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## Initiative and Referendum

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All modern democracies rely on representatives to formulate and administer policies. Representative government takes advantage of division of labor: a small group of experts can develop expertise in policy, freeing everyone else to pursue other tasks. The downside is that elected officials may fail to pursue the interests of voters. A popular remedy for the ills of representative government is to empower the electorate at large to make policy decisions or override the decisions of their representatives. The constitutional procedures that do this are the initiative and referendum (I&R).

### *Definitions*

The *initiative* process allows ordinary citizens to propose new laws by petition, that is, by collecting a predetermined number of signatures from their fellow citizens. The proposal becomes law if approved by a vote of the electorate at large. The *referendum* is a process that allows the electorate to approve or reject a proposal by the legislature. Referendums (this is the preferred plural rather than *referenda* according to *Oxford English Dictionary*; see Butler and Ranney (1994)) come in several flavors depending on what conditions send the measure to the voters. *Mandatory referendums* require certain proposals to be put before the voters before they go into effect. For example, most state constitutions cannot be amended without popular approval. *Legislative* or *referred referendums* are measures that the legislature chooses to put before the voters. *Petition* or *popular referendums* allow citizens to challenge measures approved by the legislature if they can collect a sufficient number of signatures. Other variants occur.

## *History*

I&R as we know them first appeared as part of the 1848 Swiss constitution. Switzerland provides both processes at the federal, cantonal, and local level. Nearly 500 federal measures have come before the voters (not counting purely advisory measures). As of 1997, all 26 cantons allow the initiative and all but 1 allow mandatory or petition referendums on certain fiscal decisions. Over 80 percent of Swiss municipalities employ mandatory or petition referendums on budgetary matters. See Kobach (1994), Feld and Matsusaka (2001), and Feld and Kirchgassner (1999) for discussions of I&R in Switzerland at the federal, cantonal, and local level, respectively.

The other bastion of I&R is the United States. The initiative first appeared in 1893 in California counties. The first state to adopt was South Dakota in 1898, and the first city to adopt was San Francisco in 1899. As of 2002, 24 states and roughly half of all cities (including 15 of the 20 largest) provide the initiative, 24 states permit petition referendums, and all but 1 state require constitutional amendments to be put before the voters (Matsusaka, forthcoming).

Although Switzerland and the United States are the most prominent users of I&R, other countries are also active. The Italian constitution of 1947 allows petition referendums to rescind laws, no matter how long they have been on the books. Italians have decided 48 referendums, including proposals to repeal divorce laws, abortion laws, and the proportional representation system. National referendums have also been held in Europe, primarily to adopt constitutions (for example, Denmark, France, Greece, Ireland, Poland, Turkey) and resolve questions about European integration (for example, Denmark, France, Ireland, Italy, Norway, United Kingdom). Six of 15 successor states to the Soviet Union have initiative provisions in their new constitutions. I&R are less common outside the Western world, but not entirely absent. In Asia, referendums were used to make constitutional changes in South Korea and the Philippines, and local referendums have been held in Taiwan (on nuclear power plants) and Japan (status of U.S. base on Okinawa). South Africa ended apartheid by referendum. And in South America, Chile began its return to democracy by rejecting a referendum on military governance. For a good overview of international I&R, see Butler and Ranney (1994).

### *Legal forms*

I&R procedures are implemented in a number of different ways. The petition process is one important source of variation. Focusing just on the United States, we see (1) differences in the number of signatures required for a measure to reach the ballot (from a low of 2 percent of the population in North Dakota to a high of 15 percent in Wyoming), (2) differences in the amount of time allowed to collect signatures (typically 90 days for referendums, often 1 year or more for initiatives), and (3) restrictions on where the signatures can be collected (such as Massachusetts, which limits the number of signatures from a single county to one-quarter of the total.) There are also variations in the allowable subject matter. Some states allow initiatives to propose new statutes; others allow constitutional amendments. Some states prohibit initiatives that allocate money or raise new taxes. Many states have a single-subject rule, meaning that an initiative may address only one issue. Another source of variation is the approval process. To gain approval, some governments require a measure to be approved at two succeeding elections, allow the legislature to approve the measure before sending it to the voters, or require supermajorities. A good source for legal provisions is the Initiative and Referendum web site: [www.iandrinstute.org](http://www.iandrinstute.org).

### *Theory*

The internal/external cost model of Buchanan and Tullock (1962) was perhaps the first attempt in public choice to understand the tradeoffs between direct and representative democracy. They reached a fairly negative conclusion (page 213): “Direct democracy, under almost any decision-making rule, becomes too costly in other than very small political units when more than a few isolated issues must be considered.” However, their analysis compared pure forms of representative and direct democracy. I&R, which is the grafting of direct democracy devices onto representative systems, falls through the cracks.

One prominent theme of the subsequent theoretical literature is the importance of agenda control, following the path breaking work of Romer and Rosenthal (1979). Seen from this perspective, a key feature of the initiative is that it breaks the legislature’s monopoly on making policy proposals. One implication with relevance for empirical

work is that the initiative and referendum can have affects on policy without being used. This is because a legislature might respond to a lobbyist in order to stave off the threat of an initiative or referendum (Gerber, 1996). How I&R change policies is not entirely clear theoretically. With perfect information, both initiative and referendum drive policy closer to the median voter (compared to a government with only representatives.) With asymmetric information, however, the initiative can make the median voter better or worse off (Matsusaka and McCarty, 2001) and the referendum can impede or exaggerate pro-spending biases of elected officials (Marino and Matsusaka, 2001).

Relatively little theory has been developed outside the agenda control framework. Matsusaka (1992) proposes an information economies view of I&R: representatives focus on decisions where technical expertise is important and underlying preferences are similar, while referendums are used to address issues in which the relevant information is dispersed among voters. Besley and Coate (2001) call attention to the possible role of initiatives in allowing voters to address particular issues that are usually bundled in candidates. Gerber et al. (2001) document the importance of representatives in implementing (or failing to implement) measures approved by the voters.

### *Key research questions*

A brief (non-exhaustive) summary of some of the key issues and recent research follows.

- For the Many or the Few? One fundamental question is whether I&R promote majority rule or permit rich special interests to subvert the policy process. Critics have long argued that I&R increase the power of interest groups that can afford to qualify measures and fund election campaigns. Defenders argue that wealthy interests are already influential in the legislature, and that I&R allow the majority to reassert its will.

Existing theory on this question is ambiguous. A simple agenda control model with complete information predicts that both initiative and referendum promote majority rule. Rational voters will reject proposals worse than the status quo, and adopt proposals that are better than the status quo, so they can only be made better off by having a choice (see Gerber, 1996). However, when small amounts of

incomplete information are introduced, it is possible for voters to be worse off when I&R are available (see Marino and Matsusaka, 2001; Matsusaka and McCarty, 2001.)

The empirical evidence, however, generally suggests that I&R promote the interests of the many rather than the few. One example is my series of studies on state and local fiscal policy in the United States (Matsusaka, 1995, 2000, 2002). I find that since 1960, states with the initiative cut taxes, pushed spending down from state to local governments, and adopted revenue structures that were more dependent on fees and less on taxes. All three of these changes move policy in the direction preferred by a majority of voters, based on preferences expressed in polls or election returns. In contrast, the initiative drove up spending in the early twentieth century, a period where there is reason to believe that voters wanted increased government spending. Gerber (1996, 1999) provides similar evidence for social policies. She finds that initiative states were more likely than non-initiative states to adopt the capital punishment and parental abortion notification policies favored by the majority of voters.

- Majority Tyranny? Another fundamental question is whether the majority use the initiative to oppress numerical minorities. This possibility was an explicit motivation for the “republican” form of government adopted in the U.S. Constitution. With pure democracy, argued Madison in the celebrated Federalist No. 10, “[a] common passion or interest will, in almost every case, be felt by a majority of the whole ... and there is nothing to check the inducements to sacrifice the weaker party, or an obnoxious individual.” If the initiative causes policy to respond to the will of the majority, as the evidence suggests, does this endanger the rights of minorities? The answer is an empirical matter, but unfortunately the empirical work to date is unconvincing (see Matsusaka (2002) for a review and critique.) At an anecdotal level, the danger seems more theoretical than real. It is difficult to find clear instances of initiatives that trample minority rights, and the most egregious cases of majority tyranny in the last 100 years—Jim Crow in the South and internment of Japanese Americans during

World War II—were instigated by representative government. Recent evidence by Hajnal, Gerber, and Louch (2002), although indirect, points in the same direction: the majority of racial and ethnic voters are on the winning side of proposition votes 95 percent of time. Additional empirical work on this question would seem to be a high priority.

- How Do I&R Affect Policy? A general conclusion from the empirical literature is that I&R do change policy, but without an obvious conservative or liberal bias. In the United States, the effect of the initiative on spending varies with the level of government and time period. The initiative cut combined state and local spending during 1960-1999, but increased municipal spending in the same time period and drove up combined spending in the first decades of the twentieth century. Throughout the century, the initiative triggered decentralization of spending from state to local governments, and induced a shift in financing away from taxes and into fees for services. In Switzerland, where all evidence is post-WWII, canton initiatives reduced and decentralized spending. Cantons and cities with mandatory referendums on new spending programs also spent less. We also know that I&R change the way preferences are transformed into policies. Another pattern that seems to be robust is that mandatory referendums on debt issues reduce deficits and the amount of borrowing. See Matsusaka (2002), Feld and Matsusaka (2001), Schaltegger and Feld (2001), Feld and Kirchgassner (1999), Pommerehne (1978), Romer, Rosenthal, and Munley (1992), Kiewiet and Szakaly (1996), and Bohn and Inman (1996).
- How Do I&R Affect Economic Performance? A number of studies touch on this question, most of them reporting that I&R improve economic performance. Pommerehne (1983) finds that Swiss municipalities with the initiative operate their refuse collection more efficiently. Feld and Savioz (1997) estimate that Swiss cantons with I&R have higher factor productivity than those without. And

Blomberg, Hess, and Weerapana (2001) report that American states with the initiative grew faster during the 1969-1986 period.

- What Role Does Money Play? This is a question that applies to political behavior in general, of course, and is the subject of a huge literature. The research on this question specific to I&R is primarily empirical. Several facts have been established. First, money certainly matters. The success of a measure depends on how much money is spent for and against it. However, the effectiveness of money is asymmetric. Virtually all studies report that spending against a measure has a big “bang for the buck,” while spending in support of a measure yields an unreliable return. The most likely explanation is that raising questions about a measure is easier than convincing people of its benefits, and uncertain voters tend to vote no. Gerber (1999) is essential reading on this question, and provides links to the rest of the literature. See Broder (2000) for an illuminating view from the trenches of initiative campaigns.
- What Explains Adoption? I&R are usually provided as part of a government’s constitution or charter. What leads some governments to adopt and not others? Unfortunately, there is virtually no theoretical or empirical work on this question. The most noteworthy study is Hersch and McDougall (1997). They provide a valuable outline of the theoretical possibilities, but have only modest success in explaining the votes of Kansas legislators on a proposal in 1994 to adopt the initiative.
- What Explains Use? Initiatives and referendums represent the breakdown of bargaining between the legislature and an interest group, and result in deadweight costs (to collect signatures and run campaigns). If the parties could see in advance how an initiative campaign would end, they would prefer to strike a deal above their reservation values and avoid the deadweight costs. This suggests that initiatives and referendums should be more common in environments with high

levels of asymmetric information or when it is difficult for legislatures to form implicit contracts. As far as the facts go, there are important variations across time and space in initiative use. Across time, initiative use in the United States was high in the early twentieth century then gradually declined starting in the 1940s. It bottomed out in the 1960s, and then shot up in the 1980s, reaching a record high in the 1990s. Across states, initiative activity is heavily concentrated in California, Oregon, North Dakota, and Colorado. Panel regressions indicate that the number of initiatives is higher when signature requirements are low, when geographic dispersion requirements on signatures are absent, when states are heterogeneous (possibly a proxy for asymmetric information about the median voter's preferences), and when a state has divided government. See Banducci (1998) and Matsusaka and McCarty (2001).



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