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Referendum, Agenda-Setting and Models of Democracy

Majority Rule in Different Models of Democracy

The legitimacy of the results of referendums is based on the belief that they represent the will of the majority. However, according to William Riker's (1982) *Liberalism against Populism*, the results of social choice theory may be used as a critique against majoritarian theories of democracy. These results imply that democracy cannot be defined as the fulfilment of the will of the majority, because the whole concept of the majority will is meaningless.¹ The problems of the intransitivity of the majority rule come up when there are at least three alternatives and three voters. In most cases referendums are held between two alternatives when the problems of the majority rule should not emerge. However, in addition to the two alternatives put forward to the voters, there may be an underlying infinity of policy alternatives. This underlines

the importance of the agenda-setting stage, in which the issues are defined, the number of alternatives is cut down, and the voting procedures are determined.

There are several justifications for the majority rule, based on different interpretations of democracy. Rae (1969) has given an individualist justification to the majority rule, according to which the majority rule increases individual autonomy by maximising the probability that an individual has his way in collective decision-making. This result is valid only if it is assumed that all individuals are as likely to be on the winners' side as on the losers' side, which is rarely the case in real-world societies. Buchanan and Tullock (1962), on the other hand, have given a more critical account on the majority rule as a decision-making method, arguing that it may bring about Pareto-suboptimal outcomes and cause overproduction of public goods.

According to the 'Rousseauan' or epistemic interpretation of democracy, the majority rule is a means to define correct answers to political problems. This line of argument was developed by Condorcet (1765/1976), and more recently it has been discussed in so-called jury theorems which deal with the decision-making in juries and the interpretation of laws (Grofman & Feld 1988; Grofman 1993). Rousseau's theory is based on the assumption that there is a correct solution to those political problems which are universal in character, i.e. which affect the whole society similarly. The correct solution reflects the common good, the general will. According to Rousseau, the general will is indestructible and exists objectively and independently of what people think. Majority rule works as a mechanism which balances out the biases in the individuals' judgements on the general will, if the voters are more likely to right than wrong in their judgements. Furthermore, Rousseau argued that individual judgements on the general will should be formed independently, without communication with the others.

Rousseau and his contemporaries believed that democracy was only possible in small and homogenous communities, because in these people's judgements are not too much affected by self-interest. Rousseau was also rather pessimistic about people's ability to make sound political judgements in large societies. As an answer to this problem, some writers (e.g. Condorcet 1785/1976, 61) have suggested that in large societies decision-making should be delegated to the representatives. The representatives may be considered to be better judges of the common good, because they may be more devoted to promote the public interest than the citizens. Furthermore, because of the complexity of modern societies, public decision-making seems to require such expertise that the citizens do not have, and hence the political decision-making is better to be left for the representatives. However, as Budge (1993) points out, even the representatives are 'living beyond their intelligence' when making decisions on issues with far-reaching consequences. The other obvious problem with delegation is that it does not take into account the possibility that the representatives act upon their own, specific interests.

Rousseau's theory points out the issues which are appropriate to be settled by referendums: issues which are not divisive and which affect the whole electorate similarly, and, therefore, in which it is possible to talk about the common good. Buchanan and Tullock (1962) have argued that individuals' interests may differ from each other for other reasons than those of ignorance. Indeed, the idea of underlying common interest does not seem to be applicable to many of the public issues in large, complex societies in which there seem to be genuine interest conflicts. Some political problems may be characterised as zero-sum-games in which there are losers and winners. In fact, many modern theories of democracy do not give a very central role to the majority rule. They

consider democracy as resolution between conflicting interests rather than as defining the objective common good, and they are, in fact, concerned about the fact that the pure majority rule should *not* prevail.

Protection of individual freedom from the potential tyranny is a crucial element of liberal democracy. One form of tyranny is the one imposed by the majority. Dahl (1989, 171) has described the importance of the limits on the power of the majorities for the democratic process: “But the democratic process isn’t completely open-ended. If a majority were to deprive a minority, or even itself, of any of its primary political rights, then in the very act of doing so it would violate the democratic process.” In liberal democracy, the power of governments is limited by regular elections, the function of which is not the determination of the majority will but to work as a popular veto on the governments, and other institutional checks and balances, such as constitutional rights, bicameral legislature and supermajority requirements. Sartori (1987, 271) has described liberal democracies so that the people “stand for a long process of both innumerable adjustments and innumerable checks”, and that the people “actually resolve themselves in a multi-actor, multi-step and multi-filtered decision-making process”.

Pluralist theories of democracy share many similarities with liberal theory as it was represented above. These theories are also concerned about the limited power of majorities. Dahl (1976, 18) distinguishes between two visions of democracy: decision-making by the sovereign majority and pluralist democracy. The emphasis of pluralist theory is on the social conditions and institutional arrangements which prevent any of the majority coalitions from being dominant on all issues. The long-term stability of the political system is based on the fact that the composition of decisive coalitions is changing. In Dahl’s (1976,

24) words, there are “multiple centers of power, none of which is wholly sovereign”. This may be because of constitutional regulation which defines the spheres of public regulation and private and semi-public organisation which restricts the powers of nation-wide majorities. Furthermore, those in the minority are provided different channels of negotiations and veto powers which encourage to achieve policies more acceptable to all. For these reasons, the society should not be divided into those who are permanently on the losers’ side and those permanently on the winners’ side. (Compare with Miller 1981.)

Participatory theory of democracy is based on the assumption that human beings are social and political by nature: political participation is seen as a precondition of individual self-fulfilment. The other fundamental assumption of participatory democracy is the philosophical idea of fallibilism. As a contrast to Rousseau’s epistemic conception of democracy, the ideal of participatory theory is not achieving a correct political decision, but rather enhancing public deliberation. In participatory theory ‘reasonableness’ of the opinions is considered as an ideal instead of ‘objectiveness’ of Rousseau’s theory. The reasonableness of political opinions is a result of citizens’ participation in democratic discourse. Reasonableness does not mean that consensus would be approached – rather it means that the citizens take into account the vital interests of their fellow citizens as they are put forward in an open discussion.²

Benjamin Barber (1984) suggests certain institutional arrangements which increase the opportunities of citizens’ participation and deliberation, among others the initiative and the referendum. In participatory democracy, the public agenda is open to issues raised by citizens who are involved in decision-making on issue-by-issue basis. According to Barber, the participatory institutions should be

instituted alongside with the liberal institutions, and all simultaneously, because they have mutually enforcing effects in building community and developing political discourse.

Institutional Classification of Referendums

Agenda-setting may be defined as the selection of i) the issues on which collective decisions are made, ii) the possible policy alternatives on these issues, and iii) the procedures by which the social choices are determined. There are two reasons why it is so important to analyse the agenda-setting stages of referendums. First, the agenda-setting stages may be more important in referendums than, for example, in parliamentary and committee voting, because it is easier for the voters to have direct information on the other voters' preferences and to communicate with one another when the number of voters is small. The information on preferences is a precondition for strategic voting which can be used to counteract the power of the agenda-setters. Therefore, the participants of nation-wide referendums are in a disadvantaged position with respect to the power of agenda-setters compared to the voters in smaller decision-making bodies.

Second, the practices of referendums differ considerably from each other. The most significant differences are due to i) who initiates the referendum, and ii) who defines the agenda of the referendum. Political actors have different roles at the initiation and the agenda-setting stages of the referendum depending on constitutional provisions for referendums and also on the other characteristics of the political system. The differences between referendums explain political actors' interests and motivations to promote or object referendums, and they should be taken

into account in the comparative studies and in the normative argumentation on referendums.

When referendums are held within the context of different forms of representative democracies, there must be some specific reasons for the representatives to initiate a referendum or to adopt a provision for a referendum in the constitution. After all, the settlement of an issue by a referendum, rather than in the parliamentary manner, means the delegation of the decision-making power from the representatives to the citizens – even the results of consultative referendums are normally respected. Furthermore, the possibility of a referendum has wider consequences to the political system, for example, in terms of the influence of the parliamentary majorities, minorities and interest groups. Finally, not just actual referendums are important. Sometimes the fact that certain political actors promote a referendum may change the course of political events even if the referendum never actually takes place.

Following the distinction put forward by Gallagher and Uleri (1996), referendums may be *law-promoting* or *law-controlling*. Law-promoting referendums are initiated by the same political actor(s) who puts forward the law proposal to be voted upon, whereas law-controlling referendums are not initiated by the proposer of the law. Law-controlling referendums may be triggered by a constitutional requirement, in which case the referendum is *mandatory*. *Non-mandatory* law-controlling referendums may be initiated by a parliamentary minority, by a certain number of citizens, or some other actors (president, regional authorities etc.). Law-promoting referendums are non-mandatory, and they may be initiated either by the parliamentary majority or some other actor in the representative government, or by a certain number of citizens, as it is the case in the popular initiative. Furthermore, using Suksi's (1993) terminol-

ogy, the referendum is *active* when it is initiated by a certain number of citizens, and *passive* when it is initiated by a certain actor in the representative government.

The word popular initiative 'plebiscite' is sometimes used to refer to popular votes used to reinforce and legitimize the power of the political establishment. There are many examples of referendums in which large majorities have supported the position or the policies of those in power. Silvano Möckli (1994) uses the word plebiscite to refer to all *ad hoc* referendums which are used in situations when those in power find it suitable. With the word 'referendum' he refers to enduring and constitutionally regulated institutions. As it has been argued earlier, the distinction based on the constitutional regulation may not be functionally that relevant, because most of the optional referendums regulated by the constitution are not that different from the *ad hoc* referendums which are not constitutionally regulated. Although it is easy to agree with Möckli that *ad hoc* and optional referendums have distinctive functions from other forms of referendums, there are two reasons why the word plebiscite may have too strong negative connotations to describe all *ad hoc* and optional referendums. First, there are cases for *ad hoc* and optional referendums in which the results of referendums have not been in accordance with the expectations of its initiators, for example referendums on EEC and EU membership in Norway in 1972 and 1994. Second, as it will be shown later on, the *ad hoc* and optional referendums used in parliamentary democracies have also other functions than that of legitimizing the existing government.

The following table describes referendums according to their possible initiators, and whether they are law-controlling or law-promoting:

Table 1. Types of Referendums

Initiator of the Referendum	Law-Controlling	Law-Promoting
Constitutionally Required	mandatory	-
Passive	abrogative and suspensive	'ad hoc'/optional referendum
Active	abrogative and suspensive	popular initiative

The following characterises the place of each type of the referendum in the decision-making processes in representative democracies (the symbol * stands for the actor who initiates the referendum; 'p' refers to the actor who makes the legislative proposal; and 'd' refers to the actor who makes the final decision):

a) Law-Controlling

1. Mandatory (law-controlling, decisive)

government(p) -> (constitution)* -> referendum(d)

2. Non-mandatory

2.1 rejective

2.1.1 suspensive (law-controlling, decisive)

passive: government(p) -> parl. majority ->

parl. minority*/head of the state*/other* -> referendum(d)
(decisive)

active: government(p) -> parl. majority -> citizens* -> referendum(d)

2.1.2. abrogative (law-controlling, decisive)

passive: government(p) -> parl. majority(d) -> parl. minority* /head of the state*/other* -> referendum(d)

active: government(p) -> parl. majority(d) -> citizens* -> referendum(d)

b) Law-Promoting

2.2 *passive: ad hoc or optional* (law-promoting, advisory/in some cases decisive)

government(p) -> parliamentary majority*/president* ->

referendum -> parliamentary majority(d)

2.3 *active: popular initiative* (law-promoting, decisive)

citizens (p)* -> (government) -> referendum(d)

Gordon Smith (1976) introduces the concepts of *controlled* and *uncontrolled* referendums in order to characterise the influence exercised by governments over referendums. He argues that optional and *ad hoc* referendums are the most controlled forms of referendums because the representatives are able to determine the issue on which the referendum is held, the alternatives put forward, and the timing of the referendum. Law-controlling referendums are, in Smith's terms, semi-controlled, because they are initiated either by a constitutional requirement or by some opposition group, and the technical details concerning their organisation are also constitutionally regulated. However, law-controlling referendums may only come up on laws promoted by the government and passed by the parliamentary majority. Therefore, they do not considerably counteract the agenda-setting power of the representatives. Furthermore, the government may anticipate law-controlling referendums and try to avoid defeats on the ballots by taking into account the opinions of the opposition in the formulation stages of laws. Finally, popular initiative-based referendums are, according to Smith, the most uncontrolled forms of referendums, because they allow a certain number of citizens to initiate the referendum on an issue they want to raise on the political agenda. Therefore, the popular initiative counteracts the agenda-setting monopoly of the representatives.

The distinction between controlled and uncontrolled referendums describes the extent to which referendums increase the real influence of the general public over the political process. All forms of referendums give the electorate a say in political process, but the extent of which the representatives control the agenda and the processes varies by the institution. The distinction between controlled and uncontrolled referendums gives an idea of the extent to which referendums incorporate the general public into the political process and thus enhance 'direct legislation' and popular sovereignty. As Smith (1976) has argued, controlled referendums tend to be 'hegemonic', which means that they tend to reinforce the position and the views held by the government, and uncontrolled referendums 'anti-hegemonic'. Because the parliamentary majority supporting the government is able to decide which issues are submitted to a controlled referendum, they are prone to be used only in situations in which they are expected to give support to the position and views held by the government, whereas uncontrolled referendums may be held also in situations in which it is not in the interest of the government.

In sum, the way in which referendums are initiated by different political actors is crucial for the analysis of the referendums as a social choice method. Furthermore, different forms of referendums have been justified by arguments based on different conceptions of democracy. The following table (see following page) summarises the normative arguments for and against different referendums, and the most interesting aspects of the agenda-setting processes. It describes the 'built-in properties' of referendums, and the justifications and objections given to referendums:

Table 2. Properties of Referendums

Type of Referendum	<i>Ad Hoc</i> and Optional	Popular Initiative	Mandatory	Abrogative and Suspensive
Justifications	increasing popular self-government; participation and deliberation; civic education			
	legitimizing decisions; consulting the people's opinions on issues	popular self-government; anti-elitist agenda-setting	check on the legislature; correcting misrepresentation of the majority will	check on the legislature; protection of minority interests
Objections	citizens' inability to solve political problems; tyranny of majority; inconsistencies of policies; problems in representation			
	manipulation by the government; undermining the responsibility of representatives	dominance of well-organised interest groups	protection of the <i>status quo</i>	<i>pro-status quo</i> , decreasing the efficiency and consistency of decision-making
Strategic Features	strategic use by the representatives	collective action problems of making initiative; representatives reactions to initiatives	anticipatory effect on parliamentary decision-making	representatives' reactions to the threat of referendum; collective action problems

Ad hoc and Optional Referendums

Optional or *ad hoc* referendums are the most wide-spread type of referendums. They are passive law-promoting referendums initiated by the parliamentary majority, or by some other actor of the representative government. Following the distinction made by Gallagher and Uleri (1996), optional referendums are constitutionally regulated whereas the *ad hoc* referendums are not. Therefore, those law-promoting referendums which are not initiated by the parliamentary majority, such as the ones initiated by the president or the prime minister, tend to be optional, whereas the referendums initiated by the parliamentary majority may be either optional or *ad hoc*. When the referendum is initiated by the parliamentary majority, the distinction between the optional and *ad hoc* referendums does not have much significance, because in both cases the parliamentary majority, which typically means the party or coalition supporting the government, defines the issues and alternatives to be voted in a referendum, and also decides upon the other procedural matters, such as the timing of the referendum. *Ad hoc* and optional referendums are typically not legally binding. This means that the representatives have the final say on the issue submitted to a referendum, although at least a clear result of a referendum is for the parties politically quite difficult to overcome.

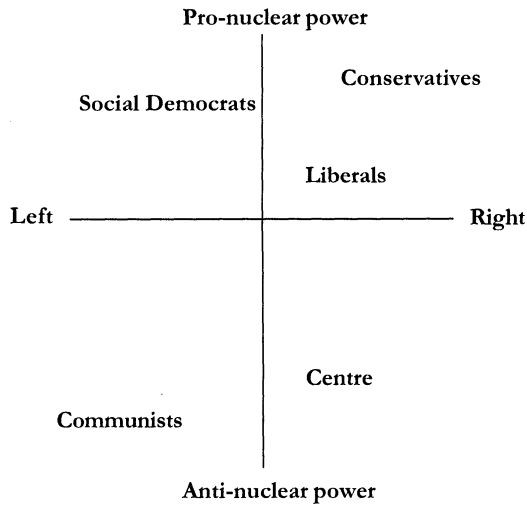
It seems to be the case that the normative arguments put forward for and against referendums do not always provide very good explanations why certain issues are submitted to *ad hoc* and optional referendums and others not. There may also be some strategic reasons be based on political actors' interests. Because *ad hoc* and optional referendums are typically initiated by the parliamentary

majority, parliamentary parties and party cleavages are the relevant political actors at the initiation stages of the referendum. The question is now, why the parties want to eliminate certain issues from a representative decision-making agenda, and rather have them settled separately in a referendum? The answer for this question may be found by looking at the issues submitted to referendums, and the divisions within the parties or coalitions.

It may be argued that the parties aim at maximising certain policy preferences, and that they also aim at achieving governmental 'office' and maximising their electoral support (Strom 1990). These motivations may be used to explain the use of *ad hoc* and optional referendums. Referendums may be used to defuse issues for two different reasons. First, referendums are used to remove issues from an electoral agenda. The referendum option is typically used on high-salience issues on which party's supporters are divided, and which may therefore seriously harm the party's electoral success. Second, referendums are used to avoid confrontations within parties and coalitions. The emergence of a new issue may create problems within parties or among the traditional coalition partners. In order to maintain the unity of the party or traditional coalition patterns, the parties may decide to submit the issue to a referendum. In this case, the referendum may be seen as a means to defend the unity of the party or the coalition.

A good example of the party-political reasons for an optional referendum is the nuclear power issue in Sweden in the 1970s. The following figure describes the parties' positions on the issue and on the left-right-continuum (Compare with Laver and Hunt 1992, 303-320):

Figure 1. The Main Swedish Parties in the Left/Right and Pro-/Anti-Nuclear Power Dimensions in the 1970s



In this situation, the Centre Party raised the nuclear power issue in the 1976 electoral campaign. The nuclear power issue was raised to appeal to the public opinion which was more critical about the nuclear power than the parliamentary parties. It was also an attempt to undermine the unity and the electoral success of its main rival, the Social Democratic Party, whose supporters were divided on the issue. The Centre Party's vote-maximising strategy was successful in that respect that the Social Democrats lost their dominant position in the election, which may partially be explained by the party's standpoint in the nuclear power issue. Later on, the nuclear power issue proved to be problematic for the Centre Party itself in the coalition government with the Liberal and the Conservative Parties (1976-8). In this coalition government, the referendum option was used to remove the divisive issue from the governmental agenda. The referendum was used as a mediating device to maintain the governmental co-operation

between the divided coalition partners. When the nuclear power referendum finally came about in 1980, it was mainly promoted by the Social Democrats, which did not want to repeat the situation of 1976 in the 1979 election, especially when the public opinion had turned even more against nuclear power. For the Social Democrats the referendum was a tactical move to remove the issue from the electoral agenda. Analogous situations may be found for example in Norway in 1972 and in 1994, in Denmark in 1972 (integration issue and the Labour and the Social Democrats), and in Britain in 1975 (Labour Party and the membership in EEC), where the dominant parties were divided on salient issues.³

The other reasons for initiating optional referendums are related to the policy outcomes they are expected to bring about. These kinds of reasons are expected to come up only when the opinions of the parliamentary majority do not perfectly correspond the opinions of the popular majority, or when there is a parliamentary supermajority requirement. In these kinds of situations the governmental coalition may try to achieve the support in an extra-parliamentary way. This is also typical when there is a minority government. An example of this is the Danish referendum on the Single European Act (1986) initiated by the Bourgeois minority government. Seeking support for a certain issue position by promoting *ad hoc* and optional referendums is also a strategy used by the opposition parties, but these aspirations are obviously often frustrated because of the lack of parliamentary support.

Law-Controlling Referendums

All law-controlling referendums, i.e. mandatory, suspensive and abrogative referendums, function as a check on the laws passed in the parliament. They have been motivated

by the fear for unlimited powers of transitory parliamentary majorities, especially on constitutional issues and other issues of specific importance. In other words, law-controlling referendums have been justified in terms of liberal constitutional thought, which is concerned about the limitations of power.

Law-controlling referendums have been adopted in constitutions to maintain some kinds of constitutional checks and balances on the parliamentary majorities. In Denmark, for example, the mandatory constitutional referendum was adopted in 1915 to replace the requirement that constitutional amendments should be accepted in two subsequent parliaments. This provision was a compromise between the Radical Liberals (*det Radikale Venstre*), who supported the referendum and the initiative and the Conservatives (*Højre*), who were concerned about the protection of minorities. The other forms of law-controlling referendums (suspensive referendums, referendums on transfers of powers) were adopted in the Danish Constitution in 1953 simultaneously with a constitutional reform in which the bicameral parliament, *Landsting*, was replaced with the unicameral *Folketing*. The law-controlling referendums were regarded as a substitute to the bicameral legislature, and they were promoted especially by the Liberals (*Venstre*) and the Conservatives. (See Suksi 1993, 183-186; Svensson 1996, 34-35.) In Sweden, on the other hand, law-controlling referendums have been promoted by the political right, and especially during the post-war period this has been motivated by the willingness to limit the power of the dominant Social Democrats. However, the Social Democratic parliamentary majorities frequently voted down the proposals for law-controlling referendums, and only since 1979 the Swedish Constitution has included a provision for a law-controlling referendum, which has not been put to practise so far. (Hermansson 1993.)

Mandatory referendums function as a veto on laws promoted by the government and passed by the parliamentary majority. Mandatory referendums have an anticipatory effect on the legislators: "knowledge that electorate would have the right to pronounce upon a bill might encourage MPs to seek improvement in legislation so that it becomes more acceptable to the electorate". (Bogdanor 1981, 14.) Mandatory referendums may also be considered as corrective with respect to the misrepresentations of the public opinion, when a certain issue dimension may not be correctly represented by the parties competing on the dominant dimension (e.g. left–right)⁴. There may be important issues on which decisions are taken and, yet, which have not influenced the electors' choice. It may be argued that the mandatory referendums are a cure for the misrepresentation of the public opinion at least in some issues. This may have been the case in Denmark, where the *Folketing* has not always represented correctly the attitudes of electorate towards the European integration process. Because the constitution defines the issues on which mandatory referendums are required, there should not be any political dispute over the use of the referendum. However, the interpretation of the constitution may turn out to be disputable.

The other two forms of law-controlling referendums, abrogative and suspensive referendums, are initiated by some sort of opposition against a law put forward by the government. The referendum may be initiated by a certain number of citizens or representatives, or by regional authorities. The difference between abrogative and suspensive referendums is that abrogative referendums are held upon laws which have been passed in the parliament and enacted as a law, whereas suspensive referendums are held on law proposals which have been approved in the parliament but not yet enacted. This distinction is important in explaining why the Italian abrogative referendum differs

considerably from other law-controlling referendums, because they may be held on laws regardless of when they have been enacted, although the Constitution rules out certain types of issues which cannot be submitted to a referendum.

The provision for the abrogative referendum was adopted in the Italian Constitution already in 1953, but it was implemented only in 1970. The reason for the implementation was that the ruling centre-left coalition government was divided on the issue of divorce. The Christian Democratic Party agreed to approve the divorce law only if the law on the abrogative referendum is implemented. The first abrogative referendum was, consequently, after many delays on the repeal of the law on divorce in 1974. As a consequence of the referendum, the law was not repealed (40.7% yes-votes, turnout 87.7%). Later on the Italian abrogative referendum has got some features of the popular initiative, because it entails the opportunity for the political actors (popular movements, interest groups) to raise issues on the political agenda in an extra-parliamentary way. (Uleri 1996)

When there is a possibility of an abrogative or a suspensive referendum, the support of the parliamentary majority may not be sufficient for passing a law proposal, because the law may be submitted to a referendum. This forces the governments to consider the opinions of the potential promoters of the referendum and the popular opposition, and to adjust their policies accordingly. The most important effect of suspensive and abrogative referendums may be the increase of the bargaining power of those opposition groups which are capable of making credible threats to initiate a referendum. The credibility of the referendum threat depends on, at least, two factors, the organisational power of the group, which explains the group's ability to lead the referendum campaign, and the magnitude of the popular opposition against the policies

pursued by the ruling coalition. Sometimes a threat of a suspensive or an abrogative referendum may be effective even if the promoters of the referendum would not be able to get the support of the popular majority. The mere costs and delays caused by the referendum may be a sufficient incentive for the government to make some policy concessions.⁵

In general, the most important aspect of the law-controlling referendums may be the fact that they force the majorities to seek consensus with the opposition groups in order to avoid referendums or to achieve the popular support in them. As Swiss researcher Neidhart (1970) has argued, the impact of abrogative and suspensive referendums in Swiss politics is that the potential proposers of referendums are integrated to the political process, because the government tries to avoid direct confrontation in referendums. (See also Trechsel and Kriesi 1996) Therefore, it may be argued that law-controlling referendums turn out to be rather consensual than majoritarian by nature.

Popular Initiative

The institution of popular initiative has been promoted by 'radical democrats' and by those supporting the idea of popular sovereignty. In the American states it has been adopted because of such democratic movements as Progressivism early this century. In Switzerland the federal-level popular initiative has been influenced by local and cantonal traditions, but also by the ideas of French revolution (Möckli 1993; Linder 1994). The popular initiative has also been supported by theorists of participatory democracy. Their arguments are based on the fact that the popular initiative opens the public agenda to the citizens. It allows the citizens to determine at least some of the

issues raised on the political agenda. Barber (1984, 181) has described the significance of the popular initiative:

A people that does not set its own agenda, by means of talks and direct political exchange, not only relinquishes a vital power of government but also exposes its remaining powers of deliberation and decision to ongoing subversion. What counts as an “issue” or a “problem” and how such issues or problems are formulated may to a large extent predetermine what decisions are reached.

Barber argues that voting on issue-by-issue basis in referendums is a cure for the intransitivity of the majority rule which is due to outcomes scaled on a multidimensional policy space. Multidimensionality is more typical for representative democracy, because the voters choose between parties and candidates who represent positions on multiple issues whereas in referendums people vote on separate issues. Arguments for the popular initiative have also been put forward by the representatives of the economic theory of democracy, who consider efficiency as the most important criterion for political decisions. For example, according to Frey (1992), the popular initiative counteracts the monopolistic and rent-seeking tendencies of the political elites, and allows the citizens to raise issues which the elites would rather avoid. A major problem of popular initiatives is, however, that the resources for raising issues and achieving policy reforms by popular initiatives are very unequally distributed in the society. Both in the American states and in Switzerland where the popular initiative is used, there are accusations of initiatives being ‘purchased’ by resourceful interest groups.

Nation-wide popular initiatives are only used in Switzerland, where the constitutional provision for partial revisions of constitution was adopted in 1891. Currently, the initiative for a constitutional amendment requires the support of 100 000 citizens eligible to vote within 18

months. It is questionable whether it is possible to draw such conclusions from the Swiss experience of popular initiatives that would be applicable also to more parliamentary forms of democracy. As Linder (1994) puts it, the Swiss political system is rather based on power-sharing than competition between the parties. The composition of the Swiss government has remained the same since 1959, which has decreased the electoral competition between the main parties. It is possible to speculate that the power-sharing character of the Swiss government enhances cartelising within the political elites, and therefore the popular initiatives, as well as different forms of law-controlling referendums, are crucial in counteracting these tendencies.

Furthermore, Swiss popular initiatives are not as 'uncontrolled' as it is assumed in Smith's typology. The initiatives do not automatically lead to referendums, and the submission of the initiative is followed by negotiations on the withdrawal of the initiative between the promoters of the initiative and the government. Sometimes the purpose of popular initiatives is not to win in the referendum, but to achieve policy concessions in the negotiations with the government. Some initiatives have also been made in order to gain publicity, to raise discussion on a certain issue, and thus to affect the public opinion. A good example of initiatives of this type was the one on the abolition of the army, which also gained a remarkably high support in the referendum in 1989, 35,6% of the votes.

Conclusions

Referendums are considered to be steps towards 'direct democracy'. They are, however, regarded rather as a supplement than an alternative for representative institutions. The common element in all forms of referendums is, in-

deed, the opportunity of citizens' participation and influence in political decision-making. The adoption of referendums in constitutions and the initiation of referendums on specific issues are, however, promoted by various political actors with both ideological and strategic motivations. This must be taken into account when analysing the role of the referendum in representative democracies. Different constitutional provisions give the initiating and the agenda-setting power for different political actors. The way in which the referendum is initiated and the agenda is defined has certain consequences on how the referendum function in relation to the other political institutions. The crucial question is why and under whose control people's opinions are consulted.

In this respect, the popular initiative most clearly increases citizens' participation in politics. The popular initiative also represents the most classical interpretations of democracy because it, at least theoretically, enhances citizens' political equality by providing a formal channel to raise issues on the political agenda. It is motivated by the idea that all citizens should participate in public agenda-setting and decision-making, not just the representatives. Law-controlling referendums, on the other hand, have been adopted as a check on parliamentary majorities, usually on constitutional issues to protect the most fundamental rules of the political game from the transitory opinions of the parliamentary majority, which may also be in conflict with the public opinion. Therefore, they have been justified in terms of liberal constitutional engineering.

Law-promoting referendums are more majoritarian than law-controlling referendums, which function as a popular veto on parliamentary decisions. *Ad hoc* and optional referendums are probably most prone to be manipulated, because they are the least constitutionally regulated and most controlled by the governments. *Ad hoc* and optional referendums may also be the most difficult to be justified

in terms of normative theories of democracy, although even they allow the citizens to participate to the decision-making – or at least to voice their opinion through an official channel. The agenda-setting power of the representatives, however, raises some questions of the capacity of optional and *ad hoc* referendums to bring about results which reflect the will of the majority. The governments may manipulate the results by selecting the alternatives, formulating them in a certain manner, and selecting the time of the referendum. The possibilities of manipulation seems to be bigger in *ad hoc* and optional referendums than in other forms of referendums which are held under stricter constitutional restraints. Another criticism against referendums is that they may divide the society, and that they enhance rather adversary than reasonable public discussion. *Ad hoc* and optional referendums may be especially bitter experiences, because they are used occasionally, on issues of high salience, and under the governmental control. Based on the arguments of pluralist theory of democracy, the experience of being on the losers' side in a referendum may be less dramatic if there are prospects of being on the winners' side in another referendum on an equally important issue.

Bogdanor (1994, 65) has argued that in Switzerland, as well as in Italy, "the most important referenda...have been those that have not been held." This means that the existence of direct-democratic institutions change the nature of interaction and power relationship between political actors even in cases when it is not actively used. It may be argued that this is also true with respect to other countries as well: the mere possibility of resorting to the referendum option may change the course of the political process. The constitutional regulation seems to be crucial with respect to the functions of referendums in representative democracies. However, other features of the political system are also important, such as the structure of the par-

liament (bicameral or unicameral), the electoral and the party system, and the importance of different interest groups. Furthermore, when the political elites are united and high interests are at stake, the interpretation of the constitutional rules may remain quite flexible. Therefore, the constitutional regulation as such does not solve the problems of manipulative uses of referendums, but it sets certain limits to the behaviour of the political actors promoting their own political goals.

Notes

- ¹ Riker's argument is based on the possibility of cyclical majority preference relations which is also central in Arrow's General Impossibility Theorem, according to which no preference-aggregation method fulfils certain conditions of rationality and fairness. The contradiction between the conditions emerge when the majority preference relation has a top cycle, eg. $x \succ y \succ z \succ x$. Arrow's theorem's implications to theories of democracy are discussed in Eerik Lagerspetz's article 'The Philosophy of Democracy and the Paradoxes of Majority Rule' in *Finnish Yearbook of Political Thought, Vol 1* (1997).
- ² Different conceptions of democracy have been discussed in Anthony Giddens' essay 'Two Theories of Democratization' in *Beyond Left and Right* (1994). In this essay Giddens contrasts 'deliberative democracy', which has certain similarities with Barber's model, with 'epistemic democracy', attributed to Rousseau and Condorcet.
- ³ In fact, the explanation for controlled referendums turning out to be anti-hegemonic, which was the case in Norway in 1972 and 1994, may be that parties are so willing to defuse the issue that they take the risk of losing in a referendum.
- ⁴ The fact that representative democracy may give distorted representation of the opinions of the popular majority in multi-issue elections has been proven in so-called Ostrogorski Paradox. See for example: Rae, Douglas W.; Daudt, Hans:

'The Ostrogorski Paradox: A Peculiarity of Compound Majority Decision', in *European Journal of Political Research* (1976).

- ⁵ Elisabeth Gerber (1996) suggests that the legislators try to avoid popular initiatives by anticipating the issues raised by the potential promoters of the initiatives, and adjusting their policies accordingly. In Gerber's model the popular initiative is assumed to have similar anticipatory effects as abrogative and suspensive referendums. Gerber analyses the anticipatory effect of an initiative as a multi-stage game between the Legislature, the Median Voter, and the Proposers of the initiative. The Legislators try to legislate so that the Median Voter favors its position to the Proposers' best response.

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