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Comparative Direct Democracy: A Study of Institutions and Individuals

Donald D. Mirjanian
University of Nevada, Las Vegas, don.mirjanian@csn.edu

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COMPARATIVE DIRECT DEMOCRACY:
A STUDY OF INSTITUTIONS
AND INDIVIDUALS

by

Donald D. Mirjanian

Bachelor of Arts in Political Science
University of Nevada, Las Vegas
2006

Master of Arts in Political Science
University of Nevada, Las Vegas
2008

A dissertation submitted in partial fulfillment
of the requirements for the

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The Graduate College

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Donald D. Mirjanian

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Department of Political Science

John Tuman, Ph.D., Committee Chair

David Damore, Ph.D., Committee Member

Michele Kuenzi, Ph.D., Committee Member

Thomas Wright, Ph.D., Graduate College Representative

Kathryn Hausbeck Korgan, Ph.D., Interim Dean of the Graduate College

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ABSTRACT

Comparative Direct Democracy: A Study of Institutions and Individuals

By

Donald D. Mirjanian

Dr. John Tuman, Examination Committee Chair
University of Nevada, Las Vegas

Do institutions matter? This dissertation examines the role of institutions in the context of comparative direct democracy. Through an institutionalist framework, this study considers how the context in which the mechanism of direct democracy is first introduced has an impact on later usage, and how individuals operate when constrained by those very institutions. In particular, I examine the cases of Italy, France, Uruguay, and Venezuela and find that the inclusion of direct democracy mechanisms (most commonly, the referendum device) is more likely to occur when previously excluded “out-groups” participate in constitutional formation. In addition, I find that institutional design is an important (but not a universal) factor in understanding referendum outcomes (in particular, in explaining frequency). Finally, I argue that the rational choice perspective does not fully explain individual level motivations of political elites, and that an interweaving of prospect theory and the cybernetic theory of decision-making better explains how elites operate when constrained by institutions. Along the way, I develop a theoretical approach that may be utilized to better evaluate direct democracy outcomes across political systems.

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In addition, there are no words to describe the gratitude I have for my family. They have been supportive in every way imaginable. Though it is our responsibility as parents to teach our children in the best way we know how, it is my five children who have taught me that there should be no boundaries when setting goals, and no limits when pushing towards those goals. And finally to my wife, Kristin, who is a source of eternal inspiration to make life just a little better every day.

DEDICATION

To my children: Celeste, Kylie, Shelbee, Adam, and Dominic –
like the sun in the sky, you make everything brighter. I offer here evidence that you can
achieve anything your beautiful minds can envision and I urge you to prove it to
yourselves. I love you!

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CHAPTER 1

INTRODUCTION

Can citizens (including political elites) be trusted with the responsibility of directly enacting public policy? While this question forms the underlying basis of this dissertation, the question clearly presupposes several aspects of the political arena: that the context of citizens enacting public policy allows for information symmetry among participants; that the political institutions of a given state allow for policy transformation and aggregation without placing an undue burden on the participants; more generally, that a sense of legitimacy surrounds the process. While the focus of direct democracy is often on the role of individuals – whether it be the individuals seeking an “end-around” entrenched legislative or executive powers, or elites seeking the legitimation of powers – the role of institutions in the process has become less important.

To that end, this dissertation examines the behavior of individuals acting within institutions. In particular, this dissertation examines three key questions: first, under what circumstances is the mechanism of direct democracy introduced within a state in the first place? Secondly, to what degree does the institutional design affect later usage? Finally, how much influence do individuals working within institutions have on direct democracy outcomes?

To properly analyze these questions, I offer the following hypotheses: first, the historical context in which direct democracy is introduced in a given state is crucial to its later usage, and that historical institutionalism holds explanatory power in terms of how it constrains the choices of individuals and actors who must work within them at some

point in the future (generally as a function of the critical juncture in which it was created). Secondly, and in consideration of those individuals, the choices such individuals make are guided not by ranked preferences, but rather by the loss/gain analysis offered by prospect theory, and within the bounds of institutional arrangements.

Theoretical Framework

Do institutions matter? The broad question justifies an affirmative answer; the process of understanding the nuanced impact that institutions have on procedural democracy is the general purpose of this dissertation. The dissertation will focus on several issues. However, the key research question is threefold: in what way does the formation of an institution direct, predict, or influence its later usage; secondly, do variations in the institutional structure affect the likelihood that direct democracy will be used? Finally, to what degree do individuals have an impact on outcomes? Current research related to direct democracy does not consider the context in which the mechanism for direct democracy was introduced as a predictor of outcomes; moreover, the unintended consequences as a function of the introductory context are also underdeveloped. Finally, while empirical research has focused on variance in institutional structure as a determinant of usage, such research is either limited to individual country studies, and does not consider such effects across countries within a region, nor across time. Considerable attention has been given to the role of individuals working to speed or slow change via the referendum; this study continues that focus, but also argues that the role of institutions has been increasingly neglected.

The role of institutions in the political process can be considered along that of individuals in the political process. In this context, the question initially becomes that of

which “matters” more: institutions or individuals? Do individuals create institutions according to their preferred outcomes and act accordingly? Perhaps more pointedly, are individuals able to work within the confines of the institutions to achieve their objective, or are they able to alter the structure of the (what should be, be definition) inherently stable institutions to achieve their objectives? On the other side of this equation is the focus on institutions: do institutions limit the ability of actors to operate within the political process? Finally, is it possible that individuals and institutions work in concert to achieve political objectives?

The overarching purpose of this dissertation is to examine the institution of direct democracy at a comparative level; a secondary purpose, however, is to consider the theoretical foundations of institutionalism and test its strength in explaining the relevance of institutions in the political process. Toward that end, I offer here a brief overview of the theoretical literature relevant to institutions and individual-level behavior.

Throughout the middle part of the 20th century, the search for methodological and theoretical rigor provided the impetus to move towards alternative explanations grounded in rational choice and behavioralism. No longer was the focus on the importance of institutions, but rather, on the micro-level approach of individuals and their actions. Both behavioralism and rational choice perspectives assumed that the individual could and did act autonomously, and that choices could be made without constraints imposed from above by formal or informal institutions. Such a view considered that all political phenomena reflect the decisions of individual actors and those individual decisions are made exogenously to the political process. In particular, Downs (1957) argued that a rational individual can certainly make a decision when confronted with alternatives by

following utility maximization tenets, while Mayhew (1974) argues that individual members engage in activities that help achieve reelection. Fenno (1978) argues along similar lines. For Mayhew and Fenno especially, and Downs to considerable degree, the focus is on individuals rather than formal institutions (such as Congress as a whole) or informal institutions (such as parties). Buchanan and Tullock (1962) also consider the rational choice perspective and the importance of the individual, and in particular, the “representative or average” individual; Ordeshook (1993) would later argue that the perspective has led to a reintegration of politics and economics under a a common paradigm” (76). Perhaps even more notably, Riker (1990: 177-178) argues that the rational choice perspective accounts for “the only genuine advances ever to occur in political science.”

This dissertation does not seek to determine the efficacy of the rational choice paradigm, other than to argue that it is insufficient alone to account for political outcomes¹. However, this project does seek to examine the relationship between the individuals and the institutions that structure their behavior. Towards this end, this dissertation utilizes a hybrid approach, known generally as “new institutionalism” (March and Olsen 1984), and within this domain, historical institutionalism.

March and Olsen (1984) argue that the focus on individual level behavior suffers from several faults. First, they argue that the state has lost its “position of centrality,” and instead, the literature focuses on contextual determinants, such as class structure, economic conditions and development, cultural aspects, and religion, which affect politics but “are not significantly affected by politics” (735). Secondly, they argue that

¹ For example, Green and Shapiro (1994) argue that the rational choice theory has been over-applied in the discipline of political science, and that the findings associated with rational choice theory have limited empirical support.

“reductionism” has forced individual level analysis of what should be collective phenomena, such as markets. Third, the authors argue that the analytical power of utilitarianism depends largely on unrealistic assumptions related to preferences, and that values other than personal values are important when considering outcomes. Fourth, the authors argue that the dependence on “functionalism,” (the notion that historical processes are efficient and move towards solutions) as a determinant is largely unrealistic. Finally, the authors argue that “instrumentalism” in the modern literature puts excess emphasis on symbols, rituals, and ceremonies that actually lack substantive value in terms of determining political outcomes.

March and Olsen (1984) cast these caveats with circumspection, and they do not argue to dismiss them without cause. Indeed, the authors instead argue that such analytic devices should be incorporated into “old institutionalism”, resulting in a “blending of elements of an old institutionalism into the non-institutionalist styles of recent theories of politics” (738). In short, the authors argue that while society may shape politics, politics (and political institutions) may also help shape society – primarily by imposing various elements of order.

New institutionalism, as the name suggests, is similar in many ways in that the focus remains on how institutions themselves shape politics, but focuses less on the administrative, legal, and political structures that were once studied in a highly normative (and descriptive) way. Instead, new institutionalism focuses more on the “relational character” of institutions, or “how a given institutional configuration shapes political interactions” (Thelen and Steinmo 1992: 6).

Peters (1999) finds the theoretical literature on institutions can be conceptualized in different ways. In particular, Peters argues that a “normative institutionalism” espoused by March and Olsen (1984) focuses on solving the structure-agency issue through individual-level acceptance of the importance (and values) associated with institutions, and that while choices are important, they are conditioned by membership in political institutions. The normative aspect here derives from understanding institutions as creating and reinforcing long-standing values, rather formal than “rules.” Secondly, Peters finds that “rational choice institutionalists” also put a premium on institutions, but instead of focusing on norms and values as guiding factors, behaviors are rather a function of rules and incentives through which individuals attempt to maximize their own utilities. Third, Peters argues that “historical institutionalists” consider the policy choices that are made very early in the history of the policy itself as determinants of later policy decisions, which then informs its logic. Fourth, Peters finds that “empirical institutionalists” focus on the structure of government (e.g., presidential vs. parliamentary systems, or perhaps, “decision points”) to understand political processes and outcomes. In addition, he argues that “international institutionalism” focuses on the behavior of states or other international actors as a function of other international institutions or actors. Finally, Peters locates “societal institutionalism” as a framework focusing on the structuring of relationships between state and society, primarily through intermediaries such as groups.

The case for “bringing the state back in” is clear: institutions are primary determinants of political outcomes. This dissertation focuses primarily on historical

institutionalism, and a brief review of its features, and the basis for its utilization over other methods considered here follows.²

In general, institutionalists are “interested in the whole range of state and societal institutions that shape how political actors define their interests and that structure their relations of power to other groups” and more specifically, historical institutionalists argue that institutions “constrain and refract politics but they are never the sole cause of the outcome”(Thelen and Steinmo 1992: 2). In large part, historical institutionalists disagreed with the structuralist-functionalist approach that the “social, psychological, or cultural traits of individuals” were responsible for political outcomes (Hall and Taylor 1996: 937). To further flesh out historical institutionalism, Hall and Taylor (1996) argue that the relationship between institutions and individual behavior is conceptualized in broad terms; that the asymmetries of power associated with the operation and development of institutions are emphasized; that institutional development emphasizes path dependence and unintended consequences; and finally that historical institutionalists are especially concerned with the “contribution that other kinds of factors, such as ideas can make to political outcomes” (938).

Arguing for an institutionalist perspective within international relations theory, Krasner (1988) notes that “the basic characteristic of an institutional argument is that prior institutional choices limit available future options” (72). The benefit of this approach lies in its usefulness over utilitarian or functionalist approaches insofar as these

² A theoretical question does arise here: to what degree is historical institutionalism compatible with new institutionalism? New institutionalism “emphasizes the relative autonomy of political institutions, possibilities for inefficiency in history, and the importance of symbolic action to an understanding of politics (March and Olsen 1984), while at the same time, historical institutionalism aids our ability to understand the “impact of institutions on the construction of interests....without imposing arbitrary, ‘objective’ definitions of interests (Immergut 1998:25). Thus, the two are not mutually exclusive, insofar as new institutionalism does not disregard the emphasis on the autonomy of institutions, and historical institutionalism does not arbitrarily delineate the concept of “interests.”

may yield “unambiguously dysfunctional behaviors” (69), whereas the institutionalist approach would explain such behavior not as dysfunctional, but rather, as a product of prior choices. Krasner further develops the theoretical perspective by arguing the “tendency of patterns of behavior, norms, or formal structures to persist through time depends on two dimensions: vertical depth and horizontal linkage” (74). The former, he argues, views reality as a “social construct”, which in everyday English refers to the degree to which citizens share the acceptance of the institution in question. The latter refers to the “density of links between a particular activity and other activities” and an increased linkage (the inability of changing one activity without affecting another) leads to higher levels of institutionalization. (75)³. Perhaps most importantly, Krasner notes that institutions are persistent, and that while institutions may alter their own environment (e.g., by altering distribution of power among groups in civil society), institutions rarely alter established routines because of the associated costs and unpredictable outcomes; that path dependency is likely to determine future trajectory of developments; and because the horizontal links with other organizations constrain the range of institutional possibilities (85).

Thus, a significant dilemma regarding historical institutionalism is that the focus is often on continuity, and not change. This is due mainly to the structural paradox that exists: while the notion of punctuated equilibrium as a method to explain change enjoys widespread acceptance, Thelen and Steinmo (1992: 6) note that institutions are the independent variable in explaining political outcomes in times of stability, but then become the dependent variable predicted by the very political maneuverings they once

³ The author points to the amendment process of the U.S. Constitution as an example of a highly institutionalized process; the simple promulgation of a law, however, is not.

predicted themselves. The authors argue that by focusing on the sources “institutional dynamism,” (an integral part of “new institutionalism”) researchers will be able to “look at how institutions mediate and filter politics [and also] turn the question around to demonstrate how the impact of institutions is itself mediated by the broader political context (Thelen and Steinmo 1992:16).

More specifically, the authors focus on four sources of institutional dynamism: first, broad changes in the socioeconomic or political context can produce a situation in which previously latent institutions suddenly become salient, with implications for political outcomes; secondly, changes in socioeconomic or political balance of power can produce a situation in which old institutions are put in service of different ends, as new actors come into play who pursue their new goals through existing institutions; third, exogenous changes can produce a shift in the goals or strategies being pursued within existing institutions: changes in outcomes as old actors adopt new goals within the old institutions; and finally, political actors adjust their strategies to accommodate changes in the institutions themselves.

Another way of conceptualizing change within the institutionalist framework is through the exploration of “veto points.” In particular, this helps to illustrate the relational character of institutions in that the veto points provide “strategic openings” (facilitated by institutions) that actors use to achieve their goals. As defined by Thelen and Steinmo, “veto points” are areas of institutional vulnerability. Perhaps most importantly, Thelen and Steinmo argue that while veto points may be “sticky,” they are not permanent, and shifts in the overall balance of power can cause veto points to

emerge, disappear, or shift their locations, which in turn provides the aforementioned “strategic openings” that actors may use to achieve their goals.

Along similar lines, Hug and Tsebelis (2002) argue that “veto players” (an individual or collective player whose agreement is required for a change of the status quo) are crucial to understanding change (or, no change) via referendums. Insofar as the institution of direct democracy introduces one additional veto player (essentially, the median voter) which in turn shifts the outcomes of legislative politics closer to the population median (2002:493). The referendum essentially acts as a guard against outcomes that would replace the status quo; the popular initiative strengthens this guard.

However, the focus on change necessitates consideration of individuals. Institutions are key components in determining outcomes; however, they cannot change on their own (unless purposefully designed to do so). The question remains, however: can individual-level decision-making theories be intertwined with historical institutionalism?

Weyland (2008) argues that the theoretical underpinnings of historical institutionalism have, in recent years, acceded to “insistent demands of rational choice theorists and based their own arguments on choice-theoretic reasoning”, while at the same time, rational choice theorists have “moved closer to historical institutionalism” (312) through a more prevalent accord to institutions that shape outcomes. Weyland argues that a synthesis approach offers a “solid and realistic, empirically grounded alternative” that considers the “bounded rationality” of the human psyche (333). In particular, Weyland argues that prospect theory can explain why individual actors bring about significant change to institutions. Prospect theory suggests that people who face the prospect of loss tend to take very bold and often risky countermeasures in an effort to

reduce or avoid further losses altogether. The theory further holds that individuals in such a dire situation will refuse to accept a limited loss, and will be more likely to gamble on a proposition that has a lower expected value, but ultimately, the chance of reaping greater rewards. This lack of a reliance on the expected utility diverges from the strict rational choice perspective, which holds that individuals are able to order the preferences and maximize their outcomes accordingly. Weyland further argues that “risk seeking in the domain of losses can explain drastic rescue efforts mounted by political actors seeking to stem political decay and restore basic institutional functioning” (287). The opposite side of prospect theory holds that when individuals are facing positive prospects, they tend to proceed with caution. Now risk averse, individuals prefer the “sure gain of limited magnitude over a lottery that offers greater expected value” (287), and this of course is not what strict rational choice theorists would posit for their actors in a given situation.

Weyland (2008) argues that interweaving prospect theory into historical institutionalism and rational choice strengthens both theoretical approaches, insofar as it better explains the “punctuated equilibrium” driver of change within historical institutionalism, but also better explains the often unexpected choices of ostensibly rational actors as a function of risk aversion. This formulation is particularly attractive to Weyland in certain Latin American policy determinations, but also holds promise in the current analysis of direct democracy in Latin America, and Western Europe.

However, what happens when neither “loss” nor “gains” properly frame the context under which individuals make decisions? Another possible theoretical perspective may help here. Taking rational choice theory as his point of departure, Steinbruner (1974) argues that a new “paradigm” is in order, as the “internal logic in

rational choice theory is under strain” and that “such internal strain has generally preceded a successful challenge to the paradigm” (12). Correctly noting that rational choice theory assumes excessive capacity to process extraordinary amounts of information, while at the same time, correctly identifying preferences and utility, Steinbruner argues that cybernetics “provides an analysis of extremely simple decision-making mechanisms which are nonetheless highly successful in the proper environments” (13). The cybernetic theory, then, suggests that the processes of decisions are better made along the lines of a servomechanism: in general terms, the basic idea is that a specified response is pre-engineered in anticipation of particular stimuli. Using the “Watt governor” as an apparent proxy for high-level bureaucratic decision-makers, Steinbruner argues that such a process “avoids the preference ordering, the explicit calculations of alternatives and outcomes, and the optimizing process which form the core of the analytic paradigm” (53). Thus, the idea is to simplify the process for the decision-maker, insofar as a decision-maker is like a servomechanism and has the ability to determine their systems-level output in accordance with set standards and input variation among those standards: “the cybernetic thesis then is that the decision mechanisms screen out information which the established set of responses are not programmed to accept” (57).

An important component of the cybernetic theory is that of values. Briefly, Steinbruner suggests that instead of trying to integrate values, the cybernetic theory separates values and thus “the mind actively but subjectively resolves uncertainty because of its universal tendency to generalize” and from here (this notion is known as cognitive theory) the servomechanism operates by confining the problem structure as defined to the decision-maker (cf. 130-136). The value separation, the author argues,

exists in a systematic (though not necessarily scientific manner) insofar as rationality and logic assume a prominent role. The notion that this concept approaches analytic theory is not missed by the author, as he suggests that cognitive theory, when used in supplement to cybernetic theory “expects a constrained learning process which develops partial but general models of the environment as required by the analytic paradigm, but which does not evolve in the manner predicted by that paradigm’ (139).

On its face, such a theoretical approach may not seem useful to the study of direct democracy. However, insofar as the referendum component of direct democracy generally includes political elites working within the confines of the institution of direct democracy as whole, the approach may yield insights towards understanding the decision-making process of that individual. In several instances of referendum politics, referendums are mandatory, in which case such an approach is obviously not a wise choice. However, the majority of cases discussed in this work involve referendums as a matter of choice: support by individual political elites, parties, or parliaments; in other cases, initiatives from the people directly. Thus, in an effort to better evaluate the decision-making process of those involved in both referendums and initiatives, I incorporate this approach.

Theory Building for the Current Study

To put this all together, I offer the following summary: First, I hold that the historical institutionalist perspective is useful in helping to understand why institutions are created in the first place. That is, the historical context is crucial to the outcome. Historical institutionalism also holds explanatory power in explaining why institutions are “sticky”; that is, why they often constrain the choices of individuals and actors who

must work within them at some point in the future. After all, a defining feature of an institution is that it is not peculiar to any individuals who operate within it at a given time (e.g, institutions persist; lest they would not be considered institutions). The path dependent nature of institutions within the institutionalist framework is, thus – in my opinion – neither a defining feature nor a causal variable. Rather, path dependency is simply a descriptor of historical institutionalism, and scholars who place more emphasis on path dependency as an inherent problem with historical institutionalism are simply placing too much weight on the concept as an instrumental variable, rather than viewing it as what it is: an indicator of the presence of institutions. In addition, “critical junctures”⁴ should also be considered descriptive rather than causal: the formation of institutions, regardless of the intention of the actors creating the institutions, constitutes a critical juncture in and of itself; it is not axiomatic that simply because intention came before creation, creation creates outcomes. The institution *itself* predicts outcomes. This notion leads to the final point: the debate among historical institutionalists as to the independent, causal variable *is* the unintended consequence of the institution itself. The consequences of the creation of the institution create the basis for eventual change (the “x” factor); that individuals are unable to predict the future suggests that consequences are unintended. In other words, it is the institution, and the context in which it was created that dictates future outcomes – and not the rational (or irrational, for that matter) choice of political elites, parties, or parliaments. Secondary to this notion is the fact that actors are (1) constrained by the institutions created, and (2) that the changes they make are based on the consequences of the context in which they act (though, such

⁴ It should also be noted that this exercise in theory-building holds that critical junctures are antecedent to the creation of institutions – later changes, alterations, modifications, etc. are not considered critical junctures.

consequences are – of course – limited by the context of the creation of the institution itself) In short, excessive “causality” has been given to individuals over institutions, and this dissertation seeks to reestablish the proper role of institutions as superior to the role of individuals.

Secondly, to the degree that individuals do have an impact on outcomes I contend that the decision-making paradigm is a combination of the cybernetic model of decision-making offered by Steinbruner (1974) and the synthesis of rational choice/prospect theory offered by Weyland (1996). That is, Steinbruner’s approach avoids the preference-ordering called for by rational choice theorists; in addition, Steinbruner argues that individuals (for our purposes, elites with decision-making capabilities) have set standards, and that their decisions are reactions along a servo-mechanism conceptualization in relation to those standards. As the input changes, the reaction of the decision-maker changes based on (1) the standards of the individual and (2) the structure of the institution in which the decision-maker operates. Thus, the key factor in the equation becomes the capabilities of the decision-maker in a given situation: he is constrained by competing institutions (e.g., a legislature, direct democracy mechanisms, a bureaucracy, or perhaps a military) as well as the standards by which that decision-maker operates (e.g., are his goals self-oriented, or does he seek collective action that benefits the community?). When faced with a loss/gain scenario, certainly these factors play a role as well; however, in this instance, prospect theory will also play a developmental role. Scholarly research finds prospect theory a credible explanatory approach when working in the domains of loss; however there are two problems here: first, what constitutes a perceived “loss”, or the “fear of loss” is debatable. Secondly, not all situations (even in

politics) are situated along a gain/loss scenario, and as such, prospect theory is incomplete as a conceptual framework.

Thus, institutions are created as a result of critical junctures, the context of which is important to understanding later outcomes (though not necessarily as a causal explanation). The causal explanation (assuming the dependent variable is conceptualized as “alteration” or “change” in a given system) is the choices made by rational actors who, unable to logically order their preferences or choose accordingly, instead operate within a sort of servo-mechanism, in which their choices are guided (forced?) by individual standards⁵ and bounded by the institutions that constrain them. In extreme cases, punctuated equilibrium does result, but is better explained by the dynamics of prospect theory.

The remaining question, of course is this: how does this fit into the realm of direct democracy? The current study seeks to identify recurring examples: that the introduction of direct democracy in a political system, and cast definitively in a constitution is a function of the participation of out-groups (Condition 1, or C1); that the later usage of referendums is dependent upon (1) historical institutional design (HI1) and (2) the role of political elites in the process (P1), where (P1) are conditioned by (HI1) as well as by the tenets of the prospect theory/cybernetic theory of decision making discussed above (PC1).

⁵ The concept of “standards” is admittedly quite fuzzy. A plausible distinction here would be the range of outcomes a decision-maker is willing to accept. A capitalist would not be willing to accept orthodox Marxist policies; a leader committed to the rule of law would not fall victim to corruption (and vice-versa). The wide parameters here also indicate that a partisan decision-maker would and could seek policies adverse to his own partisan agenda such that his standards are not compromised (e.g., he holds power without compromising standards).

Thus, the theoretical approach developed here will be applied to case studies in an effort to determine the (1) existence/nonexistence of “out-groups”⁶ during the formation of governing constitutions, with the hypothesis that such out-groups are a common feature associated with inclusion of the referendum device; (2) that later usage is a function of institution design but are also a function of the role of political elites in the process. In this sense I argue that institutional design (primarily operationalized as the availability of the device as well as difficulty in achieving the ballot) will certainly influence the amount of referendums appearing on a ballot; however, institutional design is insufficient alone as a predictor of outcomes: the role of political elites (for the purposes of this study, elites are considered to be those individuals primarily responsible for access to the ballot for referendums, or those interested in slowing access to the ballot for referendums). Finally, the role of political elites (and thus outcomes facilitated by elites) are conditioned by institutional design, but also by the tenets of prospect theory (which suggests that when facing a “loss” scenario, elites will increase risk while seeking larger returns, and while risk averse as a function of not facing a “loss” scenario, seek to marginally improve returns, or at the minimum, hold their current gains); when neither loss nor gain properly frames the scenario, I contend that the pragmatism of the cybernetic theory of decision-making offers a better explanation than that of rational choice when understanding outcomes as a function of individual-level behavior.

⁶ Operationalizing the term “out-group” is inherently problematic; however, I follow Barczak (2001), who argues that “out-groups” can be conceptualized as “previously excluded interests ...able to capture a share of the reform-rewriting process” , and similarly a “political outsider who had successfully harnessed popular aggravation over a history of political exclusion” (39).

Research Design | Chapter Overview

In an effort to advance the literature on direct democracy, I focus this theoretical application on cases from both Europe and Latin America. Such an approach invites a qualitative method, as the context must be fully considered. An important consideration for historical institutionalists is that of “unintended consequences” as a result of contextual formation, and once again, a qualitative approach will utilize historical institutionalism in an effort to determine this model’s strength in predicting such consequences.

I begin by utilizing the historical institutionalist approach to consider how the political context (in particular, constitutional formation) helps to predict the availability of direct democracy to a state. This dissertation examines constitutional origins with the notion that inclusion of direct democracy (and in particular, the referendum) is more likely to occur when once-marginalized interests are included in the formation of a new constitution or regime. This follows Barczak (2001) who considers this notion to a limited Latin American set of cases; my work seeks to extend this to the European and other Latin American cases.

Chapter two comprises a literature review with a dual purpose. First, the chapter seeks to review the literature on referendum politics in and at the same time, organize the review into three parts: literature related referendum politics within the context of constitutional formation; referendum politics as a function of institutional design, and also a review of literature related to the campaigns of referendums themselves. Secondly, the literature review also serves as a broad-based view (rather than an in-depth qualitative analysis) of the hypothesis discussed above: in other words, I will examine (briefly)

several cases of constitutional development in Europe and Latin America in an effort to examine the variables discussed in the theoretical foundations section above. Though a traditional literature review would be focused solely on a review of the literature and not an application of the theoretical foundations to the case studies, I argue this approach is beneficial for two reasons: first, the literature does discuss (in superficial terms) this process, and thus its inclusion is warranted; secondly, in an effort to alleviate an inherent problem in qualitative research (selecting on the dependent variable), the cases reviewed in the literature review will serve to supplement the four cases studies that are the main focus of this work. Thus, the dissertation considers four cases (Italy, France, Uruguay and Venezuela) in detail and several other cases from Europe and Latin America more superficially.

Chapter three focuses on referendum usage in Italy and France. The discussion here begins with the historical context in which the referendum was initially introduced into both the Italian and French political systems in an effort to show how such a context predicts later referendum usage. At the same time, the chapter considers other relevant variables, such as institutional design of the referendum device in Italy, the role of parties in the Italian political system, the role of the Constitutional Court, and of course, the role of political elites. The inherent nature of French politics requires a greater focus on the role of the presidency, and insofar as the large majority of referendums occurred during the Charles De Gaulle era, the chapter focuses on his role in referendum usage and outcomes. The chapter concludes with an application of the theoretical foundations discussed above to the Italian and French cases, and finds that the context in which the institution of direct democracy was introduced in large part explains its later use; at the

same time, the role of political elites who are thus constrained by institutional development play a minor role: certainly, they have some agency, but that agency is limited by the boundaries set by institutional design. The fact that such agency is limited suggests that institutions are the primary causal agent of change, rather than individuals.

The purpose of chapter four is to once again apply the theoretical foundations discussed here to additional cases: Uruguay and Venezuela. I begin with a discussion of the formation of the institution of direct democracy within the Uruguayan system and in particular, a focus on the work of Uruguayan President José Batlle y Ordóñez in introducing referendum politics to Uruguay. Certainly, Batlle's legacy is far-reaching in Uruguayan politics, and thus, the focus of the chapter is on his work. Finally, the case of Venezuela is examined for similar patterns. I begin by examining the context in which the governing constitution was created (this occurrence is much more recent than the other cases, occurring in 1999), and also examine the role of institutional design as well as that of political elites (primarily Hugo Chávez). The research will be informed primarily by secondary historical sources that focus on the political context of the times, and primary sources where applicable and available; prior works (e.g., Skocpol 1979 and 1992; Thelen 2004) utilizing historical institutionalism will serve as a "guide" in terms of the qualitative path. Such cases will also be examined for aspects of unintended consequences.

Chapter five will serve two purposes: first, to weave together the multiple ideas discussed in the first four chapters; secondly, to offer a review of the limitations of the current study and possible suggestions for future research.

Thus, chapters two, three and four will examine case studies in effort to locate the primary condition of out-group inclusion in original constitutional development (C1, discussed above), and its presence is dichotomous – it is either there, or not there. At the same time, the chapters will examine later usage (in general usage/non-usage terms) in an effort to determine whether the primary variable was historical institutional design (HI1) or the role of political elites in the process (P1), and the degree to which their role was conditioned by HI1 and/or prospect theory/cybernetic theories of decision-making (PC1). If the hypotheses suggested prove true, then usage is a function of C1, HI1 and P1, with P1 conditioned by PC1. If the hypotheses suggested do not prove correct, then creation in a given system would occur without C1, usage would occur without regard to HI1, and without the impact of P1, irrespective of PC1. Thus, if the study evaluates cases more commonly associated with the former, a systematic evaluation of referendum politics can be assumed; if the latter process occurs more commonly, the remaining conclusions is that institutions are largely irrelevant, and that the politics of direct democracy occur independently of established norms.

Case Selection

The theoretical foundation suggested above is capable of being applied to any case study in which referendum politics exist (or for that matter, do not exist, as a function of C1). Thus, a sampling frame could, theoretically, be drawn from a population made up of all political systems. Such an examination would be better suited to a quantitative analysis, and such a study should be undertaken at a future time. However, the present study is qualitative in nature, and designed to examine the nuances of the cases selected. However, regardless of the intent, the selected cases were not drawn

randomly; and while random selection is generally the condition for valid inferences, “such inferences can be made by a sample selected by some rule not correlated with the dependent variable” (Geddes 1990:135). Such that the dependent variable in this case is (1) existence of the institution of direct democracy and (2) its later usage, I have attempted to adhere to Geddes’ condition (1990) by selecting matched pairs of study: Italy and France, and Uruguay and Venezuela. In the first pair, France has a long history of referendum politics with limited use, while Italy has a shorter history of referendum politics with considerably greater usage. In addition, this pair serves the “most similar” approach in terms of degree of democratic values, and also “most different” approach in the sense of a stronger parliamentary system (Italy) and a stronger presidential system (France). Within the Latin American context, systems that consistently utilize direct democracy are rare, with Uruguay being the exception to the general rule. Uruguay has also experienced a greater degree of democratic practices than other systems, and at the same time, has experienced numerous constitutions – some with, and some without the institution of direct democracy. The Venezuelan system has rarely utilized the institution of direct democracy, and at the same time, has undergone a significant transition over the last ten years – a transition focused (as Chávez argues) on the bringing the people into the process.

It is worth repeating that the theoretical framework could be applied to any political system, and in that sense, the problem of selecting cases on the dependent variable is mitigated here. Each of the cases presented here have the institution of direct democracy as part of their existing constitution: such a study would be futile otherwise, and to this degree, some selection on the dependent variable is necessary. As King,

Keohane and Verba (1994) argue, random selection is not always the ultimate goal in qualitative research, though selection should “allow for the possibility of at least some variation on the dependent variable” (1994:129). In the cases presented here, extensive variation occurs in each of these dependent variables in terms of institutional constructs, both in terms of the systems of governance as well as the availability of the referendum device. The literature review intends also to help alleviate this concern by applying the theoretical approach outlined here in multiple cases, though in a more superficial manner than the case studies that follows.

At the same time, the independent variables here include the presence of “out-groups” at the time of the drafting of the constitution, which can be identified as groups who had been traditionally excluded prior to the drafting of the constitution in question (Barczak 2001); institutional design (the “rules of the game” – signature requirements, quorum thresholds, and the degree to which referendums can be initiated by both the government and the people, or by only one of the two); and finally, the role of political elites in the process. Certainly, this variable presents operationalization difficulties insofar as the variable does not remain constant – it changes as a function of the individual responds to the political environment. Nonetheless, the variable is centered on the boundaries of the earlier-discussed prospect theory/cybernetic theory of decision-making, which allows for inferences to be drawn: either the decisions of the political elite can be explained by such a theoretical approach, or it cannot. That is to say, the independent variable is limited in its approach in an effort to explain outcomes; falsifiability is, in other words, still an option. Insofar as variation exists in the dependent variable, inference problems are mitigated; bias as a function of causal variable

correlation with the dependent variable is not a concern because such bias is accounted for in the dependent variable selections (King, Keohane and Verba 1994:137). . In addition, each of the cases here vary on the value of the independent variable as well, as variance occurs in institutional design, the role of the political elites, as well as the presence of “out-groups” at the time that constitutions affecting direct democracy originated. The research forming the analysis of these independent variables is developed from the secondary literature on the topic in each given case.

Table 1: Overview of Variables for Matched-Pair Study

	ITALY	FRANCE	URUGUAY	VENEZUELA
Governance	Parliamentary (strong multi-party)	Semi-presidential system (weak multi-party)	Presidential system (strong multi-party, though long dominated by two parties)	Presidential system (weak multi-party)
Mechanisms of Direct Democracy	Government and Citizen-Initiated	Government-Initiated	Government and Citizen-Initiated	Government and Citizen-Initiated
Qualification Difficulty	Low	High	Low	Low
Direct Democracy Usage	Frequent	Infrequent	Frequent	Infrequent

Individual referendum data are taken primarily from the Centre for Research on Direct Democracy (cited throughout this study as C2D). The Centre for Research on Direct Democracy offers a worldwide database of national-level referendums including frequency of use (dating back to the 1800s), type of referendum (citizen-initiated or government-initiated; binding or facultative, etc), subject information, background materials, turnout levels, and total vote percentages. The Centre is a digital archive managed by the University of Zurich⁷.

Benefits of Study

The dissertation is expected to advance the literature in several ways. First, it separates much of the fuzzy definitions and logic used by historical institutionalists, rational institutionalists, and rational choice theorists. Throughout much of the literature, there seems to be a trend towards using “critical junctures”, “unintended consequences” and “institutional stickiness” in an arbitrary fashion (mainly, when it suits the needs of the scholar). There also seems to be considerable disagreement as to when the institution can be considered an independent variable or a dependent variable, *vis-a-vis* the actors involved. Secondly, the approach clarifies the role of actors in the process. Certainly, the relationship between institutions and actors *must* be considered in tandem; institutions do not operate on their own any more than actors operate without the constraint of institutions. Along these same lines, the approaches clarifies the process of change within institutions, holding that change is the result of actors responding to stimuli within the confines of their own institutions, and when faced with risk, operate according to the

⁷ <http://www.c2d.ch/index.php>. As stated by C2D: “The c2d is an academic research center dedicated to the study of direct democratic institutions (referendum and initiative) around the world, their history, legal nature, functioning and political implications. It aims at running an international database, promoting interdisciplinary scientific research, organising conferences and providing services.”

guidelines of prospect theory.⁸ Third, past and current literatures do not focus on how the context surrounding the introduction of referendum mechanisms informs its effects on later political outcomes. While Barczak (2001) and Altman (2011) both argue that formation is an important aspect (and these authors disagree over its importance), neither consider the path dependence aspect inherent in the historical institutionalist perspective. This study focuses on such aspects. Finally, the approach offers explanatory value in understanding outcomes as a function of the arena as a whole, rather than on *either* the institutions *or* the actors involved; moreover, the cultural aspect is not ignored insofar as institutional creation encompasses cultural components as does the “standards” of the decision-maker. Though a top-down approach, the approach is still useful insofar as most outcomes are the result of the top-down approach taken by elites (even in the case of direct democracy).

⁸ The question that naturally arises here is whether or not “standards” are part of the prospect theory approach. In other words, do decision-makers abandon their standards when operating within the prospect theory framework? Though this could certainly use a more detailed explanation, I would offer that prospect theory is not incompatible with the “standards” of decision-maker as I have tried to define “standards” here. That is, the notion that decision-makers may “gamble” on a much riskier endeavor in an effort to mitigate losses (while at the same time, foregoing certain, albeit smaller, losses) can fit within the boundaries of an acceptable “standard”.

CHAPTER TWO

LITERATURE REVIEW

Introduction

In comparison to most political topics, the policy space that is referendum politics is uncharacteristically diverse. That is, political scientists have a scholarly tendency to focus on inclusivity and exclusivity rather than the holistic. The discipline as a whole is subdivided into subfields (e.g., comparative politics, or security studies); theoretical foundations utilize logic in the manner best fitting the author's needs. For the most part, the economical focus considered here serves the discipline well; the organization is befitting. Referendum politics, however, defies such an approach: referendum politics is practiced at subnational and national levels; it occurs in democratic and nondemocratic states; it is based on institutional development but also requires individual as well as group agency; the possible topics for referendum are limited only by the imagination of the producer⁹, and could such include such diverse topics as governance issues, political issues, national security issues, gender issues, and natural resource policy. To further unpack the field of referendum politics, multiple strategies may be employed in each of one of these instances – some to be repeated (regardless of success); others to be discarded.

This study, however, is focused on three points: first, the degree to which the context in which direct democracy was first introduced in a political system affects later usage; secondly, the degree to which institutional design affects later usage; and finally,

⁹ In some systems, the topic is actually limited by constitutional language (e.g., one cannot consider budget issues via the referendum in Italy.)

the degree to which individuals operating within institutions can affect referendum outcomes. The following literature review is organized around these three general topics.

First, I consider scholarship related to referendum politics within the context of constitutional formation by examining the method by which the institution of direct democracy came to be included in a given constitution in various cases, and secondly, how such a context informs later usage. As the prior chapter suggests, such an examination is crucial to understanding how and why initiatives and referendums are used in future instances.

Secondly, I review scholarship related to the institutional design of referendum politics in various political system. Common sense suggests that usage in a given state could be a simple function of institutional design: easier access equals increased usage. Alongside this seemingly axiomatic calculation is the notion that a state may enjoy an “initiative culture” in which mechanisms of direct democracy are common, and thus, expected (e.g., Switzerland). Thus, an examination of institutional design is warranted here.

Third and finally, I review the literature related to referendum campaigns, the role of political parties in referendum campaigns, as well as the impact of political elites on the process. Certainly, the broadest of considerations in the field of referendum politics is that of how the institution of direct democracy reconciles with that of representative governance more generally. That is, in the case of established representatives (and the degree to which such representatives are democratically elected is a further question), to what degree, and indeed, to what end, should such representatives utilize the referendum process? If one assumes that legitimacy is a key concern for representative government,

perhaps the institution of direct democracy becomes instrumental towards this end. However, such an assumption precludes the possibility that referendum usage may be used towards illegitimate ends (purposefully or otherwise). Moreover, such an assumption also precludes the possibility that political authorities allow the voters to decide any issue on its merits alone, and do not intervene to shape, or even quash questions to protect their own interests. That is, the question of referendum outcomes may be interesting; the question of which referendum did not make the ballots may be just as interesting (and the subject of another study). Legitimacy in this sense is not limited to policy aggregation and transformation; leadership itself may be legitimated by referendum usage, and certainly not in the “democratic” sense of the word¹⁰.

Additionally, a key concern within the field of referendum politics is that of *change* – and the degree to which referendums facilitate (or prohibit) change. Certainly, an instrument of direct democracy is designed to measure the status quo: whether (and how) voters accept or reject the question under consideration. Thus, evaluating referendum politics as a function of the campaigns and individuals involved seems a prudent topic for a literature review.

The Current Scholarship of Direct Democracy

Usage of direct democracy mechanisms such as the initiative and referendum are on the rise worldwide, especially since the beginning of the 20th century. In the United States, 23 states incorporated the referendum or initiative (or both) into their state constitutions (Cronin 1989); in the 1920s, populist movements led Canada to adopt the

¹⁰ Adolf Hitler would use a series of four referendums between 1933 and 1938 to consolidate his power; in Italy, Mussolini would use two in 1929 and 1934 to achieve the same outcome; in Romania, General Ion Antonescu would follow this path with two referendums in 1941. Other political figures have used the referendum to affirm existing power.

practice (Laycock 1990). After 1989, democratic transformations in Eastern Europe led to 27 new constitutions, many of which contain language allowing for referendum usage and (perhaps more importantly) that were approved via the referendum itself. Altman (2011) evaluates the change in use of mechanisms of direct democracy by country and year, and finds that usage has doubled over the last fifty years and quadrupled since the turn of the twentieth century. Indeed, Scarrow (2001) finds that the primary cause of such increased usage is institutional change: in the 1990s, states that had already accommodated direct democracy as well as those who had previously given scant institutional recognition both began to utilize the device more frequently.

While direct democracy itself may be on the rise worldwide (Kaufmann and Waters 2004; Scarrow 2001), scholarship on the subject is lacking in several respects. A review of the literature shows a lack of uniformity with regards to even the most basic terminology: for example, the term “referendum” is often used almost interchangeably with the word “initiative” – and while the two may share some similar characteristics, they are most definitely two different animals. An initiative is an instrument available to the people (and indeed, should be constitutionally granted and/or protected) that allows the people to *initiate* the law-making process. A referendum, on the other hand, should refer to policy choices *referred* to the people by the legislative branch for their approval or denial. As mentioned, some characteristics are shared, most notably, that the people can petition the legislative branch for a referendum to be placed on a ballot. Nonetheless, the difference remains clear: in the former, the substance of the proposal, along with the process of the proposal being placed on the ballot, its subsequent adoption (assuming passage) and enforcement, are all independent of the legislature; the latter, of course, is

dependent upon the legislature in some way: they have either proposed the legislation, or perhaps they have been forced to consider it (such as a possible EU accession vote); they have either opted to place the proposal on the ballot, or they have been forced to via petition (or perhaps constitutional requirement). In either case, the referendum is far from direct democracy: even with the case of the petition, the very notion that the people are simply voting on a policy proposal generated by the legislature questions its inclusion within the boundaries of direct democracy (at least, in the truest sense of the term).

This distinction is far from trivial. The implications for policy outcomes – and for democratic theory – are dependent upon the process. That is, whether or not a nation state *actually* allows direct democracy (in terms of a true, California- style initiative process) or simply permits an occasional referendum vote will result in a very different political culture, and as a result, different policy outcomes. The reasoning behind this logic should be clear: the ability of the people to have a “gun behind the door” of the legislature, or to use another popular analogy, to be able to “end-around” the legislature and propose and enact legislation is a very powerful tool. Conversely, the ability of the people to give an up or down vote on a policy proposal may be superficially viewed as “power to the people” but in reality, little such power exists. This is especially so when all of the variant institutional constructs are considered (e.g., non-binding, facultative only, whether or not the government is required to place the proposal on the ballot, quorum requirements etc.). Such referendums often turnout to simply be a second-order (or “confidence”) vote of the party in power (Hobolt 2007) rather than an actual up/down vote on the policy proposal at hand.

A second problem found within the literature is a lack of examination of the type of electoral processes within the state itself – prior to, and then in conjunction with – the examination of the institution of direct democracy. Although EU member states are in many ways very similar, there are also considerable differences that may have an effect on the outcomes. For example, majoritarian electoral processes exist along with more traditional proportional representation systems; indeed, an examination into possible consociational democracies and their effect would also be helpful. Indeed, some scholars have argued that the EU itself is a consociational democracy (Bogaards and Crepaz 2002; Gabel 1998). The benefit of an approach considering electoral processes would be to consider the nature of policy aggregation that is typical within a nation-state, and by extension, the degree to which compromise (in terms of coalition-building) are a common aspect of the democratic process. Such an avenue may help to explain both the frequency as well as the expected outcome of both initiative and referenda.

Another recurring feature in the current literature on direct democracy is a lack of empirical analysis regarding the economic aspect of the nation state and its impact on the outcome of initiative and referenda voting. Certainly, a consideration of some measure of economic well-being may be beneficial when attempting to understand why voters approve or disapprove of a certain measure, and may be perhaps more beneficial in understanding why some initiatives are considered and eventually pass or fail. The implication here is that a prosperous country would have a different outlook from both an individual-level perspective (that is, their own financial well-being) as well as group-level perspectives (that is, group-level evaluation of the overall economy within their own nation) than those from an economically challenged nation. Moreover, economic

performance may have clear effects in both public policy areas of citizen lawmaking, as well as governance related areas of direct democracy.

On a more fundamental level, however, is the lack of scholarship dedicated to the role that institutions *beyond* the institution of direct democracy have on the process. That is, while the individual state-level institutional rules (e.g, restrictions on types of questions that may be asked, restrictions on signature requirements, differences between facultative and binding resolutions, etc.) obviously influence the usage of direct democracy within a given state, this does not fully account for when a state is more or less likely to utilize mechanism of direct democracy. For example, a study of the historical context of the timing in which the institution of direct democracy was first introduced may play a significant role in its later usage, primarily because the context of the times often dictates later usage in other political institutions. Certainly, the context of the times in which a constitution is created affects (and generally constrains) outcomes at a later date. Thus, while a state may recognize certain civil liberties or civil rights within a constitution, the constitution itself was created at a fixed point in time, and the drafters' views of civil liberties or civil rights may enforce how those rights and liberties are enforced. Future generations may be able to "mold" outcomes related to civil liberties or civil rights recognition, but a complete reconceptualization is generally not possible – future generations are constrained by the original drafting.

Finally, an empirical study of the institution of direct democracy may reveal the impact of excluded interests on the process of institutional change. For example, Barczak (2001) examines the reform and rewriting of several Latin American constitutions and notes that many of them emerged with direct democracy mechanisms in place. She finds

that such mechanisms are contained within constitutions when one of two conditions is met: when (1) the reform and rewriting process is controlled by traditionally excluded political interests; or (2) traditionally excluded interests mobilize to capture a significant (but not controlling) share of authority over the reform-rewriting process (39). By way of example, Barczak points to Peru (1990), Argentina (1996), Brazil (1996), Ecuador (1996 and 1998) and Venezuela (1999) as cases in which the rewriting process becomes controlled by traditionally excluded interests. Fewer cases fall under the second condition: Colombia (1991) and Paraguay (1992). The remaining cases (Uruguay, Chile, and Bolivia) also saw new constitutions developed (1997, 1980, and 1993-1996, respectively) and either did not expand the direct democracy status quo (Uruguay and Chile) or did not introduce the mechanism (Bolivia).

The idea that direct democracy measures are included when traditionally excluded interests have a say in the matter is neither new nor unique to the Latin American system. The late nineteenth and early twentieth century brought tremendous changes to the American system of government in the form of direct democracy. This “founding” of direct democracy in the U.S. can be considered a function of several components: the deleterious effects of the Industrial Revolution on many farmers and ranchers in America; the desire on the part of Progressives and Populists to install a mechanism that could “check” the powerful hold of special-interest groups over state legislatures; and the widely-held desire to improve government by making it “more responsive” to the people in general – which would in turn, the Progressives argued, lead to a more politically efficacious citizenry, which would again in turn, lead to a better overall government (Cain and Miller 2001; Polhill 2001) In the late 1800s, disenchanting groups (mainly

alliances of farmers, miners, and laborers) formed the People's (or Populist) Party, favoring governmental ownership of railroads, elimination of monopolies, a graduated income tax, free coinage of silver, an expanded money supply, and similar efforts aimed at improving the livelihood of rural families (Cronin 1989: 43). With bankers, railroaders, and land speculators in their sights, the Populists attempted to enter politics and change the system, as they could envision gaining little relief from the two main political parties that they believed were controlled by the influence of railroads, trusts, and monopolies. In 1892, the Populists codified their beliefs at their first national convention, where they introduced a platform that called for the direct election of senators, limiting the president and vice-president to a single term, and most importantly for our purposes, the introduction of the initiative and referendum (Cronin 1989). In 1897, South Carolina became the first state to adopt direct democracy measures, and several states followed, each with support of traditionally excluded or marginal groups.

Constitutional Formation and Referendum Politics

The preceding chapter discussed a theoretical foundation suggesting that usage/non usage of referendums could be considered within the context of the initial presence of out-group inclusion in the original constitutional development (C1); and that later usage may be a function of historical institutional design (HI1) or the role of political elites in the process (P1), and the degree to which their role was conditioned by HI1 and/or prospect theory/cybernetic theories of decision-making (PC1). The following section considers literature related to Europe and Latin America, but also applies the theoretical foundation (though it should be noted, this is done superficially here).

The (Former) Soviet Union and Eastern Europe

The democratic revolutions that occurred throughout Eastern Europe in the 1990s provided no fewer than 27 new constitutions, many of which were considered and approved by popular referendum. However, the region was no stranger to the referendum device: The Soviet Constitution of July 1923 allowed such a process (allowing each of the union republics to withdraw, though the particular method was unspecified), and Bolsheviks more generally were supportive of self-determination and referendums¹¹. When the Congress of Soviets of the Soviet Union clearly defined the role of the Communist Party in 1936 and redesigned the government under Stalin, Article 48 allowed for the Supreme Soviet Presidium to conduct a referendum on its own initiative, or at the demand of one of the union republics, though no actual referendums occurred. In the 1960s, debate and discussion occurred regarding the move towards increased usage of the referendum, and a particularly scholarly debate erupted between Viktor Kotok and M.I Baitin over the normative aspects of the referendum: the degree to which the practice should be mandatory for constitutional questions (historian and commentator Roy Medvedev would argue for a compulsory referendum for each republic once every ten years), and the degree to which the practice would increase civic engagement¹² (White and Hill 1996). Discussion, however, did not translate to usage. This pattern would be repeated in 1977, when the “Brezhnev” Constitution would specifically allow for the referendum in Article 5 – but for all the debate that had occurred regarding the proper usage of the referendum, Article 5 did not set provisions for what would be

¹¹ Soviet Commissar of Foreign Affairs Leon Trotsky demanded the use of referendums to decide the fate of occupied areas; the Soviet government also promised referendum usage with initial relations with the Ukraine and Georgia (Wambaugh 1933).

¹² The normative concern is especially prevalent in the initiative and referendum literature in the United States. See especially Brown (2004).

binding, what would be consultative, nor did it provide guidance in terms of which types of questions could be asked. Indeed, it would not be until 1990 that such concerns would be addressed: such referendums could adopt a new law, to amend or rescind a law, or to determine public opinion on important issues. The policies of *perestroika* (a plan to restructure the political and economic systems) and *glasnost* (the effort to increase openness and transparency in government institutions) would help deliver thirty-three referendum questions between 1987 and 1993, twenty-five of which occurred in the former Soviet Union,¹³ and can be considered within the context of a state facing a major transition. Mikhail Gorbachev turned to the public at large to transform his desired policies into realities, and Gorbachev would set his sights quite high¹⁴: replacing (though reaffirming) the Union Treaty that had created the Soviet Union in 1922. For their first-ever referendum, the Soviet population was asked on March 17, 1991 whether they

*...consider necessary the preservation of the Union
of Soviet Socialist Republics as a renewed federation of
equal sovereign republics, in which the rights and freedoms
of an individual of any nationality will be fully guaranteed?*

The ambiguity in the question became quite problematic for voters and member states alike. Lithuania, Estonia, Latvia, Georgia and Armenia proposed their own independence referendums in response to the question; six of the republics worked to

¹³ For comparative purposes, between 1946 and 1986, no referendums occurred in the Soviet Union; seven referendum questions were posed in Eastern Europe; four of these were noncompetitive: approval for three Romanian questions, two of which approved the Antonescu government (99.9% each); one to approve the 1968 German Democratic Republic Constitution (94.5%); and one to end the Bulgarian monarchy (95%). The remaining three were more competitive, and each occurred in Poland on 30 June 1946: to abolish the Senate, to make a more permanent economic system, and to approve Baltic and eastern frontiers (68, 77 and 91%, respectively).

¹⁴ In addition to the importance of the topic, the referendum would set records for votes cast (149 million), and the largest geographic expanse covered by a referendum question.

disable the voting mechanism; five other republics either changed or added questions of their own (Brady and Kaplan 1994). Though Gorbachev would win the vote (in some areas, by greater than a 90% margin), the fractured process led to inconclusive outcomes,¹⁵ and Gorbachev learned first-hand what many others had also come to learn: the unintended consequences of referendum can be difficult to accept. Though Gorbachev had intended the use of the referendum to legitimize his own agenda,¹⁶ Yeltsin would utilize the same tactic on his own behalf: putting to the voters the question of a strong republican presidency, viewed by scholars as an offensive quest for power (White and Hill). While Gorbachev would win 76%, Yeltsin also claimed victory with 70%. In this case, the purpose of the referendum was designed to settle the issue of the permanency of the union; instead, the spark for independence referendum ignited across Eastern Europe: in December 1991, 84% of the Ukrainian electors turned out to vote in an independence referendum, with 90% voting for independence. Gorbachev would resign on December 25, 1991.

The case of the Soviet Union suggests a number of relevant outcomes. First, that the context in which the institution of direct democracy was introduced in large part explains its usage. In the case of the Soviet Union, the referendum mechanism was introduced and reaffirmed multiple times; its use, however, did come about until both Gorbachev and Yeltsin found it necessary to utilize the device against political enemies individually, but also against subnational units. As the last chapter suggests, the lack of

¹⁵ The Commission on Security and Cooperation in Europe (1991) argued that “the first referendum in Soviet history produced plebiscitary paralysis, and the standoff between the center and the republics continues” <http://babel.hathitrust.org/cgi/pt?id=mdp.39015024951678;view=1up;seq=2>

¹⁶ Gorbachev refers to his own agenda as “more socialism, and therefore, more democracy”, arguing that socialism itself was not internally flawed, as many argue, but rather, that principles of socialism had been insufficiently applied (Gorbachev, 1987: 46).

an “out-group” in the 1922, 1936, 1944 and 1977 constitutional revisions results in a fewer items being referred to the people (even with the presence of debate on the issue), and thus the Soviet Union in this instance did not meet (C1). Facing a possible loss scenario however, Gorbachev utilized the mechanism in an attempt to legitimize his own power, while at the same time certifying the legitimacy of others (individuals and republics alike) to utilize the same mechanism. Paradoxically, through an attempt to strengthen and legitimize his own (individual) power, Gorbachev set in motion the process of power destabilization through affirming the use of the very tool that would undermine centralized (institutional) power in the Soviet Union. Certainly, Gorbachev had other options: Walker (2003) argues he could have allowed each republic to decide its status, or brokered a compromise with the republics, or perhaps let the Politburo or Supreme Soviet decide; certainly, a crackdown on the separatists would be an option on the table as well.

Historically, then, C1 (the primary condition of out-group inclusion) is lacking in this case, suggesting reduced usage in later years. Also, an important variable responsible for usage/non usage was historical institutional design (HI1), but perhaps more importantly was the role of the political elites operating within that institution (P1), operating within the confines of historical institutional design (HI1), and certainly conditioned by PC1. Gorbachev had a number of options, as discussed, and instead – as prospect theory suggests – opted for the larger gamble when facing a loss scenario, but of course, operated within the confines of the options available to him, without regard to values, as the cybernetic theory of decision-making suggests.

Germany and Austria

Historical developments in Germany offer additional insights into referendum politics in the context of transitional governance. Prior to the Weimar Republic, the German Constitution of 1871 supported a high degree of state sovereignty, but the 1919 Constitution gave the power of the referendum to the people. Suksi (1993) argues that while the constitution did give the state the literal power of the referendum, the practice was severely limited: significant limitations existed for the subject matters (budget issues, tax statutes, and salary regulations did not have to be placed before the people, and thus parliament was insulated from these issues) as well as majority requirements in both approval and turnout (the latter causing those wishing to oppose to simply not go to the polls). The initiative was also available to citizens, though only two of sixty attempts were able to reach the voters, and both of these would fail the majority quorum requirements (C2D). Suksi (1993:96) finds that the initiative was used primarily by parties to further their own ends, but at the same time, the institution of the referendum provided a “constitutional channel” that would preclude “unconstitutional action.” Such an argument is supported by scholars writing at the time: Thoma (1928) argues that that “there is every reason to expect that this moderation in resorting to...(direct democracy)...will continue to be shown in future so long as the principle of proportional representation is applied in the *Reich*” (73).

After the rise of the National Socialist Party in 1933, the powers of legislation and constitutional amendment were given to a cabinet headed by Hitler, and while the parliament was now of little importance, a Law on Referendum was enacted by the cabinet (though no initiative was provided). As Suski (1993) argues, the referendum in

this context was not designed to achieve mathematical majorities, but rather to secure the assent of the people, insofar as the whole society was based on the concept of the “organic personality of leadership” (99). The three referendums that took place in this era support this notion: the German populace approved the withdraw from the League of Nations in 1933, the merger of the offices of the President and the Chancellor into a single unit in 1934, and in 1938, approved the annexation of Austria while at the same time electing a Nazi list to the national parliament (C2D)¹⁷.

Certainly, legitimation was a key concern here: though policy confirmation was the ostensible goal, regime legitimation was the real motivation. As Suski observes, “the conclusion that can be drawn from the Nazi referendums seems to be that a device which is a part of the formal or mechanistic decision-making procedures ...can be used to further the purposes of a substance-based political system” (102).

Once again, however, out-group inclusion (C1) was not a factor here in either the Weimar Republic or the Nazi era, suggesting reduced usage in later years; the case also presents an interesting historical institutional design (one in which the focus was on organic power of leadership, rather than institutions during the Nazi era) but overall, the same result occurs: the context in which the institution was developed played a role in later usage, suggesting relevance for HI1, and of course, political elites played a role in both the Weimar Republic and the Nazi era with both (obviously for different reasons) not utilizing the device often. Finally, PC1 plays a role here, too: interestingly, the parliament-centered Weimar Republic opted to maintain their small victories rather than gamble (and, not facing a loss scenario, the option supports the theory).

¹⁷ German voters may have been “tipped off” in terms of elite support: the “approval” circle was quite large; the “disapproval”, placed next to the “approval” circle, was quite small (Suski 1993:102).

Though the Austrians included the provision of referendum (allowing any act of legislation to be submitted to the people through a simple majority vote in the *Nationalrat*, and mandatory referendums for amendment or alteration of the Constitution), in practice the procedure is rarely used. Introduced with the Constitution in 1920 and in large part reflecting the general political mood in Europe after 1918 (Pelinka and Greiderer 1996), only three referendums have been placed before the voters.

The question of whether or not the Zwentendorf nuclear power plant should begin operating became a catalyst for expressing discontent with the status quo at the time of the 1978 referendum. The discontent focused especially on the established party structure, and by extension, the lack of opportunity for active participation, and the discontent showed in the outcome: parties that had experienced longstanding particular demographic support found those demographics bolting the party line (Pelinka and Greiderer 1996), and voters ultimately rejected the opening, though turnout was a scant 64.1% (C2D).

In 1994, Austrians voted on the EU referendum, and instead of discontent, voters decided the fate of the question primarily on economic terms: concerns about unemployment motivated both affirmative and negative votes, while concerns over the loss of sovereignty and the deterioration in the quality of products drove the “no” vote. As Pelinka and Greiderer (2003) argue, the “differences in voting behavior were strongly related to party preference”.

Finally, in January 2013, Austrians were invited to give their opinion on mandatory conscription, which drafts some 22,000 men per year into the Austrian military for service of six months in the military or nine months in civilian service. Once

again, party divisiveness played a role: in a coalition parliament, the center-left Social Democrats argued for moving away from a conscripted military towards a professional military (and such an action would follow Germany and France, each of whom ended conscription policies), while conservative members argued that increased spending would hinder economic improvements and at the same time move the nation away from the neutrality stance it has observed since 1955.¹⁸ Though the parties may be divided on the issue, the electorate does not see this issue as a possible referendum on power overall; 60% voted to retain the compulsory conscription practice.

The Austrian case is thus focused on representative over direct democracy. Pelinka and Greiderer argue that “it almost seems as politics have feared the pressure that might result from direct democracy, as if they feared the potential damage that might be done to the established, highly concentrated political system by direct participation” (1996:29), suggesting that elite-level behavior is highly useful for predicting referendum usage and outcomes. Moreover, the context in which the constitution was created also suggests that a lack of usage was likely, insofar as “out-groups” were not an important factor.

Latin America

Though historical institutionalism often has trouble defining how institutions are established, rational institutionalism suggests that institutions are created when the benefits of that institution help to maximize the preference of the creators. Such instances result in “critical junctures.” In terms of governance, the rewriting or reworking of a

¹⁸ Austrians vote to keep compulsory military service” <http://www.bbc.co.uk/news/world-europe-21110431> 3/24/13

constitution would certainly qualify as a critical juncture (even in Latin America, where constitutional fortitude and longevity are not always apparent).

The role of political elite in shaping the introduction of measures of direct democracy into the system cannot be overemphasized. Thus, to what degree does a rational institutionalist theory take hold in helping to explain extant direct democracy in Latin America? Bruer (2008) argues that “the decision of Latin American governments to resort to referendum is mainly rooted in specific problems in executive-legislative interaction and may be additionally spurred by contextual factors such as the government’s need for rehabilitation, whether because of preceding corruption scandals or a lack of democratic legitimation” (13). The case of Bolivia illustrates how the motivations of political elites in maximizing favorable outcomes (but working within the constraints of the institutions) shaped direct democracy measures.

As Breuer (2008) notes, the Bolivian transition to democracy in 1982 was largely successful, and based on the hybrid presidential system as well as the introduction of a mixed-member proportional electoral system. However, the author argues that the actual outcome of this process, while designed to limit the problems inherent to Latin American instability (e.g., minority governments and legislative deadlock) actually resulted in legislative support “dominated by presidential patronage strategies rather than by programmatic compromises” (14) which resulted in corruption and an alienated electorate. This system was replaced in 1994 by a traditional List Proportional Representation system that was intended to reconnect voters with parties was successful only in encouraging party system fragmentation and polarization by “aggravating existent ethnic and regional cleavages” (14). After increased fragmentation and eventual civil

unrest over the plan to export natural gas to California, President Sanchez de Lozada's government collapsed, and was replaced by vice-president Mesa, who sought the legal introduction of the referendum.

In the Bolivian case, Breuer argues that four factors were largely responsible for Mesa's action. First, since the idea of referendum was initially brought up by Mesa's predecessor, Mesa could not ignore it without preventing further escalation of the situation; secondly, the lack of a direct popular mandate required him to seek continued favorable approval ratings; third, that a lack of stable support basis made the ordinary route of legislative approval (especially with energy policies) quite difficult; and finally, Mesa's own preferences shaped his desire to find a balance between an unhappy electorate on the one hand and international lending organizations on the other by increasing taxes on foreign companies operating in Bolivia (16). The final version of the referendum process was accepted as part of a constitutional reform package passed in June 2004. The Bolivian case thus shows how the historical context shapes the introduction of measures of direct democracy, but also that institutionalism plays a large part in the choices that political elites make (indeed, those who have control over the institutions) such that their preferences are maximized as a result of the institutions they create. Breuer also finds that the Bolivian case "parallels the Peruvian case in which Fujimori resorted to a referendum in order to make up for the lack of a democratic legitimation of his government" (20). For Mesa, the first usage of the referendum came in 2004, and initially the results seemed to be regarded as a "solid vote of confidence for Mesa" (Breuer 2008:17); however, strategic decisions resulting from the outcome of the referendums ultimately led to further civil unrest, and culminated in Mesa's resignation

in 2005. For Mesa in particular, and for scholars more generally, the notion of unintended consequences¹⁹ could not be clearer.

Other cases show how the historical context, critical junctures, the cybernetic theory of decision-making, and the prospect theory blend together to form an explanatory framework. Breuer (2009) finds in a cross-nation quantitative study that several factors are responsible for the introduction and continued use of measures of direct democracy. First, she argues that presidential systems in Latin America are a key determinant, insofar as “presidents facing situations of civil unrest may attempt to use referendums to several strategic ends: a means to divert public attention from unpopular policies or personal misdemeanor; as a political offering to mobilized groups of citizens; and as a way to delegate responsibility for unpopular decisions by “passing the buck to the voter” (29). Secondly, she finds that multi-party systems are more likely to result in difficulty within interparty negotiation and increase the problems inherent in presidential systems, and in such a case, the executive or oppositional legislators “could use a referendum to outplay their political rivals in the opposite branch of government” (29). Along this same line of reasoning, the author finds that a common result of multiparty systems is divided government, and depending on institutional constraints (e.g., whether the direct democracy measure is available to the legislature, the executive, either or both), a referendum may offer a way to break a stalemate. Yet another cause of direct democracy usage for Breuer is instances in which the executive does not have direct democratic legitimation, such as in the case of an automatic successor. Finally, Breuer argues that

¹⁹ Though I have referenced unintended consequences in terms of Mesa individually, the concept would of course refer to the institution of direct democracy in Bolivia (e.g., would direct democracy, instituted as a measure to increase democratic stability, actually be able to resolve conflict between state functions and enhance participation and legitimacy). The irony was just too blatant to pass over.

constitutional rigidity is a predictor of referendum usage insofar as constitutional amendment processes often take a supermajority, and thus referendum becomes a more viable alternative. Extending these suppositions to Western Europe finds support; as the dissertation will show, the semi-presidential system in France has facilitated such outcomes; in Italy, multi-party organization has also has significant effects on outcomes.

A correlated finding in Breuer's (2008a; 2009) study is that it also disproves the notion that the introduction (and later usage) is primarily based on "personalistic, neo-populist leadership", suggesting that institutions (and institutionalist theory) matter more than individuals (and a strict rational choice theory). Such an examination is worthwhile. O'Donnell (1994) offers that many Latin American countries that can be considered "democracies" in the definitional sense of the term (e.g., the Dahl polyarchy test), are actually "delegative democracies" that lack the institutional framework necessary to control the flow of political power. Instead, the delegative democracy described here implies that the "the president is taken to be the embodiment of the nation and the main custodian and definer of its interests" (60). In particular, O'Donnell points to Argentina, Brazil, and Peru as examples (at least at the time of his writing) of delegative democracies. However, as Breuer (2008a) points out, the institutional constraints and decision-making aspects of the leader are not fully considered. She argues that "the capacity to obtain policies consistent with the executive preferences....vary according to the interaction [several] institutional variables" (64). In particular, presidential system executives are likely to use the government-instituted referendum when the position of the median voter reflects their preferences (and the interaction of negative preference

distribution in the legislature) as well as constitutional rules regulating the competences of elected officials²⁰ and minimum turnout requirements²¹.

In 1983, Argentines chose a new president in Raul Alfonsin and the *Union Civica Radical* (UCR), and returned to constitutional rule. However, a reworking of a constitution did not take place until Carlos Menem took power with the *Partido Justicialista*. Scholars note that Menem ruled by decree on many occasions, offering 336 “need and urgency decrees” in a five year span, all in an effort to avoid legislature approval (Barczak 2001). The Menem administration sought economic stability through neoliberal economic and social policies, including privatization of state enterprises, deregulation of economic activities, and efforts at a balanced budget (Vacs 2006). However, the important point for the purposes of this study is that the new constitution – in collaboration with former president Alfonsin and the Radical Party – included authorization for “*consultas*” and initiatives (Barczak 2001). In this case, Barczak argues that the instrumental variable for the inclusion of direct democracy components was the rise of Menem and the decline of the UCR, but that the process included collaboration of the traditionally excluded elements in the form of Alfonsin.

The case of Brazil also follows the idea that the critical juncture resulting in constitutional inclusion of direct democracy was the fact that “new parties ended up dominating the constituent assembly of 1987-1988, which opened the door for the introduction of direct democracy” (Barczak 2001). Chafee (2006) notes that the 1988 Constitution had a “strong liberal content”, primarily a reaction against the centralization

²⁰ This refers to the executive’s ability to conduct a referendum.

²¹ Minimum turnout requirements are an important institutional constraint: in countries with “low levels of democratization, governments confront politically apathetic citizens” (Breuer 2008a: 67). In most Latin American countries, a threshold must be met before the referendum is valid (this varies between 25-51%).

and excesses of the military regime. The Constitution increased the voting population from 1891 stipulation of literate white males to both illiterates and those over 16, brought rural workers into the social security system, and also expanded labor rights.

Barczak also finds that the case of Ecuador's inclusion of direct democracy was the result of a critical juncture that included outsider interests. In this case, however, three constitutions were written between 1979 and 1996, and while the 1979 Constitution introduced direct democracy, it was expanded by "newly organized forces" (47). The original Constitution was itself a product of a referendum between different constitutional plans drawn up by civilian politicians and scholars, and the result was dramatic changes, including the enfranchisement of illiterates and the abolishment of the Senate, in addition to the allowance of limited direct democracy measures, such as indirect initiatives and allowing the president to call a *consulta* (48). Future administrations, such as Leon Febres Cordero sought to expand the ability to call a referendum, and the rise of the Ecuadorian Roldosista Party and the PSC (both relatively new players, at least in terms of electoral success), resulted in the expansion of the president's ability to call a *consulta* (51). Each of these cases, Barczak argues, are predicted by the fact that traditionally excluded interests held power over the reform or rewriting process, which would certainly be considered a critical juncture.

In a related but ultimately different context, Barczak finds that Colombia and Paraguayan inclusions of direct democracy were the result of traditionally excluded interests capturing a significant, though not controlling, share of the reform process. In the former, the author notes the emergence of direct democracy was the result of traditionally excluded groups, in this case, the ADM-19 and representatives from social

groups also won seats in the legislature charged with approving the 1991 Constitution. The author notes that participatory democracy was important to the agenda of the minority groups (52). In the Paraguayan case, the 1992 constitutional rewrite process in the legislature was dominated by the traditional Colorado Party, but the 76 of 198 seats not held by the Colorado Party went to a main opposition party and a newly formed independent movement (53), and the end result included provisions for *consultas* and indirect initiatives.

Thus, the scholarship reviewed here shows that the inclusion of direct democracy is not always a function of “out-group” participation; certainly, the introduction of the mechanism occurs without it. However, there does seem to be an evident pattern: inclusion of out-groups in the constitutional formation process does lead to increased usage of the referendum process in later instances, while the lack of such a group is associated with a lower usage in later instances. Such a finding will be useful in the case-study application in future chapters.

Institutional Design, Turnout, and Outcomes

That direct democracy is on the rise both in the United States (Cronin 1989, Waters 1999) but also around the world (Butler and Ranney 1994; Uleri 1996) is hardly a revelation. Scarrow (2001) finds that widespread institutional reforms have incorporated access to the referendum process, particularly at the local level.²² In Europe, two main causes can be attributed to this rise: the democratic revolutions in Eastern Europe during the 1990s produced almost thirty new constitutions (many of which were actually passed

²² Though not discussed by the Scarrow, this could be an indirect attempt at overcoming the problems that had been solved by federalism. A study examining the relationship between federalism (though rare in Europe) and local referendums could be of interest here.

by referendum), and the integration process within the European Union that has reignited both national and transnational direct democracy mechanisms (Kaufmann and Waters 2004). Other scholars have argued that increases in referendum usage reflects the “unfreezing of political alignments and institutions” that had characterized the early part of the twentieth century (Bogdanor 1994). In this sense, the increases in referendum are a function of the challenge to the longstanding representative institutions in the form of participatory forms of democracy. However, further research suggests that such usage has increased where provisions for referendum usage currently exist; in states that had offered minimal referendum usage, or in states where citizens lack the ability to trigger a referendum, institutional constructs have not given way to increased usage (Setala 1999).

Leaving aside the purely institutional aspect for a moment, other scholars suggest that aspects such as *cognitive mobilization* (Dalton 1996), or the increases in popular demand for access to the policy-making process as a function of the increases in resources and skills available to the general (non-political) elite. Significant research focuses on the role of direct democracy as a method of countering the growing cynicism and disaffection with extant government structures, and insofar as the referendum offers a direct voice, their use is a function of an increased desire for responsiveness (Gerber 2001). Craig, et al (2001) argue that evidence from the United States suggest that while each of these hypotheses has some plausibility, a stronger causal element is that of “policy entrepreneurs” who seek their own ends while at the same time capturing public support for the institution of direct democracy itself. Insofar as the process of direct democracy was intended as a process through which individual could counter the power of political elites (whether they be elected officials or interest groups), the capture of the

process by elites suggest negative outcomes in terms of the original purposes of the institution. At the same time, the individual-led approach (rather than institutional-led) approach offered by Morel (2001) is that increases in the use of the referendum are in part a “path dependent” issue: as a state utilizes the process (regardless of the purpose), its use not only legitimizes the issue at hand, but also legitimizes the process itself. This, of course, makes it difficult for the state to eschew the process in the future. Moreover, Morel argues that the increases in referendum usage in Europe is a consequence of the increases in obligatory referendums as well as increases in uses of direct democracy in the Italian system. In each of the European cases, Morel finds that the process is not fully consultative; that is, the process is not used by a representative government seeking the honest, objective opinion of the people. Rather, political elites are interested in resolving tensions within their own parties, furthering their legislative agenda, and increasing their own power (2001:62).

Significant variations occur across the countries with respect to the availability of various types of initiative and referendums. Unlike the United States, where the only variation is in terms of a popular initiative versus a legislative referendum and the requirements of each for ballot access (in terms of signature gathering, available provisions, and general availability) European countries have a host of options among them. For example, referendums can either be binding or non-binding. In the latter, such referendums are consultative or advisory in nature and the government may or may not choose to implement the results. Moreover, the referendums may be mandatory (i.e., required when constitutional issues or EU accession are considered) or facultative (i.e., instituted at the will of a public authority or by a petition of the people). In yet another

twist, some countries may adopt a simple majority rule for adoption; others, however, may require a supermajority for passage, and in still other, a “quorum”²³ of sorts must be met in terms of voter turnout before adoption will be considered.

A consideration of the mechanics now complete, the question becomes one of empirical and normative value: who uses direct democracy? What are the benefits and drawbacks of such a mechanism? What are the consequences for democracy as a whole? Donovan and Karp (2006) consider the first of these questions by examining the demand side of the equation: are I & R initiatives preferred by those who embrace the notion of greater demand in citizen involvement in the governmental process, or do those who may find themselves on the periphery (or may be largely disenchanted with the status quo) prefer the availability of direct democracy? Their study considered the direct democracy mechanism in countries across Europe, as well as the Americas and New Zealand. Survey data results indicate overall support for the process itself but also that, between groups, the politically interested and engaged are more likely to assume the increased costs associated with referendum voting, as are the young. Additionally, increased support was found among those on the left of the political spectrum and the authors argue that, by extension, the implication that direct democracy was a threat to the political status quo due to use by those disaffected by the system is not supported. That is, in a manner similar to *members* of the American Populist Party’s eschewing of direct democracy (in contrast to the Populist Party’s enthusiasm for the mechanism) members of the disaffected cohort are no more likely to turn to direct democracy, regardless of the end-around benefits of the very system with which they are disaffected.

²³ For example, Italy requires a 50% turnout threshold for the results to be valid.

The role of direct democracy in a given state cannot be properly understood without also considering the context of the institution relative to the participating state. That is, institutional design can not only foster variant outcomes, but can also affect the substantive aspect of the role of direct democracy itself. Institutional design refers to the myriad possibilities available to nation states in terms of the legal regulation of direct democracy: various quorum requirements, pre-regulated referendums versus ad hoc referendums (the former takes place according to a pre-determined constitutionally or otherwise legally prescribed norm, while the latter is at the discretion of a sector of politics), advisory referendums versus binding referendums, the ability of the nation's judicial system to intervene, as well as more functional aspects, such as signature thresholds and gathering periods.

For example, in terms of institutional design, Lithuanians face very stringent requirements (roughly 11% of the electorate's signatures are required), compared to roughly two percent in Hungary and Slovenia. Like Italy, Lithuania also requires a turnout quorum of 50% of the registered voters, while in Hungary that requirement is 25%, and Slovenes simply require a majority vote. Moreover, in each of these countries, a period of 12-18 months is granted for proper consideration and debate of the issue. Fourteen European Union member states establish either participation or approval quorum for national referendums or initiatives (Aguiar - Conraria and Magalhaes 2008). Clearly, the question becomes one of how quorum rule may affect the incentive to vote. In developing a theory on this matter, Aguiar - Conraria and Magalhaes construct a "prototypal rational-choice, decision theoretic model of voting" (2008: 5) that combines elements of a pivotal-voter model (belief that voting will swing an election) with partial

equilibrium notions. The application of this theory in a large quantitative dataset finds several key points. First, under referendum systems that include only an approval quorum or no quorum at all, voting for one of the options can only increase that options chance of victory. However, when a participation quorum is introduced, the voter who seeks and votes for the status quo may actually be helping to induce change by voting (and thus by increasing the level of participation towards quorum requirements). Thus, the voter who seeks the status quo may find that abstention is the best option. The authors conclude that participation quorum systems display a bias towards lower voter turnout – and a count of roughly 11%. Their cross-sectional design also yielded other findings: compulsory voting and literacy both increase turnout levels; referendums are more demanding than general elections where voters can rely on party cues and incumbency for predictors; and that competitive referendum are more likely to receive higher turnout, as are ballots that are short and do not induce fatigue.

The study of direct democracy in Europe depends upon the ability to classify these differences appropriately. That is, to analyze empirically cross-national data, a method of appropriate comparison must be developed. For example, an analysis of referendums in Italy (where the people essentially have only the ability to “veto” laws, and to do so, a 50% approval quorum must be reached) cannot be compared with referendums in Latvia (where the process is used often, but as little as 2% of the population may propose either a legislative or constitutional referendum). Though variance is a key component of analysis, excessive variance precludes (or at the very least, limits) meaningful research, especially in a cross-country comparison.

The institutional context has proven a viable mechanism for other researchers as well. Hug (2000) delves deeper into the Maastricht Treaty using the lens of institutional construct, and finds that through an evaluation of referendum of 15 countries, the type (e.g., binding, non-binding) had an independent effect on the outcome. Specifically, because the consequences of the vote in a binding/non-binding referendum are different, the voting differences should also be apparent. Hug argues that when a facultative binding referendum has been offered, the vote-of-confidence effect is stronger, essentially showing support for the government's position. However, when mandatory referendum votes take place, the governments cannot signal their intentions, and thus the confidence vote aspect is muted.

The concept of "initiative culture" may also play a significant role in the process. To what degree does direct democracy play a central role in the politics of a given nations? That is, do the people understand the process, accept the process as a legitimate method of governance, and seek out the process to achieve certain ends? Such acceptance would likely be the result of repeated use; many countries, however, have only used the process in consideration of universal decisions, such as acceptance of Maastricht.

As mentioned, however, culture includes more than turnout. Christin (2005) consider notions of European Union support, and find that culture does indeed play a significant role. In particular, levels of democratization play an important role in terms of EU support: citizens of less democratic nations are more likely to believe that joining the EU would strengthen democratic institutions, while those residing in more democratic nations (such as Central Europe and the Baltics) are less likely to support accession because of a perceived lack of need for such institutions.

In a separate study, Szczerbiak and Taggart (2003) argue that the outcomes of various EU accession referendums in Eastern Europe could be considered in light of “elite unity” on the issue as a primary determinant and underlying public support as a secondary determinant. Thus, rather than complex notions of democracy, culture for the present authors was determined more by “popularity” (which is indeed a problematic notion of culture; endogeneity is only the beginning of the problems here) but nonetheless find that elite support in Slovakia, Hungary, Slovenia, and Lithuania resulted in support, while Eurosceptic ideas were given support in the Czech Republic, Poland, Estonia, and Latvia where elites were unsupportive.

Szczerbiak and Taggart also develop what they consider to be a “causal model” that attempt to identify *both* results *and* turnout in a given referendum vote. It is worth noting that the reliance upon culture is revealing. The model considers independent variables that predict results to be (1) direction of cues from social elites; (2) public support for the EU; (3) knowledge of the European issue; and (4) the credibility of elites. The varying levels (considered on a continuum) affect the likelihood of a yes/no vote. The authors also admittedly *exclude* the “credibility of European institutions” (Szczerbiak 2003: 17 and 22) because, they argue, such institutions only affect referendum results “at the margins” but also because elites are already part of the institution, and thus, the effects are difficult to parse out.

It should be noted that these findings are in opposition to those made earlier by Hug (2000), who had found that the institutional context did in fact mediate the impact of political actors (and partisanship cues). However, it should further be noted that Hug considered three institutional factors: whether or not the initiative was binding, whether

the referendum was constitutionally required, and which governmental coalition was in power at the time of the vote. The importance of the finding (for my purposes) is this last one, which simply adds to the methodological confusion because it could be considered a cultural independent variable as well.

Initiative culture may have also played a part in Lithuanian and Estonian (and Eastern Europe more generally) referendum voting patterns. Lust (2009) argues that the 2003 European Union membership vote found eight Eastern European participants whose outcomes differed significantly from one another. The above cited states, however, focused on their status rather than institutional contexts insofar as their relative economic stations seemed to be the predictor: Lithuanians sought to overcome their economic hardships by a vote to join the EU; at the same time, Estonians considered accession to further reinforce their dependence on the West and prolong their economic hardship. Although the author argues that these results were based on variant strategies of economic reform, it seems clear that similarities in institutional constructs point to outcome variance as a function of culture – or at least, political elites.

Political culture (and such influence on turnout and outcomes) can certainly play a role in referendum politics within nondemocratic regimes as well. In 1958, Egypt held two referendums, both with 98% turnout and 98% approval (the Founding of the United Arab Republic and Nasser for president); Egyptians in 1965 repeated the Nasser vote by the same margins, and the 1971 Constitution also passed with 98% of the vote, and 98% of the turnout (C2D). In 1974, the Egyptian regime set sights on attracting foreign investment with the “October Paper” – arguing to the populace that attracting foreign investment would make up for domestic shortfall. Like the votes before it, the regime

attracted nearly 100% approval, due in large part to electoral fraud orchestrated by the Ministry of Interior (Moustafa). Presidential confirmations by referendum in 1976, 1981, 1987, and 1993 all had support above 95% (C2D). Interestingly, the 2011 constitutional referendum, held after the ouster of President Hosni Mubarak, found only a third of the electorate showing up to the polls and just 64% approved of the new Constitution – as Ottaway (2013) argues, this newly approved Constitution will not put an end to the transition period, but instead, focus the debate on the rights of the minorities, which are lacking in the new Constitution.

Other nondemocratic regimes utilize the process and find similar results. Morocco voters approved a 1970 constitutional referendum with a 99% approval rating (93% turnout), pushed by King Hassan II, and again in 1972 after a failed coup with the same results. Referendums in 1980 (moving the age of majority from 18 to 16 for royal successor, and extending the mandate of parliament from four to six years) produced similar results, as well as the 1992 referendum increasing parliamentary seats. As was the case in Egypt, the 2011 Arab Spring resulted in new constitutional referendums in Morocco, and although only 73% turned out, 98% voted to grant executive power to a prime minister (e.g., the power to dissolve parliament) but also to leave military, religious, and judicial power within the purview of the king²⁴.

The cases above certainly raise questions on widespread policy agreement. As Altman (2011) notes, the 2002 Iraq referendum on the presidency of Saddam Hussein (100% turnout and 100% approval) does not reconcile with the notion that Shia Muslims

²⁴ BBC . “Morocco approves King Mohammed’s constitutional reform” <http://www.bbc.co.uk/news/world-africa-13976480>

or the Kurdish population were properly represented. This is not surprising, since dictatorships do not lose plebiscites. Altman (2011) finds of the 254 referendums that occurred in nondemocratic regimes, only three resulted in losses (Uruguay in 1980, Chile 1988, and Zimbabwe in 2000).

Altman (2011) also considers the issue worldwide, and while his main concern is not the institutional structure, this is an important element. Altman considers the degree to which (or if) direct democracy serves to strengthen representative democracy. The theoretical perspective that Altman employs starts from the foundation that the institution of direct democracy is the mechanism that allows popular sovereignty to flourish within contemporary representative democracies. For Altman, the focus of this research should be on the degree to which the two institutions can coexist, rather than a focus on whether or not they are mutually exclusive.

Altman's research is certainly inclusive. The author builds a database of five thousand observations over a twenty-five year period in "each and every country" in which either a referenda or initiative occurred. The only limitation here is that the "event" must have occurred at the national level, which of course leaves out many cases (especially the U.S. case). The research then focuses on the relationship between direct democracy and nondemocratic regimes (the findings here indicate that use is motivated by the "maintenance of an illusion of an existing democratic process" and to further legitimate the regime in both political as well as psychological elements towards the populace). Interestingly, Altman here argues that, in the cases in which authoritarian regimes accepted defeat via referendum, the cause was international leverage and institutional design – an important element for the purposes of this dissertation.

The remainder of Altman's work (2011) focuses on the degree to which accountability is present within the environment of direct democracy. That is, Altman argues that the weak institutions are in fact assisted by countries (the focus is primarily Latin America) that use direct democracy, insofar as the "rules of the game" are not as easily (arbitrarily) altered. The single case study of Uruguay is also examined, and Altman concludes that when the executive opposes the objective of the promoters of the measure under consideration, the government in power is more likely to lose at the polls. This is especially the case when economic issues are at stake, when the referendum seeks to maintain the status quo, and when strong lobbies or unions are behind the referendum.

Thus, institutional design is clearly a relevant factor in determining referendum usage. A superficial analysis suggests that easier access to the referendum device equals increased referendums, and that the opposite would also be true. However, this analysis does not fully examine the role of individuals working within the institution already created. In so doing, a better understanding of the degree to which referendums are used within systems that have easier access – and within those that have more difficult access points – becomes clearer.

Campaigns, Parties, and Elite Cues

Western Europeans have been asked to consider accession to the European Union more than 40 times since the 1970s (Butler and Ranney 1994). Certainly, constitutional referendums (either those seeking voter approval for joining a larger organization, such as the European Union, ratification of a treaty, or individual state level constitutional change) differ from policy referendums in a significant way: the former changes the basic institutional structure of government, while the latter focuses on the issue of representative versus individual level decision-making. Galligan (2001) finds that the

referendum is an appropriate means of decision when considering constitutional issues insofar as it increases the legitimacy of the process; at the same time however, the process itself is difficult – and properly so.

The literature related to accession referendums is dominated by discussion of ruling-party support, insofar as the “required” aspects of such referendums preclude a study of the politics surrounding the introduction of the question. The discussion in the literature focuses on referendum outcomes not as reflections of the issue at hand, but rather of voter affection or disaffection with the ruling party (and by extension, in most cases, government). These take shape primarily in response to European treaties, such as Maastricht or EU Constitution. Franklin, et al (1995) argue that the referendum conducted in France and Denmark to ratify the Maastricht Treaty resulted not in true voter preferences for European popularity as a whole, but rather, aggregation of voter preferences towards the ruling party. The basis of their argument is that “partisan attachments in parliamentary systems are inextricably entwined with government popularity, so that the outcome of a referendum has to be seen in connection with the position taken by the government” (105). Their findings suggest that lack of support by party government in France resulted in a very narrow passage of the referendum, while the same referendum failed in Denmark during a time of strong majority party opposition – only to pass a year later when the disfavored party was no longer in power. The consequence of this, of course, is that it questions the relevance of such referendum. Given the various nature of referendum possibilities (i.e., binding, non-binding, and of course, facultative) the very likelihood of a referendum appearing is dependent upon the government assuming success; however, in the case of mandatory referendum, the

outcomes may be more likely to reflect satisfaction with party government than with the issue at hand.

More recently, Garry et al (2005) examined the issue with respect to Irish voting on two EU treaties. The authors argue that the result differential in the two treaties (actually, it was two elections on the same treaty – the Nice Treaty), is a function of “second-order election”²⁵ factors, mainly because the first go-round resulted in a negative vote, which was determined to be the result of low campaigning on the purpose of the referendum by the voters; the second go-round, on the other hand, was accepted and determined to be the result of the party vigorously campaigning the effects of the treaty itself (i.e., put the focus on Europe as a whole). The Irish also initially rejected by referendum the Treaty of Lisbon. As Kellerman (2008) argues, the approximately 1 million Irish voters (amounting to less than 1 percent of the bloc’s population of over 500 million) essentially held hostage the Treaty as a whole, insofar as Ireland was the only member state to hold referendums on the Treaty. The stated objections ranged from concerns over neutrality (certainly a concern, given Ireland’s neutrality), the loss of VAT taxation benefits, and a fear of loss of influence in an enlarged EU; Kellerman (2006), however, notes that the actual concern was over political disenchantment with political elites who supported the Treaty. O’Brennan (2009) and later Quinlan (2009) support this argument, finding that the two main reasons for the “no vote” for the Treaty were “an enduring Irish attachment to an overwhelmingly exclusivist national identity” and also a “lack of knowledge” on the part of the voters, which typifies the divide in elite vs.

²⁵ Second-order elections are those that are not perceived by voters or actors to be as important as national or general elections, and thus can be considered as mechanisms for signaling support – or a lack of support – for domestic political parties and government (Garry 2005: 204). Second-order effects are more likely in non-binding referendums.

popular political awareness. Yet, when asked again to approve the Treaty, Irish voters in 2009 did so by a 67% margin, and while the distrust of elites remained in place, De Bruyn argues that fears of an economic recession changed the mind of many voters (one in ten gave a “yes” vote on economic ground in 2008; one in four gave a “yes” vote on economic grounds in 2009). Thus, Irish voters have had a mixed record on voting for treaties: “yes” votes on the 1973 EC referendum, the Single European Act, the Maastricht Treaty and the Amsterdam Treaty, but “no” on the Nice Treaty and the Lisbon Treaty, both of which eventually became “yes” votes.

More generally, Glencross and Trechsel (2011) consider Flash-Eurobarometer survey data to analyze empirically the second-order decision making by voters in Spain, France, the Netherlands, and Luxembourg on the 2004 Treaty Establishing a Constitution for Europe (TEC). Spain and Luxembourg both approved, while the Dutch and French both voted “no”. The authors find that in the case of the Dutch and the French, the concern was not the constitution itself, but rather, a “generally pessimistic attitude about the European Union” (12); similar pessimism was not found in Spain and Luxembourg. Thus, voters are showing concern for aspects unrelated to the immediate issue at hand, in both the negative and the positive sense (i.e, Spain and Luxembourg had a positive affect towards integration (and not the constitution itself), and thus approved.

This study does lead one to wonder why a state would risk ratification failure in the first place, if such a referendum were not mandatory. To understand this relationship, Finke and Konig (2009) examine the strategic interaction between government, opposition parties, and the electorate in 25 countries during the 2004 Constitutional Treaty vote. The key finding is that treaty-friendly governments may seek to circumvent

a “potentially treaty-sceptic parliamentary opposition by initiating a referendum” (358). As such, the authors argue, the referendum becomes a mechanism of policy change rather than yet another veto player as had been suggested by others (Hug and Tsebelis 2002). Moreover, the government can expect moderate to high gains in a treaty reform vote regardless of their desires.

In addition to institutional context, the role of parties is also important. A later study focusing on the role of parties in the 2007 EU Constitution referendum found that the party is indeed an intervening variable. Crum (2007) focuses on the asymmetry between government and opposition parties: because government parties are constrained to commit themselves to the “Yes” side, opposition parties can exercise a genuine choice, which can constitute a “competitive model” or a “collusive model” depending on their willingness to side with the government party. However, because the opposition party is likely to suffer from intra-party dissent and defection, the choice may actually become a liability. Crum finds that support for the EU Constitution is based on party identification rather than simple opposition, and that center-left parties are more likely to support the Constitutional Treaty. This however has implications in and of itself as center-left parties are more likely to follow a yes-vote but followers are more likely to oppose the yes-vote from the center-right groups. In either case, however, the effects of protest groups are ineffective.

Hobolt (2006) evaluates the impact that parties have on voting behavior by examining two Danish referendums on the Maastricht Treaty. She finds that political parties have a considerable power to influence the way in which referendum choice is perceived by voters; however individual preferences towards the EU are a stronger

predictor of vote choice. Because defections are probable, Hobolt argues that parties have more success in framing the proposal “as close to the ideal point of the median voter” (641). That is, the evidence suggests that voters do in fact take cues from the parties that they support, but that “issue preferences condition the extent to which parties can persuade their own supporters to follow the party line” (642). Such framing occurs through the media, and thus, the effects of the framing are also important measurements of voting behavior.

Support for the idea that referendum campaigns have much in common with regular election campaigns also comes from Jenssen and Listhaug (2001), who argue that party cues play a central role in the opinion formation process. Utilizing national survey data collected on voter attitudes to the 1994 European Union referendums, these scholars find that parties (especially those with a majority in parliament) can influence public opinion, especially through such techniques as resource control over the timing of the referendum, the allocation of campaign resources, the role played by other ad hoc organizations, and the implementation of the actual referendum results. Thus, parties are successfully able to mobilize their traditional followers, which make referendum events similar to regular election campaigns.

A consideration of how voters make their electoral decisions would not be complete without a brief discussion of the role of the media. A review of the research in this area finds a significant lacuna; Jenkins and Mendelsohn (2001), however, find that coverage of referendums mirrors closely that of standard electoral campaigns. The resulting (normative) implication from this is that the media does not serve to facilitate a deliberative environment which leads to further understanding, but given the framing

power of the media (and in the case of referendums, research suggests the framing was focused on the procedural issues of the campaign rather than substantive issues) and selective perception of individual voters, the result is similar to regular election campaigns.

Thus, determining how individuals vote must consider multiple variables. Christin et al (2002) consider the information costs that referendums have on voters, and in particular, examines the heuristics and shortcuts that may be employed in deciding how to vote. Given the unusually higher number of referendums in Switzerland, the authors focus their attention here. Their research results in two main findings: first, that systematically uninformed citizens vote more strongly against ballot measures if they imply a change to the status quo, which align with the risk-averse theory of voter behavior. The authors argue that the implication is that voters are more informed about the current status quo than they are about the proposed change. Secondly, they find mixed support for the notion that uninformed voters might mimic the behavior of well-informed voters if they aware of the endorsement of a political actor. However, the authors argue that their data are problematic insofar as operationalizing the informed/uninformed voter is not all that easy; moreover, understanding the causal connection between cues delivered by actors and those by parties are difficult to separate.

Hobolt (2006) considers this topic in a much more detailed manner by focusing on three main questions: how voters behave, what the role of the political elite is, and ultimately, whether or not referendums influence policy outcomes. In response to the first question, Hobolt finds that salience is the key: when high, the voter relies on their own attitudes rather than adopting the second-order approach discussed earlier. The role of the

political elites is considered to be primarily responsive, in that they can interpret the meaning of the referendum for voters, and they can also set the agenda once the decision is taken. Finally, she argues that the indirect effects of the referendum may be the key, as policy outcomes are closer to the median voter preferences in situations in which the I & R is used. The author extends this research (Hobolt 2009), where she finds that issue voting (as opposed to second-order voting) is prevalent in referendum on European integration especially when voters are provided with sufficient information and clear recommendations from political elites. This means a large prop of voters have the capability of voting completely and responsibly on Euro issues given that adequate info is available. Voter competence may be enhanced when political parties instigate serious and open debate on issue of Euro integration and when the campaigns offer extensive info on the issue. She also finds that detailed factual information is not necessary for voters to act in a reasonable manner since political party cues can act as substitutes. Thus, she argues that voters are smarter than they are often given credit for. Direct democracy may not produce outcomes desired by politicians but they are nonetheless decisions based on competent voting records.

If voters are indeed competent (this author does not take this notion to be proven), then the question becomes one of the relevance and appropriateness of direct democracy itself. Qvortrup (2002) examines this question in a comparative analysis, and argues that referendums are indeed compatible with consensus government, and that they are democratic institutions because they allow for equal participation of all groups and for protection of minorities. He further argues that turnout decreases as referendum increase (at least in Denmark and Sweden), and that higher socioeconomic demographics are

overrepresented. For the most part, voters have high knowledge of individual referendums, and that by extension; the referendum does not obstruct the representative democracy process. However, the notion that such relative appropriateness can exclude the notion that referendum voting on constitutional questions automatically leads to an increase in deliberative public. Chambers (2001) finds what many before (Gerber 1999; Smith, D and Tolbert 2004; Smith, Mark A 2002) have found with regard to direct democracy: referendums may actually undermine deliberation. Chambers argues that this is in large part due to the degree of majoritarianism that is inappropriate for this serious of a question, and that referendums present the voter with the image of “inflexibility” (2001: 233), which in turn lead disincentivise deliberation.

In addition the constitutional questions, political elites often use direct democracy to further their own interests. Such examples draw from both democratic and nondemocratic regimes; it is the nondemocratic regimes considered here first. Certainly, the use of the referendum to legitimize or consolidate power is more common within nondemocratic regimes, as the legitimization in such systems must be manipulated rather than assumed. Early examples of nondemocratic regimes utilizing the institution of direct democracy include the 1802 referendum triggered by Napoleon, and a successful one at that: 99.7% voted for a lifetime appointment, as opposed to a 17-year term, as originally proposed by the French Senate. In the 1930s, Nazi Germany held several plebiscites, ranging from the legitimization of the withdraw from the League of Nations in October of 1933 to reaffirming support for Adolf Hitler in 1938. Certainly, legitimizing the consolidation of power was Hitler’s main concern here: after an August 1934 law merged the offices of the President and Chancellor (granting now sole power to Hitler), the law

was offered to the people as a plebiscite, who overwhelmingly approved (Suksi 1993). As successful as these votes were (90% approval ratings), the Nazi government would lose some interest in the utilization of the plebiscite because the 90% approval rating left some room for a dissenting vote – this, Schiller (2009) argues, was seen as a “failure”.

Thus, certain conclusions relevant to this study can be drawn from the literature on campaigns, parties, and elite cues in referendum politics. First, political parties and campaigns are relevant: the discussion in this section focused primarily on instances in which the referendum was mandatory, and in this sense, parties may seek to capitalize on the requirement for their own political ends (perhaps legitimizing or delegitimizing the status quo). Secondly, insofar as legitimation is a key element of political efficacy, the institution of direct democracy is compatible with representative democracy. Third, and perhaps most importantly for the purposes of this study, are that political elites often use direct democracy to further their own interests, in both democratic and nondemocratic regimes.

Conclusions

The current literature on the institution of direct democracy considers several significant factors of the process. In large part, the significant rise in the literature related to direct democracy is correlated with the significant increases in the usage of the process itself. Certainly, with the significant rise in the usage of the referendum, scholars sought almost simultaneously to explain the usage. Nonetheless, three significant problems exist with the current literature.

Like those who miss the forest for the trees, scholars did not fully consider the wider context of direct democracy usage. Scholars have focused on the increased

“demand” model, from the perspective of the educated voter seeking governmental responsiveness (Dalton 1996); that political elites are acting as policy entrepreneurs in co-opting the “populist” mechanism and using it for their own ends (Craig, et al: 2001); that state-level usage increases later usage (Morel 2001); and that democratic revolutions during the 1990s produced new constitutions that were legitimized through the referendum (Kaufmann and Waters 2004). However, there is an underlying contextual cause that must be considered in each of these cases: what was the political context in which the introduction of direct democracy occurred in the first place? Several of the cases discussed here illustrate that this is a key variable: the lack of “out-groups” in the Soviet constitutions resulted in fewer referendums, as did the German constitutions; critical junctures that included “out-groups” were the key variable for referendum inclusion and outcomes in Argentina, Brazil and Ecuador, Colombia and Paraguay.

Secondly, the literature does not fully consider the impact of the unintended consequences that generally occur as a function of referendum usage, especially when legitimizing leadership and/or policy. While the “populist paradox” (Gerber 1999) records the ever-common co-opting of the initiative process by powerful elites rather than by the populists for whom the mechanism was designed, other significant unintended consequences routinely occur as well. This is a significant oversight insofar as the important normative concern goes: if the intended purpose of the referendum is to seek out and follow the “will of the people”, what are the implications that arise when such an outcome is rarely met (or perhaps met, but with additional consequences)? Such consequences certainly have implications for the efficacy of the institution. Once again, an examination of the context in which the institution of direct democracy was first

established could provide a “universal” basis for understanding the occurrences of unintended consequences.

Finally, the literature considers several different avenues of institutional design that affect the frequency of the usage. For example, Kaufman and Waters evaluate multiple criteria (e.g., signature requirements, restrictions on topics that may be put on a referendum, quorum or turnout restrictions, and the overall “culture” of a given political environment. While useful individually, these studies do not provide a significant contribution to the study of comparative politics, insofar as increased restrictions obviously result in fewer initiatives or referendums (as do turnout and quorum restrictions). The larger (and the far more important) question is to what degree the context of the introduction plays a significant role in the way that the institutional construct is now designed – and then scholars can determine the effect that institutional design plays a role in direct democracy as a function of the original context and the resulting path dependency.

The main focus of the remaining chapters is an examination of the context in which the institution of direct democracy was originally introduced, and the degree to which this context plays a larger role in the eventual outcomes, to wit, institutional design, the role of individuals, and frequency of usage. This review has, to some degree, “previewed” these topics by examining differences in constitutional formation and direct democracy, institutional design, and the role of individuals in the process. However, the remaining chapters apply the theoretical framework to two sets of matcher-pair studies: Italy and France, and Uruguay and Venezuela.

CHAPTER THREE

DIRECT DEMOCRACY IN ITALY AND FRANCE

Introduction

The prior chapter considered the institution of direct democracy in a variety of cases in an effort to focus on relevant variables: constitutional design, institutional design, the role of out-groups, the role of parties, and the role of political elites. The current chapter examines the institution of direct democracy in Italy and France with a particular focus on the above variables, and with the overall goal of evaluating the extent of referendum usage in a given political system follows, in large part, the theoretical formula discussed in the first chapter: that the introduction of direct democracy in a political system, and cast definitively in a constitution is a function of the participation of out-groups (Condition 1, or C1); that the later usage of referendums is dependent upon (1) historical institutional design (HI1) and (2) the role of political elites in the process (P1), where (P1) are conditioned by (HI1) as well as by the tenets of the prospect theory/cybernetic theory of decision making discussed above (PC1). The next chapter will follow largely the same format and examine the cases of Uruguay and Venezuela.

The Introduction of Direct Democracy in Italy

The Italian Constitution of 1947 created a parliamentary regime in reaction to the Fascist conception of strong executive leadership. Thus, the institution of direct democracy largely originated in the Italian system as a function of anti-fascist fears; certainly, the introduction of a multi-party system in the context of pluralism (or, hyper-pluralism?) suggests that authoritarianism on any level was a major concern to the originators. During the Constituent Assembly of 1947, Constantino Mortati argued for

the inclusion of direct democracy, noting that it “permits the resolution of conflicts, gets a sense of the people, and is able to live with a parliamentary regime” (Volcansek 1999). A relatively close vote followed considerable debate and reworking of the original proposal; nonetheless, the notion of pluralism was encapsulated in the offering. The effects of that institutional origin are clear: certainly, the process allows for the resolution of conflicts; the process does get a sense of the people; and in many cases, the process has either forced politicians in Parliament to act prior to resolution of the referendum, or in others, to be bound by their results. In still other cases, the referendum has proved disastrous to party bases, and a catalyst to legitimacy for smaller parties. In a word, pluralism; in yet another, anti-authoritarianism.

The provision for the referendum did not appear to be a central feature of the Constitution; nor did it appear to be designed to find frequent use. Given the multiparty representation in Parliament and the weak executive, an appeal by the people against government (especially considering the abrogative nature of the referendum) did not appear to be something that would be often needed. Indeed, Article 75 of the Italian Constitution, which provided for the referendum, did not take full effect until 1970, when “implementing” laws were enacted by the Christian Democrats – and then only because the Christian Democrats changed their stance: what had once been an instrument that could only weaken their power became, in 1970, the instrument through which the DC sought repeal of legislation passed against their wishes: the ability to seek and be granted a divorce. As a function of this, the DC (at the time an opposition group) sought, alongside other “out-groups” (e.g., the Communist Party and smaller Catholic groups) to use the referendums to support their policies. Nonetheless, their failure would result in a

sense of a power loss of the authority of the two main parties – a pattern noticeably repeated with later uses.

Institutional Design in Italy

With the exception of the Swiss, Italians utilize the institution of direct democracy more frequently than any other European state. Additionally, the Italian arrangement is the only system in Europe (again, with the exception of the Swiss) in which the people can trigger the use of the referendum themselves – in all other systems, the process is top-down. The small sample size does not minimize the fact that referendums are more likely to be more frequent when the people retain control over its usage.

Institutional design has an important role in the direct democracy process in Italy. At the top of the institution within Italy is the “abrogative referendum” which derives its power from the Italian Constitution. In particular, Article 75²⁶ states that a popular referendum can be held to decide on the *repeal* (total or partial) of a law when requested by either (1) 500,000²⁷ registered voters, or (2) five regional councils. This, of course, precludes Italians from a fully “positive” role in proposing laws, as they are constitutionally limited to negating either parts of laws or to the comprehensive redaction of law. Indeed, not all matters are at the discretion of this limited power: tax laws, budget laws, amnesties, pardons, and international treaty laws are “off the table”. Perhaps most interestingly, however, is the stringent institutional design manifested in the requirement of a 50% voter turnout quorum in order for the results to be legally binding. That is, a

²⁶ In addition to Article 75, Article 138 allows for 500,000 voters or one-fifth of the members of either legislative chamber (or five regional councils) to demand a referendum on constitutional language and law, unless the law in question has been passed under this provision. Article 132 allows the use of the referendum on modifying borders of Italy. Neither has been used at the national level.

²⁷ The current population of Italy is roughly fifty-nine million; thus, roughly 1% of the electorate is able to initiate a popular vote on the complete or partial abrogation of a particular law (Kaufmann and Waters 2004). The signatures must be collected within a 90-day period.

double majority is required: a majority of the valid votes cast, but also, a majority of those eligible to vote (Kaufman and Waters 2004). Regardless of how the referendum comes to the ballot (via the voters or the regional councils), the results are binding. It is important to note that because of the nature of abrogative referendum Italy, a “yes” vote actually favors repeal of a law, while a “no” vote favors retention²⁸.

In addition to the double majority requirement, other institutional designs facilitate outcomes. In particular, the Constitutional Court²⁹ plays a significant role in the process in Italy. After the signatures have been collected, the Court decides on the admissibility of the request. Between 1970 and 1995, 75 requests were “promoted”, and of these, only 46 passed muster with the Constitutional Court (Uleri 1996). Additionally, Parliament may also intervene in the process in two ways: they may dissolve Parliament to postpone a popular vote (this occurred in 1972, 1976, and 1987), and they can directly change the laws to be in harmony with the promoters of the popular vote and thus prevent the vote itself; this occurred eight times between 1970 and 1995 (Uleri 1996).

A study of the institution of direct democracy (in any setting) would not be complete without a review of the role of the courts, and Italy is no exception. The referendum process in Italy faces two courts: the *Corte di Cassazione* verifies the signatures on petitions and forwards on the certification to the Constitutional Court, which has a much larger role. The essential role of the Court here is to determine the constitutionality of the question at hand, and beyond looking at the constitutional restrictions (that the question not be an issue related to taxes, budgets, amnesties, indulgences, or related to ratification of an international treaty) the Court has strengthened

²⁸ Indeed, the ballot reads “Do you desire the repeal of the law...?”

²⁹ The Italian Constitutional Court is comprised of fifteen members: one-third each appointed by the president, elected by Parliament, and elected by the lower courts.

its role in the admission process. During a 1978 review of eight referendum proposals, the Court expanded its role in the process by arguing four separate reasons why a proposal would become inadmissible. First, a question may not contain multiple and heterogeneous questions (in other words, all questions had to be reduced to a single, unifying question). Secondly, the proposal could not involve or implicate any part of the Constitution or a constitutional law (and more to the point, such questions were governed by separate constitutional articles). Third, the proposal's central intention could only be attained by injuring the Constitution or other laws, the proposal would be deemed inadmissible. Finally, the Court reaffirmed that the proposal could not consider any topics already delineated by Article 75 of the Constitution (Volcansek 1999).

The Court thus plays a central role in referendum outcomes. Of the eight proposed questions in 1978, the Court ruled four inadmissible; Parliament acted before the questions reached the voters and the lower court ruled two of the remaining four moot and thus inadmissible; in 1981, the Court held five of eleven questions inadmissible. In addition to the gatekeeping aspect, Volcansek (1999) also offers evidence that the Court operates with a degree of activism as well as a political slant. The author points out a number of examples: overturning Radical Party submissions while allowing others of a similar topic to proceed; allowing the "sliding scale" referendum to pass in spite of the budget and tax implications; and allowing controversial referendums dealing with electoral law (a constitutional issue) to pass.

Volcansek (1999) further argues that the role of the Court in the referendum process can be considered as a four-stage process. First, the Court practiced considerable self-restraint in the early stages, applying the literal words of Article 75 of the

constitutional text. The Court, however, soon began to expand its discretion by adding additional criteria, which (thirdly) allowed more elasticity in the interpretation process, and gave the Court considerably more influence over the process. Finally, the Court once again expanded its own role in the process in 1987, when the Court barred a referendum that would alter how members of the Superior Council of Magistrature was chosen, which was later used to bar any challenge to the electoral systems. In sum, the process amounted to a considerable expansion of the Court's original jurisprudence, and along the way, allowed the Court to "deflect issues away from a popular vote and preserve dominate elite values" (Volcansek 1999: 112). After the major political upheavals of the early 1990s, however, the Court "recast its structural role" (113), and in so doing, returned to a stricter jurisprudential basis, with the net effect being "adherence to a clear, accurate and consistent legal policy" (113).

In practice, direct democracy in Italy is common. Second only to Switzerland within European countries that have some form of direct democracy, Italy saw fifty-three referendums appear on ballots³⁰ between 1970 and 2003 (C2D). Uleri (1996) finds that five main phases can be identified within the last half-century of Italian direct democracy: the first (1943-1948) coincides with the collapse of the Fascist regime (indeed, in 1946, a referendum was held deciding whether to institute a republic or a monarchy); the second (1948-1970) saw the implementation of the abrogative referendum as a result of conflict between the Vatican and the Christian Democrats (DC) on the issue of legal divorce; the third (1970-1981) saw the use of the referendums by opposing Catholic groups and Radical (PR) groups (both groups were successful

³⁰ Of these fifty-three, 36 were affirmed, 17 denied; however 18 of the fifty-three were voided due to the lack of a quorum.

mobilizers); the fourth phase (1981-1992) resulted in use by myriad parties that had developed (and who focused primarily on social issues, such as wage indexation and cost-of-living issues); the fifth phase began in 1993 and have focused on governmental procedure and electoral laws.

More recently, Uleri (2002) finds that the Italian process can also be divided into three further stages, and from this, implications regarding the “non-voter” can be derived. The first period lasts from 1970-1985, and is characterized as the “period of the NO vote.” The second lasts from 1986 to 1993, and is given the moniker of the “YES vote” period, and the third and final period, the non-vote period, lasted from 1993-2000. The first phase is marked by a period in which the 50% quorum was reached in all cases, and the electorate rejected the referendums put to it; in the second, the predictable opposite occurred and in the non- vote period, 15 of the 27 issues accepted by the Constitutional Court were void because of the lack of turnout. The reasoning, Uleri argues, is that the opponents to referendum found that it had “become easier to canvass for abstention rather than to get people to vote NO” (Uleri 2002: 867). Indeed, it appears that the institutional structure of the Italian system has altered the traditional mobilization methods: in this case, campaigns of de-mobilization took place. As a result, Uleri argues that “all voters are equal, but in referendums, non-voters are more equal than voters.”

Uleri (1996) argues that the abrogative initiative has proved to be capable of performing as a “veto function”, but also as a method capable of interfering with the agenda setting process as well as a law-amendment process. Taken together, this actually results in a decision-promoting methodology. Given that the objects of referendums are the laws already in place, along with the idea that requests can be worded in such a way

as to focus on complete annulment or partial annulment, the outcome often depends upon the length of time that the law has been in effect, rather than the nature of the law itself: long-standing laws that are targeted often result in intervention in the agenda setting process, while laws recently approved that become targets tend to amount to a veto (Uleri 1996).

Institutional design affects outcome and usage in Italian referendum voting. To what degree, then, has political culture affected outcomes? The cases presented here can also point out the importance of “initiative culture” as a corollary to (effective) institutional design. That is, such culture exists if the mechanism can be used “by civil society groups such as unions, interest groups, social movements or alliances driven by political entrepreneurs” (Schiller 2005 cited from Ewert 2007). Moreover, such initiative culture exists if qualified actors can cooperate strategically with other political actors and institutions, such as parliament, government and court. Finally, an initiative culture also consists of a “pluralistic spectrum of parties, a liberal constitutional court, and a sense of democratic fairness” (Ewert 2007).

Turnout is a prime indicator of culture, and Italian turnout is traditionally quite high (generally upwards of 90% of eligible voters). Referendum voting, however, has generally been lower than standard turnout rates (ranging from 57-87%). The difference is what Italian scholars refer to as “additional abstentionism” (Parisi and Rossi 1978; cited from Uleri 1996). Culturally, a north-south divide also exists; this has been the case since the above-mentioned 1946 referendum to decide on a monarchy or republic: the republican option dominated the north, while the monarch option dominated the south

(Corbetta and Parisi 1994; cited from Uleri 1996). Political parties play the usual role of interpretation (both politically and in terms of actual definitions).

Given turnout levels, frequency, and the perceived legitimacy of the referendum, the Italian political culture can be assumed to include direct democracy. However, Uleri (1996) argues that while the institution implies a progressive movement towards a responsive democracy, the institutional design itself presents multiple problem areas. The primary problem, however, appears to be in the power of the above-mentioned Constitutional Court to “abuse” their gate-keeping power.

The Italian Party System

Perhaps no other country better exemplifies the concept of multipartism than Italy in the 20th century. The complexities of the Italian party system are a significant variable in the discussion of Italian referendums, and given that complexity, a section dedicated to their workings seems appropriate. However, in each of the cases under examination in this dissertation, the role of the political elites is discussed in detail; in the Italian system, a discussion of political elites must first include the party system.

The modern Italian party system is a function of both historical lineage and geographical realities, and scholars have contributed significantly to our understanding. For example, Sartori offered a theory of “polarized pluralism”, arguing that because the ideological center is occupied as a function of the large number of influential parties, the extremes would be strengthened at the expense of the moderates (Sartori 1966; 1976). Other scholars took a tempered view of the system. Farnetti also begins his analysis at the ideological center, but offers a model of centripetal pluralism that focuses on the continuous divisions within both the left and the right. In particular, Farnetti offered

evidence that on a number of occasions, the left parties moved towards the center throughout the 1950's, 1960s, and 1970's, and at the same time, documented the tendency of the voters on the left to reward centrist movement.

In one sense chaotic, and in other orderly, party systems in Italy are like no other. After World War II, the center-right *Democrazia Cristiana* (DC) dominated Italian politics into the early 1990s. The nascent DC developed into a catch-all party that did not reflect a simple left-right alignment. Indeed, the DC purposefully opened itself as a center party, and in particular, a party open to “the collaboration of parties that refused to cooperate” with the Communists (PCI) and Monarchists (MCI), and as a result, the DC encapsulated both upper middle classes and lower middle classes, neither of whom would wholly accept capitalism nor socialism (Farnetti 1980). The DC maintained this central alignment primarily by representing multiple interests, and in large part, control of civil society (Farnetti 1980: 8). Indeed, all prime ministers from 1945-1981 were from the DC; all but three presidents were as well. Gilbert (1995) argues that the DC's centrality was ensured by the “absence of a credible opposition”, and as a function of this, retained hegemony over the leading institutions of the state.

Nonetheless, excluded forces did exist: the PCI and the MSI. The *Partito Comunista Italiano* participated for a short time post-war; once removed, however, the PCI would not return but instead remain on the outside looking in. Gilbert (1995) argues that the party remained a “monolithic organization” run on top-down principles. The *Movimento Sociale Italiano* was also never fully accepted in the mainstream. The neo-fascist movement was founded by supporters of former dictator Mussolini, and was based on anti-capitalist, anti-American principles. These ideas notwithstanding, the MSI

transgressed to more conservative levels (espoused by support of Italy's membership in NATO and the recognition of the legitimacy of the Italian Constitution) and in 1960 the MSI enjoyed a brief governing role before being relegated to the sidelines once more as a function of riots and bloodshed caused by their decision to hold their annual congress in anti-fascist Genoa (Gilbert 1995).

In both cases, however, the DC played a role. Indeed, the 1960 MCI accession occurred with the backing of the DC; in the 1970s, the PCI was considered an alternative to the established party system (the DC) and the radical left, and garnered 34.4 percent of the vote in 1976 (Gilbert 1995). In order to avoid governing with the MSI, the DC was forced to open to the left, and while the administration would consist of DC ministers, the PCI provided "external support" (Gilbert 1995).

Clearly, times change – and the rise of Benedetto Craxi and the PSI are a testament to this. The *Partito Socialista Italiano* received just under 10 percent of the vote in 1979, but the strategy employed by Craxi intended to move the party away from its more traditional roots and towards the center – essentially moving "into" the system. Also, as Pasquino (2008) argues, Craxi deliberately decided to challenge the PCI in an effort to reduce their electoral support and to showcase their overall irrelevance in Italian politics. In an effort to ensure a majority, the DC had to rely on four allies, creating a period of *pentapartito*, one of whom would be the PSI. Interestingly, Craxi would demand the prime minister's job before pledging support, and would remain in this position between 1983 and 1987. As Gilbert (1995) argues, Craxi's stability was the first sign of success; also, however were warming relations with then-President Reagan (though the strategic politician always knows when enough is enough, as evidenced by

Craxi's independence during the Achille Lauro *Signorella* affair in October 1985), an improving economy, and wide support for social policies.

The notion of "bargained pluralism" (Hine 1993) certainly appear here as well: for all of the apparent stability, Gilbert (1995) argues that because Craxi was only able to govern with the tacit support of the PCI, the reality was that Craxi's allies were trying to defeat him while his adversaries were trying to sustain him, and Craxi had little choice but to stick to uncomfortable allies within the Christian Democrats. By 1987, significant changes were once again underway, and the rise of the PSI here would be the start of a longer trend.

Not surprisingly, the transformation process has not slowed since the early 1990s. The development of *Lega Nord* fundamentally altered the system. The culminating factors of growing dissatisfaction with the existing parties (proven primarily by the "Clean Hands" investigation) as well as the revival of a territorial identity allowed the Northern League to increase its share of the political agenda. In addition, the decline of the Christian Democrats and the transformation of the PCI helped the fortunes of *Lega Nord* (Pasquino 2008). While electorally popular in the North, *Lega* has been largely unsuccessful elsewhere. More generally, Pasquino (2008) argues that three major transformations occurred within this period. First: the disappearance of the historical parties – especially the Liberals, Social Democrats, and Republicans. The primary function of their disappearance was institutional: electoral law changes increased the threshold for minority parties; charges of corruption, however, did not help their cause. A secondary cause was the transformation of historical parties, and in particular, the decline of the Christian Democrats, which can largely be attributed to the decline of the Italian

Communist Party. In large part, the PCI wore the badge of the enemy for the DC, and their decline took ammunition from the DC – primarily from the social sectors. The result was first a loss of votes, and secondly, a breakdown into several fragments, many of whom still claim DC heritage today. Pasquino argues that the third important transformation was the development and success of *Forza Italia*. The importance lies in the evolution of the party; created from scratch in short order, had become a dominant force in Italian politics. Due in large part to Berlusconi's leadership (and the assets he brings), the author also argues that Berlusconi also appears to be the potential weakness, insofar as the leadership is primarily unitary.

Pasquino's (2008) overall argument is that Italian parties and the party system are not sufficiently consolidated (142). Once again returning to Sartori's explanation of "polarized pluralism," the author argues that the transformations discussed here represent a shift from a right-centre-left conceptualization (and the ideological difference separating them) to a new party competition modeled on "moderate pluralism": one in which centrist parties are less influential and are unable to dictate the type of coalition to be constructed. The outcome, for Pasquino, is electoral competition; in the former, a meaningful coalition between the center and right/left was impossible; in the latter, the bipolar organization among two heterogeneous coalitions has made alternation a reality. In short, the ideological distance between the two major coalitions has been reduced.

The effect of earlier intraparty divisions is clear: as Hine (1993) argues, "divisions between different institutional arenas, and between different factional groups, ensure that authority to make policy is rarely delegated to a cohesive leadership group in government" (109). The net effect is a continuous cycle amongst parties, parliamentary

groups, and individual faction leaders. More importantly however, is the basis for such division.

On the formal side of the equation, Hine (1993) argues that the formal organizational model parallels the tiers of Italian government: municipal, provincial, regional, and national (111). In each instance, the composition matters – perhaps most notably so at the national level, where the general gathering (the congress) is held, and where the party leader is chosen; from this control of party organization resources are marshaled.

Referendum Cases in Italy³¹

On March 18, 1946, Prince Humbert announced the House of Savoy's agreement to allow a referendum to decide the fate of Italy's monarchy. Such a case certainly exemplifies the tenuous relationship between direct democracy (even direct democracy, Italian style) and that of a representative or monarchical government. To what degree should established leaders deposit their fortunes with the masses? In this case, Prince Humbert declared that "...the free choice of the people, who we are sure will be inspired by that which is best for the future of our country"³²In any case, the partisan attachments were clear: as the *New York Times* reported³³, the royal family attempted to stay out of the political debate as much as possible, while leftist parties generally opposed, while center and right parties generally favored – and favored especially the notions that the method of the referendum was the key point in settling the debate. The outcome, of course, favored a transition to a republic – but the outcome also resulted in considerable

³¹ See Appendix A for a complete list of direct democracy cases in Italy.

³² "Humbert approves the referendum to decide the fate of Italy's monarchy". (Mar 19, 1946). *New York Times (1923-Current File)*, pp. 13.

³³ "Royalist violence spreading in Italy; Naples riot rages" (1946, Jun 08). *New York Times (1923-Current File)*, pp. 1. Retrieved from

violence, primarily between Monarchists and police forces in Pisa, Rome, and Naples³⁴; certainly this vote was no exception to the regional differences that exist: support for the republic was found primarily in the northern regions of Liguria, Piedmont and Lombardy, while support for the monarchy was found primarily in the south. Reports of the time indicate fears that the slim margin of victory would create an unstable foundation for the new government, and also of an eventual split into two separate and independent states.³⁵

In 1974, in accordance with the constitutional provision that the referendum be used as an abrogative device, Italians were asked by Parliament to retain or repeal a three-year old divorce prohibition³⁶ statute. The law itself had been bitterly contested as it worked its way through Parliament, and before the law was fully approved, Christian Democrats, enjoying a long-standing majority in Parliament, revisited the idea of the referendum for the first time since the 1946 constitutional referendum. Knowing that provisions for specific law regarding the referendum had not been fully implemented, Christian Democrats sought to expedite the process to use as a counterforce once the law was passed (Mark 2006). In this sense, then, Christian Democrats believed that a minority of the population favored the divorce law, and that a majority vote through the referendum would right what was clearly wrong.

The divorce referendum process began on the day the divorce law was passed:

Professor Gabrio Lombardi (Professor of Roman Law at the Catholic University of

³⁴ “Humbert favors plebiscite in Italy”. (1946, Jan 28). *New York Times (1923-Current File)*, pp. 7.

³⁵ “Italy a republic by 5-to-4 margin; Humbert to leave”. (1946, Jun 06). *New York Times (1923-Current File)*, pp. 1.

³⁶ The divorce law was introduced by Loris Fortuna, a member of the PCI, in 1965. Scholarship suggests passage was a peculiar function of the times: the second Vatican Council sparked new debates over the merits of divorce, the media had renewed attention to the debate, and civil rights more generally became the focus of the public. The law itself allowed divorce in limited situations, such as abandonment, a spouse being sentenced to prison, mental illness, or crimes involving incest or prostitution (Mark 2006).

Milan) collected 1,370, 134 signatures in short order (well above the required 500,000) by utilizing the network associated with the Church (Mark 2006). The case brings out multiple elements of the importance of institutions both formal and informal. For example, reports suggest considerable confusion among voters over the question wording: in other words, Italians who wished to outlaw the statute (and thus, divorce) were expected to cast a “yes” vote, while those favoring divorce were expected to cast a “no” ballot. In addition, conservative Roman Catholics and neo-fascists transformed the referendum into an anti-communist crusade.

The DC argued vehemently against divorce (and thus, a “yes” vote on the referendum, but once again the notion of bargained pluralism raised difficulty, as coalition partners (Socialists, Social Democrats, and Republicans) were all in favor alongside the PSI³⁷. Indeed, the very passage of the law broke a stranglehold of the Church on Italian society; had the social and economic transformations that marked postwar Italy not occurred, along with increased migration from the south to the north and increased women on the workforce, it is unlikely the Chamber of Deputies would have been successful (Mark 2006). Insofar as the 1974 referendum marked the first experience since the 1946 referendum on the monarch, turnout was quite high: 88% of the eligible voters produced a “no” vote by a 59-41% margin, retaining the ability to divorce in spite of the wishes of the Catholic Church and the DC. Once again, consequences for the leadership were clear: significant movement towards a leftist line

³⁷ The PSI had been instrumental in securing the original passage, especially through indirect tactics, such as creating lobby groups (*Lega Italiana per il divorzio*). Public support was crucial to passage given the entrenchment of the DC in Parliament and the role of the Catholic Church in Italian society. The law eventually passed in a parliament (164-50 in the Senate, 319-286 in the Chamber of Deputies) that saw Christian Democrats slightly outnumbered through coalition opposition.

offered little consolation for Prime Minister Rumor (DC), and fights related to inflation, laborers, housing, education, and public transportation would follow on the agenda.³⁸

Over the next few decades, Italians would return to the polls in an effort to answer a dizzying array of questions. In 1978, the Radical Party found the support of the PSI seeking repeal of police powers and engagement of the Italian police, but the issue was rejected by Italian voters, who instead followed the positions of the all of the parties of the “Constitutional Arch”; similar results occurred with the second question on the same ballot, this one considering public financing of parliamentary parties. In 1981, the DC and the Radical Party would offer two opposing abortion referendums: the DC asked voters to abolish abortion (voters disagreed by a large margin, retaining abortion but with limitations); the Radical Party asked voters to remove all limits on abortion (once again, the voters rejected this idea, retaining limits on – but keeping the practice of - abortion). These failures suggest that not only were Italians (or at least, the electorate) more secular than either the DC or the Church had assumed, but that clearly they were also considerably more liberal. Indeed, the very legislation that both referendums targeted was itself placed on the books under the threat of referendum in 1978. Not surprisingly, the hegemony of both the DC and the Church appeared fragile as a function of the outcome (Bodagnor 1992).

Three more referendums made their way to the 1981 ballot: Radical Party supported questions attempting to abolish life imprisonment (rejected by voters); outlaw private guns (also rejected) and another attempt to curb police powers (rejected yet again by voters). Voters again rejected a 1985 referendum that would have overturned Prime

³⁸ Outcome of Italian Divorce Vote Uncertain as Campaigning Ends." *New York Times* (1923-Current file): *ProQuest Historical Newspapers: The New York Times (1851-2007)*. May 11 1974. Web. 10 Dec. 2011 .

Minister Craxi's legislation aimed at curbing inflation; the "sliding scale" referendum (reducing the automatic growth of salaries of Italian workers at the same rate of inflation) was confirmed with a 77% turnout. The main sponsor of this referendum was the Communist Party, and when faced with what was essentially a "censure" measure, Craxi offered to resign if the measure carried. With the negative outcome also comes a repeated pattern: in an attempt to solidify legitimacy and power, the instigator of the referendum ends up losing political capital rather than gaining; the failure also showed the growing isolation of the Communist Party in Italian politics.

Though Italian voters had consistently rejected referendums, this outcome does not suggest a general anti-government stance, especially considering the fact that most referendums were supported by the Radical Party. In 1987, however, voters for the first time approved a referendum, this time rejecting the use of nuclear power. While the results were not surprising (considering the 1986 Chernobyl disaster), the Radical Party also found success in abolishing the law that excluded civil responsibility of judges in the event of judicial error as well as abolishing a law that excluded ministers from ordinary prosecution. The referendums themselves were the subject of considerable infighting, and editorials questioned the efficacy of the referendums, citing the fact that "virtually all political parties are in agreement to change the laws, and Parliament would have to act in any case".³⁹

Social issues were not the only policies decided by referendum in Italy. In 1991, more than 95% of the voters approved a referendum aimed at simplifying the voting procedure in an effort to reduce corruption. By allowing voters to choose only one

³⁹ "Italy voting on atom power and other issues". (1987, Nov 09). *New York Times (1923-Current File)*, pp. A9.

candidate per party (rather than four), and requiring voters to write the name of the candidate (rather than a number, which could easily be changed), the influence of the parties in election was reduced.⁴⁰

Spurred on by popular support, Mario Segni broke from the Christian Democrats and formed *Popolari per la Riforma* (Populists for the Reform) and sought electoral reform. In 1993, voters approved a referendum that would change the proportional representation system that was often blamed for short-lived governments. The new voting system incorporated first-past-the-post voting for 75% of the seats in the Senate. On the same day, voters approved the abolishment of state based financing for political parties, the redaction of the Ministry of State Industry, as well as the Ministries of Agriculture and of Tourism and Performing Arts, as well as reduced responsibility for environmental controls by the government. In addition, voters more narrowly approved restricting criminal penalties on the personal use of drugs. The election came in the wake of revelations of widespread corruption, and widespread approval seemed to indicate that voters were willing to take responsibility (and action) where government would not⁴¹; in either case, the results once again showed considerable disapproval of the Christian Democrats. Perhaps more importantly, was seemingly the determination (via the referendum) to take power from the minority (better represented through proportional representation systems) and give it to the majority (Amato 1996).

In 1995, voters were asked to decide a dozen issues by referendum – the most on a single ballot to date. Center-left coalitions sought the permission of voters to dismantle the media empire of Silvio Berlusconi, which they argued allowed him unequal access to

⁴⁰ “*Election reform referendum in Italy*” (1991) National Public Radio. Retrieved from <http://search.proquest.com/docview/189818537?accountid=27953>

⁴¹ “Italy - revolution by ballot”. (1993, Apr 24). *The Economist*, 327(7808), 52-54.

voters. Voters here split their approval, and among the most controversial of them was the decision to require Silvio Berlusconi to reduce his media holdings. Voters rejected the idea that he should give up two of his three television networks and cut back the 65% share of the television advertising market. Voters also allowed private shareholders to take up a stake in the state broadcaster (RAI), and to reduce the legal powers of the powerful trade-union federations, and also defeated a referendum designed to extend shopping hours – all considered a victory for Berlusconi and his supporters⁴²

The initial motivation the Italians had for the referendum seemingly vanished over the next 13 years. Between 1997 and 2010, 24 referendums were offered without meeting the turnout quorum requirements. Though 90% of the voters approved additional electoral law reforms related to reducing proportional representation, only 49% of the voters turned out to cast ballots. The turnout levels worsened in 2000, when only 32% of the electorate turned out to once again decide proportional representation reforms. In this case, care was taken to remove deceased voters and nonresidents to make it easier to reach the quorum, nonetheless, the voter fatigue seemed to be quite evident (Stanley 2000). Voters again could not cumulatively meet requirements in 2005 when asked to decide four questions related to stem-cell research, artificial insemination procedures, and invitro fertilization practices; nor could electoral law reform issues be considered in 2009.

Most recently, voters returned to the polls in June 2011, and in this instance managed to reach the turnout requirements. Voters overwhelmingly rejected private water suppliers, rejected a cost-plus system for profits on water delivery, rejected nuclear

⁴² “Europe: The way things are in Italy”. (1995, Jun 17). *The Economist*, 335(7919), 51-51

power once again, and rejected impediments to the appearance in a criminal court by the President of the Council of Ministers (C2D).

Thus, where Parliament could not settle an issue, the referendum has – and the implication of this is the legitimacy of the referendum in Italy. Though the first referendum on divorce was supported by the DC and the Church, 27 of the next 33 referendums were supported by “out” groups (primarily the Radical Party) who moved Italy towards secularization via the liberalization of divorce and abortion. As Bogdanor (1993) notes, the Constitution of Italy was designed to ensure that a one-party dictatorship could not be repeated. While the fear of Fascism led to a system of “bargained pluralism” and diffuse power arrangements, the electorate secured an additional weapon in the use of the referendum. As parties utilized the referendum in search of policy aggregation, the context of the original inclusion of the mechanism repeatedly proved that unintended consequences were the norm, and perhaps more importantly, that within the Italian system, the referendum secured by out-groups favored out-groups. As the Italian political tradition continues to evolve, the referendum can be considered both a cause of change, but also a consequence of change.

France

Constitutional framers in 1791 France had a significant dilemma (as many constitutional framers do): on the one hand, the abolishing the arbitrary power of the Bourbon monarch (while at the same time leaving the monarchy in place), but also avoiding excessive democracy. Significant divides originating here between the “left” (supporting limited powers of the monarchy) and the “right”⁴³ (supporting absolutism of

⁴³ The usage of the overly simplistic “left” and “right” is used here to recognize the French and their introduction of the now ubiquitous terms.

what would prove to be a short-lived monarchy) on major issues such as the relationship between church and state, government intervention into the economy and society more generally, and also on the power structure of the regime, would lead to continual regime instability. Indeed, a dozen regimes have ruled France since 1789, and many of those transitions were quite bloody. The drafters of the first Constitution introduced the indirect and restricted vote, and this pattern would follow throughout the years to come (and repeated within the third revolutionary Constitution as well as the Charters of 1814 and 1830 – the Bourbon and Orleanist monarchies).

However, the second (albeit brief) Constitution was a notable change. The Jacobin Republic (1792-1794) focused on democratic outcomes, and originated the institution of direct democracy in France. The support for the process came largely from the Montagnards, who held majorities over the more moderate Girondins. As Morel (1996) notes, the Girondins were given the opportunity to promote a constitutional text, but that failure led the Montagnards to not only include direct universal suffrage, but also the institution of direct democracy (including the initiative process for constitutional and legislative matters). Indeed, the first French referendum would be held on the Constitution⁴⁴, ironically, a referendum⁴⁵ would also be used to legitimize the replacement Constitution, designed by more moderate Thermidoriens.

Napoleon's rise to power in 1800 produced (by referendum) the Constitution of the Year 8 (the An VII), and in line with the consolidation of powers described the document, the institution of direct democracy and the referendum more particularly was mentioned only the context of the ratification of the document itself, and thus did not

⁴⁴ Though supported by 99.1% of the electorate, only 25% of the electorate showed up to vote.

⁴⁵ Turnout for this referendum decreased over the 1793 version: 18% of the population approved the vote with a 95% majority; scholars have argued it may have been as low as 13.7% (Morel 1996).

appear available for future use. The 1800 referendum in this case, along with the reaffirmation of Napoleon as consul for life in 1802 both received more than 99% approval (though low turnout numbers of 43% and 51%, the lack of information, and a lack of a secret ballot bring legitimacy into question here). Certainly, such referendums were aimed at legitimizing the power of the individual leader, rather than the earlier constitutions (which, it should be noted, had passed through elected representatives; Napoleon's power had already been captured). These referendums, along with the 1815 referendum restoring a modified imperial constitution and the 1852 referendum, in which voters were asked to approve the continuation of authority of Louis-Napoleon as Emperor, left later constitutional framers with the impression that the referendum in and of itself was anti-democratic. Indeed, populist movements at the beginnings of the Third Republic (1870) as well as Monarchists both agreed that devices associated with Bonapartism could not be associated with the new Constitution (Morel 1996), and no such language existed (nor was the referendum used here for its approval). In its place was the dependence on the sovereignty of parliament – and this historical development would have consequences on its future usage.

After the liberation of France and the replacement of the Vichy government in 1944, the question of the referendum once again arose, and General Charles de Gaulle, head of the provisional government, decided to ask the nation two questions: whether to officially end the Third Republic (96.4% approved), and whether the provisional government in place should be limited to drawing up a new constitution, which would then be offered for a referendum vote (66% approved this question). This second question, garnering only two-thirds approval, was in large part a reflection of Charles de

Gaule, who opposed the referendum process as a whole, and at the same time favored a strong presidential regime. Indeed, de Gaulle advocated a “no” vote on the subsequent drafts of the constitution, and the first constitutional project was rejected by the voters 53% to 47%; a compromise draft created between the left and Christian Democrats that moderated earlier positions passed later that year with 53% approving in October of 1946. Morel (1996) argues that the small majority, coupled with a 35% turnout, did not fully legitimize the Fourth Republic, and that this legitimacy would never fully be realized. The Fourth Republic would indeed be marked by instability and ineffectiveness; Clarendon finds (2003) multiparty coalitions that could not remain united led to instability within Parliament. In addition, ministerial instability also manifested during this time, with 24 different governments between 1946 and 1958. Nonetheless, the referendum in and of itself was re-legitimized, and the 1946 Constitution included provisions for its use, though limited to situations in which a parliamentary majority could not be reached. Ultimately, these three instances (the 1945 referendum to authorize a new constitution, and two 1946 referendums confirming the Constitution) would be the only uses in the Fourth Republic.

The Algerian crisis provided a critical juncture with which de Gaulle found a number of opportunities. Though retired, de Gaulle believed that the crisis required his attention; that a show of force was needed:

“In short, the prospect was one of chaos, culminating in civil war... unless a national authority, outside and above both the political regime of the moment as well as the movement which was preparing to overthrow it,

could immediately rally opinion, take over power, and restore the state” (de Gaulle 1971: 18).

De Gaulle sought to replace the extant Constitution via the referendum process, and the people of France approved overwhelmingly in 1958, both in metropolitan France and in the territories⁴⁶. Certainly, de Gaulle viewed the vote as a mandate – that the people were frustrated with the longevity of government instability, caused in large part by fractionalized parties.

Certainly, de Gaulle was not a strong believer in the parliamentary process, nor of political parties more generally. De Gaulle’s motivation for a stronger executive can clearly be seen as a context of the times, rather than as a dictatorial bent; France had to recover from significant wartime losses, and could only do so as a united entity. As Morrisey argues (2002), de Gaulle sought a republican constitution that provided for the national interest over the factional interest⁴⁷; a strong counterbalance of a dedicated executive would mitigate the passions of political parties and factions. Clarendon (2003) furthers the point, arguing that de Gaulle’s agenda during the...Fifth Republic can be characterized as an effort to strengthen the executive and devolve power away from the legislative institutions of the state” (24). Indeed, in a radio broadcast in the 1946 campaign, the “infernal cycle” – thirteen constitutions in 150 years – “imprints on public life a character of discontinuity, agitation, improvisation, which has been disastrous” (de

⁴⁶ A “no” vote by territories would have indicated a vote for independence (though this would not apply to Algeria, which was considered a “department”). Only Guinea voted for secession.

⁴⁷ De Gaulle, in his memoirs, argues that “while I was convinced sovereignty belongs to the people, provided they express themselves directly and as a whole, I refused to accept that it could be parceled out among the different interests represented by the parties...I considered it necessary for government to derive not from parliament, in other words parties, but, over and above them, from a leader directly mandated by the nation as a whole...and empowered to act..” (De Gaulle 1971: 6).

Gaulle 1971). De Gaulle's focus⁴⁸ was twofold: to have a stronger, continuous constitutions built on a strong executive (it was here that the people had recourse should parliamentary government fail once again), but that such a constitution should be supported by a referendum vote.

The longstanding reality (and when not a reality, a likelihood) of a lack of a parliamentary majority gave de Gaulle in particular the opportunity to push for a more powerful executive. The 1958 Constitution included the power of the president to seek the approval of the people without going through Parliament, and moreover, Article 11 also restricts usage to during parliamentary sessions or on the "joint proposal of the two assemblies," but also to "draft laws" initiated by the government, rather than actual laws. This provision significantly alters the nature of the referendums submitted in two main ways: first, it allows significant discretion on what the president may call for in terms of referendums (De Gaulle, Pompidou, and Mitterrand all saw no resistance to their referendum proposals); but secondly, it allows the referendum to become a vehicle through which the president can overcome parliamentary opposition (Morel 1996).

⁴⁸ Such a focus meant sacrifice: in January 1946, De Gaulle resigned his presidency in exasperation after quarrels with the parties largely over national defense; the interregnum resulted in "*tripartisme*" wherein three parties ruled via coalition and ultimately could not find a majority among themselves. De Gaulle would return briefly to politics in 1947 to a responsive electorate dissatisfied with the gridlock between Socialists (SFIO), Communists, and the Christian Democrats (MRP), but would not fully control France until 1958.

Institutional Design in France

The referendum process in France is governed by Article 11⁴⁹ (legislative referendums) and Article 89 (constitutional referendums). Article 89 stipulates that the power belongs to both the President of the Republic but also the Prime Minister and Parliament. A proposed amendment must pass both houses of Parliament before being submitted to the people via a referendum; however, the referendum process itself may be avoided if three-fifths of majority of Parliament votes approve, and there is agreement with the president.

Article 11 grants the power directly to the president to submit proposals to the people, and there have been significant debates over the constitutionality of using Article 11 rather than Article 89. Article 11 stipulates that referendums were limited to questions concerning treaties and the “organization of public authorities”, but for de Gaulle the key was the ability of the president to bypass unrepresentative parties: as Knapp and Wright (2006) argue, it served several political purposes: to establish a direct line of communication between the president and people, to reinforce unity of the governmental coalition, and to divide the political opposition.

The politics of referendum democracy in France precludes clear outcome-oriented conclusions. That is, the degree to which the final vote reflects the wishes of the people has been clouded in the context of the vote itself (especially so in the early part of French history), but also in the persuasive abilities of the campaign itself. Certainly, the issues themselves have been complex, which has led to lower turnout levels (Morel 1996) and

⁴⁹ Article 3.1 of the current Constitution stipulates that “National sovereignty belongs to the people, who exercise it through their representatives and by means of referendum”. Also, Article 72-1 (revised 2003) of the Constitution grants power to local governments to submit all draft acts or decisions within their powers.

certainly making elite manipulation easier. While the French use of the referendum can be most notably viewed in the context of authority reinforcement (whether it be democratic, in the case of de Gaulle, or “less” democratic, in the case of Napoleon), later French leaders avoided the same path: Pompidou certainly was a first-hand witness to the political “suicide” committed by de Gaulle in 1969 via the referendum device; d’Estaing, Mitterrand and Chirac would also not make use of the same process (though each served for a considerable period of time) to the same extent, and when doing so, they were not entirely enthusiastic about the process. Certainly, direct election by the people mitigates the need for a legitimizing referendum, but at the same time, the revival of parties in the 1980s and 1990s (Morel 1996) also caused the decline in the use of the referendums in France.

A discussion of the “culture” of referendum politics in a system in which the referendum is rare is difficult, to say the least. It is not axiomatic that simply because the referendum does not exist, a culture associated with it does not either; perhaps to overcome this problem; the politics of decentralization may serve as a proxy to the participatory nature of French citizens. Though often viewed as a model of a unitary state, especially after the French Revolution, two phases of French politics focused on decentralization efforts: the Decentralization Act of 1982-83, which granted further responsibilities to local and territorial governments, and the Decentralization Act II (2003-2004). Each act sought to transfer functions such as waterway management, education, labor issues, and finance to lower levels of government (Cole 2008), and perhaps for the purposes of this study, also allowed for subnational referendums to take place in each of the twenty-seven regions in France (Kaufmann and Waters 2004).

Referendum Cases in France⁵⁰

Three early referendums would not only set the “tone” for later referendum usage, but would also reinforce the idea that the referendum was a weapon best utilized by the president and not Parliament. The Constitution itself was ratified by referendum in 1958 by an 85% margin with a 79% turnout, and all subsequent referendums have been held under Article 11. The first two, dealing with the Algerian self-determination crisis, were a first “test” of the new powers granted to the president under Article 11. As Kaufmann and Waters (2003) argue, French presidents “use the referendum in a very controlled way and only if they feel safe about the outcome”; certainly, such a lesson was learned from Charles de Gaulle in the 1961 and 1962 referendums.

The 1961 referendum asked voters if they would accept the right of Algerian self-determination and the organization of public powers in Algeria until self-determination (passed with 75% approving). In this vote, the weakness of the French Parliament was evident; though some opposition was evident, no effective coalition could be formed and de Gaulle was successful at marshaling public opinion away from parties through his charismatic appeals (Clarendon 2003). De Gaulle made a personal appeal to the French two days before the referendum, asking the voters to ignore the intermediaries and inform instead de Gaulle directly what was in their “hearts and minds” (De Gaulle 1971). Through preparation (using the 1958 Constitution to weaken the power of parliament) but also skill (personal appeals to his pet policy), de Gaulle was able to shape public opinion and also to transform that shift into a political victory.

The 1962 referendum not only asked voters to approve Algerian independence, but also whether de Gaulle should be granted full power to implement these agreements –

⁵⁰ See Appendix B for a complete list of direct democracy cases in France.

certainly, the president sought a mandate that could not be undermined by parliament – but, de Gaulle was also concerned about reelection, insofar as the Algerian crisis (now essentially solved) was the motivator of his initial election (Morel 1996). Once again, de Gaulle turned his attention directly to the public, and in so doing, garnered 90% approval. However, there is some question on whether the referendum was legally needed in the first place – public opinion as well as parliament was now on the side of de Gaulle. Clarendon (2003) argues that it “seems as if this referendum vote was necessary from de Gaulle’s perspective in order to satisfy his personal need to be regularly legitimized by the public’s vote (31). Such an action suggests that referendum politics clearly extends beyond the particular policy at hand.

The 1962 reforms of the 1958 Constitution were centered on the direct election of the president, but the new process was in large part following the trend toward diminishing the role of parliament as a whole. In response to the concern over his reelection chances, as well as the possibility that there would be an attempt to reestablish a parliamentary regime (Morel 1996), de Gaulle and the UNR party put forth the referendum to the people, who supported the idea with a 62% approval rating. This process was the subject of considerable debate – all other parties opposed the idea, and questions of constitutionality were raised: should de Gaulle utilize Article 89, which required the approval of parliament?

A common trait among successful presidents is the power to persuade, and de Gaulle utilized his persuasive power effectively. In a speech to the people regarding his intention for the direct election referendum, de Gaulle argued that:

“the institutions in force for nearly four years have replaced the chronic confusion and perpetual crisis which bedeviled the action of the State by continuity, stability, efficacy, and balance in the powers of government...no one doubts that our country would soon be plunged into the depths of disaster if, unhappily, we were to abandon it once more to the sterile and contemptible games of yesterday” (De Gaulle 1971).

For de Gaulle, the use of Article 11 to circumvent parliament via a direct vote of the people was in and of itself a show of no confidence of party politics. For his part, de Gaulle saw not only his presidency as crucial to the stability of France, but future presidencies: “For me there was no doubt that once I was gone, unless my successors enjoyed a unique mandate...the parties intended to find ways and means of reverting to the previous system (De Gaulle 1971: 313). Indeed, de Gaulle’s insistence that Article 11 was the clear avenue, rather than the parliament-based Article 89 led to a debate between the power of the parties and parliament more generally, and the powers of the French President. De Gaulle forcefully argued that the language of Article 11 allowed him to submit such a referendum directly to the people insofar as dealt it “organizing the public authorities”; that Article 89 was useful when public authorities deemed it “useful” to use parliamentary channels (De Gaulle 1971: 314). Importantly, De Gaulle further argues that “if there was an Article 11, it was because...I had wanted it [the Constitution] to include just such an article, in that place, with that meaning and scope (De Gaulle 1971: 315). De Gaulle had met with party leaders, the Minister of Justice (who was in charge of drawing up the Constitution), as well as Ministers of State, and they had all agreed on this point; de Gaulle thus found their “shameless ignorance of the principles” as evidence that

parties were unable to effectively govern. The French President would ultimately cast the referendum as a vote of confidence for his own tenure: “It is your answer...which will tell me if I can and if I must pursue my task in the service of France” (De Gaulle 1971: 320). The voters heard the message, and in spite of considerable media attention advocating a “no” vote, 77% of French voters turned out on October 28, 1962 with 62% of them approving the referendum. Parliamentary elections held just two weeks later would also show public support for de Gaulle and his party.

General de Gaulle utilized the referendum to serve his own ends, and did so by arguing that such a mechanism was fundamentally democratic – it invoked the civic participation lacking in the Fourth Republic – but (and along similar lines) it would also help to reveal the true wishes of the populace, rather than factional parties. As Butler and Ranney (1978) argue, de Gaulle also intended to bring about a “catharsis” – in other words, to help move the public mindset from the “chaos and confusion” of the Fourth Republic to the modernized Fifth Republic. In addition, basing the power of the regime on that of the people rather than parliament, and at the same time increasing the power and legitimacy of the presidency (as well as de Gaulle’s own power) were clear objectives (Butler and Ranney 1978:145). Scholar Francois Goguel has argued that the political climate associated with the Algerian self-determination crisis was overall quite negative; there was fear of a civil war, with centrists, left-wing and extreme right-wing all opposing de Gaulle’s policies. Thus, the 1961 referendum can be especially seen as a calculated attempt to re-center political power; the dual 1962 referendums reaffirmed this motion and further undermined his opposition.

Clarendon (2003) argues that the calculated move by de Gaulle in 1962 sought three main goals: first, the power of Parliament would be significantly reduced, while at the same time, the power of the presidency would be significantly increased; secondly, that de Gaulle could meet his goal of seeking public approval for both his policies as well as his personal leadership; and finally, that the public would support the *process* insofar as they were being asked to decide. Certainly, these goals were met, and de Gaulle's desires for a strong executive alongside a weaker Parliament were realized.

De Gaulle would not turn to the referendum again until April 1969. The proposal aimed to devolve the power of the Senate into a simple consultative body with a significantly limited role in actual governance (and to also remove them from direct election). At the same time, the proposal focused on regional reforms, and in particular, would change the electoral process of regional councils to one of appointment. Indeed, the referendum sought to weaken the power of both of de Gaulle's contemporary political enemies, as these had both served as the center of Gaullist opposition (Clarendon 2003). After being elected in a 1965 election that proved de Gaulle was politically weakened (a second-round vote was required), 1967 parliamentary elections nearly cost Gaullists the majority they had retained. At the same time, student and labor protests in 1968 quickly gained ground, and de Gaulle and his ministers seemed out of touch and unwilling to address the growing discontent. Nonetheless, the Gaullist block, with the help of Georges Pompidou, fared well in June 1968 parliamentary elections, winning 354 of the 487 seats in Parliament (Knapp and Wright 2006).

Even with the success of his party, de Gaulle pressed on with what were seen as unpopular referendum proposals. Indeed, the proposal that would eventually reach voters

in 1969 had been borne out of earlier proposals that had died before garnering a vote due to unpopularity: in May 1968, de Gaulle proposed that the head of state should be given authority to change “outdated and rigid structures” (Berstein 1993). De Gaulle’s need to reaffirm his mandate, even with significant parliamentary victories, was further based on his desire to further weaken the Senate, and while de Gaulle had earlier enjoyed tremendous public support, the French were suspicious of these proposals insofar as they were viewed as a tactic to weaken or eliminate his own political enemies⁵¹ (Clarendon 2003).

De Gaulle once again appealed to the public for referendum support – going so far, in fact, to hinge his presidency upon the outcome of the referendum vote. Resignation, he told the people, was the cost of a “no” vote. Such a policy had worked in the past, however, referendum politics are not predicated on the past, but on the context of the times; executives, in other words, can certainly underestimate the chance of losing a vote. Significant economic challenges alongside social unrest in the late 1960s gave Pompidou (removed by de Gaulle in 1968) the opportunity to bolster his own support among the public. More importantly, perhaps, his indication that he would be willing to serve as president allowed Gaullists in Parliament as well as the electorate more generally to support Pompidou while at the same time voting no on the proposed referendum. Though close, de Gaulle lost the referendum vote with only a 48% approval rating, and de Gaulle kept his promised threat to the people: on April 28, 1969, Charles de Gaulle resigned the presidency.

⁵¹ The reforms sought by de Gaulle also included provisions reordering the line of succession: removing the president of the Senate from next-in-line and placing the prime minister in this position. At De Gaulle’s age (79), succession would certainly have been a concern.

The post-hoc view of the 1969 referendum characterized de Gaulle as committing political suicide, insofar as de Gaulle tied his fortunes to a sinking ship. Later presidents would not be so quick to push for a referendum vote; however, occasional referendums were put to voters. In 1972, voters were asked to consider a largely non-French related issue: the accession of Denmark, Ireland and the UK to the European Economic Community. Held under Article 11, President Pompidou did find an issue that was sure to find a significant victory (Morel 1996), and French voters approved with a 67% majority on 60% turnout.

The French also considered a 1988 referendum on retaining New Caledonia as part of the French Republic (80% approved, with a low turnout out 36%), and once again, scholars find that the lack of controversy led to relative certainty about the outcome. The New Caledonia referendum, carried out by Francois Mitterand, did help to legitimize the policy itself, but the vote was not wrapped in the personal assurances by the president as de Gaulle had done.

The 1992 vote on the Maastricht Treaty was – like many constitutional referendums – as much a vote on the Mitterand government as it was on the Treaty itself. While the question of using Article 11 or Article 89 was revisited, Mitterand ultimately decided that Article 11 was the most appropriate venue, insofar as the Maastricht Treaty impacted French institution. Mitterand was not originally concerned about the vote (public opinion suggested two-thirds of the electorate approved), but significant campaigning on the part of the National Front, the Communists, and part of the RPR (center-right) brought the certainty into question. Indeed, Mitterand explicitly announced in 1992 that he would not resign if a “no” vote was recorded (Knapp and Wright 2006) –

and such a move would certainly disassociate the referendum from the Napoleonic nature of the French referendums – but does not suggest that constitutional referendum votes can be disassociated with second-order voting: ultimately, voters approved the Treaty – but with a bare 50.8%.

In 2000, President Chirac submitted a referendum via Article 89 (rather than Article 11) asking voters to approve to approve five-year presidential term. The vote on *le quinquennat* was pushed by Parliament in an effort to reduce the likelihood of cohabitation⁵² by reducing presidential terms and to make the elections of the legislature immediately succeed the presidential election. Chirac (not surprisingly) remained lukewarm about the prospect of a referendum cutting his term, but ultimately showed some support⁵³. Ultimately, a record low turnout of just 30% voted by a 73% margin to approve the plan.

The last referendum to occur in the French political system occurred in 2005, when voters were asked to decide whether France should ratify the proposed Constitution of the European Union. At the time, the European Constitution required ratification by 25 EU members, and Spain had (two months prior) become the first country to approve the treaty; others had had approved it with a parliamentary votes. Analysis of the process suggest that Chirac sought the momentum of the Spanish “yes” vote, and sought to hold a quick vote, but that he was also aware of the ability of the French electorate to deliver a

⁵² Cohabitation occurs when a president of one party must select a prime minister of another party due to a lack of majority-party control by the president. The outcome from this is a dual-executive, with a president of one party and a prime minister controlling parliament as leader of another party.

⁵³ “France names Referendum Date”. <http://news.bbc.co.uk/2/hi/europe/4317819.stm>

protest (second-order) vote against unpopular economic reforms.⁵⁴ Turnout increased from the 30% in 2000 to 70% in 2005, and 55% of those voted “no.” Interestingly, Chirac viewed the vote as an easy victory (BBC), but Brouard and Tiberj (2005) report that Chirac may have underestimated popular opinion towards the EU. Quantitative analysis suggests that a second-order vote related to political distrust was an irrelevant variable in the voter decision, but that the left and right wings of the electorate split their reasoning: on the left, dissatisfaction with social issues, but on the right, the nationalist threat was the main determinant (Brouard and Tiberj 2005).

Conclusions

This dissertation is an examination of institutions and individuals working in concert with the overarching goal of showing that the introduction of direct democracy into a given political system is a function of the participation of out-groups in the original process, and that later usage of referendums is dependent upon (1) historical institutional design (HI1) and (2) the role of political elites in the process (P1), where (P1) are conditioned by (HI1) as well as by the tenets of prospect theory/cybernetic theory of decision making discussed in the first chapter (PC1).

The theoretical perspective discussed earlier in this work focused on two main hypotheses: first, the historical context in which direct democracy was introduced is crucial to its later usage; that institutionalism holds explanatory power in terms of how it constrains the choices of individuals and actors who must work within them at some point in the future (generally as a function of the critical juncture in which it was

created). Secondly, and in consideration of those individuals, the choices they make are guided not by ranked preferences, but rather by the loss/gain analysis offered by prospect theory, but within the bounds of institutional arrangements.

In the Italian case, the introduction of direct democracy was clearly a function of former out-groups: the focus on anti-fascism resulted in a multi-party system, and the context in which the institution of direct democracy was created within the Italian system suggests that fears of fascism were evident. The success of the Christian Democratic Party that emerged after the fall of fascism, and who would find victory in the first elections held under the new Constitution in 1948, was based on inclusivity rather than exclusivity. The concept of pluralism that informed the creation of the Constitution rested on this inclusivity in the institution of direct democracy. The Christian Democrats, Socialist, Liberals and Communist Parties constituted the Constituent Assembly charged with crafting the Constitution, and not surprisingly, the document contained a mixture of Catholic, Marxist, and Liberal doctrines (Kogan 1983). In so crafting, both the Christian Democrats and Communist Parties succeeded in some areas and gave in on others. Over the course of the drafting period, the executive emerged with more power, primarily through executive decree law but also through the ability of the president of the Republic to return any bill of which he disapproves. Such power is still quite limited, however; if the bill is again approved by the chambers, promulgation must follow, in addition, while the president carries the ability to dissolve parliament, such power is restricted in the last six months of office. In this area, the Christian Democrats (certainly thinking about their probable future majority) were successful, while the Communist Party registered defeat.

The inclusion of direct democracy in the 1947 Italian Constitution thus satisfies the first condition of the theoretical approach utilized here (C1) insofar as the out-groups involved did not eschew the institution of direct democracy. Table 3.1 summarizes these findings.

Table 3.1: Impact of Key Variables on Direct Democracy Outcomes in Italy

Key Variable	Outcome
Out-group presence at constitutional formation	Strong parliamentary system created in reaction to fascist regime
Institutional Design	Top-down referendums Citizen-led initiatives with low signature requirements Low signature requirements 50% quorum requirement
Role of Political Elites	Often seeking larger gains while working in a domain of loss

The route to direct democracy in the case of the French was certainly much different. Though the referendum had been used sparingly throughout France’s history, de Gaulle introduced the referendum not as a function of out-group participation, nor as a function of anti-fascist fears, or even authoritarian fears. As has been shown earlier in this chapter, de Gaulle utilized the referendum to legitimize his original power by asking the people to dissolve the Third Republic and create the Fourth Republic and a new constitution. De Gaulle began consolidating power early in his tenure via the referendum; his starting point was that multiparty systems impeded a strong and unified France. For de Gaulle, the referendum in large part was a method by which legitimation of what was considered the “best policy” (regardless of parliamentary concerns) occurred; de Gaulle

was quite adept at forcing the hand of Parliament here in relation to referendum usage – and the primary motivator was the threat of his resignation (Walker 2003). This, of course, conflates personal legitimacy with that of the state and as such the function is a redistribution of power using the instrumental variable of direct democracy. In the end, however, this process would end up resulting in that which he threatened so many times – resignation.

Importantly, however, the introduction makes the difference: for the Italians, the fear of the governmental overreach centered on singularity was problematic; for the French, the multiparty system created squabbling, indecisiveness, and eventually the adaption of problematic policies. Thus, in the case of the former, the plebiscite is welcomed; in the latter, the use is restricted. For the Italians, the multiparty system has proved at once chaotic and oddly stable; direct democracy has helped foster both of these mentalities via the usage by Parliament, voters, and parties both in and out of power. Thus, the systems matter; individuals may start the institutions on their path but the institutions themselves conduct the outcome. In this sense, path dependency – considered an inherent problem with historical institutionalism – is thus not an instrumental variable, but rather, a simple indicator of the institution itself, as discussed earlier in this work.

Thus, on (C1), Italy meets the condition, as does France. As has been shown, however, direct democracy has been much more common in Italy than in France, and further study will determine if the intervening variable here is simply the context of the introduction, or if other variables play a role.

Differences in institutional design may also affect usage. In Italy, direct democracy is quite common, and qualification requirements are relatively easy: a popular

referendum can be held to repeal a law when requested by 500,000 voters or five regional councils. Though some topics are not debatable via the referendum, access to the ballot is relatively easy. The difficulty in Italian referendum politics lies in achieving the outcome: the double-majority (50% approval along with 50% voter turnout) often affects outcomes. Further, the Constitutional Court does play a “gate-keeper” role in the admittance of referendum questions to the people, but the requirements outlined by the Court are not overly burdensome. Thus, access to the referendum ballot is relatively straightforward in the Italian system.

Institutional design in France, however, is much more stringent. First, no mechanism exists for the populace to trigger a referendum. Secondly, Article 89 requires amendments to be passed by both houses of parliament before being submitted to the people and the referendum itself can be bypassed if three-fifths of Parliament and the President agree. Though Article 11 also allows the President to submit a referendum directly to the people, assuming such a question deals with “the general organization of the state”, the reality that it is “the President, not the people or their representatives who has the right to initiate referendums” (Kaufmann and Waters 2004:62) in France.

Clearly, institutional design shapes future usage. As discussed earlier, however, such a variable should not be easily dismissed because of its simplicity: insofar as institutionalism holds explanatory power in terms of how it constrains the choices of individuals and actors who must work within them at some point in the future, the role of institutions cannot be underestimated vis-a-vis the role of individuals. Thus, in the cases of Italy and France, HI1 is shown to be a relevant variable in determining later usage.

The role of individuals, does, however, play a central feature in referendum politics. As discussed earlier, the theoretical foundation of this dissertation expects to find that the choices that individuals make are an explanatory factor in usage, but such choices are constrained by the historical institutional design (HI1), as well as by the prospect theory/cybernetic theory discussed earlier (PC1).

Throughout the early years of the Italian Constitution, the Christian Democrats viewed the device as an instrument that could only weaken their power. Nonetheless, the Christian Democrats were unable to garner their every wish. For example, Christian Democrats, seeking greater regional autonomy, found their position marginalized by a Liberal-Communist alliance⁵⁵ that reduced the powers of the regions listed in the original draft of the Constitution (exclusive, concurrent, and complementary) in several areas of public service. In addition to a reduction in the number of regions from twenty-two to nineteen, the central government was granted increased dissolution powers – national security was added as a basis for dissolution.

In this sense, the role of political elites (P1) were conditioned by the historical institutional design (HI1) but were certainly working within the confines of the prospect theory/cybernetic theory earlier discussed (PC1): as the dominant party facing positive prospects, Christian Democrats became risk-averse, seeking the smaller, “sure” gains over actions which may have brought them larger gains (certainly, utilizing the referendum to legitimate their own policies was an option, and an option not taken). By the same logic, the conceptual framework posited by cybernetic theory suggests that

⁵⁵ Nor were alliances stable. A Liberal-Christian Democrat alliance sought and succeeded in guaranteeing absolute equality of powers of a bicameral legislature – an uncommon system in post-war constitutions.

within the confines of cognitive theory, value separation exists in a systematic manner: the focus is on logical operation. The cybernetic theory of decision making also suggests (in a manner similar to “bounded rationality”) that the “decision-maker is like a servomechanism and has the ability to determine their systems-level output in accordance with set standards and input variation among those standards: “the cybernetic thesis then is that the decision mechanisms screen out information which the established set of responses are not programmed to accept” (Steinbruner 57). Such a device explains the lack of referendum usage in this sense much more efficiently than the rational choice paradigm, which suggests that individual acts autonomously and exogenously to the political process, most likely through following utility maximizing tenets. Certainly, such an approach does not focus enough attention to the institutions that constrain individuals.

Further, the increased usage of the referendum in Italy began with an unlikely “veto player” – the Christian Democrats became the minority party. Once again focusing now on (HI1) as well as (PC1), successful mobilization occurs by out-groups: Christian Democrats, the Radical Party, and opposition Catholic groups. Once Christian Democrats (now facing a loss scenario as a minority party interested in retaining the status-quo on divorce policy in Italy) utilized the referendum device in 1974, other elites focused on the device as hyper-pluralism became the norm in the late 1970s through the present day, reducing the power of the political elites (as a function of new institutionalism, and associated veto players). Institutional design also plays a significant role in increased usage in Italy: while a double-majority requirement is in place, only 500,000 voters (out of a voting-age population of 47 million in 2012) are needed to request a referendum.

Since the referendum device is a top-down approach in France (Kaufmann and Waters 2004), the focus of political elites here is the president. Further, since the majority of referendums occurred during the presidency of Charles de Gaulle, particular attention will be focused here. The historical institutional design (HI1) seems to play a lesser role here: for de Gaulle, the referendum was always (technically) available; in a *prima facie* analysis, this suggests that usage would be increased, rather than decreased. Moreover, insofar as this dissertation suggests that institutions are more of an explanatory factor than individuals (political elites included), the case of de Gaulle seems to be an outlier. However, the theoretical foundations discussed earlier suggest that individuals working *within* the confines of institutions best explains usage. Though de Gaulle had the referendum device available to him, the prospect theory/cybernetic theory of decision making discussed earlier (PC1) best explains usage in the French case. That is, de Gaulle clearly saw the role of parties as secondary to that of the presidency, and further, that parties would impede governance of the state, as described earlier. Moreover, de Gaulle – at least until his last referendum offering in 1969 – was viewed as a popular leader. In that sense, de Gaulle was not facing a loss scenario, and as prospect theory dictates, had no reason to “gamble” unnecessarily. The outcome of the referendum vote was, by all accounts, a foregone conclusion. In addition, as the cybernetic theory outlines, the decision-maker has set standards (rather than preference-based rankings of utilitarian values), and for de Gaulle in 1958, 1961, and 1962, the standards included (as described above) legitimizing the power of the presidency over the factionalism of parties, insofar as de Gaulle intended to bring a paradigm-shifting belief to the people that the “chaos and confusion of the Fourth Republic” (Butler and Ranney 1978) was inferior to the

modernity of the Fifth Republic. As de Gaulle’s popularity waned in the late 1960s, and at the same time, Gaullists lost seats in Parliament, de Gaulle sought another referendum re-legitimizing his power, and in this sense, both prospect theory serves well as an explanatory mechanism: though unpopular, the gamble that had worked in the past (though under different circumstances; certainly the 1969 referendum was much more of a gamble than the earlier events) and facing the loss scenario, the standards of the “servo-mechanism” (i.e., what had worked in the past) seemed an appropriate path. In each case, however, de Gaulle was forced to operate within the institution created, and that institution was created largely as a function of the critical juncture described earlier. These findings are presented in Table 3.2.

Table 3.2: Impact of Key Variables on Direct Democracy Outcomes in France

Key Variable	Outcome
Out-group presence at constitutional formation	Semi-presidential system created in reaction to weak parties
Institutional Design	Top-down approach (president can submit directly to the people, or submit to Parliament) No quorum requirements
Role of Political Elites	Often seeking smaller gains while operating in a domain of gain

The 1988 referendum on New Caledonia can be once again viewed within the context of (PC1), insofar as Mitterand was quite sure of its passage and achieved the

legitimization without a gamble, but the 1992 Maastricht Treaty referendum must be more closely considered. In this case, Mitterand foresaw (belatedly) some difficulty with getting the referendum that he supported passed (as a function of significant minor party campaigning), and explicitly protected his own political position by disassociating himself from the outcome: should a “no” vote be recorded, he would not resign, and instead stay in power. The 2000 referendum had such a low turnout (30%) that any analysis would be suspect (there was no campaign to keep voters away from the polls); and the 2005 referendum certainly had unintended consequences for Chirac. However, in both the 1992 case and the 2005 case, the same elements exist: political elites operating within the domain of protecting the slight gains they have, rather than seeking a larger return when facing a loss scenario, and in the more general sense, operating within the elements of the cybernetic theory of decision-making (PC1) as described above.

This chapter has examined Italy and France with the assumption that out-group participation in the constitutional formation was more likely to produce referendum institutions within a political system. This hypothesis is confirmed in Italy, as well as in France. Secondly, the chapter examines the overall usage of direct democracy, in terms of frequency – and finds that in both the cases of Italy and France, usage is a function not of individuals (even political elites) seeking utilitarian gains through rational choice, but rather of institutional design (the initiating process is easily attainable and often used in Italy; difficult and rarely used in France), and a positive initiative culture (as defined above as a system in which qualified actors can cooperate strategically with other actors and institutions; more present in Italy than France, as discussed above). To the degree to which individuals have a role in the process, that role is severely limited by the

institutional design, and of course, by the relative loss/gain scenario faced by those seeking to utilize the referendum. Indeed, as is shown above, the majority party (in both the parliamentarian-based Italy and the semi-presidential-based France) rarely uses the device (and working within the confines of institutional design but also a non-loss scenario), while the minority parties and coalitions strongly favor the device (also working within the confines of institutional design, but facing a loss scenario, and thus seeking a bigger “gamble”). These findings are presented in table 3.3 below.

Table 3.3: Impact of Key Variables on Outcomes in Italy and France

Key Variable	Italy	France
Out-group presence at constitutional formation	Direct: Strong parliamentary system created in reaction to fascist regime	Direct: Semi-presidential system created in reaction to weak parties
Institutional Design	Top-down referendums Citizen-led initiatives with low signature requirements Low signature requirements 50% quorum requirement	Top-down approach (president can submit directly to the people, or submit to Parliament) No quorum requirements
Role of Political Elites	Often seeking smaller gains while operating in a domain of gain	Often seeking smaller gains while operating in a domain of gain
Frequency	High	Low

As suggested by the theoretical foundations discussed earlier in this work, historical institutionalism holds explanatory power in explaining why institutions are “sticky”; that is, why they often constrain the choices of individuals and actors who must work within

them at some point in the future. Institutions are designed by individuals, but once designed, institutions facilitate particular outcomes based on the original design; institutions constrain and refract politicians (though they are never the sole basis for the outcome); moreover, the outcomes can be examined primarily as a function of the origins of the institutions. Taken together, the cases of Italy and France show that historical institutionalism is relevant as an explanatory mechanism insofar as both cases show the dominance of institutions over individuals.

CHAPTER FOUR

DIRECT DEMOCRACY IN URUGUAY AND VENEZUELA

Introduction

The preceding chapter considered direct democracy in the context of two European states; the current chapter follows the same format with an examination of Uruguay and Venezuela in the Latin American context. Clearly, the two systems discussed here are in many ways unrelated to the European cases; however, the purpose here is to discover the importance of relevant variables on referendum outcomes: the role of “out-groups”, the role of parties, and the role of political elites. I begin with an examination of the context in which direct democracy was first introduced into both systems, and proceed with an analysis of institutional design, and the more general examination of the role of parties and political elites. I conclude by examining these two cases within the context of the theoretical formulae discussed in the opening chapter: to what degree does C1 (the participation of “out-groups”, or minority influences) have upon the introduction of direct democracy into a system; also, to what degree later usage is dependent upon HI1 (historical institutional design) and P1 (political elites in the process), where P1 are condition by (HI1) as well as by the tenets of the prospect theory/cybernetic theory of decision making (PC1).

The Introduction of Direct Democracy in Uruguay

As the preceding chapters have shown, referendum politics generally begin in an era of independence-seeking on behalf of an individual, a group, or even the ruling elite. The case of Uruguay is no different. Though most Latin American countries achieved their independence by the 1820s, the legacy of authoritarianism as a function of Spanish

and Portuguese colonialism still remained well into the twenty-first century. The decline of the Spanish Empire in the 1800s as well as the rise of European industrialization in the 1880s resulted in many Latin American countries producing primary goods for exportation; at the same time, however, political participation was limited – indeed, questions of “who” should participate – and to what degree they should participate – were common (Smith, P 2005). Though the consolidation of the modern nation-state began to occur in the 1900s, the focus on economic development led to commercial elites centered on foreign investment and economic integration (Vanden and Prevost 2006).

Uruguayan politics in the early twentieth century inherited a legacy of compromise and inclusivity that began in the late 1800s with what was described by early practitioners as *coparticipation*: two traditional parties sharing the responsibility of governance. The more conservative Blanco and liberal leaning Colorado began as opposing warring factions - identified through colored hatbands - in the 1830s, but would eventually find an uneasy peace into the Pacto de la Cruz (1897) that would attempt to guarantee political stability through a guarantee of Blanco control of six departments in northern Uruguay (Weinstein 1988). The uneasiness of the peace would be tested by José Batlle y Ordóñez, who would lead Uruguay from 1903-1907 and again from 1911-1915. Indeed, eight months of civil war would follow Batlle’s initial presidency, and with the Colorado victory, Batlle sought to deprive the Blancos of the territorial control while at the same time promising to respect Blanco’s position as a minority party in the legislature (Ameringer 2009).

Batlle’s legacy on Uruguayan politics should not be underestimated. Scholars (Ameringer 2009; Weinstein 1988) note the radical change envisioned by Batlle not as

Marxist in orientation, though the change could be considered socialist in nature. While Batlle recognized inequality across classes, he disagreed that state destruction was a foregone conclusion, and instead argued that the state intervention was needed in an effort to equitably distribute the resources and public goods within society. Thus, Batlle's focus became that of increased regulatory legislation as well as providing services directly from the executive branch, such as state monopolies on insurance, public works programs, secondary schools, and indeed, an initial reduction in the income tax on public officials, followed by an end to the income tax on the entire population (Alisky 1969). The focus on the people was not limited to collective goods: Batlle argued that the referendum was "an essential tool for insuring citizen participation, given the limits to direct participation imposed by the size and complexity of modern society" (Weinstein 1988). Batlle worked intensely on drafting the new Constitution, and his draft included an article that allowed one-fifth of the registered voters to require a plebiscite, which would revoke approved laws within 60 days of passage (Vanger 2010).

Among the many reforms Batlle introduced was the *Colegiado*, or nine-member council of ministers to replace the singular presidency in Uruguay. Each member would be separately elected, and would be responsible for a specific executive function in an effort to combine democracy with a strong interventionist state. The idea for the collegiate executive was largely the result of an extended vacation that José Batlle y Ordóñez took to Europe during the interregnum of his Uruguayan administrations (1903-1907; 1911-1915). Influenced by the workings of the French and particularly the Swiss, Batlle called for the induction of a collegiate executive upon his return. As Fitzgibbons (1966:144) argues, Batlle would have discarded the presidency entirely. The idea,

however, met with fierce resistance both from outside the Colorado Party (the Blancos began arming themselves, perceiving the plan to be a power-grab) and from within the Party (fears of division and indecision and a possible dictatorship). Altman (2008) argues that “the collegiate executive was a political mechanism through which Batlle sought to maintain dominance of the Colorado Party (489), insofar as gaining a majority would require winning five of the nine seats.

Altman (2008) examines the systems of Uruguay and Switzerland, noting that both were oddly similar in terms of institutional arrangements, yet the institution of direct democracy did not take hold in Uruguay in the same fashion that it did in Switzerland. Along with direct democracy, the author also considers the collegiate executive, noting that with the case of the Swiss, the population was quite heterogeneous and the collegiate executive and the institution of direct democracy were designed to create a sort of political safety net for political minorities. However, the institutions developed in the Uruguayan case with a different context: “in Uruguay the multi-person executive was implemented within one of the most homogenous contemporary western societies as...a way to block the opposition from increasing its political power” (484). Mechanisms of direct democracy were, Altman argues “bargaining chips among political elites” (484) such that their “broadening” was only the result of an executive who sought to quell dissatisfaction while ultimately increasing their unitary power.

The historical context of the introduction of mechanisms of direct democracy into Uruguay is instructive. Altman (2008) argues that the “European influence” on Batlle is not sufficient in this case, mainly because the influence itself is not all that influential (many European countries did not adopt the Swiss model, etc). Rather, Altman argues

that the introduction, while championed by Batlle as “a measure in defense of freedom and against caprices of the state and public officials”, there were also “significant short-term partisan and political interests towards advancing with direct democracy” (499). In particular, Batlle found that such mechanisms were ingenious towards his overall goal of the collegiate executive, such that it could work as an end-around a possibly adversarial legislature.

The case presented by Altman (2008) also fleshes out how unintended consequences are an integral part of the institutionalist perspective. Altman argues that while a collegiate executive ostensibly “disperses authority, diminishes capacity for decisive action, and profound change in a timely fashion”, the problem is that mechanisms of direct democracy do essentially the same thing: immobilize through additional veto points. While the Swiss could afford (literally) such stagnation, the Uruguayan population simply could not. Certainly, Altman utilizes the benefits of eight-plus years of hindsight, but ultimately, the assertion proves correct.

For the purposes of this study, the compromise that allowed the Constitution to go forward is the key focus. Included in the Constitution, at Batlle’s request, was the request for a plebiscite and a referendum on legislation, though no such mechanism would actually be introduced. Months of debate culminated in the “Committee of Eight” who were primarily concerned about the responsibilities of the president and of the National Council, and in particular, which of these entities would control the ministry of finance; in any case, the inclusion of the popular referendum would not make it through the multiple changes made by the Committee (Vanger 2010). The compromise itself was based on the political realities: because a Constituent Assembly, with a anti-collegial

majority, was the only method to reform the Constitution, Batlle and the pro-collegial General Assembly were forced to negotiate in an effort to avoid paralysis (Altman 2008).

Scholarship on the 1934 Constitution is lacking, and scholarship related to the reasoning of the introduction of direct democracy is seemingly non-existent. Thus, a brief discussion of the overall sense of the context in which the Constitution was created will serve as a proxy for the overall discussion of the introduction of direct democracy into the 1934 Uruguayan Constitution.

In 1933, Colorado president Gabriel Terra dissolved parliament with the support of the Blancos, and was in large part seen as a reaction of the upper classes whose economic fortunes were dwindling in the post-World War I era (Weinstein 1991). Such fortunes had depended largely on livestock production and exportation, which had been the focus of the Uruguayan economy since the late 1800s. The Uruguayan economy centered on the meeting world demands for beef, leather, and wool as technological advances made such exports feasible. Dependence on foreign markets hit Uruguay especially hard during the Great Depression, as Uruguay's export earnings fell by 40% between 1930 and 1932, and in response Uruguay sought diversification towards industrial production (import-substitution industrialization) which in turn led to questions about the degree to which such industries would be state-led, and, for the Colorados and Blancos, the degree to which they could dispense public-sector jobs (Mcfeeters 1990).

A strong supporter of a new Constitution, Terra sought widespread support by arguing that the old constitution was serving the wrong interests, and the institutions supported in the new constitution included a singular head of government and head of state in the presidency and at the same time strengthening the two-party system in an

effort to reduce fractionalization issues. More generally, Weinstein (1975) argues that the intellectual ideas for the new constitution were the foundation for corporatist⁵⁶ ideas, though none of these would actually make it into the new document in full (though hints of the ideas flow through; for example, the provision of Article 52 which cast work for the community as a “duty” and offered preference to its citizens in this regard). The new constitution included provisions that allowed the state direct control over imports and exports, laws amending the penal code to include crimes against the state, and reduced the freedoms of the press. For the purposes of this study, the importance lies in the fact that the 1967 Constitution, from which several referendums were produced, retained much of the language regarding the process of direct democracy.

Institutional Design

Article 284 of the 1934 Constitution introduced the institution of direct democracy by allowing the people to call for reformation of the Constitution in whole or in part with the signatures of 20% of the electorate, which would require the presence of the reform alternatives in the next regular election. In such a case, the General Assembly can formulate alternative measures to be submitted to a popular vote alongside the original initiative. In addition, two-fifths of the General Assembly may propose revisions to the president, which must then appear on the next ballot. Passage of the measure requires a simple majority vote; no threshold restrictions exist. However, if two-thirds of

⁵⁶ Weinstein argues that the intellectual model (for Terra) was based on prolific leaders of the time: Getúlio Dornelles Vargas in Brazil; Mussolini in Italy, and Jose Antonio Primo de Rivera in Spain. Such ideas refer generally to “state corporatism” as defined by Schmitter (1974:105) as “...associated with political systems in which territorial subunits are tightly subordinated to central bureaucratic power; elections are nonexistent or plebiscitary; party systems are dominated or monopolized by a weak single party; executive authorities are ideologically exclusive and more narrowly recruited and are such that political subcultures based on class, ethnicity, language, or regionalism are repressed.” Ultimately, the constitutional convention did not accept “corporative projects” because “democratic ideals are profoundly rooted in the mass of citizens....perhaps someday a happy formula will emerge which permits the conciliation of democracy with the indubitable advantages of a firm organization of labor by the state” (Weinstein 1974:71).

the General Assembly accepts either of the submitted referendum proposals, the vote of the people is no longer needed.

Uruguay has undergone several constitutional transformations, but the institution of direct democracy has remained. The 1942 Constitution addressed the issue of direct democracy as well, and introduced two major changes from the 1934 Constitution. First, the required percentage of signatories to the initiated petition was lowered to 10%, and at the same time, a minimum threshold came into effect: 35% of the electorate must cast a vote for the results to be valid. The 1951 Constitution affirmed both of these requirements without change. The 1967 constitution made further instruments of direct democracy available: 25% of the electorate may initiate referendums on new proposals, or may seek the revocation of an existing law, so long as the referendum is called within one year of the act's promulgation⁵⁷.

Thus, Uruguayans have access to direct democracy, and they have used the process extensively, compared to other parts of Latin America. Between 1900 and 1967, voters decided 13 referendums (seven by initiative, with voters approving three of these); one counter-proposal by the General Assembly (accepted by voters) and five mandatory referendums (voters approved all five). Since 1967, an additional five referendums have come to the ballot: one mandatory referendum, and four optional referendums. Comparatively, only Ecuador eclipses Uruguay in terms of referendum usage, which has taken 53 referendums to voters since 1900 (though, all but two of those have been conducted since the late 1990s) making Uruguay a much more “experienced” user of

⁵⁷ This mechanism does not apply to laws dealing with taxes or legislation that falls within the “exclusive initiative” of the executive power.

direct democracy. Venezuela is next on the list with nine, four fewer than Uruguay, and the remaining Latin American countries have only a handful of referendums among them.

Turnout⁵⁸ for referendums in Uruguay is consistently quite high; though threshold requirements are in place for parts of the referendum mechanisms, voters clearly have no trouble believing that their vote makes a difference. Consistently above 80% and sometimes reaching 90%, the importance of participatory democracy is not lost on Uruguayans. Considering the culture of direct democracy includes not only examination of turnout levels, but also the method by which support is found among the electorate. While no data exist on citizen attitudes towards the initiative⁵⁹, a discussion of how voters decide may cast light on the culture of direct democracy in Uruguay.

As Altman (2012) argues, Uruguayans rely primarily on party loyalties when voting on popular initiatives. Through extensive quantitative analysis, Altman finds that other variables, such as inflation, unemployment rates, and per-capita income rates (together, economic indicators) are not statistically significant indicators of vote preference. Measures related to individual salaries and salary changes over time also have no impact (using OLS regression). However, a measure developed to rate loyalties to political parties has an almost one-to-one relationship between voting for an initiative and voting for the party that supports the initiative. Altman further evaluates the indirect influence of economic conditions on outcomes through path analysis and finds that of unemployment levels, changes in unemployment levels, salaries, and levels of salary

⁵⁸ Turnout levels will be discussed in more details in later sections.

⁵⁹ This claim is supported by my own research (conducted for this dissertation) as well as Altman (2012: 187).

change, only levels of salary change had a direct influence on outcomes, suggesting that better economic conditions favor support for the party loyalty measure.

In a separate study, Altman (2008) finds that legislator perceptions of direct democracy are quite positive, even in an environment where the power of mobilized citizens can undermine the power of elected officials (that is, legislate from the bottom-up). His quantitative analysis find that more than half of the representatives interviewed believed that the institution of direct democracy strengthens representative democracy as a whole, and at the same time, 70% of the representatives consider the presence of the referendum device a suitable reason to attempt broad consensus within parties. However, such findings are not universal: 70% oppose the idea that all issues can be considered by initiative or referendum, and at the same time, a majority question the ability of the electorate to properly consider the importance of such questions. Finally, Altman argues that the institution of direct democracy – the availability of mechanisms of citizen-initiated referendums, along with the *threat* of referendums fosters consensus, which in turn fosters a sense of legitimacy.

Referendum Cases in Uruguay⁶⁰

Uruguayan voters would not see a referendum in place until 1934, when they were once again asked to approve a new Constitution. Economic problems plagued Uruguay in the early 1930s, and Colorado President Gabriel Terra sought to consolidate power in 1933 by preventing both the legislature and the National Council from meeting. The relatively peaceful coup found support when Terra promoted cooperation among conservative Colorados as well as Blancos, and quickly cut nonessential spending programs, reduced the salaries of government employees, and focused on improving

⁶⁰ See Appendix C for a complete list of direct democracy cases in Uruguay.

trade relations (Alisky 1969). A second Constitutional Assembly would restore the traditional singular executive (and thus, abolishing the National Council) while at the same time creating a Senate that would equally allocate seats among Colorados and Blancos. Containing elements of political consolidation as well as compromise, the Constitution also allowed for the people to call for a constitutional initiative with a 20% vote (Parliament would be able to submit a counter-proposal). The Constitution was supported with 95% of the vote, and went into effect in 1934.

In 1938, voters were asked to approve changes to the Constitution, and the practices involved would be the subject of several future referendums: the recognition of the “lema” system of factions within political parties. The amendment passed with 93% approval. Overall, however, the 1934 Constitution would last only until 1942, when the Colorado Party won significant majorities in both houses of Parliament. The perceived mandate brought political cover for President Alfredo Baldomir, who, with support of the two traditional parties, staged a 1941 coup. The redrafting of the Constitution reinstated coparticipation and the integration of political parties, and included provisions for direct democracy: constitutional initiative requirements were reduced from twenty percent to ten percent of the population, and the General Assembly was still allowed to submit counter proposals. Constitutional amendments would also require ratification by the people via the referendum, as well as approval by a Constitutional Council. The new Constitution would also limit presidential terms to a single term, as well as a Senate elected by proportional representation, and finally, would abolish the lema system (Pendle 1963).

By 1946, descendants of Batlle had won the presidency, and would attempt to revisit the idea of *Colegiado* by offering the voters a chance to decide via referendum. In November of 1946, voters were asked to bring back *Colegiado* as well as separate municipal and national election dates, and to allow government initiatives to be approved by two-fifths of the members of the Chamber of Deputies. At the same time, the left-leaning Civic Union offered voters the chance to hold referendums on constitutional changes assuming ten percent of the population signed a petition, and to allow for the separate election of the President and Vice-President. Neither of the proposals was successful, though the Blanco leader once again sought to retain a share of governance and supported the younger Batlle's call for a 1951 constitutional convention that would successfully create a nine-member executive. In this instance, six of the seats would go the majority while the remaining would go the second largest party (thus ensuring representation by either Colorados or Blancos). The new Constitution would revisit and accept the lema system, and at the same time provide a bicameral General Assembly elected by proportional representation. Finally, the ability of the people to utilize the initiative was retained: petitions for amendments could be submitted with 10% of registered voters, and the General Assembly could still submit counter-petitions (C2D).

The effect of the *Colegiado* has received considerable debate in the literature; Pendle (1963: 39) argues that "one result of the constitutional reform has been a slowing down in governmental processes." Altman (2008) largely agrees, finding that the unusually slow economy that plagued the normally profitable Uruguay was in part due to "efficiency yielding to banal political bickering" (497). Altman also interviewed Jorge Batlle about the mechanism, who argued that "the *Colegiado* works fine when economic

affairs run by themselves without problems. But in cases facing gross economic problems, the *Colegiado* stops working because it has within its framework political adversaries who, naturally, want to predominate” (497).

The economic boom years of the 1950s would not last the decade, and as Weinstein (1988) argues, the *Colegiado* was largely responsible for the economic decline. Voters responded in 1958 by putting Blancos in power for the first time in ninety-three years, and at the same time, voters rejected a Colorado-supported referendum that would reinstate the presidential system, abolish the lema system, and separate presidential and parliamentary elections. Voters also rejected a similar initiative supported by Civic Union that would also have introduced a presidential system (C2D).

The 1960s saw continued economic decline for Uruguay, with annual inflation reaching well into the ninety percent range and GDP growing at less than 1% (Alisky 1969), and constitutional reform was once again on the minds of voters generally, and in particular, the *Colegiado*, as politicians focused on the gridlock caused by the system and its inability to respond adequately to growing economic problems (Alisky 1969). The Colorados returned to power after discontent with two Blanco governments under the *Colegiado*, and with the support of the General Assembly, a bipartisan project for constitutional reform convened (Altman 2008). Nonetheless, when voters were once again asked to remove the *Colegiado* in favor of the presidential system in 1962, voters defeated the measure, 83-17%, largely on the basis of populist Colorado Luis Batlle Berres. Weinstein (1988) finds that support for a return to a presidential system was less likely among lower classes.

With the status-quo in place and economic fortunes still in decline, voters were once again asked to consider multiple constitutional reforms in 1966. A series of four “colorful” referendums were placed before voters: the “orange” referendum was put forward by the General Assembly as a counter-proposal to three popular initiatives, and would re-introduce the presidential system, ban the President and Vice-President from seeking immediate reelection, allow the President to dissolve the General Assembly, and extend parliamentary terms from four to five years. The “grey” initiative, supported by a faction of the Blancos, planned for a president who could be reelected, could dissolve the General Assembly and “restrict personal freedoms”. The Colorado Party supported the “pink” initiative that reintroduced a presidential system, but limited presidents to a single term, and allow the President to dissolve the General Assembly. Finally, the “yellow” initiative reintroduced the presidential system, banned the President from seeking immediate reelection, dissolved the lema system, and set pensions to 85% of employees’ final salary. The Colorado Party ultimately abandoned the pink initiative and supported the yellow, but the General Assembly-supported orange garnered 65% of the vote, with the grey winning only 15% and the yellow 7%. The period described here suggests that referendum politics in Uruguay were not focused on substantive issues⁶¹. For the better part of thirty-five years, the main issues finding attention in direct democracy dealt with the creation of - and abolishment of - the *Colegiado* system, as well as the lema system.

However, the rise of the National Liberation Movement (Tupamaros) in the late 1960s resulted in the rise of violence between Uruguayan leadership and Tupamaros, with the end result being a significant decline of civil liberties in the early 1970s, and, in

⁶¹ This is not to suggest that direct democracy should only be used for substantive measures. In a comparative context, as I describe in future sections, Venezuelans focused on considerably more substantive issues via the referendum.

June of 1973, President Bordaberry, with military backing, launched a dictatorship by closing Parliament and empowering police and military to take “whatever measures necessary” to ensure normal public service (Weinstein 1988). Certainly, the effect of the often violent dictatorship on Uruguay and its politics should not be ignored here, but the 1980 referendum on the Constitution drafted by the military seems the more appropriate focus for the purposes of this work.

The roots of the 1980 referendum stretched back to the 1973 military coup in more ways than one. First, the military government amended the Constitution in 1976 to include the National Security Council (COSENA) that was granted both legislative and executive powers enabling it to declare different kinds of national emergencies, one of which would permit the restrictions of constitutionally guaranteed civil liberties (Weinstein 1988). Secondly, the military government announced (in August of 1977) that a referendum on a new constitution would take place in 1980. The draft constitution suggested a transition to a limited democracy: the COSENA would be supreme to Parliament, individual rights could be restricted in times of conflict, and, beginning in 1986, parties would be allowed one candidate each. Third, (though not directly related to the 1973 Uruguayan coup) was the larger context: Chile, in 1978, approved a military rule by a large margin in a referendum, suggesting such a move was likely to succeed. The basis for support from party leaders was primarily in the end-game rather than in the status-quo: it was a step towards constitutional democracy (Ameringer 2009). Nonetheless, Uruguayan voters defeated the proposal by a 57-43 percent margin (with 87% turnout levels), and while the outcome produced a period of uncertainty, Uruguay slowly returned to democracy, installing a civilian government in March of 1985.

Referendum politics were not completely excluded from the dictatorship of 1973-1985. In 1989, opponents of President Sanguinetti's plan to ensure amnesty for military offenses during the dictatorship collected enough signatures to force a referendum. Support for the amnesty law both in the interior and in Montevideo, however, held up, and the referendum to repeal the legislation failed. Sanguinetti argued that upholding the amnesty law would help ease the transition to civilian rule (Bennett 1989), though scholars agree that had the referendum succeeded, it is far from definite that prosecutions would have actually taken place (Weinstein 1988, Oxford 1989). Interestingly, this issue was revisited in 2009, when a popular initiative was mounted to abolish the law on the waiver of criminal prosecution. The push for the initiative was led primarily by the governing Frente Amplio, and while the initiative failed (though, just barely, with 48% voting to repeal the law), the Uruguayan Supreme Court found (in a limited fashion) that the law was unconstitutional.

Also in 1989, supporters of pension reform sought to amend the Constitution to include a specific measure that stated that the pensions have to follow the national salary index (C2D). It should be noted that the attempt to amend the Constitution, like many of the referendums discussed here, is primarily a function of the inability of Uruguayans to utilize the referendum to affect budget and taxation issues. In this case, the National Organization of Pensioners (ONAJPU), with the support of Frente Amplio as well as the labor organizations (PIT-CNT) enjoyed wide support of the electorate insofar as the topic of the referendum affected many citizens. The Partido Colorado did not support the initiative, and President Sanguinetti himself was the target of strong campaigning, as supporters argued that he had failed to adequately adjust pensions in an effort to reduce

fiscal deficit (Altman 2008: 7). Given the high levels of support from the electorate, the measure passed easily (85%).

In 1992, voters had the opportunity to decide whether recent legislatively-approved privatization of state enterprise would remain in place. When Luis Alberto Lacalle of the Blanco Party ascended to the presidency in 1989, he sought economic reforms primarily in the area of deregulation; the legislature passed law n. 16.211 (Ley de Empresas Publicas) which allowed for the privatization of state-led enterprises with his support. The 1992 referendum, thus, was the first instance in which opposition leaders (initially supported by ANTEL, the National Telecommunication Company) managed to accumulate 25% of the electorate to force an abrogative referendum. Altman (2008: 6) argues that this referendum was “well-noticed in Latin America because it was one of the very first democratic responses that sought to halt the (then) fashionable *Washington Consensus*” and the high turnout (83%) and subsequent approval (thus, repealing the law) was supported by 67% of the voters. The referendum enjoyed considerable support from both Frente Amplio and two groups of the traditional parties (Altman 2008:8).

In 1994, the pension issue was revisited by popular initiative, and voters once again responded by preventing pension cuts that the legislature had earlier passed. At the same time, the question of reserving 27% of the state budget for education (an initiative supported by the Teachers Union) failed. Also in 1994, the General Assembly put a referendum in front of voters that would have split the vote for president, parliament, and governors. Although opinion polls showed support for the referendum in the area of 80%, the referendum was ultimately defeated by 68% of voters (C2D). However, general election results in 1994 may have spurred electoral reform: the three main parties split the

vote (32,31,30), and two of the parties (Frente Amplio and Blancos) argued that the electoral system was to blame, while Colorados argued that ticket-splitting caused the split (Qvotrup 1996). Thus, all three parties mounted support for another referendum to be held in 1996. The amendment would alter the electoral system in Uruguay, which utilized a “double simultaneous vote”, which called for a primary and a general election to be held at the same time, and parties could field several candidates for each office. At the same time, voters could not split their tickets, and voters were required to choose candidates for president, the legislature, and local offices from the same party. The 1996 amendment would have allowed ticket-splitting, and at the same time, separated national and municipal elections. At the same time, changes to the presidential election format were proposed: each party would select one candidate through internal elections, and in the general election, the winning candidate would need to receive 40% of the vote, or face a run-off election. For the two main parties, the idea was to block the minor party (Frente Amplio) from winning the presidency. However, as Qvotrup (1996) finds, each of the parties feared the plebiscite, insofar as the people had - in prior elections - opted for policies that parliamentarians did not support, and the resulting loss in legitimacy that accompanied the defeat was not enticing. Thus, the parties sought compromise in an effort to achieve broader appeal: parties would select a single candidate through internal elections; in the general election both a 40% vote share and a 10-point lead over the closest opponent were required; municipals would enjoy greater autonomy; and presidential and local elections would be held at different times, thereby allowing people to “split the ticket” (Qvotrup 1996).

The compromise would not last through the campaign, however. A split within the Frente Amplio Party resulted in initial broad support for reform, but initial supporter and former presidential candidate Tabare Vazquez (of Frente Amplio) would eventually shift his position and become an opponent of reform. The switch was largely pragmatic - reform, he believed, would hurt his own election chances. By attracting support from radical factions of the Frente Amplio as well as moderate left through opposition to reform he believed his future electoral chances improved (Qvotrup 1996). Such a calculation certainly did not hurt his successful presidential election in 2005. In the end, voters opted for reform, but by the slimmest of all Uruguayan referendums: 50.4%. Studies find that voting patterns in this election mirrored the 1989 election, where there was 90% correlation between a “yes” vote and support for Blancos or Colorados; moreover, the “yes” vote was more common in areas where the lowest unemployment rates occurred (Qvotrup 1996).

Just as important as the referendums that *do* occur may also be the referendums that *do not* occur. In 2002, Uruguayan legislators approved law 17.296 which would have allowed the cellular telephone company ANTEL S.A. to be held in partially private hands – 40%. As with the 1992 referendum, unions pushed for abrogative referendum, and were able to gather the required 25% of the electorate’s signatures which were presented to the electoral commission. At the same time, public opinion polls showed considerable support for revocation, and the government sent a bill to Congress withdrawing the articles supporting privatization. The referendum was never held, and ANTEL remains 100% publicly-owned (Altman 2008).

In March of 2003, the Uruguayan legislature passed a law that would privatize the water supply. Clearly not learning from the 1992 issue of privatization, in which the government was handed a defeat by voters, the legislature faced a similar result: as Altman (2008) finds, the causal configuration was identical: state-owned water company workers, along with – once again – PIT-CNT collected the requisite signatures, and with the support of the Broad Front coalition and half of the Blanco factions, voters rescinded the law with 65% approving.

Finally, in 2009, the Uruguayan legislature launched an initiative with 2/5 of the Congress supporting the idea that citizens living abroad should have the right to vote by mail. Supported by the governing Frente Amplio party, the measure failed, with only 37% approving (C2D). Widespread support for this measure was limited, as the measure was indirectly related to the other referendum held at the same time (discussed earlier in this chapter) that revisited the law on abolishing the waiver on amnesty – anywhere from ten to twelve percent of the Uruguayan population migrated for either economic or political reasons.⁶²

Venezuela

The institutional design of direct democracy discussed here will be limited to the 1999 Constitution and beyond. Obviously, Venezuela has a long political history, and that history is important to understanding the current context of direct democracy in Venezuela. However, with the exception of a single referendum vote in 1957 (the legitimacy of which is discussed below), all cases of direct democracy have occurred after the introduction of the 1999 Constitution. Thus, this section discusses the introduction of the mechanism of direct democracy as a function of the 1999

⁶² <http://en.mercopress.com/2009/10/24/uruguay-votes-for-president-and-a-new-parliament-on-sunday>

Constitution. Nonetheless, the creation of the constitution must be considered as a function of the context in the time in which it was created (rather than post-hoc justifications), and thus, a look back at Venezuelan political history is necessary.

Certainly, the Venezuelan political arena can be described as evolving in cycles: as Lombardi (2003) has noted, the “cyclical nature of this process reflects a set of limitations on the range of alternatives available to the country and its leaders” (1). A constant, however, through the years has been the focus on economic viability as a function of exports - the production of cacao and coffee in the nineteenth century, and later petroleum. As Lombardi (2003), the fluctuation in world prices of such commodities leads to a cyclical nature, where Venezuelan politicians prioritize revenue with an eye towards state stability first and improving society second, though such exogenous forces may not always lead to optimum choices. Ellner (2003) argues that the period of 1958⁶³-1998 can be characterized as a “near-perfect” democracy, for several reasons: first, a two-party system⁶⁴ with minimal ideological differentiation existed and alternated in power⁶⁵; secondly, that political leaders were committed to democracy and avoid ultranationalistic rhetoric; third, that political leadership was mature enough to form interparty agreements; fourth, that the parties held a predominantly middle-class leadership (rather than oligarchic leadership); fifth, that an emphasis on party discipline

⁶³ In 1958, The Pact of Punto Fijo recognized the acceptance of the three main parties, and committed the parties to ensuring the “stability of the nascent regime” and respecting election results (Lissidini 2006).

⁶⁴ The two major parties are the social democratic Accion Democratica (AD) and the Christian Comite de Organización Política Electoral Independiente (COPEI). Hellinger (2003:29) notes that the pact was not entirely exclusionary: the Communist Party was a considerable force in party politics at the time, but was not included in the pact.

⁶⁵ Sartori (1976) argues that political stability is greater when two major parties lacking in ideological differences effectively operate.

within AD and COPEI existed⁶⁶ ; sixth, that the political system was open enough to provide attractive opportunities for smaller parties; and finally, that parties were highly institutionalized (rather than simply a vehicle for ambitious politicians). Hellinger (2003: 27) argues that such stability rested upon a “material basis” - a distribution of international oil rents through a system of clientelism; and Lissidini (2008) agrees, arguing that conflicts were resolved by consensus with actors who benefitted from oil reserves to maintain and nurture the system, but at the same time, the presidential regime played a key role in the establishment of a stable democracy.

The stability that characterized the Venezuelan political system, however, was based on a clientelism that was inherently flawed; oil prices (and, rents) dropped in the late 1980s, and significant economic troubles followed. The election of Carlos Andres Perez in February 1989 brought the *paquete* - a negotiated structural-adjustment agreement with the IMF; soon after, the *Caracazo* uprising reflected anger among citizens over increased transport fares (the increased fares themselves a result of increased fuel hikes) and resulted in an official death toll of 287, though reports suggests the number to actually be between 1,000 and 1,500 (Hellinger 2003). Protests continued as Perez deregulated the banking industry, privatized the national telephone company, and opened the oil industry to private capital (Lissindi 2006). The uprising continued with the attempted coup led by Hugo Chávez, and while the coup itself failed, Maya (2003) argues that the process itself was a political victory for Chávez when his television appearance accepting responsibility for the defeat stirred hope among supporters who rallied behind his “*por ora*” phrasing: for now.

⁶⁶ The author notes that this is in large part of a function of Romulo Betancourt’s desire for avoiding internal conflict (Ellner 2003:9)

Maya (2003) argues that the period from the attempted coup to the successful presidential election of Hugo Chávez in 1998 was marked by political actors attempting in vain to find stability. The stability that was COPEI and AD⁶⁷ faltered; the *Causa R* (Radical Cause) rose in the early 1990s only to falter in the late 1990s (Hellinger 2003). Along the way, the movement founded by Chávez, the *Movimiento Bolivariano Revolucionario 200* (MBR), based on traditional values of populist caudillism, began to move towards finding electoral victories, rather than purposefully avoiding the process⁶⁸ (Hellinger 2003). Chávez's eventual party, the *Movimiento Quinta República* was converted from the MBR, and Chávez would win the presidency in 1998, defeating AD candidate Salas Romer, in large part due to Chávez' support during his campaign for a new constitution.

The 1999 Constitution produced a number of significant changes. As Alvarez (2003) argues, the process of decentralization was the focus in the early 1990s and this process allowed the political elite to formulate its own agenda (147); and under the Chávez presidency, the party-based representative democracy was transformed. The transformations were focused on the sources of decision-making power, and while Chávez established parliamentary pacts with minority parties in the style of the *Punto Fijo*⁶⁹ period, the new Constitution did not put as much emphasis on party-based functions, but rather, the emphasis was on allowing civil society the ability to directly

⁶⁷ Between 1974 and 1993, AD and COPEI together controlled no less than 80 percent of the seats in the National Assembly (Hellinger 2003:33)/

⁶⁸ Chavez admits this tactic in interviews with scholar Marta Harnecker: "Until 1996 we had chosen not to participate in the elections. Really, we were calling for abstention as the tactical element in a strategy to force a constitutional assembly, which was always our plan" (2005: 45).

⁶⁹ This should not be viewed as a measure of Chávez's support for the pact: as Hellinger (2011:28) argues, President Chávez "often dismisses the Punto Fijo era entirely as just another episode in a pageant of oligarchic regimes that made up the "Fourth Republic" over nearly the entire history of Venezuela since independence"

participate. While the 1961 Constitution encouraged the formation of political parties (Hellinger 2003), the 1998 Constitution reduced party influence in the naming of top public officials to the judicial branch and instead replaced this process with the participation of civil society (Alvarez 2003). As discussed below, Venezuela also introduced multiple avenues for direct democracy, including the citizen initiated referendum devices as well as the ability to recall all popularly elected officials and judgeships. Alvarez (2003) argues that the system of referendums enacted in this Constitution serves a dual purpose: first, to force those who govern to respect the popular will, and at the same time to provide a possible “escape” from situations of extreme crisis. Second, the objective was to allow for the possibility for recall, but to not make easy enough that political retaliation would be the ultimate use of the mechanism. More generally, the very idea that citizens held supremacy over the branches, insofar as they theoretically could call for a new constituent assembly at any time represented a new era of, at the minimum, the possibility of direct participation. At the same time, however, the new Constitution significantly increased the powers of the president, both through direct powers granted, as well as through the provisional powers he could request from the National Assembly to allow him to legislate by decree on all matters for up to a year (Alvarez 2003).

A significant focus of this study is the degree to which “out-groups” are included in the constitutional drafting process. Though scholarship on this instance is limited, Lissidini (2008) notes that the *Polo Patriotico* (an alliance of parties supporting the president) utilized successful strategies and were able to secure a majority of the 24 seats that made up the constituent assembly, and thus, they played a significant role in the

drafting process. The process was not closed to outsiders; as Lissidini notes, the ANC invited “citizens and organized groups to present proposal, opened a popular service office, and set up a website to receive numerous public inputs” (Lissidini 2008: 16) and thus, discussions about the process were quite numerous. Canon (2009) also finds that while the 1999 Constitution was drafted by a group dominated by members of Chávez’s party, many would ultimately move to the opposition in later years. Garcia-Guadilla (2003) argues that “social organizations” succeeded in persuading the ANC to include a high percentage of their proposals in the constitutional text, though the author notes that the basis for the success was in large part due to the fact that the demands formed part of the “Bolivarian Project” of Chávez (186).

Canache (2012) argues that the 1999 Constitution was intended to increase participatory⁷⁰ democracy at the expense of liberal⁷¹ democracy, insofar as Chávez viewed participatory democracy as an alternative model to the liberal idea. In particular, the members of the Constituent Assembly sought to avoid existing problems with traditional check-and-balance formulae with the institutionalization of the people’s participation at the grassroots level. In addition to the institution of direct democracy, Chávez would promote models of participatory elements in the form of cooperatives, socialist enterprises, and communal councils (Canache 2012) over the next several years.

In an interview with scholar Marta Harnecker, Chávez himself argued that the constitutional assembly created telephone lines for citizen input, and that “his” majority

⁷⁰ Article 62 of the constitution protects the right of all citizens to “freely participate in political affairs, directly or through elected representatives.”

⁷¹ In this sense, the term “liberal democracy” refers to the idea of a “representative government in which rule by the people is understood as the rule of the majority, as expressed through free and fair elections”, along with constitutional limitations on power, and protections for both freedoms and rights. Participatory democracy involves increased participation on the part of the citizen through increased elections, increased range of political offices, and methods of direct democracy - all of which coexist with a representative democracy (Canache 2012).

did listen to constituent opinions. Moreover, Chávez concedes the fact that the process was completed hastily, but argues, “sometimes it is necessary to sacrifice some important things for the sake of expediency, and at the time it was urgently necessary to transform the political map, to be able to continue moving the revolutionary project forward” (Harnecker 2005:50).

Brewer-Carías’s (2010) examination finds that the process through which members were elected to the Constituent Assembly ultimately affected the group dynamics. The referendum approving the constituent assembly allowed for a 131-member assembly, with 104 members to be elected in 24 regional constituencies that corresponded to political subdivisions; 24 members to be elected by national vote, and three members representing indigenous peoples. Members were elected individually but appeared on a list which Chávez supported in personal visits to each voting district. As a direct result, all of the president’s supported candidates were elected except one (for a total of 123); thus, the author concludes that the Constituent Assembly was “totally controlled by the newly established government party and the president’s followers, to the exclusion of all traditional political parties” (56).

Ultimately, the text “finally approved by the constituents included virtually all elements of the draft that Chávez had given at the original meeting” (Lissidini 2008: 22). Chávez, Lissidini argues, insisted that the “reform of the constitution was the only way out of the chaos” (Lissidini 2008:23). The Chávez-led majority was pushed into drafting the new constitution quickly, and did so by appointing twenty commissions to deal with the essential subject matters, which they did in just a few short weeks, and importantly for the purposes of this study, “each commission acted alone and in isolation, consulting

only briefly with groups the commission considered appropriate” (Brewer-Carías 2010: 61).

The top-down approach included significant allowances for citizen-initiated direct democracy, but such top-down inclusion in the case of Venezuela does not necessarily suggest that out-groups were not present at the formation of the 1999 Constitution. The Assembly was itself a function of the campaign promises of Chávez, who, along with his key constituencies of the rural and urban poor, had long been excluded from participation and benefits from the *Punto Fijo* system. The *Punto Fijo* system was based on agreements between Acción Democrática and COPEI, which would ultimately fail as a function of a loss of legitimacy. This loss was based, as Canon (2009) argues, on the failure to consolidate gains on the economic level (and especially an economy able to withstand the oil shocks of the 1980s); the political level (which would ultimately prove too rigid to respond to economic and social emergencies of the 1980s); and on the sociocultural level (in that material rewards and motivations could not be afforded because of a lack of material resources, but also because of communicational difficulties among different cultures. The loss would eventually allow the populist Chávez to base his support among the “popular sectors, and parts of the middle sectors, which had felt themselves excluded from the economic, social, political and cultural life of the country” (Canon 2009:48). As the Assembly formed primarily with Chávez supporters, the inclusion of previously excluded “out-groups” is identified in the Venezuelan case.

Institutional Design

Among Latin American countries, Venezuela is one of the few that allow citizen-initiated referendums (along with Uruguay and Colombia), and is the only Latin

American system to provide for the possible revocation of presidential power as well as the only system to allow the president promote a referendum to repeal laws (Lissidini 2008).

Article 70 of the Venezuelan Constitution protects the “participation and involvement of people in the exercise of their sovereignty”, and Article 71 allows for consultative referendums at both the national and subnational levels, and is reserved for issues of “national transcendence”. Such a referendum can be triggered at the national level by the president, by a resolution of the National Assembly with a majority vote, or by the people with a petition signed by 10% of all registered voters. At the subnational level, such consultative referendums can be convened by municipal councils, legislative councils, or state legislative councils with a two-thirds vote, or by petition of 10% of the voters registered in the specific jurisdiction.

Article 72 of the new Constitution affords citizens the opportunity to recall all popularly elected offices and judgeships that are in the second half of their electoral periods. Such an action requires 20% of the voters to petition, and requires turnout of 25% or more, as well as the requirement that the vote share for removal is equal to or greater than the vote share that initially elected the official⁷². The Constitution stipulates that if the revocation occurs during the first four years (in the case of the president) elections must be called to complete the term; if in the last two years, the executive vice president assumes the position of the term (Article 233). In the case of officials in the National Assembly, representatives cannot seek reelection in the subsequent term (Article 198) but is silent on this matter related to other public officials.

⁷² This makes officials who were elected with high degrees of abstention more likely targets, of course.

Article 73 provides for the referendum process to be used in approving draft statutes of the National Assembly, provided two-thirds agree to refer the statute. The Constitution establishes a 25% turnout threshold but a simple majority to approve the statute. The president also has the ability to call a binding referendum when treaties or agreements that “compromise national sovereignty or transfer powers to bodies supranational organs”⁷³; if two-thirds of the Assembly agrees or 15% of the people petition, such a referendum vote may also be forced.

Article 74 allows for the abrogation of existing statutes with the exception of those dealing with budgetary, tax, public debt, amnesty, and human rights laws, and can be initiated with by petition of ten percent of the voters or by the president. This provision also allows for decrees issued by the president to be subjected to a abrogative referendum (though, in this case, it can only be achieved by popular initiative, and requires only five percent of registered voters). Article 74 requires that abrogative referendums require a turnout level of not less than 40%.

In addition, the Constitution provides other allowances for direct participation. In particular, Article 204.7 allows for the introduction of draft legislation (related especially to “organic”⁷⁴)law with just 0.1% of the voters. Article 211 of the Constitution informs the National Assembly to submit draft legislation to public consultation and to also ask the opinion of citizens and organized society. Article 347 allows for the populace to convene a new constituent assembly for the purposes of “transforming the state”, in effect, to draft a new Constitution.

⁷³ In this instance, 25% of the electorate must also cast a vote.

⁷⁴ As defined in the Venezuelan Constitution, “organic laws are those designed as such by this Constitution, those enacted to organize public powers or developing constitutional rights, and those which serve as a normative framework for other laws” (Article 203).

Certainly, the institution of direct democracy is given significant attention in the Venezuelan Constitution, especially insofar as it contains provisions for both a top-down and bottom-up approach. Nonetheless, the extensive availability of the mechanism has not translated to excessive use: Venezuelans have, since 1999, voted on nine referendums (C2D).

Direct Democracy Cases in Venezuela⁷⁵

Venezuela's first experience with direct democracy came in 1957, when 87% of voters⁷⁶ approved General Marcos Perez Jimenez governance⁷⁷ as President without being directly elected as well as his ability to appoint all national and local representatives. Venezuelans would not be given another opportunity to take matters into their own hands until 1999, when they were asked two questions in April and another in December. The April questions were presidential plebiscites asking the people if they wished to see a Constituent Assembly formed, and of the voters who did cast a ballot (only 37% of the electorate), 92.3% of them agreed. The plebiscite itself was a function of promises made by Chávez when elected in December of the prior year, and carried out on the day of his inauguration. Turnout increased on the day voters were to approve the new Constitution, though heavy storms may have impacted the overall numbers: only 44% of the electorate showed up, and the new constitution was approved with 72% of the voters in agreement.

⁷⁵ See Appendix D for a complete list of direct democracy cases in Venezuela.

⁷⁶ The total turnout percentage is unknown.

⁷⁷ Though impartial observers were not in place for this election, the vote was hardly democratic; indeed, the legitimacy of the vote could be questioned by (1) the fact that his initial rule was instigated via military junta; secondly, that within a month of the election, a popular uprising drove him from power (O'Grady 2007).

The low turnout cannot be completely explained by storms, however. The new constitution was a drastic change from the earlier versions. Though popularly elected, the new provisions were far from democratic⁷⁸: in addition to changing the name of the country, the new constitution prohibited public financing of political parties, eliminated the bicameral congress in favor of a unicameral National Assembly⁷⁹ (which could be dissolved at Chávez's discretion), military promotions became the direct responsibility of Chávez, rather than that of the National Assembly, and removed the power of the Supreme Court to suspend or impeach the president. In addition, presidential terms increased to six years, and allows for immediate reelection. Economically, the new constitution further downsized the role of the private sector, increased state guarantees, and increased housing, healthcare and retirement pensions to all⁸⁰. Significant changes may certainly have affected the average voter's ability to fully understand the new document (and as discussed earlier in this work, the rapid development of the document may have led to lower levels of comprehension); Tierney (2003) argues that polling data showed less than two percent of the population had read the document they would vote on, and in large part, the new constitution was a change from the "old ways", as voters seemed to put the general feeling.

In 2000, the Venezuelan National Assembly conducted a consultative referendum in an effort to gauge public approval of a plan to suspend trade union leadership for six

⁷⁸ The degree to which the document was intended to be democratic - from Chávez's perspective - is debatable. Nonetheless, the preamble to the new constitution states that the Bolivarian Republic will be "democratic, participatory, elective, decentralized, alternative, responsible and pluralist, with revocable mandates."

⁷⁹ The ANC argued that a bicameral legislature is inherently bureaucratic, costly, and inefficient (Oxford 1999)

⁸⁰ Venezuela: Constitutional questions. 1999. Oxford: Oxford Analytica Ltd.
<http://search.proquest.com/docview/192434571?accountid=3611>

months. Once again, voter turnout was quite low (just 23.5% - though the referendum was held at the same time as local elections), and voters approved the measure with 70% margin. Viewed largely as a measure to continue his power consolidation, Chávez asked voters to agree with his proposal that would transform union leadership accountability from parties, as it had been for decades, and towards the union personnel, who would elect their own leaders. Chávez argued that the prior system was largely undemocratic, and corrupt, insofar as their leadership remained entrenched for decades at a time, and that financial resources were being used for personal gain. Organized labor, on the other hand, called for an abstention, arguing that Chávez was simply attempting to gain control of the unions and align them with the MVR.⁸¹ The relationship between the main trade union confederation (CTV) was quite tense: they - along with the main business association⁸² had led campaigns to remove Chávez from office, and would continue to lead a series of work stoppages - including the “indefinite” strike in April 2002, which resulted in a brief coup d’etat (Canon 2009). Results suggest that both entities may have had some success: though the measure passed, rewarding Chávez, the abstention rate suggests that organized labor was able to get the message out as well.

In 2004, voters increased their turnout numbers and voted “no” for the first time when a recall vote on President Chávez was held. Article 72 of the 1999 Constitution provides for the possibility of the people to dismiss all elected officials once half of their

⁸¹ VENEZUELA: Reform approved amid abstention (2000). \Oxford: Oxford Analytica Ltd. Retrieved from://search.proquest.com/docview/192434571?accountid=3611

⁸² The tension was underscored by the fact that the unions associated with CTV had been allied with AD (or, as Canon (133) argues, “dominated by AD”) , and Chávez’s movement had displaced AD (as well as COPEI) which in turn undermined the traditional benefits union leaders received.

term has passed (and assuming 20% of the voters sign a petition to begin the proceedings), but requires a 25% turnout of the qualified electorate. In this case, 70% of the people turned out to vote, and 60% of them voted “no”, keeping Chávez in office. The recall vote was preceded by a brief coup led by Pedro Carmona in 2002, during which Carmona abolished the 1999 Constitution and all public powers, only to face spontaneous demonstrations insisting on Chávez’s return; as well as sixty-three day strike in the oil sector which lead to significant economic problems in 2003⁸³ (Canon 2009).

Thus, the recall vote can be considered in the context of extreme political polarization, and such polarization is often difficult to mitigate. McCoy (2006) argues that several reasons why the institutional context in which the vote took place was unable to mediate the levels of distrust within the highly polarized society. First, the politicization of the CNE⁸⁴ - and as a consequence, the lack of transparency - resulted in a lack of confidence in electoral outcomes⁸⁵. Secondly, political divisions within the Supreme Court also prevented the institution from becoming an independent arbiter (though, in other systems, close elections requiring the intervention of the Courts were widely accepted). Third, public and private media fueled suspicions and “painted their own realities and thus the moderating influence of the media was ineffective. Finally, there were limited possibilities in terms of third-party mediators and arbiters who may have helped provide additional checks on the process in an effort to legitimize the

⁸³ The recall election was also supported by the US, with support from the National Endowment for Democracy (Harnecker 2005:191).

⁸⁴ Prior to the election, the CNE threatened to limit the number of observers as well as access to voting sites and the technical aspects of the vote (*The Economist* [London]. 2 September 2004. Jennifer McCoy. "What Really Happened in Venezuela?")

⁸⁵ International monitors, including the Carter Center and the Organization of American States (OAS) declared the voting process in the recall election as “fair and accurate” and “legitimate” (Carter Center, 2004). Felten, Ruben and Stubblefield support the conclusions after statistical analysis of voting data.

outcome⁸⁶. Thus, McCoy argues (2006:78) that ultimate outcome from the recall vote was continued polarization, and at the same time, demoralized opposition leaders who questioned the outcome of the 2004 recall election would not mobilize as well and as a result, opposition leaders would lose elections for governors and mayors in 2004, municipal councils in 2005, and the national legislature in 2005. Certainly, Chávez claimed significant support for his policies as a function of the vote share⁸⁷. Shortly after the vote, the government focused on consolidating power within the Supreme Court and also was able to pass legislation strengthening their ability to penalize political dissent and sanction private media outlets (McCoy 2006).

In 2007, Chávez sought to amend the 1999 Constitution in an effort to “complete a transition to a socialist republic and implement his socialist agenda” (C2D). In total, 69 proposals were grouped in two blocks, with Block A consisting of 46 items proposed by Chávez and the National Assembly; and Block B consisting of 23 items proposed by the National Assembly. Among the proposals in Block A were a socialist economic system, moving the Central Bank to government control, reducing the voting age from 18 to 16, reducing the maximum workday to six hours (and provisions for better working conditions), as well as a right to education. In addition, the referendum called for increasing the petition rates for recall election from 20% to 30% and increase turnout requirements from 25% to 40%, while at the same time requiring that the final vote in favor of a recall be greater than the number of votes that elected the official in the first

⁸⁶ For example, the Catholic Church is often called upon to mediate disputes. In this case, the author notes that such a possibility did not exist because the conflict involved many societal sectors (70).

⁸⁷ Sheridan, Mary Beth. 2004 "Chavez Defeats Recall Attempt" <http://www.washingtonpost.com/wp-dyn/articles/A4208-2004Aug16.html>. See also Forero, Juan. 2004. <http://www.nytimes.com/2004/08/17/international/americas/17venezuela.html>

place⁸⁸ (Brewer-Carías 2010: 287). Turnout for this referendum was once again low (56%), and a very close vote ensued: 50.6% of the electorate voted no on Block A, while 51% voted no on Block B, and Chávez was handed his first defeat.

The 2007 referendum vote can be explained in a variety of ways. Certainly, the 44% abstention rate suggests that many voters simply stayed home – perhaps because they did not understand the multitude of questions, the ideas associated with “twenty-first century socialism”, or perhaps they did not accept the referendum as wholly necessary because many provisions could have been handled legislatively (Ali 2007; Lander 2007). Each of these reasons suggest that the ideals of participatory democracy that such referendums were designed to produce were in fact not met; and more to the point, the spirit of populism was not perceived by voters. Canon (2009) argues that while Chávez accepted the defeat, he continued to blame the media as well as a US conspiracy against the Venezuelan government. Additionally, Chávez blamed the people themselves; arguing that they were “insufficiently revolutionary” (65).

However, voters may have been “lashing out” to some degree against Chávez. Buckman (2012) argues that three main factors contributed to the defeat: first, many Venezuelans held resentment towards the suspension of privately-owned RCTV, which had been shuttered in May of 2007 when Chávez announced that its license would not be renewed⁸⁹. Secondly, crime rates in Venezuela were at all-time highs; Venezuela had the second-highest murder rates in the world in 2006. Finally, public perception regarding the

⁸⁸ Indeed, all referendum devices included new proposed provisions increasing turnout thresholds or approval thresholds, including the provision allowing citizens to convene a new constituent assembly for the purposes of drafting a new constitution, which would increase from 15 to 30%.

⁸⁹ Chávez was not a fan of RCTV, who he blamed for helping to orchestrate the 2002 coup and more generally for the station’s opposition against him (Buckman 2012: 375).

distribution of oil profits was negative; excessive poverty still existed despite new social programs.

More generally, Brewer-Carías (2010) argues that the 2007 referendum was a failed attempt to consolidate a centralized state through constitutional approval. The author argues that the referendum ultimately failed insofar as the design was to eliminate the vertical distribution of powers system, eliminate representative democracy, local political autonomy, change the way that Venezuela interacted on the international level (with particular attention to economic integration across Latin America), reinforce and increase executive powers⁹⁰, as well as reducing the separation of powers between the legislative and executive branches⁹¹.

Venezuelans last voted in a referendum in 2009, in which they approved the request by Chávez to remove any term limits on all departmental offices: governors, representatives of the single states, local governors, deputies of the national assembly, and the president. Certainly, the simplicity of the question involved seemed to reflect a willingness on the part of Chávez to learn from his mistakes, and to some degree, Chávez was reacting to representative elections held in November of 2008, where *chavistas* were successful but not in a dominating fashion: the 53% of the 10.2 million votes cast represented a decline from the 63% approval Chávez recorded in the recall election. The push for the referendum came just days after the electoral victory, and Chávez sought to rectify his earlier referendum campaign mistakes - this time by mobilizing PDVSA⁹² and

⁹⁰ This was especially apparent in the clauses dealing with the extension of the president's term and unlimited reelection capabilities, the appointment of a vice-president by the president, and the power of the president to lead the military.

⁹¹ For example, legislators could accept executive branch positions without losing legislative tenure, and could return to the legislature once the appointment ended.

⁹² PDVSA is the state-owned oil and natural gas company. Buckman (2012) argues that Chávez made it clear that their jobs depended on a favorable outcome.

the state-owned telephone company in what Buckman (2012: 380) calls a campaign of “Orwellian proportions.” Canon (2009) also finds that the government ran a smooth campaign, and the overall result showed the difference. Interestingly, the original proposal only included the president; however, protests by the national assembly resulted in amendments for the other offices (C2D). Voters approved the plan, 55-44%, and turnout rose to 70%.

Significant debates occur regarding the motivation for Chávez’s referendums. Maxwell Cameron argues that Chávez’s government instituted a “slow motion constitutional coup” by terminating Venezuela’s Congress through a referendum of “dubious legality” and through ensuring elections in which his party would dominate, which would thus ensure the writing of a constitution befitting his ideals. However, as Canon (2009) argues, the referendum was permitted by a pre-Chávez Supreme Court, and at the same time, Chávez had an electoral mandate, and was pursuing avenues suggested during his campaign. Along these lines, Canon argues that while the Constituent Assembly (ANC) was indeed dominated by the Chávez-led Patriotic Pole (PP), the group was actually quite broad; indeed, the 2007 failure could, as Canon argues, be seen as simply voter attachment to the 1999 Constitution, which was viewed as a “fair and balanced document” (164).

However, the above debate does not fully capture the nuances of the institution of direct democracy. In a study directed towards determining how Venezuelans conceptualize democracy, Canache (2012) finds that few Venezuelans have embraced the notion of participatory democracy, and instead rely on traditional notions of liberal democracy (as discussed earlier). Indeed, a substantial majority of Venezuelans surveyed

point out that democracy - to them - depends on civil liberties as well as economic freedom. Few Venezuelans, the author found, define democracy in participatory terms, even after Hugo Chávez had been in office for ten years. When compared to 13 other Latin American nations as part of the AmericasBarometer survey, Venezuelans espoused the definition of democracy along liberal lines more commonly than any other nation surveyed (108). Thus, for Venezuelans, the idea of increased participation, especially via the institution of direct democracy, was not fully embraced. The author concluded that “little evidence has emerged in this study to suggest that Hugo Chávez’s actions have caused Venezuelans to rethink the meaning of democracy and to embrace participatory conceptualizations...if anything, Chávez’s supporters tend to slightly less favorable toward democratic governance than are his opponents” (114).

That is not to say that Venezuelans do not fully appreciate the role of voting. Latinobarometro data suggest that 74% of Venezuelans agree that “the way you vote can change the way things will be in the future”, the highest of all Latin American countries surveyed with the exception of Uruguay (84%)⁹³. In addition, Venezuelans recognize that “open and fair elections” are among the most important characteristics of a democracy (35.7%); this response overshadows the importance of competitive parties (8%)⁹⁴, freedom of speech (14%), and equal treatment for all by the courts (11%). Venezuelans, however, are not uniformly convinced that the elections are fair: when asked in 2007, only 58% agreed that elections are “clean”.⁹⁵

The definition of participatory democracy as labeled here suggests that direct democracy is a defining feature: without participation in direct democracy, Canache

⁹³ <http://www.latinobarometro.org/latino/LATANalyzeQuestion.jsp> (A504402)

⁹⁴ <http://www.latinobarometro.org/latino/LATANalyzeQuestion.jsp> (A104)

⁹⁵ <http://www.latinobarometro.org/latino/LATANalyzeQuestion.jsp> (A504501)

suggests, then the focus must be on liberal democratic values. This is not axiomatic. Indeed, participatory democracy can also succeed when governments are established at local or municipal levels through political decentralization. Indeed, “participatory democracy cannot be mistaken for direct democracy” (Brewer-Carías 2010: 188). Thus, the elusive participatory democracy in Venezuela in the 2000s may be a function of Canache’s (2012) argument, but also of the centralization process that Chávez pursued after taking office in 1999. Though the new constitution calls for decentralization, and thus, the importance of such a concept is recognized, Brewer-Carías argues the “decentralized federation mentioned in Article 4 of the Constitution is no more than void words, with the power of the state organized in an even more centralized way”⁹⁶ (2012: 190). Such an arrangement resonated with the people as well: 15% report having “a lot” of confidence in local governments (and 26% report having “none”), while 36% have “a lot” of confidence in the government as a whole, and only 16% report having “no confidence”.⁹⁷

Conclusions

Direct democracy across Latin America is a rare event. Certainly, in many systems, simply maintaining democracy at all is a challenge. Nonetheless, the two examples of systems that utilize direct democracy discussed here present a number of possible conclusions.

First, the requirement that out-groups be a part of the drafting of the constitutions finds limited support. In the Uruguayan sense, the support came primarily from Batlle,

⁹⁶ For example, while the Constitution calls for - and organizes - communal councils, they function without elected representatives; these, along with the citizen referendum process found in Article 70 have the purpose of replacing “local governments in their constitutional task of being the basic instance for political participation” (Brewer-Carías 2010: 191).

⁹⁷ <http://www.latinobarometro.org/latino/LATAnalyzeQuestion.jsp> (A60201H and A60201G)

though the mechanism was not fully introduced in his lifetime, and would not fully be introduced until the 1934 Constitution. Thus, the introduction of the mechanism of direct democracy in Uruguay is largely the function of majority-led inclusion, rather than out-group participation. Further complicating the analysis is the degree to which the legacy of Batlle may have influenced the introduction of the mechanism. Indeed, further complicating the analysis is the multiple constitutions in which direct democracy is included. The most recent Constitution – from 1967 and amended in 1997 – included provisions, but those provisions were also included in prior versions. As Barczak (2001) notes, Uruguay thus becomes a “special case” when considering the introduction of the institution of direct democracy as a function of out-group participation insofar as the prior extant constitution accounted for the inclusion, making it neither in-group nor out-group, *per se*.

Venezuela, on the other hand, presents a much clearer distinction. The 1999 Constitution clearly introduced mechanisms of direct democracy, and to find support for out-group participation, one must only look as far as Chávez, who was on the “outside looking in” for quite some time, as evidenced by his thoughts (and actions) on taking over the presidency of Venezuela. The previously excluded out-group in the Venezuelan case was responsible for the introduction of direct democracy into the 1999 Constitution. Thus, support is found in the Venezuelan case for C1, but not for the Uruguayan case, where the results do not disprove the hypothesis, but do not prove it, either.

The theoretical approach discussed in the first chapter also put considerable emphasis on the role of institutional design and the effect of the design on outcomes. Interestingly, the model suggested in this dissertation would support the notion that

Venezuela, given the relative ease of access to the referendum device, would see more instances than Uruguay, which has fewer alternatives and more restrictions. Further complicating the analysis is the differences in available time: Uruguay has had the referendum option since 1934; Venezuela since 1999. Within those timeframes, nine referendums have taken place in Venezuela, and eighteen in Uruguay, suggesting that Venezuela has had more referendum votes when adjusted for the time variances⁹⁸. Thus, institutional design does seem to play a role here; however, it should be noted that while the citizen-initiated referendum is available to both systems, Uruguay is the clear leader here, with 13 of the 18 referendums being initiated from below, while in Venezuela, only the referendum concerning the recall of Chávez was initiated from below.

The role of political elites in the process is certainly more complicated. The influence of Batlle can be felt throughout Uruguayan institutions, but the lack of the individual in referendum politics complicates the analysis. Nonetheless, the general sense of referendum politics in the Uruguayan sense can best be captured by the discussion of “veto points” as discussed earlier. In most cases (13 of 18), the citizen-initiated referendum acted as a check on the power of the majority; the majority of cases here describe contexts in which the minority out-groups were able to successfully utilize the instrument of direct democracy to counter the wishes of political elites. Voters responded to political concerns via the referendum, with decisions on the lema system as well as the *Colegiado*; they also responded to economic concerns via the referendum as well – most notably when the concern was privatization of state-run industries or decreases in state-mandated economic benefits. The institution of direct democracy was also frequently

⁹⁸ Though such math is admittedly problematic, Venezuelans face .62 referendums per year on average; Uruguayans face .22 referendums per year, on average.

used to either block or abrogate neoliberal economic reform measures, such as privatization, deregulation, trade liberalization, and reductions in government spending. Indeed, they have also responded to social issues via the referendum, most notably with decisions related to amnesty laws. The ability of unions to mobilize support in the face of losses suggest the possible victories they found in the referendum was worth the risk; at the same time, the choices they (repeatedly) made suggest the structure of the institution in which they operate were key factors in the decision to utilize the referendum process. This in turn suggests that the cybernetic theory of decision-making, along with prospect theory, better explains the process than does that of rational choice, which would suggest simply that individuals were able to make choices without formal constraints placed on them from above, and that utility-maximizing processes explain preferences. Clearly, supporters of the Uruguayan referendum system, as viewed from the bottom-up approach as most commonly used, were constrained by the historical institutional design, and motivated by the prospect of significant loss. As such, they were not interested in smaller gains; they were instead interested in altering the status quo by reversing the legislatively-approved policy.

In each of the multiple cases discussed in this chapter, the political elites seeking refuge through the referendum device did so to seek larger gains when faced with the prospect of loss, and to protect smaller gains when not facing the same prospect; more importantly, however, the structure of the institution dictated the values through which they viewed the range of possibilities – such ranges were not simply those which seemed most suitable to the individual actor. As a function of this, historical institutionalism is useful in explaining why institutions are created in the first place, and the historical

context is crucial to understanding the outcome. The “critical junctures” that resulted in the various constitutions are (as discussed in the first chapter) descriptive and not causal; the institutions themselves predict the outcomes. The range of actors described here are all constrained by the institution created before them, and they changes they make are a function not of the rational choices they make, but rather of the context in which the institution itself was created (and indeed, in the Uruguayan case, compromise came to be not always as a function of actual referendum usage, but because of the possibility of the referendum). Thus, in the complicated cases that are Uruguayan referendums, I argue that the role of political elites (P1) in the process is crucial to understanding later usage, and that (P1) in this case are condition by historical institutional design (HI1) as well as tenets of prospect theory/cybernetic theory of decision-making (PC1). These findings are summarized in Table 4.1

Table 4.1: Impact of Key Variables on Direct Democracy Outcomes in Uruguay

Key Variable	Outcome
Out-group presence at constitutional formation	Indirect: Recent constitutions included mechanisms of direct democracy carried over from earlier constitutions
Institutional Design	Citizen-based initiative and referendums Moderate signature requirements (25%) Parliament-based referendums
Role of Political Elites	Often seeking larger gains while working in a domain of loss

The Venezuelan case is less complicated by the very fact that there are fewer referendum examples. Nonetheless, the simplicity does not equal simple conclusions.

Indeed, the Venezuelan case is a fascinating case in which the ideas of direct democracy are clearly supported constitutionally – the letter of the law – but the spirit of the constitution (and later changes to it) suggest that direct democracy is not as supported as it first appears. In the 2000 consultative referendum, Chávez picked a small fight with organized labor over their leadership practices, and having the majority on his side, sought small gains (as prospect theory suggests) and was working within the confines of the institution created. Certainly, the ideas laid out in prospect theory/cybernetic theory also help to explain the rationale behind the decision to seek the 2004 recall vote against Chávez (facing a prospect of loss, groups sought large gains. A summary of findings from the Venezuelan case is presented in Table 4.2 below.

Table 4.2: Impact of Key Variables on Direct Democracy Outcomes in Venezuela

Key Variable	Outcome
Out-group presence at constitutional formation	Indirect: Recent constitutions included mechanisms of direct democracy carried over from earlier constitutions
Institutional Design	Citizen-based initiative and referendums Moderate signature requirements (25%) Parliament-based referendums
Role of Political Elites	Often seeking larger gains while working in a domain of loss

The 2007 unsuccessful referendum vote, however, is the outlier. The theoretical approach outlined here does support the notion that Chávez would be working within the confines of the historical institutional design in seeking changes to the status quo. The

approach does not, however, explain why Chávez, not facing a domain of loss⁹⁹, would seek to enact massive changes to the status-quo. Though Venezuela was suffering from crime issues as well as economic concerns (as discussed), neither suggest that Chávez was operating within the domain of possible loss. The remaining element to consider here is the cybernetic theory of decision-making, which suggests that the inputs the decision-maker receives may change, but the reaction is based on the standards of the individual as well as the structure of the institution in which the decision-maker operates. To broadly consider the context, the standards of the individual idea reflects Chávez's notion of "twenty-first century socialism", and the structure of the institution allowed him the opportunity to proceed via the referendum.

However, if this fully explained the process, from start to finish, it would not similarly explain the 2000 referendum nor the 2009 referendum. In the latter case, Chávez was once again not facing a loss scenario, having won a majority in the recent elections, and chose to pare down the referendums and focus on the campaign as a whole -- and did so successfully. Thus, I argue here that the theoretical application applies with the exception of the 2007 referendum held by Chávez, insofar as the historical institutional design (HI1) and the tenets of prospect theory/cybernetic theory (PC1) condition the political elites (P1). However, the importance of the theoretical approach may also be better appreciated when one remembers that Chávez, in this outlier case of the 2007 referendums, was unsuccessful. Clearly, the purpose of this theoretical approach is not to gauge the degree of (or likelihood of success) but, the cases discussed thus far suggest that the prospect theory/cybernetic theory – when followed – is more likely to

⁹⁹ To the degree that economics plays a role; oil prices (the main source of governmental revenue in Venezuela) were at record highs (\$88.28 a barrel on Election Day, and would eventually climb to \$140/barrel in 2008).

lead to success. Table 4.3 summarizes key findings related to both Uruguay and Venezuela.

Table 4.3: Impact of Key Variables on Outcomes in Uruguay and Venezuela

Key Variable	Uruguay	Venezuela
Out-group presence at constitutional formation	Indirect: Recent constitutions included mechanisms of direct democracy carried over from earlier constitutions	Direct: Chavez-led reforms
Institutional Design	<p>Citizen-based initiative and referendums</p> <p>Moderate signature requirements (25%)</p> <p>Moderate quorum requirements (35%)</p> <p>Parliament-based referendums</p>	<p>Citizen-based initiative and referendum</p> <p>Low signature requirements (10-20%)</p> <p>Parliament-based referendums with majority vote</p> <p>President-initiated referendums</p> <p>Municipal-level referendums</p> <p>Recall referendum</p> <p>Moderate quorum requirements (20%)</p>
Role of Political Elites	Often seeking larger gains while working in a domain of loss	Often seeking smaller gains while operating in a domain of gain
Frequency	High	Low

CHAPTER FIVE

DISCUSSION AND CONCLUSIONS

Introduction

As discussed in the opening chapter of this dissertation, the overall purpose of this study is to examine broadly the role of individuals working within institutions, and more particularly, the influence of institutions on individuals. In so doing, the opening chapter discussed the prominent role that general scholarship has placed on individuals in the political arena, and that this role is at the general expense of the influence of institutions. That is, rational choice theory focuses on the choices individuals make to maximize utility under institutional constraints. Nonetheless, the independent role of institutions in shaping political outcomes cannot be overlooked, and this dissertation seeks to focus scholarship on where it is best suited: institutions. This concluding chapter identifies the importance of institutions by examining referendum politics across the four case studies examined in this dissertation, and at the same time, applies broadly the theoretical foundations discussed in the opening chapter.

Discussion

The main propositions in this study are that political outcomes are a function of institutional design, and further, that while political elites play a role in the eventual outcomes, that role is limited by institutional design on the one hand, and a combination of the factors associated with cybernetic theory/prospect theory on the other. The application of these presumptions to the case studies presented in this dissertation seems an odd set at first glance: politically, the four cases are quite different. Italy is centered on party-based governance with a relatively weak executive (insofar as the legitimacy of the

executive branch is based on the confidence of parliament), while France is a semi-presidential system with relatively weak (though certainly not inchoate) party system. Uruguay can be described as a presidential system with two dominant parties operating throughout recent history (though this has evolved over the past decade), and Venezuela also exists as a presidential system, but with (in relation to the power of the presidency) weaker party system. However, the significant variation among these cases facilitates a better examination of the causal variables discussed in the opening chapter, and in particular, their influence on referendum outcomes.

To what degree do “out-groups” influence the introduction of direct democracy mechanisms into a given system? In the Italian case, a complete re-working of the 1948 Constitution suggests that groups who were previously excluded from the political process were included. Provisions for the mechanisms were included, though clearly the focus was on a multiparty system in response to predominant anti-fascist fears. Indeed, the institution of direct democracy lay dormant until the majority party (in this case, Christian Democrats) believed it may become necessary to legitimize their desired policies through the device - twenty-two years later. In so doing, the Christian Democrats were ultimately unsuccessful, finding the unintended consequences of their actions to be less than favorable, and at the same time, offering the “gun behind the door” to other groups, who for the next several years (as the minority party) would also continue to fail via the referendum device. Ultimately, however, the late start that the Italians had with direct democracy did not preclude later usage, as the Italians utilize the referendum more than any other European country except for the Swiss (who, it seems, are in a league all

of their own¹⁰⁰). Certainly, the context of the introduction helps to (though does not fully) explain the later usage: consistent with the anti-fascist fears, participatory democracy was the preferred route (though initially, the party-based system was the favored method). The lack of a strong executive that has greater control over referendum usage precludes limited use.

In France, a long history of “top-down referendums” referendum availability led to the removal of the device in the 1870s, only to be reintroduced with the Fourth Republic in 1946 after compromises between de Gaulle and Christian Democrats. Insofar as de Gaulle (and future presidents) had considerably more control over when (and in what subject area) a referendum could be called, frequency as a function of the context in which the mechanism was first introduced can also be considered a causal variable. Indeed, de Gaulle’s stated purpose for the device (as discussed earlier) was to keep a line of communication open between the president and the people; this line, however, is unidirectional. De Gaulle, like other leaders, sought the referendum to legitimize his initial power, his policies, and, trusting the device perhaps a bit too far, ended his own political career as a function of the referendum.

Interestingly, the Uruguayan case presents two interesting anomalies: first, that the referendum device was sought by the dominant force in politics at the time but was not introduced as a function of compromise; secondly, that Constitution of 1967 in large part *retained* the language regarding direct democracy from the earlier 1934 Constitution, which itself was derived as a function of general revolt: while President Terra dissolved

¹⁰⁰ From 1848-2013, the Swiss have utilized the referendum device 589 times (C2D) at the federal level, with “thousands more occurring at the cantonal level, hundreds of thousands at the municipal level” (Kaufman and Waters 2004:118). By comparison, the closest user of direct democracy in Europe is Italy, conducting 72 votes on referendums in the same period.

Parliament with the support of the Blancos, the new Constitution was generally considered to be a function of majority interests. Thus, retaining the language (regardless of the position of out-groups related to the 1967 Constitution) suggests that Uruguayan “out-groups” were not the primary basis for the inclusion of direct democracy. Nonetheless, Uruguayans utilize direct democracy more commonly than other Latin American systems. Importantly for the purposes of this study, then, is the discovery made by this examination: out-group participation is *more likely* to result in the introduction of direct democracy into a given state, *but it is not absolutely necessary*.

Finally, in the Venezuelan case, Chávez could certainly be considered “previously excluded interests” – or, “out-groups” – and as the constitutional design admits, the institution of direct democracy exists. The core constituency supporting Chávez was a previously excluded out-group, and was represented quite heavily in the Assembly that drafted the Constitution, which ultimately included expansive options for direct democracy. Thus, the case of Venezuela fits the expectation of the theoretical approach outlined here regarding C1. Like de Gaulle, Chávez did not view multiple political parties as a path to political efficiency, though ultimately for different ideological reasons. Chávez also viewed the institution of direct democracy as a line of communication to the people, and while Chávez argued for the lines of communication to be bidirectional, the reality has been (to this point) that the line of communication has remained unidirectional (with the exception of the 2004 recall vote). Scholars may get a better frame of reference as we look to Venezuela in the post- Chávez era (though, Chávez’s Vice-President, Nicolas Maduro has taken the reins, which suggests minor changes to the status-quo). The cases presented here are too few to suggest that a lack of

multiple parties is a causal variable affecting referendum outcomes; however, insofar as the both of the actors here actively focused on reducing the role of parties in the system, and both cases show fewer referendums, a possible connection can certainly be considered.

Thus, support for the notion that institutions of direct democracy require “out-group” inclusion for the introduction into a particular constitution is supported but not evident in each case. More generally, the idea that the power of the people to choose – and the institution of direct democracy *itself* – was clearly a concern for all cases: for the Italians, a method to collectively resolve differences; for the French, this was viewed as a *concern*, rather than a problem to solve. De Gaulle, arguing from the position that parties were more destructive than constructive, sought to limit the institution of direct democracy as much as possible. Again, concern on the part of Gabriel Terra (also about the role of parties) led to the introduction of direct democracy in Uruguay, and in Venezuela, Chávez sought to weaken the power of minority parties at the expense of executive power, and at the same time, introduced the institution of direct democracy, ostensibly to give the “veto” to the power of the people. Thus, the Italians - seeking greater party inclusion - are the eventual outlier, and it should be noted, also utilize the referendum process considerably more frequently than any of the other cases discussed here. In all cases, however, the importance of historical institutionalism is evident: “policy choices made when an institution is being formed, or when a policy is being initiated, will have a continuing and largely determinate influence over the policy far into the future” (Peters 1999).

As discussed in the opening chapter, accounting for change within historical institutionalism is generally thought of in terms of punctuated equilibria (Krasner 1984); this study, however, argues that new institutionalism is compatible with historical institutionalism. In this sense, then, this study seeks to avoid the independent/dependent variable confusion often associated with institutionalism and that same time explain change: as Thelen and Steinmo (1992), argue, institutional dynamism can appropriately explain change, of which there are four sources: first, broad changes in the socioeconomic or political context can produce a situation in which previously latent institutions suddenly become salient, with implications for political outcomes; secondly, changes in socioeconomic or political balance of power can produce a situation in which old institutions are put in service of different ends, as new actors come into play who pursue their new goals through existing institutions; third, exogenous changes can produce a shift in the goals or strategies being pursued within existing institutions: changes in outcomes as old actors adopt new goals within the old institutions; and finally, political actors adjust their strategies to accommodate changes in the institutions themselves.

Thus, the institutions discussed (the institution of direct democracy) are thus mediated by the broader political context (in line with the theoretical approaches of Thelen and Steinmo). Christian Democrats in Italy sought to utilize the referendum after keeping it dormant for decades is in line with the idea that broad changes in the political context produces a situation where previously latent institutions became salient (in this case, the broader change could be conceived of as the threat to long-standing societal values). Later usage by minority parties (as discussed here) could certainly be

characterized as a function of exogenous changes that produce a shift in goals or strategies being pursued within existing institutions. De Gaulle's acceptance of the institution (and later reluctance to use) could be characterized in much the same way (and of course, could also be explained by exogenous changes that produce a shift in the goals or strategies). The Venezuelan case also fits within the broader theoretical outlines presented here, insofar as the changes in the socioeconomic or political balance of power¹⁰¹ produces a situation in which old institutions are put in service of different ends – clearly, Chavez understood the institution of direct democracy, and its effect on the participatory aspect of his version of democracy.

Institutional Design

Taken on its own, institutional design is a significant explanatory factor in the overall usage of direct democracy. Italy has the most expansive opportunities for direct democracy (both from the bottom-up and top-down), as well as relatively low petition requirements (500,000 registered voters). The only significant roadblock in the Italian system of direct democracy is the quorum requirement¹⁰² (the 50% requirement exceeds all other countries) but this affects outcomes, not usage. It is not surprising then, that Italians utilize direct democracy more so than the other three cases considered here. At the same time, Uruguayan voters also have the ability to petition for referendums, though

¹⁰¹ Though the “political balance of power” referenced here is apparent, the socioeconomic conditions play a significant role here as well: between 1990 and 1997, Venezuelans saw dramatic decreases in per capita income as well as increases in income inequalities, unemployment, and poverty rates; certainly, falling oil prices (especially in 1986 and 1988) left Venezuela vulnerable to internal strife and open to later neoliberal restructuring programs. Such policies “sparked off the greatest public disorders seen in modern Venezuelan history”, known as the *caracazo* - the first of many disturbances, and the basis of the coup attempt by Chávez. As Canon (2009:37) argues, these events “cleared the way for the emergence of Chavez as a political force in the country”.

¹⁰² Italians may only repeal existing laws – they may not propose new laws. Certainly, this could be viewed as a “roadblock” as well, however, the absence of citizen-initiated proposals precludes speculation and calculation.

twenty-five percent of the electorate must agree¹⁰³. Uruguayans utilize this opportunity extensively, though not as commonly as Italians. Though Venezuelans also have the ability to initiate referendums, with signature requirements ranging from ten to twenty-five percent, they have utilized this opportunity only once since 1999. Of the four cases presented here, only France does not allow citizen-initiated referendums, and it comes as little surprise that usage in France lags¹⁰⁴ behind the other three cases in terms of frequency. However, institutional design is not in and of itself a singular predictor of outcomes: if it were, the expectation is that Venezuelans would utilize citizen-initiatives more frequently than they have (even considering the shorter time frame) in comparison to both Uruguayans and Italians. Thus, institutional design cannot be isolated as the single causal variable accounting for usage or non-usage in systems that allow citizen-initiatives.

The Role of Political Elites

Though this is a study of the importance of institutions, the role and influence of individuals must be fully considered. This dissertation argues that referendum usage is influenced by individuals (political elites) but such individuals are constrained by historical institutional design as well as the tenets of prospect theory/cybernetic theory of decision-making. The Italian divorce referendum in 1974 finds each of these concepts at work: when the ruling Christian Democrats were unable to stop the passage of the divorce law through Parliament, they turned to the last remaining institution: the referendum. Lying dormant since the inception of the Constitution in 1946, the DC were

¹⁰³ Uruguayans may propose new laws or seek the repeal of existing laws; in the latter case, the referendum seeking repeal must occur within one year of passage of the original legislation.

¹⁰⁴ Usage in this sense is limited to the referendums utilized under the most recent Constitution (in each case).

able to bring about its usage in what they saw as an effort to unite the wishes of the majority of Italian voters, under the standards set by the Church. Certainly operating within the domain of loss, the referendum choice sought greater rewards¹⁰⁵.

The majority of referendum usage in Italy after the divorce referendum saw the Radical Party at work (and occasionally the Communist Party) throughout the 1970s and the early 1980s. Though the minor parties here succeeded in weakening the political hegemony that was the DC, they were ultimately unsuccessful at attempting to abolish life imprisonment, outlawing private guns, curbing police powers, and reducing salaries in an effort to combat inflation. Viewed from the perspective of the initiator, such instances suggest the historical institutional design is a major factor. But perhaps more importantly, concern brought up in the first chapter is exemplified here: what happens when neither “loss” nor “gain” properly frames the scenario? In such case, the theoretical approach argued that the cybernetic theory may best explain the decision-making process: certainly, the systems-level output could be argued to be in accordance with the set standards of the referendum initiators; they were seeking no other gains than those sought (such instances were not designed to test the strength of the ruling party).

The major reforms sought by the 1993 referendums in Italy suggest that unintended consequences are a threat: seeking to expand on recent gains (the 1991 referendum efforts to reduce corruption via voting methods), Mario Segni formed the Populans for the Reform movement, and sought additional gains via electoral reform. Interestingly, though, the reforms resulted in the reduction of the minority influence in Parliament, which would later cost Segni the very power he sought. Nonetheless, the role

¹⁰⁵ It should be noted that Weyland argues that elites in a dire situation will be more likely to risk a proposition that has a “lower expected value”; the degree to which the DC perceived this option as having a “lower expected value” is unclear.

of historical institutional design as well as that of political elites working within the constraints imposed upon them is once again reflected here. As discussed in chapter three, the role of political elites is important, and as suggested by the theoretical foundations outlined in this dissertation, individuals are in large part constrained by the institutions in which they operate, but also by the tenets of the decision-making tenets of prospect theory/cybernetic theory.

The Uruguayan case is in many ways similar to the Italian case. Though the context in which the mechanism of direct democracy was first introduced does not fully fit with the expectations discussed in this dissertation, its usage by out-groups fits the general pattern. Many of the referendum cases in Uruguay were a function of out-groups seeking fundamental change through established institutions. Like the Italians, Uruguayans groups that utilized the referendums were working within a sort of “bounded rationality”, and primarily interested in altering the status-quo by seeking significant gains via the referendum device.

Though referendum cases in France are far fewer, the theoretical approach discussed here explains the process in an informative manner. De Gaulle viewed the referendum device as a method through which he could seek the approval of the populace directly; this, essentially, was a method to silence parties rather than seek their collective approval. The use of the referendum by de Gaulle in each of the cases presented in chapter three also suggest that the historical context creates a limitation on usage, but that individual usage is dependent upon the individual: in de Gaulle’s case, the choice was based in large part on his desire to legitimate the power of the presidency (and the executive institution more generally – and more longitudinally) over the factionalism of

parties. As was shown in chapter three, prospect theory is highly instructive towards understanding de Gaulle's motivations.

As suggested earlier in this chapter, the Venezuelan case is in many ways similar to the French case, insofar as historical institutional design played a significant role in future outcomes. In both cases, outcomes were fewer; though interestingly, a remaining question must still be addressed: if Venezuelans had the opportunity for citizen-initiated referendums (where France did not) what accounts for the lack of use (from the “bottom-up”) in Venezuela? Citizen-initiated referendum usage is high in Italy and Uruguay, but low in Venezuela, yet all three systems have the device available to them. Though the data presented in this dissertation are not designed to answer this question (and thus, this question should be addressed by future studies), some speculation is possible: first, Venezuelans have only had the option of referendum available to them for thirteen years, while Uruguayans have had the option available since the 1930s. Perhaps it is simply a matter of time: the Italians did not use the device available to them for decades after its introduction. Secondly, differences in party systems exist between three systems: a much stronger party system, to be exact. Many of the referendum cases discussed here are instances in which parties are seeking to legitimate preferences through voter approval; fewer (and weaker) parties suggest the outcome as a function of party cleavages would also reduce. Finally, (and certainly an object for future study) is the role of Chávez as a unitary leader. In other words, to what degree did Chávez “co-opt” the ideas of the populace and instead turn the ideas from “bottom-up” to “top-down”? While scholarly research does suggest that “Chávezismo” is centered on apparent rather than actual democratic procedures, research does not suggest that Chávez in some fashion worked to

avoid a “bottom-up” approach from developing. Thus, a question remains for future study. These conclusions are summarized in Table 5 below.

Limitations of Study and Suggestions for Future Research

Though the theoretical framework developed here has considerable explanatory power (likely a function of its breadth), significant limitations exist both within this work and within the literature more generally, and such limitation could be addressed in future work. I begin with an overview of the lacunae present in the literature, and then address the shortcomings within this study, and offer some possible avenues for future research.

The depth of (or more specifically, the lack thereof) research in this area is on one level disconcerting, but on another level inviting, insofar as this subfield deserves and (unlike many other subfields) can handle additional research into the causes and outcomes of measures of direct democracy. The most glaring problem with the literature is the quality of research. First and foremost, few studies properly define the range of measures of direct democracy available. With Latin America, as within Europe, significant differences exist within referendum politics: they may be initiated by the executive, by the legislature, or by the people; they may be facultative, obligatory, or consultative; they may focus on general social policy or on governmental policy; differences in turnout requirements for different countries exist before the measure can be considered binding; and in still other countries, the likelihood that the measure will actually be carried out is in question. Each of these factors makes a difference in research; as such, a definitive index should be designed such that these factors are considered. A ranking could be based on the availability, type, usage, frequency, and compliance with outcomes.

Table 5: Impact of Key Variables on Direct Democracy Outcomes across Cases

Key Variable	Italy	France	Uruguay	Venezuela
Out-group presence at constitutional formation	Direct: Strong parliamentary system created in reaction to fascist regime	Direct: Semi-presidential system created in reaction to weak parties	Indirect: Recent constitutions included mechanisms of direct democracy carried over from earlier constitutions	Direct: Chavez-led reforms
Governance	Parliamentary (strong multi-party)	Semi-presidential system (weak multi-party)	Presidential system (strong multi-party, though long dominated by two parties)	Presidential system (weak multi-party)
Institutional Design	Top-down referendums Citizen-led initiatives with low signature requirements Low signature requirements 50% quorum requirement	Top-down approach (president can submit directly to the people, or submit to Parliament) No quorum requirements	Citizen-based initiative and referendums Moderate signature requirements (25%) Moderate quorum requirements (35%) Parliament-based referendums	President, Parliament, and Citizen-based initiative and referendum Low signature requirements (10-20%) Recall referendum Moderate quorum requirements (20%)
Role of Political Elites	Often seeking smaller gains while operating in a domain of gain	Often seeking smaller gains while operating in a domain of gain	Often seeking larger gains while working in a domain of loss	Often seeking smaller gains while operating in a domain of gain
Frequency	High	Low	High	Low
Support for Hypotheses	Yes	Yes	Inconclusive	Yes

The depth of (or more specifically, the lack thereof) research in this area is on one level disconcerting, but on another level inviting, insofar as this subfield deserves and (unlike many other subfields) can handle additional research into the causes and outcomes of measures of direct democracy. The most glaring problem with the literature is the quality of research. First and foremost, few studies properly define the range of measures of direct democracy available. With Latin America, as within Europe, significant differences exist within referendum politics: they may be initiated by the executive, by the legislature, or by the people; they may be facultative, obligatory, or consultative; they may focus on general social policy or on governmental policy; differences in turnout requirements for different countries exist before the measure can be considered binding; and in still other countries, the likelihood that the measure will actually be carried out is in question. Each of these factors makes a difference in research; as such, a definitive index should be designed such that these factors are considered. A ranking could be based on the availability, type, usage, frequency, and compliance with outcomes.

Moreover, the research designs themselves are often problematic. As discussed throughout the literature review in this dissertation, very few works related to direct democracy consider the context in which the institution was first introduced. Such an examination is critical. Within the context of direct democracy, research is primarily focused on the theoretical side (the degree to which direct democracy is compatible or incompatible with representative democracy) or the outcomes side (the effects of actors, campaigns, or actions of voters). Both of these are important questions, but without the

larger theoretical approach that considers the *limitations* of those actors as a function of historical design, each of these questions lacks structural support.

This particular work focused largely on theory-building and its application to the cases. Such an effort in theory building naturally raises questions. First, the theoretical approach designed here applies quite well to the cases discussed. Such an approach, however, to have elements of validity and reliability, should be expanded to other cases. Secondly, the theoretical approach described here is quite broad, leading to concerns over falsifiability. While it can be argued that falsifiability is present (insofar as the context of the times in which the institution is designed “suggests” its future usage, and the opposite is not the case), significantly more cases should be examined as well.

Though the cases presented did support the explanatory power of the model, a much more detailed case study is in order in an effort to determine the extent of the explanatory power. Such a study could also focus on the seemingly inherent tension between the level of democracy and the institution of direct democracy. That is, the uniqueness of Latin America, when compared to other regions of the world where democracy is widely used (e.g., the United States and Europe) is that there are, still today, varying levels of consolidated democracy, both in terms of substance but also in terms of longevity. The rub here, of course, is the populism (or, neopopulism) aspect of the equation: to what degree do populist revolts that result in leadership further result in the use of direct democracy? Insofar as direct democracy itself has long been considered a tool of populist movements and ideology, one would expect such a measure to be used. However, the role of populism must be further explored; the left-right continuum does not exclude populism. On the other side of this equation, are measures of direct

democracy more likely to be used in consolidated democracies, and if so, for what purpose, and on what basis? Such a study would require an in-depth case study of various regimes within Latin America, but would be fruitful insofar as the framework applied here discredits the notion that individuals (in a rational choice/microfoundational perspective) are largely responsible for political outcomes, instead favoring institutions and the constraints they present to actors.

The present theoretical application could be expanded in an effort to evaluate questions more commonly associated with referendum politics. Though certainly not inclusive, the cases discussed in the literature review of this dissertation help to support the argument. In cases across Europe, the former Soviet Union, and Latin America, the recurring feature was that the context in which the constitution was created has implications for later usage; just as importantly was the finding political elites were constrained those institutions and were limited in the options they could pursue. Nonetheless, further questions remain. For example, to what degree are referendums, especially complicated referendums in areas of low-educated voters, simply a vote of confidence of the party in power? Moreover, to what degree do the party systems control the use of direct democracy measures and influence outcomes? Are they more or less likely to occur in presidential systems? Are they more likely to occur in areas where “democracy” is considered to be more consolidated? What about the relationship between perceived party efficacy and direct democracy? If the legislature is unable to facilitate the decisions before them, does that make direct democracy more attractive? In other words, what is the relationship between the deliverance of collective goods via the traditional institutions versus the referendum? The other institution that receives limited attention in

the literature are the courts: do executives in either presidential or parliamentary systems seek different outcomes via the referendum if the power of the Courts are considered to be stronger? What about when they are weaker? Politics is politics: there's always a "gun behind a door" with another door and another gun somewhere nearby. Insofar as the theoretical foundations developed here are applicable to any political system (assuming a constitution was drafted at some point, that direct democracy exists in some form, and that political elites are capable of manipulating direct democracy procedures), the inclusion of other cases would help to further our understanding of the relationship between institutions and individuals.

Conclusion

This dissertation is now complete. The study presented here represents small steps in terms of developing an applicable theoretical framework to the complex and unorganized study of direct democracy. The subfield has implications for the discipline, as measures of direct democracy, their usage, frequency, and the role of elites in the process answers questions related to the bigger question of how far a particular state has come in terms of democratic consolidation (a seemingly ubiquitous question in the literature). As was stated in the opening chapter, the benefits of this study included understanding the importance of historical institutionalism (and the degree to which it is compatible with new institutionalism), which has been shown across the cases. In addition, a general purpose of this study was to show the importance of institutions, and how they constrain the role of political elites. Though I have argued here that the role of individuals has been given considerable attention throughout the literature, that is not to say that other scholars have neglected the role of institutions (clearly, this would be

difficult to do!). However, it is to say that, in my opinion, *every* study must consider the role of institutions, and in particular, the context of the time in which it was created. Such an examination (as shown here) may have tremendous power in explaining later outcomes. Certainly, such an approach may defy the parsimony and elegance sought by researchers, but with a clear theoretical approach, such elegance may simply be redefined, rather than replaced.

APPENDIX A: DIRECT DEMOCRACY CASES IN ITALY

Date	Title	Result (%)	Turnout (%)
6/2/1946	Form of Government	54.27	89.1
5/13/1974	Abrogation of divorce law	40.74	87.72
6/12/1978	Abrogation of financial support of the parties by government	43.6	81.2
6/12/1978	Abrogation of legislation on law and public order	23.54	81.2
5/18/1981	Abrogation of life imprisonment	22.6	79.43
5/18/1981	Suspension of the Police Chiefs and Prefects competence to grant firearm licenses	14.1	79.42
5/18/1981	Abrogation of the Law on urgent provisions for the protection of democratic order and public security	14.88	79.38
5/18/1981	Legalizing abortion	11.58	79.41
5/18/1981	Amending the law on abortion	32.00	79.41
6/10/1985	Abrogation of urgent measures for fees fixed prices and living costs	79.71	65.12
11/9/1987	Abrogation of the parliamentary commission for investigations against government members	45.68	77.85
11/9/1987	Abrogation of ENEL contributions to nuclear reactors	32.00	79.43
11/9/1987	Abrogation of civil responsibility of courts for intentional misjudgments	11.58	79.41
11/9/1987	Abrogation of the choice of locations for nuclear reactors by the CIPE government panel	14.88	79.38
11/9/1987	Abrogation of State subsidies for municipalities with coal or nuclear power plants	14.08	79.42

11/9/1987	Assignment of the European Parliament to elaborate a European Constitution	22.63	79.43
6/4/1990	Abrogation of the permission to trespass private property while hunting	49.58	91.52
6/4/1990	Prohibition of the use of pesticides in agriculture	30.2	85.58
6/4/1990	Abrogation of the hunting laws	30.15	74.06
6/4/1990	Abrogation of the four preference votes in parliamentary elections	30.29	71.69
6/10/1991	Abolition of the Treasury's right to appoint the board of directors of public banks	30.15	83.55
4/19/1993	Abrogation of the Ministry for State Investments	30.05	66.85
4/19/1993	Abrogation of proportional representation in the Senate	30.21	80.9
4/19/1993	Abrogation of the Ministry for Tourism and Entertainment	30.04	65.52
4/19/1993	Abrogation of the Ministry of Agriculture and Forestry	57.36	64.68
4/19/1993	Abrogation of communal responsibility for environmental protection	57.22	49.97
4/19/1993	Legalizing the consumption of drugs	57.25	63.68
4/19/1993	Suspension of financial support from the government for political parties	58.07	43.59
4/19/1993	Abrogation of the Prime Minister's powers in matters pertaining to the representation of labor unions	57.24	35.63
6/11/1995	Complete reorganization of the administrative councils	57.27	56.24
6/11/1995	Restricting house arrest for Mafiosi to their proper residence	57.4	49.4
6/11/1995	Abrogation of the right to advertise on more than three channels	57.34	37.4
6/11/1995	Abrogation of municipal powers regarding trade licenses	58.06	43.07
6/11/1995	Abrogation of direct deduction of contributions to labor unions from salaries and pensions	58.12	44.34
6/11/1995	Abrogation of elections in two rounds for municipalities of over 15 000 inhabitants	57.17	62.14
6/11/1995	Abrogation of regional competences regarding shop opening hours	57.38	54.9
6/11/1995	Abrogation of the law limiting the possession of	76.87	89.8

	television channels by private individuals to 3		
6/11/1995	Abrogation of advertising interrupting television programs	76.86	90.11
6/11/1995	Partial reorganization of the administrative councils	77.01	82.74
6/11/1995	Abrogation of the restriction of state concessions to public television stations	76.88	82.28
6/11/1995	Abrogation of the right to additional extra-judicial professions for members of the Judiciary	76.88	70.23
6/15/1997	Ending the Treasury's majority of shares (Golden Share) in privatized businesses	76.85	82.57
6/15/1997	Abrogation of admission restrictions to civilian service	76.98	55.36
6/15/1997	Abrogation of the automatic promotion of civil servants	76.95	90.25
6/15/1997	Abrogation of the Ministry of Agriculture and Fishery	62.5	95.57
6/15/1997	Abrogation of the right to trespass private property when hunting	42.92	92.28
6/15/1997	Abrogation of the Association of Journalists	43.12	93.51
6/15/1997	Abrogation of the election of 25% of the parliament in relation to proportional representation	43.36	92.2
4/18/1999	Abrogation of the permission to trespass private property while hunting	49.58	91.52
5/21/2000	Abrogation of civil servants right to have a second gainful employment	23.49	77.63
5/21/2000	Abrogation of the proportional method of 25% in the attribution of the seats of Parliament	23.52	77.68
5/21/2000	Abrogation of the reimbursement of costs for referendum and electoral campaigns	24.02	87
5/21/2000	Abrogation of automatic salary deduction for trade unions and worker associations	34.1	81.62
5/21/2000	Abrogation of the electoral system concerning the composition of the Consiglio Superiore Della Magistratura	52.46	38.71
5/21/2000	Abrogation of career link possibility between Prosecutor and Judge	25.66	88.03
5/21/2000	Abrogation of the norms restricting protection against unjustified dismissals in enterprises with more than 15 employees	25.66	88.78
10/7/2001	Amendment of Title V second Part of the	25.65	87.73

	Constitution concerning Regionalization		
6/15/2003	Abrogation of the obligation for estate owners to tolerate road rights for circuit lines	25.63	77.38
6/15/2003	Abrogation of the restriction on protection against unjustified dismissals to enterprises with more than 15 employees	25.56	85.55
6/13/2005	Abolition of the restrictions on embryonic research	25.52	86.74
6/13/2005	Abolition of restrictions on embryonic implantation	34.05	64.21
6/13/2005	Abolition of the restrictions on embryonic implantation and of the recognition of the embryo as participant	31.99	75.22
6/13/2005	Abolition of the prohibition of heterologous fertilization	32.44	82.02
6/26/2006	Constitutional reform	32.19	71.06
10/10/2007	Social security reform	32.2	61.82
6/22/2009	Abolition of combined lists for the elections of the House of Representatives	31.86	70.57
6/22/2009	Abolition of combined lists for the elections of the Senate	31.96	69
6/22/2009	Abolition of multiple candidacy for the elections of the House of Representatives	32.51	33.36
6/13/2011	Abolition of the partial privatization of the water supply	95.3	54.82
6/13/2011	Abolition of privatized profits from the water supply	95.8	54.83
6/13/2011	Abolition of the planning and the construction of new nuclear power plants	93.82	54.59
6/13/2011	Abolition of the duty of the holders of top state offices to appear before court	94.62	54.78

APPENDIX B: DIRECT DEMOCRACY CASES IN FRANCE

Date	Title	Result (%)	Turnout (%)
9/28/1958	Adopt New Constitution	85.15	80.48
1/8/1961	Algerian Self-Government	74.99	73.76
4/8/1962	The Evian Treaties	90.81	75.34
10/28/1962	Direct election of the president	62.25	76.97
4/27/1969	Regional Reforms and Reforms of the Senate	47.6	80.13
4/23/1972	Enlargement of the European Community	68.32	60.24
11/6/1988	Self-determination for New Caledonia	80.00	36.89
9/24/2000	Reduction in presidential term of office	73.21	30.19
5/29/2005	Adoption of the European Constitution	45.33	69.37

APPENDIX C: DIRECT DEMOCRACY CASES IN URUGUAY

Date	Title	Result (%)	Turnout (%)
4/19/1934	New Constitution	96%	NA
3/27/1938	Constitutional Reform	52.47	NA
3/27/1938	Constitutional Reform	93.45	NA
11/29/1942	New Constitution	77.17	NA
11/24/1946	Constitutional Reform	43.15	67.43
12/16/1951	Constitution	54.00	NA
11/30/1958	Constitutional Reform	76.00	72.38
11/30/1980	New Constitution	41.8	86.87
12/13/1992	Abolition of Law on Public Enterprises	66.6	82.80
8/28/1998	Electoral Reform	28.41	86.24
12/8/1996	Electoral Reform	50.45	85.90
10/31/1999	Financial Autonomy to Judiciary	43.09	91.78
10/31/2004	No privatization of water supply	64.61	89.62
10/25/2009	Voting Rights for Citizens Abroad	37.42	89.91
10/25/2009	Amnesty Provisions	47.98	89.91

APPENDIX D: DIRECT DEMOCRACY CASES IN VENEZUELA

Date	Title	Result (%)	Turnout (%)
12/15/1999	Mandatory Constitutional Referendum	71.78	44.05
04/25/1999	Approval of the presidential decree concerning the convening of the constitutional convention	86.5	37.37
04/25/1999	Convening a Constitutional Convention	92.36	37.47
12/03/2000	Suspension of Trade Union Leadership for 180 Days (consultative)	69.4	23.5
08/15/2004	Recall by the people	40.75	69.97
12/02/2007	Constitutional Reform (Block A)	48.99	56.16
12/02/2007	Constitutional Reform (Block B)	49.35	56.16
02/15/2009	Unlimited reelection of the president	54.87	NA

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VITA

Graduate College
University of Nevada, Las Vegas

Donald D. Mirjanian

Degrees:

Bachelor of Arts, Political Science, 2006
University of Nevada, Las Vegas

Master of Arts, Political Science, 2008
University of Nevada, Las Vegas

Dissertation Title: Comparative Direct Democracy: A Study of Institutions and
Individuals

Dissertation Examination Committee:

Chairperson, John Tuman, Ph. D.
Committee Member, David Damore, Ph. D.
Committee Member, Michelle Kuenzi, Ph. D.
Graduate Faculty Representative, Tom Wright, Ph. D.