



Power of the People: Switzerland's Direct Democracy

By Marc C. Duff

Switzerland's government operates with precision and dependability; much like the watches they are famous for crafting. A well-established part of the country's political system is its *direct democracy*, which provides Swiss voters with a range of rights to influence government policies at every level of government. Switzerland's experience with an involved citizenry is a powerful example for states considering adopting or expanding their own direct democracy measures.

Direct Democracy in Switzerland

The Swiss model of Democracy dates to the 18th century. The concept of direct democracy, or sovereignty of the people, was first introduced by French Revolutionary theorists. Swiss citizens took note, and when Switzerland adopted a constitution in 1848, activists pushed for direct public involvement in the law-making process. In 1874 and 1891, the Swiss constitution was amended to allow for legislative referendums and popular initiatives. A constitutional provision to require referendums on international treaties was introduced in 1921 and expanded in 1977.

Switzerland has three distinct methods of direct democracy, each of which give citizens an opportunity to have an active influence in lawmaking¹:

1) Mandatory referendum on constitutional changes and international treaties - The Swiss Confederation's constitution requires a national referendum on any alteration to the Federal Constitution proposed by Parliament and the Federal Council. Referendums must also be held on Swiss membership in supranational communities (e.g. the European Union) or organizations of collective security (e.g. NATO). A majority of both the people and the cantons must agree on the alteration for it to be adopted.

2) The optional referendum - All federal laws passed by Parliament that are in effect for more than one year can be put to an optional referendum. A national vote is triggered if 50,000 citizens or eight cantons file a referendum request within 100 days of the law being adopted by Parliament. In addition, all treaties under international law that are permanent and irrevocable, which provide for membership in an international organization and/or lead to the multilateral unification of law, can be put to an optional referendum. A national referendum will be held on international treaties if citizens collect 50,000 signatures within 100 days or Parliament calls for an optional referendum. However, during times of crisis or

¹ Direct Democracy in Switzerland, www.swissworld.org.

emergency when federal statutes must be enacted quickly, the optional referendum is temporarily suspended.

3) Popular initiative for Revision to the Federal Constitution – The Swiss

Confederation's 1848 Constitution empowers citizens, after collecting 100,000 signatures, to demand a referendum ordering a complete revision of the constitution. If the referendum passes, a new parliament will be elected, and they are responsible for revising the Federal Constitution. In 1891, citizens were also allowed to demand the amendment, addition or repeal of an article of the constitution after collecting 100,000 signatures over an 18-month period. If enough valid signatures are submitted, the Federal Council and Parliament reviews the initiative and can determine its validity. They can also forward a counter proposal, which will appear on the ballot along with the popular initiative. For an initiative to pass, it must gain both a popular and a cantonal majority.

The popular initiative and optional referendum are considered to be Swiss citizens' most fundamental political right. With the Swiss electorate at the wheel, the popular initiative acts as an accelerator that may speed up political issues, while the optional referendum acts as a brake, in which the electorate can slow reform and innovation down.²

It should be noted that the vast majority of popular initiatives fail to be approved by voters and a majority of cantons. From 1891 to 2004, only 14 initiatives managed to receive enough popular support to overcome the double hurdle. Despite this, lively public debate on initiatives influences public policy as the Swiss Parliament often addresses issues raised by referendum. In addition, because of the threat posed by optional referendum, members of Parliament strive to involve as many affected parties as possible in their debate.

The Swiss public has used direct democracy to vote on very diverse issues. Since 1990, referendums have been held on a variety of subjects, including:

- Banning construction of nuclear power stations
- Building new Alpine railways
- A new federal constitution
- Controlling immigration
- Expansion of electricity markets
- Relationship with the European Union
- Abolition of the Swiss Army
- Joining the United Nations
- Shortening working hours
- Balancing the Federal Budget

Direct democracy is even more extensive and varied in Switzerland's 26 cantons. Citizens are provided a **legislative initiative**, which allows voters in the cantons to propose modifications to local laws. In some cantons, an **administrative initiative** can be used to demand that certain work is undertaken in public administration (e.g., building a new school or a new road). In addition, some cantons provide for an initiative to force the canton to table a motion to the Federal Assembly.

² Direct Democracy in Switzerland, www.swissworld.org.

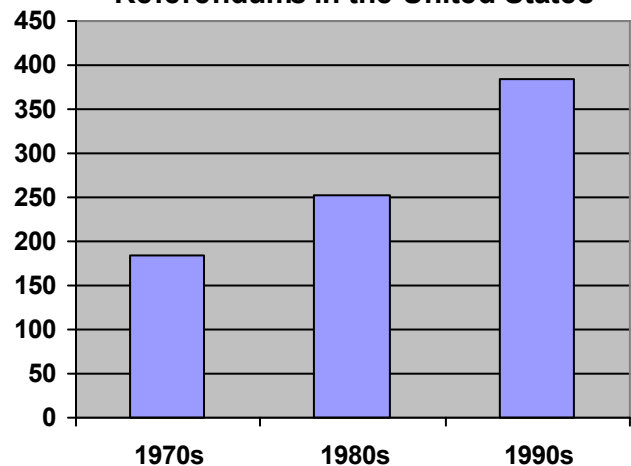
Initiative Referendum in the United States

Initiative and referendum has been practiced in America since the 1700s, when citizens in New England used town meetings to ratify ordinances. America's founding fathers, specifically Thomas Jefferson and Benjamin Franklin, were strong advocates of entrusting citizens to approve laws that would govern them. Many New England states, including Massachusetts (1778), New Hampshire (1792), Connecticut (1818), New York (1820) and Rhode Island (1824) were the first states to require voter approval for constitutional changes.³

Populist and Progressive movements began around the turn of the 20th century when citizens became frustrated with government inaction. A fundamental component of these movements was establishment of an initiative process in order to enact measures stalled by state legislatures. Reformers felt individual involvement would enhance rather than erode representative government. Reform efforts were successful in a number of states. In 1898, South Dakota citizens, lead by Father Robert W. Haire, copied initiative and referendum provisions from the 1848 Swiss Constitution and successfully amended them into the South Dakota Constitution, making it the first state to adopt the statewide initiative and referendum process. Utah followed in 1900 and Oregon in 1902.⁴

There was minimal initiative and referendum activity in state politics for much of the 20th century. However, in the past decade there has been something of a direct democracy renaissance, with increasing use of initiative referendum and unprecedented investment of time and resources by interested parties. The number of statewide initiative votes has doubled from 183 in the 1970s to 383 in the 1990s.⁵ Since Oregon had the nation's first statewide initiative vote in 1904, approximately 2,051 statewide measures have appeared on ballots in 24 states. Roughly 41 percent of the measures have been adopted, or 840 initiatives. While initiative referendum is available in 24 states, over 60% of all activity occurred in six states: Arizona, California, Colorado, North Dakota, Oregon and Washington. It is important to note that very few initiatives actually make it to the ballot. In California, it is estimated only 26% of initiatives submitted are voted on statewide. During the 2000 election cycle, over 350 initiatives were filed in the 24 initiative states and 76 (22%) appeared on the ballot.⁶

Graph 1: Number of Initiative Referendums in the United States



³ Initiative and Referendum Institute, University of Southern California, "A Brief History of the Initiative and Referendum Process," www.iandrinstitute.org

⁴ Ibid.

⁵ National Conference of State Legislatures, "Initiative and Referendum in the 21st Century," July 2002, page 1.

⁶ Initiative and Referendum Institute, University of Southern California, "A Brief History of the Initiative and Referendum Process," www.iandrinstitute.org

Recent Legislative Action

From 1999 to 2002, 17 non-initiative states saw legislation proposing the adoption of an initiative process. Minnesota voters rejected the concept three times since 1913, albeit with close votes. However, a measure authorizing initiative referendum passed their House twice in recent years. In New York, Governor Pataki urged the adoption of the initiative in his 2002 state-of-the-state address. An initiative bill recently passed in the New York Senate.⁷

Other states have recently debated expansions or revisions to their initiative process. Florida saw a bill to reform the initiative format for constitutional amendments, as well as to provide citizens the ability to amend statutes via referendum. California, Oregon and Utah considered bills that permit the legislature to make certain amendments to proposed initiatives before they are placed on the ballot. Thirteen states considered regulations for petition circulators.⁸

Impact of Direct Democracy / Initiative and Referendum

Swiss government recognizes the risks and rewards of direct democracy, and ultimately decides in favor of empowering the electorate, citing the expectations in the following table:

Initiative Procedures in U.S. States

	<u>Statutory Initiative</u>	<u>Constitutional Initiative</u>
Alaska	D*	None
Arizona	D	D
Arkansas	D	D
California	D	D
Colorado	D	D
Florida	None	D
Idaho	D	None
Illinois	None	D
Maine	I	None
Massachusetts	I	I
Michigan	I	D
Mississippi	None	I
Missouri	D	D
Montana	D	D
Nebraska	D	D
Nevada	I	D
North Dakota	D	D
Ohio	I	D
Oklahoma	D	D
Oregon	D	D
South Dakota	D	D
Utah	D&I	None
Washington	D&I	None
Wyoming	D*	None

D = Direct Initiative: proposals that qualify go directly on the ballot.

I = Indirect Initiative: proposals are submitted to the legislature, which has an opportunity to act on the proposed legislation. Depending on the state, the initiative question may go on the ballot if the legislature rejects it, submits a different proposal or takes no action.

D* = Alaska and Wyoming's initiative process requires that an initiative cannot be placed on the ballot until after a legislative session has convened and adjourned. This gives the legislature an opportunity to address the issue in the proposed initiative.

Source: National Conference of State Legislatures, January 2002.

⁷ National Conference of State Legislatures, "Initiative and Referendum in the 21st Century," July 2002, page 11.

⁸ Ibid.

Performance Expectations of Direct Democracy at the Individual, Societal and Institutional Levels¹

Individual	Societal	Structural, Institutional
Stronger political motivation	More public political debate	More open and accessible politics
Better politically informed	More social learning	Higher legitimacy of decisions
More political communication	More efforts to reach agreement	Smaller divide between citizen and politician
More politically qualified	More community interactions	More transparency of decision-making motives
More opportunity for participation	Better division of powers	More open politics and more accessible media
Greater political orientation	More social integration	Removal of political monopoly

It is argued the existence of the initiative mechanism acts as a check on the activities of the legislature. This is because legislators are more likely to introduce certain reforms and measures if the initiative mechanism exists, because it is likely that if they do not, an initiative on the issue will be launched. For instance, a great number of initiatives that are introduced in Switzerland are then withdrawn, because introduction of the initiative forces the legislature to address the issue. As a result, many claim the initiative process makes legislatures *more responsive*.⁹

Certainly the goals of Direct Democracy in Switzerland are admirable, but the positive results shown by research are also impressive. Statistical analysis by Swiss economists of the influence of direct democracy on economic growth show economic performance is 15% higher (in terms of GDP per head) in cantons with stronger citizen rights of participation on financial issues. Swiss cantons with extended direct democracy are considered to be 5% more productive and efficient. In cantons where citizens can vote on the budget, public expenditures are lower; there is less cantonal debt; and 30% less tax avoidance.¹⁰ Analysis also shows from 1980 to 1998 that mandatory referendums reduced government spending in Swiss cantons by 19 percent.¹¹

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Similar research has been done in the U.S. as to the impact of initiative and referendum policies on states and the results are similar to that of the experience in Switzerland. For example:

1. A study found that states with initiative procedures waste between 20 and 30 percent less in resources than non-initiative states, resulting in better economic performance and gross domestic product growth.¹²

⁹ Administration and Cost of Elections Project, Focus on Direct Democracy, www.aceproject.org.

¹⁰ Swissworld DVD "Direct Democracy in Switzerland" 2004, Factsheet.

¹¹ Lars P. Feld and John Matsusaka, "Budget Referendums and Government Spending: Evidence from Swiss Cantons," May 2002.

¹² S. Brock Blomberg, Gregory Hess & Akila Weerapana, "The Impact of Voter Initiatives on Economic Activity," August 2001.

2. The experience in initiative states also shows states with the initiative process are more likely to adopt political and government reforms (e.g. term limits, campaign finance reform and tax/expenditure limitations).¹³
3. Analysis shows the initiative process increases electoral participation. Initiative state voter turnout during the 1990s is greater than in non-initiative states and is estimated to be 7% to 9% higher in midterm and 3% to 4.5% higher in presidential elections in the 1990s.¹⁴ Participation in citizen groups is also increased.
4. Tax and expenditure limitations passed by citizen initiatives are more restrictive and cause per capita public spending to decrease while similar limits enacted by state legislatures are associated with an increase in government expenditures.¹⁵
5. Over the last three decades, initiative states spent and taxed less than states without the initiative, they decentralized spending from state to local government, and they raised more money from user fees and less from taxes.¹⁶

Despite the apparent success of direct democracy, many have concerns with the initiative process. David Broder, a columnist for the Washington Post, points out that Direct Democracy strays from the intentions of the Founding Fathers who were clear in designing a strong, but limited government, with checks and balances. He believes the initiative process diminishes government strength, fails to protect minority rights, and allows laws to be enacted without thorough deliberation. In Switzerland, some believe the citizenry's votes in Direct Democracy may be holding back the country economically by, for example, refusing to join the European economic arena. Some explain this decision as a lack of understanding of the complexities of markets and economics by the Swiss voters.¹⁷

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Much is at stake when using direct democracy, and many feel it unwise to allow shifting political winds to jeopardize the relative stability of representative government. The obstacles within representative government exist to thoroughly vet proposals before making them law, fine tuning aspects of legislative language and debating not only the pros and cons of action, but also to expose unintended negative consequences which may follow implementation.

Other disadvantages of direct democracy include¹⁸:

¹³ Caroline Tolbert, "Direct Democracy as a Catalyst for 21st Century Political Reform," Kent State University.

¹⁴ Caroline Tolbert, John Grummel, Daniel Smith, "The Effects of Ballot Initiatives on Voter Turnout in the American States," American Politics Research, November 2001.

¹⁵ Michael J. New, "Limiting Government through Direct Democracy, The Case of State Tax and Expenditure Limitations," Cato Institute, Policy Analysis, No. 420, December 13, 2001.

¹⁶ John Matsusaka, University of Southern California, "For the Many or the Few, The Initiative Process, Public Policy and American Democracy," 2004, page 3.

¹⁷ Professor Silvio Borner, Basel University Department of Applied Economics, Swissinfo, November 27, 2004.

¹⁸ Administration and Cost of Elections Project, Focus on Direct Democracy, www.aceproject.org.

1. Citizen initiatives can result in *badly drafted law*, as on occasion the initial wording of the initiative measure becomes statute if the measure passes. The process fails to use the expertise of those familiar with drafting laws, leading to meaningless or ineffective statutes that have to be re-drafted or modified. In addition, in some cases, statutes created by the initiative process are found to be unconstitutional.
2. Another concern is the sheer *number and complexity of issues* that must be voted upon. Some feel citizens cannot be expected to make decisions on complex issues that they, unlike elected representatives, do not have the time to learn about.
3. A concern in the U.S. is that citizen initiatives are only accessible to well-resourced organizations and special interest groups promoting their own interests. As of late, private firms have been engaged in the initial stage of the initiative process and in signature collection, raising the question of true popular movement.
4. Many contend citizen initiatives (and other forms of direct democracy) enable the 'tyranny of the majority.' Technically, the electoral power of majority groups in society can restrict or hinder the rights of minority groups. Critics suggest the legislature provides a moderating influence; preventing the passage of legislation that actively targets politically unpopular groups.

Policy Considerations for the Initiative Process

Experts on Swiss Direct Democracy and the initiative process in the United States agree that it is important to structure enabling initiatives statutes in a way that serves the citizenry and enhances governance. Most reforms of the citizen initiative process focus on producing a workable process that will lead to a sound law and/or ensuring that voters are best able to make informed decisions about initiatives.

Involving the Legislature and Court

It is generally accepted that enhanced involvement by the legislative body in the initiative process would improve the results of policymaking. A cooperative process may prove beneficial to both initiative advocates and state legislatures, as they tend to have a more adversarial relationship over issues in the United States. Cooperation also might lead to fewer issues appearing on ballots as legislatures become more responsive to the wishes of the people.¹⁹ Government resources could also be provided to assist with the drafting of sound initiatives. Swiss experts suggest that a minimum of six months be given to the government to hold hearings, listen to interested parties and to possibly forward a counterproposal.²⁰ Allowing minor amendments to initiative statutes should also be considered.

The process should also allow courts to screen the constitutionality of initiatives. This would prevent measures passed by the voters from being struck down by the courts as

¹⁹ National Conference of State Legislatures, "Initiative and Referendum in the 21st Century," July 2002, page 12.

²⁰ Initiative & Referendum Institute and IRI Europe, "Direct Democracy in Europe," 2004, Edited by Bruno Kaufmann & M. Dan Waters, page 125.

unconstitutional. In addition, if courts determine that a proposed initiative is flawed; the legislature should be allowed to offer an alternative ballot measure so that voters are not faced with a simple “yes” or “no” vote.

Adequate Information and Minimizing Complexity of Issues

The education of voters, especially on complex issues, is an important part of the initiative process. In Switzerland and in most initiative states in the U.S., voter information pamphlets are prepared and information is posted on government websites. Efforts must be made to provide easily understandable information in a fair, impartial and equitable manner. Swiss experts also suggest that adequate time be provided for consideration of the referendum in order to allow for thorough public discussion of what is proposed.

Occasionally numerous complex questions will appear on the ballot, almost making the act of voting cumbersome. Complexity of ballot initiatives could be reduced with the ‘single subject rule’ or limiting question verbiage to one subject. Single subject rule could also prevent ‘piggybacking’, or trying to secure passage of controversial or unpopular ideas by packaging them with popular proposals.²¹ In addition, voters may be able to make more informed decisions about ballot initiatives if the number of initiatives on the ballot is limited. Some states have considered limiting the reappearance of a failed question on the ballot for a specified period of time, which also helps reduce the number of initiatives appearing on ballots. Adding election days for initiative measures might also be considered. In Switzerland, citizens may vote on referendums several times per year.

Multiple Methods of Public Initiative Consideration

There are many means for states to employ direct democracy:

1. **Advisory Initiative** - This places an advisory referendum on the ballot, which is typically done only by legislatures or possibly governors. This option could be provided to the people.
2. **Petition Legislature** – The legislature could be compelled to take formal action on a petition submitted by the public on a public policy issue.
3. **Administrative Initiative** – As in Switzerland, the public could be allowed to petition to have certain administrative actions placed on the ballot for both the state and local level.
4. **General Policy Initiative** – Allows the people to place a policy idea before the voters and the outcome would be binding on the legislature. However, the legislature would have flexibility as to implementation of the voter-approved policy.
5. **Policy Specific Initiative** – This would restrict the legislature from enacting certain laws unless they are approved by the public through a referendum. For example, tax increase or expenditures above a certain level could automatically trigger voter approval requirement
6. **Indirect Initiative** – Allows people to petition the legislature for action on a policy, allowing for legislative analysis, hearings and debate. If the legislature fails to act, the measure is placed on the ballot for a popular vote.

²¹ National Conference of State Legislatures, “Initiative and Referendum in the 21st Century,” July 2002, p. 16.

7. **Direct Initiative** – Allows people to petition to directly place a statutory or constitutional issue on the ballot.
8. **Optional Referendum** – Similar to Switzerland, the public could be allowed to place on the ballot laws or measures recently passed by the legislature. This concept could also be extended to allow for referendums to override a gubernatorial veto of a bill.

For example, some U.S. states only allow initiatives to amend their state constitution. For many issues, a simple state law may be adequate and, therefore, providing a statutory initiative process might suffice. Strengthening the process by which citizens can petition their government for legislative action can also alleviate wishes by the public to pursue an initiative referendum. In Switzerland, any person can petition the federal government about a concern and receive a reply.

Other Minor Issues to Consider for the Initiative Process

When structuring the initiative process, policymakers should not ignore the importance of minor procedural issues. For example, the signature threshold should not be burdensome and adequate time should be provided to collect signatures. If appropriate, states can also consider signature thresholds for different regions in order to make sure all parts of a state are interested in the suggested initiative. Switzerland provides more time and has a lower signature threshold than the initiative policies in U.S. States. In some states, the time constraints and signature thresholds are so cumbersome that paid signature collectors are employed by interested parties. It then logically follows that reasonable campaign finance and disclosure laws apply to initiative referendums.

Conclusion

Switzerland exemplifies direct democracy. At every level, citizens are involved in creating a stable and prosperous government. Studies show that Switzerland is more prosperous and efficient because of citizen involvement in lawmaking. The Swiss experience as well as that of many U.S. states shows American policymakers and the public that when properly structured, direct democracy serves to enhance and strengthen representative government, and most importantly, actively engages the public in policy development.

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