6. Possible objections to direct democracy

The following objections are often raised against direct democracy.

a. Incompetence: in a modern society, the problems are far too complex for well-considered decision-making to be left to the man in the street.

b. Lack of a sense of responsibility: people do not consider anything except their own interests. For example, they would abolish taxes without realising the consequences of such a measure, or demand higher government spending that would derail the budget. Politicians can always be called to account for their decisions, but no-one is accountable for decisions made by referendum.

c. Threats to minorities: direct democracy could be a means of approving proposals that violate human rights and fundamental freedoms. Minorities would be particularly threatened in this way.

d. In connection with point c: in a direct democracy demagogues have the freedom to launch crudely populist proposals.

e. Power of money: well-funded ‘special interests’ dominate the debate and use referendums for their own ends.

f. Lack of possibilities for refining and qualifying the issues: voters can only say ‘yes’ or ‘no’ to a proposal in a referendum; there is no opportunity for greater discrimination and subtlety. Moreover, with referendums there is the issue of linking: all sorts of issues not directly concerned with the actual subject of the referendum play a role in the voters’ decisions.

g. Conflict with representative democracy: parliament is discredited by referendums and the primacy of the ‘official’ political sphere is undermined.

h. Overburdening the voters: voters don’t want referendums at all; they want to be left in peace and not be obliged to go to vote.

i. Manipulation of the way the question is presented: the question can be suggestively phrased so that voters are misled into voting against their real convictions.

j. Conservatism: the referendum ensures that essential renewals are blocked, because people tend to vote for retaining the status quo. Others claim the exact opposite: that enthusiastic activists can take over democracy via the referendum, because the silent majority doesn’t take part in referendums.

k. Referendums are unnecessary because there are better ways of allowing the people to discuss political issues.

l. Finally, in some states, such as Belgium, it is argued that the referendum threatens the unity of the country.

This chapter discusses these objections one by one. A note in advance: in assessing the objections, direct democracy must always be compared with the purely representative system and not with an impossible abstract ideal. Many objections levelled against direct democracy are actually objections to democracy as such. Furthermore, objections must be tested against actual practice in places where forms of direct democracy have already been in operation for a century or longer (particularly Switzerland and a few American states, see chapter 5). This is now possible, because in recent years a great deal of empirical research has been carried out in this area, covering almost every aspect of direct democracy.

a. Incompetence

This argument rejects direct democracy because the voters are not considered to be competent to form a well-considered opinion. The argument has an unattractive history. It was used against the universal single vote system, against votes for women, and against votes for black people in South Africa, etc.

In 1893, the Belgian Catholic politician de Neef opposed universal voting rights by invoking the incompetence argument: “Those who demand the right to vote must, of course, also demonstrate that they are competent to exercise the function they demand. Do unfortunate people who have been unable to acquire an elementary education, who have been unable to raise themselves above the most primitive living conditions, nevertheless have the right to decide things for other people, and vote on the country’s weightiest issues? In reality, universal voting rights lead to the rule of the slickest, because those who are unable to discriminate will be fully dependent on the smooth operators.” (Coenen and Lewin, 1997, p. 84). In 1919, his parliamentary colleague, the socialist Hubin, used the ‘incompetence’ argument to oppose voting rights for women. Interestingly enough, it appears that Hubin now accepted that in the meantime working-class males had actually acquired the necessary competence: “The right to vote is a dangerous weapon. Nothing is more valuable than this weapon for an organised and educated class, who are aware of their rights and responsibilities. But are you going to grant this right to a gender that is not prepared to make use of it?" (Coenen and Lewin, 1997, p. 95; it should be noted that both women’s right to vote and direct democracy had been included in the Belgian socialist Gotha programme, approved in 1875)

In practice, each time the group concerned had received voting rights, the argument had turned out to be completely false. The same applies to direct-democratic decision-making: Swiss practice demonstrates that the argument is also invalid in this context. Switzerland is clearly one of the better-governed countries of Europe, with a very small executive, efficient public services and an above-average economy that runs well.

The argument fails for several reasons: morals are always the key to a political decision, and a moral decision is always personal. No-one can make a moral decision for someone else, and every responsible person is by definition capable of making a moral decision. “The voters (...) do not need to have detailed knowledge of the issues, but rather of the main questions at stake. These, however, are not of a technical nature, but involve basic decisions (i.e., value judgements), which a voter is as qualified to make as a politician.” (Frey and Bohnet, 1994, p. 156)
In this context, one must not forget how demanding life is for people today. It is (rightly) assumed that under normal circumstances they stand entirely on their own two feet in a fast-moving and competitive society. Via school, work and in all other aspects of their daily life, they continually encounter on a smaller scale the problems which are also the issues of the day in the wider political sphere. This is only logical, because, ideally, politics is really about the problems that people encounter in their day-to-day lives.

In making their choices, citizens usually use ‘information shortcuts’, such as the opinions of acquaintances and ‘natural authorities’ that they trust: for example, the voting recommendations of political parties and public organisations, information that is provided by media and experts etc. In Switzerland, the voting recommendations of numerous organisations (political parties, trade unions, churches, professional associations and pressure groups etc.) are included in the referendum information packages. Incidentally, members of parliament make just as much use of shortcuts: they must make decisions about so many laws and regulations that it is frequently not feasible for them to study all the sources of information themselves (this became clear from a survey showing that Dutch MPs read only a quarter of all the memorandums that they are expected to read (Dutch newspaper NRC Handelsblad, 28 February 1997), so that they regularly make use of ‘shortcuts’. Lupia (1994) has shown that the use of ‘information shortcuts’ by citizens in referendums has hardly any effect on the final decision. In his analysis of a number of Californian citizens’ initiatives from 1990, it appeared that there was only a 1% difference in voting behaviour between the group of voters who were well-informed and the group of voters who based their vote solely on shortcuts.

Moreover, the argument cannot be used selectively against direct democracy: it is actually an argument against democracy itself. If the citizens are not competent to decide on specific issues, by definition they are certainly not competent to elect people who make good decisions. In order to elect someone who makes good decisions, after all, one must not only be competent to distinguish between good and bad decisions, but also be competent to judge the trustworthiness and moral and intellectual integrity of the candidates, or be competent to see through the hidden agendas of the political parties. “It is (...) not clear why the citizens are trusted to be able to choose between parties and politicians in elections, but not between issues in referendums. If anything, the former choice seems to be the more difficult one, because voters must form expectations about politicians’ actions in the future.” (Frey and Bohnet, 1994, p. 157)

The incompetence argument also includes the concealed twin assumptions that the elected representatives are actually competent, and really do have the public interest at heart. “Critics of direct legislation frequently have a view of state legislators that borders on the mythical: highly intelligent; extremely well informed; as rational as a virtuous, wise, and deliberative statesman; and as competent as corporate presidents and university professors. These same critics tend to view the people as a ‘mob’, unworthy of being trusted. Yet the people, or so-called mob, are the same persons who elect legislators. How is it that they can choose between good and bad candidates but cannot choose between good and bad laws?” (Cronin, 1989, p. 87)

Finally, it is a fact that citizens’ ‘social knowledge’ increases as a result of participating in referendums. Benz and Stutzer (2004) examined this by comparing Switzerland and the European Union, where a number of countries held referendums on European integration, and others did not. During the period examined, seven of the EU states held a referendum on European integration (Denmark, Ireland, France, Austria, Sweden, Finland and Norway). There were no EU referendums during this period in the other eight countries (at that time only 15 countries belonged to the EU). Inhabitants of countries which held referendums appeared to score considerably better on 10 general questions about the EU than did inhabitants of countries where no referendum was held: the effect was just as great as the difference between people with an average income versus people with a low income. In Switzerland, Benz and Stutzer took an index of the degree of direct democracy at cantonal level (which, as stated previously, differs considerably from one canton to another), and compared this with the answers from Swiss citizens on three questions about general Swiss politics. Here too, the Swiss who lived in cantons with greater direct democracy had considerably more knowledge than the Swiss living in cantons with more representative systems. The impact was just as large as the difference between members of political parties and non-members, or the difference between people with monthly incomes of 5,000 versus 9,000 Swiss francs.

b. Lack of a sense of responsibility

According to this argument, people will mainly approve proposals that serve only their own interests, showing a lack of responsibility for the whole community or society, with destructive consequences. They will, for example, vote to abolish taxes and at the same time increase public spending.

In reality, from a financial perspective, citizens are more responsible than politicians. The large public debts that now exist in most Western countries, for example, have been accrued against the wishes of the people. Surveys conducted over several generations in Germany and the US show that a stable two-thirds majority of the population are in favour of a government budget that remains balanced also in the short term (‘balanced budget’, von Weizsäcker, 1992). Thus, the accumulation of a mountain of debt is the result of a policy that is contrary to the wishes of the majority. People are also unwilling to be burdened with measures that would be required to reduce such mountains of debt (Blinder and Bagwell, 1988; Tabellini and Alesina, 1990).

Research has shown that the accumulation of a government deficit is closely connected with the party-political line-up in a country. Here are a few empirical observations:

- the greater the polarisation within a multi-party coalition, the greater the tendency to accrue a debt;
- the more probable it is that a government will lose the coming election, the greater the tendency to accrue a debt;
- the shorter a government’s average term in office, the greater the accrued debt;
- the more coalition partners there are in a government, the greater the tendency to accrue a debt.

(cf. Roubini and Sachs, whose research concerned the OECD countries during the period from 1960 to 1985; other references in von Weizsäcker, 1992).

These observations demonstrate that the political elite’s short-term thinking plays a pivotal role in the accrual of the
national debt: debt is incurred to buy votes, so to speak. Von Weizsäcker (1992) therefore argues for the implementation of a compulsory referendum before national debt is incurred.

As we have already shown, for the American states, systematically analysing all the available data for the whole of the 20th century, states with the citizens’ initiative appear to spend 4% less at state level than states without it. Furthermore, it appears that the easier it is to launch a citizens’ initiative, the larger the impact is: in states with the lowest signature threshold, public spending was 7% lower than in states without the citizens’ initiative, whereas the impact in states with the highest signature thresholds was almost zero. At local level, the citizens’ initiative led to higher expenditure, but overall the net-effect was a fall in public spending (Matsusaka, 2004, p. 33-35).

Direct democracy also leads to lower taxes. If the citizens’ initiative referendum is available in a certain state, this led to a reduction in tax of US$ 534 for a family of four people, which corresponds to approximately 4% of the public revenue. The difference is significant, but not dramatic in absolute terms. The citizens’ initiative referendum spent 15% less than cantons without this type of referendum (the figures relate to the period 1980 to 1998).

Matsusaka examined the same effect for the American states, systematically analysing all the available data for the whole of the 20th century. States with the citizens’ initiative appear to spend 4% less at state level than states without it. Furthermore, it appears that the easier it is to launch a citizens’ initiative, the larger the impact is: in states with the lowest signature threshold, public spending was 7% lower than in states without the citizens’ initiative, whereas the impact in states with the highest signature thresholds was almost zero. At local level, the citizens’ initiative led to higher expenditure, but overall the net-effect was a fall in public spending (Matsusaka, 2004, p. 33-35).

Therefore, although both public spending and taxes decrease, the net effect is a decrease in budgetary deficits. Feld and Kirchgässner (1999) surveyed the effect of compulsory referendums on the budgets in 131 of the largest Swiss cities and municipalities. They chose to compare municipalities rather than cantons, because municipalities have more room for manoeuvre in the area of budgets even than cantons, where it is already considerable. They found that the availability of compulsory referendums on the budget had a strong effect of reducing budget deficits. Kiewit and Szakaly (1996) had previously drawn the same conclusion for the United States.

Moreover, it is certainly not true that if tax issues are on the agenda, citizens by definition choose lower taxes. Piper (2001) mapped all citizens’ initiatives relating to taxes in American states from 1978 to 1999; in the US, optional referendums do not play a significant role. There were 130 citizens’ initiatives on taxes, of which 56 sought a tax reduction, 27 a tax increase, with 17 being neutral about the rate of tax. Of the citizens’ initiatives to reduce taxes, 48% were approved, i.e. less than half. Of the citizens’ initiatives to increase taxes, 39% were approved. The difference between these two is therefore small, and the percentages vary around the average chance of success for citizens’ initiatives in the United States, which is 41%. In Switzerland, voters also regularly approve necessary tax increases. In 1991, an extra tax on fuel of 0.20 Swiss francs a litre (approximately 0.14 euro) was approved, after an earlier increase in 1983 had also been accepted by referendum. In 1984, new taxes were approved by referendum for motorways and for the use of trucks.

California is frequently referred to specifically as a place where citizens have taken irresponsible financial decisions by means of referendums. It has been claimed, for example, that citizens’ initiatives have fixed so large a part of the Californian budget and at the same time frozen the possibility of introducing new taxes that, as a result, politicians have no longer had enough room for manoeuvre. Matsusaka (2005) examined this claim and concluded that, after almost a century of direct democracy, 68% of the Californian budget was entirely dictated by the representative system, and that the possibility of introducing new taxes had hardly been restricted at all.

Despite the politicians’ heavy responsibility for the poor financial situation in the majority of Western countries (apparent from the discussion above), they still succeed in reversing the roles. The Belgian Senator Hugo Vandenberghe defended his opposition to the referendum in the following words: “The people do not have to carry any responsibility for their decisions. They can perfectly easily decide to scrap taxation and two weeks later increase social security benefit payments.” (Belgian newspaper De Standaard, 19 December 1992). The truth is exactly the reverse, of course: at the end of the day it is always the people who must pay the bill for a derailed budget, in the form of increased taxes and degraded public services, etc. The individual politicians in representative systems, who are the only ones who decide on the level of taxes and national debts, never take the consequences of their decisions personally, of course. They have never paid back a single cent of expenditure for which the citizens never asked or that led to national debts. After their mandate expires – possibly being rewarded with a golden handshake or a generous retainer – they simply move on to their next party-political job. Afterwards they can trot out plausible-sounding arguments for their decisions, but then the harm has already been done, without any guarantee that their successors will do any better.

In fact, Senator Vandenberghe draws attention to a key argument in favour of direct democracy: because the people always have to take the consequences of the budgetary and taxation decisions, it is only logical that the people must also have the final word on these decisions.

\[c. \text{Threats to minorities}\]

According to this argument, direct democracy would become a weapon in the hands of majorities to oppress minorities and to establish a dictatorship.

This is another argument against democracy itself – or actually against any political system that allows any freedom of choice – not against direct democracy. A parliamentary regime can equally fail in its duty to minorities, or establish a dictatorship. The takeover of power by the Nazis in 1933 is a good example of the installation of a dictatorship via the parliamentary route. The German parliament not only elected Hitler as Chancellor in 1933, but also granted him unlimited power by means of the ‘Ermächtigungsgesetz’ (‘enabling law’), even though the Nazis represented less than half of the electorate in all the elections held up to that time. A form of limited direct democracy also existed in Germany at that time, but it was the parliamentary system that introduced the dictatorship [see 6-1].

In principle, a direct democracy actually provides more opportunities for minorities to have an effect than representative systems. “In a direct democracy, each issue must find its own majority. Each time there are different issues on the
agenda and each time the coalition that forms the majority is made up differently. One time you will be part of the majority, another time of the minority. And in a direct democracy minorities also have more opportunities to put issues onto the public agenda. If [in Switzerland] they collect 100,000 signatures, a vote is held on their issue. Then their opponents must also explain exactly why they are against the proposal. Through this new insights can be acquired and opinions can change. Direct democracy is more than a simple survey. It provides dynamics through which minorities have the possibility of becoming majorities. In a purely representative system, on the other hand, particular parties oppose each other. If you sit in the rank and file of an opposition party, in fact you have no effective vote, because the parties of the governing coalition have a permanent majority in parliament and in principle they can obtain everything they want”, according to Swiss Member of Parliament Andi Gross (2000).

It is not for nothing that, when they are asked directly, minorities always include themselves in the majority who are in favour of direct democracy. A 1999 Rasmussen survey among Texans found that 72% of blacks and 86% of Hispanics were in favour of direct democracy, compared to 69% of whites (www.initiativefortexas.org/whowants.htm). Surveys carried out by Field at three different times (1979, 1982 and 1997) among inhabitants of California found a large and consistent majority for the setting-up of direct democracy among all ethnic groups. In 1997, 76.6% of Asians, 56.9% of blacks, 72.8% of Hispanics and 72.6% of whites considered Californian direct democracy to be a “good thing”, whereas the proportion that found this a “bad thing” was highest among the whites (11.5%) and the lowest among the Asians, at only 1.9% (Matsusaka, 2004, p. 118).

Empirical research shows that if referendums are held on minority rights, these result in large majorities in favour of such rights. Frey and Goette (1998) took the civil rights from the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights as their points of departure and then examined all Swiss referendums on minority rights in the period from 1970 to 1996 at federal level, in the Zurich canton and in the municipality of Zurich. In more than two-thirds of the cases (70%), the outcome was support for minority rights. At federal level, support was even higher, at 83%. It also appeared that referendums which threaten minority rights have much less chance of being adopted than referendums on other subjects. Of the citizens’ initiatives at federal level, 15% on average are approved; of 11 citizens’ initiatives (1891-1996) that sought to reduce minority rights, not one was successful. By contrast, minority groups are frequently successful in referendums. On average, 50% of the compulsory referendums are adopted. Of the 11 compulsory referendums that supported minority rights (1866 to 1996), no less than 73% were approved. Again, on average, 63% of the optional referendum are adopted. The two optional referendums (1866 to 1996) that supported minority rights were both adopted.

On 24 September 2000, the Volkskrant, probably the most influential newspaper in the Netherlands, published a critical and tendentious article about the citizens’ initiative referendum to be held the following day in Switzerland. This sought to limit the number of foreigners residing in Switzerland, which has always been very high (around 20%), due in part to Switzerland’s strong humanitarian tradition and to its thriving economy. The newspaper suggested that this type of proposal was socially acceptable within Swiss direct democracy, and inferred that the referendum represented a violation of human rights. The newspaper forgot to mention that the Swiss had already voted directly-democratically on six earlier occasions on similar proposals, and that these had all been rejected with generally large majorities. When, on the day following the Volkskrant article, this latest proposal suffered the fate of the earlier ones, the newspaper was silent.

For the United States, the political scientist Gamble (1997) attempted to prove that referendums on minority rights frequently produced negative outcomes for such rights. Her conclusions were, however, strongly criticised by her colleagues (including Donovan and Bowler, 1998, and Matsusaka, 2004). Firstly, Gamble had not systematically examined a series of referendums over a specific period, but based her conclusions on reports in the media and other subjective sources. Her data set was therefore not arrived at randomly. Distortions are obvious in such cases, because the media are more inclined to report sensational cases. Secondly, Gamble had not made a distinction between referendums in small municipalities and referendums at state level. When Donovan and Bowler reanalysed her data, it appeared that the degree to which minority rights were violated was much more a function of the size of the political unit (small municipalities versus large cities) than of the citizens’ initiative. Thus there is no difference from the results in a representative system. Finally, Gamble had arbitrarily characterised various citizens’ initiatives as examples of “tyranny by the majority” – such as a proposal that English be the official language of California, or that people convicted of serious sexual offences be subject to a mandatory AIDS test. It rather depends on ones personal point of view. Is it really so strange to have English as the official language in an American state; and must we actually consider it a human right for someone to be allowed to rape a person without subsequently having to undergo an AIDS test?

Whites are still the largest ethnic group in California, at almost 50%. Other major groups are blacks, Asians and Hispanics. Hajnal, Gerber and Louch (2002) studied how the various ethnic populations in California vote in referendums. They examined no less than 51 popular votes. It appeared that the difference in voting behaviour between the various ethnic groups was very small: voters from ethnic minority groups have an average of only 1% less chance of being on the winning side than white voters.

Meanwhile, what is the attitude of elected representatives to the constitutional state? Cronin (1989, p. 91-92) quotes the historian Commager, who had looked into the trustworthiness of the representative authorities on civil freedoms and minority rights: “A cumulative list of these might well dishearten even the most optimistic Jeffersonian. Censorship laws, anti-evolution laws, flag-salute laws, red-flag laws, anti-syndicalist, anti-socialist, anti-communist laws, sedition and criminal-anarchy laws, anti-contraceptive information laws – these and others come all too readily to mind. The New York legislature purged itself of socialists; the Massachusetts legislature imposed loyalty oaths on teachers; the Oregon legislature outlawed private schools and the Nebraska legislature forbade the teaching of German in public schools; the Tennessee legislature prohibited the teaching of evolution; the Pennsylvania legislature authorized the requirement of a flag-salute for school children; the Louisiana legislature imposed a discriminatory tax upon newspapers... The list could be extended indefinitely.”

A much-quoted example of the discriminatory use of the referendum is the late introduction of women’s right to vote in Switzerland. Swiss women only won the right to vote in
1971 – through a referendum in which only men took part, of course. In Belgium, the female franchise was introduced in 1948. That difference of 23 years, however, has not so much to do with the fact that direct democracy existed in Switzerland, but more with the fact that Switzerland remained outside the turmoil of the Second World War (though being entirely surrounded by the Axis powers). The trauma of war and occupation appears to significantly ease the introduction of political changes. In Belgium, for example, women’s right to vote was introduced after the Second World War and the universal single vote system was introduced after the First World War. That the spirit of the times in the 1960s was rather different to that in the 1990s becomes clear from matrimonial law, for example. Up until 1976, Belgian women had to promise to obey their husbands when getting married. Only in that year did the purely representative system in Belgium provide equal rights for spouses in line with the changing social views.

In the United States, direct democracy preceded representative democracy in respect of women’s right to vote. Legislative citizens’ initiatives at the start of the 20th century granted women the right to vote for the first time in Colorado and Oregon. Arizona followed later, and then Wyoming, where a referendum on its new Constitution provided for women’s voting rights. All these successful attempts had been preceded by a series of failures, not only in Oregon and Colorado, but also in Missouri, Nebraska and Ohio. The citizens’ initiatives were used in the United States at state level to force the question of women’s voting rights, and only when this had happened was the Federal Constitution of the United States amended in line with this in 1920 (Cronin, 1989, p. 97). The fact is that the opponents of direct democracy routinely mention women’s voting rights in Switzerland and, in all languages, are silent about the contrary examples in America, which illustrates how selectively they choose their examples.

The death penalty is also referred to frequently. It is claimed that direct democracy would lead to the introduction or re-introduction of the death penalty, and should be rejected for this reason. First of all, this argument is fundamentally flawed. The unacceptability of the death penalty is taken as an inviolable premise, and it is then assumed that direct democracy leads to the death penalty: “therefore” direct democracy must be rejected. But that assumed unacceptability is certainly not a given, but is something which must emerge as a fundamental value from an open debate between free, equal citizens. Anyone who argues that one should go against the majority on this (or any other) point is pleading for the politics of power and dictatorship. Note also that this is another argument against democracy as such. The introduction of the death penalty is also very possible in a purely electoral system – are we therefore also going to abolish elections?

Moreover, the facts tell a different story. There are two countries in Europe where the population could introduce the death penalty by means of a citizens’ initiative: Switzerland and Liechtenstein. However, no death penalty exists in these countries, nor has there ever been an attempt to introduce it by means of direct democracy. Very much to the contrary: in Switzerland, the abolition of the death penalty was approved by referendum, firstly in 1935 for peacetime, and subsequently in 1992 also for times of war (abolition was always part of a broader package of legal measures). A further explicit prohibition of the death penalty in the Swiss Constitution was approved by referendum in 1999. (Heussner, 1999)

In the United States, approximately half of the states still retain the death penalty (the states have jurisdiction on this point). A very complete treatment of this topic by the lawyer Heussner (1999) shows a balanced picture. American states with and without direct democracy appear to have the death penalty to an approximately equal extent: of the 24 states with direct democracy, 19 have the death penalty (79%); of the 27 states without direct democracy, 20 have the death penalty (74%). It appears, however, that all the states without the death penalty are in the north and east of the United States (with the exception of Hawaii) and all the states with a death penalty are in the south and west. It is thus mainly a difference in political culture: in the west and south support for the death penalty – as well as for other related political issues – is larger both among the public and among the politicians, and in the north and east there is similarly much less support from both public and politicians. We see similar north-south disparities in Europe.

It is true that the death penalty has been introduced or re-introduced in a number of states by means of citizens’ initiatives, but in many cases this was a response from the people to the abolition of the death penalty by courts (because of incompatibility with the Constitution or other legal principles), and at the same time a majority of the elected representatives was also in favour of the death penalty. There was therefore no disparity between the representative system and direct democracy. In other states there is no direct democracy, but the death penalty exists (still) because of the constant support of the elected politicians. In the state of Oregon, the death penalty was abolished by means of citizens’ initiative in 1914, whereupon it was reintroduced in 1920 at the initiative of the parliament. (Heussner, 1999)

**d. Influence of demagogues and populists**

In an extension of the claim discussed above – that direct democracy would violate minority rights – it is also frequently suggested that direct democracy would offer a broad platform to populists and demagogues (see inset 6-2 among other references).

In reality, demagogues have rather more opportunities in a purely representative system, in which a small group of top politicians dictate what happens and citizens are banished to the sidelines. This almost always leads to dissatisfaction amongst the population. The only way in which they can express that dissatisfaction is by voting for populist politicians who promise that they really will clean up ‘the mess’ in the country if they can only get sufficient support in the elections. In a direct democracy, citizens have little need of such ‘strong leaders’, because the citizens themselves can propose their own solutions and seek to have them adopted through citizens’ initiatives and referendums. In Switzerland, political personalities play virtually no significant role (see the quotation at the beginning of chapter 5). A direct democracy is much more issue-oriented, whereas a purely representative system is more person-oriented.

It is certainly true that all kinds of dictators – Hitler, Saddam Hussein, Pinochet etc. (as well as a lot of governments in Europe which like to call themselves democratic) – have used plebiscites. Plebiscites are popular votes that are arranged by the governing majority or the head of state, generally with the intention of creating a special legitimacy for their plans. In general, the results of plebiscites are non-binding.
the conditions for validity are adjusted from case to case by those in power (after all, they want a valid result), and quite often all kinds of separate issues are compressed into one defined question to which the voters can only say ‘yes’ or ‘no’ as an all-in package. The plebiscite in Lithuania in January 1997) found that, whereas 40% of all Californian citizens’ initiatives were adopted in the period from 1986 to 1996, only 14% of the citizens’ initiatives from financially strong ‘special interests’ were adopted. “Our data reveals that these are indeed the hardest initiatives to market in California, and that money spent by proponents in this arena is largely wasted.” (De Telegraaf, 13 January 1997)

It is not disputed that in some places lots of money is spent on direct democracy. In 1998, a record amount of $400 million was spent on referendum campaigns in the US. Of this, at least 250 million was spent in one state alone: California (Smith, 2001: more on this in chapter 5). In the US there are both very professionally run campaigns with extensive use of TV commercials, and paid signature collection.

In this case, too, direct democracy must not be compared with a non-existent and unachievable ideal situation, but with the purely representative system that currently exists. Financially powerful groups also spend large amounts on the election campaigns of political parties and presidential candidates, and on lobbying to influence legislators and civil servants. The Swiss parliamentarian Gross (2000) correctly states that “the power of money in a direct democracy is basically always less than in a purely representative system. In the latter, groups with money need only to influence a small number of politicians. In a direct democracy they must influence the entire population and do so publicly.”

Secondly, simply spending lots of money does not guarantee a favourable outcome. Critics, such as the journalist David Broder (2000), quote, in an anecdotal manner, examples of campaigns in which economic interest groups – sometimes a company or other commercial special-interest group – have staked a lot of money. However, there needs to be systematic and rigorous research carried out into a complete series of citizens’ initiatives over a longer period before it is possible to determine what the effect of the money is.

The political scientist Elisabeth Gerber (1999) did this. She analysed the cash flows of 168 citizens’ initiatives in eight American states. In contrast to what critics claim, powerful commercial interests appear to have relatively little success in obtaining approval of a law they desire by means of popular referendum. Of the initiatives that were mainly financially supported by individuals, 50% were adopted; of the initiatives that were mainly financially supported by economic special-interest groups, only 31% were adopted. Gerber identified several types of ‘special-interest groups’, and the chance of adoption of citizens’ initiatives plummeted as the percentage of campaign funds from industry increased. Gerber found that the topics that were promoted by economic special-interest groups were simply less popular and it was therefore also more difficult to recruit volunteers. Citizens’ groups have less money, but can find volunteers much more easily and compensate themselves in this way.

Political scientists Donovan, Bowler, McCuan and Fernandez (1998) found that, whereas 40% of all Californian citizens’ initiatives were adopted in the period from 1986 to 1996, only 14% of the citizens’ initiatives from financially strong ‘special interests’ were adopted. “Our data reveals that these are indeed the hardest initiatives to market in California, and that money spent by proponents in this arena is largely wasted.” Another survey by the political scientist Anne Campbell into citizens’ initiatives in Colorado showed that during the period from 1966 up to 1994 (almost 3 decades), only one citizens’ initiative coming from a ‘special interest’ was successful at the ballot box (IRI, 2005). As we noted in chapter 5, commercial special-interest groups have actually been more successful in undermining the citizens’ initiatives of others by launching counter-initiatives.

But even when special interests are the only groups that are in a position to launch a citizens’ initiative, the voters are better off than in a situation without any citizens’ initiative referendum. Matsusaka (2004) compares this with a family in which the father (= ‘representative system’) unilaterally ‘proposes’ what flavour pizza is to be eaten. When the mother (= ‘special interests’) can also suggest a pizza, after which everyone (including the children = the voters) can vote on the proposals, then this can never make the children’s situation worse, even if they cannot suggest a pizza themselves. The option proposed by the father is always available, but if mother has an even better idea, that can be given preference in the voting. “So we can see that allowing everyone in the family to make proposals generally works to the advantage of the majority. The conclusion stands even if the right to make proposals is reserved for certain family members. (...) As long as proposals are filtered through a majority-rule elec-

e. Power of money

According to this argument, anyone who has a lot of money can set up a massive media campaign and use this to control the public debate and win the battle with sophisticated marketing techniques. The former mayor of Amsterdam, Schelto Patijn, put it this way: “A referendum against the policy on drugs? The underworld is certainly prepared to invest several million guilders in an unchanged policy. Buy 700 hours of TV. That’s the way to buy a referendum.” (De Telegraaf, 13 January 1997)
tion, the only way initiatives make the majority worse off is if voters can be persuaded to approve policies contrary to their interest.” (Matsusaka, 2004, p. 12).

Matsusaka highlights a key issue here: many critics of direct democracy retain the tacit assumption that citizens can be easily persuaded to vote against their own convictions and interests. But in fact this is no different to the implicit reasoning that lurks behind the purely representative system: that politicians know better what is good for the people than the people themselves. That is a dangerous assumption, because it opens the door to political dictatorship.

There is still another way to approach the problem of big money. Matsusaka systematically compared the outcomes of referendums in the United States to the outcomes of opinion polls. Whereas launching a referendum campaign can incur expenditure of millions of dollars, an opinion poll can be carried out for as little as a couple of thousand dollars. In the latter case, there is no distortion as a result of the input of ‘big money’. Matsusaka analysed an enormous quantity of data covering the entire 20th century. His conclusion: “For every policy I am able to examine, the initiative pushes policy in the direction a majority of people say they want to go. I am unable to find any evidence that the majority dislikes the policy changes caused by the initiative”. (Matsusaka, 2004, p. xi-xii; italicised in the original).

All the information above relates to the United States. In Europe, hardly any research has been carried out into the role of money in direct democracy, because money clearly plays a much smaller role in Europe. In Switzerland there have been a number of referendums in which a relatively large amount of money was spent, but the level is not comparable with the United States.

Experience shows over and over again that two elements are important: the source of the campaigns’ funds must be open to public inspection, and all the parties to the issue must get sufficient opportunity to have their say. The importance of openness in respect of finances is illustrated by innumerable examples. For example, an anti-nuclear citizens’ initiative in Montana (1978) had only 10,000 dollars with which to campaign. The opponents of the citizens’ initiative spent 260,000 dollars. Nevertheless, with a 65% share of the votes, the citizens’ initiative gained a sensational victory. During the course of the campaign, the public’s attention was constantly drawn to the fact that the opponents’ money came almost entirely from outside Montana and likewise almost entirely from the nuclear industry. A similar initiative against nuclear power took place somewhat later in Oregon (1980). Here too, the citizens’ group obtained a victory against the financial supremacy of the industry, because it had sufficient opportunity to make its voice heard. The ‘fairness doctrine’ was properly applied and so, despite its restricted financial resources, the group was able to reach the voters sufficiently by means of radio and television (see Cronin, 1989). It is striking that organisations with a lot of money are seldom enthusiastic about direct democracy: “Financially powerful groups have put up dogged resistance against the introduction of the referendum: in Minnesota, in New Jersey, in Rhode Island. The AFL-CIO, business groups, chambers of commerce during recent years have again and again fought against the citizens’ initiative, frequently with the argument that, ironically enough, a citizens’ initiative costs a lot of money and that only the richer organisations can therefore make use of it.” (Cronin, 1989)

It is clear that money always has an impact on direct-democratic decision-making. But this impact is at least equally great for representative democracy, and can be offset by equalizing campaign funding. For this reason, Californian ‘progressives’ such as Shultz argue for absolutely no return to the traditional representative system, but they do ask for specific measures to restrict the role of ‘big money’. Frey and Bohnet (1994, p. 158) write: “It cannot be denied that financially strong parties and special-interest groups are better able to start initiatives and produce propaganda than interest groups that are not or are only poorly organised. There is no sense, however, in aiming to achieve a totally egalitarian democracy; there will always be differences in the capacities of individuals and groups to influence the direction of policy. It is always true that rich and well-organised groups are more powerful. The important question is not, however, whether there are such differences, but under which rules and with which bodies do the benefits weigh the heaviest organisationally and financially. However, lobbying becomes all the more efficient as the system becomes less democratic. Even without elections, for example in a dictatorship, special-interest groups exert influence. In the European Union, interest groups are able to exert more influence than in separate member countries, because the European Union is less democratic (Andersen and Eliassen, 1991). In Switzerland, even with a coalition between the interest groups and the political elite, it appears that this front does not always get its own way, certainly not if it concerns important matters.”

The problem of manipulation by media campaigns and monopolies on the distribution of information is not a problem of direct democracy; it is a problem of democracy itself. Two realities collide with each other in this context. On the one hand, the mass media are mainly privately owned and, on the other, the dissemination of views through the mass media falls under the principle of the freedom of the press. This restricts the freedom of speech in both directions. The mass media have the tendency to defend the points of view of their owners, and wealthy people or groups can address the public by buying advertisements and television spots. On the other hand, citizens’ initiatives with no funds have little opportunity to have their voices heard.

Attacking the freedom of the press cannot solve this problem. Thus the constitutional state should first and foremost organise its own forum, the chief function of which is to serve as an arena for discussion and creating awareness. Such a forum could be created around the following three considerations, among others:

1. There is absolutely no reason why public radio and television, which are mostly funded from taxes, should be occupied with the production of ‘entertainment’. Entertainment is pre-eminent a commercial activity, and can be carried out much better by commercial broadcasters. The constitutional state has no more reason to produce mere entertainment than it has, for example, to make sunglasses or dog food.

The tasks of the constitutional state derive from its goal of achieving equality before the law and the protection of fundamental rights and freedoms. From this perspective, it is the duty of a public broadcasting system to ensure free access to information and cultural products that the citizens need to fully take part in public life.
This duty must undoubtedly be considered in a broad sense: it comprises thorough newsgathering, access to relevant cultural events that are not offered on commercial channels, and programmes of analysis. The key mission, however, is to support the democratic opinion-forming process. By organising carefully prepared and balanced debates, in which supporters and opponents of an initiative receive equal opportunities to speak, the impact of economic imbalance on the opinion-forming process can be radically reduced.

The state should take measures to enable a balanced opinion-forming culture. The public broadcasting service can play a key role in this, provided that it remains entirely independent of political and commercial forces. This independence must also be visible. For this reason it is absolutely necessary that direct and indirect advertising is kept out of public broadcasts.

2. There should be no direct intervention in the print media. Mayer (1989, p. 118) cites the proposal of the 'Aktion Volksentscheid' (in Achberg, south-west Germany) to oblige the mass media (radio, television, publications with a circulation of over 100,000 copies) to publicise citizens' initiatives and provide equal opportunities to speak for supporters and opponents. This proposal screams out against press freedom. The mass media must also have unrestricted opportunity to express a preference for or against an initiative. The state can, however, utilise the large amounts of money which are currently used for subsidizing (public) media and government propaganda to fund space for informative advertising at times of referendums and elections. In such a 'Public Democratic Speaking Space' in the newspapers, the principle of the equal right to speak should be legally guaranteed for supporters and opponents alike. The design must clearly show that this 'public speaking space' is of the nature of an advertisement. Any confusion with editorial pieces must be prevented.

3. Some weeks before the referendum, every voter should receive an information leaflet in which the essence of the proposal is explained, supporters and opponents briefly list their arguments, and political parties, trade unions, professional bodies, special interest groups, etc. announce their voting recommendation. This type of brochure has been standard for a long time in Switzerland and various US states.

Besides these positive measures, negative measures are also necessary. Election expenditure must be limited, not only for elections of representatives, but also for referendums. The budgets of supporters and opponents of the citizens' initiative must be made public. (In the section of chapter 5 about elections of representatives, but not to citizens' committees that have achieved a signature threshold for a referendum. After all, both have shown that they enjoy a certain level of public support.

This parcel of measures would create a space for a balanced forming of opinions. Whether a democracy succeeds or fails depends to a large extent on the quality of its freedom of debate. It is not generally the job of the state to actively provide the means of speech and debating forums for the citizens. Citizens should have the full freedom to set up special forums for debate and the forming of opinions, and these forums can be freely regulated by the founders. Otherwise, it is the same as the democratic debate that immediately precedes the taking of legislative decisions. In this context, besides the private forums, a special forum should be created by the constitutional state itself that is available for all citizens to be heard equally, regardless of their financial resources and background.

f. Lack of possibilities for refining and qualifying the issues

According to this argument, referendums should be rejected because they are too 'crude' and simplistic, offering only 'yes' and 'no' options. This argument was used, for example, by the former Belgian premier Dehaene ("I know of few problems that you can resolve with a yes or no") on the Belgian RTBF French TV channel, 4 October 1992.

However, from the people’s perspective a direct democracy provides much greater possibility for subtlety and discrimination than a purely representative system. In the latter, voters can only choose between a limited number of total packages of political opinions (generally no more than 10): the political parties’ programmes. In practice, these virtually never agree with the choices the voters would make themselves if they had to decide on the same issues.

A recent Gallup poll illustrated how serious this problem is. The poll questioned 1,000 American voters about twenty current political issues. It appeared that the people’s majority preferences showed a mixture of so-called ‘conservative’ and so-called ‘progressive’ points of view. This mix was not reflected in a single party programme. For example, Americans generally support a higher minimum wage (82%), the compulsory registration of firearms (72%), and the re-establishment of diplomatic relations with Cuba (56%). These are ‘progressive’ issues. But preferential racial treatment in schools and businesses (so-called ‘positive discrimination’) is rejected by 85% of the people, 78% want a general reduction in taxes, and 69% want the saying of prayers in public schools to be legalized. These are more typically conservative or liberal aims. There are also proposals that can count on a majority among the general public, and on very little sympathy among the political class. Gallup found that 56% of Americans were in favour of the introduction of ‘school vouchers’. This means that families receive the money to finance their free choice of school instead of the government directly financing education. Such far-reaching educational freedom is not popular among politicians, who consider education as one of their most important means of exercising social influence.
Suppose that a citizen supports a cross-section of the majority points of view mentioned above. There is no chance that he or she will find any party that expresses this combination of views. And even if such a party did actually exist, it is still quite uncertain what will happen with the point of view concerned. After all, the party might end up in the opposition, or if it does actually become part of the government, it may abandon its point of view in exchange for the other coalition parties' support for its other proposals, even if all the time a majority of the voters was in favour of the point of view involved. In the majority of 'European democracies', the voice of the people is 'a ripple in the water'. They can only utter a single crude expression of support for the one party or the other – ‘socialist' or 'liberal' or 'conservative'. They are not permitted, however, as rational, discriminating beings, to decide on each issue on its own merits. In that context, it is fairly absurd for sitting elected representatives to claim a lack of subtlety and refinement in direct democracy.

It is true that in the majority of referendums (not all; see below) there is only a choice between being for or against a proposal. But every parliamentary decision is also made because the members of parliament vote for or against a proposal. However, what the critics mean is that the opinion-forming process in direct-democratic decision-making ceases more rapidly than in parliamentary decision-making. In principle, this is a realistic objection. In traditional referendums, the initiators come forward with an elaborated proposal, around which a public discussion then ensues; but the voters can no longer change the proposal, only accept or reject it. In parliament, the representatives can propose amendments, in many cases up until just before the vote is taken. (Incidentally, this is not by any means in all cases: for example, with international treaties, including EU treaties, parliaments cannot usually make any further amendments.)

To refine this image, we must note that the opinion-forming phase of a citizens' initiative often occurs before the public launch. In many areas, a citizens' initiative only has a chance of succeeding if it is supported by a broad coalition of organisations. As a result of this, the proposal already bears the hallmark of the discussion and the consultation between the partners in such a coalition. Extreme proposals without broad public support virtually never succeed. On the other hand, the opinion-forming phase in current parliamentary practice is often seriously corrupted by enforced party discipline (by the so-called 'Whips' in the U.K., for example) and by political horse-trading. In general, it is the leaders of political parties who dictate how the party or faction should vote, and this is quite frequently based on fairly crude horse-trading between the political parties. If the MPs would actually vote honestly, following their consciences, the dividing line between supporters and opponents would hardly ever run exactly along party lines, whereas this is currently the case for the majority of votes.

Moreover, it is eminently possible to design referendum systems so that there is indeed space for interim adjustment and multiple-choice options. There is continually increasing experience with such referendums. One possibility, which is used in some German states, is the link between the right of petition and a referendum. If a citizens' group wants to launch a legislative proposal, it can first submit the proposal as a petition to the parliament with a relatively small number of signatures, e.g. 0.2% of the electorate. The representative body must then either accept the proposal from the citizens' initiative or reject it, giving reasons. If the representative body accepts the proposal, the citizens' initiative has achieved its goal. If not, the initiative can still go ahead, with either the unaltered proposal or with a proposal that has been amended in the light of the parliamentary comments. It can then proceed to referendum provided that the initiative obtains a higher signature threshold, e.g. 2% of the electorate. This combination of right of petition and referendum is defended in California by the American 'League of Women Voters' and in Germany by the 'Mehr Demokratie' (more democracy) association (see chapter 5, Bavaria).

In addition, two further options can be enabled:

- If it does not approve the citizens' proposal, the parliament can formulate an alternative proposal. This system exists, for instance, at national level in Switzerland and at state level in Bavaria. The voters then have three options: choose the citizens' initiative, choose the parliamentary counter-proposal, or reject both proposals (choose the status quo).
- The citizens' initiative can even withdraw its own proposal in favour of the parliamentary counter-proposal. This approach can be useful for the citizens' initiative if the parliamentary counter-proposal contains many elements of the citizens' proposal and retaining both proposals risks having both rejected, leaving a majority in favour of the status quo. This happened, for example, with the Swiss popular initiative 'Farmers and consumers in favour of eco-friendly agriculture'. This popular initiative aimed to grant farming subsidies only to companies that adhere to strict ecological standards. The parliament formulated a counter-proposal, which nevertheless preserved the essentials of the popular proposal. The initiators then withdrew their own proposal and, on 9 June 1996, the parliamentary counter-proposal was approved by 77.6% of the voters.

The integration of the right to petition and the legislative citizens' initiative, possibly supplemented with the two measures mentioned above, enable the parliament's capacity to produce well-considered proposals to be used to best effect. The democratic productivity of the parliament would be improved considerably by such teamwork with legislative citizens' initiatives. The right to petition, sometimes (erroneously) called citizens' initiative, which exists in some European countries, is meaningless on its own. The members of parliament are not obliged to do anything with the people's proposal and the citizens' initiative has no means of responding if parliament rejects or ignores its proposal. But as a prelude to the citizens' initiative, the right of petition undoubtedly has great significance. It provides the initiative with the opportunity to refine its proposal in the light of the parliamentary contributions and creates a special bond between the popular initiative and parliament, which also reinforces the legitimacy of parliament.

An additional possibility, which was also proposed by the Californian 'League of Women Voters', is to hold hearings for the citizens' initiative. At an early stage of a citizens' initiative, when only a relatively small number of signatures has been collected, hearings can be held within a specific statutory framework, which can lead to the re-working and refining of the proposal.

In Switzerland, moreover, there are various interesting experiments taking place at cantonal level with multiple-choice voting. The canton of Berne is playing a pioneering role in this area; for example, voters were able to choose between five different proposals for the reorganisation of the canton's
hospital system (Beedham, 1996). Also in Berne, there are experiments with a system in which the voters were not limited to a ‘yes’ or ‘no’ on a legislative proposal, but could also submit amendments. It is too early to be able to draw any conclusions about this system yet. There are other possibilities that have not so far been tested anywhere. For instance, Benjamin Barber (1984) suggested allowing voting on a scale from ‘emphatic no’ to ‘emphatic yes’.

Sometimes opponents of direct democracy formulate their objection in yet another way. They argue that in referendums citizens allow all sorts of issues to play a role that have nothing to do with the referendum proposal, a phenomenon known as linking. “The referendum lends itself as an instrument to mobilise general dissatisfaction. Expansion will then run aground on reasons that have nothing to do with the expansion”, explained former EU Commissioner Frits Bolkestein, for example, about a possible Dutch referendum on the expansion of the European Union (NRC Handelsblad, 9 September 2000). However, it is mainly within the representative system that linking is the order of the day. In elections, after all, all sorts of issues are mixed up with each other, and the tangle is only artificially resolved when the voter makes his single mark on the ballot paper or presses the voting button. What Bolkestein was targeting was not referendums initiated by citizens, which are still not possible in the Netherlands, but one-off plebiscites drawn up by the government (the only ‘referendum’ that the Dutch Constitution allows). In such a situation it is more than likely that other issues will get dragged into the public debate. After all, as citizens themselves cannot initiate referendums, they then have to wait until the next opportunity they get to decide directly about an issue. By then dissatisfaction has had time to grow and is only waiting for an opportunity to be unloaded onto something. However, we are not arguing in favour of plebiscites in this book, but for valid direct democracy in which citizens themselves can launch initiatives for referendums at any time. The phenomenon of linking is unknown in Swiss direct democracy, the simple reason being that at all times citizens can decide on every issue and can launch citizens’ initiatives themselves.

In short, if politicians are really concerned about the ‘linking’ of unrelated issues, they must permit more direct democracy.

g. Conflict with representative democracy

This argument is sometimes underpinned with the argument by some that the authority of parliament is undermined by referendums, and by others that the primacy of politics is threatened by referendums.

First note the fallacy: democracy is equated with ‘representative democracy’, as if representation were the essence of democracy. Referendums would then threaten ‘democracy’. In reality it is not representation, but popular sovereignty that is the essence of democracy. It is not only dictators such as Hitler and Stalin who have depicted themselves as representatives of the people, but also various absolutist kings throughout history. We have shown in chapter 2 that a purely representative system is a correct interpretation of democracy only under one specific circumstance – if the citizens have agreed to it. However, surveys uniformly indicate that this has never been the case since the 1970s: the majority consistently supports the introduction of direct-democratic decision-making.

In other words, the argument that parliamentary authority is undermined by referendums is not relevant. Parliament is not a goal in itself – the parliament is there for democracy; democracy is not there for the parliament. One cannot therefore ask that democracy be limited out of respect for the parliament.

In a certain sense, however, if direct democracy were introduced, it would actually restore the value of parliament, because the citizens would be implicitly invited to demonstrate their confidence in every parliamentary decision. If citizens do not launch an initiative after the parliament passes a law, this can always be interpreted as an implicit motion of confidence. In the purely representative system, the people cannot speak out against the parliament; consequently they also cannot express their confidence in the parliament, not even implicitly. They can at most stay at home on election day, but non-participation can be interpreted in very different ways.

If there is always the possibility of a citizens’ initiative being launched, the parliament will be under pressure to legislate in accordance with the will of the people. The opportunity for the parliament to contribute to the refinement of referendum proposals, including the parliamentary right to submit an alternative proposal, has already been mentioned.

Those who claim that referendums damage the public credibility of the parliament must realise that the public long ago lost its faith in parliament – long before the majority of countries introduced serious direct-democratic rights at the national level. In 2002, Gallup conducted a huge poll in which 36,000 people from 47 countries were questioned on their level of trust in 17 ‘institutions’. This little list included the army, the government, the education system, the mass media, the trade unions, the IMF, the multinationals, etc. In the league table of trust, parliaments were at the very bottom. 51% of those asked had little or no trust in their parliament, and only 36% had a moderate to high level of trust. Parliament scored particularly low in European countries. Two thirds of the people questioned agreed that their country was not governed according to the will of the majority. When asked: “Are things mainly going well with the world?”, in most countries only a minority answered in the affirmative: only 13% of Germans, 14% of Italians, 23% of Dutch and 25% of British. In other words: those who are happy to retain parliaments as they are, are busy keeping up appearances. In reality, the majority has long since lost its trust in parliaments under mainly representative systems.

Some opponents of referendums formulate this another way: that the primacy of politics is undermined by referendums. Their tacit assumption is apparently that ‘politics’ is the same as ‘parliament and government’. However, in the ideal case, politics is a forum in which all citizens participate. Considered in this light, direct democracy will never detract from the importance of politics, but actually give it a powerful boost. Direct democracy can lead to a thriving and creative political forum.

Incidentally, the direct impact of the citizens’ initiative referendum must not be over-estimated. In 1996, a top year for direct democracy in the US, a total of 102 citizen-initiated referendums went to the vote across all the American states, whereas in the same year the elected legislators adopted more than 17,000 laws in all states. (Waters, 2002, p. 6) Half of all American states enjoy fairly extensive and frequently used direct-democratic rights, so we can assume that even in one
of these states with a relatively extensive level of direct democracy more than 99.9% of the laws are still adopted by elected politicians. In this context, it is fairly absurd to talk of a ‘disruption’ of the legislative system by direct democracy. What the critics are probably referring to is the indirect effect of referendums: politicians cannot just force legislation through for which no support exists among the citizens. They must take into account the current opinions among the various groups in the population and start building support for their proposals in advance. But who could possibly object to this?

h. Overburdening and voting fatigue

According to this argument, referendums ask too much of the voters. Too much is demanded of them and they become less inclined to vote. As a result they forfeit representation, because it is usually the economically weaker people who pull out soonest.

In Switzerland, the turnout for parliamentary elections has for decades been around 40% (the turnout for referendums around 50%); that is lower than the parliamentary elections in Germany (approximately 80%), or the presidential elections in France (70% to 80%) or the United States (50% to 60%).

A relatively low voter turnout level is often attributed to referendum fatigue. If that causal connection actually existed, it might be resolved by increasing the signature threshold, which in Switzerland is very low (100,000 for a citizens’ initiative, or 2% of the electorate). This would make it more difficult for relatively small groups to launch citizens’ initiatives that do not appeal to most of the people.

One must be careful with such conclusions, however. In a purely representative democracy, the citizens have virtually no opportunity to influence policy in any way whatsoever. They only have the opportunity to vote every few years, which many then eagerly grasp. In a purely representative system, after all, there is a frustrating lack of opportunity to have ones say. In a well-developed direct-democratic system, supply and demand in respect of possibilities to express a view are more in balance and the people feel they have more freedom to choose between taking part in decision-making directly or mandating others with the responsibility.

We also know of no studies in which a large proportion of people answer in favour of fewer referendums. On the contrary, the large majority of citizens who never vote are still supporters of direct democracy (Möckli, 1994, p. 184).

High levels of participation in referendums and elections should always be encouraged, of course, but a referendum turnout of 10% to 20% is not necessarily a problem. The mandating principle plays the same essential role in direct-democratic decision-making as in parliamentary elections (see chapter 2). Even if only 10% of the voters actually vote in a plebiscite, the resulting decision is still much more widely supported than in the case of a parliamentary vote, in which only 0.005% of the electorate make the decision. The 10% of voters in the direct people’s vote have just as good a mandate as the parliamentarians, with the advantage that they are much more numerous. On the other hand, the mandate that is given by the non-voters to the voters in a referendum is much more restricted than in an election, because there is only one specific decision on the agenda and not a potentially infinite series of decisions about all sorts of different issues. That the mandating concept is not pure theory, but is also intuitively recognised by the general public, is clear from the fact, just mentioned, that the large majority of those who never vote themselves are nevertheless still supporters of direct democracy.

The political scientist Kriesi has shown that knowledge of the issue to be voted on, together with a general interest in politics, are by far the most important factors for participation in referendums in Switzerland. The level of education, income and social class proved to have only a minor effect on participation in referendums (for participation in Swiss elections, this effect is even zero). It also appears that women tend to vote less often than men in referendums (this applies more to older women than younger ones). Participation also seems to increase with age to a certain point, after which it tends to decline again, though not uniformly. Those who said that they were ‘fully aware’ of the referendum issue participated four times as frequently as people who ‘were not aware’ of the issue. The disparity was only slightly weaker when the level of interest in politics was the main variable. When the two variables were combined i.e. for people who were both ‘fully aware’ of the referendum subject and admitted to being ‘very interested’ in politics, the participation level was eight times as high as for people who were ‘not aware’ of the subject and said they were ‘not interested’ in politics (Kriesi, 2005, pp 118-122). Summarising: the most important reason for not participating is that citizens believe that they do not have sufficient knowledge of the issue.

i. The phrasing of the question can be manipulated

According to this objection, the question in a referendum can be asked in a misleading manner. As a result, voters can vote against their actual convictions. Prof. Jan Gijsels (Belgian newspaper De Standaard, 5 November 1992) put it like this: “There is no referendum that is not disputed because of how the question is asked.”

In fact, the phrasing of the question is mainly a problem in plebiscites, not in direct democracy. Plebiscites are non-binding popular votes that are formulated by the ruling politicians and in doing so they often include different issues in a single question, and manipulate other conditions as well (see point ‘d’ for more information and examples). In a genuine direct democracy, politicians cannot indiscriminately change the phrasing of the question or the rules to suit themselves. The law stipulates the conditions for direct democracy and these are the same for all citizens, whether they are politicians or not. Moreover, direct democracy is difficult to reconcile with plebiscites that are drawn up by a ruling majority; on the one hand, they always lead to political abuse and, on the other, they are also unnecessary, because the parliament and the government already have a mandate to act. In Swiss direct democracy, plebiscites by the ruling
majority are not permitted. The law defines the circumstances under which a referendum is held and lays down binding rules for this. All changes to the constitution are subject to a compulsory referendum. In addition, there is the optional or facultative referendum, by means of which citizens can challenge a law that has already been passed, and the citizens’ initiative, which can result in a referendum if all the conditions have been met. The referendum question must always be stated simply and objectively – whether it is the proposal adopted by parliament accompanied by the simple question as to whether one is for or against it (in this context, standardised, neutral wording is always used in Switzerland and California), or the citizens’ initiative (supported by the required number of signatures). With citizens’ initiatives it is simple to establish legally (as is done in Switzerland) that the initiative relates to only one issue. Since in Switzerland the title of the citizens’ initiative is part of the referendum question, the ‘Bundeskanzlei’ (the ministry of general affairs) can reject a citizens’ initiative if it clearly has a misleading title.

Examples of conflict on all these issues are extremely rare. That is not only a question of regulations, but also of democratic culture. Since referendums and citizens’ initiatives are part of the order of the day in states such as Switzerland, California, Oregon, Bavaria, etc., they represent business as usual for politicians and civil servants who are used to dealing with them in a transparent, citizen-friendly manner, just as ordinary elections are generally unblemished proceedings in European countries that have long experience with them. It is almost unimaginable that a governing political party in, for example, the Netherlands would use its position to manipulate the elections by tampering with the rules. Someday it will be just as unthinkable that Dutch political parties would abuse the direct-democratic decision-making process to get their own way.

Difficulties can arise with the phrasing of the question, especially in situations where people have to vote ‘yes’ if they are ‘against’ a subject, or vice versa. For example, this was the case with the first referendums in Italy: in 1974, the opponents of divorce had to vote ‘yes’ (Budge, 1996). The Belfort referendum in Gent (1997) is another example: the municipal council had phrased the question so that opponents of the Belfort car park had to vote ‘yes’. The initiators protested about this. Ultimately, however, their fears turned out to be unfounded: the voters really did know how to cast their votes. There appears to be no convincing example of a referendum in which the majority view did not prevail because the voters misunderstood the question.

Finally – at the risk, perhaps, of our narrative becoming monotonous – we should also reiterate here that the opponents of direct democracy use entirely different criteria for representative decision-making and direct decision-making. In representative decision-making, voters are generally left completely and frustratingly in the dark about the implications of their vote. They do not know the hidden agenda of the parties; they do not know which government coalition or which government programme will emerge. Party manifestos say little. For example, they do not state which points will be swiftly dropped during coalition negotiations. International treaties, taxes such as the tax on diesel fuel, the abolition of conscription to the armed services etc. (Dutch examples) are simply imposed on citizens after the election: the often intricate details of these issues remain completely invisible in the representative ‘phrasing of the question’ – the election manifesto. In the case of direct-democratic decision-making, the picture is much clearer: people almost always know fairly precisely what they are voting for or against. Despite this, opponents of the popular referendum dishonestly claim that they have to cope with ‘ambiguous phrasing of the question’ in direct-democratic decision-making.

j. Conservatism, or enthusiastic activists

According to some, a referendum system ensures that essential innovations are blocked, because the general public tends to want to preserve the status quo. Others claim exactly the opposite: that committed activists can use referendums to take over a democracy, because the ‘silent majority’ doesn’t usually go out to vote.

However, exactly what is mean by ‘innovation’, and which points of view can be accurately labelled ‘left’ or ‘right’, is a political judgement that should not be left to technocrats. The Green parties in, for example, Germany and the Netherlands are in favour of far-reaching European integration, based on what they consider to be ‘progressive’ arguments, whereas their sister parties in Scandinavia and the UK, for equally ‘progressive’ reasons, are actually very Eurosceptic. If ‘progressive’ parties try to block the scaling down of social security – considered as a ‘necessary modernisation’ by ruling conservatives – is that a ‘progressive’ or a ‘conservative’ response?

If we examine the behaviour of politicians, however, it is of course also true that in some instances they obstinately resist modernisation. Direct democracy is itself an example, as is the introduction of school vouchers that free the education system from the grip of the state. It is easy to argue that these are modernisations without which society in the 21st century can only function with difficulty. A large majority of the population has been won for both measures, but politicians block them because in this instance it is they who have an interest in preserving the status quo. In other respects, politicians are actually ‘more progressive’ than citizens, but this can clearly have negative results. For example, we saw under point ‘b’ above that politicians generally want a larger public sector than citizens (also out of self-interest, because this increases their power). As a result, purely representative systems lead to larger budgetary deficits than direct-democratic systems.

An integrated democracy has both instruments for applying a brake to slow down politicians who run too far ahead of the public (the optional and the compulsory referendum), and instruments which the public can use to press the accelerator if elected politicians do not want to change course fast enough (the citizens’ initiative). We argue for the introduction of both the brake and the accelerator. Occasionally, it is the opponents of referendums – when, for example, they are forced into a ‘brick wall’ – that politicians block them because in this instance it is they who have an interest in preserving the status quo. In other respects, politicians are actually ‘more progressive’ than citizens, but this can clearly have negative results. For example, we saw under point ‘b’ above that politicians generally want a larger public sector than citizens (also out of self-interest, because this increases their power). As a result, purely representative systems lead to larger budgetary deficits than direct-democratic systems.

A glance at the referendum practice in Switzerland and American states shows that conservative and progressive groups have varying success with referendums. For many decades in Switzerland, the citizens’ initiative was mainly used by progressive groups, while the optional referendum was more the instrument of choice for conservative groups; however, this distinction has become less marked in recent years. Progressive groups gained majorities in recent decades in initiatives which include those for supplying heroin
to drug addicts, the protection of employees from the effects of the 24-hour economy, joining the United Nations, support for environmentally safe agriculture, the 1994 provision that trans-Alpine freight must be transported by train with effect from 2004, the inclusion of an anti-racism article in the Swiss Constitution, an increase in the tax on petrol, making rape within marriage a punishable offence, restrictions on the genetic modification of organisms, the creation of a civilian service alternative to compulsory military service, a moratorium on the building of nuclear power stations, several taxes on the use of cars and lorries, and the abolition of the death penalty also in wartime. Conservatives obtained approval for measures which include the following: lifelong prison sentences for sex offenders considered by experts to be extremely dangerous and untreatable, several rules for reducing budgetary deficits, the termination of several government grants, as well as the rejection of several progressive proposals coming from the government or from citizens’ initiatives (Butler and Ranny, 1994; Kaufmann et al., 2005).

In recent decades, ‘progressive’ groups in California have successfully used referendums for proposals including those for better environmental legislation, the legalised use of marijuana for medical purposes, raising the minimum wage, limiting the effect of campaign funding in elections, increasing the tax on cigarettes, prohibiting various toxic substances, securing several measures for the protection of animals, setting minimums for school budgets, and introducing various freedom-of-information disclosure requirements for the benefit of consumers and voters. ‘Conservatives’ obtained majorities for, among other things, reducing income tax and real-estate tax, stricter sentences for recidivists, termination of bilingual education, termination of ‘positive discrimination’, the closing down of certain government services for illegal immigrants, allowing paid work for prisoners, and introducing a compulsory referendum for proposed increases in local taxes and tariffs (Allswang, 2000). Hajnal and Louch (2001, p. vii) concluded that during the 1980s, supporters of the Democrats and the Republicans both had exactly the same chance (62%) of being on the winning side in popular votes; in the 1990s, Republican supporters were on the winning side only 2% more frequently than supporters of the Democrats. Thus they keep each other virtually in balance.

The reverse claim that committed activists can hijack direct democracy to get their extremist proposals put through has equally little substance. Swiss and American practice makes it clear that the voters are extremely cautious. If activists want to get a proposal adopted, they have to use the citizens’ initiative. We already saw in chapter 5 that in Switzerland only 10% of citizens’ initiatives are approved by the voters; in California, the figure is 40%, but since a lot of citizens’ initiatives are subsequently struck down by the courts, the final number also comes down to around 10%. When they are unsure, voters tend to vote against citizens’ initiatives.

In some respects, small, passionate groups actually have greater chances in strictly representative systems. After all, in those systems they only have to persuade a small number of politicians. The European supranationalists are a typical example of a small, activist group, which has had a much larger influence on the undemocratic development of the European Union by means of representative systems (evidenced in the project of the European Constitution, for example) than they would have had in a direct democracy. The only reason that the European Constitution has been provisionally shelved is as a result of the referendums held in the Netherlands and France.

k. Better instruments than the referendum

The first response of politicians when they are confronted with the clamour for direct democracy is simply to ignore it. If the clamour continues and grows, however, there comes a moment at which ignoring it no longer succeeds. Politicians, together with those who identify with them, often then go on to propose alternative measures that, on the one hand, are intended to show that they are not deaf to the public demand for more democracy, but, on the other, are not as threatening to those in power as citizens’ initiative referendums. This is then presented as an attempt to find instruments that operate ‘better’ than referendums. This was the case, for example, in Belgium, where direct democracy was placed high on the political agenda under the pressure of massive demonstrations (the ‘white marches’) in the second half of the 1990s, but where politicians are currently returning to their old positions and withdrawing their previous support for citizens’ initiative referendums.

In this context, the journalist Filip Rogiers quotes the argument of Belgian politician Dirk Holemans for ‘dialogic’ instead of ‘direct’ democracy: “Dialogic democracy”, says Holemans, “differs fundamentally from direct democracy. In the latter, the market model enters politics. It starts out from the idea that, if you conduct a survey, you also obtain an insight into what issues are current in a society – whereas democracy actually means that you provide people with an opportunity to question their own vision and possible change it. Only in this way do you create social support for necessary changes.”

Dialogic democracy “is not direct democracy, it is a long way from noting and adding up opinions, yes’s and no’s. Nor is it a shamefaced way of giving representative democracy legitimacy. It is just a very prosaic word for democracy. A classic example is the formula for the citizens’ panels. In a city or a municipality, a representative group of citizens is brought together around a specific issue. They are given all possible opportunities and resources to form a thoroughly considered judgement. They can hear witnesses and experts. At the end of their sitting, they deliver a judgement and propose a solution. It does not have to be a consensus; there is no need of unanimity. Even citizens who have had to eat humble pie at least understand the reason for the final decision. There has been a dialogue, and confrontation, opinions have been changed.” (Knack, 19 February 2000).

The tactic of this line of reasoning against direct democracy is clear. Direct democracy by means of citizens’ initiative referendums is first presented as a type of market survey, free of any social discussion or forming of opinions. Obviously no-one can find that really attractive. Then the alternative of a ‘dialogic’ democracy is presented, in which the citizens do actually obtain information, discuss things with each other and possibly change opinions. The confusion of concepts that is carried out here is that between two pairs of opposing positions: ‘actual social opinion forming’ versus ‘no opinion forming’, and ‘popular sovereignty’ versus ‘no popular sovereignty’. Holemans and Rogiers reject the citizens’ initiative referendum on the basis of the first pair, arguing that social opinion forming is essential and is incompatible with the referendum, and then promote an alternative that guarantees much so-called opinion forming but, unfortunately, surrenders the people’s sovereignty.

However, it is absurd to claim that a citizens’ initiative referendum cannot be coupled with an intensive process of social opinion forming. Put even more forcefully, there is an a pri-
or case that social debate will be much more intensive with binding referendums than with citizens’ panels, because in the first case many more citizens are taking part in the process, and they are more motivated to discuss the issue because they know that they will be taking the final decision. Neither Rogiers nor Holemans makes any effort whatsoever to support their premise. They simply assert the incompatibility of the popular referendum and social opinion-forming as something obvious, and hope that the reader will blindly concur. Then ‘alternatives’ (such as citizens’ panels) are presented as working methods that really do guarantee social opinion forming, whilst the undermining of sovereignty that is attached to this ‘alternative’ receives as little attention as possible and is stealthily presented as something acceptable. Rogiers implies that the citizens do not come together on their own initiative, but that “a representative group is brought together”. By whom? Rogiers does not say so, but the answer is, of course: by the elected politicians. The citizens do not constitute themselves as a sovereign body, no: “...they are given all possible opportunities and resources to form a thoroughly considered opinion”. Are given? By whom? Again the explicit answer is long overdue. And at the end of the ride the citizens do not make a sovereign decision, no, they “…propose a solution”. To whom? And who adopts or rejects the solution? The implicit answer, once again, is: the politicians.

The political scientist Van Praag (2000) systematically compared the optional referendum to two other instruments of ‘participative democracy’ that are popular among Dutch politicians: the citizens’ survey (also called citizens’ forum or citizens’ monitor), and interactive policy-making (also called the open-plan process). In the citizens’ survey – on the instructions of civil servants or politicians – a fixed, representative group of citizens is regularly questioned about all kinds of issues. In interactive policy-making, people are asked to attend meetings at which citizens, together with civil servants and/or politicians, draw up plans for resolving a specific problem identified by the administration.

Van Praag points out that the citizens’ survey and the interactive policy-making process are held at the initiative of the authorities, whereas the referendum is held at the initiative of citizens; that there is a much less intensive public debate with the citizens’ survey and interactive policy-making, and far fewer citizens are involved than with the referendum; and that the position of the civil servants and politicians is much more dominant with the citizens’ survey and interactive policy-making than with the referendum. Van Praag thus concludes that for these reasons the referendum is an instrument to serve the citizens and that the citizens’ survey and interactive policy-making are instruments in the service of the official policy-makers.

It is worth noting, incidentally, specifically in relation to the proposal of Rogiers and Holemans, that Van Praag, who carried out studies on the level and quality of public debate for several municipal referendums in the Netherlands, correctly points out that the opinion-forming process for citizens using the citizens’ surveys is much less in-depth than with referendums: “It is, moreover, interesting that in a survey citizens are asked for their opinion on issues that they have usually considered only rarely or not at all. There is thus a danger that the recording of citizens’ views only by means of an inquiry represents merely a snapshot, which can easily change again under the influence of new arguments. This even applies, although to a lesser extent, to a multiple-choice survey, in which citizens are encouraged to think about alternative policy ideas.

This objection is much less valid for a referendum result. The benefit of a public debate provoked by a referendum is that all the citizens are confronted by several arguments over a longer period of time. Opinion-forming among the citizens has generally crystallised better after a few weeks and will change less easily under the influence of new information.”

The referendum therefore turns out to be the most popular administrative innovation among the people. In 1998, the Dutch Social and Cultural Planning Board (1999, p. 37) polled popular support in the Netherlands for five proposed innovations. The referendum, with an 85% support level, scored highest, followed closely by the introduction of elected mayors (71%), the constituency system for parliamentary elections (55%), the introduction of an elected Prime Minister (54%), and making Holland a republic (18%). The survey produced virtually identical results as a 1972 survey with the same questions, when the referendum also came out on top, with 62% support.

I. Danger to the country

This argument is often cited in Belgium, among other places.

Here too it should be noted first and foremost that the state is there for the people, and not the people for the state. If a state can only continue to exist by suppressing the development of democracy, then that state has no right to exist (in its present form), because that is clearly not what the people themselves want.

The Belgian ‘Royal Controversy’ – the debate about the return of King Leopold from exile after the Second World War – can under no circumstances be quoted as an argument against direct democracy. One must make a sharp distinction between binding citizens’ initiative referendums and so-called ‘plebiscites’ or ‘popular referendums’. The latter are held by those in power to create a special legitimacy for their own plans (see point 4 for further information and examples).

In the case of the Belgian Royal Controversy, the plebiscite was a last resort for the political elite to escape from the stalemate that had arisen within the representative system. After this system had become bogged down completely, an appeal was made to the deus ex machina of the plebiscite.

The 1950 plebiscite in Belgium was an evil caricature of direct-democratic decision-making in every respect. In the first place, the outcome of the ballot was not binding (and ultimately it was a minority that got its way on the issue). Secondly, this plebiscite did not come about at the initiative of the people, but rather at the initiative of the political class, after they themselves had allowed the situation to become completely enmeshed. Thirdly, all the political parties, and the King himself, used different criteria to interpret the result. “During the forming of the first Eyskens government in the summer of 1949, the Socialists presented the 66% demand, but the Liberals made a distinction: for them, 70% or more meant an immediate return of the King, less than 55% would require abdication, and a figure in between would serve as an indicator for the parliament. (…) For Paul-Henri Spaak, 66% was sufficient counted nationally, but the Belgian Socialist Party chairman Buset demanded at least a 60% majority in the Walloon provinces, in Brussels, and in Flanders. Then the debate on the plebiscite became even more intense, and new thresholds were formulated.” (De-wachter, 1992) The King himself set the threshold at 55%.
but ultimately no generally accepted agreement on the interpretation of the result emerged within the political class. No wonder that the entire thing ended in chaos. In the whole of Belgium, 58% of the voters were in favour of a return, but whereas a majority voted for return in Flanders, there was a majority against return in the Walloon provinces. The outcome was subsequently rejected by a number of social groups and parties, and these tried to block the return of the King. Leopold agreed to abdicate anyway when his son reached the age of 21, and Baudouin was proclaimed king the day after Leopold’s abdication.

The Royal Controversy is quoted as an example to show that different language communities can vote differently and that this can tear a country apart. Two fundamental observations must be made here. First, it is not true that differing voting results within different language groups automatically threaten federal unity. In Switzerland, there are many examples of such divergent voting results. For instance, the majority of French-speaking Swiss voted for their country’s accession to the European Economic Area in December 1992, whereas most of the majority German-speaking population voted against (ultimately producing an overall majority nationally). In September 1997, most German-speaking Swiss approved a reduction in unemployment benefit, whereas the French-speakers rejected the law by a large majority (which ultimately produced a narrow majority nationally). These results did not lead to ‘community tensions’. Secondly, such problems will occur much less if there is a consistent federal state structure within which to work. Only those issues that must be decided at a wider level, due to the nature of the issues themselves, must also be voted on at that level. Within a federal context, the logical outcome of the Royal Controversy would have been that Flanders would retain the monarchy and the Walloon provinces would not, because in the case of the Royal Controversy there is absolutely no practical reason why one community would have to cede this point to the majority in another community. The problem arose, therefore, because the decision-making took place in the context of an authoritarian and unitary state.

6-1: How direct democracy was silently removed in Germany after the Second World War

After the First World War, the German empire became a republic and Berlin became its capital. In 1919, the constitution of the Weimar Republic came into effect and it contained the principle of the referendum copied from the Swiss example. In practice, however, the referendum could not work, mainly because a 50% participation quorum was imposed. Strictly speaking, according to the constitution, this quorum only applied to the corrective referendum and not to the citizens’ initiative. Nevertheless, in practice the quorum was also demanded for citizens’ initiatives.

Ultimately only two referendums were held, both of which failed because the participation quorum was not reached. There was an initiative in 1926 concerning the expropriation of the property of members of the nobility. The major landed aristocrats had asked for extremely high levels of compensation for the properties that were expropriated after the First World War. At a time of explosive inflation, the state could only raise the money by heavily taxing the ordinary citizens. The popular initiative to oppose this measure was started by the communist party; the socialists and many citizens’ groups supported it. Against this initiative ‘the mother of all boycott campaigns’ was run: the powerful supporters of the nobility called openly for a boycott, supported by a majority of the press. Because, under these circumstances, only the supporters of the initiative went to vote, it meant de facto that the secrecy of the vote was compromised. In the rural areas in particular, many workers stayed at home after threats from landowners and factory owners. In the end only 39% of the electorate voted, of which 98.5% voted for the initiative. The 50% threshold was not reached, therefore, and the landed aristocracy won its battle thanks to the high participation quorum. In 1929, a second referendum was organised by right-wing parties on the question of the compensation payments. At the end of the day only 14.6% of the voters turned out for this referendum, and the result was therefore also declared invalid.

In 1932, the Socialists launched another citizens’ initiative which asked for a rise in the rate of pay. By that time, parliament had already been paralysed and the government was operating using emergency statutes. The government responded to the socialist initiative with a pay rise, whereupon the citizens’ initiative was prematurely abandoned.

Citizens’ initiatives were therefore never rewarded with formal success under the Weimar republic. All legislative power remained in the hands of the parliament. This parliament transferred all power to Adolf Hitler in March 1933, by means of the notorious ‘Ermächtigungsgesetz’ (enabling law), even though the Nazis had never obtained the support of a majority of the German citizens in any election.

The facts actually undermine the claim that the Nazis came to power by means of democracy. The Nazis actually came to power by means of the representative system. The majority of the citizens had never voted for the Nazis at a time when the Nazis had still left most of their real plans vague or secret. If the Nazis had presented their real plans – including committing genocide and the launching of wars of aggression – to the population in a referendum, it is virtually unimaginable that they would have gained a majority of the votes. What Hitler himself believed about (direct) democracy must be evident from his argument against ‘parliamentary democracy’ in Mein Kampf. “Opposed to this is the true Germanic democracy, with its free choice of a leader who commits himself to accept total responsibility for whatever he chooses to do or not to do. In this [Germanic democracy] there are no popular votes by a majority on individual issues, but only the determinations [Hitler uses a word which has overtones of ‘destiny’] of a single individual who must then stand behind his decisions with all his powers and his whole being” (Hitler, 1943/1925, p. 99). In a speech about the “Führerstaat” to 800 party members on 29 April 1937, Hitler spoke his mind even more clearly: the state “has the right to assume dictatorial power, and the duty to force others to obey it. That is why our state, too, has not been built on referendums at all – something I wish to emphasise – but rather it is our aim to persuade the people of the necessity for whatever happens. (...) Now people might say to me: ‘Yes, but you also held a ref-
erendum.’ But first I acted. I acted first, and only afterwards did I then want to show the rest of the world that the German people supported me. That was the reason for it. Had I been convinced that the German people would not perhaps have been able to go along with us on the matter, I would still have acted, but then I would not have held a referendum.” (speech reprinted in Frei, 1987, p. 190-195). The Nazis briefly flirted with the idea of the public assembly. In many places in Germany from 1933 onwards, they built so-called “Thingplätze” (‘thing squares’, ‘Thing’ or ‘Ting’ being the ancient name for public assembly parlaments in Scandinavia and parts of Britain), which nevertheless had nothing to do with direct-democratic decision-making, but were where the population was supposed to passively watch the Nazis’ propaganda meetings. But from 1935 onwards, the Nazis decided to put an end to this, and they prohibited the further use of the ‘thing squares’ (http://de.wikipedia.org/wiki/Thing).

In 1948, a ‘Parliamentary Council’ was appointed in Bonn (not elected by the people), which had to design a new constitution for West Germany. It is striking that this Council used ‘the experience of Weimar’ as a reason for not introducing direct democracy in Western Germany. The first President of the Federal Republic of Germany after the Second World War, Theodor Heuss, in particular promoted this absurd interpretation of pre-war German history. Heuss had been a member of the 1933 parliament and, though not a Nazi sympathiser, had nonetheless approved the ‘Ermächtigungsgesetz’. In an introduction to the post-war West-German Constitution Heuss wrote: “The plebiscitary form of democracy, with its popular initiative and referendum (‘Volksbegehren’ and ‘Volksentscheid’), which the Weimar republic copied from the Swiss tradition, has also been removed from the repertoire of German legislative instruments. This led for a time to the cheap reproach that the Parliamentary Council had deprived the people of a fundamental element of democracy. But, in the light of past experiences, it was its fundamental duty to protect the still insecure state from the depredations of lurking demagogues and to ground binding responsibility in the representative system”. (Weihrauch, 1989, p. 40).

In other words: the results of the failure of parliamentary democracy were used to remove direct democracy. The consequences for European history were immense. If, after the Second World War, a direct-democratic political practice could have developed in Germany, more or less following the Swiss example, the democratic map of the world at the end of the 20th century might have looked very different.

What is particularly remarkable is that the constitutions of the former DDR (communist East Germany), and of Berlin did initially provide for the citizens’ initiative referendum. Shortly after the war, the SED – the united party that emerged from the enforced merger of the socialist and communist parties in the Soviet zone – even campaigned actively for the direct-democratic ideal. In fact, this party was simply seeking to achieve a goal that had previously been set out in the socialist programmes of the 19th century. Some popular referendums were actually held, for example on the dispossession of war criminals. After Germany was divided, the SED came to power in East Germany and interest in direct democracy disappeared without trace. Despite this, direct democracy remained provided for in the DDR Constitution until 1968, the year of the Prague spring, when the provision was removed without public debate.

Direct-democratic decision-making was also constitutionally provided for in West Berlin after the Second World War. All the political powers in Berlin kept quiet about this constitutional option, and the provision was finally scrapped in 1974 with no public debate.

Opponents of direct democracy clearly lived on both sides of the Iron Curtain.

6-2: About compulsory voting

Belgium and Greece are the last two European countries to retain compulsory voting. Both these countries also have an exceptionally high public deficit, with a relatively strongly developed black economy, and lack any form of decisive referendum (situation as of summer 2006).

The Christian Democrats and the Socialists defend compulsory voting. The first argument is that, without compulsory voting, it is particularly the socially weaker people who would not turn out to vote, which would seriously weaken the representativeness of the outcome. With compulsory voting, all the social classes have equal representation in the (indirect) decision-making process.

This argument is questionable for several reasons. Compulsory voting does not create the competence to cast a responsible vote, but encourages the casting of protest votes and blank ballots. It can be shown that abolishment of compulsory voting actually focuses attention on the groups which tend to participate least in voting. Precisely because the passive group can in many cases make the difference between a majority or a minority, they can attract the full attention of the political parties, because their votes can be won (this argument was used, for example, by the Agalev green group politician Boutmans, Gazet van Antwerp newspaper, May 1997). In Switzerland, approximately 30% of the electorate always vote, approximately 45% vote selectively, and approximately 25% are rarely persuaded to vote (Möckli, 1994, p. 206). There is therefore a large group of voters who can potentially be mobilised, and on whom the politicians can focus their powers of persuasion. It is far from clear whether the effect predicted by Boutmans does in fact play a role in countries without compulsory voting. However, there is just as little proof that compulsory voting leads to better representation of the groups that tend to participate least in voting. Extreme right-wing parties, for example, obtain a large proportion of their votes from voters in the weaker social groups, even though in practice they are least good at defending the economic and social interests of those groups.

An argument against compulsory voting is that it removes the intrinsic motivation for taking part in voting. Someone who is compellled to vote no longer does it of their own free will and insight. Voluntary participation in voting is not based on selfish calculations. For the individual citizen, the economic benefit of voting is, after all, nothing compared to the expense of taking part in voting – such as the time it costs. So voting is not a rational act for a ‘calculating citizen’. Nevertheless, people do go out to vote and evidently do so with unselfish motives. Perhaps they miscalculate the benefit to themselves, but much more probably they vote from solidarity with a group, from a sense of citizenship,
or on principle. Voluntary participation in voting is already a form of social capital, and that social capital is destroyed when voting becomes compulsory.

Defenders of compulsory voting also consider participation in voting as a civic duty. Our society has various duties of this type. Thus every citizen is expected to offer assistance to someone who is in need, or – if he or she is called to do so – to accept jury duty, or perhaps help out in a polling station at election time. From this point of view, compulsory voting reflects our moral duty to concern ourselves with the ins and outs of society, to form an opinion to the best of our ability about possible solutions to society’s problems, and to express this opinion prudently.

This argument must be taken seriously. There are some forms of mutual assistance that citizens cannot reasonably withhold from each other, and one can argue that the collective demands in a society require everyone’s time and attention. In practice one notes, however, that the parties in Belgium that pronounce themselves in favour of compulsory voting simultaneously resist the introduction of direct democracy. This totally undermines the argument in favour of compulsory voting. The combination of compulsory voting and a purely representative system is perverse. People are compelled to express an opinion, because this is their so-called civic duty. But absurd restrictions are placed on their opportunities for doing so – according to these supporters of compulsory voting, the citizens are only allowed to choose parties; even worse, they are required to surrender their rights, even if they would prefer to exercise these rights themselves directly. Expressing ones views directly is forbidden, even if the majority of the people want this. If making social judgements is considered a civic duty, it must also be a civic duty to directly express the judgements made. This is not possible in the purely representative system: one can then only choose complete party programmes, which almost never correspond with ones own views. The representative system thus causes all sorts of distortions, such as the ‘cross-pressure effect’: voters who cannot find any suitable party to represent them find it easier to abstain from voting. In the Netherlands, for instance, this impact is seen among Christian workers: if they vote Christian Democrat (CDA), they are not voting for a party which supports the workers, yet if they vote for the Labour Party (PvdA), they will not be furthering Christian values. As a result, Christian workers show a significantly higher tendency not to vote (Smeenk, 1996, p. 236). One does not solve this group’s problem by compelling them to vote. Their real problem is that they cannot say what they actually want to say by means of purely representative elections. Only direct democracy can properly solve the problem of this group of voters, and we all belong to such groups in one way or other.

Anyone who advocates compulsory voting, but simultaneously rejects direct democracy is not credible. Compulsory voting, hand in hand with direct democracy, is basically defensible. But then one must also accept that the citizens themselves must ultimately be allowed to decide – in a direct-democratic way – on the possible retention of compulsory voting. As long as that does not happen, compulsory voting can only be considered as an instrument of certain political parties to cloak themselves in a cheap aura of ‘representativeness’, in which, ultimately, only they still believe.