

# The stabilizing effects of direct democracy.

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February 17, 2011

Political opinions being what they are, the art of living in a democracy is to define and follow common rules of the game despite ideological differences, often irreconcilable.

Democracy is direct when citizens are consulted not only to elect their representatives to parliament, their government leaders, and their judges, but also when the popular opinion can express itself in referendum votes.

The people are then actually considered the Sovereign. It is the ultimate counter power against the politicians it elects itself.

Few countries in the world are governed under a direct democracy regime: Switzerland and Iceland as sovereign nations, and some states and cities in the United States of America. In some countries referendums are held on special occasions.

If a referendum is held once every five or ten years it will be handled more as a question of confidence posed to citizens by a government in place rather than a consultation to decide on a specific theme<sup>1</sup>. Only by a regular practice of referendum will citizens getting used to distinguish between the question and the people asking it.

We must understand that the way to form opinions and make decisions in a direct democracy is very different from the one prevailing in a representative democracy. For all elected officials the counter power is expressed by their re-election or not at the end of the legislature, and thus by the alternation in power: the "bad" decisions taken by those in power will be corrected by the "good" ones of their successors. In direct democracy neither the parliament nor the government are interested to be have every decision they make consistently amended in a popular vote. Their first concern cannot be of maximum use the power entrusted to them for one term, but rather to prepare solutions which are able to satisfy a large majority (mehrheitsfähige Vorlage). These basic differences imply that institutions are adapted to this situation, and that the opinion building process will be managed accordingly.

## The functioning of direct democracy: the example of Switzerland

The major aspects of the Swiss federal institutions are summarized in the inset. Similar institutions exist in the cantons, each with its peculiarities<sup>2</sup>.

It should be noted that this whole system shows a great consistency. If one wanted to touch one of its elements he should first carefully consider the consequences this would have on the other, a task that too few critics or other populist speakers bother to undertake.

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<sup>1</sup> In France for example, General de Gaulle resigned as a consequence of the negative poll result on a referendum he himself had organized about regionalization. In 2005, when the referendum on the EU constitutional treaty was rejected by referendum in France it is likely that the relatively narrow margin of negative votes (54.67%) was enclosing, among others, a large number of voters who wanted more to chastise the government of President Chirac that speaking about Europe. Notwithstanding the popular refusal in three countries (France, Netherlands, Ireland), the governments of the European Union member states have found a way around this result by the imposition of the Treaty of Lisbon without putting it to referendum .

<sup>2</sup> Cantonal governments are elected directly by the people. For the Federal Council this would be more complicated because it would require inventing a flexible mechanism to ensure an adequate representation of cultural and geographic minorities. The Federal Assembly knows how to play this political game in a fine way.

In Switzerland there is no constitutional court (as in France or Germany) and the decisions of the Federal Assembly are verifiable by itself ... or by the people through referendum.

The collegial form with which the Federal Council takes its decisions is one of the most important aspects of the system of government: even if every Federal Councilor is in charge of one of the seven departments, he<sup>3</sup> is not making big decisions on his own: for example, proposals to be made to the Parliament, appointment of higher officials, principles of organization, are taken by the council as a whole, although everybody knows who is the originator of a proposal. A decision by the Federal Council is the result of internal deliberations and negotiations which are not made public. This mode of operation of the cabinet is very unusual because in most other countries the president or the prime minister may invalidate a decision made by one of the ministers.

There is also no procedure for removal of a Federal Councilor (except for special circumstances related to his ability to exercise his mandate) or of the Council as a whole during the course of a legislature; the vote of confidence, or government censorship, by the parliament does not exist in Switzerland. To see a Councilor go it will need either his resignation or to wait on his non re-election at the end of the four years legislature (which happens very rarely).

The other major feature of the Swiss political system is that the ultimate control being exercised by the sovereign people; with this, the enthusiasm of parliament representatives and of the Federal Council remains temperate because just about 1% of the voters may request a referendum to invalidate their decisions. But inaction is not appropriate because with the signatures of 2% of the registered voters a new constitutional provision will be put to the vote of the people and of the cantons. Thus in 2009 the construction of minarets has been banned<sup>4</sup>, even though the Federal Council and a vast majority of the parliament recommended the rejection of this initiative.

Of course, the Federal Council prefers that the outcome of a vote falls along the lines he had proposed, but if this is not the case, the Federal Council will not make a drama and will not present its resignation, interpreting the negative vote as a personal disavowal. The government college as a whole and Federal Assembly bear the responsibility, not the individuals who compose them; and the opinion of the people and of the cantons deserves more respect than a knee-jerk reaction to a personal [negative] opinion that could have been expressed.

## **Political and practical implications**

The State is at the service of the sovereign and is accountable to him; government officials tend to have a service oriented attitude rather than showing authority vis-à-vis the public (although it still happens that some people take themselves for small corporals or local soviet commissioners; there are idiots everywhere).

The existence of a federal state implies the principle of subsidiarity, especially if, as in Switzerland the original sovereignty stems from the cantons. Thus, public affairs are decided and managed by local actors who have the necessary financial resources thanks to taxes levied and decided locally<sup>5</sup>. Municipalities and cantons are managing their expenses independently and can contract debts. Almost all communities have given themselves the rule to balance revenues and expenditures, which prevents the accumulation of too high a public debt (total: 38% of GDP in 2009). Harmonization rules and strict conditions imposed by the Confederation in cases of granting subsidies ensure that disparities among the cantons are not too large, but there is no goal of equality.

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<sup>3</sup> Or she, in 2011 four out of seven Council members are women

<sup>4</sup> But not the building of mosques, neither the practice of the Islam cult. Religious freedom is guaranteed in the constitution.

<sup>5</sup> The bulk of municipal budgets is spent on welfare and primary education, while the Confederation is in charge of major social welfare institutions, large scale infrastructure (e.g. roads, rail), part of higher education and research, and specific tasks (e.g. national defense). The most expensive tasks of the cantons are in the field of health, education and training, police and security, and. Note that the Confederation is also a large distributor of subsidies to the cantons and communes, who are seeing some of their theoretical sovereignty being reduced.

In Switzerland, legislative proposals take time to be developed. An extensive consultation process is foreseen in the constitution and the opinions of all stakeholders must be taken into account. One can imagine the haggling that takes place during such a procedure: the threat of filing for a referendum is always present as long as an acceptable solution is not proposed. But experience shows that once a proposal has found a consensual basis its implementation will be fast and efficient. The slowness criticized by many is primarily due to blockages in the preparatory negotiations, which means a lack of determination to develop workable compromises. And as in any well done negotiation, the result is never corresponding fully to the hopes of each party. There are probably lies if everyone declares to be very happy with the result, or it is of pitiful quality if one party expresses too much satisfaction.

The cantonal executive and the Federal Council are concordance governments with participation of all political parties having a certain weight in parliament. The "magic formula" of the Federal Council is not written in any law but somehow survives over time: the three largest parties represented in parliament are entitled to two seats each and the fourth party has one seat. But it is not a coalition government: it is not required to form a common agenda and the Councilors may not choose their alliances: they must work with their colleagues as elected.

Before all Federal Councilors must have business management talent when dealing with non-controversial issues. At the same time they must be excellent strategists and negotiators to deal with those issues loaded with a high potential for political adversity. Flamboyant leadership is impossible, or quite unproductive. A good Federal Councilor or State Councilor in the cantons is a woman or a man with convictions and who is willing to play the real game of democracy, of finding pragmatic solutions even if ideological positions between the parties are irreconcilable. It must be quite frustrating because any result, being a compromise, will not be spectacular and will rather be criticized by friends than by political opponents. Egos must suffer but it is for the public good and that is why the rule of collegiality is a very wise rule. Governing by agreement would be impossible if all the operational details and decisions of the Council should be "on line" in the public and if the personal positions of each Councilor be put in competition in each thematic discussion. How could a Councilor then justify not having defended his position to the extreme and have had to accept a less than ideal solution for the party he comes from? The very fact that the laundry would be washed in public would probably inhibit the work of the college up to the point of paralysis. The constant media attempts to personalize the debates, and politicization at a low level are also an unfortunate tendency in this direction. Only a majority government in alternation can afford to avoid politically costly compromises, but direct democracy does not allow a majority to dictate everything according to his wishes: the referendum is compulsory, therefore inevitable, for important subjects, and the threat of an optional referendum forces to seek a balanced solution, even if one believes to enjoy absolute. Therefore, the words "compromise" and "collaboration" are understood as virtuous in Switzerland while they still mean treachery in France.

## **Results of the race**

The purpose of a national community is to maintain an environment in which people live free, can grow to their full potential, and are protected and supported in case of big trouble.

Comparative indicators between states are not in doubt: a country like Switzerland is recognized being at the forefront of the richest countries, of the most competitive, and one of those where life is good to live. Wealth measured by GDP is correlated with unparalleled quality of life and of the environment. Of course, many institutional aspects and their operations deserve criticism.

Large debates are made on the Federal Council: its size (only 7 ministers, not too well paid), the term of the presidency<sup>6</sup>, the distribution of the departments, the "magic formula" and the direct election

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<sup>6</sup> One year seems too short to get well known in the international community, the ego suffers. But who really wants to know well the president of a country of 7 million.

by the people, collegiality declared as obsolete by the media and political parties not participating in government, actual political agenda that would engage the Councilors. But none of the proposed improvements does take into account other institutions such as the referendum law which implies the impossibility of majority ruling by alternation, federalism where the smaller cantons still oppose themselves successfully to a creeping centralism, and consultation procedures that prevent passing laws like a steamroller after a superficial stakeholder consultation. Profound changes in the Federal Council are therefore not in sight.

Since initiative rights exist, only 18 of 174 objects were accepted by the people and the cantons. This shows great restraint in the face of citizen initiatives whose purpose is to create change. Also, some objects have been placed several times on the job before finally being accepted, such as women's suffrage or the UN membership.

In the aftermath of almost each popular vote many comments are made over the limits necessary to impose on the sovereign rights, especially if the result does not match the expectations of moralizing elites. According to these self-designated experts there would be a greater political truth, based on fundamental human rights, which the Swiss people would have to respect without being asked. Indeed we notice these days that popular initiatives tend to involve subjects that are more emotional than reasoned (minarets, security). But the aversion to Islam behind the vote against minarets did not decrease after the voting, not yet known pedophiles are not curbed by the indefinite detention of known perpetrators. Such proposals are populist because even if they initiate discussion on actual issues that are perceived as such in the population, they contribute little or nothing to resolve them. And often the solutions can be already found in the application of current law: a minaret of ostensible and shocking size would have no chance of being approved during the construction permit procedure; the release of someone convicted for serious sexual crime can be accompanied by social and even police follow-up; before the recent vote of the initiative that makes this measure automatic foreigners convicted of serious crimes were already being sent back to their countries or, if impossible, remained interned. Recently, the authors of an initiative calling for the reinstatement of the death penalty in cases of particularly heinous sex crimes have stopped by themselves collecting signatures because they anticipated the drift in the debate they were in the process of initiating<sup>7</sup>. But we must remain confident that the citizens are no fools, that the expression of their will has a higher value, and hope that populism does not win the polls.

To practice direct democracy no particular genius is required. No special sizes must be respected although a highly decentralized distribution of power will greatly help. It just needs a little curbing of the ego of professional politicians and of the regulatory enthusiasms of technocrats, and to accept that the decisions of the People end up being the good ones, despite some hiccups. To obtain the actual opinion of the People requires that consultations are performed in proper order, without hurry. Given such circumstances the voters are certainly too wise to embark on extreme routes. This is why direct democracy allows for great stability of a country's legal and institutional framework while allowing the modernization of society. Media's frivolity may suffer but the common good prospers.

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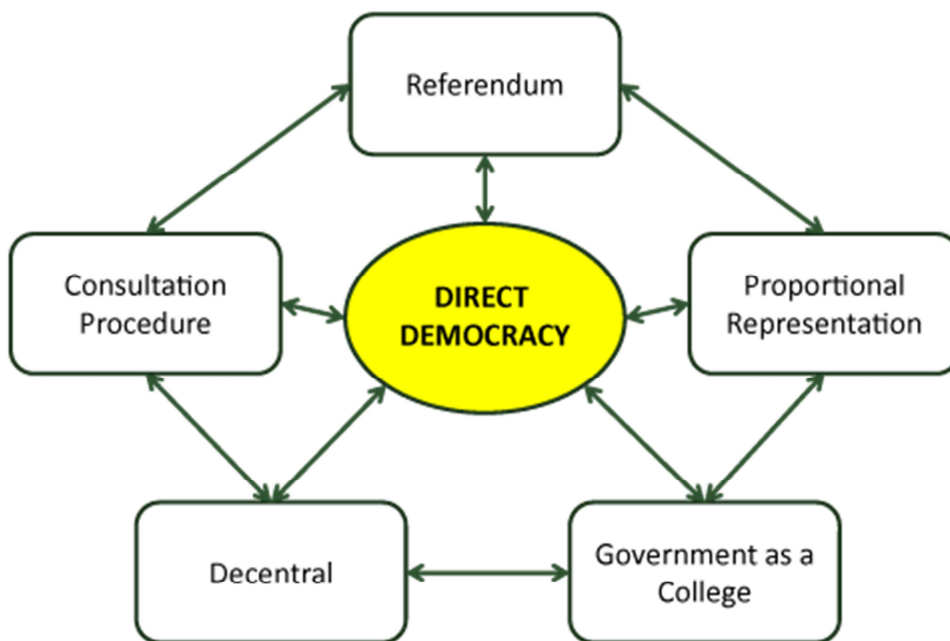
<sup>7</sup> They were reacting to a heinous crime of which a member of their family had been victim, and to the sentence considered too lenient.

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You can find a summary of the Swiss political institutions [here](#).



All components in the above scheme are undissociable to achieve direct democracy.

### Referendum

- Popular referendum is the absolute counter-power
- Referendum should be:
  - Mandatory for any constitutional change and treaties of adhesion to international institutions
  - Facultative for any law or treaties accepted by Parliament when e.g. 1% of all citizens want so.
  - Organized when a certain amount of citizens (e.g. 2%) takes the initiative to introduce a constitutional change.
- It overshadows all political work of Parliament and Government.
  - but it should never be construed as a mean to chastize or dismiss the government in place.

## **Proportional Representation**

- All political forces are represented
  - Which makes absolute majority difficult to achieve
- With a two chambers Parliament
  - People Representation
  - Territory Representation (Senate)

## **Government as a College**

- It is NOT a coalition
- Solutions and proposals to the Parliament must be negotiated within the college
- Members must work together, although not elected on the same platform
- No individual decision, therefore accountability is shared by its members:
  - Reduced personification

## **Decentral**

- Power should be exercised as close to the site of action as possible
- Federal State
  - Delegation of competencies from small to large
  - Subsidiarity
- Local Budget
  - Taxation an perception decided locally
  - Public debt can be contracted by municipalities, townships, region, etc.

## **Consultation Procedure**

- All stakeholders must be consulted when new law is being prepared (or old ones amended)
  - Political parties
  - Regions
  - Unions and professional organizations
  - NGOs
- The result of which is in general a negotiated compromise

It takes time to develop the political culture required for such system.

The elaboration of new laws is relatively slow at the start, but much faster and more effective at implementation.

The system is relatively boring. Personal egos have a hard time in it. It cannot be flamboyant and spectacular, the media hate it.

This is probably why, in countries where no direct democracy is installed, almost all politicians pretend that it is "impossible" in their country. But they never say why.