

INITIATIVE and REFERENDUM



Suppose we are granted the legal rights to organise
Initiatives and Referenda:

- The results are binding
- The signature thresholds are decided by the people and reasonable low to start with.
- The Initiatives and Referenda are on citizens initiative only, or obligatory.
- No exclusions of subject (within the normal boundaries accepted by society).

THE DEVILISH DETAILS

- Experiences with referenda in Germany



PARTICIPATION QUORUM

- It is clear that a participation quorum frequently invokes a boycott. A boycott is unfair against the people who do the effort to vote. There is also no theoretical justification what so ever, or a comparable rule in the representative system.

Therefore

We support the principle of the free mandate: everybody may vote if he wishes to do so or give a mandate to those who vote. This rule is the same for elections in the representative democracy. There is no need to make exceptional rules for participation in a Direct Democracy.

ADJOURN A DECISION

- The fact that a citizens initiative can't adjourn a political decision is very discouraging.
Furthermore, it leads to a massive aversion of politics and politicians (Paust)



NO EXCLUSION OF SUBJECTS

- In almost all “Lander” the council decide if a referendum is allowed. A lot of subjects are excluded by law.
- Knowing that most initiatives are against a decision of the council, we hardly can imagine that this procedure is objective.

(Paust).

Therefore

All the subjects who can be treated by representative democracy must be allowed in Direct Democracy

PUBLICATION

- A legally arranged publication by the government, with an equal opportunity to express the arguments of all parties involved, is indispensable.

The use of public money for unilateral propaganda must be prohibited.

- The brochures, like they exist in Switzerland and California, can stand as a model. Also the Oregon type of information provision is a good example.

<http://www.healthydemocracyoregon.org/cir>

OTHER TRICKS



RATIFICATION

- The hold off of ratification or conversion into law, after a successful binding referendum, is another example of political tactics.
- There must be a strict ruling about timing and automatic consequences if not respected.



COUNTER PROPOSAL

- If the government has the right to propose a counter proposal to an initiative that got the signature threshold, this counter proposal must be delivered within a limited time frame.
- At this moment (2011) the Swiss government is using his right to propose a “counter proposal” to stall an initiative, successfully launched in 2008.

URGENT LAW

An 'urgent' law (decree, décision, measures..) with immediate entry into force can never cancel out the right to hold a referendum about this decision.

- A solution might be an 'obligatory referendum' (Switzerland) but this has the risk that politicians use this tool to invoke referendums (plebiscites).
- This risk can be avoided by putting the 'urgency' itself before a 'citizens Jury' appointed by sortition.

HIGHER JUSTICE

Invoking a “Higher Justice” is a high risk for any type of democracy.

- International law :
 - Human rights (which ? defined democratically ?)
- Natural law (reason and revelation) :
 - Liberal natural law (Locke)
 - Devine Law (Inquisition, Sharia,..)

The imposition of a “higher justice” holds the danger of an exceptional and persistent tyrannical dictatorship.

In most cases this “higher justice” is characterised by granting privileges to a very limited group.

(.. Law interpreters, some categories of citizens,..).

CONCLUSION

- In a true democracy there is no authority above the people, and the people decide direct, when ever they think it is necessary.
- This includes the right of secession and free association in a “bottom up” organisation.

www.meerdemocratie.be

<https://www.democracy-international.org/direct-democracy-facts-arguments>