

## The eclipse of legislatures: Direct democracy in the 21st century

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**Abstract.** Demographic, political, and technological trends are fueling an unprecedented growth in direct democracy worldwide. If the trends continue, direct democracy threatens to eclipse legislatures in setting the policy agenda. This article reviews existing scientific knowledge about the initiative and referendum – the main institutions of direct democracy – and highlights key issues for the future.

A democracy [is] the only pure republic, but impracticable beyond the limits of a town.

– Thomas Jefferson

Direct democracy, under almost any decision-making rule, becomes too costly in other than very small political units when more than a few isolated issues must be considered.

– James Buchanan and Gordon Tullock (1962, p. 213)

### 1. Introduction

Direct democracy has been almost an afterthought in the study of public choice. It was considered empirically unimportant, impractical for any meaningful governments in the seminal contributions in the field (for example, Buchanan & Tullock, 1962; Downs, 1957; Black, 1958). The founders focused instead on the institutions of representative democracy, primarily legislatures and political parties. The subsequent literature has by and large followed the pattern set down at the beginning. A rough classification of the last 20 issues of *Public Choice* reveals more than 50 articles on elected representatives compared to only four on direct democracy.

The thesis of this article is that the neglect of direct democracy will soon come to an end if current trends hold. Demographic and technological developments are fueling an unprecedented expansion of direct democracy that is likely to continue into the foreseeable future. Legislatures are gradually being eclipsed as the primary creators of public policy, and in some states they

already have assumed a secondary role. To continue to speak meaningfully about public decisionmaking, the study of public choice will have to grapple with the new institutions of direct democracy.

The article begins by documenting the rise of direct democracy, and then discusses how direct democracy is changing public policy. Recent research gives reasons to view direct democracy as a positive innovation in democratic institutions. A review of existing theory and critical research questions follows.

## 2. Forms of Direct Democracy

Direct democracy, as conceived in much public choice work, is something like a town meeting. All members of a polity assemble in a legislature of the whole to make public decisions. Seen in this way, direct democracy is a substitute for representative democracy, and is obviously impractical for large states.

In practice, direct democracy has taken a different form. Statutes or constitutional amendments are proposed and placed before all the voters in an election. The proposal becomes law if a majority of the electorate votes in favor of it. Unlike town meetings, this sort of direct democracy can be and is implemented on a national scale. And it is not a complete substitute for the legislature.

Direct democracy takes a variety of forms. The most high powered is the *initiative*: ordinary citizens propose a law, qualify their proposal for the ballot by collecting a predetermined number of signatures from fellow citizens, and the final decision is made by a vote of the electorate as a whole. More common, but less prominent, are *referendums*.<sup>1</sup> Referendums are laws that originate with the legislature before going before the voters for approval. In some cases, the legislature chooses to put the law before the voters in order to sample public opinion, called an *advisory referendum*. An example is national votes on European integration. In other cases, the legislature is required to place a measure before the voters, for example, when it comes to amending the constitution or issuing bonds, called a *legislative referendum*. Yet a third type of referendum is placed on the ballot by citizen petition in order to reverse a decision of the legislature, called a *petition referendum*.

## 3. The Rise of Direct Democracy

Direct democracy has roots in ancient Greece and the Swiss have used it for centuries, but its modern efflorescence can be traced to California's tax-cutting Proposition 13 in 1978. Figure 1 shows the number of statewide initiatives by decade dating back to 1905. As can be seen, initiative use accelerated in the late 1970s and has continued to grow decade after decade for 30 years. The last 10 years saw over 360 measures, a record.

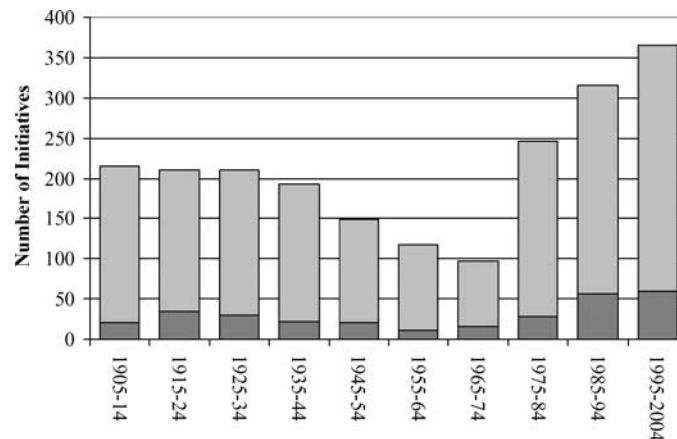


Figure 1. Number of statewide initiatives by decade (Note: The number of initiatives in California is shown with dark shading. Data source: Initiative and Referendum Institute).

Prop. 13 was one of the signal political events of the later 20th century and its passage reverberated across the country. In the years immediately following Prop. 13, some thought the country was in the midst of a passing infatuation with direct lawmaking, but by now it seems more likely that we are undergoing a more permanent shift in how policy decisions are made.

Referendums have always been part of American democracy. Massachusetts held a referendum to approve its new constitution in 1780. Rhode Island in 1842 became the first state to require popular approval for constitutional amendments. By the middle of the nineteenth century it was becoming standard practice across the nation to hold a referendum when amending a state constitution. Today, only one state (Delaware) does not require constitutional amendments to be put before the voters. Referendums have long been used to authorize bonds as well. The requirement that the people approve bond issues grew out of a wave of defaults in the nineteenth century by state and local governments that had borrowed to finance railroads, turnpikes, and canals. Currently 21 states require a popular vote before state bonds can be issued (Kiewiet & Szakaly, 1996).

Perhaps the most important innovation in direct democracy was the development of the initiative because it broke the legislature's monopoly over the agenda. South Dakota was the first state to adopt the initiative in 1898. A burst of adoption activity followed associated with the Progressive movement; by 1918, 20 states had adopted the process.<sup>2</sup> Since then, states have adopted the process at a rate of about one per decade. Figure 2 shows the American states that currently provide for the initiative and (in parentheses) the date of adoption.

A popular misconception about the initiative process is that it is primarily a Californian or regional phenomenon. Figure 1 shows the number of initiatives

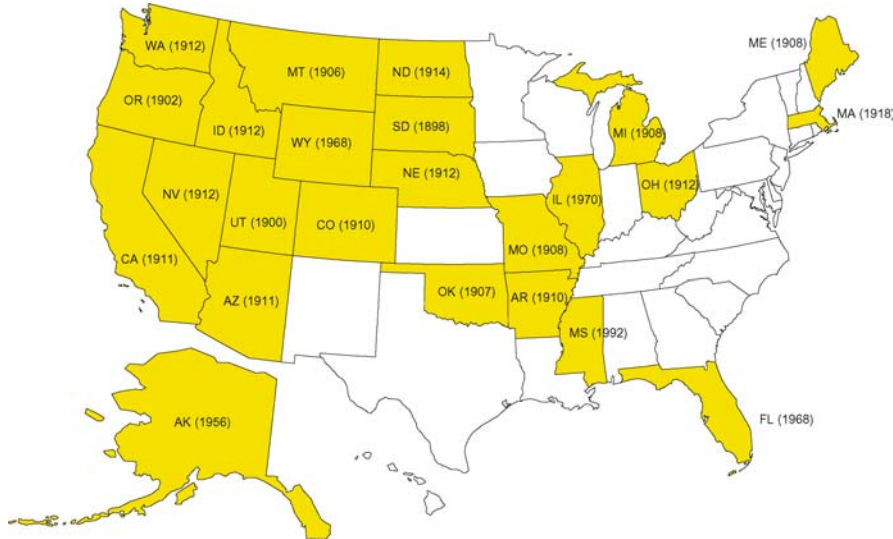
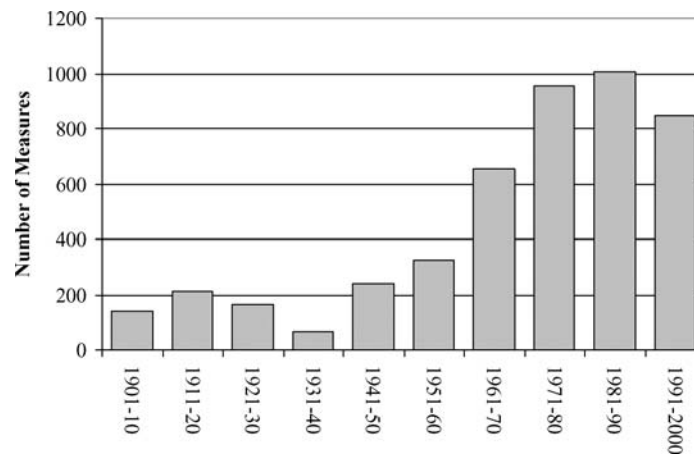


Figure 2. States with the initiative in 2004 (adoption year in parentheses).

that appeared on the California ballot (dark shading). California is obviously important, but it is only one part of a broader movement. Figure 2 reveals that the initiative is particularly popular west of the Mississippi River, but it appears in all regions of the country, from the Northeast (Maine, Massachusetts) to the South (Arkansas, Florida, Mississippi) to the central states (Michigan, Ohio). The initiative is not fully national yet, but it would be misleading to view it as only a regional or California-specific phenomenon.

The initiative process appeared in American cities at about the same time it appeared at the state level. California counties were given initiative rights in 1893, and the first cities to adopt the initiative process were San Francisco and Vallejo in 1898. By 1910, all or substantially all municipalities in 10 states had been granted initiative rights, and individual cities in at least nine other states had the process. Comprehensive information on current initiative availability in cities is not available, but the best estimate is that half of all US cities now have the initiative, including 15 of the 20 largest cities. As with the state-level initiative, the local initiative is most popular in the West, available in 77% of cities. But it is also available in 47% of Northeast cities, 35% of Southern cities, and 49% of cities in the central states. Again, it would be misleading to view the initiative as a purely regional phenomenon.<sup>3</sup>

Comprehensive information on local initiative activity is hard to come by, but the available data suggest intense use. Gordon (2004) found there were 474 municipal and 58 county initiatives in California during the period 1990–2000. Figure 3 reports the number of ballot propositions of all types (initiatives+referendums) for all levels of government (counties+cities+special districts)



*Figure 3. Number of Local Ballot Measures in Four California Counties (Note: The figure reports the number of ballot measures (initiatives+referendums) for all levels of government (counties, cities, school districts, and special districts) in the counties of Los Angeles, Orange, Riverside, and San Bernardino. The numbers are not comprehensive, especially before 1950. Data source: *Preserving the Record of Direct Democracy in Southern California: An Archive Completed by the University of California, Santa Cruz, Environmental Studies Department*, by Daniel Press, August 2001).*

in four Southern California counties since 1901. The numbers over the past several decades are staggering: more than 1,000 measures came before the voters in 1981–1990 alone! The data are incomplete going back in time, but it is nevertheless clear that the number has gone up over the last 30 years, roughly paralleling the state-level trend seen in Figure 1.

This article focuses on the United States, which is at the leading edge of the direct democracy movement, but it is worth noting that the trend toward popular decisionmaking extends across the world. In Europe, 10 countries allow initiatives (as do six of the post-Soviet states), and the constitution of the European Union includes both the initiative and referendum. Twenty-nine referendums have been held on European integration alone, and it is now almost expected in many countries that such matters will be put before the voters. In the Far East, Taiwan uses referendums for local issues, and in 2003 the government adopted national initiatives and referendums.<sup>4</sup>

#### **4. The Eclipse of Legislatures**

All of this indicates that direct democracy is spreading. It is also becoming increasingly important in deciding the broad directions of state and local policy. To get a sense of this, consider some of the high-profile issues that emerged through the initiative process over the last decade or so: affirmative action, illegal immigration, lotteries and casinos, medical marijuana, school

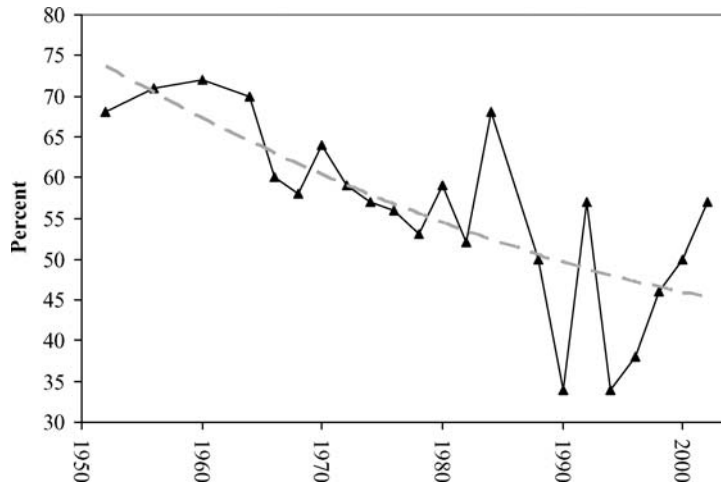


Figure 4. Percent agreeing that “people have a say in what government does”, 1952–2002 (Note: The gray dashed line is a polynomial trendline. Data source: National Election Studies).

vouchers, tax limits, and term limits. Now try to compose a comparable list of important policy developments that emanated from legislatures; it is difficult to identify more than a handful. Legislatures in initiative states are increasingly focused on budgeting and responding to policy trends that originate from ballot propositions. It does not seem an exaggeration to say that policy innovation is now being driven as much by voter initiatives as by legislatures and governors.

The eclipse of legislatures by direct democracy goes hand in hand with a general meltdown in public confidence regarding legislatures (and government in general) over the last four decades. A variety of public opinion data document an erosion of popular support for elected officials beginning in the late 1960s, following a period of relative stability. Figure 4 is a representative example, taken from the National Election Studies. Respondents were asked if they believe people “have any say about what government does”. The figure reports the percentage of respondents who believe people do have a say. Public opinion is somewhat volatile but the gradual downward trend is evident. The modern term limits movement that spread across the nation in the 1990s is a vivid symptom of the growing dissatisfaction with legislatures.

The upshot of the decline of confidence in legislatures is that direct democracy has taken a privileged place in the minds of Americans when it comes to policymaking. A recent national survey conducted for the Initiative & Referendum Institute asked:<sup>5</sup>

All other things being equal, which do you think is most likely to produce laws that are in the public interest: when the law is adopted by the legislature or when the voters adopt the law?

Sixty-six percent of respondents selected “voters” compared to 20% that selected “the legislature”. The pattern held for men and women, across all age groups, and for whites, blacks, and other ethnic groups.

## 5. Causes

While the trends are fairly clear – a growing role for direct democracy and a gradual eclipse of legislatures – the causes are less apparent. What seems clear is that the causes run deep: the trends have been developing for decades now and are appearing in democracies across the world.

Somewhat speculatively, I would like to suggest that two main forces are at work, one demographic and the other technological. The demographic force is the growing amount of education among the population. Across a variety of metrics, Americans have become more and more educated over the last 40 years. For example, in 1960 high school graduates were 41% of the adult population; today they are 84% of the population. Similarly, 8% of adults were college graduates in 1960, compared to 27% today.<sup>6</sup> The technological force is the ongoing revolution in communication technology: the Internet and World Wide Web, blogs, media transmitted via satellite, cable and fiber optics, videotext and fax machines, digital data, and so on. The digital revolution has made more information available to ordinary citizens at a lower cost than at any time in human history.

These two forces together – rising education and falling information costs – are dramatically reducing the knowledge advantage that elected officials once had over ordinary citizens. A century ago, many citizens may have felt that important policy decisions ought to be left to legislatures, with their superior education and access to information. Now many ordinary citizens feel competent to make policy decisions themselves and no longer believe that elected officials are smarter, wiser, or better-informed. As a result, pressure has mounted to shift important policy decisions from legislatures to the people.

A possible concern with this interpretation of the trends is that it is not clear that citizens are becoming more informed *about policy*. Indeed, survey evidence suggests that citizens are fairly ignorant about many of the details of policy, as they have been for decades. Such ignorance is entirely rational, as explained by Downs (1957) long ago.

There are two ways to reconcile these observations. First, it should be recognized that broad policy decisions do not require a deep knowledge of institutions, economics, or policy. Think of moral issues such as whether to allow gay marriage or physician-assisted suicide. Many budgetary policies have the same flavor; they are mainly about establishing spending priorities and do not require a great deal of expertise to form an opinion.

Second, current research concerning voter decisionmaking suggests that substantive knowledge may not be necessary to make competent decisions

in the first place. A citizen can cast a vote in his or her interest without understanding the details of a measure by relying on information cues – advice and endorsements from trusted friends, public figures, or groups. For example, an environmentalist may be able to vote his interest on an environmental proposition simply by learning whether it is supported or opposed by the Sierra Club. There is growing evidence that reliance on information cues allows citizens to vote their interests just as effectively as substantive knowledge does (Lupia, 1994; Lupia & McCubbins, 1998; Bowler & Donovan, 1998).

Voters have long used such cues (especially party labels) when deciding which candidate to support for an office. The demographic and technological trends discussed above are likely to increase the effectiveness of cues. More education and lower information costs make it easier for citizens to search out information cues and determine their reliability. Returning to the example above, an educated environmentalist might be more sophisticated at identifying environmental groups that most closely share his or her views, and the Internet makes it a simple matter to determine the issue positions of those groups.

Finally, when thinking about the knowledge necessary to make wise policy decisions, it is useful not to place the legislature on too elevated a platform. Professional legislators also rely on cues when making many of their decisions whether to support a bill or not. The California legislature sent Governor Arnold Schwarzenegger more than 1,200 bills during his first year in office, 954 of which he signed into law. Plainly, neither the legislators nor the governor read the language of every bill personally. They made their voting decisions (or veto decisions in the case of the governor) based on advice from trusted aides, fellow legislators, representatives of interest groups, and so on. The business of modern government is simply too complicated for any person to keep track of all the details; the use of information cues is inevitable. Whether legislators are more skilled at tapping the relevant information than the electorate is an open question, but the gap is surely narrowing.

## 6. Policy Consequences

What does the growth of direct democracy augur for public policy? Recent public choice research has sketched the contours of an answer.

### 6.1. *For the many or the few?*

A central question is whether the initiative and referendum bring about policies favorable to the majority or instead provide a way for wealthy, organized special interests to subvert the majority. The primary justification for the initiative and referendum has always been to empower the majority, and allow “the public” to counteract the perceived disproportionate influence of “special interests” in the legislature. However, some thoughtful observers

believe that the initiative and referendum have the opposite effect. In the words of David Broder (2000, p. 243), “the experience with the initiative process at the state level in the last two decades is that wealthy individuals and special interests – the targets of the Populists and Progressives who brought the initiative a century ago – have learned all too well how to subvert the process to their own purposes.”

At first glance, this presents something of a puzzle: how can the initiative and referendum hurt the majority if it takes a majority of voters to pass a measure? There are several possibilities. First, if some groups are better at mobilizing their members to go to the polls then they can prevail on Election Day even if their policies are harmful to the majority. The idea that public policies may not reflect the majority view because some groups are better at delivering votes than others is a central theme of the interest group theory developed by Stigler (1971), Peltzman (1976) and Becker (1983). Second, deceptive advertising might lead some citizens to cast votes against their own interests. A third and more subtle possibility, discussed below, is that the presence of the initiative or referendum may cause the legislature to adopt policies that are worse for the majority than if the processes were not available.

Whether direct democracy serves the many or the few is ultimately an empirical question. The early research was anecdotal in nature and inconclusive. Only recently has the question been addressed using modern theory and empirical methods. Game theory is especially important in structuring the analysis. It might seem reasonable, at first glance, to measure the effect of the initiative on policy by examining the content and success of measures that appear on the ballot, what might be called the “direct” effect of the process. However, game theory tells us that the initiative will also have an “indirect” effect. The *threat* provided by the initiative can cause the legislature to alter its policy decisions even if the threat is not carried out (Romer & Rosenthal, 1979; Gerber, 1996). Therefore, examination of the actual measures (the direct effect) will only capture part of the consequences of the initiative, and will be biased in unpredictable ways.

One way to measure the full (direct+indirect) effect is to search for differences between states/cities that have the initiative and referendum and those that do not, controlling for other determinants of policy. A full-length study along these lines is my book *For the Many or the Few* (FMF) (Matusaka, 2004). FMF examines several dimensions of the fiscal policy of state and local governments throughout the twentieth century. The main results concern tax and spending policies since 1970. FMF documents three significant differences between initiative and noninitiative states over the last 30 years: (1) combined spending of all governments (state and local) in initiative states was less than noninitiative states; (2) spending was more decentralized from state to local government in initiative than noninitiative states; and (3) initiative states relied less on taxes and more on user fees and charges for services than

noninitiative states. All three effects appear after controlling for conventional variables, such as income, population, urbanization, region, and partisan control of the government. Evidence is also provided showing that the effects are not the spurious result of unobserved ideology: initiative states were not spending less simply because their citizens were more conservative to begin with.<sup>7</sup> FMF concludes that the initiative *caused* the policy changes.

FMF then compares the policy changes brought about by the initiative with the preferences of the people as expressed in opinion surveys. Opinion data were collected for each policy, (1)–(3). The main finding is that all three policy changes brought about by the initiative were moving policy in the direction favored by a majority of voters: a majority of people expressed a desire to reduce government spending, shift spending from state to local government, and switch revenue out of general taxes and into fees. Evidence supporting the idea that the initiative brings about policies opposed by the majority, as the special interest subversion view maintains, was almost entirely absent. In short, the initiative seems to work for the many and not the few.

Evidence from studies of non-fiscal policies points in the same direction. Gerber (1996, 1999) examined state death penalty and abortion policies. She found that initiative states are more likely than noninitiative states to allow capital punishment and to require parental notification of abortions by minors. She also showed that a majority of voters in all states favor these policies, implying that the initiative makes majority outcomes more likely. Another example is term limits. Polls show majorities in favor of legislative term limits across the country. Congressional or state legislative term limits have been adopted in 22 of 24 initiative states but in only two of 26 noninitiative states. Initiative states are also more likely than noninitiative states to have adopted gubernatorial term limits (Matsusaka, 2005).

The existing empirical evidence to date is fairly consistent in concluding that the initiative tends to bring about policies that the majority wants. This finding does not warrant a strong normative conclusion, however. On the one hand, majority rule is a fundamental premise of democracy, so there is something to be said for bringing it about. On the other hand, the majority's choice is not necessarily the "wisest" policy, and the majority might abuse its power, what has been called the "tyranny of the majority". The "quality" of decisions under direct democracy and the threat to minority rights will be taken up next.

## 6.2. *Economic performance*

There is no universally accepted metric for judging whether a public policy is good or bad. Accordingly, many attempts to evaluate the quality of public decisions under direct democracy end up revealing more about the researcher's preferences than anything else. A handful of studies, however, employ metrics familiar from economics.

The first statistical study appears to have been Pommerehne's (1983) examination of trash collection in Swiss municipalities. He found that cities with direct democracy collected trash at a lower cost than cities without direct democracy, all else equal. How this came about was not explained. In a similar vein, Feld and Savioz (1997) estimated aggregate production functions for Swiss cantons (equivalent to American states) and found greater total factor productivity in cantons with more direct democracy. Again, the mechanism was not explained, but higher productivity could be evidence of more productive public sector investments. Blomberg, Hess and Weerapana (2004) fit a growth model to data from American states over 1980–2000, and found that states with the initiative process grew more quickly and had higher output per capita than noninitiative states, again holding constant other factors such as the capital stock.

Evidence of a different sort comes from Frey and Stutzer (2000). They used survey data in which individuals reported their "subjective well-being", called "happiness" for short. Frey and Stutzer found that people living in Swiss cantons reported higher levels of happiness when there was more direct democracy available.

Finally, there is evidence on how initiatives affect public budgeting. One symptom of dysfunctional budgeting would be sustained or excessive deficits. It is sometimes argued that direct democracy creates deficits by allowing myopic voters to appropriate spending while cutting taxes. The evidence, however, shows that initiative states are no more likely to borrow than noninitiative states, and mandatory referendums on debt issues actually reduce borrowing, if anything (Matsusaka, 1995; Bohn & Inman, 1996; Kiewiet & Szakaly, 1996; Feld & Kirchgassner, 2001). Another argument is that so many initiatives dedicate public funds to certain uses and prevent tax increases that legislatures do not have enough degrees of freedom left to budget responsibly. However, estimates for California (where this claim is typically made and is most plausible) indicate that at most 32% of the state budget is tied up by initiatives (and only about 2% is locked into programs that would not otherwise be funded) and that initiatives do not prevent tax increases, except on property, to any significant degree (Matsusaka, forthcoming).

It should be emphasized that none of these metrics is sufficient for establishing that direct democracy leads to good policy decisions. However, it is striking that direct democracy does seem to bring about "good" outcomes using conventional economic criteria (and one unconventional measure).

### 6.3. *Minority rights*

Numerous authors have raised the specter of majority tyranny. In an oft-cited passage of *Federalist* No. 51, Madison observed:

It is of great importance in a republic, not only to guard the society against the oppression of its rulers; but to guard one part of the society against the injustice of the other parts. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure.

Unfortunately, there is little rigorous empirical work on this issue, and the work that does exist rests on flawed methodologies (see Matsusaka, 2004, Ch. 8).

On an anecdotal level, there are instances of initiatives that violated the basic rights of minorities. In 1910 Oklahoma voters approved an initiative depriving black citizens of their voting rights, and in 1920 California voters approved an initiative that restricted the property rights of Japanese. But no form of government is perfect: minority rights have been undermined repeatedly by legislatures, most egregiously in the South, where blacks were systematically deprived of their voting and civil rights. The internment of Japanese citizens during World War II is another example. Seen in this light, the initiative does not appear to be any worse than the alternative. The fact that large majorities of Asian, black, and Latino voters support the initiative reinforces the conclusion that the initiative may not pose a great threat to minority rights. But more work is certainly called for on this question.

## 7. Theory

In some respects, the empirical literature has jumped ahead of the theoretical literature. We now have plenty of evidence that the initiative process brings about significant changes in policy, but our understanding of how this comes about is more limited. Several theoretical approaches seem promising.

### 7.1. *Internal-external costs and logrolling*

The foundation of public choice is the internal-external cost model of Buchanan and Tullock (1962). In that model, public decisions expose individuals to two kinds of costs. *Internal* (or “decisionmaking”) costs are the time and effort that individuals expend when they participate in the public choice process. Included are the costs of becoming informed and of negotiating with other parties. *External* costs arise when public decisions are harmful to a person’s interests. An optimal public choice process in this framework would minimize the sum of the two costs.

Direct democracy is worse than representative democracy in terms of internal costs. Direct democracy involves the entire population in the policymaking process, incurring large decisionmaking costs. Representative democracy,

which delegates decisions to a relatively small group of elected officials, economizes on decisionmaking costs.

On the other hand, direct democracy outperforms representative democracy when it comes to external costs. For one thing, representatives may not be fully accountable to their constituents (there may be agency problems, in modern jargon) and may choose policies that are harmful to many of them. A great deal of theory and evidence now suggests that elected officials are less than perfect agents of the voters.<sup>8</sup>

Another external cost arises when legislatures engage in logrolling, trading votes on one project to secure approval of another. Buchanan and Tullock note that such legislative bargains can be efficient when the minority on some issue has more intense preferences than the majority. However, they also observe that logrolls are vulnerable to a fiscal externality arising from the fact that taxes are spread over the population at large, not tailored to benefits received. A legislator is willing to approve a project with particularistic benefits for his constituents that would fail normal benefit-cost tests because his constituents have to absorb only a fraction of the costs. In principle, then, logrolls can be a good or bad thing, but a fair amount of evidence has accumulated in favor of the fiscal-externalities view that logrolls drive up spending to inefficient levels.<sup>9</sup>

Voters can use the initiative and referendum to unbundle legislative logrolls by stripping out and deciding individual issues. To the extent that inefficient logrolls are prevented or undone, external costs are lower under direct democracy than representative democracy.

The conventional conclusion is that the internal cost of direct democracy outweighs the external cost of representative democracy:

Direct democracy, under almost any decision-making rule, becomes too costly in other than very small political units when more than a few isolated issues must be considered. The costs of decision-making become too large relative to the possible reduction in expected external costs that collective action might produce. (Buchanan & Tullock, 1962, p. 213)

The conclusion seems warranted if we think of direct democracy as a town meeting. The costs would surely be prohibitive to convene an assembly of all citizens to make policy decisions in any reasonably sized polity.

The conclusion fits less well when we think of direct democracy as the initiative and referendum. The internal/decisionmaking costs of these processes would seem to be of the same magnitude as the costs of representative democracy. First, the cost of locating cues to become informed would not seem too different for candidate elections versus referendum elections. In the internal-external costs model, the most important component of decisionmaking costs is the cost of *reaching agreement* (Buchanan & Tullock, 1962, Ch. 8). If

agreement had to be reached by a process of negotiation between all the interested parties, the cost would surely be astronomical when the group size is large. However, negotiation is not required to make a decision with initiatives and referendums. The only thing necessary is for a majority of citizens to vote in favor of a measure. Thus, the tradeoff between representative democracy and (these forms of) direct democracy hinges primarily on a comparison of the external costs, which as we have seen, cuts in favor of citizen lawmaking.

### 7.2. *Agenda control*

Romer and Rosenthal (1979) introduced another important idea into the theory of direct democracy: agenda control. Their model of legislative referendums highlighted the importance of the power to make proposals. Without direct democracy, legislatures have a monopoly over what issues are to be decided, in what order, and in what form. With the initiative, the monopoly is broken, and ordinary people are allowed to make proposals.

A central insight from the agenda control literature is that fragmenting the agenda control tends to bring policy closer to the position of the median voter than when policy is monopolized by representatives. To see the intuition, consider a spatial model in which the median voter, the legislature, and an interest group have ideal points along the real line and single-peaked preferences. The game begins with the legislature establishing an initial policy that becomes the status quo. The interest group then has the option to propose an alternative policy, in which case the voter makes the final choice between the two options. Now suppose the legislature would choose some policy  $x$  if the initiative is not available. If the initiative is available, outside groups propose an alternative policy  $y$ . The median voter will adopt the alternative  $y$  if it is closer (measured in terms of utility) to his or her ideal point than  $x$ , and reject it otherwise. The voter is never worse off from having a choice, and can be better off.

Then there is the indirect effect: the legislature may respond to the threat of an outside proposal by modifying its initial policy. The legislature will only pay attention to groups that threaten a policy closer to the median than  $x$  because only such a policy could gain voter approval. In order to deter the group from qualifying an initiative, the legislature must move away from  $x$  and either adopt a policy that the median voter finds more attractive than  $y$ , or a policy that the outside group finds sufficiently appealing to forego its own proposal. In either case, an effective response requires the legislature to adopt a policy closer to the median than  $x$ . Thus, both the direct and indirect effect of direct democracy push policy closer to the position of the median voter. This setup also implies that the initiative and referendum can have an effect on policy even if they are not used, an implication that is central for empirical research, as discussed above.

This pro-median-voter result poses something of a mystery: why isn't direct democracy more common if it can only help the median voter? A partial answer to this question can be found by extending the basic model to incorporate asymmetric information. With asymmetric information, direct democracy can push policy to an extreme, away from the median position. For example, if legislators are uncertain about voter preferences, they may respond to the threat of an extreme initiative by meeting the interest group halfway. By accommodating the group, the extreme measure never reaches the ballot and there is no risk that voters will actually adopt it. Such behavior can make voters worse off when the initiative is available than when it is unavailable (Gerber & Lupia, 1995; Matsusaka & McCarty, 2001). Another situation is where voters have less information about a policy's effect than legislators have. When this is the case, voters will look at the policy chosen by the legislature and use it to make inferences about the underlying quality of the project. Knowing this, a legislature facing a referendum may choose an inefficient policy in order to signal or hide its information from the voters. If this happens, the voters may be worse off with a referendum than if the decision had been fully delegated to the legislature (Marino & Matsusaka, 2005).

### 7.3. *Information*

The preponderance of research views direct democracy as a way of reining in unfaithful agents. The initiative and referendum are seen as last resorts, useful only when elected officials fail to perform adequately. A somewhat new vein of research focuses on how direct democracy affects the quality of information used to make public decisions. The value of direct democracy depends on whether it increases or reduces the quality of information.

Much depends on what is assumed about the nature of the relevant information. One view is that the information necessary to make "good" policy decisions is centralizable and can be obtained from specialists (legislatures, government bureaucrats, academics). Under this assumption, direct democracy typically leads to worse outcomes than purely representative government because ordinary citizens lack access to the expert opinion that is available to legislators (Maskin & Tirole, 2004). Even worse, regular use of ballot propositions may reduce the incentive of public officials to collect information, further degrading the quality of decisions (Kessler, forthcoming).

An alternative view, following Hayek (1945), is that the relevant information is widely dispersed and inherently unknowable by any small group of experts. For example, the best occupational safety regulation might depend on specific facts known by employers and employees concerning their private benefits and costs under any given regulatory regime. Moreover, some issues may not have a "right" decision, particularly issues involving values. For

example, the decision whether to allow physician-assisted suicide is to a large degree a matter of a community defining its standards rather than a search for an objectively optimal policy. For such issues, the opinions of the community at large may be more relevant for choosing policy than the information of legislators or experts.

When the information necessary to make the right decision is dispersed, elected officials will find themselves without the relevant information, and may make poor policy decisions inadvertently, what could be called “honest mistakes”. According to this view of information, direct democracy is a way of tapping the dispersed information of the electorate. Direct decisionmaking can outperform representative decisionmaking if voters have better or more relevant information than experts (Matsusaka, 1992).

Direct decision-making can also be better when voters have no more or even worse information than legislators, following the logic of the “Condorcet Jury Theorem”. By the law of large numbers, aggregating the opinions of a million voters can give a very accurate estimate of an underlying parameter even if each individual’s chance of knowing the parameter is small. Aggregation can make the decision of a poorly informed mass more accurate than the decision of a small group of highly informed experts (Lupia, 2001).

In contrast to the agency view, direct democracy is not a last resort from an information perspective. It may well be a first resort. Some issues may be so dependent on dispersed information or community values that they are better resolved by popular vote than by legislative action, even if legislatures are entirely faithful public servants.

The information view helps explain why successful initiatives in one state sometimes trigger similar policy changes in other states, such as Prop. 13. A successful measure reveals information about voter preferences and perceived benefits and costs of policies. Once revealed, this information will affect decisions by policy makers in other states who want to adjust their policies to accommodate voter preferences.

The information view implies that initiatives and referendums are most valuable when it is difficult for legislators to determine voter preferences. This could be one reason why large cities are more likely than small cities to allow and use initiatives (Matsusaka, 2004; Gordon, 2004): it is harder for representatives to keep in touch with their constituents when the population is large. The same line of reasoning would suggest that initiatives are used more often in heterogeneous cities than in homogeneous cities. The evidence on this is mixed: Matsusaka and McCarty (2001) found more initiatives in states that are ethnically and income diverse. Gordon (2004) found more initiatives in cities with unequal income, but fewer in ethnically diverse cities.

Whether the information necessary to make good policy decisions is centralizable or widely dispersed probably varies from issue to issue. There are

some issues, such as detailed standards governing water quality, that are best left to experts, and others, such as whether to allow capital punishment, where experts have no obvious informational advantage. The information view suggests that legislatures should focus on technical issues and initiatives should be used to resolve issues involving values where representatives have no information advantage. Some evidence suggests that this is what happens in practice (Matsusaka, 1992).

## 8. Future Directions

Research to date has focused on comparing representative with direct democracy, largely with an eye toward determining which is better in some sense. The preponderance of evidence suggests that direct democracy is no worse than representative democracy along a variety of dimensions. As time goes by, the broad question of what form of democracy is superior will likely diminish in importance: direct democracy is here to stay, and all indicators suggest it will play an ever larger role in setting public policies. The key research questions for the 21st century will involve understanding how direct democracy fits into and changes the institutions of representative democracy. Among them are the following.

### 8.1. *What is the optimal division of labor between representative and direct democracy?*

The initiative and referendum will not make representatives obsolete. Modern government is too large and complicated to be managed with periodic ballot propositions. The specialization arguments for a class of government experts will only become stronger over time.

The question is what tasks should be performed by direct and what by representative democracy in the future? The emerging pattern appears to be that initiatives and referendums are used to resolve broad policy issues, while implementation details and overall budgeting are left to legislatures. For example, Matsusaka (1992) shows that initiatives are more likely to address broad distributional and moral issues while technical regulatory and government administration issues are left to the legislature.

Along the same lines, what polities are better suited for direct democracy? To take a concrete example, are the initiative and referendum more valuable in big cities or small cities? At least two factors suggest a higher value for direct democracy in large cities. First, agency problems are likely to be more severe in large cities than in small cities because free rider problems make it less likely that constituents will monitor their representatives in large cities. Second, elected officials are less likely to understand the preferences of their constituents in large than small cities. Empirically, large cities are more likely

than small cities to have and use the initiative, as noted above, suggesting that institutions might be evolving in an efficient way.

### 8.2. *How does direct democracy change representative government?*

Direct democracy is likely to change the role and behavior of elected representatives. As noted above, the threat of an initiative can cause the legislature to revise its policy decisions. And, also as noted above, to the extent that initiatives take the lead in setting spending priorities and determining the broad direction of policy, legislatures will find their role redefined to focus on implementation of policy priorities set by the people, both in terms of writing supporting legislation and in terms of budgeting. This may change the nature of skills required in elected officials, the desirability of term limits, the role of political parties, and so on.

Buchanan and Tullock (1962) stressed that logrolling was a central feature of legislatures. Initiatives and referendums tend to undermine legislative logrolls. The question of how this will affect the functioning of legislatures is largely unexplored. Besley and Coate (2003) focus on the bundling of issues in candidates, and show how the presence of initiatives can lead to more efficient candidate elections. Matsusaka (2005) shows how unbundling can allow voters to deliver stronger sanctions at the polls, by reducing the number of issues elected officials are accountable for. No research to date has explored how unbundling will affect the internal organization and procedures of legislatures.

There is also the question of how the initiative will affect the executive branch. Direct democracy, by overriding the legislature, would seem to shift the balance of power toward the governor and away from the legislature. Indeed, governors not infrequently make use of the initiative when their policy goals are stymied by the legislature. The median voter model suggests that governors on average will be more closely aligned with the median voter than the legislature (especially when legislative seats are gerrymandered). The governor should therefore be able to threaten initiatives with some credibility, further tipping the scales in his favor. However, initiatives also provide an avenue around the executive's veto, which could weaken his bargaining position. Exactly what the implications are for the strengthening of the executive vis-à-vis the legislature merits serious investigation.

## 9. Conclusion

This essay began by describing a variety of political, demographic, and technological trends that pointed to an eclipse of legislatures in the 21st century, and the rise of direct democracy as the first choice for making broad

policy decisions. If the trends do play out the way I speculate they might, current evidence suggests that it should not be a cause for alarm. Indeed, the quality of governance may well improve in some respects. The initiative and referendum seem to bring about greater majority rule without undermining the rights of minorities, and lead to policies that improve economic performance.

While direct democracy takes away some of the functions of legislatures, it does not do away with representative government. Indeed, the benefits of economic specialization create strong pressure for the delegation of many public functions to professionals. A critical challenge for public choice scholarship will be to understand how direct democracy impacts and changes the functioning of legislatures. Among the important changes brought about by direct democracy is the unbundling of legislative logrolls, which threatens to create havoc in the heart of the legislative enterprise.

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### Notes

1. I use referendums instead of referenda following the *Oxford English Dictionary*, most mainstream media, and the emerging scholarly convention.
2. Mississippi adopted in 1916 but the initiative was struck down by a court ruling in 1922.
3. The information in this paragraph is from Matsusaka (2003, 2004).
4. For information on legal provisions and histories in the United States and Europe, see Waters (2003) and the web sites of the Initiative & Referendum Institute ([www.iandrinstute.org](http://www.iandrinstute.org)) and IRI-Europe ([www.iri-europe.org](http://www.iri-europe.org)).
5. The survey was conducted by Portrait of America. It can be found in Waters (2003) and on the web site of the Initiative & Referendum Institute ([www.iandrinstute.org](http://www.iandrinstute.org)).
6. From *Statistical Abstract of the United States*, US Department of Commerce (2003, Table No. 227).
7. It is worth noting that although the initiative has tended to push policy in a conservative direction over the last several decades, it pushed policy in a liberal direction in the early twentieth century (Matsusaka, 2000, 2004). Thus, the initiative does not have an inherent conservative bias.
8. See the symposium on “shirking” in the June 1993 issue of *Public Choice*.
9. Gilligan and Matsusaka (1995, 2001), Bradbury and Crain (2001) and Baqir (2002) test the “Law of  $1/n$ ” implication of the theory identified by Weingast, Shepsle and Johnsen (1981). DelRossi and Inman (1999) provide direct evidence from congressional votes.

## References

- Baqir, R. (2002). Districting and government overspending. *Journal of Political Economy*, 110(6), 1318–1354.
- Becker, G. S. (1983). A theory of competition among pressure groups for political influence. *Quarterly Journal of Economics*, 98(3), 371–400.
- Besley, T., & Coate, S. (2003). Issue unbundling by citizen initiatives. Working Paper, London School of Economics, London, UK.
- Black, D. (1958). *The Theory of Committees and Elections*. Cambridge: Cambridge University Press.
- Blomberg, S. B., Hess, G. D., & Weerapana, A. (2004). The impact of voter initiatives on economic activity. *European Journal of Political Economy*, 20(1), 207–226.
- Bohn, H., & Inman, R. P. (1996). Balanced budget rules and public deficits: Evidence from U.S. states. *Carnegie-Rochester Conference Series on Public Policy*, 45(1), 13–76.
- Bowler, S., & Donovan, T. (1998). *Demanding Choices: Opinion, Voting, and Direct Democracy*. Ann Arbor, MI: The University of Michigan Press.
- Bradbury, J. C., & Crain, W. M. (2001). Legislative organization and government spending: Cross country evidence. *Journal of Public Economics*, 82(3), 309–325.
- Broder, D. S. (2000). *Democracy Derailed: Initiative Campaigns and the Power of Money*. New York: Harcourt.
- Buchanan, J. M., & Tullock, G. (1962). *The Calculus of Consent: Logical Foundations of Constitutional Democracy*. Ann Arbor: University of Michigan Press.
- DelRossi, A. F., & Inman, R. P. (1999). Changing the price of pork: The impact of local cost sharing on legislators' demands for distributive public goods. *Journal of Public Economics*, 71(2), 247–273.
- Downs, A. (1957). *An Economic Theory of Democracy*. New York: Harper & Row.
- Feld, L. P., & Kirchgassner, G. (2001). Does direct democracy reduce public debt? Evidence from Swiss Municipalities. *Public Choice*, 109(3–4), 347–370.
- Feld, L. P., & Savioz, M. R. (1997). Direct democracy matters for economic performance: An empirical investigation. *Kyklos*, 50(4), 507–538.
- Frey, B. S., & Stutzer, A. (2000). Happiness, economy and institutions. *Economic Journal*, 110(466), 918–938.
- Gerber, E. R. (1996). Legislative response to the threat of popular initiatives. *American Journal of Political Science*, 40(1), 99–128.
- Gerber, E. R. (1999). *The Populist Paradox: Interest Group Influence and the Promise of Direct Legislation*. Princeton, NJ: Princeton University Press.
- Gerber, E. R., & Lupia, A. (1995). Campaign competition and policy responsiveness in direct legislation Elections. *Political Behavior*, 17(3), 287–306.
- Gilligan, T. W., & Matsusaka, J. G. (1995). Systematic deviations from constituent interests: The role of legislative structure and political parties in the states. *Economic Inquiry*, 33(3), 383–401.
- Gilligan, T. W., & Matsusaka, J. G. (2001). Fiscal policy, legislature size, and political parties: Evidence from the first half of the Twentieth Century. *National Tax Journal*, 54(1), 57–82.
- Gordon, T. M. (2004). *The Local Initiative in California*. San Francisco: Public Policy Institute of California.
- Hayek, F. A. (1945). The use of knowledge in society. *American Economic Review*, 35(4), 519–530.
- Kessler, A. S. (forthcoming). Representative versus direct democracy: The role of information asymmetries. *Public Choice*.

- Kiewiet, D. R., & Szakaly, K. (1996). Constitutional limitations on borrowing: An analysis of state bonded indebtedness. *Journal of Law, Economics, and Organization*, 12(1), 62–97.
- Lupia, A. (1994). Shortcuts versus encyclopedias: Information and voting behavior in California insurance reform elections. *American Political Science Review*, 88(1), 63–76.
- Lupia, A. (2001). Dumber than chimps? An assessment of direct democracy voters. In L. J. Sabato, H. R. Ernst, & B. A. Larson (Eds.), *Dangerous Democracy? The Battle over Ballot Initiatives in America* (pp. 66–70). Lanham, MD: Rowman & Littlefield.
- Lupia, A., & McCubbins, M. D. (1998). *The Democratic Dilemma: Can Citizens Learn What They Need to Know?* Cambridge and New York: Cambridge University Press.
- Marino, A. M., & Matsusaka, J. G. (2005). Decision processes, agency problems, and information: An economic analysis of capital budgeting procedures. *Review of Financial Studies*, 18(1), 301–325.
- Maskin, E., & Tirole, J. (2004). The politician and the judge: Accountability in government. *American Economic Review*, 94(4), 1034–1054.
- Matsusaka, J. G. (1992). Economics of direct legislation. *Quarterly Journal of Economics*, 107(429), 541–571.
- Matsusaka, J. G. (1995). Fiscal effects of the voter initiative: Evidence from the last 30 years. *Journal of Political Economy*, 103(3), 587–623.
- Matsusaka, J. G. (2000). Fiscal effects of the voter initiative in the first half of the 20th century. *Journal of Law and Economics*, 43(2), 619–648.
- Matsusaka, J. G. (2003). I&R in American cities: Basic patterns. In M. D. Waters (Ed.), *Initiative and Referendum Almanac* (pp. 31–36). Durham, NC: Carolina Academic Press.
- Matsusaka, J. G. (2004). *For the Many or the Few: The Initiative, Public Policy, and American Democracy*. Chicago: University of Chicago Press.
- Matsusaka, J. G. (2005). Direct democracy and the executive. Working Paper, USC Marshall School of Business, Los Angeles, CA.
- Matsusaka, J. G. (forthcoming). Direct democracy and fiscal gridlock: Have voter initiatives paralyzed the California budget? *State Politics and Policy Quarterly*.
- Matsusaka, J. G., & McCarty, N. M. (2001). Political resource allocation: Benefits and costs of voter initiatives. *Journal of Law, Economics, and Organization*, 17(2), 413–448.
- Peltzman, S. (1976). Toward a more general theory of regulation. *Journal of Law and Economics*, 19(2), 211–240.
- Pommerehne, W. W. (1983). Private versus Oeffentliche Muellabfuhr – Nochmals Betrachtet. *Finanzarchiv*, 41(2), 466–475.
- Romer, T., & Rosenthal, H. (1979). Bureaucrats versus voters: On the political economy of resource allocation by direct democracy. *Quarterly Journal of Economics*, 93(4), 563–587.
- Stigler, G. J. (1971). The theory of economic regulation. *Bell Journal of Economics and Management Science*, 2(Spring), 3–21.
- Waters, M. D. (2003). *Initiative and Referendum Almanac*. Durham, NC: Carolina Academic Press.
- Weingast, B. R., Shepsle, K. A., & Johnsen, C. (1981). The political economy of benefits and costs: A neoclassical approach to distributive politics. *Journal of Political Economy*, 93(4), 642–664.