13 A non-populist direct democracy for Belgium

Nenad Stojanović

Introduction

Belgium and Switzerland are the only *deeply* multilingual countries in Europe. By 'deeply multilingual', I mean polities where there are two or more official languages but where most citizens are predominantly monolingual and there is no lingua franca, unlike Spanish in Spain or English in Ireland (see Stojanović and Bonotti, 2020). From the point of view of institutional design, both Switzerland and Belgium are federations and have been considered prime examples of consociational democracy (Lijphart, 1977).[1] Clearly, there are also many differences between them, but the most important one from the institutional point of view is the role of direct democracy, which is crucial in the political system of Switzerland but next to inexistent in Belgium, at the national level at least.[2]

Direct democracy is a truly popular institution in Switzerland. A large majority of the Swiss see it as an important element of their national identity,[3] and no Swiss political party is against direct democratic tools such as popular initiatives and referendums.[4]

The situation is quite different outside of Switzerland. Surveys show that citizens of other countries also want more direct participation in political decisions (Donovan and Karp, 2006, p. 677). But this has hardly led to an upsurge in direct democracy in the respective countries. The reason, in my view, is that their political, economic, and academic elites fear that referendums and popular initiatives might open the door to populist policies and end up undermining democracy itself (Offe, 2017).

Scepticism towards direct democracy is further nourished by the fact that populists themselves are actually calling for more direct democracy. In 2014, for example, parties such as the UK Independence Party (UKIP), the Swedish Democrats, and Alternative for Germany (AfD) founded the 'Alliance for Direct Democracy in Europe'. It is telling that an AfD politician declared that his goal was to promote the '*Verschweizerung Deutschlands*', that is, the Helvetisation of Germany (Theile, 2017).

In Belgium too, populism is considered a disruptive force (see e.g. De Cleen and Van Aeist, 2016) and, in addition, there is the risk that direct democracy would only accelerate the linguistic division of the country (see e.g. Hooghe and

Sinardet, 2009). Nevertheless, its political system is slowly opening up to referendums at the sub-national level (see fn. 3). Hence, it makes sense to discuss its possible effects.

Against that background, the aim of this chapter is twofold. First, I want to show that scepticism towards direct democracy rests on shaky ground. In fact, I will try to argue that frequent use of direct democracy could structurally undermine populism. In this regard, the Swiss experience with direct democracy may serve as a source of inspiration, rather than a model. Second, I want to use that inspiration to discuss the case of Belgium and the potential effects of direct democracy on that country.

The chapter is structured as follows. I first show how direct democracy challenges the populist fiction of a unified 'people'. I then explore its 'valve function', which allows citizens to peacefully express their frustrations with political elites and the outcomes of representative democracy. The chapter proceeds by presenting the main arguments underlying the scepticism towards direct democracy, before turning to the rationale for possible use of direct democratic instruments in the context of a deeply multilingual Belgium and an overview of practical recommendations. I conclude by stressing the problem of availability heuristics that haunts debates on direct democracy in academia and beyond.

The unified people?

An essential characteristic of populists is that they are not only anti-elitist but also anti-pluralist. "Their claim is always 'We – and only we – represent the true people'" (Müller, 2016a, p. 129).[5] The 'true people' is thereby represented as a unitary, homogeneous community. Müller further outlines that "[t]he populist always operates with the following contrast: on the one hand the morally immaculate, homogeneous people, on the other the corrupt or at least incompetent elites" (Müller, 2016b).

Now, it is relatively easy, I argue, to spread this fiction in countries where you never actually ask voters what they think about a particular political issue. Take, for example, the following quote typical of the politician Marine Le Pen (of France's '*Rassemblement national*' party): "The people no longer want immigrants" (Ginori, 2015). Or, in the words of Tom Van Grieken, the leader of the Belgian '*Vlaams Belang*' party: "Immigration is really the topic that keeps people awake [and thus] we need the migration [to] stop".[6] Yet neither we nor the populists themselves know how 'the people' – the French people, the Flemish people – would actually vote on this particular issue.

A key insight, here, is that *frequent and regular* use of direct democracy *structurally* undermines populist ideology based on 'the people's will' and a unified, non-pluralist conception of the people. Of course, we know that this conception is fiction (Chollet, 2011, p. 109; Müller, 2016a) but it is, or so I will argue, easier to unmask in a political system in which direct democracy is commonly used.

To see this, it is of crucial importance to underline that frequent use of direct democratic tools creates a context of unstable and ever-changing majorities

and minorities. While mainstream theorists of democracy consider this fact as a significant *disadvantage* of direct democracy (Schmidt, 2010, p. 188), it is crucial to my non-populist account as it increases the likelihood that members of minorities will be parts of political majorities on some issues (Rothchild and Roeder, 2005, p. 17). This insight also contributes to relativising the charge that direct democracy can exacerbate the danger of majority tyranny and the twin problem of persistent minorities. I argue that the opposite is actually true: it is in purely representative democracies, especially if the representatives are elected according to majoritarian rules, that minority groups can be systematically outnumbered by the majority. In a system of frequently employed direct democracy – where people can vote on ordinary policy issues such as pension reform, healthcare, a new motorway tunnel, or environmental regulations – the chances are high that a citizen belonging to a minority group will quite often be on the winning side, that is, in the *majority* (cf. Stojanović, 2011, pp. 104–105). This effect of direct democracy confers legitimacy on the political system and allows it to counter the populist rhetoric of real or potential ethnonationalist leaders and movements.

Consider the fact that the Swiss populists have often tried to launch popular initiatives with the aim of limiting immigration. And yet, with one exception since 1970, all such proposals have failed because the majority of the people were against them.[7] ~~That~~ exception is the popular initiative 'against mass immigration' that was narrowly accepted (by 50.3%) on 9 February 2014. (Actually, the majority of the voters were not in favour of the initiative; if we count the blank ballots, 49.8% were 'yes' votes.) Is this one vote a reason to reject direct democracy as an institution? Of course not. We should not judge democracy only on the basis of its outcomes. After all, hardly anyone has proposed to abolish free elections and representative democracy on the grounds that a considerable number of citizens of France, Italy, and the United States ~~have~~ voted for populists such as Le Pen, Salvini, and Trump. Thus, leaving aside the narrowly successful outcome of 9 February 2014 – which, by the way, has never been implemented by parliament, nor has that decision of parliament been challenged by a successful referendum – we can say that, contrary to populist slogans, the majority of Swiss do not want to stop (or even simply limit) immigration. Indeed, in spite of direct democracy, after Luxembourg, Switzerland is the European country with the second highest rate of immigrants – 25.3% (as of March 2020). Do, say, citizens of France, Germany, the United Kingdom, or Belgium want to stop or limit immigration? We simply do not know, because they have never been allowed to vote on this issue. In such institutional contexts it is easier for populists to claim to speak 'on behalf of the people'.

The valve function of popular initiatives

The instruments of direct democracy, especially the popular initiative, fulfil several functions in the political system. One of them is the so-called 'valve function' (*Ventilfunktion*; Linder, 2012, p. 287). Thanks to the popular initiative,

dissatisfied citizens can "let off steam by protesting against the system" (Caroni and Vatter, 2016, p. 192).

Let us take the rise of Islamophobia as an example. In Germany, it is at the heart of 'Pegida', a populist movement.[8] Its name – 'Patriotic Europeans against the Islamisation of the West' – is a perfect summary of its cause (Korsch, 2016, p. 112). Despite several attempts, Pegida has never succeeded in setting foot in Switzerland. Violent attacks against asylum centres have also been virtually non-existent in Switzerland. One hypothesis is that direct democracy allows (potentially or actually) Islamophobic Swiss citizens to 'let off steam' and express their frustration by voting 'yes' or 'no' on certain popular initiatives, for example in the federal vote against the construction of minarets in 2009 or in popular votes that took place in the cantons of Ticino in 2013 and St Gallen in 2018 on a burka ban. On these three occasions, a majority of voters approved the respective populists' proposals.

While we may regret the outcome of these popular votes,[9] a far-right movement like Pegida seems far more frightening to me. According to Bühlmann, "it would be worth investigating if protest phenomena such as Pegida or Podemos are not getting through in Switzerland because the critical debate is constantly being fuelled by direct democracy" (Bühlmann, 2015, p. 582, fn. 14). In other words, people who have a direct say in decisions do not need to raise tensions and to provoke (potentially or actually) violent conflicts on the streets.

Clearly, empirical analysis is required in order to test this thesis. At this stage, let me stress that, according to Caroni and Vatter (2016, p. 205), 12 out of 137 popular initiatives launched between 1987 and 2015 in Switzerland can be considered as having had a valve function.

An example is the initiative 'against rip-off salaries', which proposed to increase the decision-making power of the shareholders of Swiss companies listed on the stock exchange. Its valve function is attested to by the fact that it was launched in October 2006, in a context of widespread popular anger against the hubris of well-known executives. By February 2008, it had gathered over 114,000 valid signatures and was put before parliament. It was rejected by parliament; however, in March 2013, a popular vote was held and the initiative won a landslide victory: 68% of Swiss voters and a majority in each canton voted in favour of it.[10]

Nowadays, it is likely that populist proposals such as the burka ban can gain a majority at the ballot box. But, again, we can ask if the situation is different in purely representative democracies? By June 2017, countries such as France, Belgium, and Austria had already adopted a burka ban.

Beyond populism: Other reasons to be sceptical about direct democracy

In the previous two sections, I have presented tentative arguments defending direct democracy from the charge that it is prone (or more prone than representative democracy) to populist manipulations. Let me now take a step back and ask why many scholars and practitioners alike think that direct democracy encourages

populism? The most important reason is the supposed ignorance or political incompetence of citizens. Giovanni Sartori (1987, p. 120), for one, argues that the "cognitive incompetence" of the electorate allows populist proposals to win majorities in direct democratic popular votes.

Of course, voters can make highly controversial decisions. However, this is not a distinctive feature of direct democracy alone. The risk also exists in representative democracy. After all, a plurality of Germans – 37% in July and 33% in November 1932 – voted for the Nazis. And in Bosnia, 75% of voters supported the ethnonationalist parties in November 1990 (Stojanović, 2014).

A second reason for scepticism is that less than half – about 46% – of Switzerland's enfranchised citizens take part in popular votes, with the better educated and wealthier social classes being over-represented. It is important to address the issue of turnout and to see who makes use of their political rights and who does not (see Kriesi, 1993). But it is wrong, I think, to take this as a benchmark for supporting or refusing direct democracy. We know very well that even in a representative democracy certain societal groups are greatly over- or under-represented. Lawyers and men, for example, are clearly over-represented. Women, on the other hand, are typically under-represented, and it is almost impossible to find working-class people in parliaments (Mansbridge, 2015). But is that a reason to reject representative democracy as a form of government? If not, then logically, one should refrain from using similar arguments against direct democracy.[11]

A third reason for scepticism towards direct democracy is the 'tyranny of the majority'. If the majority (of at least 50% plus one) always wins, then even strong minorities are always defeated. In my view, and on the basis of the Swiss experience, this risk is highly exaggerated. Notwithstanding its majoritarian logic, Swiss direct democracy has not created problems for the linguistic minorities. On the contrary, it has significantly contributed to forging national cohesion and the perception that the Swiss form a single 'people' (Stojanović, 2011; see also the next section of this chapter). Paradoxically perhaps, direct democracy is used as if Switzerland were a centralised and unitary state *à la* France: the majority decides. It is true that constitutional amendments – via popular initiatives or referendums triggered by parliament – also require a majority of the cantons (see fn. 5), and this is certainly a federal element in the direct democratic procedure. But this tool does not protect the linguistic minorities (i.e. French, Italian, and Romansh speakers) whatsoever, since the vast majority of the cantons are German speaking.

A viable proposal for a deeply multilingual Belgium?

The Belgian political philosopher Philippe Van Parijs has recently arrived at the conclusion that carefully designed direct democratic tools such as referendums have great potential, especially in divided societies such as Belgium, where linguistic diversity has created a fragmented public space (Van Parijs, 2018, p. 85). He looks for inspiration to Switzerland and reports a 2011 conversation with the then president of the Swiss Confederation Micheline Calmy-Rey (p. 86). According to Ms Calmy-Rey, there are three reasons why Swiss democracy

'functions better' than its Belgian counterpart in spite of the 'similar challenges' that the two countries face: (1) conflict management is easier when there are 26 cantons instead of only two linguistic blocs; (2) the existence of national parties and a single voting space in Switzerland; and (3) the Swiss have the idea of forming a single 'people'.

The reasons put forward by Ms Calmy-Rey to explain why Switzerland 'functions better' than Belgium were certainly well taken. But I see them – following Lijphart (1977) – neither as necessary nor as sufficient but as 'favourable' conditions. In my view, they do not imply that Belgium is a lost case and that introducing direct democracy would make things even worse. Moreover, what if Ms Calmy-Rey's implicit[12] causal mechanism is wrong? What if direct democracy has been, in the Swiss context, if not the cause then at least a 'favourable condition' that has critically *supported* both (1), (2), and (3)?

Regarding (1), one could argue that direct democracy prevented the creation of linguistic blocs, given that it has prevented the merger of cantons. In fact, in recent decades, economic, political, and bureaucratic elites have been pushing for a Switzerland of seven or nine (instead of 26) cantons.[13] But whenever a merger of cantons was put to a popular vote, the results were "devastating" (Vatter, 2018, §4.1). In 2014, 68% of voters in the canton Basel-Country rejected the proposal to merge with the canton Basel-City. Twelve years earlier, in 2002, only 20% of Geneva's voters were in favour of the popular initiative '*Oui à la region (Genève-Vaud)*', which proposed to merge the canton of Geneva with the neighbouring canton of Vaud. Notice that the hypothetical canton Geneva-Vaud would have been the home of 6 out of 10 French speakers in Switzerland. In other words, it would have come close to being an institutionalised linguistic bloc, not quite as linguistically homogeneous as Wallonia (where 8 out of 10 French speakers in Belgium live) but not too far from it either.[14] To sum up, "these referendums on cantonal mergers clearly express that Swiss citizens still strongly identify with their canton" (Vatter, 2018, §4.1).

As for the importance of countrywide parties (2), my thesis is that direct democracy has been a crucial factor in explaining why Swiss parties become and remain national and multilingual, contrary to what has happened with national political parties in Belgium (see Stojanović and Bonotti, 2020). The main reason for this is that popular votes are held within a single, countrywide voting district (Stojanović, 2009: pp. 17–18; see also Lacey, 2014). This creates a powerful incentive not only for political parties but also for associations, to cross language borders and be present in all parts of the country. This incentive is in line with the centripetal approach to institutional design for divided societies (Reilly, 2012) and is comparable to the kind of incentive, and the effects it is intended to trigger, that the Pavia Group, a Belgian group of academics, has been advocating for – that is, the creation of a single, federal electoral district in which 10% of seats would be allocated (Horowitz, 2009).

The last favourable condition mentioned by Ms Calmy-Rey (3), namely, the perception that the Swiss form a single *demos*, is also strongly influenced by direct democracy (Stojanović, 2009, pp. 15–17). The thesis is that it is "the frequent

exercise of direct democracy at the national level which makes the emergence of such a *demos* possible" (Stojanović, 2009, p. 16). It makes it possible because it makes it constantly 'visible'. When, in the aftermath of a popular vote, politicians and the media say that "the people has decided", the 'people' they have in mind are the Swiss as a political nation and not an ethno-linguistic community. There are also, of course, other factors that explain why Switzerland has become a multilingual nation-state and not a multinational state composed of different linguistically defined nations (Dardanelli and Stojanović, 2011), but direct democracy is an important part of the puzzle.

To sum up, my point is that each of the three arguments that have been used to explain why direct democracy works in Switzerland can be turned upside down in order to argue that each of them has also been strongly influenced by direct democracy itself.

Nevertheless, Van Parijs (2018, p. 86) remains sceptical regarding the potential use of direct democracy in Belgium and mentions "perversities" that "do not spare Switzerland". He thinks that it could only be put in place in conjunction with institutions of deliberative democracy (such as a randomly chosen second chamber) and that direct democracy should not be allowed to "prevail over representative democracy" unless it becomes an extension of the deliberative process itself (ibid.).

I agree that caution is warranted if direct democracy is to be introduced into a political system that has hardly ever used it, especially in countries such as Belgium with structural (e.g. ethnic or linguistic) minorities. For this reason, in the next section, I will turn to a number of practical recommendations that take that caution into account.

But first, I would like to spell out more clearly why I think that direct democracy could be an inspiration for Belgium. The reasons are closely linked to points (2) and (3) discussed above. First, the institutional stability of democracy in Belgium would benefit from closer ties between Dutch- and French-speaking political parties (see Pilet et al., 2009). A government coalition, for one, would be easier to form. We could also expect to see a less segmented public space. Hence, ideally, a system of national parties would gradually re-emerge.

Second, national cohesion would benefit from direct democracy, provided that popular votes were held frequently. (Remember also the importance of multiple majorities and minorities discussed above.) In fact, direct democracy has the potential to enhance the formation of a single *demos* and contribute to "the formation of a common identity" (Papadopoulos and Magnette, 2010, p. 725). Of course, a common Belgian identity has existed for a long time. But it has been eroding. Moreover, supporting the emergence of a *demos* does not mean that the linguistically defined *demoi* would or should disappear. Rather, the idea is that direct democracy could further foster the "demoi-within-demos constellation", where "a thin demos coexists with multiple demoi" (Stojanović, 2020, p. 30). It is important to stress, also in relation to the first part of the chapter, that the kind of *demos* that direct democracy brings about is not 'the people' that populists have in mind, but rather a plural political community that, as I have

argued elsewhere, divided societies need in order to have a functioning democracy (Stojanović, 2011; see also Van Crombrugge, 2020).

Of course, direct democracy can be defended on many other grounds not linked to the specific kind of problems that Belgium's democracy has been facing. For example, it can be seen as an additional check on the power of political elites, or as a way to address the rising legitimacy problems besetting the institutions of representative democracy (see e.g. Budge, 1996).

Practical recommendations

I would like to conclude this chapter by advancing a couple of recommendations which, I believe, could be useful if Belgium's institutional designers should want to introduce direct democratic tools (Stojanović, 2011, pp. 109–110).

Think of direct democracy as a slow, gradual, long-term process. A possible introduction of direct democracy in Belgium should not be rapid and abrupt. In Switzerland, direct democracy has been introduced gradually, step by step, and it has taken decades for its centripetal effects to become visible. In other words, do not expect to see its effects immediately and do not be discouraged by one or another negative experience. Also, do not end the experiment too early, as the authorities of the Netherlands did in 2018 after two national referendums that had not produced the results for which they had hoped.

Start at the local level. Even though the thesis of this chapter speaks of the benefits of direct democracy at the national level, it is necessary that citizens get accustomed to it first and foremost at the local level. If citizens see that they can decide on the construction of a new bridge in their local community, or vote on the local budget, or start an initiative for eliminating a disliked parking place, they might be more open to extending direct democratic tools to higher levels of government. The federal set-up of Belgium, which grants important autonomy to the regions and to the linguistic communities, is particularly inviting in this context.[15]

Exclude 'communitarian' issues from the reach of direct democracy. In order to prevent direct democracy from becoming a (further) source of ethnic or linguistic division, instead of centripetal integration, some highly divisive issues should be put out of reach of popular votes, at least in the initial phase. In the context of Belgium, such issues are typically related to language or territory. Of course, there will likely be many borderline cases so it might be difficult to clearly distinguish communitarian from non-communitarian issues. One could even argue that any issue can be regarded as 'communitarian' in the Belgian context. There are indeed many examples showing that "media (and politics) are […] inclined to interpret issues through the lens of the community divide […] even when […] confronted with figures that do not support or even contradict this interpretation" (Sinardet, 2009, p. 53). But I do not think that we should stop thinking about democratic innovations just because we anticipate misleading framing by media and politics. Instead, we should think of mechanisms that allow us to distinguish truly communitarian issues from other issues. Devices such as the 'alarm

bell' procedure that already exist in the Belgian federal parliament could be very helpful in this regard.[16]

Provide a qualified majority for votes on constitutional amendments. The constitution (or an equivalent set of norms and documents) is of central importance in every democracy. Hence, in many democratic systems, a constitutional amendment is subject to a qualified majority. In some cases, depending on the exact nature of the qualified majority and the size of minority groups, this can reassure minorities that important reforms will not be adopted without their consent. In direct democratic procedures, this implies that pure majoritarian rule (50% plus one always wins) should be abandoned in favour of a more complex majority rule. In Switzerland, as already noted, any change in the constitution is subject to a 'double majority' of the people and the cantons. Of course, the Swiss solution is hardly transferable to Belgium, given that its federal structure is based on only three regions and three communities. But it could become a source of inspiration and could lead to the adoption of a specific (Belgian) rule of qualified majority. For example, constitutional amendments could require the approval of the majority of voters and of at least 35% of citizens in each of the three regions.

Conclusion

In the last two sections, I have put forward arguments in favour of direct democracy in the context of Belgium. What are the obstacles to this (for now rather imaginary) path that Belgium's institutional designers might wish to take? In the current context, in Belgium (see De Cleen and Van Aeist, 2016) as elsewhere, I believe that the danger of populism will be the main argument against direct democracy. For this reason, the first sections of the chapter challenged this thesis.

I argued that direct democracy is not per se a door opener for populists. On the contrary, it can constantly undermine the populist logic – and its political success – by breaking the myth of a homogeneous people. In certain culturally (linguistically, ethnically, religiously, etc.) heterogeneous societies, however, direct democracy presents both risks and opportunities. Hence, in countries such as Belgium, it would make sense to introduce it at the local level first so that citizens can gradually become accustomed to this instrument. To avoid the risk of minority oppression, it is possible to introduce qualified majorities and to exclude communitarian issues from popular votes.

But I also see opportunities in such societies: direct democracy could make a significant contribution to developing a functioning *demos* – a viable political community of equals. Without a common *demos*, democracy can hardly survive (Stojanović, 2020). In my view, this is where the greatest potential of direct democracy can be found.

Think of democracy in the European Union, where it is commonplace to speak about the 'democratic deficit'. The European Citizens' Initiative (ECI), introduced in the Lisbon treaty, is a first step towards more direct democracy in the EU. But it is still far too modest to have any effect on the emergence of a common *demos*, especially since a successful ECI is never put to a popular vote;

it is merely a non-binding recommendation to the EU parliament and the EU Commission (Stojanović and Bonotti, 2020).

In other words, not all forms of direct democracy can have the effects that I have illustrated in this chapter. In particular, the experience of Switzerland shows that one should focus on the bottom-up rather than the top-down instruments of direct democracy. Decisions should not be made only by the political elite: 'ordinary citizens' should also be able to launch popular initiatives and referendums as a corrective to the elites' power. This is where I see a crucial political advantage of direct democracy over the form of democracy dominant today, i.e. purely representative democracy.

Let me conclude this chapter with a note on *availability heuristics* – a cognitive shortcut that can generate biased judgements due to the fact that people tend to evaluate events or proposals by considering the availability of instances of that event that can readily be brought to mind (Tversky and Kahneman, 1974). So, if today somebody tries to advocate direct democracy, the typical critic will say, "Bad idea! Look at what happened with Brexit!".[17] In the context of Belgium, the critic will probably refer to the only national referendum held in the history of the country: on 12 March 1950, in a referendum on the return of King Leopold III (Sinardet, 2009; Van Parijs, 2018, p. 85),[18] the Flemish part of Belgium voted in favour of the king's return by 72% while the Francophone part voted against it by 58%.

It seems evident to me that it is not rational to reject an institution on the basis of only one or two 'bad' examples. Especially when even those examples are ill-chosen. In fact, Sinardet himself notes that the linguistic divide is too superficial an interpretation of what happened in 1950, given that various municipalities or districts in Flanders voted against the king while many Francophone areas were in favour.[19]

Also, one could say that the Brexit referendum has nothing to do with the kind of direct democracy discussed in this chapter. Apart from many problems that accompanied it (especially the fact that it was not clear that a 'no' vote would be irreversible and that the new deal with the EU would not be put to a popular vote; see Offe, 2017), I should emphasise that Brexit was a typical example of a top-down referendum, where a prime minister (or a president) has the power to decide whether or not to hold a referendum. The alternative is a bottom-up version, coming from the citizens themselves (see fn. 5). And even if popular initiatives and referendums are launched by elites (parties, trade unions, associations, etc.), they can hardly bypass the hard grassroots democratic work of collecting signatures and convincing citizens to support their cause.[20] Hence, probably the most difficult task for advocates of direct democracy is to convince their critics to abandon availability heuristics and to evaluate both the merits and the shortcomings of direct democracy in a less passionate and a more objective way.

Notes

1 While I have argued elsewhere that Switzerland is not an example of linguistic consociation (Stojanović, 2020), this is not a matter of concern in the context of the present chapter.

2 The only exception is the 1950 referendum on the Royal Question, if we don't count the 1793 referendum on becoming a part of France, and the 1920 local referendums in Eupen and Malmedy on whether their residents wanted to be a part of Germany or of Belgium (source: c2d.ch.). In more recent years, Belgium's constitution was amended in 1997 in order to allow for the possibility of local referendums, and then in 1998 to extend the possibility to the provincial level (Reuchamps, 2011). A further change to the constitution (article 39bis, since 2013) created the possibility of introducing referendums at the regional level too. However, such referendums are not binding, and until now the option has been used only rarely and only at the local level.
3 See Garessus (2016).
4 A *popular initiative* can be launched by any group of citizens, who then have 18 months to collect 100,000 valid signatures (approximately 2% of the electorate). It can be on any topic (e.g. unconditional basic income and the ban on dehorning cows were recent topics). Parliament can declare it invalid if it violates *jus cogens* (e.g. prohibition of slavery and torture); this happened only once, in 1996, when an initiative of the extreme right violated the 'principle of *non-refoulement*' of refugees and asylum-seekers. If the initiative is declared valid, parliament can accept it, reject it, or make a counterproposal. In any event, a popular vote must be held (unless the initiative is accepted by parliament or its committee decides to withdraw it). If the majority of the voters and the majority of the cantons accept the initiative, it enters the constitution (either as a new article or as an amendment of an existing one). In most cases, parliament is then called to implement it by emending an existing law or by writing a new law. Often, however, parliament does not fully implement the content of the initiative (e.g. in 5 out of 12 cases since 1994; see Kley, 2015). Such decisions by parliament cannot be sanctioned as there is no judicial review. The *referendum* can be either mandatory (e.g. when a constitutional emendment is triggered by parliament) or facultative. Facultative referendums can veto any law approved by parliament. They can be launched within 100 days and require 50,000 valid signatures. If successful, a popular vote must be held and the majority of the voters decides.
5 My translation from the German. The remark applies to all other quotes in this chapter of which the source is not English.
6 "omdat immigratie echt het tema is waar de mensen van wakker liggen […] dan heb je de migratiestop nodig" (Van Grieken, 2019).
7 See the Schwarzenbach initiatives in the 1970s, the '18 percent initiative' in 2000, the initiative 'against abuse of asylum rights' in 2002, and the 'Ecopop' initiative, which was rejected by 74% of voters on 30 November 2014.
8 See www.islamophobiaeurope.com.
9 I emphasise that we *may* regret such outcomes because I do not expect that all readers will agree that the burka ban, for example, is actually a decision that we should regret. In a different context, the burka ban might be considered necessary for gender equality and a certain idea of what it means to 'live together'. Indeed, it was upheld by the French and the Belgian constitutional courts, as well as by the European Court of Human Rights. (I thank Stefan Sottiaux for this remark.) But in the Swiss context – where hardly any woman, except for a limited number of tourists, wears a niqab or a burka – the popular initiatives demanding a burka ban have clearly been populist and had a discriminatory intent. According to the president of the Swiss Federal Commission against Racism, it is "a pretext to attack Islam" (Swissinfo, 30 August 2016; https://www.swissinfo.ch/eng/controversial-initiative_anti-racism-official-burka-ban-is-excuse-to-attack-islam/42408780).
10 https://www.bk.admin.ch/ch/d/pore/va/20130303/index.html.

11 That being said, we can still do a lot to address the problems related to low turnout. Italy, for example, has a quorum of 50% for referendums. In the canton of Schaffhausen, Switzerland, voters pay a fine of 6 Swiss francs if they fail to vote without a valid excuse. This alone has already produced turnouts that are 15–20 percentage points above the Swiss average. This said, I am much less critical of the low turnout problem and do not favour quorums, because they produce perverse effects (e.g. people who are against a proposal put to referendum might abstain from voting), as shown by the recent, short-lived experience with direct democracy in the Netherlands. I am also not in favour of compulsory voting. For reasons of space, I cannot further elaborate on these two points. Rather, my objective has simply been to stress that *if* we think the low turnout is a problem, then we can find ways to mitigate it.

12 'Implicit' because her point was to explain why Swiss democracy generally speaking, and not necessarily Swiss *direct* democracy, works better than democracy in Belgium. But given that direct democracy is at the very core of Swiss democracy, I think that we can take her remarks as referring to the functioning of direct democracy, too.

13 See e.g. 'Vers une fusion des cantons?', RTS radio, 30 September 2011 [online]. Available at: https://www.rts.ch/play/radio/le-journal-du-matin/audio/vers-une-fusion-de-cantons?id=3411920; 'Has Switzerland's 26-cantons model had it day?', Swissinfo, 28 January 2015 [online]. Available at: https://www.swissinfo.ch/eng/directdemocracy/federalismo-cantoni-svizzera-quanti-ce-ne-vogliono/41237576; 'Un chercheur a imaginé une Suisse à neuf ou treize cantons au lieu des 2[6] actuels', *Le Nouvelliste*, 7 August 2015 [online]. Available at: https://www.lenouvelliste.ch/articles/suisse/un-chercheur-a-imagine-une-suisse-a-neuf-ou-treize-cantons-au-lieu-des-22-actuels-343298.

14 Population censuses in Belgium do not include the language question, whereas in Switzerland the last complete (individual-based) census was held in 2000. Hence the numbers that I gave are rough approximations based on the principle of territoriality. To calculate the number of French speakers in Switzerland, I considered French speaking the population of all officially monolingual (French) cantons (Geneva, Vaud, Neuchâtel, Jura) plus the officially monolingual (French) districts of the cantons of Fribourg, Valais, and Berne. Hence, as of 2018, the share of the population of Geneva and Vaud within the *Suisse romande* (French-speaking Switzerland) was 61.0% (1,298,625 out of 2,129,848). Source: Swiss Federal Statistical Office (https://www.bfs.admin.ch/bfs/fr/home/statistiques/population/effectif-evolution/repartition-territoriale.assetdetail.9635942.html). To calculate the number of French speakers in Belgium, I considered the population of Wallonia minus the German-speaking community, plus 80% of the population of the region of Brussels. Hence, as of 2020, the share of Wallonia's French speakers within the French-speaking community of Belgium is 78.5% (3,567,294 out of 4,541,898). Source: StatBel (https://statbel.fgov.be/en/themes/population/structure-population).

15 As mentioned earlier (fn. 2), it is now possible to launch referendums at the local, provincial, and regional level in Belgium. In light of the present chapter, that is a positive development. But there are many aspects of this that are not in line with the kind of direct democracy discussed in this chapter: Financial and budgetary issues are excluded (even if they create no 'communitarian' problems), parliament has the veto power, some decisions require a majority of two-thirds (which is far above the kind of qualified majority that I favour). Also, referendums are purely consultative. Of course, it is better to have non-binding referendums than no referendums at all. But the problem with non-binding referendums, as well as with other hurdles mentioned above, is that they can be very frustrating for people

who spend their time and other resources collecting signatures. So the risk is that such referendums are rarely used. Now, most beneficial effects discussed in this chapter necessitate a *frequent* use of popular votes.

16 The alarm bell procedure gives to each of the two main linguistic groups in parliament (Flemish or French) the right to suspend the parliamentary procedure if at least three quarters of its members sign the motion. In practice, it has been applied only twice, and both times by French speakers (Veny and Warnez, 2016, p. 230).

17 See e.g. Van Parijs (2018, p. 85): "Certes, la démocratie directe n'est pas le *nec plus ultra* de la démocratie. Le vote sur le Brexit en aura sans doute convaincu un bon nombre de ceux qui ne l'étaient pas encore".

18 As Philippe Van Parijs puts it (2018, p. 85), Belgium came out of this experience "traumatized". Sinardet (2009, p. 54) notes that this referendum "is often considered as the first plain and explicit externalisation of the regional-linguistic cleavage in Belgium".

19 "Indeed, the more rural Walloon provinces had also voted in favour of bringing back Leopold III: Namur by 58 % and Luxemburg by 65%. It is true that in the 1950s the urban-rural divide largely coincided with the division in language regions, but on this vote the community divide was secondary to the urban-rural one" (Sinardet, 2009, p. 54).

20 In Switzerland, the only possible bypass is when parliament adopts amendments to the constitution. In that case, the mandatory referendum is automatically triggered, requiring the double majority of the people and the cantons (see fn. 5). Much less frequent are referendums launched by the executives of at least eight cantons against laws adopted by parliament.

Bibliography

Budge, I. (1996) *The New Challenge of Direct Democracy*. Cambridge: Polity Press.

Bühlmann, M. (2015) 'Reformbedarf in der direkten Demokratie? Elitistische Einsprüche, partizipatorische Ansprüche und prozedurale Gelassenheit', *Leges*, 3, pp. 571–583.

Caroni, F. and Vatter, A. (2016) 'Vom Ventil zum Wahlkampfinstrument? Eine empirische Analyse zum Funktionswandel der Volksinitiative', *Leges*, 2, pp. 189–210.

Chollet, A. (2011) *Défendre la démocratie directe*. Lausanne: Presses polytechniques et universitaires romandes. ~~DOI: 10.7202/1009186ar.~~

Dardanelli, P. and Stojanović, N. (2011) 'The acid test? Competing theses on the nationality–democracy nexus and the case of Switzerland', *Nations and Nationalism*, 17(2), pp. 357–376. DOI: 10.1111/j.1469-8129.2010.00453.x.

De Cleen, B. and Van Aeist, P. (2016) 'Belgium: The Rise and Fall of Populism Research', in Aalberg, T. et al. (eds.) *Populist Political Communication in Europe*. New York: Routledge, pp. 99–110. DOI: 10.4324/9781315623016-16.

Donovan, T. and Karp, J.A. (2006) 'Popular Support for Direct Democracy', *Party Politics*, 12(5), pp. 671–688. DOI: 10.1177/1354068806066793.

Garessus, E. (2016) 'Les Suisses ont une confiance record à l'égard de la politique', *Le Temps*, 30 November [online]. Available at: https://www.letemps.ch/economie/2016/11/30/suisses-ont-une-confiance-record-legard-politique (Accessed: 2 January 2020).

Ginori, A. (2015) 'Ich höre nur auf das Volk, das keine weiteren Einwanderer mehr will', *Die Welt*, 22 May [online]. Available at: https://www.welt.de/print/die_

welt/politik/article141323017/Ich-hoere-nur-auf-das-Volk-das-keine-weiteren-Einwanderer-mehr-will.html (Accessed: 2 January 2020).

Hooghe, M. and Sinardet, D. (eds.) (2009) *Public Opinion in a Multilingual Society. Institutional Design and Federal Loyalty*. Brussels: Rethinking Belgium.

Horowitz, D.L. (2009) 'A Federal Constituency for Belgium: Right Idea, Inadequate Method', in Deschouwer, K. and Van Parijs, P. (eds.) *Electoral Engineering for a Stalled Federation. A Country-wide Electoral District for Belgium's Federal Parliament*. Brussels: Rethinking Belgium, pp. 25–28.

Kley, A. (2015) 'Die Umsetzung von Volksinitiativen aus politisch-historischer Sicht', *Leges*, 3, pp. 497–520.

Korsch, F. (2016) '"Natürliche Verbündete"? Die Pegida-Debatte in der AfD zwischen Ablehnung, Anziehung und Ablehnung', in Häuser, A. (ed.) *Die Alternative für Deutschland. Programmatik, Entwicklung und politische Verortung*. Wiesbaden: Springer, pp. 111–134.

Kriesi, H. (1993) *Citoyenneté et démocratie directe. Compétence, participation et décision des citoyennes et citoyens suisses*. Zurich: Seismo.

Laborderie, V. (2012) 'Changer de système–changer de pays. Réformer le mode de scrutin de Belgique: La nécessité première', in Baele, S. (ed.) *Belgique: Sortir de crise(s)*. Louvain-la-Neuve: Presses Universitaires de Louvain, pp. 13–41.

Lacey, J. (2014) 'Must Europe be Swiss? On the Idea of a Voting Space and the Possibility of a Multilingual Demos', *British Journal of Political Science*, 44(1), pp. 61–82. DOI: 10.1017/s0007123412000798.

Lijphart, A. (1977) *Democracy in Plural Societies*. New Haven: Yale University Press.

Linder, W. (2012) *Schweizerische Demokratie*. Institutionen – *Prozesse – Perspektiven*. 3rd rev. ed. Bern: Haupt.

Mansbridge, J. (2015) 'Should Workers Represent Workers?', *Swiss Political Science Review*, 21(2), pp. 261–270. DOI: 10.1111/spsr.12160.

Müller, J.W. (2016a) *Was ist Populismus?* Berlin: Suhrkamp.

Müller, J.W. (2016b) 'Wie ~~D~~die Populisten ~~T~~ticken', *NZZ Folio*, November issue [online]. Available at: http://folio.nzz.ch/2016/november/wie-die-populisten-ticken (Accessed: 2 January 2020).

Offe, C. (2017) 'Referendum vs. Institutionalized Deliberation: What Democratic Theorists Can Learn from the 2016 Brexit Decision', *Dædalus ~~(Summer Issue)~~*, pp. 14–27. DOI: doi.org/10.1162/daed_a_00443.

Papadopoulos, Y. and Magnette, P. (2010) 'On the Politicisation of the European Union: Lessons from Consociational National Polities', *West European Politics*, 33(4), pp. 711–729. DOI: 10.1080/01402381003794571.

Pilet, J.B., Jaumain, S. and De Waele, J.M. (eds.) (2009) *L'absence de partis nationaux: Menace ou opportunité?*. Brussels: Editions de l'Université de Bruxelles.

Reilly, B. (2012) 'Institutional Designs for Diverse Democracies: Consociationalism, Centripetalism and Communalism Compared', *European Political Science*, 11(2), pp. 259–270. DOI: 10.1057/eps.2011.36.

Reuchamps, M. (2011) 'Referendum as a Tool for Building European Identity. The case of Belgium, Luxembourg, and the Netherlands', *Cahiers de Science Politique*, 6 [online]. Available at: https://popups.uliege.be:443/1784-6390/index.php?id=91 (Accessed: 6 January 2020).

Rothchild, D. and Roeder, P.G. (2005) 'Dilemmas of State-Building in Divided Societies', in Roeder, P.G. and Rothchild, D. (eds.) *Sustainable Peace*. Ithaca and London: Cornell University Press, pp. 1–25.

Sartori, G. (1987) *The Theory of Democracy Revisited*. Chatham NJ: Chatham House.
Schmidt, M. G. (2010) *Wörterbuch zur Politik*. 3rd edn. Stuttgart: Alfred Kröner Verlag.
Sinardet, D. (2009) 'Direct Democracy as a Tool to Shape a United Public Opinion in a Multilingual Society? Some Reflections Based on the Belgian Case', in Hooghe, M. and Sinardet, D. (eds.) *Public Opinion in a Multilingual Society. Institutional Design and Federal Loyalty*. Brussels: Rethinking Belgium, pp. 47–60.
Stojanović, N. (2009) 'Is Democracy Possible in a Multilingual Country? The Swiss Experience and the Paradox of Direct Democracy' in Hooghe, M. and Sinardet, D. (eds.) *Public Opinion in a Multilingual Society. Institutional Design and Federal Loyalty*. Brussels: Rethinking Belgium, pp. 9–22.
Stojanović, N. (2011) 'Limits of Consociationalism and Possible Alternatives: Centripetal Effects of Direct Democracy in a Multiethnic Society', *Transitions*, 51(1–2), pp. 99–114.
Stojanović, N. (2014) 'When Non-Nationalist Voters Support Ethno-Nationalist Parties: The 1990 Elections in Bosnia and Herzegovina as a Prisoner's Dilemma Game', *Southeast European and Black Sea Studies*, 14(4), pp. 607–625. DOI: 10.1080/14683857.2014.974379.
Stojanović, N. (2020) 'Democracy, Ethnoicracy and Consociational Demoicracy', *International Political Science Review*, 41(1), pp. 30–43. DOI: 10.1177/0192512119881730.
Stojanović, N. and Bonotti, M. (2020) 'Political Parties in Deeply Multilingual Polities: Institutional Conditions and Lessons for the EU', *Journal of Common Market Studies*, 58(3), pp. 599–615. DOI: 10.1111/jcms.12944.
Theile, C. (2017) 'AfD-Vorbild wider Willen', Tages-Anzeiger, 21 June [online]. Available at: http://www.tagesanzeiger.ch/ausland/standard/vorbild-wider-willen/story/10139152 (Accessed: 2 January 2020).
Tversky, A. and Kahneman, D. (1974) 'Judgment under Uncertainty: Heuristics and Biases', *Science*, 185(4157), pp. 1124–1131.
Van Crombrugge, R. (2020) 'Are Referendums Necessarily Populist? Countering the Populist Interpretation of Referendums through Institutional Design', *Representation*. Early view. DOI: 10.1080/00344893.2020.1720789.
Van Grieken, T. (2019) [Video interview], 4 January 2019. Available at: https://www.hln.be/nieuws/binnenland/vlaams-belang-wil-totale-immigratiestop-van-minstens-tien-jaar~a7dccf7b/?referer=https%3A%2F%2Fwww.google.com%2F.
Van Parijs, P. (2018) *Belgium. Une utopie pour notre temps*. Brussels: Académie royale de Belgique.
Vatter, A. (2018) *Swiss Federalism: The Transformation of a Federal Model*. Abingdon: Routledge.
Veny, L. and Warnez, B. (2016) 'Techniques for Protecting Minority Languages under Belgian Federalism', *International Journal on Minority and Group Rights*, 23(2), pp. 211–236. DOI: 10.1163/15718115-02302002.