncovers the specific conditions under which both can coexist in a mutually reinforcing way. It demonstrates that direct democracy is Janus-faced: Some mechanisms of direct democracy look forward in an attempt to democratize politics whereas others look backward, enhancing the power of politicians who deliberately use them. From this latter perspective, instead of giving power to the people, other times it subjects the people to the powerful. Direct Democracy Worldwide fills a lacuna in our understanding on the uses of mechanisms of direct democracy in the contemporary world, paying special attention to how direct and representative democracies interact under different institutional circumstances.

This book reevaluates how citizens acquire power to abide by public decisions and whether they have the right to take part equally and fairly in the entire process that generates these decisions, which naturally fall beyond national elections and the twelve or thirteen times we exercise sovereignty in our lives. It does not debase the importance of free and fair elections – to the contrary. Free and fair elections are a sine qua non constitutive element of democracy, and without them everything collapses. However, the time elapsed between elections may be agonizingly long for citizens whose preferences are systematically unheard, and these interelection spaces constitute the weakest link of current democracies. They tend to be left aside as an empty space filled with horizontal – but not vertical – accountability in a manner that eliminates the most important component of the first polyarchy transformation (Dahl 1989).

Any constitutive part of democracy, such as freedom of expression, is expected to be fulfilled at any time and indefinitely in the future. This must hold true for popular sovereignty as well – and it should not be limited to just one day every few years. Thus, this book attempts to revitalize something that is intrinsically one of the backbones and leitmotifs of the democratic tradition: popular sovereignty as a way of addressing the demands of citizens and the dependence of public policies on their preferences. The question is: How can
current democracies translate popular sovereignty into working institutions adapted for the twenty-first century?

This book answers this question in relatively simple terms. I claim that there are some institutions that deserve a closer look and, depending on certain prerequisites, should be given a chance. These institutions comprise the citizen-initiated mechanisms of direct democracy (CI-MDDs). Yet this assertion of CI-MDDs should not be understood as a romanticized version of participatory or deliberative democracy. I simply claim that these are control mechanisms to be potentially used by citizens, and this does not imply voting every week, the steamrolling of minorities through majority rule, or the substitution of party politics by citizens. More important, CI-MDDs are not intended to supplant representative democracy but rather to serve as intermittent safety valves against perverse or unresponsive behavior of representative institutions and politicians. Citizen-initiated mechanisms of direct democracy are not simply about a blind use of majority rule, and those understanding them as mere votes on a certain issue are ignoring possibly the most crucial part of the direct democratic game: the process itself, which is arguably more important than the outcome of the ballots themselves.1

Citizen-initiated mechanisms of direct democracy are a subtype of mechanisms of direct democracy (MDDs) in general and, by definition, not every MDD has to be initiated by citizens gathering signatures, as is usually the case. Some MDDs are initiated by chief executives (e.g., presidents) or by a well-defined group of individuals (e.g., legislators), and sometimes by both. These “top-down” MDDs often have no other intention than the erosion of the power of other state institutions or simply bypassing institutions and procedures when the political aims of the initiator do not match with the other power. Thus, some MDDs could be characterized as strongly eroding crucial aspects of representative democracy, minimizing the exchange of ideas, and evading the political battles that characterize representative liberal democracies.

Direct democracy involves many complex factors and is most certainly not a monolithic concept. Any assessment of direct democracy in general must be undertaken with extreme caution. In large part, the debate surrounding the topic has been based on stereotypes of representative and direct democracy; consequently, the literature repeatedly asks the wrong questions and, thus, provides the wrong answers. Portraying direct democracy as inherently good or bad for representative democracy does not seem to be a very good starting point for a productive and wise research agenda, yet this is where much of the literature begins.

Not every concern about direct democracy is based on stereotypes; however, as the reader will witness, the discussion about direct democracy is plagued with normative and empirical tensions, many of which have a palpable influence in our daily life. This book captures the negative side of direct democracy, provides

Direct Democracy at the Turn of the Century

a balanced treatment of the subject, and fairly vents the considerable skepticism that has emerged about these mechanisms. For example, it would not be risky to acknowledge that these institutions have often been manipulated by elites; this is very damaging to representative democracy.\(^2\)

Nonetheless, and despite their potential misuses, it would be unwise not to seriously consider CI-MDDs and their potential positive synergy with representative democracy. Indeed, parliaments, elections, and even basic freedoms have also been repeatedly misused, yet their normative value had not decreased – in fact, our efforts for improving them are constantly increasing. The words of a president who faced several national CI-MDDs during his administration (and lost most of them) are eloquent:

All institutions have their own weaknesses, including those mechanisms of direct democracy. It has been the situation with all institutions and it had always been so. But so what? Will we then have to remove the mechanism because it could be deformed? Oh no! Extrapolating that, we might even think that we are to eliminate national elections because they could warp, because people could use them demagogically. . . . No, no, no. . . . (Interview with Jorge Batlle, February 2008)\(^3\)

In broader terms, this book deals with the distribution and exercise of power in our states – the power of making binding decisions that affect our lives. Who is in charge of making such binding decisions – the powerful or the numerous? What types of decisions are made, and are all included? What about overriding those decisions – who does that? All these questions remain open despite having been considered for thousands of years and having perhaps one of the longest traditions – in what we today call “the social sciences” – engaged in the constant search for the best form of government. From Herodotus’ time – and not omitting Aristotle – we have compared the virtues and deficiencies of contemporary governments. Nowadays, for normative and practical reasons, we are convinced more than ever that representative democracy is the best regime of all possible, or at least the lesser evil.

Since its very millenarian origins, democracy has been always under enormous pressure for renewal – a renewal that becomes inexorable.\(^4\) If the beginnings of the twentieth century were marked by demands for extending citizenship and ensuring fair representation, contemporary democracies face different challenges, such as transparency, access, and accountability. Phases of democratic transformation are a persistent matter throughout history, and demands for adjustments “in one direction often wane as new problems and new possibilities surface” (Cain, Dalton, and Scarro 2003: 3). Indeed, I am positive there is at least a minimum consensus in political science: There are no

\(^{2}\) As becomes clearer in Chapter 2, this does not parallel the populist paradox, as Gerber titles her book, which is based on the belief that economic interest groups manipulate direct legislation against other interests (Gerber 1999: 6).


\(^{4}\) The study of democracy has been one of the most prolific areas of interest in comparative politics. If truth be told, most of us agree on many of the diagnoses of current democracies, yet consensus has not been reached in terms of the prognosis.
magic formulas that will ensure us a “high-quality” democracy. All institutional settings are the product of a delicate balance, often between conflicting choices. Although there are no neutral institutional arrangements, the status quo implies a deliberate policy choice.

Yet representative democracy remains far from perfect, presenting numerous problems and shortcomings. A great consensus exists on the contemporary challenges of current democracies (high levels of civic disaffection, distrust of political parties, and in general, animosity toward the democratic game), and one of the most tricky aspects of our democracies lies in the direct and daily relationship between citizens and the state (O’Donnell 2004a: 57). Indeed, the warning given by Dunn about representative democracy is rather illustrative: “[O]ne day’s rule every four years has very much the air of a placebo” (1979: 16). Evidently, we all want a greater involvement of the citizenry in public affairs, a greater sensitivity of the state with regard to weaker sectors of society, and a greater redistributive justice of markets, among other numerous and noble aspirations. This discussion focuses on how best to achieve these goals.

A number of forces have been devoted to improving democratic institutions; electoral systems have excelled among these democracy-improving institutions despite the tradeoffs implied by this choice (e.g., representation versus efficiency). Elections usually become the focus of analysis, which leads scholars to overlook what occurs in the period between elections. Nonetheless, some scholars with a more sophisticated vision warn us that “the development of democracy is much more than the perfection of its electoral system” (O’Donnell 2004a: 49). The basic problem of democracy goes beyond simple institutional improvements: “Democracy, once again in favor, is in need of conceptual renewal. Although the traditional concerns of democratic theory with state-centered institutions remain importantly crucial and ethically central, they are increasingly subject to the limitations we should expect when nineteenth-century concepts meet twenty-first century realities” (Warren 2001: 226).

Democracy, as we understand it today, is the long fusion, and sometimes confusion, of political traditions at least centuries long. Athenian democracy, despite its highly restrictive (by today’s standards) enfranchisement rules, demonstrated the fairest imaginable distribution of power among its agents. It also exemplified the value of a political milieu that excels through the equality and sovereignty of its (few) members. With Republicanism – first Roman and then Florentine – came the concept of mutual control as the means for citizens to be free from state domination and arbitrary misbehaviors. A sophisticated net of institutions was established to control each other, and these operated under known rules of the game, establishing a key concept: the rule of law. Finally, liberalism, from which we borrow the idea that individuals are free, emerges; individuals are thus perceived as autonomous and responsible (à la Kant) and know what is best for themselves (à la Hobbes), their peer community, and their society as a whole (à la Rousseau or Locke).

Thus, democracy today can be fit under four umbrella concepts: freedom, equality, sovereignty, and control. All democracies have a flavor of each, but the
Direct Democracy at the Turn of the Century

concepts are combined in different shapes and sizes, and an even combination is hardly – if ever – attained. I argue, however, that in current definitions of democracy, one concept is systematically minimized but must be refreshed and invigorated: Popular sovereignty, galvanized in the twentieth century, must be revitalized in the form of binding CI-MDDs.

Current democracies are indisputably far from the ideal representative democracy that theory promises us. It could be claimed that democracy today more closely resembles an oligarchy with the façade of democracy rather than the ideal, prototypical, representative democracy about which we teach our students every year. According to Walzer, “[G]overnment is in principle democratic, in (liberal) theory mixed, and in practice oligarchic” (2004: 25).

How many of us genuinely are potentially elected officials in our community? Of course, it is not that we do not have the proper conditions or vocation to do or be so; it is simply that in real terms, we do not have the effective right to be elected despite that we assume, believe, and have collectively decided we are all legally entitled to stand for election if we so choose. In practice, only a small group of people actually run for office.

Even assuming, for the time being, a positive institutional assemblage of the state, wherein the legislature, the executive, and the administration relate to each other in institutionalized patterns of behavior under the umbrella of what we call the democratic rule of law, the infamous “corridors of power” generate incentives for perverse interests and behaviors (Pettit 2003). But this is not terribly new: Already, Michels (1999 [1911]), in his Iron Law of the Oligarchy, and the writings about the circulation of elites of Mosca, Pareto, and even Weber, later reevaluated by the literature on party cartelization (Cox and McCubbins 1993; Katz and Mair 1995; Koole 1996), account for these tendencies. Contemporary democracies must provide tools for controlling these behaviors both horizontally (by other institutions) and vertically (by citizens).

An almost Schumpeterian, electoralist conceptualization of democracy would tell us that citizens regularly exert control in national elections, activating their sovereignty, punishing misbehaviors and rewarding others. Nevertheless, “the chances to exercise vertical accountability, however, are only periodic and, in some cases, citizens must wait several years for the next election” (Morlino 2004: 19) – when, sometimes, the misdeeds are already done, the window for justice has passed, and our desires and preferences are ignored. The implications of these rather scattered flashes of popular sovereignty for the crafting of controlling institutions are evident. If the people’s interest is

5 In this regard, Rousseau’s disrespect for elected representation is noteworthy: “The English people believes itself to be free; it is gravely mistaken; it is free only during the election of Members of Parliament; as soon as the Members are elected, the people is enslaved; it is nothing. In the brief moments of its freedom, the English people makes such a use of that freedom that it deserves to lose it” (Rousseau, The Social Contract, bk. III, chap. 15).

6 By corridors of power, I loosely imply those obscure places where the elite can impose their own will in how they interpret and implement policy without public scrutiny (e.g., bureaucracy, cabinet, courts, police force).
undermined or ignored, it is incumbent on them to activate their democratic power – their sovereignty – to force a change in the status quo or ensure its maintenance in keeping with their preferences. Maintenance activities take the shape of referendums (trying to stop certain measures going against the general preferences), whereas status quo shifts often manifest as popular initiatives (trying to push forward certain measures that, otherwise, the establishment would not consider of its own volition).  

Direct democracy now has entered the game, and it is unlikely that use of its mechanisms will decrease because of its theoretical and practical tensions with representative democracy. Despite the importance and growing impact of these institutions worldwide, we still lack a comprehensive understanding of these mechanisms. There are two reasons that can explain the relatively low intensity of the cross-national study of MDDs. One stems from the belief that direct democracy has a marginal role in contemporary politics. Indeed, some colleagues argue that "referendums are relatively rare events in politics of most democratic nations" (LeDuc 2003: 13; see also Qvortrup 2002: 2). Yet I have collected information on more than seventeen hundred MDDs at the national level alone since 1900. A total of 5,342 state-level direct popular votes in the United States have been on the ballot between 1904 (when the first one went before voters in Oregon) and 2008; 8 this figure increases exponentially if we include MDDs at the county level, which number literally in the tens of thousands. Between 1970 and 2003, a total of 3,709 cantonal popular votes were held in Switzerland, and Bavaria alone held more than one thousand popular ballots since their constitutional introduction in 1995. It seems evident that the intermittency claim regarding the use of MDDs is, at least, questionable.

The second reason often given for the as-yet minimal cross-national study of MDDs is the disorder that still exists in terms of a common language to deal with this multifaceted factor in contemporary politics. Evidently, some clarification of the concept of direct democracy is required and urgently needed given the terminological confusion that exists in constitutional texts (e.g., what is called a referendum in one country is termed a plebiscite, or even a popular initiative, in another). Furthermore, it is not the case that in each country there is at least a systematic use of the definitions and wording of MDDs; rather, concepts such as "initiatives," "plebiscites," and "referendums" are actually used as synonyms within the very same piece of legislation! To aggravate this problem, scholars have demonstrated relatively low elasticity in trying to

---

7 I define measures as a complete range of political actions that could perfectly oscillate between practical policy implications (on taxes, subsidies, alcohol, and even sex education) to discursive and even symbolic ones (e.g., anthems and flags).

8 It has to be noted that despite that, the first popular initiative was held in Oregon in 1904; the first state to adopt the initiative and the referendum on a statewide level was South Dakota in 1898. Since then, of the 5,342 popular direct votes, 3,285 (61.5 percent) were initiated by the executives or legislatures and 2,057 (38.5 percent) initiated by citizens. Based on Initiative & Referendum Institute (2007), The National Conference of State Legislatures (2008), and the author’s calculations.
find criteria that can travel relatively easily from one place to another. Some colleagues fall into the temptation of studying MDDs from a purely formal perspective, based on the names that constitutional texts provide for direct democracy, but research may only proceed if we eschew this and do not become entangled in semantic confusion.

It is important to note that this volume does not purport to be a book on democratic theory, despite having theoretical, conceptual, and empirical implications. I will not elaborate a justification of representative democracy because there is a large literature on the topic. I begin with the assumption that current representative democracy is given yet perfectable in both realistic and conceptual ways. In so doing, I follow Morlino, explicitly acknowledging two liberal assumptions that cross evenly through this research. First, people are able to accurately perceive their own needs. Second, “either alone or as part of a group, people are the only possible judges of their own needs [. . . ] this is to say, no third party can decide those needs” (Morlino 2004: 13–14).

1. What Constitutes Direct Democracy? Definition and Typology

I define an MDD as a publicly recognized institution wherein citizens decide or emit their opinion on issues – other than through legislative and executive elections – directly at the ballot box through universal and secret suffrage. Therefore, a sine qua non characteristic of all MDDs is the vote itself, where we are all equal, delivering our Rousseauean \( \frac{1}{n} \) power.\(^9\) From this perspective, MDDs are composed of those mechanisms through which, after the representatives and the government are elected, the citizenry continues to be – voluntarily or involuntarily, explicitly or implicitly – a veto actor or a proactive player in the political process.\(^10\) Here, it is theoretically reasonable to exclude legislative popular initiatives from the realm of direct democracy and to treat nonbinding MDDs as populist placebos (I return to this point in due course).

Direct democracy constitutes a broad category that incorporates diverse resources, such as referendums, plebiscites, recalls, and popular initiatives.\(^11\) The literature offers several typologies of MDDs, each one stressing a different aspect of these mechanisms. Because one of my major interests is conducting

---

9 From a Rousseauean perspective, each citizen has a \( \frac{1}{n} \) share of “sovereign authority,” where \( n \) is the total number of citizens.

10 According to Tsebelis, veto players are individual or collective actors whose agreement (by majority rule for collective actors) is required for a change of the status quo (Tsebelis 1995: 289).

11 A more orthodox perspective on the matter would refer to this group of institutions as expressions of “semidirect” instead of “direct” democracy.” The latter term is reserved for those citizens’ assemblies where issues were brought up, discussed, and decided directly without any institutional intermediation. Examples include New England town hall meetings and the modern-day remnants of the Swiss Landsgemeinde in Obwalden and Nidwalden, where voting is done by show of hands. This also applies to citizens’ assemblies in classical Greece. Because a consensus on terminology is difficult to attain, I will adhere to its simplest form, “direct democracy.”
an empirical study on direct democracy at different levels of democracy, the
typology I provide should travel relatively easily along the democratic contin-
umum. The first dichotomy I use to classify MDDs refers to whether the mecha-
anism considered is regulated by law (or the constitution). In other words, are
MDDs mandatory or facultative (also termed regulated or unregulated in the
literature)?

A second dimension involves whether the resolution of an MDD is absolute
in a given discourse or if another institution has the final say on that topic.
The literature refers to this dichotomy as binding versus consultative MDDs.
The third criterion refers to the intention of the MDD, which could be either
proactive or reactive. Simply put, does the MDD attempt to alter or sustain
the status quo? The fourth and final criterion concerns the main trigger of
the MDD: Did it derive from the political establishment (e.g., the executive
power or the legislature – whether a majority or a minority), in which case the
event is labeled top-down? Or, rather, was it derived from a group of citizens,
in which case the event is labeled bottom-up or citizen-initiated? From this
last dichotomy (establishment versus citizens), we can derive a third group of
MDDs, which refers to constitutionally mandatory MDDs, sometimes called
“obligatory referendums.”

For this research, I built a typology that travels relatively easily from one
place to another. It also fits rather well within the categories used by the
most prodigious employer of MDDs worldwide: Switzerland. The adoption
of these categories has nothing to do with Swiss terminological imperialism;
it is simply a matter of practicality. I do not see the point of forcing rather
marginal categories based on ad hoc criteria instead of using the categories
employed by the country that, in one way or another, serves as a focal point in
the study of direct democracy. In other words, if the same “animal” is called
“cow” 85 percent of the time, “spotted grass-eater” 10 percent of the time,
and “methane maker” 5 percent of the time, we should simply call it “cow.”

Nonetheless, the Swiss terminology is not exhaustive enough to cover, in a
systematic way, most of the “animals” that fit within the basic criteria of this
study. Many but not all types of MDDs exist in Switzerland and, as a result,
the terminological names of these other types must be obtained elsewhere. The
questions are where and how.

If we agree that a typology should help to aggregate MDDs in clusters, a
question remaining is how many levels of disaggregation are required for trav-
eling far enough while remaining adequately profound. A typology – a nominal
measurement – has to fulfill certain conditions; namely, it must be exhaustive

---

12 Switzerland occupies a unique and prominent position in the literature of direct democracy
not only because it is the most experienced country on earth with these institutions, but also
because it is an ideal case scenario for comparative research given its huge variations in how
direct democracy is practiced and institutionalized at and within its different levels (federal,
cantons, communities). Moreover, the late Stein Rokkan once called Switzerland a microcosm
of Europe because of its cultural, religious, and regional diversity (Linder 1994: xii).
and its categories mutually exclusive. In other words, categories should include all of the possibilities for the measure, and they should be differentiated in such a way that a case will fit into one, and only one, category. Of course, in the case of institutions, the creation of a typology can be a complex task. For instance, it is still open for debate what type of regime exists in Switzerland. For those who emphasize executive formation, Switzerland is a truly pure hybrid regime (Klöti 2001; Lüthi 2007); however, for those who highlight government business and daily life, it behaves more like a presidential one (Kriesi 2001). As a matter of fact, in terms of government survival, Switzerland resembles a “pure” presidential regime in the sense that once the executive is appointed by the Federal Assembly, councilors cannot be removed and there is no possibility of dissolution of the legislature by the executive (Cheibub 2007: 36). Thus, if the question that motivates research is government survival, the inclusion of the Swiss case, along with other parliamentary regimes of Western Europe, would distort the research, unless we want to explain how different regimes affect government survival.13

Because my interest is to examine how direct and representative democracies interact while keeping my typology relatively simple, I consider it crucial to determine who initiates the MDD, what its purposes are, and whether the MDD is the final word on an issue. Each of the three criteria is then further divided. With regard to initiators, I found three major alternatives: citizens (through signature gathering), political establishment (executives, legislators, or both), and the legal or constitutional regulations existing in a country. With regard to the purposes of MDDs, we find two very large groups: those that maintain the status quo and those that alter it. Finally, the issue of whether the MDD is the last word (i.e., it becomes law) or can simply be ignored is important (this is the differentiation between binding and nonbinding MDDs). This typology thus allows for conceptualization comprising twelve categories (three types of instigators times two possible purposes times two potential legal statuses). Although these are all theoretically possible combinations, not all of these combinations exist, as we will see.

On many occasions, colleagues have told me that “this particular MDD held in that particular country” was rather special and thus could not fit properly into any of the twelve categories I have created. Rather, we should create a special box for “this type of case.” My answer is simple: I do not continue disaggregating this typology because my theory does not require it. I simply note that this typology could be disaggregated further, even to the extreme of generating a typology with as many categories as the number of MDDs that exist. In other words, given that no two MDDs are exactly equal, we could expand our typologies to capture a minor difference between two extremely similar MDDs. The question, however, is whether this practice is

13 Vatter (2008) has shown how difficult it is even to locate Switzerland within just one continuum (majoritarian-consensus) and how stressing different characteristics of this continuum would produce rather different locations for a single case.
useful either for research or theory building. For example, if technical nuances on how a vote was held are of interest for the researcher, it would be logical to include whether the vote was an e-vote (electronic in some way) or if ballots were cast at physical polling stations. Otherwise, including that distinction would not be theoretically relevant and would be, for practical reasons, inconvenient.14

Figure 1.1 describes the typology of MDDs using the criteria delineated in the previous paragraphs. Note that the second row deals with the initiators and the third row considers whether the MDD is binding. The bottom row indicates the political purposes of MDDs in terms of the status quo. Before moving on to the figure and describing each category, I elucidate a few points.

We must be extremely careful in dividing the waters between MDDs into categories. In this typology, I make the division between those that are “citizen-initiated” (or “bottom-up”) and those initiated from above, “top-down.” This differentiation is crucial because top-down MDDs usually represent plebiscitary means either for bypassing other representative institutions, disengaging from the responsibility of tough policies, or simply as mobilization/legitimization populist tools. As Kaufmann and Waters state,

[I & R (initiatives and referendums)] have to be clearly distinguished from plebiscites. These are votes on issues implemented from above by a government, without support from or influence of the citizens. Plebiscites have nothing to do with I&R; on the contrary, they are often used by governments who want to get a special legitimacy on their policies by bypassing existing laws and constitutional rules (Kaufmann and Waters 2004: xix).

Here, the terminological differences between the continental and American literatures are evident. Whereas the previous quotation notes a clear

14 The literature offers a wide menu of typologies that link mechanisms of direct democracy and democracy types, such as those presented by Vatter (2009) or that of Hug and Tsebelis (2002). These typologies include certain aspects not covered by my typology, including “decision rules” (particularly with parliamentary-minority initiated MDDs). Vatter’s typology (and, for this matter, also the typology offered by Hug and Tsebelis) is an extremely useful cognitive map of different types of mechanisms of direct democracy in the context of developed democracies. However, I have reservations about how useful it would be to extrapolate it to non-European countries because it does not necessarily travel smoothly to the southern regions of the globe. For example, unlike most Western developed countries (Vatter’s universe of cases), all Latin American countries are typical presidential regimes, where the executive party is usually the largest minority within the legislature and sometimes even a small minority within it (as the cases of Brazil and Ecuador illustrate best; many countries in Africa also present this configuration). In this context, although it is possible to identify MDDs triggered by the gathering of citizens’ signatures that favor or go against the status quo, it is extremely difficult to assess if legislators pushing for a particular MDD belong or not to the executive’s legislative-coalition in that particular time in a broader cross-regional comparison. By the own nature of regimes, assessing the “ruling majority” in a multiparty presidential regime is far more complicated than doing so in parliamentary regimes (Chasquetti 2001). In other words, I am more concerned about the applicability of Vatter’s typology to my universe of cases (all countries of the world) and its fit with the objectives of my research than with the typology itself.
Mechanisms of Direct Democracy

- Required by Constitution (or Law)
  - Non-Binding
    - Proactive
      - Consultive Plebiscites
    - Reactive
      - Consultive Plebiscites
  - Binding
    - Proactive (Confirmatory)
    - Proactive
      - Consultive Plebiscites
    - Reactive
      - Consultive Plebiscites
  - Mandatory
    - Proactive
      - Mandatory Plebiscites
    - Reactive
      - Mandatory Plebiscites

- Top-Down (or From "Above")
  - Non-Binding
    - Proactive
      - Consultive Plebiscites
    - Reactive
      - Consultive Plebiscites
  - Binding
    - Proactive
      - Legislative Counter-proposal
    - Reactive
      - Legislative Counter-proposal
  - Consultive
    - Proactive
      - Legislative Initiative (Subtype: Recall)
    - Reactive
      - Legislative Initiative (Subtype: Recall)

- Citizen-Initiated (through Collection of Signatures)
  - Binding
    - Proactive
      - Consultive Referendum
    - Reactive
      - Consultive Referendum
  - Non-Binding
    - Proactive
      - Consultive Referendum
    - Reactive
      - Consultive Referendum

**Figure 1.1. Procedural Typology of Mechanisms of Direct Democracy.**

The dashed box denotes the current debate of whether MDDs required by constitution and top-down MDDs are strictly discernible families of MDDs. Dotted boxes represent theoretically plausible configurations but with no correlates in real life.
differentiation between *initiatives* and *referendums* on the one hand and *plebiscites* on the other, in the American vocabulary, the differentiation is the following: “The *initiative* allows voters to propose a legislative measure (statutory initiative) or a constitutional amendment (constitutional initiative) by filing a petition bearing a required number of valid citizen signatures. A *referendum* refers a proposed or existing law or statute to voters for their approval or rejection. Some state constitutions require referendums; in other states, the legislature may decide to refer a measure to the voters” (Cronin 1999: 2).

The differentiation (in the second row) among the initiators addresses the mechanics of triggering an MDD and how this process takes place rather than the content of the proposal. We must be aware that although the great majority of MDDs that come “from below” are truly citizen-activated weapons, this is not necessarily always the case. This differentiation could be blurred by the fact that in some countries (e.g., those in Latin America), a given president could ask a group of loyalists to start gathering signatures for an “MDD from below.” These cases are extremely rare, and usually presidents pursue routes for advancing their interests other than mobilization of their constituents. Indeed, the unique case of an executive pushing for an MDD from below is exemplified by the Colombian reelection movement under the presidency of Uribe at the time this manuscript was published. Evidently, Uribe is rather fond of the initiative, but undoubtedly there is also a legitimate social movement pushing the measure forward. It is highly unlikely that this movement is simply a consequence of presidential desires (see Chapter 5).

However, in an extremely weak democracy that needs to maintain a legalistic façade, presidents have resorted to artificial, even forced signature gathering. Maybe the most evident case is that of Ukraine in 2000, when more than 4 million signatures were gathered in record time. Many of the signatures were adulterated, some even faked to boost presidential powers vis-à-vis parliament (Wheatley 2008). Technically, the mechanism was “citizen initiated” but, of course, it was supported by all-encompassing executive power. The good news is that in these cases, it is rather easy to find out when there is something suspicious occurring by examining the level of correspondence between the MDD and the executive’s desires.

Now I briefly describe the most important characteristics of each of these institutions, starting with those for which there are cases and then moving to those where – despite theoretically possible alternatives – no cases are found. As described, Figure 1.1 shows three large subgroups of MDDs: a) those required by the constitution, b) top-down (or from “above”), and finally, c) citizen-initiated through collection of signatures (or from “below”). Each of these groups is divided into two subgroups, binding and nonbinding, which are subsequently divided into two other additional subgroups, proactive and reactive. In the bottom row, each box denotes the highest level of disaggregation considering these criteria. Note that there are some boxes drawn with dots; these are theoretically plausible combinations but for which no correlate “in real life” has been found.
Starting from the left on Figure 1.1, the first family of MDDs we find are those required by the legal apparatus of a country. This family has only one combination with empirical correlates, mandatory plebiscites (the European literature sometimes refers to these as obligatory referendums). A mandatory plebiscite does not depend on the wishes of an individual because they are determined by law and, most of the time, by the constitution of a country. Usually, this type of institution accompanies constitutional reforms. This type of plebiscite is binding; it has the power to oblige whatever is decided becomes law. By their very nature, these are proactive MDDs; they are mandated popular votes that are sought to gather support for a major constitutional reform or political alteration of the status quo.

It is debatable whether mandatory plebiscites correspond with the realm of MDDs “from above”; this is why there is a dashed line around the categories “required by the constitution” and “top-down.” On the one hand, they could be considered “from above” because, after all, they depend on the wishes of an institution of the state (usually the legislature), which is formed by individuals who are well aware that if they maintain a certain course of action, this proposal will eventually be decided at the ballot box. For example, since the early 1990s, Uruguayan legislators had been debating about the reform of the almost century-old electoral system. They knew perfectly well that if a significant majority was reached, the reform would have to be approved directly by the citizens in a popular vote, which was the case in 1996. Did this come from above? Many would argue “yes” because the MDD was, after all, triggered by the majority of legislators. On the other hand, these are not sudden MDDs that come from nowhere because one day someone “from above” wakes up and says, “Let’s have a popular vote on X issue.”

Moving to the right in Figure 1.1, we then find the cluster of facultative (or unregulated) top-down MDDs. This category is composed of two major and different proactive MDDs, facultative and consultative plebiscites, and a reactive one, legislative counterproposals. A facultative plebiscite is, by far, the most frequently used MDD in several regions of the world, especially Latin America, Africa, and the Commonwealth of Independent States. These facultative plebiscites occur when the political establishment (executive, legislative, or both) submits a proposal to the citizenry, and whatever is decided then becomes law (either regular or constitutional – it does not matter at this level of aggregation). Frequently, these mechanisms are used as legitimizing tools for a tough policy, to avoid the political price of adopting such a policy (Setälä 2006a; 2006b), or as a means to bypass other state institutions (in presidential regimes, the legislature is usually the bypassed institution).

---

16 For example, most (but not all) presidential regimes in Latin America force mandatory plebiscites facing a constitutional reform.

17 The term plebiscite encapsulates a plethora of different types of the phenomenon: legislators’ minority initiative; legislative initiative, or executive order. There is not enough room to argue whether it is a wise decision to subsume under the concept of plebiscite those that are initiated
A consultative plebiscite occurs when the executive or legislative branch of government consults the opinion of the citizens regarding a matter with no legal consequence; that is, it is not legally binding. Sometimes governments submit combined questionnaires regarding diverse topics to the citizenry (as was the case in Ecuador in 1995, 1994, and 1986) and ask simple questions regarding ratification of peace treaties (as in Argentina in 1984 regarding the Beagle Treaty with Chile), the partitioning of territories, such as the Schleswig Plebiscites of 1920 (see Laponce 2004), or pose miscellaneous unique questions, such as the obligatory conscription military service question posed in Canada in 1942.

Finally, within the sphere of those coming from above, we encounter legislative counterproposals. The very name of these MDDs indicates that they are reactive because they respond to an alteration of the status quo by another agent that is usually the citizenry (through a popular initiative or another plebiscite of the establishment itself). These are top-down binding-reactive measures. Facing a popular initiative, some countries (e.g., Switzerland, Liechtenstein, and Uruguay) allow their legislatures to make counterproposals to be voted on simultaneously against the citizen-initiated measure. This vote is held concurrently with the original initiative and implies multiple (at least three) choices for citizens (Measure A [citizens’], Measure $\neq$A [legislature], and the status quo). Perhaps one of the most vivid examples of legislative counterproposal comes from Uruguay in 1966, when a jointly sponsored proposal by the major parties of the country faced two simultaneous counterproposals. Yet if the vote under examination does not react to another MDD and if it is binding, it should be characterized as a facultative plebiscite and, if nonbinding, a consultative plebiscite.\footnote{Given that legislative counterproposals were sometimes used to derail popular initiatives in Switzerland, in the latest reform of the Swiss Constitution (1999), Art. 139 (6) stipulates that citizens may vote simultaneously for the popular initiative as well for the counterproposal made by the legislature, against the status quo. In a separate question, citizens also may indicate which drafts they prefer (in case they voted for two of the proposals against the status quo). If one of the drafts obtains the majority of the people’s vote and the other the majority of the cantons, neither of them shall come into force, and the status quo prevails.}

Lately, a wave of popular votes has blossomed in several European countries with regard to accession, integration, and enlargement of the European Union (EU) (Auer 2007; Hug and Schulz 2007), yet important differences exist among them, serving as an example of different measures coming from above. In some countries, these votes were mandated plebiscites (Ireland, Switzerland), whereas in other countries, consultative plebiscites (France, Norway) or facultative plebiscites (Denmark, Lithuania) were the norm. The difference between

by the legislative branch and thus potentially by the opposition. It is, instead, reasonable to claim that these are two different types of plebiscites that follow different causal logics. In other words, the conditions explaining plebiscites initiated by the government narrowly defined are likely to look different from those that explain plebiscites initiated by the opposition. In this research, however, these differences are tackled more profoundly from Chapter 5 forward (Latin America and Uruguay, respectively).
Direct Democracy at the Turn of the Century

the last two concerns how authorities relate to the measure, despite that in prac-
tice, both may have the same political consequences. In other words, if a vast
majority of the citizenry rejects a certain measure in two democratic countries,
it matters relatively little if it is a consultative or a facultative plebiscite, despite
the first being nonbinding and the second binding. Instead of emphasizing the
content of the proposals dealt with in an MDD, the key aspect is who was in
charge of triggering the MDD and how the process takes place.

I now turn to CI-MDDs. As operationalized, two types of MDDs com-
pose this particular subgroup: binding and nonbinding MDDs from “below.”
Within the first subgroup there are two types: popular initiatives and refer-
endums. Although the two types have different objectives, the mechanisms to
trigger a CI-MDD are basically the same: Organizers of the measure have to
gather a minimum number of signatures from the electoral body (each coun-
try has a different threshold) and propose a specific measure to the electoral
authority. If the number of signatures passes the legal thresholds and they are
subsequently validated, the electoral authority authorizes and implements the
mechanism. The vote for the CI-MDD, also dependent on the country, must
be held either during a delimited amount of time from the approval of the
signatures or in the following general election.

A popular initiative is a proposed law, statute, or constitutional amendment
supported by a group of citizens that offers an alternative to the status quo.
It is the classic proactive power in the hands of the citizens and for some is
the most democratic institution within the scope of direct democracy (Hautala,
Kaufmann, and Wallis 2002). Unlike a popular initiative, a facultative referen-
dum allows citizens to reject (veto) an adopted law.\footnote{The concept of refer-
endum has a Latin-origin meaning: “something to be referred.” Plebiscite,
on the other hand, is defined by the Oxford English Dictionary as “the direct vote of all the
members of an electorate on an important public question.” The concept of plebiscite comes
from ancient Rome, referring to a law enacted by the plebeians’ assembly in approximately
the fifth century A.D. (from Latin plebs, “the common people” and scitum, “decree”) (Suksi
1993). This concept was used not only since 1793 in France for the popular consultations on
the Montagnarde Constitution and the formation of the National Assembly of two-thirds of
the Constitutional Council (twice each) but also to describe the resolution votes of boundary
conflicts in the League of Nations and to categorize the popular votes of legitimization of the
Nazi regime in Germany (Kobach 1993: 4; Suksi 1993: 97–103). The concept of referendum
was used for the first time in Switzerland in the constitutional vote on the legitimization of the
new regime of the Helvetic Republic, which was imposed by the French conquerors in 1798
(Kobach 1993: 4).} In the Americas, Uruguay
continues to be the only country in which referendums have been used system-
atically at the national level, with varied degrees of success. Although the
referendum aimed at abrogating a law of 1986 on amnesty for those involved
in human rights violations during the military dictatorship (1973–1985) failed
in 1989, the withdrawal of the privatization law in 1992 was a success. This
success was extremely visible in Latin America (and beyond) because it was
one of the first democratic responses that sought to halt the then-fashionable
Washington Consensus in the region. For other examples of referendums we must look to Europe, particularly Switzerland, Liechtenstein, and Italy.\footnote{With regard to the Italian experience, Uleri has fine-tuned the typology of referendums (1996; 2002), differentiating between whether a referendum goes against an already enacted law (abrogative) or against laws that are not yet in force (rejective). Given that for a worldwide study of direct democracy, the amount and quality of information required for this classification are almost impossible to gather, I will simply use the category of facultative referendum.}

Also, within the realm of binding, proactive CI-MDDs, there is a subtype that deserves some attention: the recall – an institution that allows citizens to dismiss and replace an elected authority. Despite the fact that some scholars are reluctant to include these actions within the direct democracy realm – because they are aimed at persons and not issues (Kaufmann, Büchi, and Braun 2008: 91) – the recall fulfills the definition of an MDD provided at the beginning of this section. It is not widely used internationally, and this institution characterizes a more locally driven rather than a national-scale MDD. So far, this mechanism has been used only once at the national level, in Venezuela in 2004 against President Hugo Chávez. In fact, discussions about its use brought Venezuela to the brink of a civil war during 2002 and 2003. Perhaps the soundest use of the recall in recent years was in California in 2003, which paradoxically resulted in the recall of Governor Joseph Graham Davis Jr. (Democrat) and the simultaneous election of the protagonist of the 1990 film Total Recall, Arnold Schwarzenegger (Republican).

Recalls are notably stressful situations for party systems, particularly for the party to which the recalled representative belongs. Given that recalls are motivated by political reasons, the party of the incumbent is most likely to shield the politician in question, but it also needs to present an alternative candidate in case the recall succeeds.\footnote{No crime has to be committed by an incumbent in order to be recalled. If an elected official commits an illegal act, that person could be impeached and then sent to regular justice. On impeachments, see Pérez-Litán (2007).} Thus, a party could easily find itself defending one incumbent while simultaneously promoting a different candidate for the same, and indivisible, post.

In this type of election, two simultaneous votes are held: one for the recall itself and one for electing the substitute in case the first vote wins. These situations may produce seemingly illegitimate results (even undemocratic for some) because the elected candidate can easily receive far fewer votes than the recalled incumbent. For example, if 45 percent of citizens vote against the recall and 55 percent in favor of it, the incumbent needs to leave office. However, if, in the simultaneous election for filling the vacant post, three candidates receive barely one-third of the votes each, the winner has received far fewer votes than the removed incumbent.\footnote{Although this procedure is not uncommon in the United States, it has been successful only twice. The first successful recall was in North Dakota in 1921 when Governor Lynn Frazier was censured by citizens. See Cronin (1999; chap. 6). On the particular case of the 2003 California recall, see Alvarez, Goodrich, Hall, Kiewiet, and Sled (2004); Bowler and Cain (2004); and Stone and Datta (2004).}
Strictly speaking, both popular initiatives and facultative referendums promote an alteration of status quo through rejecting an approved law and proposing a new legislative (or constitutional) measure. Yet in a country where the facultative referendum exists, one can only talk about the status quo when the time limit for a referendum has expired. Only at that point does the considered law or statute become the new status quo. When time prescribes, even if the MDD tries to abolish a law, this has to be considered a popular initiative.

Finally, at the extreme bottom right of Figure 1.1, there are the consultative initiatives and the consultative referendums, which are a seldom-used prerogative in the hands of citizens. These are odd in that significant efforts have been made to force a vote, yet the measures do not make the results binding. Why is this so? The answer is generally found in the constitutional texts of some countries. Indeed, the only recorded evidence I have found of a consultative initiative occurred in Colombia in 1990, when a rather amorphous social movement, led by the student unions of the country, succeeded in including an informal ballot calling for a constituent assembly to reform the Colombian Constitution. Massive support for the measure in the form of opinion polls and a push to include the ballot in the vote led the establishment to count the votes of the initiative. Then, in a legally questionable measure, the Supreme Court of Justice retrospectively declared it binding.

As noted, of the twelve theoretically possible combinations, five do not have correlates in real life. For example, consultative mandatory plebiscites (in either proactive or reactive subtypes) appear at the far-left side of the figure. Although theoretically possible, I am not aware of the existence of such an alternative. In the proactive subtype, we could imagine the constitution of a country stating that before carrying out “X,” a consultative plebiscite would have to be held. This is an odd case of a constitutional mandate requiring a nonbinding vote on a certain issue, and the question is what the constituents would have had in their mind when creating such a nonstandard institution.

It is important to note what is not included in the typology offered here. By definition, this typology does not include what are usually called legislative popular initiatives (LPIs). An LPI exists when the citizenry forces the legislature to consider a proposed action or a bill (though the legislature will not necessarily accept it), which represents control over the agenda rather than a tool for political change. Given that there is no popular vote whatsoever, LPIs are not considered in this research. Moreover, it is important to differentiate between MDDs and other institutions of deliberation or political leverage. Thus, I also leave aside all the institutional products of the newly fashionable decentralization wave, even when citizens have the right to directly influence politics, as in the Bolivian Organizaciones Territoriales de Base or the new experiments at the Colombian municipalities. None of the mechanisms of participatory budgeting used in several cities in Latin America (e.g., Porto Alegre, Rosario, and Montevideo) counts as an MDD in this typology. In these cases, despite the fact

---

23 For participatory budgeting, see Goldfrank (2002; 2006).
that citizens might participate in public deliberations, there is not necessarily a
universal and secret vote on such agreements, if a vote even occurs. Needless to
say, no informal mobilizations of people (e.g., the Piqueteros in Argentina or
the Movimento dos Trabalhadores Rurais Sem Terra in Brazil) are considered
here. I am not stating that these forms of civic participation are not important
even to be studied. On the contrary, I am stating simply that they do not
fulfill the operationalization of the concept offered here and therefore are not
included in this research.

As we see, there is a plethora of MDDs; some of them are used quite fre-
quently, whereas others, though theoretically possible, remain unused. The
importance of spending time to deal with each of the categories of MDDs is
further justified by the fact that, for instance, the recently so-called presidential
recall in Bolivia (2008) was no more than a facultative plebiscite called by
President Morales as a confidence vote (see Chapter 5). Along the same lines,
despite being officially called a referendum, the October 2007 Costa Rican vote
on the Central America Free Trade Agreement with the United States must be
considered a facultative plebiscite because it was triggered by the President
Arias with the legislature to deactivate a potential popular initiative.24 In other
words, there were no referendums or recalls whatsoever in Latin America in
2007 or 2008, but there were critical presidential plebiscites in two countries
in the region.

Finally, it is important to point out that this typology is not sensitive to
the administrative or political level where MDDs take place, whether local,
regional, or national. Because my research agenda is primarily focused at the
macro level, local or subnational MDDs are not taken into consideration.

2. The Devil Is in the Details: Institutional Requirements and Constraints
on Mechanisms of Direct Democracy

As the popular phrase states, the devil is in the details. Even within a single
type of MDD, there exist important differences at the procedural level as well
as among the available possibilities for their deployment. These differences
are crucial for assessing the degree of potential penetration and an eventual
operationalization of direct democracy. Almost any binding procedure in the
hands of citizens must fulfill some requirement of support, and this foundation
is universally achieved through signatures.25 Promoters of an MDD must show
the authorities a predetermined portion of citizens endorsing their objectives;
once checked, the measure is triggered.26 This proportion of the electorate
oscillates between 2 and 3 percent of the electorate for popular initiatives

24 For a meticulous concatenation of events regarding this popular vote, see Breuer (2009a) and
Feoli (2009).
25 In some countries, signatures have to be accompanied by fingerprints.
26 The procedures for checking the signatures vary significantly from place to place, even within
the very same country, such as in the United States. These procedures could be as varied as a
manual check of each and every signature (as in Idaho, Massachusetts, and Maine); a check
(e.g., in Hungary, Slovenia, or Switzerland) to 25 percent for a referendum as in Uruguay. Of course, in countries such as Uruguay, which encompasses a massive diaspora, this 25 percent of the electorate in real terms could be close to 30 percent of the citizens living in its territory. This phenomenon can be classified as an entry hurdle. But there are other critical aspects to take into account: participation quorums, approval quorums, time limits (or circulation time for triggering an MDD), decisiveness of the MDD (whether binding or not), and qualifiers (exclusion of potential issues to consider). I deal with these aspects related to any MDD in due time, but first I offer a brief introduction.

The approval of an MDD differs from country to country and even within the same country with regard to the particular variety (e.g., popular initiatives and referendums). Also, approval quorums must be studied alongside participation quorums given that in some countries, the decision at the polls is contingent on a minimum number of citizens participating in the procedure, which is concomitant with the existence of compulsory voting for certain measures. For example, in some countries, MDDs are approved by simple majorities, yet differences persist in whether the simple majority relates to all votes or only to all valid votes. In other countries, an MDD is approved if a majority of all citizens endorse the MDD.

The required majorities for approval must consider whether the final decision lies uniquely in the citizens’ desires for other types of majorities. Some federal countries (e.g., Switzerland and Australia) require double majorities (i.e., they must win both a majority of citizens’ votes and a majority of states in the country) for the MDD to be approved. Ceteris paribus, double majorities are more difficult to obtain because there are other institutional veto players to overcome along the way. Double majorities constitute safeguards in relation to what James Madison once called the tyranny of the majority. In other countries, super-majorities rather than double majorities are required. For instance, it is quite common to require the absolute majority of all enrolled citizens, regardless of whether they vote. However, super-majorities do not constitute another veto point; they have exactly the same objective as double majorities.

The debate on the necessary requirements for approval of an MDD opens the door for other discussions. One is related to the imputed preferences of passive citizens (those who do not vote). Assume, for example, that there is a participation quorum of 35 percent (as with obligatory referendums in Uruguay) and 70 percent of the electorate is willing to vote. Among those willing to vote, a significant majority, about 70 percent, support “A” (the objectives of the MDD) and about 30 percent support “B,” opposing its objectives. A superficial perception of the situation is that the “B” option is likely to be overwhelmed by “A,” but a more cautious view provides an alternative interpretation. If “B”
Figure 1.2. Interaction between Participation and Approval Quorums.
Source: Adapted from Aguiar-Conraria y Magalhães (2009; 2010) and Hug (2004).

Voters stay at home on the decision day, their opinion will prevail because the 35 percent quorum will not be obtained.

As the study of Aguiar-Conraria and Magalhães demonstrates, all possible results of an MDD could be represented in the surface delimited by two orthogonal axes (yeas and nays), taking into consideration their interaction with participation and approval quorums (Aguiar-Conraria and Magalhães 2009; 2010). In Figure 1.2(a), no required quorums are needed for the measure to be approved. In other words, it does not matter how many people vote or how much of the electorate those people represent. In this figure, there is a 45-degree line that divides in two equal sizes all possible results of a typical
two-choice MDD, the segment $OB$. The vertical axis represents the “yea” votes and the horizontal, the “nays.” Thus, point $B$ represents a situation in which all citizens voted, with a perfect fifty–fifty distribution. For instance, if the results fall in point $i$, then 35 percent of the citizenry voted for and 20 percent against, and if the results fall in $ii$, then otherwise. For any $i$ point closer to $O$ than to $B$, this signifies a higher rate of abstention.

In Figure 1.2(b), however, there is a participation quorum of 50 percent of the citizenry. In other words, if fewer than half of the citizens participate, the result is not binding regardless of the relative strength of each camp; even if 100 percent of voters vote affirmatively, results are not legally binding. Indeed, any result falling below $QK$ would be nonbinding. As seen, the status quo’s region increases drastically from a surface of 50 percent in Figure 1.2(a) to 62.5 percent in Figure 1.2(b). In this situation, if the results fall in point $i$, the decision is still binding. This requirement of 50 percent participation is widely used, most evidently in Italy, as seen in the next section of the chapter.

In Figure 1.2(c), there is no participation quorum but rather an approval quorum, which is why the segment $QK$ is horizontal instead of parallel with segment $AB$. In this case, the votes in favor must gather at least 40 percent of all citizens, but there is no explicit required participation quorum. Of course, there is no possibility of reaching the 40 percent of necessary affirmative votes if less than a minimum of 40 percent participates. Thus, there is an implicit participation threshold of 40 percent. This type of approval quorum is used in Denmark for constitutional amendments. In this case, point $i$ produces non-binding results.

Finally, Figure 1.2(d) illustrates a situation that combines both participation and approval quorums. This double requirement is rare and greatly reduces the size of the potential “change” field. This is the case of Lithuania on MDDs on sovereignty issues. For this type of vote, there is a participation quorum of 75 percent and an approval quorum of 50 percent. The area of change is reduced to less than 20 percent of the triangle $\Delta OAB$ (exactly 18.75 percent).

One could think that the former scenarios were created for the sake of the explanation, but they were not. Some political actors (e.g., nongovernmental organizations and parties) frequently get involved in boycott campaigns to support a side of the discussion when they perceive that they would be defeated at the ballot box. A prime example of where this type of campaign is rather recurrent is Italy, which has a participation quorum of 50 percent for its citizens on both abrogative and rejective referendums (Uleri 2002).

On February 19, 2004, the Italian Parliament passed Law 40, Norme in materia di procreazione medicalmente assistita, introduced by Berlusconi’s coalition government, which also succeeded in gaining support from a significant sector of the opposition.27 For its supporters, this was the first attempt to regulate an arena that hitherto had been out of their control. To its detractors, it was a law that extended the Catholic Church’s conservative

27 The full text of the bill is available at http://www.camera.it/parlam/leggi/04040L.htm.
preferences to the detriment of the health of women seeking medically assisted procreation. The Radical Party campaigned to cancel in a referendum the law as a whole, but the Constitutional Court ruled that it was not acceptable to scrap the new legislation altogether.\footnote{A very similar decision was made by the Oregon Supreme Court of Justice in 1998 in a case known as Armatta v. Kitzhaber. On this occasion, the court invalidated an initiative on the grounds that it involved multiple changes to the state’s constitution, which should have been considered separately by voters (Miller 2003: 461).} Despite the fact that the required number of signatures to override the law had been collected, the court only allowed the possibility of removing four of the most controversial articles.\footnote{In substance, these clauses limit the number of embryos that may be created during a cycle of medically assisted conception, ban the storing of embryos, control which tests may be carried out on the embryo, ban the use of gametes from outside of the couple, and limit the availability of medically assisted conception to couples according to certain criteria.} The referendum was finally on the way. The Radical Party gathered the support of the Democratici di Sinistra, Socialisti Democratici Italiani, Rifondazione Comunista, and other liberal and progressive civic associations. The church and conservative sectors of Italian politics and society actively called for a boycott of the referendum aimed to loosen restrictive fertility laws for women. As shown in Figure 1.3,
members of the conservative Alleanza Nazionale integrated the so-called Committee for an Active Abstention. The question is why they called for abstention and not for a negative vote.

The clergy, with the support of the then–brand-new pope, reasoned as follows: If someone votes “no,” that person will be strengthening the “yes” camp simply by helping that camp reach the 50 percent participation quorum. Given that the “yes” was a clear majority of those who cared about the vote, abstention became the most rational way to fulfill their political preferences (for those who opposed the “yes” camp). Even the words of Pope Benedict XVI were illustrative: “What is the principle of wisdom, if not to abstain from all that is odious to God?”

Given the distribution of preferences regarding the legislation targeted by the referendum and opinion polls, which indicated that only 60 percent of citizens were considering turning out to vote, it was much more rational to demobilize the citizenry than to mobilize it against the referendum. Graphically speaking, in Figure 1.4, it was easier (i.e., shorter) to go from A to C than from A to B. In this case, it is assumed that the demobilization efforts would affect all individuals evenly (regardless of whether they are in favor of or against the referendum). Even in the case of a highly emotional topic, where the demobilization efforts would impact mostly the “no” camp, it is more rational to demobilize than to mobilize against the referendum (i.e., to go from A to C′ than from A to B′) when turnout is expected to be close to the requisite quorum.

The church’s strategy was eventually a success. Despite the vote in favor of the measures being more than 80 percent (Table 1.1) of the votes counted, it

---

30 Pope Benedict XVI, in a speech made in June 8, 2005, four days before a referendum on in vitro fertilization in Italy, cited by Aguiar-Conraria and Magalhães (2009).
31 For a rather complete series of opinion polls, see Angus Reid Public Opinion at Angus Reid Global Monitor, http://www.angus-reid.com/.
never attained the 50 percent quorum. In a way, this case supports the idea that the maximization of the vote is not always rational, as McCubbins and Rosenbluth neatly explain in their theoretical view of Japanese party politics (1995). A basic question that arises is why participation quorums exist in the direct democracy realm but not in the representative one. As Verhulst and Nijeboer state, participation quorums “give unequal weighting to the votes of supporters and opponents of an initiative, provoke calls for boycotts, and negate the role of the mandate in direct decision-making” (2007: 21).

The existence of a quorum has one perverse effect and one ironic potential outcome. In the words of Aguiar-Conraria and Magalhães,

The perverse effect is that, in some situations it gives incentives to people to mask their true preferences and to abstain, acting as if they were indifferent. The ironic potential outcome is known in the literature as the “No-Show paradox”: it is possible that the quorum is not reached precisely because of its existence or, in other words, turnout exceeds the quorum only if this requirement does not exist. (Aguiar-Conraria and Magalhães 2009)

Moreover, there is one potential, and even more basic, consequence of a mobilization campaign: the violation of the secrecy of the vote, particularly in rural or small urban areas where close social ties exist. The historical record of MDDs shows several occurrences of threats to, and abuses of, people in order to compel them to abstain from voting.32 As Suksi remarks, “[I]n a case where

---

32 After World War I, landed aristocrats of Germany demanded that the state compensate for the expropriations they were subject to during the war. The only way the Weimar Republic...
it is possible to influence the outcome by abstention, the act of voting itself might become a statement on the policies an individual was supporting” (Suksi 1993: 211).

A second typical discussion about MDDs relates to how to delimit the demos. This topic is particularly acute in questions concerning women’s rights, sovereignty, or international settlements of disputes (Rourke, Hiskes, and Zirakzadeh 1992). With regard to women’s rights, in both Switzerland and Liechtenstein, the struggle for them was agonizingly long because of the quite stubborn and conservative popular vote of men. Women had only an indirect influence, if they had any at all. Indeed, male decisions at the polls pushed these two countries to be the latest comers in the Western Hemisphere regarding the extension of such rights (Switzerland in 1971 and Liechtenstein in 1984).

Also, the delimitation of the demos is critical in terms of sovereignty. For example, some Canadians have voted twice (in 1980 and 1995) regarding the possible independence of their largest province, Quebec. An important debate took place regarding who should compose the demos in such instances (see, e.g., LeDuc 1993; 2003; Nadeau, Martin, and Blais 1999). Was this a matter for all Canadians or just for the Quebecois? In Canada, the answer was in both instances, only for the Quebecois. Yet a provocative question can be asked: Is Spain ready to allow the Catalans or the Basques to vote for independence on their own? What about the minorities within those independence-leaning regions – are they to be “protected” or not? This problem is especially acute when there is an evident unevenness of power between minorities (e.g., the French in Algeria) and the rest of the population.33

There are other “details” that must be taken into account to complete the picture of MDDs and their procedures. For example, it seems evident that it would be harder to gather the required signatures if only three months were available to do so instead of, say, one year – which is related to the size of the country in consideration. For instance, gathering 10 percent of citizens’ signatures in Peru is presumably much harder than gathering the same 10 percent in Liechtenstein, where the required number of signatures almost could be gathered in the main piazza in a couple of days. Certainly, it could be claimed that everything is proportional, even the resources to gather signatures.

could cover those costs was by drastically increasing taxation. In 1926, both the Communist and Socialist Parties launched an initiative that sought to “confiscate without compensation, in the interest of general welfare” the property of members of the nobility. Supporters of the aristocracy, the German Nationalist and the German People’s Parties, the press, and other conservative forces joined what Verhulst and Nijeboer call “the mother of all boycott campaigns” (2007: 82). They ordered their followers to stay away from the polls on election day and publicized false announcements that the election had been postponed. Furthermore, “Threats were made by the Nationalists that those who went to the polls would be noted as Communists or Socialists” (Gosnell 1927: 121). This strategy was a success for the nobility, as 39.1 percent of citizens voted and, therefore, the participation quorum (50 percent) was not attained. The results were, however, eloquent: 96.1 percent in favor and just 3.9 percent against.

33 See Margalit and Raz (1990).
Yet, even assuming that this is so, urbanization and distance are likely to make a huge difference.

Finally, and just as an introductory note, the qualifiers seem unmistakably significant, and the Hungarian case fits like a glove in making this point. In Hungary, despite CI-MDDs that can be triggered more easily than in other Central and Eastern European countries, the constitution explicitly forbids the realization of CI-MDDs for seventeen topics (and another one in the electoral law). CI-MDDs may not be held on the following subjects: a) laws regarding the central budget, the execution of the central budget, taxes to the central government and duties, customs tariffs, and the central government’s conditions for local taxes; b) obligations set forth in valid international treaties and on the contents of laws prescribing such obligations; c) the provisions of the constitution on national referendums and popular initiatives; d) personnel and restructuring (e.g., reorganization and termination) matters falling under Parliamentary jurisdiction; e) dissolution of the Parliament; f) the government’s program; g) the declaration of a state of war, a state of emergency, or a state of national crisis; h) the use of the armed forces abroad or within the country; i) dissolution of the representative body of local governments; and j) amnesty (Hungarian Constitution 2003, Art. 28c). The question then is: What remains?

This section is intended to introduce the reader to little nuances that might make big differences. Indeed, the list of “details” could be extended almost to infinity. For example, who pays for the campaigns, who is in charge of wording the question to be answered, and so on. Most of these details, however, are discussed throughout the course of this research.

3. Organization of the Research

Although our knowledge of direct democracy has grown rapidly in recent years, there are still many unanswered questions concerning the use of direct democracy in the context of representative democracies. Unlike other aspects of contemporary political life, such as electoral or government regimes, which are mainly centered on technical discussions, the world of MDDs is deeply related to the very (normative) idea we have regarding democracy, its citizens, and more important, their capabilities as reasonable beings able to make responsible decisions. The general question addressed in this book is: Under what conditions does direct democracy supplement or undermine representative democracy?

This research is approached both theoretically and empirically (from a variety of perspectives and methodological points of view). Theoretically, the aim of this book is to analyze the potentialities and the problems inherent in the use of direct democratic institutions within representative democracies. Empirically, the aim is to outline the role of MDDs in different political systems and regimes. The research is organized as follows:

Chapter 2 lays out the basis for the theoretical dimension of the book. There is no doubt that democracy constitutes a key component of the current debate in political science. Most of the comparative literature analyzes
elections (a sine qua non component of any democratic regime) and the associated rights and preconditions for them to be fair and free. However, less attention has been devoted in the literature to what happens between elections. Although some key institutions and processes have been examined (i.e., rule of law, human, social, and economic rights) a central dimension of democracy – popular sovereignty – has been surprisingly absent in mainstream comparative political-science debates. Popular sovereignty is critical because, even assuming a reasonably well-functioning state, representative institutions alone generate incentives for narrow and selfish interests that must be controlled by citizens. This chapter demonstrates that CI-MDDs are the institutions that allow popular sovereignty to flourish within contemporary representative democracies.

Nonetheless, this is not an easily made theoretical claim. On the one hand, diehard opponents of direct democracy argue that representative democracies are inherently inimical to one or another aspect of direct democracy based on arguments such as the risks of the tyranny of the majority. It also has been argued, from a social-choice perspective, that there is not one universal and fair system of aggregation of interests; thus, the use of majority rule could lead us down a road of cycling and alternating decisions and, consequently, instability. On the other hand, supporters of direct democracy claim that it is simply a strong medicine against most pathologies of representative democracy and, therefore, more direct democracy is advisable. I argue that most of the debates regarding direct democracy are approached in the wrong manner. They ask the wrong questions, and most of their critiques are based on incorrect assumptions about not only direct democracy in general but also about representative democracy itself.

Chapter 3 asks why some countries use MDDs exceptionally frequently, others rarely, and still others not at all. No theory thus far has comprehensively offered an answer to this question, and most conjectures are usually based on anecdotal evidence from a few selected cases. Most analyses of direct democracy select on the dependent variable, which, as a rule, we learn not to do in graduate school. Thus, this chapter contributes to filling this lacuna by analyzing an original database examining the use of MDDs (either top-down or citizen-initiated) on an annual basis in all countries in the world from 1985 to 2009.

This unique database presents a year-by-year picture of every country, providing almost five thousand observations and including information about the use of different types of MDDs in each and every country (we may call them “events”), plus several independent variables. The foci of study at this stage are the tools of direct democracy used at the national level only; I do not consider nonofficial or subnational MDDs. Also, this chapter studies the actual use of MDDs, not the legal possibility for their realization, as do Hug and Tsebelis (2002). The prevalence of zeros and the tiny values and discrete nature of the dependent variable (non-negative and integer valued) make the ordinary least-squares technique unsuitable for this research. Therefore, given that the dependent variable is a non-negative count (events of MDDs per country
per year), a negative binomial cross-sectional time series regression is the most appropriate tool for statistical inference.

This statistical analysis undermines many of the assumptions in the literature while confirming a few others. Contrary to much of the conventional wisdom, evidence supports the claim that direct democracy is strongly associated with higher levels of democracy. Therefore, the idea that MDDs are not part of the truly democratic world seems to be disconfirmed. Consequently, many of the arguments about the nondemocratic nature of MDDs are weakened. Moreover, the findings also help to redirect some of the hypotheses advanced directly or indirectly by previous researchers.

Chapter 4 goes down one step in the ladder of generality (Collier 1991; Sartori 1970), examining MDDs from a lower perspective: the political regime. Given that this manuscript deals with the relationship between direct and representative democracy, this chapter takes the opportunity to deal with the flip side of the coin: the use of MDDs in nondemocratic regimes. The dynamics of the political game are different when played within an authoritarian regime (not to mention totalitarian regimes) than in a democracy. On the one hand, some authoritarian leaders have never resorted to top-down MDDs (e.g., Somoza and Pol Pot). On the other hand, some nondemocratic leaders (e.g., Lukashenko and Jean-Claude “Baby Doc” Duvalier) frequently did so to advance their political interests. This chapter asserts that the use of plebiscites under nondemocratic regimes is typically motivated by the maintenance of an illusion of an existing democratic process (to observers both within and outside the country), to cement a psychological and emotional bond between the regime and the population through its mobilization and excitement, and to show the strength of the regime (also for both those within and outside the country).

In this chapter, I also try to answer a frequently forgotten question: Having approximately all the tools necessary to rig a plebiscite, why do some authoritarian regimes accept defeat when they have held an MDD? According to my historical records, in only three nondemocratic regimes did officials recognize their defeat at the ballots (i.e., Uruguay 1980, Chile 1988, and Zimbabwe 2000). What factors determined the acceptance of these results? I assert that a surprise factor, the international leverage and institutional design, provides – in differing degrees – the answer for this question.

Chapter 5 returns to the democratic framework and expands the theoretical discussion from Chapter 2, which assumes that certain levels of horizontal and vertical accountability are present within the environment where MDDs are practiced. In Latin America, unregulated plebiscites are blamed for triggering delegative democracies, but this shows that delegative democrats use MDDs, not the other way around. Despite the use of MDDs by questionable leaders to foster their particular interests, sometimes MDDs open a window of opportunity in the context of minimum democratic guarantees. The question thus is whether MDDs have helped to further undermine the already-weak institutions that several of these countries exhibit. I claim that there is a reasonable amount of skepticism regarding this argument.
If Venezuela had had a constitutional arrangement wherein constitutional amendments were approved only by the sitting Congress without consultation with any other actor, Chávez’s 2007 constitution would have been adopted without major issue because of the absolute majority he enjoys in Congress; however, this was not the case. Undeniably, the history of the continent is plagued by a long list of regimes altering the rules of the game without any scrutiny by their respective citizens and within an environment of poor democratic performance. A few examples include the Dominican Republic (1994), Honduras (1982), El Salvador (1983), and Nicaragua (1987, 1995).

Chapter 6 shifts our perspective from the general to a single case study: Uruguay. Four facts make Uruguay a particularly interesting case study for this research. First, it presents wide variation in the dependent variable (it employs referendums, mandated plebiscites, popular initiatives, and legislative counterproposals). Second, the institutional design of Uruguayan presidentialism has varied substantially since it became a democratic regime, so we will be able to assess the impact of different institutional designs on uses of direct democracy while holding other variables constant. Third, Uruguay has a peculiar party system that makes it relatively easy to observe what is happening inside parties because the internal divisions are in the open. Finally, Uruguay is the most prodigious user of CI-MDDs in the global south (i.e., it does not belong to the “developed” north and is not a member of the Organisation for Economic Co-operation and Development [OECD] or Europe). All of these factors make Uruguay a manageable case for understanding direct democracy.

Chapter 6 is divided into two major sections. The first accounts for the historical and legal context of direct democracy; the second examines how the use of CI-MDDs challenges existing theories of voting behavior in Uruguay. It is possible to trace direct democracy in Uruguay to the constitutional discussions of the early twentieth century. Although the mandatory plebiscite was included in the constitution of 1934, along with popular initiatives, it was already being used in 1917. Since 1934, obligatory referendums (also known as “constitutional plebiscites”) and popular initiatives were employed several times, but it was not until the constitution of 1967 that facultative referendums were included (through an obligatory referendum, of course).

The second section of Chapter 6 deals with the “first cut” usually made in studies of direct democracy: results and voting behavior. The literature on direct democracy tends to suggest that economic interests or social groups could easily use direct democracy for their own particular benefit, making it, in the end, harmful to representative democracy. Nonetheless, this chapter will show that, at least in the Uruguayan case, this argument does not hold equally and consistently for all uses of MDDs. Using a “linear” logic, I examine how the use of CI-MDDs in Uruguay challenges existing theories of voting behavior. I find that when Uruguayans go to the polls to vote on a popular initiative, their vote choice is primarily the result of their party loyalty rather than a direct reaction to economic conditions. In testing my hypotheses, I rely
on the following statistical methods: King’s ecological inference, multivariate regression, and path analysis.

Chapter 7 continues with the case of Uruguay, but the question and the methodological approach differ from that of Chapter 6. I analyze the possible combinations of institutional and political factors under which MDDs manage to limit the action and political desires of the government, thus becoming a weapon of political control in the hands of the citizenry. With this objective, this analysis selects from all MDD occurrences in Uruguay in which the government and the promoters of the initiative held contrasting positions. Simply stated, using the Uruguayan experience, Chapter 7 explains which combination of factors is necessary and/or sufficient conditions to approve a CI-MDD, a subset of MDDs when governments lose (and organized citizens win). In so doing, I rely on a qualitative comparative analysis (QCA), an analytic technique that uses organized and logical case comparisons anchored in the rules of Boolean algebra, to distinguish the mixture of explanatory variables that are exclusive to a particular result.

Substantively, Chapter 7 shows that when the executive opposes the objectives of the promoters of a measure, governments lose at the polls under specific configurations. This occurs when: a) economic issues are at stake, the MDD attempts to maintain the status quo, there is a negative evolution of real wages, and there is a strong lobby or union behind the MDD; or b) economic issues are at stake, the MDD is concurrent with elections, there is a positive evolution of real wages, and there is a strong lobby or union behind the MDD.

The results of the QCA are notably solid in terms of theory confirmation. However, the flip side of the coin also deserves analysis. Thus, the second section of this chapter deals with how political elites approach direct democracy. I had the opportunity to meet with the last three presidents of Uruguay – whose programs were derailed on several occasions by CI-MDDs – and talk extensively with each regarding direct democracy. I also successfully conducted structured interviews with deputies at the national Parliament. Indeed, I can safely say that based on these interviews, ninety-one of ninety-nine deputies confirmed (contrary to conventional wisdom) that most power holders think rather highly of the use of MDDs.

Chapter 8 concludes with the argument that an overall normative evaluation of MDDs as either inherently good or bad for representative democracy must take into account the very different institutional contexts in which these mechanisms are used. Furthermore, it must consider the strength of the political actors involved as well as the type and purpose of the MDD used. Indeed, the discussion of “direct democracy” as a homogeneous category is not conducive to any serious theoretical or empirical learning because it constitutes different and sometimes opposing institutions.

This book claims that the existing debates on direct democracy tend to be mired in theoretical stereotypes of how direct and representative democracy work; however, these debates could be illuminating insofar as they offer fertile ground for interesting research enquiries. Nonetheless, the question is how
realistic these theories are. How often do we see this circulation of votes in the direct-democratic game, and how often do we witness a blooming of populists’ policies? Even in countries where CI-MDDs are comparatively easy to trigger, we have not witnessed any circulation of votes regarding a certain issue. This is because CI-MDDs are not simply about a blind use of majority rule. Those understanding CI-MDDs as mere votes on certain issues are ignoring possibly the most crucial part of the direct-democratic game: the process itself. The evidence does not suggest that Switzerland or Uruguay seems more vulnerable to populist policies than other purely representative democracies in their respective regions, neither do they seem to be performing poorly in terms of democratic processes, even with regard to political outcomes.

In Uruguay, MDDs in general, and CI-MDDs in particular, do not undermine representative democracy because their passage depends largely on the mobilization efforts of organized partisan groups operating outside the conventional legislative arena while still accepting and playing the political game within the formal representative institutions. The central actors working for the approval of MDDs are political parties’ factions and the basic institutions of electoral, legislative, and political representation.

MDDs are reasonable barometers for society, even in a context of weak democratic institutions. They force a finer tuning between party elites and citizens and serve as institutionalized intermittent safety valves for political pressure. In a way, MDDs can be understood as the calcium against potential party-system osteoporosis. MDDs help ground the political system in reality.