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## The Global State of Direct Democracy 2024

Clara Egger, Raül Magni-Berton

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# THE GLOBAL STATE OF DIRECT DEMOCRACY 2024

Clara Egger and Raul Magni-Berton



**DIRECT  
DEMOCRACY**  
NAVIGATOR

SWISS  
DEMOCRACY  
FOUNDATION  
SCHWEIZER  
DEMOKRATIE  
STIFTUNG



**DEMOCRACY INTERNATIONAL**

## **Clara Egger**

Department of Public Administration and Sociology, Erasmus School of Social and Behavioral Sciences, Erasmus University Rotterdam

## **Raul Magni-Berton**

European School of Political and Social Sciences, Catholic University of Lille

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## FOREWORD

Since 2010, the Direct Democracy Navigator has described and updated all legal provisions for direct democracy around the world. It is currently being developed to include a historical series to capture legal changes over time. It aims to help identify the best practices, the obstacles, or the origins of direct democratic institutions.

Following the involvement of the Liechtenstein Institute and as the new scientific directors of the Direct Democracy Navigator, we initiated the idea of a yearly report on the Global State of Direct Democracy. After all, reports on democratic quality and its evolution over time abound, but no report specifically focuses on direct democracy institutions and practices. Such a taking stock exercise appeared important to us for two reasons. First, direct democracy institutions have a long and dynamic history in many countries, but their experience rarely hit the headlines. Second, as civil society movements and activists over the world fight for introducing citizens rights to initiate and veto legislation at the local, regional and national level, it is more important than ever to identify best practices and learn from each other.

We are delighted to share with you the first edition of the Global State of Direct Democracy Report focusing on the year 2023. Legal provisions, referendums held, short-term trends in the use of direct democracy institutions, reforms and academic publications are gathered and commented to provide a comprehensive picture of the current state of direct democracy globally.

## FOREWORD

While the contours of direct democracy institutions are widely accepted, their respective importance is still debated. Switzerland is usually considered the best model of direct democracy, and this report follows that tradition. After Switzerland, however, scholars disagree on which countries are the best examples of direct democracy and which best practices should be followed.

The approach of this report is centered on the hierarchy between the legal norms enacted and voted on directly by the citizens and those enacted and voted on by their representatives. From this distinction, two main models of direct democracy are presented and detailed, focusing on their legal institutions and use in recent years, with a particular focus on 2023.

The Global State of Direct Democracy Report is aligned with the scholarly consensus arguing that details matter in the design of democratic institutions. In most databases, including the Direct Democracy Navigator, the coding scheme does not allow to fully capture important details, which are stressed out in this report. In doing so, this report calls for debates on direct democracy typologies and practices to contribute to a better understanding of this fascinating regime and its impact on the political life.

We hope you will enjoy the read and look forward to your feedback, that will allow us to prepare the 2024 edition.

Clara Egger and Raul Magni-Berton

# 1. DIRECT DEMOCRACY: MEASUREMENTS, DATABASES, AND GLOSSARY

This report offers a **global and comparative view of the state of direct democracy worldwide** by analyzing the legal designs of various direct democratic institutions and commenting on their recent practice. **The focus is only placed on direct democracy institutions at the national level of government in sovereign countries.** This leads to two important exclusions : (1) non-sovereign territories – such as, for example, Gibraltar, are not extensively covered in this paper – except in presenting the recent trends in the use of direct democracy (see section 5) - ; (2) while direct democracy institutions flourish and are regularly activated at local levels of governments - as in the United States and Germany - data in the other countries is often partial or incorrect. While we intend to cover this level in the future editions of the report, this first edition aims to **update existing data on national direct democracy institutions** and to **propose a new way of conceptualizing direct democracy** based on its impact on constitutional norms and on citizens' initiative and veto rights. This first chapter serves as an introduction to the world of direct democracy. It contrasts existing sources of data on the institutions and practice of direct democracy to specify the contours of direct democracy institutions covered in this report and present a glossary of the key terms that will be used in this report.

## 1.1. Mapping institutions of direct democracy

The Global State of Direct Democracy Report mostly draws upon the **Direct Democracy Navigator**<sup>1</sup> (hereafter: the Navigator, see text box below) a database developed by Klaus Hoffman that details the different direct democracy institutions in use around the world. It includes **ten different types of procedures and three main institutions**: the initiative, the referendum and the plebiscite. Launched in 2010, the Direct Democracy Navigator was initially designed for civil society actors and the media but is now moving towards a more academic format to facilitate its use by scholars. The Navigator ambitions to **annually review the progress and challenges of direct democracy** around the world and to contribute to better analyze how direct democratic institutions work.

The Direct Democracy Navigator is the world's largest online database for Direct Democracy currently documenting around **2 000 institutions of direct democracy in more than 100 countries** on the national, regional and local levels. Two criteria are used to classify the identified institutions : **initiation and authorship**. The database distinguishes five types of institutions of direct democracy: citizen initiative, facultative referendum, referendum, veto referendum and the mandatory referendum. The agenda initiative is a special case in the area of direct democracy, which is also included as it allows for direct bottom-up influence. The Navigator details the legal design of each of these institutions, including, among others, the signature threshold required as well as potential quorum and supermajority requirements.

Box 1.1 The Direct Democracy Navigator

The Navigator is not the only database on the state of direct democracy legislation. Other sources can be used, but none is precise enough to become the reference in this field. Indeed, while existing legislation is relatively easy to analyze from constitutional texts, many of the details concerning the concrete operation of these institutions are found in laws or implementing decrees, which are harder to find and change more frequently. In addition, constitutional texts are not always easy to interpret, so case law on the subject also needs to be identified and its evolution traced. Mapping these changes have led the Navigator team, at the time of writing these pages, to create an annual database that tracks changes in existing legislation over time. If successful, this project would make Navigator the first database of its kind.

Currently, the Navigator presents all direct-democratic institutions, updated annually at the national and local levels. The data used in this report is cross-referenced with those of other data initiatives and report that also collect – often partially – information on direct democracy institutions across the globe.

The first of such data initiatives comes from the **ACE project**<sup>2</sup> . Launched at the United Nations in 1998 by International IDEA, the International Foundation for Electoral Systems (IFES), and the United Nations Department of Economic and Social Affairs (UNDESA), ACE was initially created as the Administration and Cost of Elections project. In 2006, the project expanded its scope to not only cover electoral processes but also mechanisms of political participation – including direct democracy legislation. **The ACE Encyclopaedia distinguishes between three main institutions associated with direct democracy: referendums, citizen initiatives, and recall.**

The second is curated by the **International Institute for Democracy and Electoral Assistance (IDEA)**, an intergovernmental organization that aims to strengthen democratic institutions and processes by providing knowledge resources, expertise and a platform for debate on democracy issues. In 2008, it published a **Handbook on Direct Democracy, which covers four institutions: referendums, citizens' initiatives, agenda initiatives, and recall** (Beramendi, Ellis, Kaufman et al 2008). Both laws and practices are reported. In 2014, International IDEA published a new and updated report, authored by Elliot Bulmet (2014), that only targets referendums and initiatives. Conceptually, however, this report only provides examples of institutions, without attempting to systematically collect all existing legal frameworks in the world. Third, since 2014, the V-Dem Institute has been collecting hundreds of indicators of democratic quality. Under the leadership of David Altman, V-Dem has begun to categorize and research direct democracy institutions. A policy brief, published by Tolga Tan and Anna Lührmann (2017), offers their definition of direct democracy, **which includes initiatives, referendums, and plebiscites, while explicitly excluding recall elections and deliberative assemblies**. The V-Dem provides 38 indicators of direct democracy defined as direct popular votes (therefore excluding agenda initiatives).

The fourth source used is the **Comparative Constitutions Project**, co-led by Zachary Elkins (University of Texas, Department of Government), Tom Ginsburg (University of Chicago, Law School), and James Melton<sup>3</sup>, releases English translations and comprehensive comparative data on the world's constitutions. This resource is particularly useful to access **direct democracy provisions in constitutional texts** but has not yet fueled the creation of a specific database on this topic.

Fifth, the **Initiative and Referendum Institute Europe (IRI Europe)**, founded in 2001, is a European think tank dedicated to research and education on direct democracy procedures and practices. It published a guidebook in 2010, co-edited by Bruno Kaufmann, Rolf Büchi and Nadja Braun (2010), **which defines direct democracy as "the right of citizens to participate directly in political decision-making"**, i.e. initiatives and referendums. However, its scope is limited to a few representative countries. The same institute, focusing on the United States, provides extensive information on the institutions of direct democracy in the U.S. states<sup>4</sup>, as does Ballotpedia<sup>5</sup>, an online encyclopedia with accurate information on direct democracy in the United

States. Similarly, **the Organization of American States (OAS)** published a report entitled "Observing Direct Democracy Mechanisms" (2022) to analyze and evaluate the practices of direct democracy in Latin America. **Direct democracy here includes plebiscites, referendums, and popular initiatives.**

Contrasting these sources reveal that, globally, **the contours of direct democracy institutions are relatively consensual.** Most databases include institutions such as various types of citizen initiatives, referendums and plebiscites (for a discussion of these key terms, see glossary in 1.3). The only institution that is not always included is the recall. While historically associated with the demand for direct democracy and formally like other institutions (using petitions and often referendums), the recall consists of the right of citizens to trigger anticipated elections but not to participate directly in decision-making (Welp and Whitehead 2020). Conceptually, although it provides citizen with a right to control the electoral schedule, the recall stays embedded in a representative logic. Citizens can simply decide when they want to change their representatives, but the recall does not allow direct legislation. In practice, while Swiss citizens enjoy considerable political rights, the recall does not exist at the federal level or in most cantons. However, it could be introduced directly by the citizens, who do seem to feel a need for it. The same pattern can also be found in the American states. Although a good proportion of them provide for a recall procedure, those having all other direct-democratic procedures make very little use of recall. On the contrary, recall is more common in states where access to the citizen initiative and referendum is difficult or non-existent. In some Latin American countries, most notably Peru, recall is widely used, probably because direct-democratic institutions are not easily accessible. So instead of expressing dissatisfaction through a proposed law, they use a recall process.

## **1.2 Measuring the practice of direct democracy**

Beyond pure legislative analysis, understanding how direct democracy is practiced is important. Such practice is often captured through counting the occurrence of referendums and plebiscites. Complementary databases that focus more on this practical aspect have been used in this report, especially in chapters 4 and 5.

The most developed database is the **Referendum Database (C2D)**, hosted by the Center for Democracy Studies Aarau at the University of Zurich. Initiated in 1994, the Referendum Database published its first report in 2023, entitled *The World of Referendums*, by Salim Brüggemann, Robin Gut, Uwe Serdült, and Jonas Wüthrich (2023). **It provides detailed information on referendums around the world, including location, date, subject, type, results, turnout, and the regime under which they took place.** The report also identifies some long-term trends in the use of referendums in different regions.

Another comprehensive database, the **Historical Dataset of the Constitutional Referendum**, specifically collects constitutional referendums from 1797 to 2016 and has been released Alexander Hudson (2019). Other, more *ad hoc*, databases have been created by researchers such as Laurence Morel, Matt Qvortrup (2017) or John Matsusaka (2020). Yet, the data is not publicly available.

**Data on individual referendum can be found in many scattered places.** The **Political Data Yearbook** hosted by the European Consortium for Political Research (ECPR) covers election results, national referendums, changes of government, and institutional reforms for a number of countries, both inside and outside the EU. Ballotpedia is also very informative, but limited to the United States. Finally, Wikipedia is now a reliable source on the occurrence of referendums in specific countries, without being systematic.

Table 1.1. below provides a comparative overview of existing databases on direct democracy.

Database	Institutions and coverage	Institutions
Direct Democracy Navigator	Direct democracy institutions at national and local levels.	Citizen Initiatives, referendums, plebiscites
ACE project	Direct democracy legislation at national levels.	Citizen Initiatives, referendums, recalls
V-Dem	Direct democracy typology at national levels.	Citizen initiatives, referendums, and plebiscites
Comparative Constitutions project	National constitutions	None
Referendum Database (C2D)	National and local referendums	Referendums
Ballotpedia	Institutions, <u>initiatives</u> and ballots in the US	Citizen initiatives, <u>referendums</u> and recall (with US terminology and variants)

Table 1.1. Comparative overview of existing databases on direct democracy

## 1.3. Glossary of key terms used in the Global State of Direct Democracy Report

This report follows the logic of the Direct Democracy Navigator. **Institutions covered include citizen initiatives, referendums and plebiscites, and exclude recalls.** The definitions of these terms are not yet settled, and **many competing typologies and understandings exist.** For example, what distinguishes referendums from plebiscites is still not clear either in actual political systems or in political science and legal scholarship.

We define **citizen initiative** as legal norms that allow extending the legislative initiative, *i.e.* the right to submit a law to the legislative power for approval, to all citizens provided that it receives sufficient support from other citizens. This includes four groups of institutions that we present from in decreasing order of relevance. This includes, firstly, the **agenda initiative**, which enables citizens to collect signatures to submit a legislative proposal to the parliament. An example of this is the European Citizens' Initiative (ECI), which was introduced by the Treaty of Lisbon in 2007. A second type of citizen initiative is the **non-binding citizen-initiated referendum**, which is like the agenda initiative, but a sufficient number of signatures first triggers a consultative referendum before the parliament decides. New Zealand is the country where this institution has been used the most. Technically, these referendums are also used in Liechtenstein, because the Prince has a veto right. However, this veto is never used, mainly because, since 2003, the only constitutionally binding referendum has been the one on the abolition of the monarchy. The Reigning Prince therefore has a strong incentive to accept the results of referendums. The third type is the **legislative citizen initiative**, which allows citizens who collect enough signatures to trigger a binding referendum on their legislative proposal. The most successful example is Slovenia. Usually, the parliament cannot change the popular decision without citizens' consent, but parliamentary laws are not hierarchically inferior to citizen laws<sup>7</sup>. Finally, the **citizen-initiated constitutional amendment** (or popular initiative, in Swiss terminology) consists in the right of any citizen to submit a constitutional amendment to a binding referendum. The countries that have this institution, such as Switzerland or Uruguay, also provide for the mandatory referendum (see below) for all constitutional amendments.

Therefore, the popular initiative itself is only the right to initiate a constitutional amendment after collecting a set number of signatures. The proposal is automatically submitted to a binding referendum because the referendum is mandatory to validate any constitutional amendment.

We define **referendums** as the extension of the veto right to the entire electorate, not just its representatives. There are three types. First, the **suspensive referendum** (or facultative referendum according to Swiss law) is the right of any citizen to collect enough signatures to force a law adopted by the parliament to be submitted to a referendum before its implementation. Switzerland and Uruguay possess such an institution. Second, the **abrogative referendum** (according to Italian law) allows citizens to repeal a law after its implementation. Collecting signatures is the main way to obtain this referendum. Suspensive and abrogative referendums are part of **rejective referendums**, which require a petition to repeal a law. Finally, the **mandatory referendum** is automatically required for some types of political decisions. It can also be described as a suspensive referendum, where the threshold of signatures to obtain it is 0%. The typical example is Ireland, where all constitutional amendments and international treaties having constitutional implications can't be validated or ratified unless approved by referendum.

Finally, we define **plebiscites** as citizen participation in the legislative process in which citizens have neither initiative nor veto rights. Specifically, citizens cannot initiate a legislative process because this initiative is limited to their representatives. Nor can they veto the decisions of their representatives, unless the representatives decide to do so. In this particular case, however, citizens can directly influence policy by voting. We distinguish three main types based on initiation procedures. First, the **minority plebiscite** allows some representatives who are in the opposition to the ruling government to submit a law adopted by the parliament to a referendum. These deputies are a minority in the parliament. For example, in Denmark, one third of the members of parliament can call for a referendum to reject a law passed by the majority. Second, the **government plebiscite** allows the government to put to the ballot a bill that it has initiated. Often not provided for in constitutions, it is largely used in an *ad hoc* way, as, for example, the Brexit in the United Kingdom or the referendum in the Netherlands on the constitutional treaty for the European Union. Finally, the **head of state plebiscite** is a referendum submitted by the head of state. If the head of state is also the head of government, this is identical to the previous one.

In many parliamentary systems, however, the head of state is an arbiter who guarantees the functioning of the institutions. He may be non-partisan or represents the opposition. In these cases, this referendum rather resembles to a minority plebiscite. France is a typical case of head of state plebiscite. Table 1.2 below summarizes the institutions covered in this report.

Note that, in describing direct democracy institutions, **we don't distinguish between democratic and non-democratic regimes**. The rationale for this choice is to discuss the relationship between the specific features of a direct democracy institution and the level of democratic quality in a country. This allows us to identify design features that play a key role in ensuring that direct democracy institutions contribute to strengthen democratic governance. We believe such a discussion is particularly important as examples of misuses of referendums – i.e. referendums use to legitimize autocratic decisions but not to allow citizens to influence policymaking - abound.

Right granted to citizens	Name	Class of institution	Typical country case
Initiative	Agenda initiative	Citizen initiative	Austria
	Non-binding citizen-initiated referendum		New Zealand
	Legislative citizen initiative		Slovenia
	Citizen-initiated constitutional amendment		Switzerland
Veto	Mandatory referendum	Referendum	Ireland
	Suspensive referendum		Liechtenstein
	Abrogative referendum		Italy
None	Minority plebiscite	Plebiscite	Denmark
	Government plebiscite		?
	Head of state plebiscite		France

Table 1.2 – Institutions covered in the State of Democracy Report

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## 2. DIRECT DEMOCRACY: FROM PRINCIPLES TO PRACTICE

This second section introduces the **philosophical foundation of direct democracy institutions, namely the principle of popular sovereignty**. This principle – at the heart of many democratic regimes – implies that the most important decisions in a polity are taken by citizens. **This abstract principle translates into two types of political rights: the right to initiate and to veto legislation**. The first part presents how the exercise of such rights impact the nature of political regimes, making it either a direct democracy with representative institutions or a representative regime with direct democracy institutions. We then build on this distinction to classify existing direct democratic institutions across the globe. This conceptual distinction is then used to classify contemporary direct democracy institutions presented in section 3.

### 2.1. Underlying principles of direct democracy and basic institutions

Direct democracy is a very old system, having existed since ancient times. However, the idea of modern direct democracy, as opposed to representative democracy, is relatively new, as is representative democracy itself. In its early days, representative democracy was defined in relation to direct democracy. This debate can be found in the famous "Federalist No. 10," in which Madison argues against direct democracy ("pure democracy") on the grounds of the tyranny of the majority, preferring instead a representative regime (a republic).

“

“From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. (...) A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking.”

”

This argument prevailed at the federal level, but not at the state level, where states such as California, Colorado, and Oregon, among others, subsequently opted for direct democracy. Moreover, this argument did not convince the first French opinion leaders after the Revolution of 1789. Condorcet, in particular, saw Madison's argument as a way of creating new masters:

“

“Men have become so accustomed to obeying other men, that freedom is, for most of them, the right to be subject only to masters chosen by themselves. That's as far as they go, and that's where their faint sense of independence ends. (...) Almost everywhere, this half-freedom is accompanied by storms; they are then attributed to the abuse of freedom, and we fail to see that they arise precisely from the fact that freedom is not complete; we seek to give it new chains, when we should be thinking, on the contrary, of breaking those that remain.”<sup>8</sup>

”

The Constitution of 1793, based on Condorcet's draft, thus introduced direct democracy. Revolutionary France could have become the first example of a large country governed by direct democracy had this constitution not been suspended during the Terror and then replaced by a less democratically progressive one shortly before the arrival of Napoleon. Thus, it was almost 100 years later that the first incarnation of direct democracy at the level of a sovereign state appeared in Switzerland. Its institutional framework was simpler and more efficient than that envisioned by Condorcet.

**Whatever the version, the underlying principle of direct democracy is popular sovereignty, which means that every citizen participates in the most important decisions of the country.** This does not mean that there are no representatives. On the contrary, the principle of representation remains fundamental to direct democracy, allowing citizens to organize the way society works. Police officers are representatives, as are teachers. Parliamentarians are no different. Yet, that principle also means that representatives do not have the power they have in a representative democracy, since citizens can always regain control of the law.

In practice, this principle translates into the idea that decisions made directly by citizens take precedence over decisions made by their representatives.

In Switzerland, for example, the Constitution is entirely controlled by the people (through the popular initiative and the mandatory referendum). The parliament thus acts as a propositional body in that its laws only come into force if the citizens have given their consent. In particular, the *sup* referendum allows citizens to collect 50,000 signatures within 3 months of a law being passed by parliament in order to submit the law to a referendum. So, if most laws are not put to a vote, it is simply because most of them are not challenged by 50,000 citizens, who today account for about 1% of the voting population.

However, this "legislative censorship," as Condorcet used to call it, is not the core of the Swiss system or of direct democracy in general. **At its heart is the right of every citizen to initiate constitutional amendments (the popular initiative) and the obligation to submit any proposed constitutional amendment to a referendum (the mandatory referendum).** These two rights - the right to propose (the initiative) and the right to decide (the veto) - together constitute the control of collective decisions. By the simple fact that the Constitution is at the top of the hierarchy of norms, the one who controls the Constitution is the sovereign, i.e. the supreme authority, who can modify all decisions, but whose decisions cannot be modified by any other authority.

**Popular sovereignty is thus embodied in contemporary political systems by two institutions: citizen-initiated constitutional amendments and mandatory referendums.** In theory, a suspensive referendum is not necessary, since a constitutional amendment that contradicts a law automatically renders the latter null and void. All unpopular laws could therefore in principle be overturned by popular initiative. However, this would result in too many recurrent constitutional amendments, with laws regularly being repealed after they have come into force. In this respect, the facultative referendum is effective, and it is no coincidence that some form of rejective referendum exists wherever citizens control the Constitution. However, rejective (that include suspensive) referendums are most effective when citizens vouch for them through their control over constitutional norms.

Formulas similar to the Swiss facultative referendum exist in other countries - such as Italy - where the constitution is controlled by parliamentarians. In these countries, the institution is relatively ineffective and its limitations are numerous (see section 3). Conversely, where there is popular control of the constitution, the rejective referendum is widely used and its restrictions have been reduced over time. In Switzerland, for example, it was extended to international treaties by popular initiative in 1921, which are still not accessible to the Italian abrogative referendum.

**The question of the hierarchy between the legal norms enacted and voted on by citizens and those enacted and voted on by parliaments is the primary issue in defining a direct democracy.** We define a direct democracy (with representative institutions) as a system in which decisions made directly by citizens take precedence over decisions made by their representatives. It is distinguished from representative regimes (with direct-democratic institutions) in which parliamentary decisions take precedence.

Figure 2.1 briefly describes the difference between a direct democracy and a representative democracy, based on the hierarchy of norms criteria. In both cases, the basic principle is that institutions can be described based on two parameters: **(1) speed of decision-making and (2) inclusiveness in decision-making.** These two parameters vary in opposite directions: the more inclusive a decision, the slower it takes. Inclusiveness is important to adopt legitimate and stable norms. Speed is useful to address urgent situations. As a result, the decision of the most inclusive body will always prevail over the decision of the least inclusive (and speedier) body. In direct democracy, the most inclusive decision is the one that includes all citizens and has constitutional value. In representative systems, both the constitution and the law are controlled by the parliament, but in the former case, decisions usually require super-majorities.

Between the two, are included regimes (1) where representatives initiate constitutional norms but, for them to be valid, a vote of all citizens is required, or, more rarely, (2) where citizens can initiate constitutional norms, but their approval is left to the parliament.

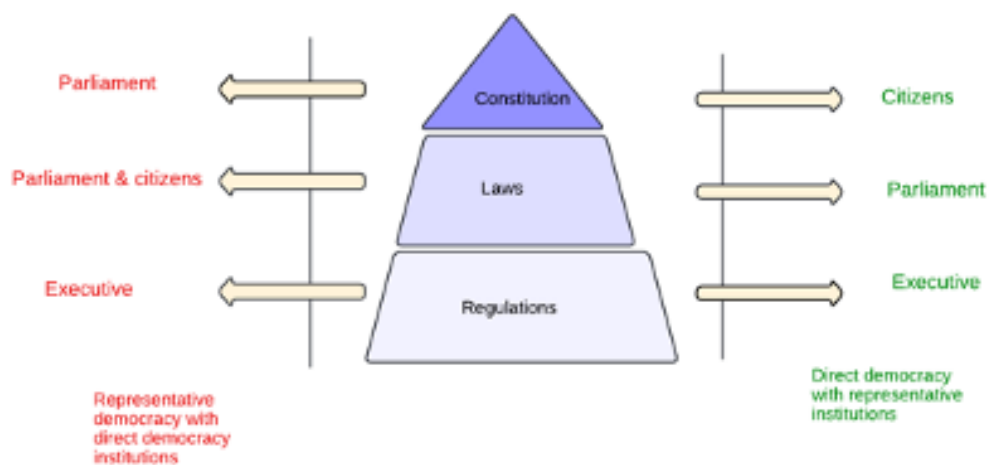


Figure 2.1. Direct democracy with representative institutions vs. representative regimes with direct democracy institutions

## 2.2. Institutions of direct democracy subject to the rules of representation

Representative regimes are not simply defined by the presence of a freely elected parliament that votes on legislation. In Jordan, for example, elections are rather fair, and many parliamentarians lose their seats after a vote. However, the parliament does not have the final say, so the decisions of the elected representatives can be overruled by the executive. This is incompatible with the basic definition of a representative system, in which the parliament is sovereign. **The same logic can be used to categorize direct democratic institutions. If these institutions produce decisions that can be overruled by the parliament, the regime stays representative, no matter the types of direct democracy institutions available to citizens.**

In many countries, citizens can initiate ordinary legislation or prevent ordinary legislation from coming into force. Citizens then enjoy a right of legislative initiative and a right of legislative veto. These are useful rights, which nonetheless stay governed by constitutional rules guaranteed by the parliament (not by the citizens themselves). As a result, in most countries, important decisions are beyond citizens' reach, including fiscal, foreign policy or institutional issues.

Moreover, most of these institutions are not easily accessible, in the sense that it is difficult for citizens that oppose the government to win political battles through them. Thus, in most countries where such institutions formally exist, they are never actually used. In fact, parliamentarians have an incentive to reduce the influence of these institutions because their very existence reduce their freedom to legislate.

Neither a citizen right of legislative initiative nor a right of legislative veto prevent the parliament from overruling the result of a referendum. Since, from a legal point of view, the most recent laws replace the oldest, producing an ordinary law that contradicts (and therefore replaces) the old law approved by the people suffices to counteract citizen rights. Such a strategy is undeniably risky though as the parliamentary majority is likely to suffer electoral sanctions when using it. However, these sanctions can sometimes prove insufficient to protect a popular decision. For example, in 1993, in the wake of several corruption scandals, Italian citizens abolished public financing of political parties by a very large majority (90%) and with a high turnout (76%). In 1999, the parliament amended the law on the reimbursement of political parties so that the reimbursement is no longer linked to the expenses incurred by the party. This effectively reintroduced party financing. This example shows that when citizens vote on ordinary law, their vote is relatively easy to circumvent, even though it is forbidden to formally reintroduce a law that citizens have repealed. In principle, since citizens and members of parliament compete for the production of ordinary law, and since the parliament has the capacity to adopt legislation much more quickly, it will always have the upper hand. This argument also applies to representative systems. An executive with the ability to “correct” parliamentary decisions exert too much power for the system to be called a representative democracy. For the same reason, a parliament with the power to correct decisions made by the whole citizenry cannot be a direct democracy. It would be a representative democracy with a few direct-democratic institutions thrown in for good measure.

## **2.3 Institutions that make citizens vote, without giving them initiative and veto rights**

The last group of institutions associated with direct democracy are referendums initiated by political authorities (hereafter: plebiscite). Although this type of institution allows citizens to directly vote on public policy, **it gives them neither initiative nor veto rights**. The right of initiative is reserved exclusively for representatives who, by being able to choose when to trigger a referendum, allow citizens to veto their decision only when they deem it acceptable. **As a result, these institutions are the furthest removed from direct democracy**. They give additional rights to representatives - the right to call for popular arbitration - rather than to citizens. These referendums, commonly referred to as top-down, follow quite different logics, depending on whether they are initiated by the opposition or by ruling officials.

When a minority is sufficient to call for popular arbitration, the plebiscite is usually initiated by the opposition to challenge the policies of the ruling majority. It is therefore an instrument of counter-power in the hands of the opposition. An example is the 1963 referendum in Denmark: a land law passed by parliament was put to a referendum by the right-wing opposition and rejected by the voters. This procedure encourages the government to take the opposition's opinion into account, especially when the law is likely to be rejected by most of the voters.

If the initiative requires the support from a parliamentary majority, this majority (or, more often, the government) submits a bill to a plebiscite. In this way, it can bypass a hostile parliament through a referendum and, conversely, a hostile electorate through a parliamentary vote. For example, the Brexit referendum was used by the government to call on popular arbitration about decision on which the conservative majority was divided.

Finally, a plebiscite can be initiated by the head of state. In this case, if the system is parliamentary and the head of state is in the opposition, it may look like a minority initiative. On the other hand, if the head of state is part of the parliamentary majority, the referendum will follow a majority dynamic. For example, the 2000 French referendum to shorten the presidential term was triggered by a minority president who opposed the parliamentary majority's reform. Conversely, the 1961 referendum on Algerian self-determination was launched by a majority president to unite his own camp, like the Brexit. In this case, the referendum looks like a governmental plebiscite.

In some respects, plebiscites initiated by the opposition (parliamentary or head of state) resemble what happens in a direct democracy. Indeed, in a direct democracy, the citizens who initiate a referendum usually disagree with the policies of the parliamentary majority and the government. This can be done directly, through a suspensive referendum aimed at preventing a law from coming into force (veto right), or through a citizen-initiated constitutional amendment aimed at establishing a norm that the majority opposes (initiative right). In both cases, the minority has the right to appeal to a popular arbitration against the parliamentary majority. However, **in the case of direct-democratic institutions, each citizen is entitled to strong political rights (initiative and veto), whereas in the case of a minority-initiated plebiscite they have neither.** Therefore, they can only make decisions when there is a conflict between their representatives.

**Government plebiscites, on the other hand, are far removed from the institutions of direct democracy, both in terms of citizens' rights and of the balance of power.** For this reason, it is often disparagingly referred to as a plebiscite because it merely strengthens the executive without offering rights to minorities. This type of plebiscite is also special in form. Unlike citizen initiatives or minority plebiscites, most government plebiscites are not held to decide on a legislative text but propose a simple (and often leading) question. On the one hand, this gives the government considerable leeway in implementing the plebiscite decision. On the other hand, it allows the question to be formulated in the most advantageous way for the initiator. For example, at the end of 2023, Venezuelans will be asked to vote on a question formulated by their president as follows: "Do you agree to oppose by all legal means Guyana's claim to unilaterally dispose of a sea that has not yet been demarcated, illegally and in violation of international law?" (see section 5).

In this report, referendums that give citizens neither veto nor initiative rights (plebiscites) are included in the institutions we present, in line with the general definition of direct democracy, which is synonymous with referendum. However, **since they do not confer rights on citizens, we do not believe that they should be associated with direct democracy.** In particular, in non-democratic countries, government plebiscites are sometimes held on the basis of executive supremacy, which is almost never the case with opposition-initiated or citizen-initiated referendums.

## 2.4. Accessibility of initiative and veto rights

When citizens have initiative or veto rights, **an important question is the conditions under which they can exercise these rights**. This is the issue of accessibility. Sometimes accessibility is low, so the rights are rarely exercised. In other cases, citizens practice these rights regularly.

### Initiative

When the initiative for a referendum comes from the opposition, its accessibility is crucial. For example, a parliamentary minority may represent 1% or 49% of the members of parliament. In the first case, the rights of the opposition are very strong because many parliamentary minorities can challenge the policies of the majority by appealing to popular arbitration. In the second case however only a homogeneous, massively represented minority can challenge the policies of the majority.

The question of accessibility is particularly important when citizens formally hold initiative or veto rights. Regarding the right of initiative, the most important accessibility criterion is the **threshold of signatures** allowing an initiative to be considered. A high threshold - e.g. 10% of the electorate in Uruguay as compared to 2% in Switzerland - reduces the number of minorities who have access to this right. As a result, not only is the number of referendums drastically reduced, but so is the ability of minorities to make their demands heard through a (threat of) popular initiative. Beyond a certain threshold, the initiative may become unworkable, which means that citizens' initiative rights remain theoretical because they are virtually impossible to exercise.

Second, the threshold is accompanied by a **collection period**, i.e. a window of time during which signatures can be formally collected. If the deadline is too short in relation to the number of signatures required, the number of organizations capable of launching a referendum is significantly reduced. What's more, the organizations that can do so are those with the most resources, so the right of initiative is limited to a few powerful and wealthy organizations.

To begin with, and even before any referendum, it's useful to distinguish between mandatory and rejective referendums. The latter are triggered only if a certain number of citizens request them through a petition.

From then on, the obstacles to the exercise of the veto are potentially the same as those we presented in relation to the initiative: the threshold, the collection period, the distribution of signatures, the signatures modalities and their validation. Mandatory referendums, on the other hand, are mandatory on certain subjects. Typically, constitutional amendments. So citizens don't have to worry about collecting signatures.

When a referendum is called, a supermajority is sometimes required, i.e. more than 50% of the voters plus one. For example, prior to 1992, Palau required the support of three quarters of the voters and states for a referendum to be valid. This condition means that only few constitutional amendments can accede to ratification. For example, the Compact of Free Trade with the United States (an international trade treaty), which was very popular with the public, was put to referendum no less than seven times in ten years. The consequence of this requirement is a status quo that is very difficult to challenge, and thus a lower risk for the parliamentary majority of losing control over the way it implements the Constitution.

Quorums form the other main types of restrictions. The most restrictive is the turnout quorum: in addition to a simple majority, a minimum turnout is required (the most common threshold is 50%). This restriction encourages those in favor of the status quo not to vote, thereby invalidating the referendum. Not only that, but it also encourages them to discuss the issue as little as possible, so that voters forget that a referendum is being held or don't develop an opinion about it. So not only does the quorum requirement reduce the likelihood of a veto, but it also reduces voter turnout and the quality of public debate by creating incentives to reduce the willingness of others to vote. In Italy, for example, all 24 referendums between 1995 and 2011 failed to reach the participation quorum. This perverse effect is less pronounced in the case of approval quorums, which require a certain percentage (e.g. 35% in Uruguay) of voters to be in favor, while high approval quorums (e.g. 50%+1 in Latvia) are rarely reached. Approval quorums also create an incentive for tenants of the status quo to ensure that citizens don't vote, and of course the higher the quorum, the harder it is to exercise the popular veto.

Third, the collection of signatures may require them to be territorially distributed, as in the state of Mississippi or in Ukraine. This is also an obstacle for certain groups, especially those who are geographically concentrated.

This constraint largely prevents linguistic or territorial minorities, regardless of their size, from having their demands heard.

Fourth, the **signature modalities** also have an impact on campaigning and accessibility of rights. The paper format makes it easy for petitioners to collect signatures on the street, while digital media can, depending on the context, ease or hinder the collection of signatures. It is very likely that digital media will become predominant in the future, but their ease of use also depends on the information required from signatories. If certain information - such as passwords, identifiers, or other information that people often don't know off the top of their heads - is difficult to obtain on the street, the petition campaign will be difficult, and so will the debates that may arise from that campaign.

Fifth, **procedures must be clear and complete**. For example, if there is no time limit for reviewing the admissibility of an initiative and validating signatures, the relevant institution may, in the event of disagreement with the initiative, hold an initiative indefinitely without reviewing it. Similarly, an overly stringent signature validation process may in practice force petitioners to collect many more signatures than necessary, thereby raising the signature threshold.

Finally, the number and type of issues that can be addressed by a citizen initiative can be small. This is not the case for a citizen-initiated constitutional amendment, but for a legislative initiative several restrictions usually exist, such as in fiscal, international or institutional matters. This not only limits the number of possible initiatives, but also subjects the initiative to a further control of its validity, which is sometimes open to interpretation.

## **Veto**

The citizens' right of veto is expressed through mandatory or rejective referendums. However, this veto right can also be accessible. If the conditions for a valid veto are not met, the veto becomes more difficult to implement and the threat of a popular veto less credible. In the most extreme case, a popular veto can become so unreachable that the right virtually does not exist. The most accessible version of the popular veto is a mandatory referendum based on a simple majority. Additional conditions reduce its accessibility.

To begin with, and even before any referendum, it's useful to distinguish between mandatory and rejective referendums. The latter are triggered only if a certain number of citizens request them through a petition. From then on, **the obstacles to the exercise of the right of veto are potentially the same as those we presented in relation to the initiative**: the threshold, the collection period, the distribution of signatures, the signatures modalities and their validation. Mandatory referendums, on the other hand, are mandatory on certain subjects. Typically, constitutional amendments. So, citizens don't have to worry about collecting signatures.

When a referendum is called, a **supermajority** is sometimes required, i.e. more than 50% of the voters plus one. For example, prior to 1992, Palau required the support of three quarters of the voters and states for a referendum to be valid. This condition means that only few constitutional amendments can accede to final adoption. For example, the Compact of Free Trade with the United States (an international trade treaty), which was very popular among citizens, was put to referendum no less than seven times in ten years before successfully reaching a new and less demanding supermajority. The consequence of this requirement is a status quo that is very difficult to challenge, and thus a lower risk for the parliamentary majority of losing control over the way it implements the Constitution.

**Quorums** form the other main types of restrictions. The most restrictive is the **turnout quorum**: in addition to a simple majority, a minimum turnout is required (the most common threshold is 50%). This restriction encourages those in favor of the status quo not to vote, thereby invalidating the referendum. It also encourages them to discuss the issue as little as possible, so that voters forget that a referendum is being held or don't develop an opinion about it. **So not only does the quorum requirement reduce the likelihood of a veto, but it also reduces voter turnout and the quality of public debate** by creating incentives to reduce the willingness of others to vote. In Italy, for example, all 24 referendums held between 1995 and 2011 failed to reach the participation quorum. This perverse effect is less pronounced in the case of **approval quorums**, which require a certain percentage (e.g. 35% in Uruguay) of voters to be in favor of a proposed change, while high approval quorums (e.g. 50%+1 in Latvia) are rarely reached. Approval quorums also create an incentive for tenants of the status quo to ensure that citizens don't vote, and of course the higher the quorum, the harder it is to exercise the right of popular veto.

A final constraint that can weigh on the veto is the **double majority** principle, which consists of adding to the simple majority the requirement that this majority must also represent the majority of a set types of territorial units in a country. This requirement is often introduced to protect the rural population from the dominance of a more populous urban population. In Switzerland, the double majority does not seem to limit the accessibility of the veto much, since out of 481 popular initiatives, only two have been annulled despite a simple majority of voters in favor (in 1955 and 2020). However, its impact is higher in Australia, where 5 out of 45 constitutional referendums have been invalidated despite a simple majority of voters in favor (in 1937, 1946, 1977 and 1984). This could be explained by the small and paired number of states in Australia. With 6 states, the simple majority corresponds to a 2/3 majority. In contrast, in Switzerland, with 26 cantons, the probability of a mismatch between the two majorities is much lower.

## 2.5 Summary of direct democracy institutions

We have so far distinguished between three **main groups of direct democratic institutions**.

**Hard initiative and veto.** The first group gives every citizen the right to initiate constitutional amendments and the right to veto them. Decisions made through direct democracy take precedence over those made by parliament. This group includes citizen-initiated constitutional amendments and mandatory or rejective constitutional referendums. If only one of these institutions is used, the impact is much smaller, but they remain important institutions in the functioning of the state.

**Soft initiative and veto.** The second group gives every citizen the right to initiate and veto ordinary legislation. Decisions made by parliamentarians take precedence over those made by citizens. The functioning is therefore mainly representative, but citizens can have a say over public policy. These rights are implemented through agenda, legislative citizen initiatives and rejective referendums. Note, however, that these institutions can coexist with hard initiative and veto rights, so that in this case they reinforce the impact of these rights.

**No initiative and no veto.** The third group gives citizens neither initiative nor veto rights, but allows them to vote directly on policies. This includes all the plebiscites, that can be initiated by the opposition (minority referendums and referendums for the head of state, if the head of state is not a

member of the government and is not chosen by the government or the majority in parliament), or by the government (government and head of state referendums, if the head of state and the governments belong to the same coalition).

Each of these groups can be categorized by the **degree of accessibility to opposition or minority groups**. There is no exhaustive measure of accessibility, but the closest attempt has been made by David Altman with his Index of Direct Democracy Practice Potential (DDPP 2017), which aggregates the number of signatures required, the time limits for collecting signatures, the additional requirements to majority rule to approve a measure in a referendum (supermajority, quorums, and double majorities), and the fact that the referendum is binding. However, this index does not take plebiscites, the hard/soft distinction, and other restrictions listed above into account.

For example, binding referendums may be difficult to access if they cover only a small number of decisions. In Austria, for example, the referendum is mandatory only for a general amendment of the constitution, i.e. when its basic principles are to be changed. This is almost inaccessible in the sense that it is very unlikely that this referendum will be needed. Similarly, in the case of plebiscite, the number and identity of the representatives required to submit a referendum also define the accessibility of such referendums.

In this report, the level of accessibility of each direct democratic institution is discussed and assessed in a qualitative way (see section 3), but we do not provide a new index.

### 3. INSTITUTIONS OF DIRECT DEMOCRACY AND THEIR DEVELOPMENT AROUND THE WORLD

Following the conceptual approach presented in section 2, this section provides information on what type of direct democratic institutions are used worldwide. Based mainly on the Direct Democracy Navigator, our mapping only considers national institutions in sovereign states. While we are not the first one to provide such a review, we offer some additional details here, with a particularly detailed section on citizen control over national constitutions.

#### 3.1. Citizen power over constitutional issues

##### Constitutional veto rights: mandatory referendums.

This part zooms into the countries where citizens enjoy constitutional rights. A first aspect of these rights is to allow citizens to accept or reject a constitutional amendment. This is usually embodied in a mandatory referendum, meaning that no constitutional change can be accepted without a vote. Figure 3.1 below displays in red the countries providing for a mandatory referendum on constitutional amendment. The Direct Democracy Navigator counts 71 sovereign states where a mandatory referendum exists. International IDEA finds even more legal provisions for mandatory referendums at the national level (109 countries). However, these provisions do not always mean that a constitutional referendum is mandatory for every constitutional amendment.



Figure 3.1: Mandatory referendums as per the Direct Democracy Navigator

**In most countries, the referendum is mandatory only under certain conditions specified in the constitution.** The V-Dem database distinguishes between cases in which any constitutional amendment must be directly approved by the citizenry and those in which a mandatory referendum is required only for changing some parts of the national constitution. For example, the Austrian constitution requires a mandatory referendum only when significant changes are proposed. Since its creation in 1920 and its reinstatement in 1945, this constitution has been amended 76 times, and only one amendment (on European Union membership in 1994) was considered fundamental enough by the Constitutional Court to trigger a referendum. Therefore, despite the existence of a provision for a mandatory referendum, it has concretely affected 1.3% of constitutional amendments. In Czechia, a referendum is mandatory only for membership in the European Union, so only one has been held, in 2003, and no other mandatory referendums can legally be held again. In Slovakia, a constitutional referendum is also mandatory only for joining a union with other states or secede from such a union, fundamental rights and other "crucial issues". Finally, only membership in the European Union has been validated by referendum, while 12 constitutional amendments have been validated only by the parliament. A similar story can be told in the Baltic and Balkan states, in some South American states, and in many microstates.

**A second type of mandatory referendum is defined by a specific procedure that makes the referendum mandatory, while another competing procedure exists to pass constitutional amendment without holding a referendum.** A typical example is France, where the referendum is mandatory only if the initiative of the constitutional amendment comes from the parliament. If the government initiates such a change, the president can decide to replace the referendum by the approval of the three-fifths of the parliament. As a result, all 23 constitutional amendments made in France were government initiatives, and only one (4% of adopted changes) was submitted to a referendum. Many former French colonies have a similar procedure, including Algeria, Benin, Cameroon, Central African Republic, Congo, Gabon, Ivory Coast, Mauritania, Morocco, Niger, Senegal, Togo, and Tunisia. In Latin America, there are alternative procedures for amending the constitution without a referendum. This is the case of Peru, where two-third of the deputies can enact a constitutional amendment without a referendum.

Since the implementation of the current constitution in 1993, only one constitutional referendum has been held out of 12 constitutional amendments. Paraguay has a similar procedure, but a referendum remains mandatory for some minor types of constitutional amendments. Since 1992, only one constitutional amendment has been adopted in a referendum held in 2011. Finally, the 2008 Constitution of Ecuador places that country in this group. The amendment process offers two ways to approve a constitutional amendment. The first requires the president to define a set of questions and call for a referendum, while the second is mainly a parliamentary process.



Figure 3.2 Strict constitutional mandatory referendums

Figure 3.2 displays in red the sovereign countries where the entire constitution cannot be changed without a referendum. The number of sovereign countries is limited to 17. **These “pure” mandatory referendums can be distinguished into three categories.** First, in many of them, additional **requirements need to be made to trigger a referendum.** These are so demanding that it is difficult to put a constitutional amendment to the ballot. This is typical of Asian democracies. In Japan, an amendment must be approved by two-thirds of the members of each house before it can be put to a referendum. As a result, the 1946 constitution is the oldest unamended constitution in the world. The South Korean and Filipino constitutions of 1987 have the same requirement and have not been amended since their installment. In Taiwan, the referendum for constitutional amendments has only been mandatory since the Referendum Act of 2017. Prior to that, however, the amendment had to be approved by a supermajority of 75 percent of the members

of the legislature present (and they had to be 75 percent to be present). The first constitutional amendment was voted on in 2022, without parliamentary approval, but the approval quorum of 50%+1 voter was not reached.

A similar pattern can be observed in the Small Islands of Oceania. In Fiji, a constitutional amendment must be approved not only by three-quarters of the MPs, but also by three-quarters of the voters. Not surprisingly, there have never been any constitutional amendments. Prior to 1992, Palau had a similar system. However, its current constitution requires a simple majority in the national referendum, but also in three-quarters of the states. This reform is the only constitutional amendment validated in the country. The Federated States of Micronesia also had the same rule until 2023, when a constitutional amendment reduced but did not eliminate the supermajority requirement (see section 5). In the Marshall Islands, a supermajority of two-thirds of the voters is required. The only constitutional amendment was in 1995.

Outside of Asia, some countries condition the occurrence of mandatory referendums upon the support of demanding supermajority in parliament. In Madagascar, the 2010 constitution requires the support of three-fourths of the members of the National Assembly and Senate before being submitted to a referendum. This rule almost prevents any changes to the constitution. In Liberia, two-thirds of the parliament and registered voters are required. Mali's new constitution (2023) requires a vote on the amendment by two-thirds of the total membership of each of the two houses of parliament, followed by approval by referendum. The same rule exists in Guatemala and Romania, which only experimented one constitutional amendment, approved by referendum in 1999 and 2003, respectively. In Western Europe, Andorra requires 2/3 of the parliament and a referendum to enact a constitutional amendment. Its 1993 constitution has never been amended. Finally, Denmark is partly in this group because constitutional amendments are very difficult to pass (as in the other Northern European countries) and the referendum is the last step of the process. That is why no constitutional changes have been adopted in 68 years. However, the Danish people have voted many times, especially on issues related to the European Union and international treaties, because the referendum is almost mandatory for international issues (unless the fifth-sixths of the MPs support it).

**The second group includes countries where constitutional change requires the support of both parliament and citizens, but without a large supermajority.** Australia's constitution is the oldest in this respect. A constitutional amendment must be passed by both houses as a simple bill and then submitted to a referendum. The mandatory referendum is an additional veto point that distinguishes a constitutional amendment from ordinary legislation. The amendment is validated by a double majority: a majority of voters at the federal level and a majority of voters in a majority of states. Ireland has the same institutional framework, but a simple majority of voters is enough to validate a constitutional amendment. In that country, for 84 years, all 23 constitutional amendments and international treaties with constitutional consequences have been voted on by all voters.

**The last group includes countries in which the referendum is not only mandatory for all constitutional issues, but the citizenry is the only body that can accept or reject constitutional amendments** – the parliament having no veto power on such issues. The most extensive case is Switzerland, where the parliament or 100,000 citizens (about 2%) can submit a constitutional amendment to a referendum. On average, the constitution is amended almost once a year. Similarly, in Uruguay, the president with a minority of the parliament (two-fifths of its members), or the majority of the parliament or citizens (10%) can submit a constitutional amendment to a popular vote. Given the higher threshold, the number of constitutional amendments is much lower than in Switzerland (4 amendments in 36 years). Uruguay also requires a majority of 35% of registered voters to validate the results of a referendum.

To sum up, the analysis of mandatory referendums allows us to identify **three groups of countries** where the referendum is mandatory for all aspects of the constitution. In the first group, parliamentary supermajorities are the main filter for constitutional amendments (15 countries). In the second group, the referendum is the main filter for adopting constitutional amendments, but a parliamentary majority is also required (Australia and Ireland). In the third group, the referendum is the only mandatory filter for constitutional amendments (Switzerland and Uruguay). This allows us to rank the top five countries that give a high place to the mandatory referendum. The results are shown in Table 3.1. below.

Rank	Country	Mandatory referendum	Quorum, supermajority and double majorities
1	Switzerland	Predominant	Double majority
2	Uruguay	Predominant	Approval quorum 35%
3	Ireland	Important place	None
4	Australia	Important place	Double majority
5	Denmark	Part of the process	None

Table 3.1. Best practices in mandatory referendum

## Rejective constitutional referendums

Sometimes **the right to veto constitutional amendments** is not designed as a mandatory referendum but **requires the support of number of citizens (through signatures) to trigger a constitutional referendum**. This rare procedure only concerns three countries in the world.

In Liechtenstein, 1500 citizens (about 8% of the registered voters) can decide to submit a constitutional amendment to a referendum. As noted in section 1, this constitutional referendum is technically non-binding, but we can consider it binding because the Prince has never vetoed the result of a referendum. With 35 amendments in 100 years, most of them approved directly by the citizens, Liechtensteiners are very active in constitutional matters.

In Italy, conditions are more restrictive. If a constitutional amendment is not approved by two thirds of the members of each chamber, 500,000 citizens (about 1%, or representing minorities) have three months to submit a referendum request. If they succeed, the referendum is held and validated by a simple majority of voters. In practice, only 4 out of 44 constitutional amendments were submitted to a referendum. But in some cases, this system allowed to reject some constitutional amendments adopted by the Parliament.

A similar design exists in Luxembourg, where after a vote of two-thirds of the members of each chamber of deputies, 25,000 citizens (about 9%, or a parliamentary minority) have two months to submit the amendment to a referendum. Only two amendments out of 23 have been voted by the citizens.

These three examples show that while the rejective constitutional referendum sometimes plays a more important role than the mandatory referendum in citizens' control over their constitutions, its impact on constitutional reform depends on its design.

## Citizen-initiated constitutional amendment

Most of the available databases don't distinguish between the right for citizens to initiate constitutional amendments and simple legislative bills. The Direct Democracy Navigator is quite unique in mentioning this aspect and identifies only ten countries in the world allow their citizens to initiate a constitutional amendment: Bolivia, Federated States of Micronesia, Kenya, Liechtenstein, Lithuania, Marshall Islands, Philippines, Uruguay, Serbia and Switzerland. This right can however also be found in other countries in Latin America (such as Ecuador or Venezuela), in Oceania (Palau) or in Eastern Europe (Croatia and Latvia). Latvia has one of the oldest constitutions that allows citizens to propose constitutional amendments. It was introduced in 1922, suspended during the communist period and reinstated in 1991. The case of Taiwan is also interesting to specifically discuss.

The constitutions of these countries mention the possibility for citizen-initiated constitutional amendments, but many of them cannot be said to have it. **To be operational, citizen-initiated constitutional amendments requires two important aspects.** The first is the right of any citizen to initiate a bill. The second is the right of any citizen to call for popular arbitration.

Some countries have some form of initiative, but do not recognize the right to initiate legislation. The initiative simply consists of calling a constitutional convention to decide how to amend the constitution. In the Marshall Islands, for example, 25% of the eligible voters can initiate a referendum for a constitutional convention. Bolivia is another example: 20% of the citizens can call for a referendum to establish a Constituent Assembly. This assembly will propose constitutional amendments, which will then be submitted to another referendum.

In other countries, citizens cannot directly adopt a law through a referendum. In Serbia, 150,000 voters (about 2.5% of the electorate) can propose a constitutional amendment, but the parliament decides whether to submit it or not to a referendum. Similarly, in some South American countries (Ecuador and Venezuela), the parliament plays a filtering role between the citizens' initiative and the referendum. In New Zealand, 10% of the electorate can directly submit a bill to a referendum, but the result of this referendum is consultative, and the parliament decides whether and how to implement it.

Beyond these cases, which cannot be properly identified as fully-fledged citizen-initiated constitutional amendments, **other procedures also reduce the impact of citizens initiatives in two different and important ways.**

First, some systems have designed a citizen-initiated constitutional amendment, but **the referendum is not mandatory.** This means that there are two ways of adopting a constitutional amendment, either by initiative and referendum or through a parliamentary procedure. When citizens and their representatives agree to make constitutional changes, members of parliament are usually faster and more effective, so that the citizens' initiative becomes marginal in the functioning of the political system. This is the case in Latvia: with the exception of six articles of the Constitution, the Parliament can amend the Constitution with a supermajority of two-thirds of its members. However, 10% of the electorate may submit a constitutional amendment to a referendum, which requires a high approval quorum (50% of registered voters must approve the amendment) to be valid. As a result, out of the 14 constitutional amendments adopted since 1991, none has been initiated by citizens. A similar system, with identical consequences, is in place in Lithuania, where 300,000 (12%) voters can submit a constitutional amendment to a referendum. In Croatia, where parallel to the parliamentary procedure (Art. 137), 10% of citizens can call for a constitutional referendum (Art. 87), no quorum is required to validate a constitutional referendum. Therefore, of the five constitutional amendments adopted in this country, one has been adopted through a citizen initiated process. Outside of Europe, this kind of design is implemented in Kenya, where a popular initiative procedure (one million citizens is required) coexists with a purely parliamentary procedure for constitutional amendments. Both procedures are quite demanding and no constitutional change has been made since the new constitution came into force (2010).

Second, **some political systems provide for both a citizen-initiated constitutional amendment and a mandatory referendum, but these procedures are hardly accessible.** In Palau, 25% of registered citizens are required for the initiative and, as noted above, the referendum must receive a majority of votes in three-quarters of the states. In Micronesia, 10% of the citizens can call for a referendum, but the signatures must be collected in each of the four states. Until 2023 (see section 5), the amendment needed to be approved by three-quarters of the votes in three-quarters of the states. Because Micronesia is a small island state, this very high supermajority has

not been met since 1991. Finally, in the Philippines, a citizen-initiated constitutional amendment must be supported by 12% of the registered voters, and each legislative district must be represented by at least 3% of the registered voters therein. Since there are 253 legislative districts, the initiative is almost impossible.

Finally, the last group of countries **offers an accessible citizen-initiated constitutional amendment**. Switzerland allows 100,000 citizens (about 2%) to submit a constitutional amendment to a referendum. To be approved, a double majority of the votes of the cantons is required. Since 2002, there have been 19 constitutional amendments, 12 of which came from citizens' initiatives (63%). In Liechtenstein, a citizens' constitutional initiative requires 1500 signatures (about 8%), and a simple majority is required to amend the Constitution. Although the constitutional referendum is not mandatory, its rejective nature allows us to place Liechtenstein in this category. In Uruguay, the signature threshold is higher (10%) and adoption requires a 35% approval quorum. Only four constitutional amendments have been approved, but three of them came from citizens' initiatives. Finally, Taiwan is a puzzling case. Traditionally, its mandatory referendum required a supermajority in parliament, as in other East Asian democracies. However, a 2017 amendment to the Referendum Law abolished the Initiative Review Committee, making rejection almost impossible, even if the initiatives may violate the constitution. This means that citizen-initiated referendums could take on constitutional value, and Taiwan could be strongly shaped by its new direct democracy in the coming years. The 2022 referendum was the first to adopt a constitutional amendment by referendum without parliamentary approval. While the initiative came from the president, this event may open the possibility for constitutional change through citizen initiative.

These different devices also provide an opportunity to identify best practices in the accessibility and impact of citizen initiative for constitutional change. Since the law in Taiwan is still uncertain, this country is not included in the ranking. Table 3.2 provides this information

Rank	Country	Citizen-initiated constitutional amendment	Threshold of signatures
1	Switzerland	Important	100,000 (2%)
2	Liechtenstein	Important	1,500 (8%)
3	Uruguay	Important	10%
4	Palau	Marginal	25%
5	Micronesia	Marginal	10%

Table 3.1: Best practices in citizen-initiated constitutional amendments

## 3.2 Direct democracy institutions over non constitutional matters

In what follows, we focus on direct democracy institutions targeting non constitutional matters. We start with citizen veto right over ordinary law proposal (rejective referendums) and then discuss initiative rights (through legislative citizen initiative).

### Rejective referendums

Rejective referendums allow citizens to repeal (or abrogate) an act of parliament. **Citizens do not have the right to initiate legislation but can veto it.** Rejective referendums can either be used to abrogate a law already in force or suspend the adoption of a newly passed law. In what follows, we refer to abrogative referendums in the first case and to suspensive ones in the second. Nine countries open the possibility to repeal a national law to their citizens. In countries where an accessible citizen-initiated constitutional amendment is available (Switzerland, Liechtenstein, Uruguay) a specific procedure for repealing a law is also available. **The landmark cases of abrogative referendums are those of Italy and Uruguay, respectively introduced in 1946 and 1966.**

In Italy, the introduction of direct democratic institutions belongs to a larger package of measures taken after Mussolini's fascist rule to protect the newly reborn democracy. Direct law making by citizens is however limited. Italians can't engage in constitutional law making, nor abrogate laws related to taxation, budgetary processes, amnesty, commutation or remission of sentences and the ratification of international treaties. Taken together, these are significant restrictions. Moreover, since only ordinary laws can be repealed, they can get back to the agenda through parliamentary channels even when abrogated by citizens. Although the Italian Constitutional Court ruled in 1997 that enacting a law previously abrogated by referendum was not allowed, it is still possible to integrate elements of the abrogated law in other legal texts. Regarding its modalities, the threshold of signatures required in the Italian abrogative referendum is 500,000 voters, which in 1946 represented almost 2% of the electorate and today accounts for 1%. While the threshold for signatures is very low, it is associated to a high "participation quorum", requiring that 50% of the electorate takes part in the vote. The first referendums were held in the 1970s, after a law detailing the procedure to be used was passed in 1970.

While the first referendum was - on the wave of enthusiasm and scarcity - easily achieved the required quorum, the Italian participation quorum proved particularly demanding as the years went by. Referendum practices however increased in the 1990s and 2000s, a trend continuing today. This has reduced their exceptional character and, therefore, the motivation to cast a ballot. Moreover, while Italians went voting regardless of their position until the early 1990s, the situation gradually evolved leading those opposing the proposal to avoid voting in order to reduce the likelihood of achieving the quorum. For the same reason, political parties supporting the "no" vote did not engage in campaigning about the issue to be voted upon. Until now, the key challenge for the "yes" supporters has been to meet the participation quorum, since the percentage of "yes" votes regularly reaches 90%. This quorum, therefore, has not only reduced participation, by invalidating most of referendums, but has also negatively affected the quality of public debates on the issues put to a vote. In addition, it should be noted that non-constitutional referendums are subject to numerous constitutionality checks and are likely to be restricted in several ways. As a result, out of 100 referendums proposed, one third have been cancelled due to formal flaws.

The Italian abrogative referendum is therefore characterized by a low signature threshold, a demanding participation quorum, and a series of issues excluded from citizen's grasp, the most important of which being budgetary matters and international issues. It has nonetheless served as a model for Italy's neighboring countries such as Albania, Malta, San Marino and Slovenia. In Albania, a similar design was introduced in 1998 but with a relaxed quorum, which is no longer a turnout quorum, but an approval quorum, according to which the number of favorable votes must be at least equal to one third of the electorate. This type of quorum partly avoids the perverse effect on public deliberation and turnout observed in the case of participation quorums. Despite this slight improvement, Albania did not experience, at the time of writing these pages, a single referendum. The last time Albanians voted in a referendum was in 1998 to validate the Constitution that introduced the possibility for citizens to abrogate a law. Malta introduced the "Italian" model in its Constitution in 1964, with the same restrictions and type of quorum. Nevertheless, the Maltese rejective referendum has a higher threshold of signatures requiring 10% of the electorate - which corresponds to 35,000 voters - for a citizen proposal to be put to a referendum.

To date, only two rejective referendums have been held in the country. San Marino has also introduced a scheme similar to the Italian one, albeit with improvements. The quorum has been abolished and citizens have also been granted the possibility to proposal an ordinary law, provided an approval quorum is met. 22 referendums have been held since 1982. Finally, an abrogative citizen-initiated referendum has been introduced in Slovenia in 1991, with a less stringent participation quorum, set at 20% of registered voters. Since the first referendum of 1996, sixteen referendums have been held in the country.

The similarities between what can be labelled as a “Southern European model” of rejective referendum are striking. First, they all limit citizen power on some specific policy fields - the most common limitations being on fiscal and international issues -, only give abrogative power to citizens (except in San Marino) and have low signature thresholds (to the exception of Malta). It should be noted that almost all of the studied countries, although inspired by the Italian model, have nevertheless changed the quorum formula either by lowering it, abolishing it or changing its nature. The negative effects of the Italian quorum were already known by then. Yet, as we shall see, this type of quorum is still widely used throughout the world. Only two other countries in Europe have an older and different rejective referendums that are not abrogative, but suspensive. The Latvian rejective referendum has high signature threshold (10% in 10 days). Beyond that, it has many restrictions and a heavy participation quorum (the turnout must be at least equal to that of the last parliamentary elections). In contrast, in Switzerland the threshold is very low (50,000 that is 1% in 3 months), there are almost no restrictions, and a simple majority is enough to repeal a law.

Beyond Europe, another country, Uruguay, has served as a precursor in Latin America. Although the restrictions are similar to those in Europe (mainly on taxation and foreign policy), the procedure citizens should follow to abrogate a law differs. The signatures are collected in a very singular way, following a two-staged process. First, a petition must gather the support of 2% of the electorate (0.5% priori to 2000). If the petition is validated, the State proceeds to a pre-referendum to make the petition known by the largest possible number of citizens. If in this process, 25% of the registered citizens call for referendum, the referendum is launched. Also, a simple majority is enough to validate the outcome of the referendum. The consequence of the pre-referendum practice is that very few rejective referendums have been launched in Uruguay (5) but most of them (3) all ended up being approved.

The Uruguayan model has not really been transferred to other neighboring countries, although Colombia and Venezuela have drawn inspiration from it. The same fiscal and international policy restrictions apply. In both cases, a signature threshold of 10% is required. In the case of Venezuela, 5% of the electorate can also initiate the repeal of a presidential decree. But unlike in Uruguay, participation quorums have been introduced. In Colombia, voter turnout must be at least 25% and in Venezuela 40%. In both cases, no abrogative initiative has taken place to date, for the same reasons as those cited in the previous paragraph. In particular, in Colombia, there is no law specifying who is in charge of verifying the validity of signatures and of organizing a referendum after their collection. From then on, the constitutional article has remained a dead letter.

This overview allows to draw several conclusions. **Switzerland remains the only country where the signature threshold is very low, no quorum is required and any type of law (including international treaty) can be repealed, except for constitutional laws for which another procedure is in place (mandatory referendum). All the other country models are characterized by significant restrictions**, particularly on budgetary, fiscal and international issues.

Rank	Country	Rejective referendum	Threshold of signatures
1	Switzerland	Very accessible	50,000 (1%)
2	Liechtenstein	Accessible	1,000 (8%)
3	Uruguay	Accessible	1%, then 25%
4	Slovenia	Accessible	40,000 (2%)
5	Italy	Accessible	1%

Table 3.1: Best practices in rejective referendums

### Legislative citizen initiatives

In Liechtenstein, where citizens can initiate a constitutional amendment, they can also propose ordinary laws. When offered these two options, voters however predominantly opt for the constitutional route, probably to protect the outcome of their decision from possible amendments by their representatives. As mentioned earlier, the reason for such a decision is that citizen-initiated constitutional amendment does not allow representatives to modify the Constitution without calling for a popular vote. As a result, although the initiative of constitutional changes is competitive, only citizens hold a veto right over the proposals.

The following section exclusively focuses on legislative citizen initiatives aiming at proposing ordinary (as opposed to constitutional) legislation.

Countries providing for such procedures, but not for a possibility of citizen-initiated constitutional amendments, are always characterized by the presence of constitutional clauses that explicitly specify which issues are beyond citizens' reach. Legislative citizen initiatives are a defining feature of many former USSR countries (such as Belarus, Georgia, Kyrgyzstan, Russia, Ukraine) as well as of five former communist countries of Eastern Europe (Bulgaria, Hungary, Macedonia, Serbia and Slovakia). In almost all of these countries, three main restrictions are mentioned in the constitution:

- 1) on fiscal or budgetary matters (except Georgia);
- 2) to alter / ratify international treaties and on certain foreign policy issues and
- 3) on issues affecting the structure and organizing of public authorities particularly concerning the roles and responsibilities of elected representatives and civil servants, and the question of amnesties.

Regarding their modalities, all of them required an absolute number of signatures for a referendum to be organized. Thresholds however vary. The lowest thresholds – representing around 1.5 to 2 % of the electorate – can be found in Hungary, Russia and Serbia. Note, however, that in Russia the threshold is quite difficult to reach, since two million signatures are needed, distributed across the different regions of the federation. A similar constraint exists in Belarus and Ukraine. The highest signature thresholds are around 10% of the electorate and are found in Kyrgyzstan and Ukraine. Despite these relatively low thresholds on average, not a single referendum has been held in former USSR countries as well as in Serbia and Macedonia at the time of writing these pages. Irrespective of the thresholds, these countries are experiencing a rather bumpy democratization process and a low level of protection for civil and political rights. As a result, the only referendums held have been organized on the initiative of the President. On the other hand, in Eastern Europe, Hungary has experienced 6 legislative CIRs, Bulgaria 5, while 13 have been organized in Slovakia despite of a relatively high signature threshold (just under 8% of voters are required) in the latter country. This suggests that high thresholds are easier to reach in small countries where the population is often more concentrated.

When it comes to the criteria determining the validity of a referendum, almost all countries foresee a participation quorum similar to the Italian one, which requires that 50% of registered voters go to the ballot. A notable exception is Bulgaria, where the turnout must be at least as high as in the last parliamentary election and, in any case, not lower than 20% of all registered voters. It should be noted that this type of quorum may induce voters to abstain from voting in parliamentary elections in order to have an easier grip on the validation of referendums during the term of office. This quorum has led to the cancelling of the five legislative citizen initiatives that the country has experienced, even though the proposals were supported by a large majority of voters. Ironically, in 2016, more than 50% of Bulgarian voters cast their vote in a referendum on the introduction of compulsory voting – a reform likely to mitigate the negative impact of the quorum). While 63% of voters were in favor of the proposal, the number of voters was slightly lower than in the 2014 parliamentary election, and the result was rejected. In Hungary, despite a quorum of 50%, three legislative citizen initiatives out of six were approved. Finally, in Slovakia, the Italian participation quorum has been lethal for all legislative citizen initiatives held in the country, although voters largely supported the proposal. Only the government plebiscite on EU membership has ever been able to reach this threshold. Overall, out of the 24 legislative citizen initiatives held in these countries, 18 have been invalidated because of the quorum.

Similar configurations have emerged in Latin America, with the introduction of legislative citizen initiative in Costa Rica, Ecuador, Mexico and Peru. Here again, the restrictions are mainly related to fiscal and budgetary issues. The political and administrative structure of the country, individual rights and existing international treaties are also sometimes mentioned as out of the citizens' reach. Signature thresholds are quite low, ranging from 2% in Mexico to 10% in Peru. Also, apart from Ecuador, quorums exist but remain accessible with a 30% and 40% participation quorum respectively in Costa Rica and Mexico as well as a 30% approval quorum in Peru. However, and despite a significant increase in the number of referendums held since the 1990s, almost all of them are initiated by the presidents of these countries. One referendum has been held on the initiative of citizens in Peru, a paradoxical fact when one considers the high constraints placed on legislative citizen initiative in this country. In 2010, the trial of former President Fujimori was in full swing.

Among other charges, he had illegally dissolved a public fund, FONAVI, to pay the debt. A strong social movement then mobilized to organize a referendum to return the funds to Peruvian citizens. Initially cancelled by the National Elections Commission, it was finally validated by the Constitutional Council and received two thirds of the votes cast, with a turnout of 84%. It should be noted that prior to this, several attempts to launch legislative citizen initiatives had failed following a cancellation decision from the National Elections Commission. More recently, a legislative citizen initiative was successful in Ecuador (see section 6). In short, in these countries, referendums are still largely a tool in the hands of presidents or largely unused – as in the case of Costa Rica.

Our global mapping of legislative citizen initiative ends with the last three Constitutions allowing for such direct democratic devices. In Togo and Uganda such schemes exist but have never been used. This lack of appeal is explained by the fact that no legislation has been passed specifying the procedures through which citizens can propose and vote an ordinary law. In Taiwan, on the other hand, the institution has been largely used since the December 2017 reform that lowered the signature threshold from 5% to 1.5%, leading 10 proposals to be put to a referendum in 2018. It should be noted that a 25% approval quorum is required to validate the results of the popular vote. This quorum has not proved particularly demanding as, out of the referendums held since then, none were invalidated on such grounds. Nevertheless, the mechanism remains only legislative, and restrictions of the Taiwanese legislative citizen initiative exist on fiscal and budgetary matters.

This overview shows that current legislative citizen initiative institutions tend to suffer from fundamental flaws. **Because between high signature thresholds, inaccessible quorums and limitations in policy fields, few legislative citizen initiatives succeed in being launched and a handful of proposals are validated when they obtain the support of a large majority of voters.**

Rank	Country	Legislative citizen initiative	Threshold of signatures
1	Liechtenstein	Accessible	1,000 (8%)
2	Slovenia	Accessible	40,000 (2%)
3	San Marino	Accessible	3%
4	Taiwan	Accessible	1,5%
5	Ecuador	Moderately accessible	1%

Table 3.1: Best practices in legislative citizen initiatives

### 3.3. Plebiscites

Section 2 introduced a distinction between plebiscites initiated by the opposition (minority plebiscites) and those initiated by incumbents (government plebiscites). In the former case, plebiscites empower opposing forces, while in the latter, it concentrates power in the hands of the executive. This crucial difference is visible in the countries that use each of these institutions.

**Minority plebiscites are developed in many countries where the rejective referendum is also allowed.** These include many of the small island states of Oceania, Southern European and Latin-American countries. Denmark is the only country we found with minority plebiscite and without rejective referendum. It is hardly used, but it can indirectly contribute to a more consensual parliamentary activity. A more common minority plebiscite is allowed by presidents in parliamentary regimes. However, they become government plebiscites when the president plays a leading role in the government, which is the case in many semi-presidential regimes such as France.

**The government plebiscite, on the other hand, is also used in authoritarian states or flawed democracies.** It is the most common form of popular vote, but also the one that gives the people the least rights – as discussed in section 6.

## 4. POPULAR VOTES IN PERSPECTIVE: RECENT TRENDS IN VOTING ACTIVITY

In 2023, the Centre for Research on Direct Democracy (C2D) and Ballotpedia have **recorded 121 referendums**, a little more than **two referendums per week**. However, these referendums were not distributed equally across countries. While popular votes occur frequently in some, well-documented countries – such as Switzerland Liechtenstein or Micronesia–, they are unknown to many others. This section puts 2023 into historical perspective by **analyzing the evolution of popular votes over time and space in the last five years**. This short timeframe provides a good sense of recent trends in a context where direct democracy institutions and practices are fast evolving (see section 6 for an overview of the developments to follow in 2024). This section hence complements other studies providing a long-term analysis of the practice referendums across the globe (Brüggemann, Gut, Serdült et al 2023) or focusing on an older sample of cases (Altman 2010, Matsusaka 2020). We start our journey into the recent history of popular votes by presenting the evolution of the number of national votes over time, followed by an analysis by country and then by institution types.

### 4.1. 2023: a bad year for popular votes?

When comparing referendum occurrence over time, **2023 does not stand out as very dynamic year for popular votes**. Figure 4.1 below shows the evolution of popular votes over the last five years and their distribution into national and subnational votes.

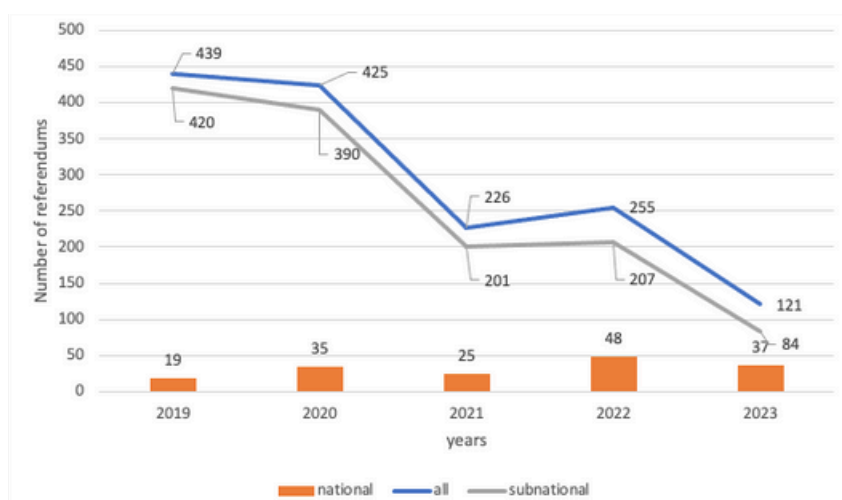


Figure 4.1 – Evolution of the number of votes (all countries, 2019-2023). Source : C2D and Ballotpedia

Two findings stand out. First, in 2023 and following two years where the pandemic halted democratic processes, **popular votes have not returned to their pre-COVID-19 level**. On the contrary, their number fell **by 72%** compared to 2019. Interestingly though, the impact of the pandemic is more marked for 2021 and 2022, while votes scheduled in 2020 were held according to the proposed schedule. This may reflect the fact that parliamentary debates and political campaigning were negatively affected by the pandemic leading to delays in the organizing of votes (for an analysis of the European case, see Egger, Magni-Berton and de Saint Phalle 2024). As discussed in the following section, some votes held in 2023 were scheduled for a long time and postponed due to the restrictions introduced by pandemic containment policies.

Second, the evolution of popular votes is mostly **driven by subnational patterns**. Subnational votes account for most of the votes yearly held. This is explained by the fact that while some countries have provisions for direct democracy at the subnational level (Germany, the United States), they don't provide for such tools at national level of government. **The evolution of national votes is more uneven than that of sub-national votes**. The strongest decrease in subnational votes is experienced between 2020 and 2021 (- 48% of votes held) while, in the case of national votes, their number nearly doubled between 2019 and 2020 (+ 84%) and between 2021 and 2022 (+ 92%). Note however, that evolution rates are boosted by the lowest number of national votes.

Figure 4.1 also hides the fact that subnational votes are not of equal importance across countries. In most instances, subnational votes are restricted to specific policy areas and more legally constrained than national ones. Important restrictions include the fact that votes can't be held on budgetary, constitutional or international matters. Notable exceptions to this rule include Switzerland and the United States where the practice of direct democracy is frequent and includes constitutional issues (although at the state level in the US).

## 4.2. Where did people vote the most over the last five years?

Quite intuitively, the geographic distribution of popular votes is very uneven.

Figure 4.2 displays the number of all referendums (hence, both national and subnational) per country for the ten countries that voted the most over the last five years. Two world leaders stand out: **Switzerland and the United States**. In the latter case however, votes are only held at the subnational level and driven by the 26 states providing for citizen initiatives and referendums (16 of them for constitutional amendments). In the former country however, votes are taking place both at the national and subnational levels. The other countries hosted a comparable and more limited number of referendums.

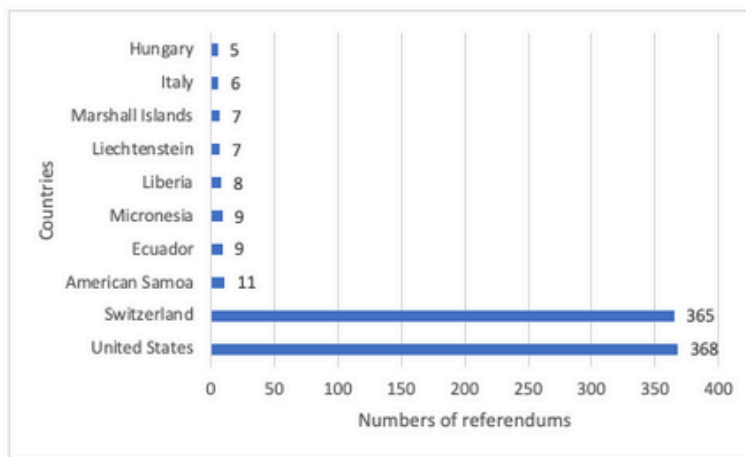


Figure 4.2: Countries recording highest number of referendums (all levels, 2019-2023)

When taking a more comprehensive look at the data provided by the C2D and excluding Switzerland and the United States as outliers, 48 countries in the world recorded at least one referendum over 2019-2023. They are displayed in Figure 4.3 below.

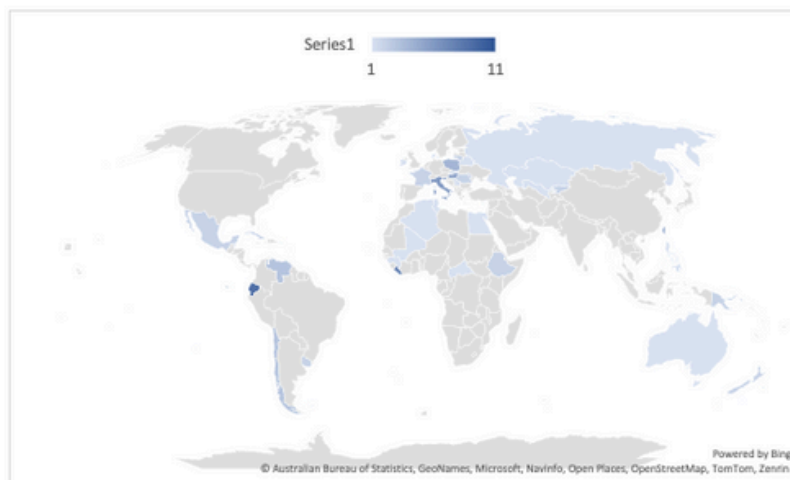


Figure 4.3 – Distribution of referendums across countries (2019-2023)

These figures could convey however a **false sense of the popularity and diffusion of referendums**. In half of the countries displayed in Figure 4.3, popular vote was held in a one-off fashion, most of the time following a plebiscitary procedure. To better reflect the importance of these votes for the daily life of citizens, Figure 4.4 displays the top 10 countries that held the highest number of national referendums over our study period. This figure shows that, to the notable exception of the US and Switzerland, **countries recording the highest number of referendums mainly hold such votes at the national level**. Yet only a handful of countries did so regularly over the last five years. The Swiss and Liechtensteiners voted on a yearly basis over 2019-2023 (four out of five years in the latter case).

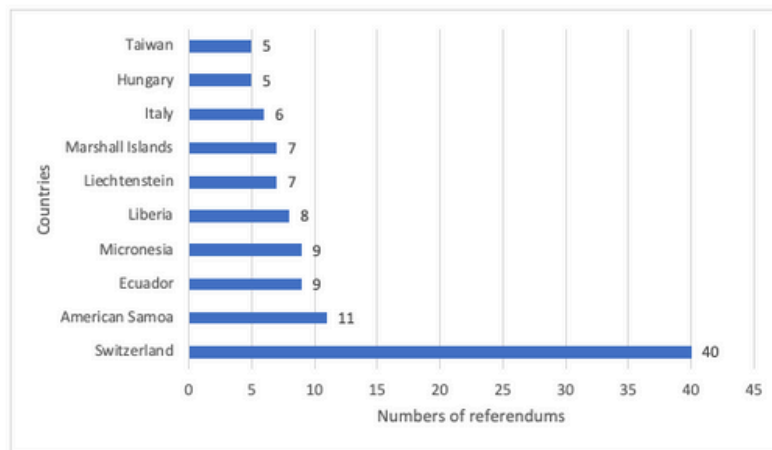


Figure 4.4: Countries with highest numbers of referendums (national level, 2019-2023)

In contrast, voters in the American Samoa, Ecuador, Liberia, Marshall Islands and Hungary voted only once but over multiple issues.

### 4.3. Direct democracy institutions activated

In this last part, we build on the typology developed in section 2 to detail the different direct democracy institutions activated in the last five years. Figure 4.5. below displays this information at the aggregated level.. Three types of institutions prevail: mandatory referendums, government plebiscite and rejective referendums. The geographical distribution of these institutions however varies a lot. Government plebiscites are recorded in 23 countries, including many non-democratic (Kazakhstan, Kyrgyzstan, Uzbekistan or Tunisia) or backsliding regimes (Hungary and Poland).

Mandatory referendums were organized in 12 countries over our study period. Ecuador, with its partly mandatory referendums could be added to this list and the votes held are detailed in the following section. In contrast, a fewer group of countries provide for rejective referendums. Most of these are recorded in Switzerland, followed by Italy and Liechtenstein. Three countries hosted the 20 citizen-initiated constitutional amendment recorded. Most of them were organized in Switzerland (including a vote on a counterproposal to a citizen initiative), followed by Liechtenstein and Lithuania.

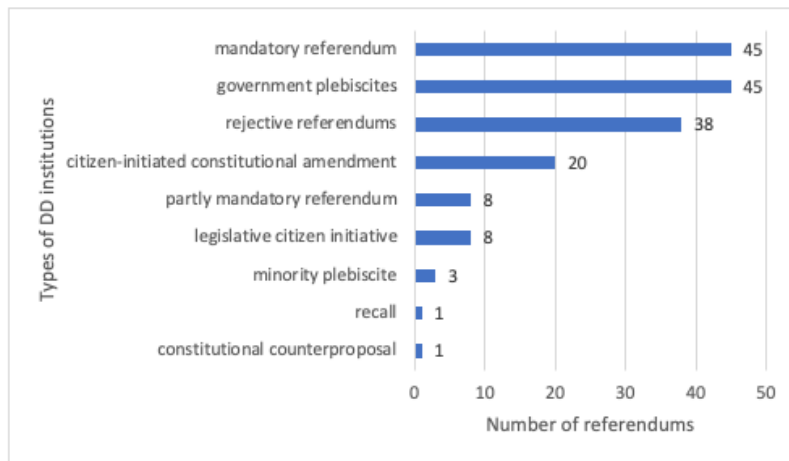


Figure 4.5: Direct democracy institutions triggered (national level, 2019-2023)

Other institutions appear to be used in a much rarer fashion. Ecuador, San Marino, Slovakia, Taiwan are the only four countries were citizen initiated a legislative proposal. A minority plebiscite was initiated in Mexico, Moldova and Venezuela. Yet, in the last case, the plebiscite was deemed illegal by the ruling authorities and is reported as such in Figure 4.5 above. Italy and San Marino experienced a constitutional rejective initiative while only one recall referendum was organized in Mexico.

Let's now zoom into how the use of such institutions varies over time. Figure 4.6 only focuses on the main institutions identified in Figure 4.5 for readability purposes. Between 2019 and 2023, both the use of mandatory referendum and plebiscites has, overall, increased in frequency. Rejective referendums follow a similar pattern between 2019 and 2022 with a steady increase. Yet, their number dropped in 2023.. When it comes to citizen-initiated constitutional amendments, 2021 stands out as a particularly dynamic year.

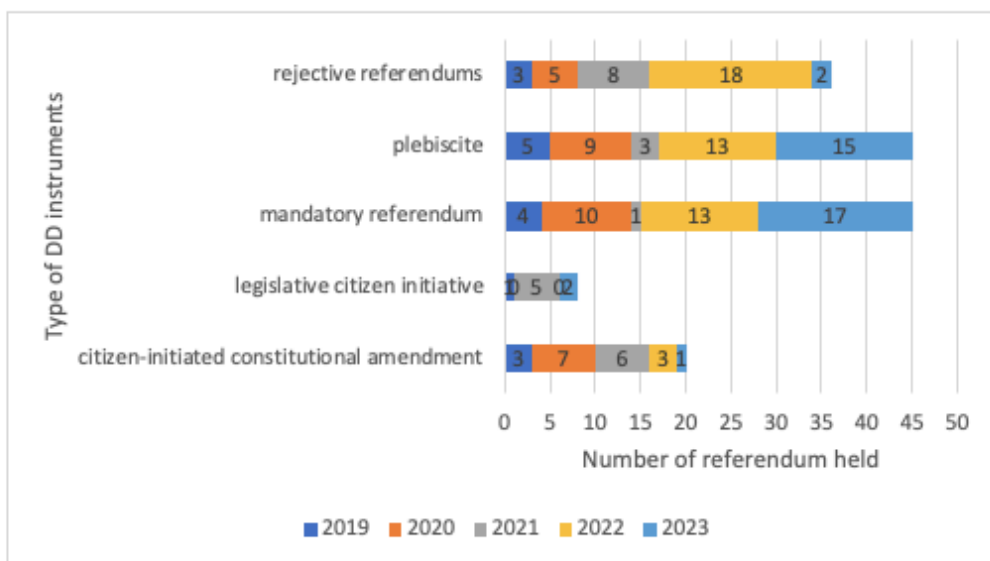


Figure 4.5: Evolution of main direct democracy institutions triggered (national level, 2019-2023)

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## 5. POPULAR VOTES IN 2023

This section zooms into the 37 votes organized in 11 countries at the national level. Figure 5.1 below displays where such votes have been held. While some countries – such as Liechtenstein, the Marshall Islands, Micronesia or Switzerland – are often used as typical cases of direct democracy institutions, in others – such as the Central African Republic, Mali or Uzbekistan – popular votes are much rarer. Note that, as discussed in the conclusion, C2D data does not record some important votes that were held in 2023, such as the Chilean constitutional referendum and the plebiscite in Venezuela.

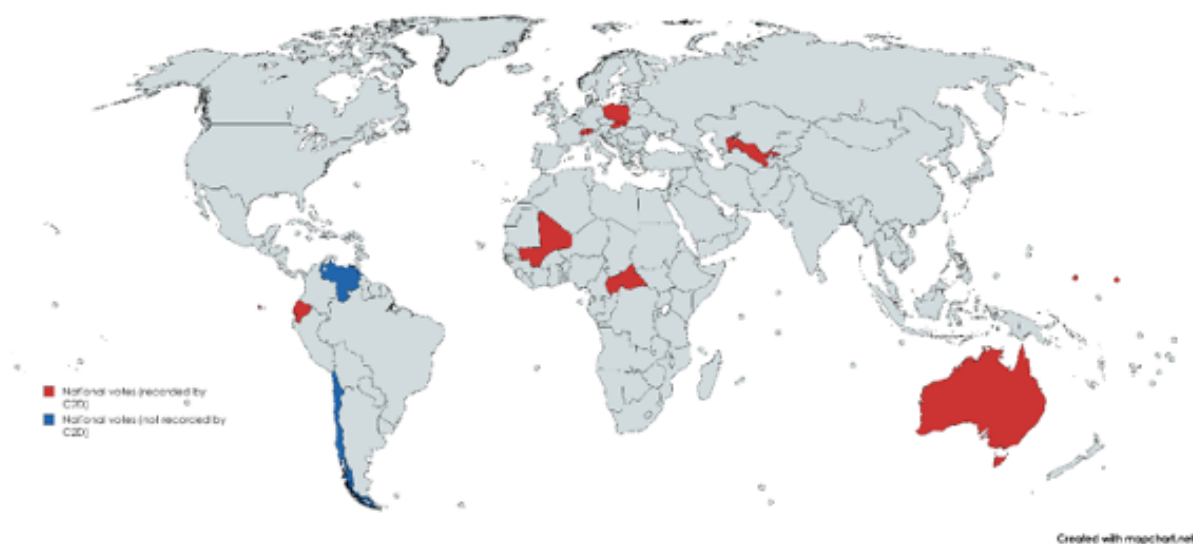


Figure 5.1: Geographical distribution of national referendums held in 2023

For each of the vote, we discuss the legal design activated and provide contextual information about the nature and stakes of the votes for the people living in these countries. As covering 37 votes would be a daunting and necessarily incomplete task, the presentation of the votes is organized along thematic and country-specific lines.

## 5.1. Legitimizing presidential power grabs with referendums: Central African Republic, Mali and Uzbekistan

In 2023, citizens from three countries installed a new constitution through a referendum: Central African Republic (hereafter: CAR), Mali and Uzbekistan. **In these three countries – characterized by low levels of democratic quality – plebiscites were initiated by the President, pursuing different strategic motives.** We group these cases together as they exemplify how plebiscites can be manipulated to legitimize autocratic decisions in non-democratic regimes.

**In Uzbekistan, the referendum held on April 30th 2023 aimed at allowing the current President of the country, Shavkat Mirziyoyev to seek a third term in 2026.** Under the Uzbek constitution, presidents face a limit of two terms of five years each. Interestingly however, the new constitutional law does not only alter the article specifying presidential term limit but introduces a much larger set of constitutional changes, including an extension of the duration of the presidential term to seven years as well as the formal recognition of a series of socio-economic rights. One of the most contentious issues surrounding the organizing of the plebiscite was the announcement that constitutional changes would include rescinding Karakalpakstan's right to vote on whether to secede. This announcement triggered protests in this semi-autonomous region that led to postponing the vote with 18 deaths reported in violent clashes with the police in the Karakalpak capital, Nukus. The new constitution retains the Karakalpakstan secession right (Euronews 2023, Putz 2023). Note that in proposing a full revision of the constitution, President Mirziyoyev followed the procedure specified in the constitution by having the referendum first validated by the National Parliament.

**Power grab was also a central motive behind the constitutional revision submitted to plebiscite by CAR's president Faustin-Archange Touadéra.** The new constitutional law scraps the two-term limit and extends the presidential mandate from five to seven years. Other changes include banning politicians with dual citizenship from running for president unless they renounce the other, changes in the composition of the constitutional court increasing the number of members

appointed by the president as well suppressing the control of the Parliament over mining contracts now falling under the exclusive competence of the President. The plebiscite was criticized by human rights organizations as well as political opposition denouncing a so-called “constitutional coup” (Booty & Akinpelu 2023). The plebiscite took place as CAR experiences a civil war opposing governmental forces to rebels from the Seleka coalitions and anti-Balaka militias. The constitutional amendment was made public on July 10th 2023, 20 days before the holding of the plebiscite. This short delay prevented opposition parties and citizens from being fully informed of the proposed changes.

**A similar pattern characterizes the constitutional plebiscite held in Mali on June 18th 2023 whose aim was to legitimize the 2021 military coup.** For a long time, the scheduling of the referendum has been uncertain with the vote being postponed several times. Although the previous constitution planned for the referendum to be initially approved by the National Assembly, the 2023 vote was organized without such an approval. The new constitution considerably expands the powers of the President and creates new regions to settle the conflict with the Tuareg communities of the North of the country. The plebiscite occurred in a context of heightened tension with the former colonial power, France and used as a way of legitimizing the decision of the President, Assimi Goïta, to expel United Nations and French troops from the country. The new constitution no longer recognizes French as one of the official languages in Mali.



Figure 5.2. Polling station in Mali (Credit: AFP)

All in all, **these cases show that the democratic value of plebiscites lies in their design and the institutional rules in which they are embedded.** Plebiscites can also serve as a way for autocratic leaders to legitimize their power grabs ambitions. In other cases – covered in the section below - constitutional referendums, especially when they are mandatory or citizen-initiated, are more difficult to instrumentalize by the political elites.

## **5.2. Voting on constitutional changes through mandatory referendums**

In 2023, the citizens in six countries voted on a series of constitutional amendments. In some cases – such as Micronesia or Switzerland -, constitutional amendments are a routine matter, and multiple referendums were held on different proposals. In others, however, they are rarer and only one proposal was put to the ballot in Australia. In these three countries, the result of the referendum is binding, and elected officials have no choice but to get the consent of their citizenry to change the national constitution. In what follows, we briefly present the design of the referendum, context as well as the outcomes of each of these votes.

### **The 2023 Australian Indigenous Voice referendum**

The **2023 Australian referendum** – held on October 14th - is the one that has attracted most attention in the past year. The proposed constitutional amendment aimed at **creating a new constitutional body - the Aboriginal and Torres Strait Islander Voice (also called The Voice) – strengthening the representation rights of the Australian Indigenous People.** The body would, according to the constitutional law, "make representations to the Parliament and the Executive Government of the Commonwealth on matters relating to Aboriginal and Torres Strait Islander peoples". The Australian mandatory referendum requires a double majority: for the amendment to be adopted, the proposal needs to be supported by a majority of Australian voters as well as a majority of the states and territories. The proposal originated from a 2017 petition to the people of Australia, written and endorsed by the Australian Aboriginal and Torres Strait Islander leaders selected as delegates to the First Nations National Constitutional Convention.

The petition – entitled Uluru Statement from the Heart - aimed at addressing the structural lack of power of Australian indigenous people through the set-up of two commissions: a constitutionally protected First Nations Voice – mimicking an institution already in place in neighboring New Zealand - and a Makarrata Commission to oversee agreement-making and truth-telling between governments and First Nations (Australian Human Rights Commission, n.d.). Then rejected by the then Liberal–National Coalition, the proposal was endorsed by the leader of the Labor Party Anthony Albanese in his victory speech of May 21st 2022. The referendum - characterized by a high turnout of close to 90% due to compulsory voting - saw the victory of the no camp with 60% of support from the voters. The pre-referendum campaign was highly polarized and heated with concerns raised about the quality of the public debate due to the spread of disinformation as well as the prevalence of racist arguments. The No-camp included a large range of far right and conservative groups as well as some progressive and indigenous movements considering that the proposal was not radical enough to produce a long-lasting change on the low level of political representation of indigenous groups in Australia. Nonetheless, regions with a high proportion of Indigenous Australians overwhelmingly voted yes in the referendum.



Figure 5.3. Prime Minister Anthony Albanese joined yes vote supporters at Sydney Opera House, August 22, 2023. Credit: Dion Georgopoulos/Sydney Morning Herald/Getty Images

## Micronesia

**The Constitution of the Federated States of Micronesia provide for a constitutional referendum to take place at least every ten years.** This can be seen as a way of ensuring that constitutional norms enjoy a high level of support and are constantly updated. **On July 4th, 2023, a package of nine reforms was put to the ballot.** Eight of these were proposed by the Constitutional Convention elected by citizens on November 4th 2019 while one originated from the Congress (Clark 2023). All amendments were supported by a majority of voters, with very ample margins. As discussed below, some constitutional amendments echo the proposals made in the Marshall Islands, especially regarding citizenship rules; legal decisions on land issues as well as strengthening the transparency of public life.

One of the most interesting amendments in the context of this report is the **reform of the supermajority requirement for mandatory referendums.** For a mandatory referendum to be valid in Micronesia, the proposal needed – before the adoption of the reform- to be supported by three-quarters of the votes in three-quarters of the states. As of 2023, the supermajority is now set at two-thirds of the votes in three-quarters of the states. This demanding requirement explains why, since 1991, not a single constitutional amendment has been adopted by voters. The decision to relax the supermajority – adopted in an historical referendum which saw all proposals adopted by the voters - is expected to make the adoption of constitutional amendments slightly easier, but the impact of the reform would need to be monitored in the coming years (see section 7).

Other institutional reforms covered in the package includes a contrary trend to the Marshall Islands with a decision to relax the constraints on accession to Micronesian citizenship. The ban on dual citizenship is, as of 2023, removed after having failed to pass in previous referendums in 2005, 2007, 2011, and 2017. While always supported by a majority of voters, this reform did not meet the high approval quorum in place. Allowing dual citizenship is an important implication of the adoption of the Compact of Free Association between Micronesia and the United States of America which has led many Micronesian-American to live in the United States and be eligible for US citizenship (Ordonio 2023). This relaxing was however coupled with more stringent rule to be eligible for office.

The adopted constitutional amendment foresees the following cumulative conditions: i. be a citizen by birth (instead of having been for at least fifteen years); ii. having had residence in the country as a whole for at least five years prior to running for office (instead of in the state they run), iii. be at least 30 years of age, and be a domiciliary of the state the person is representing (the latter of which has no time requirement, instead of for at least five years previously). Other reforms – echoing the situation in the Marshall Islands – clarify that state courts – instead of the Supreme Court – have exclusive jurisdiction over cases concerning land issues as well as establish an office of the independent prosecutor, in charge of investigating and prosecuting alleged cases of corruption by public officials. The last institutional reform increases the power of the executive vis-à-vis the legislative branch by increasing the number of parliamentary votes needed to override a presidential veto.

Beside institutional issues, amendments were adopted on economic matters, including the proposal to transfer half of the revenues from fishing licenses to states (instead of the national government) and ensuring that half of the total annual sum of the net revenue derived from seabed mining is made available to states, shall the country engage in such activities – which remain prohibited for the time being.

The last amendment proposed by the Congress includes the recognition of a right to a healthy environment in the national constitution.

## **Switzerland**

The last stop in our tour of mandatory referendum is the poster child of direct democracy, **Switzerland**. Only one mandatory referendum took place in the country in 2023, concerning the **implementation of a directive by the Organization for Economic Co-Operation and Development (OECD) / G20 on the taxation of large groups**. The proposal aimed at limiting fiscal competition between high-income countries by implementing a 15% minimum profit tax on large groups. Large groups are defined by groups declaring an annual turnover of more than €750 million. The vote was made necessary by the fact that the new tax would require the federal government to encroach on the tax sovereignty of the cantons. In particular, the new tax would

create an additional fiscal burden on 21 cantons whose corporate taxation is much lower than the 15% threshold introduced by the OECD/ G20 policy.

Nonetheless, the federal government, the parliament and canton authorities supported the introduction of the tax arguing that approx. 2000 companies will be affected (compared to the 600,000 small and medium-sized enterprises (SMEs) and that this evolution is both desirable and unavoidable, considering the negative effects of fiscal competition. The major bone of contention around the measure concerns the way this additional revenue will be distributed between the cantons and the federal government. The bill proposes that 75% of the tax revenue goes to the cantons. This led many left-wing parties to campaign against the bill, claiming that the revenue should go to federal level to avoid tax competition among cantons and ensure it is spent on projects benefiting Swiss people (Rigendinger 2023). Ultimately, Swiss voters supported the introduction of this minimum tax with an ample support of 78.5 % and a participation rate of 42,5%.

### **5.3. Ecuador, Liechtenstein, Slovakia and Switzerland: citizen-initiated referendums in 2023**

Referendums were initiated by citizens in four countries in 2023. While such practices are more routine matter in Liechtenstein, they are more exceptional in Ecuador and Slovakia.

Ecuadorians voted on no less than nine proposals in 2023, eight of those being plebiscites (see part 5.4 below) on a series of presidential reforms aiming to consolidate the power of the Executive faced with a tense socio-political context. Some of these tensions crystalized around indigenous communities' rights in the Amazon and **a project of oil extraction in the Yasuní National Park.**

**The referendum was initiated at the request of members of the indigenous community, the Waorani of Pastaza, supported by the environmental coalition Yasunidos after a decade of legal struggles.** Extraction started in block 43 of Tiputini and Tambococha 2016 after the government of then-Ecuadoran president Rafael Correa failed to persuade the international community to pay former OPEC member Ecuador US\$3.6 billion not to exploit the ITT block to protect the Amazon and help curb climate change.

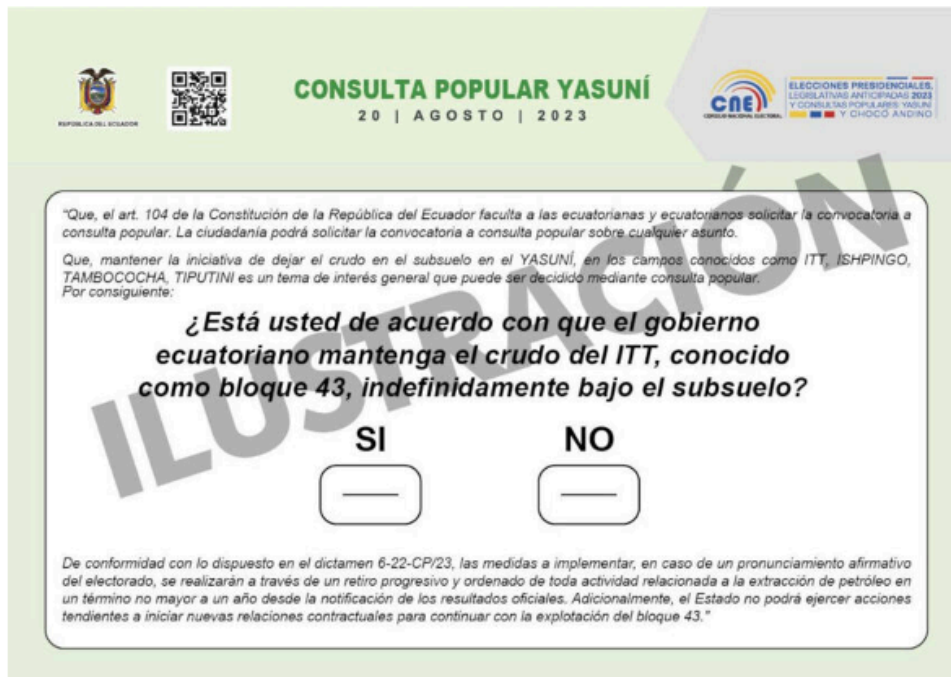


Figure 5.4. Ballot used in 2023 Yasuní oil extraction referendum

Since then, indigenous groups living in the area have called for a referendum on oil extraction that the Ecuadorian constitutional court finally approved in May 2023. The referendum divided the Waorani community with many of its members acknowledging the contribution of the oil industry to employment and the provision of social services in the region. 54.11% of the voters approved a ban on oil extraction in the region. The Ecuadorian government is required to halt the operations and dismantle infrastructure within one year, as well as carry out remediation and reforestation (Collins 2023). The outcome was interpreted as a serious blow against the President Lasso.

**Similar political tensions characterized the situation in Slovakia.** On January 21st, 2023, Slovaks were called to the ballot to allow the National Council of the Slovak Republic or citizens (through a referendum) to organize snap elections. The Slovak constitution allow snap elections if a the referendum fulfill participation quorum and majority requirements. The referendum was initiated by three opposition parties - Slovak Social Democracy (SMER), Voice – Social Democracy (HLAS), the Slovak National Party (SNS), and Socialisti.sk - already at the beginning of 2021 following the victory of the anti-corruption party - Ordinary People and Independent Personalities (OĽaNO) party – in the 2020 parliamentary elections. OĽaNO’s leader, Igor Matovič, headed a coalition government with We Are Family (SR), Freedom and Solidarity (SaS), and For the People (ZL).

The management of the Covid-19 pandemic attracted a lot of criticisms following Matovič's decision to purchase Sputnik V Covid-19 vaccines without the approval of his coalition partners. He was then forced to step down as prime minister and replaced by Eduard Heger. The coalition however collapsed in September 2022 when SaS decided to withdraw his support to the government due to diverging views on economic matters. Political tensions culminated with a no-confidence motion that Heger's government successfully passed in December 2022. The initial request for a referendum was deemed unconstitutional by the Slovak constitutional court as the proposed referendum would amend the constitution. A new collection of signatures was organized in August 2022. This time, the petitioners proposed two projects, one that would ask for the National Council to call a snap election and the other that would ask for the resignation of Heger's government. The second project was deemed unconstitutional by the Slovak Constitutional Court whereas the first was approved by Slovak President Čaputová. While the proposal received a large support in the poll – with 98.44% of the voters approving the possibility of snap elections –, the 50% participation quorum required for a referendum to be validated was not met. As a result, the outcome of the referendum was declared invalid as only 27% of the electorate turned out to vote. Nonetheless, a few days after the referendum, the National Council amended the constitution to allow for snap elections if approved by a three-fifths majority in the council.

**Swiss citizens voted on climate-related issues on June 18th 2023 in a facultative referendum on the Federal Act on Climate Protection Targets, Innovation and Strengthening Energy Security.** The new climate law aimed at cut net greenhouse gas emissions to zero by 2050 in the context of the Paris Agreement. The bill proposed to scale down the use of fossil fuels in Switzerland and to reduce its dependency on energy imports. Proposed measures include energy consumption reduction targets as well as supporting companies that shift to climate-friendly technologies. The bill is an indirect counterproposal to the Glacier Initiative launched in 2019. Unlike that initiative, the proposed bill does not aim to ban fossil fuels such as petrol, diesel, heating oil and gas. The supporters of the initiative conditionally retracted their proposal, considering that the counterproposal is an important step to make substantial progress in climate policies.

While the Federal Act on Climate Protection Targets, Innovation and Strengthening Energy Security received the support of political parties across the board, the right-wing Swiss People's Party – the largest party at the national level – did not agree with the new climate law and successfully launched a referendum. The arguments against the new bill – called an “electricity guzzler” – included the negative impacts of the proposed measures on the household bills in the midst of an energy crisis (Jorio 2023). Swiss voters however rejected these arguments and approved the bill by 59% (with a participation rate of 42,5%), paving the way for the energy transition in the country. Support for the Act particularly skyrocketed in large cities.

**Another crisis – the COVID-19 – was put to the ballot in Switzerland.** With their Liechtensteiner neighbors, Swiss citizens were the not only the rare ones able to vote on their national pandemic containment strategy but did so three times over a few years. In 2023, an amendment of 16 December 2022 to the Covid 19 Act was put to the ballot by the “Mesures NON” collective gathering two main associations opposed to Covid-19 measures, Mass-Voll and Amis de la Constitution. These organizations also initiated the other votes on Covid-19 measures. The amendment aimed at extending until mid-2024 the period of application for the legal provisions on certain measures such as COVID certificates, the imports of medicines for severe COVID-19 related diseases, the rules governing foreigners and cross-border employees during border closures, regulations protecting vulnerable individuals. The petitioners considered the measures to be useless as the pandemic is official over. They also criticized the disproportionated, discriminatory and undemocratic nature of the provisions. The supporters of the law, among which the government and the parliament, deemed the extension of the Covid-19 law necessary to provide the Confederation with a legal basis for resurrecting tried-and-tested measures in the event of a new wave of the pandemic. The amendment would in their view enable the authorities to act quickly to protect vulnerable people and the healthcare system (Romy 2023). As with the two other referendums, Swiss voters approved the proposed Covid-19 legislation with 61.9% supporting it (at a participation rate of 42.5 %).

**In Liechtenstein, the referendum was initiated by the citizen group - IG VolksMeinung – who expressed concerns about gambling addiction and the impact of the increased implementation of casinos in the country** – after their authorization in 2010 – on the reputation of the country. Both the Prince and the governments advocated against such a ban, being wary about the negative impacts the decision – which would lead to the ban of all casinos by 2028 - could have on the economy of the country. After a heated and polarized campaign, 73% of the voters voted against such a ban.

Overall, the comparative analysis of citizen-initiated referendums in 2023 reveals that the use of direct democracy is determined by its institutional design. In Slovakia, direct democracy tools are captured by party politics, as reflected by the low interest of citizens in the decisions put to the ballot. In Ecuador, Liechtenstein and Switzerland, referendums held in 2023 appear as a central role to debate governmental policies.

## **5.4. Plebiscites in Ecuador and Poland**

Our global tour of the popular votes held in 2023 ends with Ecuador and Poland, two countries which respectively hosted eight and four plebiscites in 2023.

### **Voting on a package of eight constitutional reforms in Ecuador**

**On 5 February 2023, Ecuadorian citizens were called to the ballot to approve a package of eight constitutional reforms.** The plebiscite took place alongside local elections. The proposals were crafted by President Guillermo Lasso on a heated socio-political context. Lasso's party – CREO for *Creando Oportunidades* (Creating Opportunities) did not secure a majority in the Parliament leading to the formation of a minority government and an inability to secure parliamentary support for many of its proposed reforms. Moreover, the government had to face a protest movement from indigenous groups against poverty, mining activities and expropriation in their ancestral lands. These groups managed to get the support of one percent of the electorate and of the National Electoral Council to organize a citizen-initiated referendum in the Yasuní National Park (see section below). The eight referendum questions focused on a series of judicial, institutional and environmental issues (EFE 2022).

Regarding judicial matters, the first constitutional proposal – also the most controversial – aimed at allowing the extradition of individuals demanded by other countries for the crimes related to international organized crime, including drug trafficking, arms trafficking, human trafficking and migrant smuggling in a context of increased violence. The second proposal aimed at transferring some of the competences of the Judicial Council on matters related to the appointment, training and evaluation of prosecutors to the Attorney General, supported by a fiscal council.

Institutional reforms mostly aimed at limiting the number of checks and balances in Ecuador in a declared attempt to limit the instability of the political system. It included a third proposal aiming at capping the number of seats of the National Assembly to 100 (against 137), a fourth proposal conditioning the possibility for a political party to take part in the elections to having as registered members at least 1,5% of the total number of registered voters in districts where it intends to compete. A fifth and sixth proposal focuses on the reform of the Council for Citizen Participation and Social Control, created in 2008 to strengthen the transparency of the public life in Ecuador. Proposals include (1) changing the mode of appointment of members of the Council from direct elections to indirect suffrage held by National Assembly members and (2) transferring the nomination powers of the Council for Citizen Participation and Social Control to the National Assembly with the development of a new framework of public policies guaranteeing citizen participation, meritocracy and citizen control. Third, environmental reforms included the creation of a water protection agency within the National System of Protected Areas in Ecuador as well as compensating individuals, communities, and indigenous peoples for environmental damages.

Although opinion polls consistently predicted a large level of supports for all constitutional proposals with ample margins, voters largely mobilized to the polling station (with a turnout of 81,7 %) to reject all proposals (Financial Times, 2023). The declaration of results sparked a controversy about the possibility of electoral fraud, after the electoral authority claims a lot of counterfeit ballots were submitted with "no".

### **Plebiscites as a support to party politics in Poland**

In Poland, plebiscites do not grant additional power to citizens but are a tool in the hands of the Executive to legitimize its policies and engage in party politics.

The framing of the questions submitted to Polish citizens by the ruling right-wing party, Law and Justice, reflects a caricatural use of referendums.

Two questions were particularly loaded and aimed at leading citizens to reject the proposed policies, connected with the implementation of European Union rules at the national level. A first question concerns the privatization of state-owned enterprises ("Do you support the selling off of state assets to foreign entities, leading to the loss of Poles' control over strategic sectors of the economy?") while a second relates to migration policies ("Do you support the admission of thousands of illegal immigrants from the Middle East and Africa, in accordance with the forced relocation mechanism imposed by the European bureaucracy?"). The two other questions concern the reform of the retirement age ("Do you support an increase in the retirement age, including the restoration of the increased retirement age to 67 for men and women?") as well as the border between Poland and Belarus ("Do you support the removal of the barrier on the border between Poland and Belarus?"). Beside the framing of the question, the organizing of the referendum was flawed, leading to its boycott by opposition parties. More especially, the law had been changed shortly before the announcement of the referendum to allow it to be held on the same day as the parliamentary election. This has been criticized as a way of skirting past electoral campaign budget limits by the incumbent Law and Justice party under the false pretense of referendum funding (Tilles 2023). Polish voters read clearly the strategic and manipulative motives of the ruling party and echoed calls to boycott of the plebiscite. While 70% of the electorate turn out to parliamentary elections, only 40% did cast a vote in the proposed referendum. As a result of not exceeding the minimum validity threshold of 50% turnout, the results are not legally binding.

## **5.5. Other prominent votes in 2023: Chile and Venezuela**

Some prominent plebiscites that were held in 2023 are however not recorded in the C2D database. In concluding this section, we highlight the outcomes of two of them. **In Chile, the constituent process which started in October 2020 after- 2019 large-scale protests still hasn't allowed the adoption of a new constitution.**

Two referendums have so far taken place. The first, held on 4 September 2022, led to the rejection of a new constitution drafted by a constituent assembly including citizens from various social backgrounds as well as elected officials. This first draft introduced a fundamental revision of Chile's constitutional principles following a maximalist approach recognizing a large number of new rights – such as the right to health, to education, to social welfare and the much-commented right to abortion. The draft text was one of the longest in the world, with 387 articles divided into 11 chapters. While the constituent process did not foresee any contingency plan shall the constitution be rejected, a committee of experts was appointed in ad hoc manner to draft a new proposal. The agreement reached in December 2022 stated 50 directly-elected constitutional advisors will draft the constitution based on a preliminary draft prepared by a commission of 24 experts appointed by Congress. Additionally, a 14-member body appointed by Congress will ensure that the proposed text aligns with the 12 institutional and fundamental principles outlined in the agreement. The proposal more conservative than the first one was put to a popular vote on 17 December 2023. 55.76% of the voters rejected the new Constitution that did not receive the support of the progressive segments of Chilean society. The turnout was just under 85%. The future of Chile's constitutional revision process is more uncertain than ever, with President Boric stating that he would not seek a third plebiscite or constitutional convention.

Citizens from another Latin American country went to the polls in December 2023. **In Venezuela, President Maduro organized a consultative plebiscite on Guayana Esequiba, a territory disputed with, and controlled by, neighboring Guyana.** In a similar vein than what happened in Poland, the four questions submitted to citizens were framed in a very loaded and manipulative manner and contributed to fuel the tensions with Guyana, leading Brazil to strengthen its military presence at the border. According to Venezuelan authorities, 95% of the voters supported Venezuela's stance on the dispute. Yet, critics claim that the government may have falsified the results in the context of a relatively low turnout (51%).

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## 6. LATEST SCIENTIFIC EVIDENCE ON DIRECT DEMOCRACY PUBLISHED IN ENGLISH

Following the development of direct democracy institutions around the world, **scholarly research has increasingly been concerned about assessing their impacts on policies, politics and citizens.** Traditionally, empirical research has focused on two countries: Switzerland and the United States. In Switzerland, direct democracy is implemented not only at the federal level, but also at the cantonal and municipal levels, so there is a wealth of information on how it works. Moreover, as the legal design of direct democracy institutions varies from one canton to the next, this set up allows evaluating how different procedures shape how citizen rights affect politics and society. The recent **Oxford Handbook of Swiss Politics (Emmenegger, Fossati, Häusermann et al 2023) documents the impact of direct democracy in that country.** The United States is not covered in this report because it does not have direct democracy at the federal level. Yet, it also allows such a quasi-experimental investigation as 18 states provide for citizen-initiated constitutional amendments while they are directly submitted to a referendum in 16 of them. In four states (California, Colorado, North Dakota, and Oregon), constitutional initiatives are particularly accessible, with citizens voting on citizen initiatives almost every year. In existing scholarship, these two cases are still predominant, although recent studies on direct democracy has been extended to other countries, either at the local level (especially in Germany) or at the national level. By presenting what has been published in English in 2023, this report aims to **update our knowledge on direct democracy and analyze which are the most important debates and the most discussed cases.** The following section is structured around the key themes addressed.

### 6.1. Direct democracy and politics

The first issue addressed concerns the **financing of direct democracy campaigns**, which is particularly salient in the United States. A signature campaign has become more and more expensive, so much so that it is likely to transform direct democracy into a tool in the hands of interest groups. In particular, Keith Osentoski (2023) shows that in California in 2020, special interests spent more than \$785 million on 12 ballot measures.

Of these, Proposition 22 became the most expensive initiative in California history, costing more than \$224 million. The influence of special interest groups in promoting citizen initiatives is clear. They are better organized and can spend more than ordinary people, so their influence on initiatives is greater. This undeniable fact raises the question of the influence of business interests on politics in direct democracy, as also discussed by Kate Andrias (2023). However, by analyzing state level initiatives in the United States from 1904 to 2021, Matsusaka (2023) shows that anti-business initiatives were more common than pro-business initiatives. Further analysis of recent California ballot measures (which reach high spending levels) also shows that business groups oppose initiatives more often than they support them and benefit more from failed initiatives than from successful ones. This effect is less true when ballot measures are proposed by the legislature.

Second, recent studies investigated the **role of political parties in direct democracy**. Since parties are less powerful, we might expect them to be less attractive. However, citizens are more empowered and might be more interested in engaging in partisan activities. Wen-Chun Chang (2023) provides evidence for the second explanation. This evidence is complemented by analyses of the role of political parties in direct democracy. Antia and Vairo (2023) study how direct democracy is used by or against political parties in Uruguay. They find that under center-right governments, initiatives are likely to be promoted by social organizations and target economic issues, while when the left governs, initiatives come from opposing parties or individual politicians on socio-cultural issues. Also, the probability of winning the referendum largely depends on the popularity of the incumbent and his opposition. This confirms that direct democracy is a tool that reinforces the power of non-ruling parties.

The third issue concerns the impact of direct democracy on **checks and balances**. Two contrasting views can be summarized as follows: either direct democracy reduces the role of countervailing powers - such as local governments, the judiciary or the administration - by increasing popular control over them, or, on the contrary, direct democracy reduces the influence of the government on countervailing institutions, thereby increasing their independence. Indeed, a large literature has already documented that citizen initiatives, especially in the United States, are sometimes not implemented by legislators or judges, thus demonstrating their independence.

Quinn Yeargain (2023) argues that voters in American states have agreed to an implicit trade: their power to elect regulators for a new power to propose their own laws and constitutional amendments. As part of this trade, however, many state legislatures have sought to impose new restrictions on the initiative and referendum process, and at the same time, the strict application of subject matter restrictions, such as single-subject requirements, by state courts has disproportionately targeted administrative reforms. To better understand the circumstances under which state governments limit the impact of citizen initiatives, Kathleen Ferraiolo (2023) systematically examines legislative attempts to amend or repeal ballot measures between 2010 and 2018 in all initiative states in two areas. Interestingly, she finds that three factors increase the likelihood of legislative interference: (1) looser rules governing legislative behavior after passage, (2) narrower vote margins, and the (3) abundance of prior legislation. With respect to local governments, Matthew Uttermark (2023) examines nearly a thousand citizen initiatives in the United States and finds neither centralizing nor decentralizing trends, while looking at votes in referenda, centralizing initiatives are on average more supported. More broadly, Jelle But (2023) and his colleagues analyze the relationship between the Democracy Index score developed by the Economist Intelligence Unit, which captures the quality of a liberal democracy, and the existence of (legislative or constitutional) citizens' initiative and veto rights. They find a significant and positive statistical relationship. However, this result does not hold for the sample of EU countries studied.

## 6.2 Direct democracy and public policy

Another set of issues addressed by studies published in 2023 concern the impact of direct democracy on **public policy and economic performance**. Recently, much attention has been paid to equality by Brigitte Geißel and her colleagues. While Madison believed that direct democracy gave the poor too much power over the rich (translated into over-redistributive policies), more recent literature has shown that the results of referendums tend to be conservative, or at least not particularly redistributive. Based on European referendums, Geißel et al. (2023) do not detect any specific trend in this regard.

When the attention is shifted towards Global South countries and Oceania, Anna Krämling and her colleagues (2023) find that there are more pro-equality referendums and that these pro-equality referendums are more likely to be approved by citizens than anti-equality referendums. Beyond the way people vote, referendums themselves can affect the economy. Their outcomes are hard to predict, and could increase uncertainty, but on the other hand they create stable norms that are not easily changed. Bruce Morley (2023) assesses the evolution of the Swiss/US exchange rate from 2004 to 2021 and the way in which the Swiss federal referendum affected it. The analysis provides evidence of a positive effect of the referendum on market returns and a negative effect on volatility, confirming that direct democracy has a positive impact on the economy.

### **6.3. Direct democracy and citizen attitudes**

The **popularity of direct democracy** has triggered scholarly interest in 2023. Support is high on average, but it can be affected by events. For example, Nils D. Steiner and Claudia Landwehr (2023) show that in Germany, supporters of European integration, especially those with high levels of political engagement, became more skeptical about the introduction of referendums after the Brexit referendum. Beyond specific events, the literature analyzes individual correlates of this support and the links between support for direct democracy and populism. Manès Weisskircher (2023) finds that, especially after Brexit, the right-wing populist party Alternative for Germany became the only political party to increase its support for direct democracy. Broadly speaking, two factors compete to explain such a support: (1) it is either considered as a reaction to mistrust in democracy or (2) it is a consequence of an increased interest in politics. Pierre Philippe Balestrini's (2023) contribution argues that support for direct democracy provides some evidence in favor of the second explanation: support for direct democracy is more strongly associated with citizens' political interest than with negative evaluations of the performance of the political regime. Using representative samples of voters in Luxembourg, Belgium, and the Netherlands, Emilien Paulis and Sacha Rangoni (2023) find that support for direct democracy is associated with left-wing economic positions as well as right-wing cultural positions and radicalism. Using a more sophisticated measure, Henrik Serup Christensen and Maija Setälä (2023) use a Finnish survey to analyze support for citizens' (agenda) initiatives.

Populist attitudes are less or not at all associated with citizens' initiatives. Thus, while populist attitudes are sometimes positively associated with support for referendums, this is not the case for citizens' initiatives. On the other hand, Kathrin Ackermann and her colleagues (2023) use German survey data in contexts where direct democracy is used to show that practicing direct democracy does not make people more populist or more supportive of the political system. These findings are consistent to what is observed at party level. Gherghina and his colleagues (2023) analyze the manifestos of 38 populist parties in 21 European democracies in national elections between 2016 and 2023. They find that while referendums are often mentioned, the type of direct democratic institution supported is rarely specified and only policy-specific referendums are explicitly supported. These findings are complemented by François Debras' (2023) study, who finds that while right-wing populist parties present themselves as agents of democratic renewal, they do not promote direct democracy as a solution. This negative finding is however different in Latin America. Saskia Ruth-Lovella and Yanina Welp (2023) find that the expansion of direct democracy in this continent is more likely to occur under populist presidents and that this association is conditioned by the degree of presidential approval.

**A classic question is still very much alive in 2023: do voters vote correctly?** Studying referendum campaign, Fritz Sager and his colleagues (2023) show that voters tend to prefer evaluation-based information and that the use of evaluation results increases trustworthiness. However, it is not related to the emotional appeal of an argument, which has an impact on how citizens vote. A systematic analysis of voting in the canton of Geneva, led by Andreas Goldberg and Pascal Sciarini (2023), also confirm that more important issues increase participation, while more complex ballot proposals decrease it. However, they did not confirm that campaign intensity increases turnout. This finding suggests that, at the level of participation, the proposal is more relevant than the campaign in deciding how to vote. However, complexity could be an obstacle for less sophisticated people to vote. Another issue is the impact of Internet on voters' opinions. Sina Blassnig and her colleagues (2023) collect the search terms on Google used by Swiss citizens and the results they visited during three national referenda in 2021. While the results are not robust, they suggest that the younger and more politically interested are more likely to search for ballot-related information.

## 6.4. Historical and normative accounts of direct democracy

Since a decade, information on the history of direct democracy, which is largely unknown, has also improved. **Direct democracy has a long tradition, but the contemporary version of it is very different from the ancient "Athenian" version.** How did this turn happen? And who supports it? Spencer McKay's (2023) contribution argues that the enthusiasm for ancient direct democracy is often associated with Rousseau, but the translation into a contemporary liberal system was developed by Condorcet, who offered the most compelling link between Rousseau's theory of popular sovereignty and contemporary referendums. This model was largely developed in the 19th century, and Richard Ellis (2023) explores the role of the Socialist Labor Party (SLP) in the demand for contemporary direct legislation in the United States. This role is often forgotten because the People's Party led the reform that introduced direct democracy. However, socialists were particularly involved in this goal, first in Europe through the debates during the First International and the pioneering work of Moritz Rittinghausen, and then in the United States namely by Joseph R. Buchanan.

Finally, **philosophical approaches discuss the normative properties of direct democracy and the possible ways to improve it.** Alice el-Wakil (2023) analyzes the compatibility between direct democracy and the principle that legislators should be accountable. She argues that there is a shared responsibility between voters and legislators in both direct and representative democracies, and that in direct democracy the responsibility of legislators could be even greater because direct democracy helps citizens gather information about their legislators.

A particularly researched dimension is the possibility of **combining direct democracy (initiatives and referendums) with deliberative democracy (citizens' assemblies)** to improve the characteristics of both institutions. Frank Hendriks and Charlotte Wagenaar (2023) analyze three ways to link them without voting: a citizens' assembly can be created before a referendum (to initiate it), during a referendum (with an advisory role), or after a referendum (to study how to implement the decision). The advisory role - practiced in Oregon and used in Ireland in 2016 - is the most studied.

Maija Setälä and her colleagues (2023) analyze its effects in Finland, in a local government referendum. Using a field experiment, they find that reading the jury's statement increases trust in the jury, factual knowledge, issue efficacy, and perspective taking. Using a similar methodology, but in a Swiss local government plebiscite, Nenad Stojanović (2023) finds that reading the jury's statement increased the likelihood of deciding to vote, even compared to reading the parliament's statement (although in this case the relationship is not significant). Despite these encouraging results, Irene Witting and her colleagues (2023) show, in their systematic literature review based on 55 publications, that, despite some promising positive effects, no effects are mainly observed. Finally, on a more normative note, Michael Müller and Joannes Campell (2023) develop a proposal to improve deliberation and simplified advisory information for voters. This is based on a three-tiered structure of public debates that provides a clear answer to two questions: What will change in the world as a result of the vote? And what concerns will be affected by those changes?

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## 7. DEVELOPMENTS TO FOLLOW IN 2024

While most of the chapters of the State of Direct Democracy Report took stock of the past developments in the design and use of direct democracy instruments, this chapter looks ahead. In this concluding chapter, we focus on a few countries to follow in 2024. The rationale for the selection of these countries is straightforward: based on the patterns identified in the report and the outcomes of popular decisions taken in 2023, we expect these countries to feature prominently in the next edition of the State of Direct Democracy Report. Developments include the introduction of new direct democracy instruments or the reform of existing mechanisms.

### 7.1. Chile: is the constituent process closed?

The failure of the constitutional referendum of December 2023 (see Chapter 5 for a presentation) raises uncertainty about the **future of the constitutional revision process in Chile**. At the time of writing these pages, in May 2024, the constituent process appears as a closed chapter. President Boric announced that he would not seek a third referendum or constitutional convention and political forces are more polarized than ever after two heated campaigns. All of them agree to return to the old political order for the time being. At the same time, Chileans hopes for a new constitution remain high and it is clear that the current Constitution, inherited from the Pinochet's areas does require changes, particular concerning the organizing of the political systems and the recognition of a series of fundamental rights. While it is highly unlikely that the constitutional process starts again in 2024, the 2025 general elections may open new opportunities. Predicting how the polarization of society will evolve is also difficult and one can not exclude that the current constitutional fatigue gives way to a new wave of protests calling for a change of political rules.

### 7.2. Will the rejective referendum come back to the Netherlands in 2024?

**The need for democratic reform has been one of the central topics at the heart of the Dutch general elections of November 2023.** The elections had been expected to be held in 2025 but a snap election was called after the fourth Rutte cabinet collapsed on 7 July 2023 due to immigration policy disagreements between the coalition parties.

The elections took place in a context of declining political trust driven by lasting Covid-19 measures, the aftershocks of the child benefit scandal and a large-scale protest movement farmer following the introduction of a bill aiming to limit the human impact on the nitrogen cycle. At the end of 2018, a report from the State Committee on the parliamentary System already provided some recommendations to make the Dutch parliamentary system more resilient. Introducing direct democracy instruments – in the form of a binding rejective referendum – featured prominently among the recommendations. A suspensive, nonbinding referendum was already in place in the Netherlands from July 1st 2015, until its repeal on February 18th 2018.

During the General Election campaign, most political parties agreed with re-introducing such direct democracy instrument in the Netherlands, this time in a binding fashion. To allow for such a change, a constitutional amendment is necessary. Constitutional amendments occur in a two-staged manner in the Netherlands according to article 137 of the Constitution. First, an Act of parliament need to be approved by the majority of MPs stating that an amendment to the Constitution in the form proposed shall be considered. After publication of the bill, the Lower House is dissolved, and new elections organized. Once the new Lower House is appointed, the two Houses of the States General shall consider, at second reading, the constitutional amendment which shall passed only if approved by at least two thirds of the votes. This specific procedure means that, in practice, most constitutional amendments are proposed before elections to avoid dissolving the Lower House.

Ahead of the general election, a constitutional amendment re-introducing the rejective referendum was proposed by two MPs from the Socialist Party and approved by the two parliamentary chambers. The proposed rejective referendum is of a binding nature and can not concern issues related to the monarchy, the ratification of international treaties as well as budgetary and tax matters. The wording of the proposal provides for the outcome of the referendum to be representative enough, without specifying any quorum. To be successfully introduced, the proposal now needs to secure the approval of the two-thirds of the newly elected Lower House.

### 7.3. Towards an increase of successful referendums in Micronesia?

The legal provisions governing democratic systems, and direct democracy institutions in particular, are known to be hard to change. As a result, any revision in the legal design of direct democracy tools is a rare event that can have important consequences for the practice of direct democracy in a country. As discussed in section 5, in 2023, **citizens from the Federated States of Micronesia approved a constitutional amendment lowering the supermajority requirement for mandatory referendums.** The supermajority requirement, coupled with a double majority requirement, has been, since 1991, the death knell of all attempts to revise the national constitution. It is hence likely that the new rule will make the adoption of constitutional amendments easier in the future.

### 7.4. A progressive constitutionalization of direct democracy in Taiwan?

Since the Sunflower Movement in 2014, Taiwan has moved toward direct democracy. Through the Referendum Act of 2017, a mandatory referendum was introduced for constitutional amendments. It also facilitated the citizen legislative initiative, giving Taiwanese citizens the opportunity to vote multiple times in 2018, 2021, and 2022. **While this citizen initiative does not allow for constitutional amendments, no institution is authorized to review the constitution.** Thus, the Initiative Review Committee, which was responsible for ensuring that the initiative did not violate the Constitution, has been abolished. It is difficult to know whether citizen can submit a constitutional amendment to a referendum, as case law has not yet stabilized the practice. In 2022, the first constitutional referendum was held without being submitted to parliament. This could lead to either a higher power of the president or a higher power of the citizens, depending on the level of competitiveness of the constitutional initiative. The coming years will give us the answer.



# THE STATE OF DIRECT DEMOCRACY REPORT

By Clara Egger and Raul Magni-Berton



DIRECT  
DEMOCRACY  
NAVIGATOR