

The Institutional Settings of Direct Democracy - I

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Outline of the Lecture

- ▶ The Initiation of Popular Ballots
 - ▶ The Initiatives, the Recalls and the Referendums
 - ▶ Obligatory and Optional Referendums
 - ▶ The Politics of Ballot Initiation
- ▶ The Voting Rules
 - ▶ The Legality of Ballot Issues
 - ▶ Minimum Turnout
 - ▶ Approving Majority
- ▶ Discussion: Best Practice of the Institutional Arrangement of Direct Democracy

The Initiation of Popular Ballots

- ▶ The Initiative
 - ▶ A popular vote based on the petition signed by a minimum number of registered voters
 - ▶ Direct vs. indirect initiative (i.e., via the legislature)
 - ▶ Example: Swiss constitutional initiative, which requires 100,000 signature collected within 18 months
- ▶ The Recall
 - ▶ A popular vote to remove an elected official from his/her office based on a signed petition
 - ▶ Example: the 2003 California recall election (with two ballot questions): the incumbent Governor Gray Davis was removed, and later replaced by Arnold Schwarzenegger
- ▶ The Referendum
 - ▶ A popular vote on a legislative proposal or an existing law
 - ▶ Special cases: Abrogate referendums in Italy

The Initiation of Popular Ballots

- ▶ The obligatory referendum
 - ▶ A popular vote that is mandatory and compulsory
 - ▶ Usually on very important ballot matters, such as the constitutional amendment(s), international treaties, etc.
- ▶ The optional referendum
 - ▶ A popular vote which can be called only under the initiation of the governmental authority or based on the citizens' petition
 - ▶ Also called 'facultative referendum'
 - ▶ Usually on less important issues: normal legislative proposals

The Politics of Ballot Initiation

- ▶ **Agenda-setting** in direct democracy
 - ▶ The agenda structure of a popular vote
 - ▶ The content of the ballot proposal(s)/question(s)
 - ▶ The opinion of the electorate
 - ▶ The consequence(s) of a negative result
 - ▶ The initiative offers voters more agenda-setting power than a normal referendum

The Politics of Ballot Initiation

- ▶ Strategic maneuver in **optional referendums**
 - ▶ The majority opinions of the legislature and the electorate are not always the same → using popular ballot to fight against political competitors
 - ▶ A successful popular voter boosts legitimacy of the decision, and grants political credit to the winning side → obtaining the support of the people
 - ▶ In optional referendums, the ballot-initiator may strategically use the vote to choose the policy option s/he prefers, defeat his/her competitor(s), and win extra political credit

The Voting Rules

- ▶ The Legality of Ballot Issues
 - ▶ In most cases, direct democracy is issue-specific
 - ▶ Ballot issues that are (not) be subject to direct democracy is normally regulated by law
- ▶ Explicitly stipulated in the Constitution
 - ▶ In Italy, tax and budget laws, amnesties and pardons, ratifying international treaties cannot be voted on directly
- ▶ The Constitutional Court may determine the legality of a ballot issue
 - ▶ A referendum was planned for the Treaty of Amsterdam in Portugal. However, the wording of the ballot question was deemed not acceptable to the Constitutional Court. As a result, the President did not give the permission for the vote to be organized.

The Voting Rules

- ▶ Minimum turnout
 - ▶ To ensure the decision of the popular vote is indeed popular
 - ▶ Normally set at 50% of the electorate; in some cases, a supermajority is required for very important votes
- ▶ Approving majority
 - ▶ To ensure the voting results convey the opinion of the electorate
 - ▶ Normally set at 50% of the electorate; in some case, a supermajority is required for very important votes
- ▶ Effective majority
 - ▶ 50% turnout + 50% approving → 25% of the electorate
 - ▶ An example: the devolution referendum in Scotland in 1979
 - ▶ The required effective majority of 40% announced before the votes
 - ▶ Turnout 63.5%, Yes votes 51.6% → Still, the referendum failed

The Voting Rules

- ▶ Majoritarian fallacy and minority protection
 - ▶ Direct democracy, especially its voting process, is based on the principle of majoritarian governance
 - ▶ The tyranny of majority?
 - ▶ How to protect the rights of the minority is an important issue in direct democracy
- ▶ Compulsory voting in direct democracy?
 - ▶ Mature direct democratic system typically has a low turnout: (e.g., in Switzerland, New England town meetings)
 - ▶ Low turnout is particularly to the detriment of direct democracy
 - ▶ However, turnout requirement may encourage negative campaigns

Discussions

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2024/11/5

- ▶ What is the best practice of direct democratic institutional arrangement?
 - ▶ Ballot initiation
 - ▶ Voting subject
 - ▶ Turnout and majority requirement
- ▶ Questions
 - ▶ Who (or which institution/office) should have the right of initiation?
 - ▶ Should we hold a popular vote on policies concerning immigrants?
 - ▶ Is turnout requirement really necessary?