

YOUR GUIDE TO ACTIVE CITIZENSHIP
AND PARTICIPATORY DEMOCRACY



Global Passport to Modern Direct Democracy



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The world of active citizenship and participatory democracy



As a citizen of your municipality, region and country, you may be entitled not merely to elect others to make decisions, but also to make your own proposals to your fellow citizens and elected representatives –and possibly to even make decisions on substantive issues (from local budgets to nationwide constitutional amendments) at the ballot box.

The **Global Passport to Modern Direct Democracy** offers basic information about the tools of **modern direct democracy**. It introduces key definitions, describes various tools, and includes recommendations on how to use initiatives, referendums and plebiscites.

This Global Passport was written by Bruno Kaufmann and produced by the International Institute for Democracy and Electoral Assistance (International IDEA).

For many years, International IDEA has supported the development and use of direct democratic procedures and practices around the world. Its **Direct Democracy Database** is a unique resource for democratic practitioners, administrators and observers.

The Passport also complements the 2008 publication, **Direct Democracy: The International IDEA Handbook**, which provides worldwide comparisons of direct democratic mechanisms at all political levels and features many practical case studies.

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Your fundamental rights

According to article 21.1 of the Universal Declaration of Human Rights,

'Everyone has the right to take part in the government of his country, directly or through freely chosen representatives'



This Global Passport to Modern Direct Democracy belongs to

.....
NAME

.....
CONTACT INFO

I am an eligible citizen of (tick if applicable)

- THE MUNICIPALITY OF
- THE DISTRICT/REGION/PROVINCE OF
-
NAME OF COUNTRY
-
NAME OF TRANSNATIONAL ENTITY
-
NAME OF OTHER POLITICAL ENTITY

Unsure about your own citizenship status? Check your (travel) passport or national ID card or consult with an information officer in your hometown/province or country.

Your guide to modern direct democracy

In a democracy, formal popular votes are important to the exercise of people power. Traditionally, in most representative democracies, the power of citizens to make decisions at the ballot box was restricted to the elections of other people and parties to offices and parliament.

However, in recent years more and more countries have adopted new possibilities and channels for citizens to make their voices heard—even between election days. In fact, according to International IDEA's Direct Democracy Database, since 1980 more than 8 out of 10 countries worldwide have had at least one nationwide popular vote on an issue—often in the form of a referendum. By mid-2017, a total of 1,707 nationwide popular votes on substantive issues had taken place worldwide: 1,042 in Europe (including 627 in Switzerland), 187 in Africa, 185 in Asia, 176 in the Americas and 113 in Oceania.

Recently, referendums have been held on important political issues, such as the United Kingdom's membership in the European Union (the so-called Brexit plebiscite), a treaty to end the conflict in Colombia, the adoption of a new presidential constitution in Turkey, and the future of nuclear power in Switzerland. Even this small sample of popular votes raises a wide range of vital issues, including the role of a free press, the authority to call for a referendum, whether a referendum is binding or just consultative for the government, and whether a direct popular vote on a substantive issue is the desirable approach for resolving certain problems.

Making decisions at the ballot box—by electing representatives and by deciding on substantive matters—is one of the most important responsibilities citizens have in a society. Such votes allow you to shape the future of your country and require a high level of information and knowledge.

For this reason, the **Global Passport to Modern Direct Democracy** is designed to help you better understand your rights as an active citizen in the growing world of participatory and direct democracy. It offers some key information about how tools and processes of direct democracy work (and don't work) as part of a modern representative democracy. It is written for a wide variety of audiences, including international observers of initiative and referendum processes, journalists, election administrators and constitutional designers.

In this Passport, the term 'modern direct democracy' is used in order to avoid confusion with traditional forms of assembly democracy (often associated with Greece), which are still in use today, especially at the local level (e.g. town hall meetings). Such assemblies are 'pre-modern' in that they do not respect the secrecy of the vote, which is critical in modern direct democracy.

Modern direct democracy cannot (and should not) replace traditional indirect forms of democracy. Rather, it should complement other forms of democracy in order to make representatives more representative, and by combining the best of both worlds: active and responsible citizenship and elected accountability and legitimacy.

Modern direct democracy: initiatives, referendums and beyond

Three types of direct and participatory democracy are in use today: tools initiated by citizens, government-triggered popular votes and other participatory instruments.

1. Direct democratic ('bottom-up') tools initiated by citizens

Citizens' initiatives are the most powerful direct democracy tools as they are in the hands of citizens themselves. They can include initiatives proposing new laws (e.g. regulations or constitutional amendments) and 'popular referendums' intended to stop (or amend, shape, change) legal decisions taken by elected officials. In both cases, citizens need to enlist the support of a certain number of other citizens (normally by gathering signatures, usually on paper but in some jurisdictions also electronically) in order to qualify for the next formal steps.

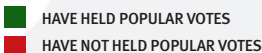
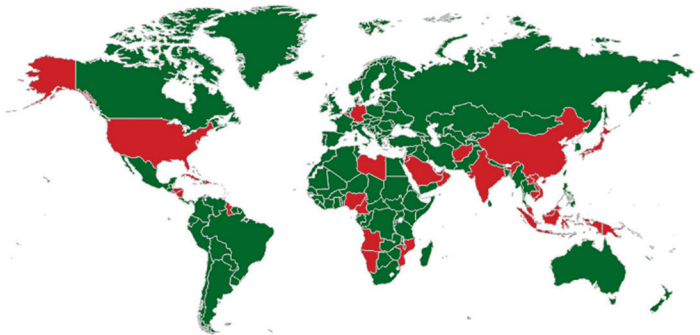
2. Popular ('top-down') votes initiated by governments

Governments may also propose popular votes on specific issues. There are two distinct forms: 'mandatory referendums' on a change of legal provision or other kind of decision (e.g. an international treaty) which by law must be put forward to the eligible voters in a jurisdiction; and 'plebiscites', which are voluntary popular votes initiated by an elected public authority.

3. Other participatory ('consultative') instruments

New forms of participatory instruments are emerging, often designed to enable public deliberation rather than direct democratic decision-making. For example, petition-style processes, where citizens are asked to make their voices heard, are generally considered to be purely advisory mechanisms. However, participatory methods such as participatory budgeting can—if they include a decision made by citizens—have the same effect as a referendum.

FIGURE 1. Countries where nationwide (subnational) popular votes on substantive issues have occurred, 1980–2017



Source: International IDEA Direct Democracy Database, <http://www.idea.int/data-tools/data/direct-democracy>

Define your role and interest in modern direct democracy

- I am an **ELIGIBLE CITIZEN**, who has the right to use a direct democracy tool.



Which type of participatory tool are you about to use? One initiated by you or your fellow citizens? Or possibly by the government? On which political level are you asked to get involved: locally, regionally, nationally, or transnationally? Which tools do you have at your disposal? This Passport intends to offer you some guidance.

- I am a **REPORTER** on modern direct democracy practices.



As a journalist or observer of an initiative or referendum process you need to be familiar with the political context of the process being followed, and the legal implications of that process. An important question: Is the vote binding or just advisory? By studying this Passport, you can obtain some vital information to help your reporting.

- I am a **SUPPORTER** of modern direct democracy.



Promoting the establishment and use of participatory citizens' tools requires a good understanding of the effects and functions a direct democracy instrument may have. You will need to find answers to both fundamental and specific questions regarding direct involvement in public decision-making as part of a modern representative democracy. This Passport provides you with those answers.

- I am an **ADMINISTRATOR** of modern direct democracy procedures.



This is a key role for the proper and efficient use of initiatives, referendums and other participatory tools, as it is up to you to prepare, ensure and follow up on all procedural aspects. As an administrator you are protecting and serving the direct democracy process and need to be very familiar with all related regulations. This Passport offers you the big picture.

- I am a **DESIGNER** of modern direct democracy tools.



Being involved in establishing, developing, defining and balancing the rules around the direct involvement of citizens in lawmaking is a challenging role and requires an open mind and insights into the options and limits of participatory and direct democracy. You may therefore find it useful to study and reflect on the recommendations contained in this Passport.

- I am an **OPPONENT** of modern direct democracy.



For people who are deeply sceptical about the whole idea of active citizenship and participatory democracy, the Passport offer an informative insight into the variety of tools and processes, which can be useful in discussing the growing calls for more modern direct democracy in various parts of the world.

Where do you want to exercise your participatory rights?

○ At the **LOCAL** level

In most democratic societies, local government plays a very important role. It may handle issues like education, infrastructure, social welfare, waste and water management. Larger cities have established neighbourhood or district levels of government, where citizens may participate in mechanisms such as participatory budgeting. Local communities have often been the most dynamic in introducing participatory and direct democracy approaches. Currently, around half of all countries provide for some form of local direct democracy, with the highest share in Europe, followed by Africa, the Americas, Oceania and Asia.



○ At the **REGIONAL** level

Your regional entity may have significant powers in key sectors like education, the environment, economic development, public transport and regional planning. In federal jurisdictions—countries with a strong power-sharing structure between different government levels—regions may also have extensive sovereign rights when it comes to constitution-making and participation in international cooperation. These extensive regional powers are often mirrored in direct democracy and participatory rights. Several federal states in the Americas, including the USA and Mexico, provide for initiative and referendum rights in most subnational entities, while the same rights are more limited nationally.



○ **At the NATIONAL level**

Nation-states play a lead role in world governance, and are the main source of decision-making at all political levels. This dominant role is illustrated by the role nation states play in managing public resources and setting public policy, and by their decisive positions in intergovernmental organizations. As a citizen of an independent country you may have direct democratic rights established by constitution, law or governmental regulation. Today, around 90% of states make use of modern direct democracy at the national level.



○ **At the TRANSNATIONAL level**

Direct and participatory rights above and beyond nation states are rare. If you want to have a say in organizations like the United Nations or the African Union, for example, you will need to be directed through non-governmental organizations (NGOs) or your national representatives. NGOs have some ability to influence decision-making, using modern technology and digital petition platforms. Only a few international conventions, including the **Aarhus Convention** on environmental matters, provide for public participation and citizen empowerment. Some organizations make use of global surveys to collect views. For example, the United Nations used the MyWorld surveys to collect views of citizens around the world on the priorities of Agenda 2030.



STEP 2

EXERCISE YOUR RIGHTS

To find out more about your rights check the **International IDEA Direct Democracy Database:** [〈http://www.idea.int/data-tools/data/direct-democracy〉](http://www.idea.int/data-tools/data/direct-democracy)

Another useful resource is the **Direct Democracy Navigator:** [〈http://www.direct-democracy-navigator.org〉](http://www.direct-democracy-navigator.org)

However, there is one major exception: **the European Union.** Composed of 28 member states with a combined population of almost 500 million people, the EU provides a number of direct and participatory rights and tools. In particular, the **European Citizens' Initiative** has broken new democratic territory, offering EU citizens the right to bring forward legislative proposals to Europe via digital technology.

Choose your direct democracy tool

The main types of direct and participatory democracy in use today—including direct democracy initiated by citizens, government-triggered popular votes and other participatory instruments—offer several sets of tools for having your say.

○ Citizens' initiatives



A citizens' initiative gives a minority of citizens the right to set the political agenda regarding an issue which must be considered by law. However, in order to apply this right where you live, you first need to clearly understand the specific rules that apply to you. For example, you may need to start your initiative at the local, regional, national or transnational level. You may also be restricted in terms of the types of issue you can raise. Furthermore, there may be regulations on the specific process that needs to be followed.

There are two main types of citizens' initiative. **Popular initiatives** provide for a process leading up to a vote by all eligible citizens, in which your proposal is placed on the ballot for a decisive or consultative popular vote (possibly alongside counter-proposals by an elected authority). **Agenda initiatives** are more limited because your proposal may only be debated by an elected authority (e.g. parliament) instead of being referred to a popular vote. Other types of citizens' initiative may have different names (e.g. petitions, citizens' demands or popular motions).

○ Popular referendums



While citizens' initiatives are sometimes called proactive 'accelerators' of modern democracy, popular referendums triggered by citizens can also be called reactive 'brakes'. Typically, a popular referendum offers a minority of citizens in a jurisdiction the right to refer a regulatory, legislative or constitutional decision by an elected authority to the whole electorate for a final popular vote.

At the same time, the popular referendum process is similar to the initiative process when it comes to features such as registration, signature gathering and submission as well as formal limitations on when, where and how it can be applied.

Popular referendum rights can include citizens' 'checks' on newly enacted or already existing laws, and can lead to both decisive (binding) or consultative (non-binding) popular votes. In fact, there are jurisdictions where citizens' initiatives and popular referendums are conducted under the same legal provisions, offering the option to propose something completely new or to repeal something that already exists. Additionally, a subtype of popular referendum, known as a 'recall', allows for the removal of elected representatives from office.

○ **Mandatory referendums**



A third group of modern direct democracy tools includes popular votes which are legally mandatory. No signature gathering is required before the whole electorate is called to make its voices heard at the ballot box on a specific issue. Typically, mandatory referendums are required when issues of major importance (e.g. taxation levels or constitutional changes) are at stake. Such popular votes may be decisive (binding) or consultative (non-binding).

○ **Government-initiated popular votes**



An elected authority such as a president, a government or a parliament can also mandate a vote. These kind of popular votes are called plebiscites. As with mandatory referendums, no signature gathering is required before the whole electorate is called to vote in a plebiscite, which can be decisive (binding) or consultative (non-binding). In practice this means that your vote might make all the difference, or might just be seen as advice to the government.

○ **Other forms of participatory democracy**



Many other forms of participatory democracy exist at all political levels. Their purpose is most often to increase the conversational aspects of a democratic process through citizens' dialogues, participatory budgeting, town hall meetings, or e-petitions and deliberative polls. These kinds of participatory processes may either complement formal direct democracy procedures or act as stand-alone mechanisms initiated by either citizens or governments.

Citizens' initiatives

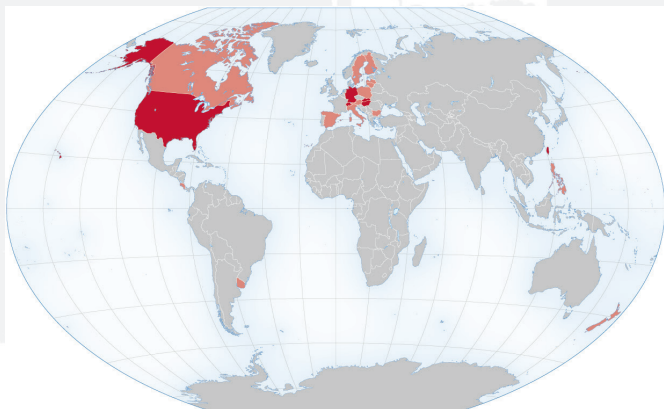
An early form of citizens' initiative was the petition in imperial China, where every citizen could send a proposal or complaint to the Emperor. However, these petitions served only as a plea, without any formal or binding impact. In the aftermath of the French Revolution in the late-18th century, formal citizens' initiatives for new laws based on signature gathering were written, for the first time, into a national constitution.

Today, citizens' initiatives are most frequent in federal nations such as Switzerland and the USA. Switzerland introduced a nationwide citizens' initiative right for constitutional amendments in 1891; as of mid-2017 more than 200 citizen initiatives have been decided on in nationwide popular votes (Swiss Federal Chancellery 2017). Citizens' initiative rights in the USA spread to the state and local level at the beginning of the 20th century (with South Dakota being first in 1898) but the power has not yet reached the national level.

At the beginning of the 20th century, many new democracies across Europe introduced citizens' initiative rights into their national constitutions, but as dictatorships and wars swept across the continent, these rights vanished for decades, only to resurface after 1989—not just in Europe but also in many countries in Latin America and Asia—in a variety of forms, shapes and capacities. Most recently citizens' initiative rights have spread rapidly in federal countries including Argentina, Canada, Germany and Mexico (Altman 2011).

Citizens' initiative rights are often seen as a means for citizens to set the political agenda of a municipality, region or country. On the transnational European level, a first version of the European Citizens' Initiative (ECI) was established in 2012. The ECI is limited to agenda setting: it cannot trigger popular votes. Similar agenda-setting-only initiative rights can also be found in many other countries, including Austria, Brazil, Finland, Morocco, Spain and Thailand (see Figure 2).

FIGURE 2. Citizens' initiatives around the world



- **COMPREHENSIVE USERS:** *Germany, Hungary, Liechtenstein, Palau, San Marino, Slovakia, Switzerland, Taiwan, United States*
- **MEDIUM USERS:** *Austria, Bulgaria, Canada, Costa Rica, Finland, Italy, Latvia, Lithuania, Malta, Marshall Islands, Micronesia, New Zealand, the Philippines, Poland, Spain, Sweden, Uruguay*

Citizens' initiatives in action



In **Uruguay**, 10% of eligible citizens have the right to propose a constitutional amendment. In the final vote, citizens' participation is compulsory and a reform only passes if at least 35% of all eligible voters have approved the proposal. On 26 October 2014, 53% of voters rejected a citizens' initiative that proposed a constitutional amendment to lower the minimum age at which a person can be charged with a crime from 18 to 16 years (Electoral Court of Uruguay 2014).



In **Switzerland**, eligible citizens need to gather at least 100,000 signatures within 18 months to register an initiative to amend the federal constitution. In the subsequent popular vote, organizers need to win a double majority (i.e. a majority of all participating voters nationwide and a majority of the votes in a majority of the 26 federal cantons). Statutory citizens' initiative rights are available in all cantons but not on the federal level. On 5 June 2016 a citizens' initiative to introduce the right to an unconditional basic income for all residents was put to a nationwide popular vote. Almost 77% of participating voters (turnout was 47%) rejected this constitutional amendment (Swiss Federal Chancellery 2016).



The US state of **Oregon** allows its citizens to propose new laws and constitutional amendments by citizens' initiative. In order to qualify, organizers need to gather a number of signatures equal to 6% (or 8% in case of a constitutional amendment) of the number of voters who participated in the most recent gubernatorial election. Four citizens' initiative proposals came up on 8 November 2016. Almost 70% of voters supported an initiative prohibiting the sale of products and parts of 12 types of animal including sea turtles, whales and sharks (Oregon Secretary of State 2016).



In **New Zealand**, citizens can propose the holding of a non-binding statutory (legislative) popular vote. For this at least 10% of all eligible voters in the country must sign the proposal within one year. In late 2013, more than two-thirds of voters backed a citizens' initiative opposing the government's plan to privatize parts of the state-owned energy companies. The organizers gathered more than 310,000 signatures in order to trigger the postal vote, which took place between 22 November and 13 December. Turnout was 45% (New Zealand Electoral Commission 2013).



Austria provides for an agenda initiative right by allowing at least 100,000 citizens to propose new draft legislation at the national level. A submitted initiative must then be considered by parliament. Since the mid-1960s there have been a total of 40 nationwide agenda initiatives in Austria. Of these, 34 initiatives managed to gather at least 100,000 signatures within the specified timeframe. In January 2017, an initiative against Austria joining two free trade agreements with the USA and Canada gathered 562,552 signatures (Austrian Ministry of the Interior 2017).



In **Morocco** the 2011 constitution provides for the citizens' right to present legislative motions (article 14). However no implementation law has yet been enacted which would translate this fundamental constitutional right into applicable right for citizens.



On the **European Union** level, citizens' initiatives are limited to agenda-setting powers and offer at least one million eligible EU citizens from at least seven member states the right to provide for an EU-wide legislative proposal. The signatures must be gathered within one year, either electronically or on paper. More than 60 citizens' initiatives have been launched in the EU since 2012. Just four have been able to gather enough support to be inserted into the EU decision-making process. The most recent successful initiative was delivered in summer 2017 to the European Commission and required the banning of glyphosate-based herbicides.

Popular referendums

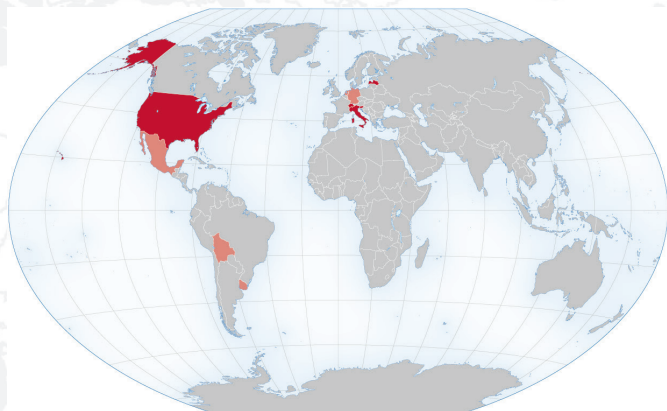
Popular votes triggered by citizens to check or repeal a decision by parliament have their pre-modern predecessors in the Alpine valley of today's Italy and Switzerland. Here delegates from different valleys would meet in centrally situated towns to discuss various issues of common concern. They would then bring the decision back to their own communities. They used the Latin term 're-fe-rendum' ('bring back') to describe their work.

Later, modern states, especially at the subnational level in Switzerland and the USA, started to apply the popular veto right at ballot stations, creating an efficient and democratizing check on elected powers. Even before Switzerland enacted a common constitution (approved by mandatory referendum) in 1848, several cantons had already introduced their own popular referendum procedures, beginning with the city and canton of St. Gallen in 1830.

The idea and practice of the popular referendum was adopted first at the national level in Switzerland in 1874—17 years before the establishment of the nationwide constitutional citizens' initiative right. Alpine migrants to Australia, Russia and the USA took the idea of the referendum with them. While revolutionary Russia did not offer fruitful ground for this tool of modern direct democracy, Australia and the USA introduced popular referendum rights at the subnational level in the early-20th century.

Popular referendums have a predominantly indirect effect on government. The possibility of a popular referendum, however, tends to make elected authorities more pro-actively responsive to citizens' perceived needs.

FIGURE 3. Popular referendums around the world



COMPREHENSIVE USERS: *Italy, Latvia, San Marino, Slovenia, Switzerland, United States*

MEDIUM USERS: *Bolivia, Germany, Liechtenstein, Luxembourg, Malta, Mexico, the Netherlands, Uruguay*

You don't have to go it alone

Citizens-initiated popular votes (as well as agenda-setting-only initiatives and recall efforts) require you to gather the support of a certain number of other citizens in your municipality, region or country before being able to submit your proposal to the government—and finally to the whole electorate.

How and when you will be required to prepare, conduct and follow up such a gathering of statements of support depends very much on the specific jurisdiction and tool. Support statements can include signatures on paper, electronic approvals or sometimes even an in-person inscription at a public venue overseen by an official or notary. Therefore, along with the necessary knowledge about which kind of issues can be put forward (or questioned) in your specific case, you also need to study and prepare all the details linked to possibly lengthy and sometimes costly signature-gathering processes.

Typically, there will be more time available for a signature-gathering process when using a citizens' initiative (i.e. when proposing a new statute or amendment) than for a popular referendum (e.g. in order to repeal a parliamentary decision). The reason for this is the different functionality of the two tools: a citizens' initiative is a proactive process designed to promote a (possibly) new idea, while a popular referendum involves making checks on an existing law or decision of parliament (see Box 1). For popular referendums, it makes sense to seek a popular vote as soon as possible, while a

citizens' initiative process may take several years (including lengthy deliberations) before a final popular vote can be scheduled.

The same is true when it comes to gathering support for agenda initiatives as opposed to recalls. Agenda initiatives by citizens are about putting a certain issue onto the legislative calendar, while a recall effort by citizens seeks to trigger a popular vote to shorten the mandate of an elected official.

BOX 1. Proactive and reactive direct democracy tools

Proactive tools	Reactive tools
Citizens' initiatives	Popular referendums
Agenda initiatives	Recalls

You will need to prepare the signature-gathering process very carefully. In practice, this may include setting up and certifying an online signature-gathering system (as is the case with the transnational European Citizens' Initiative). Alternatively, it may involve hiring signature-gathering professionals (as is the case in some US states, especially California). You may also be responsible for sending all gathered signatures back to the municipalities, regions or countries of your supporters in order to have those signatures duly verified.

Organizing, supporting, administering and even observing a citizen-triggered process of modern direct democracy may be a very deliberative and democratically rewarding experience, but it requires preparation, legal knowledge, financial muscle and patience.

Getting involved: a step-by-step guide

Citizen-triggered forms of modern direct democracy always require a series of actions by the citizens in charge, and by those who are receiving and overseeing these procedures. In general, there are at least ten key milestones or features of such work:

- 1 Obtain knowledge.** Proper information to citizens about the available procedures is an important precondition for a reasonable use of the process.
- 2 Develop an idea.** Depending on the specific instrument chosen, citizens have to come up with a policy proposal of their own or the political effort to check a decision taken by an elected authority.
- 3 Organize.** Team up ahead of filing and conducting a citizen-triggered process such as an initiative or a referendum; in many cases you need to be defined and identified as a group of people.
- 4 Register.** This is the formal step to make your process official (which may include early legality and admissibility checks).
- 5 Receive support.** Gather enough signatures or statements of support in a manner consistent with the law during a certain time in order to qualify for the next steps.
- 6 Submit a proposal.** Deliver the necessary proof of support to a competent authority and have it verified and validated.

- 7 Interact with others.** Now that the citizen-triggered process has become an official issue on the political agenda, negotiations and discussions with government may take place.
- 8 Campaign.** Depending on the exact process, you will need to campaign ahead of a decision (either by a government institution or the whole electorate) and follow set rules.
- 9 Hold the popular vote.** The whole electorate is asked to make a decision (or in the case of non-binding votes, to give its advice).
- 10 Implement the result.** This last step is often the hardest, as an outvoted government may try to find ways to counter or bypass the popular vote.

Of course, the length of a citizen-triggered process of modern direct democracy can vary greatly, from a few days to several years. In any case, whatever the exact rules and issues involved, your active participation and engagement is critical to the process.

Mandatory referendums: when the law says ‘by the people’



The most common and most widely practiced form of modern direct democracy is the **mandatory referendum**, a popular vote triggered by the law that does not require the gathering of any signatures.

According to International IDEA's Direct Democracy Database, out of 192 countries around the world, 111 have provisions for mandatory nationwide referendums. Most often, these provisions are linked to revisions, amendments or reforms of the national constitution. In some jurisdictions a mandatory popular vote is necessary in connection with international agreements or accession to supranational organizations.

The idea of the mandatory (constitutional) referendum dates back to before the time of US independence. The first such popular vote took place in the American colony of Connecticut in 1639 but it was not until the 1770s that further constitutional referendums were held, in Massachusetts and New Hampshire. The first truly ‘nationwide’ popular votes were held in countries and territories influenced by France in the late 1790s including Monaco, Belgium and Switzerland (Kaufmann et al. 2010).

In many federal countries mandatory referendums cover both constitutional changes and statutory amendments or public spending proposals (e.g. tax levies). Strong direct democratic provisions can create a feeling of co-ownership by citizens.

Mandatory referendum provisions can also help increase government responsiveness early in the policymaking process.

FIGURE 4. Mandatory referendums around the world



- COMPREHENSIVE USERS:** *Australia, the Bahamas, Botswana, Ireland, Japan, Republic of Korea, Micronesia, Palau, Switzerland*
- MEDIUM USERS:** *Argentina, Bolivia, Denmark, Germany, Guatemala, Iceland, Italy, Liberia, Lithuania, Maldives, Marshall Islands, Mexico, Micronesia, Romania, Slovakia, Sweden, Turkey, Uruguay, United States*

The plebiscite: a top-down amalgam



Sometimes, direct democracy is used to describe a popular vote process in which citizens are invited—or sometimes even obliged—to participate. The popular vote may be triggered by an elected authority, a president, a government or a parliament without any kind of citizen involvement. This is what we refer to as a plebiscite.

In fact, a majority of the 1,700 nationwide popular votes held worldwide since 1793 have been plebiscites. Often, plebiscites are not even provided for in a national constitution, but are an attempt by the executive branch of a government to bypass the legislative branch (Altman 2011).

However, plebiscites also exist in more established democratic frameworks. The major difference between a referendum and plebiscite could be summarized as follows: a referendum is an expression of popular support for a law or initiative (initiated by the citizens themselves or by law), while a plebiscite is meant to legitimize a government's desired course of action, and may also be used to legitimize government leadership itself (see Venice Commission 2017).

Historically plebiscite-style popular votes have sometimes been misused by autocratic and even totalitarian leaders to reinforce their grip on power, extend their terms or 'legitimize' undemocratic constitutional reforms. One example is the plebiscite brought forward by Adolf Hitler in Germany in 1934 on merging the Office

of the Chancellor with that of President. Recent plebiscites have also raised concerns about electoral integrity, including the vote to promote the annexation of the Crimea Peninsula by Russia in 2014. In both cases, principles of free and fair electoral processes were violated.

It is no accident that jurisdictions with strong traditions of modern direct democracy (including Switzerland, Uruguay and the USA) are not represented in statistics linked to the use of plebiscite-style popular votes. The keenest users of top-down popular votes include countries such as Bolivia, Colombia, Ecuador, France, Niger and Poland.

Recent plebiscites have involved political and accountability risks for leaders actively involved in their preparation. For example, British Prime Minister David Cameron resigned in the wake of the Brexit plebiscite, while Hungarian Prime Minister Victor Orban failed in his attempt to strike down common European policies on asylum seekers. Additionally, plebiscites risk exacerbating societal divisions as they can be misused by populist leaders.

In short, plebiscite-style popular votes are often not ideal reflections of modern direct democracy and should therefore be treated with caution.

The recall: mixing people and issues from the bottom-up



Citizens, rather than governments, trigger a recall vote. Typically, a certain share of the electorate engages in a signature-gathering process to trigger a popular vote on ending the mandate of an elected official.

The recall is a seldom-used procedure: less than 1 in 10 countries and territories include a provision for recalling elected officials in their constitution or in legislation. In most cases, citizens can directly trigger a recall popular vote if they manage to gather the written support of at least 20% of the eligible voters in a relevant electoral district (or in the whole country if the president is to be recalled).

In 2004 in Venezuela, for example, the final popular vote on recalling then-President Hugo Chavez failed to achieve a majority amid claims of electoral fraud (Kornblith 2008). In 2016, the increasingly autocratic Venezuelan Government even halted a similar recall attempt (Kennedy 2016). In other countries, however, recalls can only be triggered by an elected authority, and then approved by the electorate in a popular vote.

The basic idea of the citizen-triggered recall process is that elected representatives must remain accountable to the people who elected them. Thus, citizens should be able to choose to terminate a representative's mandate before the end of their term if the representative falls short of voters' expectations. In many cases

a robust combination of straightforward electoral mandates and direct democracy procedures has promoted responsiveness by elected officials.

As a tool of direct democracy, recall popular votes are a rather confrontational method that creates incentives for opposition groups to displace an elected official. A prominent example occurred in 2003 in the US state of California, where the signatures of more than 12% of the number of those who voted in the last election supported a recall vote on Governor Gray Davis. In a final vote on 8 October 2003, the recall was supported by 55% of voters. Arnold Schwarzenegger went on to win the replacement election with 49% of the vote in a field of 134 candidates (Mathews 2006).

Recall mechanisms exist at the local and regional level in the Americas, even if they are rarely used. A total of 18 US states provide for the process, as do many Latin American countries including Argentina, Colombia, Ecuador and Venezuela.

Involving the people in many ways



In addition to traditional indirect forms of democracy (such as agenda-setting and decision-making by elected representatives), and in the context of greatly expanded use of the Internet as a communications tool, the past 25 years has seen a global increase in the number and range of modern direct democracy tools. The demand for higher-quality democracy has inspired the development of a host of more deliberative and consultative participatory methods. The goal of these innovations is to increase dialogue between public authorities and citizens, often using new digital technology.

Powerful and well-known examples of such inclusive procedures for participatory democracy include participatory budgeting, online petition platforms and deliberative assemblies. These various forms operate partly at the discretion of an elected authority, and partly based on regulations allowing citizens to initiate and use these tools without the express support of the government. While these processes are mostly stand-alone (and often are limited to a non-binding role in the decision-making process), they may also be used as preparatory features in a citizens' initiative or referendum process.

Participatory budgeting

Participatory budgeting has become common around the world, mostly on the local level but sometimes also on the regional or state levels. The first full participatory budgeting process was established in Porto Alegre, Brazil, in 1989 (Participedia 2008), and offered citizens the chance to deliberate and decide publicly

on how to spend parts of the municipal budget. The method has spread to thousands of cities across the world, especially where elected authorities have had problems with corruption. A more recent example is the Spanish capital, Madrid, where citizens can electronically identify priorities for local investments and cast a digital vote (Abati 2017).

Online petitions

Online petition applications are growing in popularity. Examples include 'We the People' a petition platform hosted by the office of the US President, the British Government's Petitions website, and unofficial and international petitions websites such as Avaaz, Change.org and Common Cause. By gathering similar-minded individuals and organizations across cities, regions, countries, continents and the whole world, petitioners and platform owners can gather and administer huge amounts of useful data for future campaigns. Recent successful cases include an international petition promoting a global climate accord (Avaaz 2016) and another in the USA calling for strengthening the rights of rape survivors (Change.org 2016).

Deliberative assemblies

Town-hall-style deliberative assemblies are also making a comeback. In a growing number of countries, public consultations are now required in the context of socio-environmental impact assessment processes. Moreover, the implementation of free, prior and informed consent (FPIC) has also increased, especially in cases when decisions affect or may affect the rights of indigenous peoples

and other minorities (OHCHR 2013). Again, such forms can be used as preparation for later decisions in parliaments or popular votes.

Constitutionally binding tools of modern direct democracy have to be accompanied by proper public infrastructure for information, administration and management. Governments have historically been slow to accommodate participatory inputs by citizens in between popular voting days. In a growing number of places cities and regions around the world, however, governments have started to meet active citizens with a more open attitude. The city of Seoul, Republic of Korea, has changed the name of its City Hall to Citizen Hall, providing people with space and support for their work. The canton and city of Bern provides a democracy centre, offering a free form of participatory infrastructure to all, and allowing minorities and marginalized groups to make their voices heard.

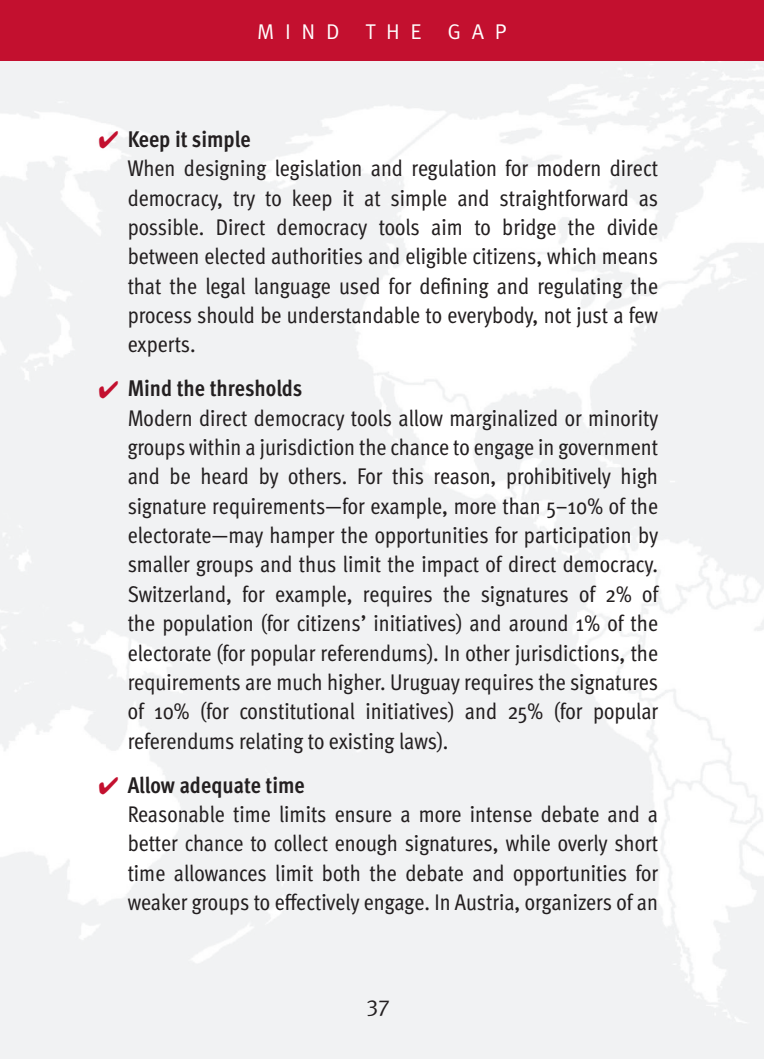
Participatory tools and support cannot replace direct democracy rights but they can complement them. In the same way, tools of modern direct democracy, including citizens' initiatives and referendums, cannot replace representative democracy but, together with political parties (which remain key pillars in a modern democracy) they can contribute to making it more representative.

How to make modern direct democracy work

In many countries, direct democracy tools of participation come with limitations, including very short time frames for gathering signatures, or burdensome documentation requirements. Voting procedures on issues may include high turnout quorums, limiting the possibility that a popular vote will be considered valid. Decisions may also be regarded as non-binding, opening up the process to manipulative manoeuvres that undermine the legitimacy of direct democracy.

The long, non-linear and unfinished history of democracy contains many innovations and progressive steps which were initially regarded as controversial (e.g. universal suffrage) but which have subsequently become essential and self-evident. The same may also be true for modern direct democracy. Today, when it comes to direct democracy the question is not so much 'if' but 'how' to make it work. International organizations such as International IDEA or the European Commission for Democracy through Law (the Venice Commission), national governments, non-governmental organizations, and research institutions are increasingly engaged in assessing best practices of modern direct democracy and defining their key features.

Reflecting on this collective worldwide experience, the following recommendations may assist you in your interactions with modern direct democracy procedures and practices.



✓ **Keep it simple**

When designing legislation and regulation for modern direct democracy, try to keep it as simple and straightforward as possible. Direct democracy tools aim to bridge the divide between elected authorities and eligible citizens, which means that the legal language used for defining and regulating the process should be understandable to everybody, not just a few experts.

✓ **Mind the thresholds**

Modern direct democracy tools allow marginalized or minority groups within a jurisdiction the chance to engage in government and be heard by others. For this reason, prohibitively high signature requirements—for example, more than 5–10% of the electorate—may hamper the opportunities for participation by smaller groups and thus limit the impact of direct democracy. Switzerland, for example, requires the signatures of 2% of the population (for citizens' initiatives) and around 1% of the electorate (for popular referendums). In other jurisdictions, the requirements are much higher. Uruguay requires the signatures of 10% (for constitutional initiatives) and 25% (for popular referendums relating to existing laws).

✓ **Allow adequate time**

Reasonable time limits ensure a more intense debate and a better chance to collect enough signatures, while overly short time allowances limit both the debate and opportunities for weaker groups to effectively engage. In Austria, organizers of an

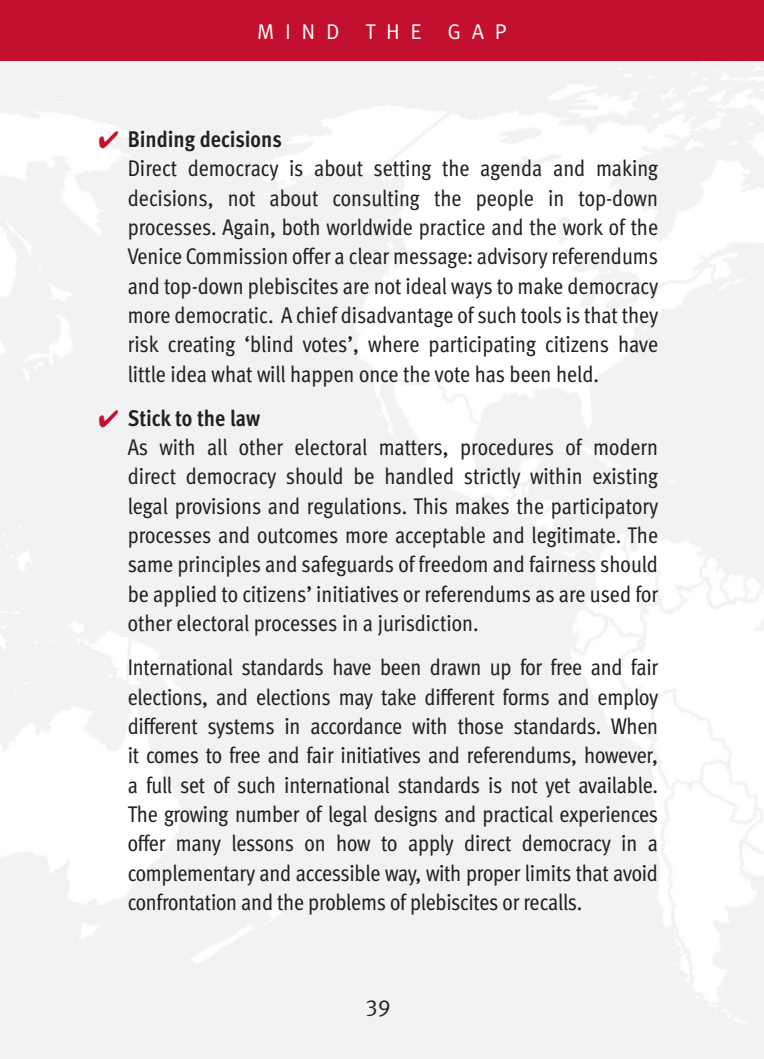
agenda initiative have just 8 days to collect 100,000 signatures at public offices, while in neighbouring Switzerland a popular initiative allows the organizers 18 months to gather the same number of signatures. Somewhere in the middle is the US state of California, where organizers have 180 days to gather the signatures of at least 8% of the eligible electorate.

✓ **No (or low) turnout quorums**

Turnout quorums vary widely across the world of modern direct democracy. Quorums are supposed to prevent small active minorities from hijacking a popular vote but the negative effects of quorums as high as 50% of the electorate are well researched. The Venice Commission has therefore recommended that turnout quorums not be adopted and, if there is a need for special requirements, to instead apply approval quorums, which require a certain percent of the whole electorate to approve a measure in addition to a simple majority of voters.

✓ **Few restrictions on subject matter**

In principle, citizens should have the same decision rights as their elected representatives in parliament. However, if political issues must be excluded from a modern direct democracy process, the list of forbidden issues should be kept short and the reasons for those exclusions should be clearly indicated. In Italy, no popular vote is allowed on tax issues or on international treaties, while Swiss popular votes cannot be held on certain binding international laws.



✓ **Binding decisions**

Direct democracy is about setting the agenda and making decisions, not about consulting the people in top-down processes. Again, both worldwide practice and the work of the Venice Commission offer a clear message: advisory referendums and top-down plebiscites are not ideal ways to make democracy more democratic. A chief disadvantage of such tools is that they risk creating ‘blind votes’, where participating citizens have little idea what will happen once the vote has been held.

✓ **Stick to the law**

As with all other electoral matters, procedures of modern direct democracy should be handled strictly within existing legal provisions and regulations. This makes the participatory processes and outcomes more acceptable and legitimate. The same principles and safeguards of freedom and fairness should be applied to citizens’ initiatives or referendums as are used for other electoral processes in a jurisdiction.

International standards have been drawn up for free and fair elections, and elections may take different forms and employ different systems in accordance with those standards. When it comes to free and fair initiatives and referendums, however, a full set of such international standards is not yet available. The growing number of legal designs and practical experiences offer many lessons on how to apply direct democracy in a complementary and accessible way, with proper limits that avoid confrontation and the problems of plebiscites or recalls.

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Resources

- Aarhus Convention, <<http://www.unece.org/env/pp/welcome.html>>
- Avaaz, <<http://avaaz.org>>
- British Government, Petitions website, <<https://petition.parliament.uk>>
- Change.org, <<http://www.change.org>>
- City of Seoul, 'Citizen's Hall', <<http://seoulcitizenshall.kr/nr/?r=eng>>
- Common Cause, <<http://www.commoncause.org>>
- Democracy International, <<https://www.democracy-international.org/>>
- Direct Democracy Navigator, <<http://www.direct-democracy-navigator.org/>>
- European Citizens' Initiative, <<http://ec.europa.eu/citizens-initiative/public/initiatives/open?lg=en>>
- European Passport to Active Citizenship, <<http://www.eesc.europa.eu/?i=portal.en.publications.35346>>
- European Passport to Active Citizenship (interactive version), <<http://www.eesc.europa.eu/eptac/en/>>
- Falun Democracy Passport, <<https://www.falun.se/download/18.320b2a9114f92b5ea835f936/1441715592894/Demokratipass.pdf>>
- Global Forum on Modern Direct Democracy, <<http://www.2016globalforum.com/>>
- International IDEA Direct Democracy Database, <<http://www.idea.int/data-tools/data/direct-democracy>>
- People2Power, <<http://www.people2power.info/>>
- Swiss Democracy Foundation, <<http://www.swissdemocracy.foundation>>
- Swissinfo, <<http://swissinfo.ch/directdemocracy>>
- Universal Declaration of Human Rights, <<http://www.un.org/en/universal-declaration-human-rights>>
- US Government, 'We the People', <<https://petitions.whitehouse.gov>>

International IDEA: supporting (direct) democracy worldwide



The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization that supports democracy worldwide.

Direct Democracy: The International IDEA Handbook, one of the first major global studies of direct democracy, was published in 2008, and built on an unprecedented global research effort involving a wide range of relevant organizations and experts. The data gathered for the Handbook were later transferred to International IDEA's Direct Democracy Database.

Processes of modern direct democracy have gained momentum in recent years. International IDEA's Secretary-General, Yves Leterme, has described 2016 as 'the year that put direct democracy back on the agenda' of international politics. As a consequence, in 2017 International IDEA has stepped up its research, support efforts and assessments on the options and limits of modern direct democracy by engaging in conversations worldwide on the issue and by relaunching its updated Direct Democracy Database.

The publication of this **Global Passport to Modern Direct Democracy**, and its launch on the 2017 International Day of Democracy, form part of this effort.

Switzerland: a natural reference point and support centre



Out of the 1,700 nationwide popular votes on substantive issues that have been held around the world since 1793, more than one-third have been in Switzerland. This makes Switzerland one of the more experienced countries with regard to direct democracy, and a natural reference point in the development of modern representative democracy.

In collaboration with independent experts, the Swiss Federal Department of Foreign Affairs has produced information materials on modern direct democracy. Switzerland also hosts research centres on modern direct democracy, including the Centre for Democratic Studies in Aarau (ZDA) and the National Center of Competence in Research Challenges to Democracy (NNCR) at Zürich University.

The Swiss Government has also given a mandate to the Swiss Broadcasting Company to develop citizen journalism and participatory media. As a consequence, the international service of the public broadcaster (Swissinfo) offers a special online platform on modern direct democracy in ten world languages. The name of the platform #deardemocracy is also the social media hashtag.

Switzerland's contributions to global efforts on participatory politics are complemented by the non-governmental Swiss Democracy Foundation through its online Navigator to Direct Democracy, the bi-annual Global Forum on Modern Direct Democracy, the **Democracy International** network and the media initiative **people2power**.



About the author

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Notes



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The world of active citizenship and participatory democracy



In a democracy, formal popular votes are important to the exercise of people power. Traditionally, in most representative democracies, the power of citizens to make decisions at the ballot box was restricted to the elections of other people and parties to offices and parliament. However, in recent years more and more countries have adopted new possibilities and channels for citizens to make their voices heard—even between election days.

The **Global Passport to Modern Direct Democracy** offers basic information about the tools of **modern direct democracy**. It introduces key definitions, describes various tools, and includes recommendations on how to use initiatives, referendums and plebiscites.

