

URUGUAY

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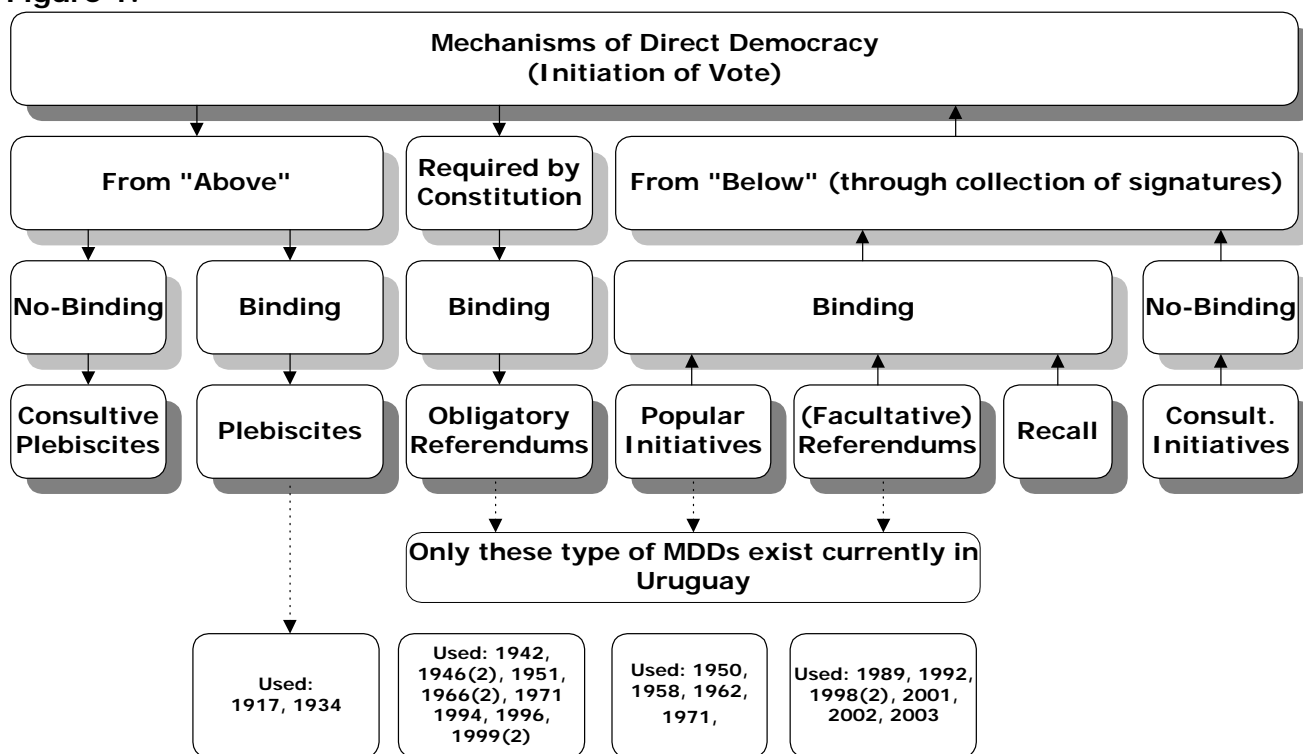
Uruguay is one of the most prodigious users of mechanism of direct democracy in the world and it provides a rich milieu to test many hypotheses advanced by a literature that principally comes from the "north," and very especially from Switzerland (the world champion of direct democracy) and from the United States, where direct democracy is frequently used at the state level. This literature tends to suggest that economic interests or social groups could easily utilize direct democracy for their own particular benefit, making it, in the end, harmful to representative democracy. Nonetheless, this study will show that, at least for the Uruguayan case, this argument does not hold equally and consistently for all cases. Mechanisms of direct democracy in Uruguay do not undermine representative democracy because their passage depends largely on the mobilization efforts of organized partisan groups operating outside the conventional legislative arena. In this small country, unlike other cases, the central actors working for the approval of mechanisms of direct democracy are political parties' fractions, the basic institutions of electoral, legislative, and political representation. Therefore, an overall normative evaluation of mechanisms of direct democracy as either inherently *good* or *bad* for representative democracy must take into account the very different institutional contexts in which these mechanisms are utilized, as well as the strength of the political actors involved.

Historical and legal context

Uruguay is the Latin American country that lived for the longest time under democratic governments (Smith 2004). This single fact seems strong enough to make it remarkable. By almost any criteria, the country has been an institutionalized liberal democracy for a significant part of the 20th century, with political conflict and change following institutionalized and democratic procedures. However, in spite of being the Latin American country with more years of democratic experience since the turn of the 20th century, no constitutional regime in Uruguay has survived more than 18 years without suffering significant changes. In particular, the country has seen continuous turnover regarding electoral rules and the structure of the executive branch (for example: semi-collegiate, "pure" collegiate, "classic" presidentialism, etc.). Nonetheless, despite this institutional volatility, some practices excel for enduring longer than others, even to the point of transforming themselves in a tradition. Among these, an institutionalized said for citizens in regard any mayor institutional and constitutional change (first in the form of obligatory referendums, then in the form of popular initiatives, and finally in the form of facultative referendums). As a matter of fact, Uruguay is one of the most prodigious users of mechanism of direct democracy in the world (Altman 1995; 2002; 2005).

It is possible to trace direct democracy in Uruguay since the constitutional discussions of the mid-teens of the twentieth century. Although the constitutional plebiscite was included in the constitution of 1934, along with popular initiatives, it was utilized already in 1917 in order to decide if the president could be reelected, the shape a potential National Council of Administration would have (semi-collegiate); the universal male vote; the separation of Church and State, and other points. Since 1934, obligatory referendums (also known as "constitutional plebiscites") and popular initiatives were utilized in several times but it was not until the constitution of 1967 when referendums were included in the chart (through an obligatory referendum, of course). Figure 1 shows a typology of mechanisms of direct democracy (and those that exist in Uruguay) and when they were used in Uruguay.

Figure 1:



It is not a coincidence that direct democracy arrived to Uruguay earlier than in most countries of the world. José Batlle y Ordóñez, a Colorado, assumed the Executive in 1903; the legacies of his two administrations (1903-1907; 1911-1915) remain strong. Batlle’s “project” represented the most radical challenge to the status quo presented by any Latin American reformer during or since this period. His two administrations ushered in a three-decade-long cycle of reform, the societal manifestations of which included modernity, democracy and an indelible link between the state and *batllismo*. Batlle’s first presidency focused largely on processes of state building and of institutionalizing democratic norms and it was during his second presidency the nation’s welfare state took its form and content. The strategy of batllismo was incorporating broad sectors of society (from workers to immigrants) without confronting the classic oligarchy and without adopting a conservative order (Lissidini 1998: 173).¹

During those years, several members of the Uruguayan political elite, starting from Batlle himself, were strongly influenced by the liberal thoughts coming from France and Switzerland. Batlle recognize this influence:

While my candidacy held fast, I was visiting France and Switzerland where I studied close the thousand aspects of their democratic political life, and compared the political

¹ Thus Uruguay, along with Costa Rica and Chile, followed the Marshallian sequence of civil-political-social rights (Marshall 1992). O’Donnell’s argue that “Uruguay, on its part, with its very early welfare state, achieved social and political rights almost simultaneously. One way or the other, the pattern in these three countries is similar to those in the Northwest in the sense that, especially in the urban sectors, there existed a reasonably high degree of implantation of civil rights previously to the achievement of social and political ones (O’Donnell 2001: 603).

forms of the European States with the archaic and very old Constitution of my country. I remembered that by our Constitution of 1830, we were constantly exposed to the bad luck of having a president of dubious intentions and with the sum of the really extraordinary faculties that our Constitution grants to him. That this person was free to take everything, to devastate the institutions and to sink the country in the most dark of the dictatorships (Batlle in Nahum 1994: 63).

Despite that one of the most contentious reforms championed by Batlle was the creation of a collegiate executive based on the Swiss experience—whose basic rationales underlying the logic of this change stemmed from the notion that the office of the presidency remained susceptible to the whims of individuals and exigencies of specific political situations—there was an inter-party consensus that elections, rather than civil wars, were the tool of political power by excellence. Moreover, the first signs of mechanisms of direct democracy could be traced to these constitutional discussions and evidently had their seed on the very idea that sovereignty lies on the nation, the nation lies on each and every citizen of the country. For the reforms of 1917, Batlle championed the plebiscite as a measure in defense of freedom and against caprices of the state and public officials:

“No podrán entonces los poderes públicos confabulados, o una asamblea nacional descarriada, extender legalmente sus propias facultades, o desnaturalizarlas, ni destruir ni eliminar las libertades que vamos a crear, a título de interpretaciones constitucionales de simples leyes, a las que sería forzoso dar cumplimiento so pena de colocarlas fuera de las instituciones mismas que se querría defender. El plebiscito segará de raíz la posibilidad de esta clase de atentados...” (*De un discurso de Batlle en la Convención, El Día*, 30 de mayo de 1916)(Quoted by Lissidini 1998: 179-180).

Despite the deep convictions of Batlle noted above, it is notorious that there were also short-term partisan and political interests for advancing with direct democracy. In case the legislature was adverse to some reforms (such as the collegiate) mechanisms of direct democracy would offer the opportunity to transfer the political stalemate to a third arena: the arena of the citizenry. Several books could be written analyzing the process of Constitutional reforms of 1917. Nonetheless, for our interest it is enough to point out that after all, no mechanism of direct democracy was incorporated in this chart (despite being approved through a plebiscite legitimized by an ad-hoc law of February of 1912). It is only in 1934 that, through a plebiscite based on a presidential decree—issued a year before during Terra’s dictatorship—a new Constitution was approved and this time obligatory referendums and popular initiatives (only for constitutional matters) were included in the Chart.

The constitution of 1934 (Art.284) spelled out several ways in which it could be reformed. Among those, states that it may be reformed, totally or partially, according to the following procedures: (A) when a petition with the signatures of 20% of the citizens is presented to the President of the General Assembly, the petition’s constitutional revisions must be submitted to popular decision in the next national (regular) elections. In a joint session by both houses, the General Assembly, can formulate alternative measures to be submitted to a popular vote, along with the original popular initiative; (B) when constitutional revisions supported by two-

fifths of the members of the General Assembly are submitted to its president, the revisions are subject to a popular vote during the next election. In addition to points (A) and (B), to make the constitutional revisions binding an absolute majority of the citizens voting must cast a "yes" ballot in the elections. If such number of votes is obtained, the reform is approved. (C) The Constitution might also be reformed by those Constitutional Laws that require for their approval two-thirds of the General Assembly. These laws do not need promulgation by the Executive, and will be binding immediately after they are sanctioned by the General Assembly. Nonetheless, these laws will be subject of popular approval in the first election that is made after their sanction, and their final approval is contingent to a support of the majority of the citizenry. When these Constitutional Laws are about the election of elective positions, citizens will vote simultaneously for those positions by the proposed system and the previous one, and the final results will depend on the popular decision.

A new Constitution was approved on 1942 and for our purposes two mayor changes were done in regard mechanisms of direct democracy (See Art.281 in the Annex). First, the required percentage for triggering a petition was lowered to 10% (instead of 20%) and second, it incorporated a required quorum for approving constitutional reforms either by a plebiscite or a popular initiative. In other words, to make the constitutional revisions binding an absolute majority of the citizens voting must cast a "yes" ballot in the elections, and must represent at least the 35% of the total inscribed in the National Civic Register.²

Nonetheless, Uruguayan maturity with direct democracy comes with the approval of the Constitution of 1967. In this chart devices of direct democracy are categorized as referendums, initiatives (Art. 304), or revocation of laws (Art. 79, part .2). The 1967 constitution also refers to the use of referendums in Articles 79 and 331. Article 331 is a modified version of previous articles 284 and 281 and does not present significant changes. According to Art 79, 25% of the electorate may employ the referendum mechanism against laws, within a year of their promulgation, passed by the legislature. The referendum may not, though, be used to revise or repeal laws that establish taxes or any legislation that falls within the "exclusive initiative" of the Executive power.³

However, complications arose when the National Commission Pro-Referendum presented to the Electoral Court on December 17, 1987 634,792 signatures to derogate Law 15848 on Amnesty for those involved in human rights violators during the military dictatorship (1973-1985). At that point, the electoral authority realized that the constitutional right of holding a referendum was never regulated (Cortés 1989). On January 4, 1989, the Court establishes

² Strictly speaking, the Constitution could be reformed with the support of 17.5%+1 of citizens (50%+1 of the 35% of the National Civic Register).

³ Law 16.017 (A) Las leyes constitucionales (literal D) del artículo 331 de la Constitución; (B) Las leyes cuya iniciativa, por razón de materia, es exclusiva del Poder Ejecutivo (artículos 86 in fine, 133 y 214 de la Constitución); (C) Las leyes que establezcan tributos, entendiéndose por tales los impuestos, las tasas y las contribuciones especiales (artículos 11, 12 y 13 del Código Tributario). Unlike in other countries, for example Ecuador and France, the Uruguayan president cannot call for a plebiscite or referendum.

the date for a referendum for April 16 1989. Nonetheless, the electoral authority claimed that it lacked suitable means for verifying the signatures of such amount of citizens and, consequently, through Law 16.017 of January 13, 1989, a new mechanism was created to solve this problem.⁴ It consisted of the following: (a) 0.5% of the citizens qualified to vote can present legislation to the Electoral Court, i.e. more than 12,000 signatures (Art. 30); (b) Then, *two* calls were made. One is made during the period between sixty and ninety days after the signatures were validated; and the other was made in the year in which the law was being promulgated; and (c) reached in one of the two calls the concurrence and the affirmative vote of 25% of citizens, a referendum was to be held within following the 120 days (Art. 37).

This device, of two pre-referendum calls, was a highly exceptional and expensive method for deciding whether or not a referendum was to be held. Only 5 out of 1000 citizens, a number that is far below the votes needed to win parliamentary representation, are required to trigger a mechanism that entails at least, two non-working voting days and a huge amount of government expense. In plain English, Uruguayans voted twice in order to decide whether to vote or not!! Evidently, this way of deciding to have a referendum was pretty controversial. As a matter of fact, the legislature modified this law on July 30, 2000 with Law 17.244. In it, the legislature changed the required signatures to trigger a pre-referendum to 2% of the registered voters (instead of 0.5%) within 150 days (instead of a year) from the promulgation of the law in consideration. If the pre- referendum obtains more than 25% of the registered voters, a referendum must be held during the next 120 days (Art.37).⁵

Table 1 spells out all instances of mechanisms of direct democracy (at the national level) that arrived to the ballot-box since 1917.

⁴ <http://www.parlamento.gub.uy/leyes/ley16017.htm>

⁵ <http://www.parlamento.gub.uy/Leyes/Ley17244.htm>

Table 1: Use of Mechanisms of Direct Democracy in Uruguay (1917-1973)

MDD Type	Date	Procedure Type	Origin	% Yes	Accepted	Issue	Registered voters	Turnout
1. Obligatory referendum	Nov. 25, 1917	Ad-hoc law of Feb.1912	LEG	38.11%	Yes	Regimen Colegiado, Separation Church and State	223,020	40.05%
2. Plebiscite	Apr. 19, 1934	Ad-hoc presidential decree	LEG	52.53%	Yes	Re-Establishment of presidentialism, incorporation of constitutional plebiscites, change of representation at the Senate	422,865	54.93%
3. Obligatory referendum	Mar. 27, 1938	Art. 284 (C)	EXE	93.45%	Yes	President elected through DSV, re-organization of the senate.	636,171	
4. Obligatory referendum		Art. 284 (B)	LEG	52.47%	Yes	Unique presidential candidate per Lema; and reorganization of the local administration.	636,171	56.15%
5. Obligatory referendum	Nov. 29, 1942	Art. 284 (B)	LEG	51.64%	Yes	Change to proportional representation	858,713	66.91%
6. Plebiscite	Nov. 24, 1946	Art. 281 (B)	LEG	25.39%	No	Election of President and Vice without a <i>lema</i>	993,892	25.39%
7. Plebiscite		Art. 281 (B)	EXE	29.09%	No	Conformation of State Council	993,892	29.09%
8. Pop. Ini.	Nov. 26, 1950	Art. 281 (A)	OPP	0.18%	No	Several modifications	1,168,206	70.92%
9. Obligatory referendum	Dec. 16, 1951	Art. 281 (D)	LEG	20.02%	Yes	Reestablishment of colegiado regime	1,158,939	37.08%
10. Plebiscite (Counter-proposal)	Nov. 30, 1958	Art. 331 (B)	LEG	16.74%	No	Back to president elected without lema	1,409,372	60.57%
11. Pop. Ini.		Art. 331 (A)	OPP	10.90%	No	Back to president elected with a DSV	1,409,372	54.74%
12. Pop. Ini.	Nov. 25, 1962	Art. 331 (B)	OPP	12.81%	No	Back to presidentialism	1,526,868	76.69%
13. Plebiscite (Counter-proposal)	Nov. 27, 1966	Art. 331 (B)	LEG	47.51%	Yes	"Orange" - Regimen de Gobierno	1,656,332	47.51%
14. Pop. Ini.		Art. 331 (A)	OPP	4.92%	No	"Yellow" - Regimen de Gobierno	1,656,332	4.92%
15. Plebiscite (Counter-proposal)		Art. 331 (B)	EXE	9.75%	No	"Gray" - Regimen de Gobierno	1,656,332	9.75%
16. Pop. Ini.		Art. 331 (A)	OPP	0.06%	No	"Pink" - Regimen de Gobierno	1,656,332	0.06%
17. Plebiscite	Nov. 28, 1971	Art. 331 (B)	EXE	26.21%	No	President's reelection	1,875,660	26.21%
18. Pop. Ini.	Nov. 28, 1971	Art. 331 (A)	OPP	0.10%	No	Interpellation of the president	1,875,660	0.10%
19. Plebiscite	Nov. 30, 1980	..	EXE	42.09%	No	Constitution	1,944,951	78.65%

Table 2: Use of Mechanisms of Direct Democracy in Uruguay since 1985

MDD Type	Date	Procedure Type	Origin	% Yes	Accepted	Issue	Registered voters	Turnout
20. Referendum	Apr. 16, 1989	Art. 79	OPP	42.47%	No	Amnesty law	2,283,597	82.39%
21. Pop. Ini.	Nov. 26, 1989	Art. 331 (A)	OPP	72.51%	Yes	Adjustment of pensions to inflation	2,319,022	72.51%
22. Referendum	Dec. 13, 1992	Art. 79	OPP	79.11%	Yes	Partial withdrawal of the privatization law	2,345,077	79.11%
23. Plebiscite	Aug. 18, 1994	Art. 331 (C)	LEG	31.38%	No	Constitutional reforms	2,278,375	78.95%
24. Pop. Ini.	Nov. 27, 1994	Art. 331 (A)	OPP	54.42%	Yes	Stopping "hidden cuts" in pensions	2,328,468	54.43%
25. Pop. Ini.	Nov. 27, 1994	Art. 331 (A)	OPP	28.59%	No	27% of the budget for education	2,328,468	28.59%
26. Plebiscite	Dec. 8, 1996	Art. 331 (D)	LEG	50.45%	Yes	Constitutional reforms	2,343,920	83.03%
27. Referendum	Jun. 17, 1998	Art. 79	OPP	22.40%	No	Opposing the Law of Energy Framework	2,385,065	22.08%
28. Referendum	Sep. 20, 1998	Art. 79	OPP	4.72%	No	Time available to workers to make claims against employers	2,379,543	4.64%
29. Plebiscite	Oct. 31, 1999	Art. 331 (B)	LEG	37.71%	No	Limitation to executives of public services in running for office	2,402,160	92.34%
30. Plebiscite	Oct. 31, 1999	Art. 331 (B)	LEG	42.36%	No	Financial autonomy for Courts	2,402,160	92.34%
31. Referendum	Feb. 18, 2001	Art. 79	OPP	20.66%	No	Derogation of 13 articles of Law XX.XXX (Ley de Urgencia)	2,394,219	20.66%
32. Referendum	Aug. 5, 2002	Art. 79	OPP	n.a.	Yes	Derogation of Articles 612 & 613 of Law 17.296 (ANCEL S.A.)	2,394,219	
33. Pop. Ini.	Oct. 31, 2004	Art. 331 (A)	OPP	63.00%	Yes	Inclusion of Water as a Basic Human Right in the Constitution	2,488,004	90.00%
34. Referendum	Dec. 7, 2003	Art. 79	OPP	62.21%	Yes	Derogation of Law 17.448 (ANCAP)	2,466,680	76.45%

Sources: Author's database, (Gros Espiell 2002), (Lissidini 1998), C2D Database

Actor strategies and the political process

Unlike other cases of the world where direct democracy derived at least partially from citizens' demands for democratizing the political game, or as a "natural" consequence of the introduction of TICs,⁶ in Uruguay direct democracy—in its different aspects—comes from an almost natural extension of the electoral game played by political parties. As a matter of fact, it is impossible to understand the direct democratic game in this country without paying attention to the pivotal role parties have had played in Uruguay.⁷ Direct democratic mechanisms serve also as instruments of legitimization of agreements among parties and party-fractions.⁸

It would take much more than this chapter to analyze each mechanism of direct democracy in Uruguay. Nonetheless, I consider important to describe at least some of the last measures approved or rejected by Uruguayan citizens. The first successful referendum in Uruguayan history—Referendum against articles 1, 2, 3, 10, and 32 of Law 16.211 that promoted the Privatization of State-Publicly Owned Companies (December 13, 1992)—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* in the region. On November 27, 1989, Luis Alberto Lacalle (Blanco Party) won the presidency. Lacalle's electoral campaign was centered on promoting economic growth, stability, and deregulation of important areas of the huge Uruguayan state. After the legislative approval of a controversial privatization law in September 1991, the opposition had managed to force a referendum on the issue. Early in 1992, the labor union of the National Telecommunication Company (ANTEL) triggered a campaign to revoke the law. The Frente Amplio and two groups of the traditional parties immediately supported the campaign.

During the first pre-referendum call on July 5 less than 19% supported the measure and it was in the second attempt that the pro-referendum commission gathered more than the required 25% of signatures (32%) on October 1st. By this time, other groups already were supporting the measure. The Corte Electoral officially called the referendum for December 13 1992 and President Luis Alberto Lacalle Herrera suffered a severe setback to his privatization program, a central component of his free-market economic policy, when five laws providing for the sale of public companies were overwhelmingly rejected by 79% of the citizenry. This situation was

⁶ Despite being one of the most E-Ready countries in Latin America and currently one of the largest producers of software in the Western Hemisphere, so far TICs and MDDs do not seem to be empirically related in Uruguay's context.

⁷ In regard to the Uruguayan partyocracy see (Caetano, Rilla, and Pérez 1987)

⁸ An important part of political identities is directed toward *fraction* rather than political parties. (Altman 2000: ft7 at p.278-279). Even though it is relatively common for political parties to be internally divided into fractions and sometime factions, the peculiarity of the Uruguayan case is that these party fractions show great political visibility, to the point that in many cases they have been considered as real parties inside parties (Lindahl 1977).⁸ Nevertheless, Uruguayan parties are still parties, as many scholars have argued (González 1993; Mieres 1992), and they are thus best described as "fractionalized parties" (Buquet, Chasquetti, and Moraes 1998).

extremely similar to the referendum of 2003 that successfully revoked Law 17.448 (of January 4, 2002), that eliminated the monopoly of the public owned-company ANCAP, on the importation, exportation and refinement of oil.⁹

Popular initiatives are, by definition, the proactive tool per excellence in the hands of citizens and therefore, they allow changing the status quo. Paradoxically, in the opportunities analyzed here, popular initiatives were held to maintain the status quo (Altman 2006). Interestingly enough, both popular initiatives underwent the way of constitutional reforms because the organizers could not legally promote a referendum. Uruguayans cannot call for a referendum on issues defined within the exclusive domain of the executive power (such as taxation, budget, and the like). Therefore, these popular initiatives were the backdoor for bypassing the former institutional constrain; otherwise, they would have been classic referendums. Note also that the “price” in terms of signatures is cheaper for a constitutional reform (10%) than for a referendum (25%).

On November 27, 1994, the popular initiative on Social Security attempted to partially revoke the social security system reform, approved by the parliament through the Accountability Law of October 1992 (*rendición de cuentas*). With the law of 1992, pensions were adjusted periodically, without taking into account the variation of the cost of living, which was rapidly rising. The promoters, the extremely powerful “gray coalition”, successfully included in the Constitution that pensions must be adjusted based on cost of living. Before this popular initiative, the number of undecided voters was rather large. However, public opinion polls foresaw a majority in favor of the consultation. What appeared to be unusual in this initiative was the clear internal division of the traditional parties.

Attention must also be paid to the only successful case I have recorded of referendum threat, which took place in 2002. On February 21 of 2001, Congress approved Law 17.296, in which articles 612 & 613 opened the door for the creation of ANTEL S.A. in the realm of cellular telephony (ANTEL still is 100% a publicly-owned company—because of the 1992 referendum). Eventually ANTEL S.A. would have a ceiling of 40% of its actions in the hands of privates and the State would retain 60% of the control of the new company. Again, the union of ANTEL (SUNATEL) successfully gathered more than the 25% of signatures of the Registro Cívico Nacional (approximately 684.000) and these were presented on February 19, 2002, to the Corte Electoral. On March 2002, public opinion polls indicated that more than 70% of the electorate would be willing to vote in favor of the referendum, 20% against, and there were around 10% undecided. The fate of the referendum appeared as clear as in 1992. Before the referendum was called by the Corte Electoral, the government through its Finance Minister, Alejandro

⁹ See law at: <http://www.parlamento.gub.uy/Leyes/Ley17448.htm>

Atchugarry, sent on May 2002 a bill to Congress withdrawing articles 612 & 613 of Law 17.296 in order to deactivate the referendum. Congress approved the bill and the referendum was not called.

At the beginning of 1989, electoral year, the issue of social security occupied a critical place on the electoral agenda. "ONAJPU" (National Organization of Pensioners), with the support of the Frente Amplio and the all Labor movement (PIT-CNT), started to collect signatures towards a constitutional reform with the aim to include a specific measure that stated that the pensions have to follow the national salary index average. A Constitutional reform was the only way in which ONAJPU could bypass a budget-related law, which is the sole prerogative of the executive. ONAJPU claimed that the Sanguinetti administration had failed to adequately adjust pensions due to his wish to reduce fiscal deficit (Castiglioni 2005).¹⁰ This initiative, beyond the control of political parties, became a relevant issue since it achieved much more than the 10% of required signatures. The pensioners' movement asked for a clear definition of the support or not of each political group. Taking into account that pensioners were a significant portion of the electorate, almost every political group supported the initiative (even though this consideration was in clear contradiction with their ideological profile). The Batllismo (Partido Colorado) was the only numerically relevant group that did not support the initiative; however, other small groups (MAS Batllista in the Partido Colorado, and the MPP in the Frente Amplio) also took the same position. The result of this initiative was conclusive. Almost 85% of the electorate supported it, implying an imposition of the civil society over the political system, because the initiative and action were external of the traditional channels of public matters procedures (political parties). In a popular initiative, concurrent with the presidential and legislative elections of 1989, 1,645,000 voted for the introduction of a clause into the constitution allowing for the future indexation of all pensions to current rates of salary increases.

This situation resembled what happened with the promoters of the constitutional reform that aimed to include drinkable water as a basic human right and to maintain all resources of water extraction, production, and commercialization in the hands of the State in 2004. In both popular initiatives, the causal configuration was identical. In 2004, concurrently with legislative and executive elections, Uruguayans voted on a constitutional reform following a popular initiative instigated by workers of the state-owned Water Company (OSE) together with the Inter-Union Workers Plenary-National Workers Convention (PIT-CNT), the Uruguayan labor federation. Enjoying the support of the EP-FA-NM and half of the Blanco fractions, the reform was approved by 64.59% of the valid vote. Uruguayans, again, showed their confidence in the state as a provider of public services, as they did in a 1992 national referendum that prohibited privatization of the largest state-owned companies.

Effects and evaluation of direct democracy

Because political parties have incentives to take positions on the issues at stake in popular initiatives, these cases offer the scholar interesting insights into the citizen-party linkage. For obvious reasons, congressmen should not be indifferent to mechanisms of direct democracy. As shown previously, these institutional arrangements have deviated political outcomes from their original course elected in the assembly and if we claim that legislators are rational maximizers of power, one could assert that mechanisms of direct democracy, especially those "from below," undermine the power of elected officials and in consequence representatives should be, at least, suspicious of them.

In order to test this, I studied legislator's perceptions and opinions of mechanisms of direct democracy in Uruguay. I conducted interviews with Uruguayan legislators taking into consideration the party affiliation of each representative, hypothesizing that those legislators from the left or those more liberal on social issues would be more supportive for mechanisms of direct democracy. During the months of June and July 1997, I interviewed 91 out of 99 Uruguayan representatives.

Surprisingly, representatives in general do not have negative attitudes towards mechanisms of direct democracy. On the contrary, more than half of representatives consider MDDs from below mechanisms that strengthen representative democracy (Question 1, see below) and agree in that there is no risk of a tyranny of the majority over the minority (Q2) (as an argument put forward by many detractors of direct democracy).¹¹ Not only do more than 60% of representatives deny the idea that MDDs from below weaken the power of congressmen (Q3), 70% of representatives consider that the presence of a potential referendum is a sufficient reason to look for a broad consensus within the political parties (Q4).

Question (1): *What impact do popular initiatives have on representative democracy?* (% and n)

Party	Strengthen	No affect	Erode	NS/NC	Total
Colorado	34.5 (10)	37.9 (11)	20.7 (6)	6.9 (2)	100 (29)
Blanco	46.4 (13)	21.4 (6)	25.0 (7)	7.1 (2)	100 (28)
FA	77.8 (21)	18.5 (5)		3.7 (1)	100 (27)
NE	40.0 (2)		60.0 (3)		100 (5)
Total	51.7 (46)	24.7 (22)	18.0 (16)	5.6 (5)	100 (89)

Question (2) *"There is a risk of a tyranny of the majority over the minority"* (% and n)

Party	Totally agree	Moderately agree	Neutral	Moderately disagree	Totally disagree	NS/NC	Total
Colorado	6.9 (2)	13.8 (4)	10.3 (3)	20.7 (6)	48.3 (14)		100 (29)
Blanco	10.7 (3)	25.0 (7)	10.7 (3)	25.0 (7)	28.6 (8)		100 (28)
FA	13.8 (4)	6.9 (2)	13.8 (4)	20.7 (6)	41.4 (12)	3.4 (1)	100 (29)
NE			40.0 (2)	60.0 (3)			100 (5)
Total	9.9 (9)	14.3 (13)	13.2 (12)	24.2 (22)	37.4 (34)		100 (91)

¹⁰ See also Moreira (2004)

¹¹ See Gamble (1997).

Question (3) *Do you think that popular initiatives and referendums weaken the power of congressmen elected by the citizenry?*

Party	Totally agree	Moderately agree	Neutral	Moderately disagree	Totally disagree	NS/NC	Total
Colorado	20.7 (6)	10.3 (3)	13.8 (4)	17.2 (5)	37.9 (11)		100 (29)
Blanco	10.7 (3)	7.1 (2)	28.6 (8)	32.1 (9)	17.9 (5)	3.6 (1)	100 (28)
FA		6.9 (2)	17.2 (5)	27.6 (8)	48.3 (14)		100 (29)
NE		20.0 (1)		40.0 (2)	40.0 (2)		100 (5)
Total	9.9 (9)	8.8 (8)	18.7 (17)	26.4 (24)	35.2 (32)	1.1 (1)	100 (91)

Question (4) *Is the presence of a potential referendum a sufficient reason to look for a broader consensus among political parties? (% and n)*

Party	Totally agree	Moderately agree	Moderately disagree	Totally disagree	NS/NC	Total
Colorado	17.2 (5)	51.7 (15)	13.8 (4)	10.3 (3)	6.9 (2)	100 (29)
Blanco	32.1 (9)	46.4 (13)	17.9 (5)	3.6 (1)		100 (28)
FA	13.8 (4)	55.2 (16)	31.0 (9)			100 (29)
NE	20.0 (1)	20.0 (1)	40.0 (2)	20.0 (1)		100 (5)
Total	20.9 (19)	49.5 (45)	22.0 (20)	5.5 (5)	2.2 (2)	100 (91)

Even so, the general support for mechanisms of direct democracy shown by representatives is not bluntly blind. In general terms, deputies recognized that mechanisms of direct democracy are not applicable to every political situation. More than 70% oppose the idea that *all* issues at stake can be contemplated by popular initiatives and thus, avoid the institutional intermediation (Q5).

Question (5) *"All issues at stake can be contemplated by popular initiatives and thus, avoid the institutional intermediation" (% and n)*

Party	Totally agree	Moderately agree	Neutral	Moderately disagree	Totally disagree	NS/NC	Total
Colorado	10.3 (3)	6.9 (2)	6.9 (2)	10.3 (3)	65.5 (19)		100 (29)
Blanco	3.6 (1)	14.3 (4)	25.0 (7)	10.7 (3)	46.4 (13)		100 (28)
FA	3.4 (1)	6.9 (2)	13.8 (4)	31.0 (9)	41.4 (12)	3.4 (1)	100 (29)
NE		20.0 (1)		60.0 (3)	20.0 (1)		100 (5)
Total	5.5 (5)	9.9 (9)	14.3 (13)	19.8(18)	49.5 (45)		100 (91)

Interesting enough, almost half of the representatives were highly suspicious of the capacities of citizens to effectively weigh decisions using mechanisms of direct democracy (Q6), albeit at the same time they recognized that mechanisms of direct democracy combat citizen alienation and apathy (Q7). What is more, a broad majority believes that through mechanisms of direct democracy civic virtues are developed (Q8).

Question (6) *"The common citizen lacks sufficient elements in order to decide on highly complex issues" (% and n)*

Party	Totally agree	Moderately agree	Neutral	Moderately disagree	Totally disagree	NS/NC	Total
Colorado	41.4 (12)	20.7 (6)	3.4 (1)	6.9 (2)	27.6 (8)		100 (29)
Blanco	50.0 (14)	17.9 (5)	14.3 (4)	10.7 (3)	7.1 (2)		100 (28)
FA	13.8 (4)	17.2 (5)	10.3 (3)	27.6 (8)	31.0 (9)		100 (29)
NE	20.0 (1)	20.0 (1)	20.0 (1)	40.0 (2)			100 (5)
Total	34.1 (31)	18.5 (17)	9.9 (9)	16.5 (15)	20.9 (19)		100 (91)

Question (7) *Do you think that popular initiatives combat apathy? (% and n)*

Party	Totally agree	Moderately agree	Neutral	Moderately disagree	Totally disagree	NS/NC	Total
Colorado	20.7 (6)	44.8 (13)	10.3 (3)	17.2 (5)	6.9 (2)		100 (29)
Blanco	7.1 (2)	21.4 (6)	21.4 (6)	25.0 (7)	21.4 (6)	3.6 (1)	100 (28)
FA	24.1 (7)	51.7 (15)	6.9 (2)	3.4 (1)	13.8 (4)		100 (29)
NE	20.0 (1)	40.0 (2)	20.0 (1)	20.0 (1)			100 (5)
Total	17.6 (16)	39.6 (36)	13.2 (12)	15.4 (14)	13.2 (12)	1.1 (1)	100 (91)

Question (8) *Do you think that through popular initiatives civic virtues are developed? (% and n)*

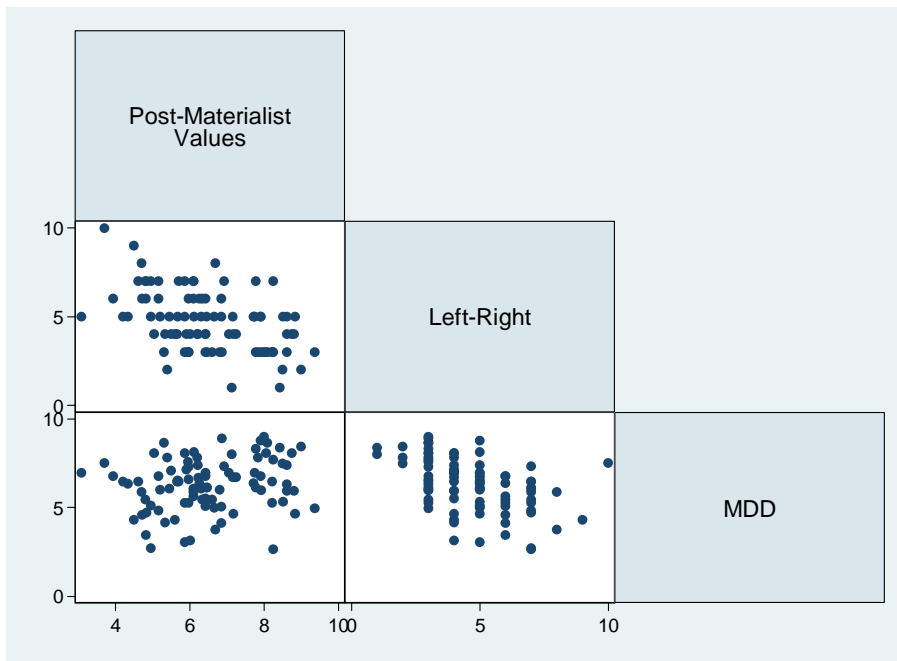
Party	Totally agree	Moderately agree	Neutral	Moderately disagree	Totally disagree	NS/NC	Total
Colorado	27.6 (8)	48.3 (14)	10.3 (3)	10.3 (3)		3.4 (1)	100 (29)
Blanco	25.0 (7)	39.3 (11)	21.4 (6)	10.7 (3)	3.6 (1)		100 (28)
FA	48.3 (14)	37.9 (11)	3.4 (1)	6.9 (2)		3.4 (1)	100 (29)
NE	40.0 (2)			40.0 (2)	20.0 (1)		100 (5)
Total	34.1 (31)	39.6 (36)	11.0 (10)	11.0 (10)	2.2 (2)	2.2 (2)	100 (91)

It also deserves few words the relationship between legislators' opinions regarding mechanisms of direct democracy and their party affiliation. Moreover, is it remarkable also the relationship of their postures in regard MDD and their relationship with their post-material values developed by Altman (2001). For this reason, we developed a battery of elements that allowed me to create a direct democracy index. The index was built based on ten questions and a score within a scale of 1-10 was given to each answer. We calculated the average and standard deviation of each party, 10 representing the strongest sympathizer of direct democracy and 1 the strongest opponent of it. Perhaps the most interesting aspect of my findings is that the direct-democracy index is positively associated with the left-right one but there is no association with the index on post-material values (see Table 3), a relationship that is clearly expressed in the matrix scatter plots below. It seems that direct democracy does not belong to the "package" of postmaterialist values.

Table 3: Bivariate Correlations among Indices

Post-material	Post-material		Direct democracy
	1	Left-Right	
Left-Right	-,474(**)	1	
Direct democracy	,200	-,475(**)	1

** Correlation is significant at the 0.01 level (2-tailed).



How can the overall sympathy Uruguayan legislators' show towards direct democracy be explained? My answer is simple: it is a matter of political legitimization. As previously stated, direct democracy could not have been analyzed only taking into account those initiatives that reach the ballot-box; sometimes the simple *threat* of activating and using a popular initiative or a referendum must be seriously taken into account. In a way, the Uruguayan experience could be related to the Swiss experiences with institutions of direct democracy. In Switzerland, as in Uruguay, the *potential* of an IDD is already a relevant actor in the political arena. As Kobach explains, "Switzerland's Konkordanz-Demokratie is more firmly entrenched and more widely accepted than it might have been otherwise. Ironically, the blunt majoritarianism of the referendum has done much to foster the politics of consensus" (Kobach 1994: 151). He adds, "paradoxically, the referendum, which is a very majoritarian way of setting disputes, tends to prevent tyranny of the majority in Switzerland" (Kobach 1993). Uruguay fits this logic perfectly. And it is not strange that both, Switzerland and Uruguay, could be, in a way, characterized as the most consociational regimes in their respective regions (Western Europe and Latin America). In light of this realization, not only do citizen initiatives act as a system of political accountability, with a high degree of legitimization, but they also are the producers of political consensus.

ANEXO

Constitution of 1934. Article 284

La presente Constitución podrá ser reformada, total o parcialmente, según los siguientes procedimientos: A) El veinte por ciento de los ciudadanos inscriptos en el Registro Cívico podrá plantear la reforma en un proyecto articulado que se elevará a la Asamblea General, debiéndose consultar al pueblo en la elección inmediata. La Asamblea General en reunión de ambas Cámaras, podrá presentar fórmulas sustitutivas, que someterá a decisión plebiscitaria conjuntamente con la iniciativa popular. B) Todo proyecto de reforma constitucional que reúna dos quintos del total de componentes de la Asamblea General, en reunión de ambas Cámaras, será sometido al plebiscito en la primera elección que se realice. En los casos de los incisos A) y B), para que el plebiscito tenga valor aprobatorio, se requerirá que vote por "sí" la mayoría absoluta de los ciudadanos legalmente hábiles para votar. Obtenido ese número de sufragios, la reforma se considerará promulgada. C) La Constitución podrá ser reformada, también, por Leyes Constitucionales que requerirán para su sanción los dos tercios del total de componentes de cada una de las Cámaras, dentro de una misma Legislatura. Las Leyes Constitucionales no necesitarán promulgación del Poder Ejecutivo y entrarán en vigencia inmediatamente después de sancionadas por ambas Cámaras. Sin perjuicio de ello, se someterán al referéndum popular en la primera elección que se realice después de su sanción, estándose a la decisión plebiscitaria, pronunciada por la mayoría de votos emitidos. Cuando las Leyes Constitucionales se refieran a la elección de cargos de carácter electivo, al ser sometidas al plebiscito, -simultáneamente se votará para esos cargos por el sistema propuesto y por el anterior- teniendo al respecto carácter imperativo la decisión plebiscitaria.

Constitution of 1942. Article 281 states that:

La presente Constitución podrá ser reformada, total o parcialmente, conforme a los siguientes procedimientos: A) Por iniciativa del diez por ciento de los ciudadanos inscriptos en el Registro Cívico Nacional, presentando un proyecto articulado que se elevará al Presidente de la Asamblea General, debiendo ser sometido a la decisión popular, en la elección más inmediata. La Asamblea General, en reunión de ambas Cámaras, podrá formular proyectos sustitutivos que someterá a la decisión plebiscitaria, juntamente con la iniciativa popular. B) Por proyectos de reforma que reúnan dos quintos del total de componentes de la Asamblea General, presentados al Presidente de la misma, los que serán sometidos al plebiscito en la primera elección que se realice. Para que el plebiscito sea afirmativo en los casos de los incisos A) y B), se requerirá que vote por "SI" la mayoría absoluta de los ciudadanos que concurran a los comicios, la que debe representar por lo menos, el treinta y cinco por ciento del total de inscriptos en el Registro Cívico Nacional. C) Los Senadores, los Representantes y el Poder Ejecutivo podrán presentar proyectos de reforma que deberán ser aprobados por mayoría absoluta del total de los componentes de la Asamblea General. El proyecto que fuere desechado no podrá reiterarse hasta el siguiente período legislativo, debiendo observar las mismas formalidades. Aprobada la iniciativa y promulgada por el Presidente de la Asamblea General, el Poder Ejecutivo convocará, dentro de los noventa días siguientes, a elecciones de una Convención Nacional Constituyente que deliberará y resolverá sobre las iniciativas aprobadas para la reforma, así como sobre las demás que puedan presentarse ante la Convención. [...] El proyecto o proyectos redactados por la Convención deberán ser ratificados por el Cuerpo Electoral, convocado al efecto por el Poder Ejecutivo, en la fecha que indicará la Convención Nacional Constituyente. Los votantes se expresarán por "Sí" o por "No" y si fueran varios los textos de enmienda, se pronunciarán por separado sobre cada uno de ellos. [...] La reforma o reformas deberán ser aprobadas por mayoría de sufragios, que no será inferior al treinta y cinco por ciento de los ciudadanos inscriptos en el Registro Cívico Nacional. En los casos de los apartados A) y B) sólo se someterán a la ratificación plebiscitaria simultánea a las más próximas elecciones, los proyectos que hubieran sido presentados con seis meses de anticipación -por lo menos- a la fecha de aquéllas, o con tres meses para las fórmulas sustitutivas que aprobare la Asamblea General en el primero de dichos casos. Los presentados después de tales términos, se someterán al plebiscito conjuntamente con las elecciones subsiguientes. D) La Constitución podrá ser reformada, también, por leyes constitucionales que requerirán para su sanción, los dos tercios del total de componentes de cada una de las Cámaras dentro de una misma Legislatura. Las leyes constitucionales no podrán ser vetadas por el Poder Ejecutivo y entrarán en vigencia luego que el electorado convocado especialmente en la fecha que la misma ley determine, exprese su conformidad por mayoría absoluta de los votos emitidos y serán promulgadas por el Presidente de la Asamblea General. E) Si la convocatoria del Cuerpo Electoral para la ratificación de las enmiendas, en los casos de los apartados A), B), C) y D) coincidiera con alguna elección de integrantes de órganos del Estado, los ciudadanos deberán expresar su voluntad sobre las reformas constitucionales, en documento separado y con independencia de las listas de elección. Cuando las reformas se refieran a la elección de cargos electivos, al ser sometidas al plebiscito, simultáneamente se votará para esos cargos por el sistema propuesto y por el anterior, teniendo fuerza imperativa la decisión plebiscitaria.

Constitution of 1967. Art. 79.

[...] El veinticinco por ciento del total de inscriptos habilitados para votar, podrá interponer, dentro del año de su promulgación, el recurso de referéndum contra las leyes y ejercer el derecho de iniciativa ante el Poder Legislativo. Estos institutos no son aplicables con respecto a las leyes que establezcan tributos. Tampoco caben en los casos en que la iniciativa sea privativa del Poder Ejecutivo. Ambos institutos serán reglamentados por ley, dictada por mayoría absoluta del total de componentes de cada Cámara.

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