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14 Citizens' assemblies and direct democracy

Abstract: Deliberative and direct democracy should not be seen in opposition: they can support each other and provide a promising way to address the alleged "crisis" of (representative) democracy. The chapter elaborates a conceptual roadmap exploring the linkage between citizens' assemblies and direct democracy and presents an overview of the various points, within the process leading to a popular vote, at which deliberative mini-publics could be meaningfully deployed. It then develops in greater depth one of the possible uses – i.e. the Citizens' Initiative Review (CIR), also called the "Oregon model" or "demoscan" (in the Swiss context) – by presenting selected empirical results from a CIR pilot conducted in Switzerland.

Keywords: direct democracy, referendum, mini-public, deliberation, "demoscan", Switzerland

14.1 Introduction

One of the main objectives of democratic innovations such as randomly selected citizens' assemblies (CAs) is to improve and enhance the role of "ordinary citizens" in political processes. In one way this implies a challenge to the elitist, Schumpeterian conception of democracy that considers citizens as mere providers of legitimacy to elected politicians: their role is to vote for parties and candidates every four to five years and leave the business of politics to elected representatives.

Yet in a number of democracies – and well before CAs started popping up around the globe in recent years – citizens have already had additional channels for genuine and impact-relevant political participation *between* regular elections, for instance in the form of popular votes triggered by referendums and initiatives. Similarly to CAs, the use of such direct democratic instruments challenges the elitist conception of democracy because it gives citizens the possibility both to challenge the decisions taken by government or parliament and/or to propose reforms that ordinary politics was not able or willing to undertake.

Hence, in the context of this *Handbook,* exploring the relationship between CAs and direct democracy (DD) is a logical and necessary step. The main objective of this chapter is to provide a conceptual roadmap that should allow scholars and practitioners alike to assess the links between CAs and DD and to have a – hopefully comprehensive even if not fully exhaustive – overview of various options on how to combine the instruments of DD and CAs so that they become *mutually supportive.* Indeed, the final, normative goal of this endeavour is to avoid CAs and DD being seen as competitors that

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cancel each other out in the attempt to address the current "crisis" of (representative) democracy.

I begin the chapter by presenting key issues, concepts and definitions (Section 14.2) before proceeding with an overview of possible uses of DD in combination with CAs (Section 14.3). That section is mainly theoretical but it is also inspired by real-world examples. I will then (Section 14.4) discuss in greater depth one of the possible uses – i.e. the Citizens' Initiative Review (CIR), also called the "Oregon model" and "demoscan" (in the Swiss context) – by presenting selected empirical results from a CIR pilot that the "demoscan" team conducted in Switzerland in 2019. In the Conclusion I will briefly sum up the discussion and suggest avenues for further research.

14.2 Key issues, concepts and definitions

I start by noting that, generally speaking, deliberative theorists have not been much interested in DD or have dismissed it mainly on the grounds that a popular vote is an aggregation of preferences and, as such, is not really an ideal of deliberation (cf. Elstub 2018). While the instruments of DD have been included among the elements characterizing the "systemic turn" of deliberative theory they are still seen as "necessary evils" due to their presumed lack of deliberative character (for an overview of these critiques, see el-Wakil 2017). Only recently has DD received a more positive appreciation from deliberative theorists. In particular, Parkinson (2020: 486; see also Chambers 2009; Setälä 2011), argues that "referendums can play constructive roles at both the start and the end of a mass deliberative process, connecting political actors with everyday political talk".

Let me now turn to defining the main notions that I will use in this chapter. I consider CAs a synonym of *deliberative mini-publics* whose members are selected via *sortition.* Given that the present *Handbook* is entirely dedicated to CAs, as well as for reasons of space, I will thus mostly focus this section on the definition of DD.

The notion of *direct* democracy is not necessarily the best semantic choice to describe a democratic system in which referendums and citizens' initiatives come into play in order to *complement* the political processes within the institutions of representative democracy. Therefore, some scholars refer to "semi-direct democracy" while others propose to abandon the adjective "direct" altogether and speak of "popular vote processes in democratic systems" (el-Wakil and Cheneval 2018). Nevertheless, the notion of direct democracy is still widely used in the literature and, as long as we know what we are referring to, I suggest that we keep it for the time being.

Direct democracy can take various forms. The two most important criteria to distinguish them is to ask (1) who is legally entitled to initiate the process (government/parliament or citizens); and (2) whether or not the outcome of the popular vote is binding. Table 14.1 offers a basic overview of the various instruments of direct democracy.

Table 14.1: A basic overview of direct democratic instruments

	Binding	Non-binding
Top-down (decided by parliament/government)	*Obligatory referendum* *Plebiscite*	*Consultative plebiscite*
Bottom-up (it is necessary to collect signatures)	*Facultative referendum* *Citizens' initiative* *Recall*	*Consultative initiative*

Yet the reality is more complex than this overview suggests. For example, some non-binding direct democratic instruments are *de jure* non-binding but, due to a specific context or to political pressures, they are (or they become) *de facto* binding. Think of the role of government-initiated referendums in the United Kingdom (e. g., Brexit) that are legally non-binding – and hence fall into the category of "consultative plebiscites" – but whose results have politically binding effects. On the other side, the result of some *de jure* binding tools, such as popular initiatives in Switzerland, can be put aside if a majority of parliament comes to a conclusion that their implementation would produce major negative drawbacks for the country.[1] The top-down vs. bottom-up distinction can also be questioned because citizens' initiatives are on occasion launched by political parties and/or interest groups and not by citizens' committees or grassroot movements.

Also, notice that the tools of direct democracy typically imply that, at the end of the process, a popular vote should take place. But sometimes the initiators – for example, a citizen's committee that has successfully launched an initiative – can stop the process if some of their demands are met by parliament.[2]

For the sake of parsimony I will develop in further detail the political process that characterizes two direct democratic tools: the facultative referendum (also called "optional referendum"); and the citizens' initiative (also called "popular initiative"). This focus is justified by these being the two most used forms of DD worldwide.[3] It will allow us to see at what points of the process the use of CAs might become interesting as a democratic innovation that improves the use of DD.

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1 See, for example, the non-implementation of the 2014 popular initiative "against mass immigration" in Switzerland; its implementation would probably have ended the bilateral agreements with the EU that are considered of vital importance for the Swiss economy.

2 Other tools that are often associated with direct democracy – such as European Citizens' Initiative – do not even contemplate the possibility of holding a popular vote and, for this reason, I suggest that we do not take them into account in this analysis.

3 See the online database of the Centre for Research on Direct Democracy (www.c2d.ch). Notice that the dominance of these two instruments "worldwide" is strongly driven by their dominance in Switzerland, where six out of ten popular votes held in the world since the late 18th century, at national level, have taken place (Stojanović 2021: 14). If we include sub-national popular votes, the predominance of the Swiss case would be even stronger.

14.2.1 Facultative referendum

In Switzerland, most bills, acts, and regulations adopted by parliament can be fought via a facultative referendum. "In these cases, a parliamentary decision becomes law unless 50,000 citizens or eight cantons, within 100 days, demand the holding of a popular vote. If a popular vote is held, a simple majority of the voting people decides whether the bill is approved or rejected (...)" (Linder and Mueller 2021: 121). Schematically, the process can be summed up as follows:

> Various inputs suggesting the necessity to adopt a new bill or to reform an existing one → the executive drafts a bill proposal → consultation (pre-parliamentary) procedure in which relevant political actors (parties, interest groups) but also ordinary citizens can provide comments and inputs → the bill is submitted to parliament (parliamentary procedure) → the bill is approved by parliament (post-parliamentary procedure), when the collection of signatures for a referendum can start → if the requested number of valid signatures is collected, the referendum campaign (of both sides) starts → several weeks before the popular vote, all enfranchised citizens receive an official booklet informing them about the topic of the vote → popular vote (the bill is approved or rejected by citizens) → if approved, the implementation of the bill (by the government and public administration) can start.

14.2.2 Citizens' initiative

The second instrument of DD, the citizens' initiative, is triggered from below. In Switzerland, 100,000 citizens can sign, within 18 months, a formal proposal demanding an amendment to the constitution. If the collection of signatures is successful, the initiative is discussed by the executive and parliament. "This can involve drawing up an alternative proposition or, if the popular initiative is couched in general terms, formulating precise propositions. Initiatives and eventual counterproposals are presented simultaneously to the people. As with all constitutional changes, acceptance requires majorities of both individual voters and cantons" (Linder and Mueller 2021: 121). The process can be summed up as follows:

> Various inputs suggesting the necessity to have a political reform that the government and/or parliament are hardly likely to adopt → an initiative committee is set up in order to elaborate a written proposal → the proposal is officially adopted and the collection of signatures can start → if the necessary number of signatures is collected, the government recommends that parliament approve or reject the initiative, or make a counterproposal → the executive and parliament deliberates on the content of the initiative and decide to approve or reject the initiative, or adopt a counterproposal → the initiative committee decides whether or not to withdraw the initiative (in the light of the outcome of parliamentary deliberations and/or the current political context) → if the initiative is not withdrawn, the campaign (of both sides) in view of a popular vote starts → several weeks before the popular vote, all enfranchised citizens receive an official booklet informing them about the topic of the vote → popular vote (the initiative is accepted or rejected by citizens) → if accepted, the procedure concerning its implementation (by the government and parliament) starts

→ decisions on the implementation are carried out by public administration and possibly the courts.

As I will show in the next Section, CAs can be employed in all phases of the process that characterizes a facultative referendum and a citizens' initiative. But, first of all, we should ask what *functions* a CA should be able to accomplish within a political system with DD. The answer will depend mostly on the kind of actors who are the recipients of the CA's outcome, as well as on their expectations. We can broadly distinguish between three kinds of actors: (a) institutional actors (government/parliament/public administration); (b) reform advocates (e.g. a movement that launched the collection of signatures; initiative committee); (c) citizens at large.

For actors of the first (a) category, a CA can be useful to gain an idea of "what the people thinks" on a given issue. Hence a CA may provide an answer to a cognitive demand and perform functions that are similar to opinion surveys – it is not a coincidence that one influential model of CA is called "deliberative polling" (Fishkin 2009). However, it is much more robust than the latter because it does not consist of a mere aggregation of preferences, capturing only "raw opinions", but is based on deliberation and, thus, is able to capture "considered opinion". It is true that, in any political system, institutional actors can see an interest in CAs but, in a system where DD plays a major role, this interest might be further enhanced by a desire to make decisions that can resist the challenge of a popular vote. In Ireland, for example, any modification of the constitution must be approved by a majority of voters and therefore it is "*rational* to consult a representative sample of the population before any referendum" (Courant 2021: 6; my italics).

For (b) the advocates of a reform, a CA can be useful for similar reasons, but from a different perspective. Suppose that we are members of a movement that has set out to reform the fiscal laws in our country because they produce huge social inequalities. Yet before launching a citizens' initiative – a move that will require significant resources in terms of money, time, and personnel – we might wish to know which among the various options is the most promising in terms of being likely to receive the support of a majority of voters.

Finally for (c), citizens at large, a CA can perform the function of "facilitative trust", i.e. it eases their "cognitive expenses of forming opinions" (Warren and Gastil 2015: 566). This is what makes CIRs so interesting: they are held ahead of popular votes and their outcomes are distributed to all enfranchised citizens.

14.3 Overview of possible uses of citizens' assemblies in direct democracy

14.3.1 Pre-parliamentary phase

Option 1a: The government decides to set up a CA during the consultation procedure; that is, before sending the final draft of a new law to parliament. Indeed, the Swiss experience shows that the very goal of this pre-parliamentary phase is to improve the chances that, eventually, the final decision of parliament will be sufficiently "resistant" to possible referendums (*referendumssicher*; Neidhart 1970: 287). Typically, the organizations that participate in the consultation procedures are political parties and interest groups and only rarely groups of citizens. Yet parties and interest groups are anyway actively involved in the parliamentary phase. Hence, an interesting innovation of the already existing consultation procedure would be to organize CAs in that phase, if not permanently then at least on the most disputed topics. This would allow government and parliament to have an idea what a demographically representative sample of citizens thinks of the reform and thus decrease the risk that, at the end of the procedure, the law is defeated in a referendum.

Option 1b: Similarly to (1a), the prospective initiative committees, especially those composed of grassroot citizens' movements with little experience in politics, may have an interest in setting up a deliberative mini-public in order to decide what exactly they want to propose and/or the exact wording of the proposal. Such CAs can be of a relatively small size (about 20 participants, as in CIR processes) and convene during two weekends.[4] The goal is to come up with a proposal – that is, the text of a citizens' initiative – that is most likely to convince a majority of voters. For example, if a movement advocating unconditional basic income wants to launch a citizens' initiative on that topic there are many important details to sort out. One of them is whether or not the text of the initiative should mention the exact amount of that income or remain vague by stipulating that the amount will be decided by parliament but that it must cover the basic needs of every citizen.

14.3.2 Parliamentary phase

Option 2a: In the parliamentary phase CAs can be set up towards the end of the process, in order to check to what extent a new law has the potential to convince a majority

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[4] Notice, however, that grassroot movements might lack the resources to set up a mini-public or may not have access to the official population registers that are typically used to select the members of a CA at random.

of voters in the case that, eventually, a successful referendum is launched against it. But, given the high number of new laws and/or amendments to existing laws that a parliament is called to adopt on a regular basis, organizing CAs on each of them would amount to creating an additional chamber of parliament. While this is certainly an idea worth exploring, for the time being it is more realistic to imagine a mechanism setting up a threshold of MPs – one-third, for example – who can file a request for a CA on certain (presumably the most disputed) topics. The threshold should not be too high in order to allow opposition parties to trigger the mechanism. The distinction with regard to (1a) is that, in the latter case, the decision is taken by the government whereas here it is taken by parliament.

Option 2b: Regarding citizens' initiatives, the parliamentary phase is typically focused on the question of whether or not parliament should elaborate a counterproposal. Indeed, the Swiss experience shows that it is rare for parliament to accept what a citizens' initiative proposes. This refusal has structural grounds: initiatives are typically launched by *minority* groups whose ideas, in the past, have failed to convince a majority of parliament (Vatter 2000). So if a counterproposal emerges in the parliamentary phase, parliament can decide to set up a CA as in (2a). Probably even more interesting would be for the initiative committee to have a mini-public deliberate on the counterproposal as well as on the main proposal, eventually taking into account the conclusions of the CA in order to decide whether or not to withdraw the citizens' initiative if the counterproposal is considered a sufficiently acceptable compromise.

14.3.3 Post-parliamentary phase preceding a popular vote

Option 3a/3b: Once the parliamentary phase is concluded, and supposing that a successful referendum has been launched against the law (3a), or that a popular initiative has not been withdrawn (3b), mini-publics can be put in place in order to provide citizens with the necessary information on the topic of the upcoming popular vote. This is, in a nutshell, the CIR model that has already been experienced in Oregon and other US states and cities, as well as in Finland and in Switzerland. The topic of the deliberations can even be both a citizens' initiative and a law voted by parliament as a counterproposal to the initiative.[5] What makes the CIR model special with regard to the other uses of CAs – in a system with DD but also more generally – is that its conclusions are not simply sent to the government and/or parliament, with these being free to decide what to do with them, but are distributed to all enfranchised citizens of the respective polity.

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5 This was the case in "demoscan Geneva", held in September 2021 in the canton of Geneva, with regard to a popular initiative and a law (counterproposal) concerning a reform of the pension scheme for members of the cantonal executive (https://demoscan.ch/demoscan-geneve/).

14.3.4 Post-parliamentary phase after the popular vote

Option 4a/4b: Even if a given reform is approved by voters according to the established rules (either a simple majority or qualified majorities), this does not mean that the process has come to an end. Adopted laws (4a) typically require governmental decrees in order to allow public administration (and sometimes also tribunals) to implement them. This could be another point at which a CA could be set up. As for citizens' initiatives (4b), the possible pathways of implementation are even larger, especially if the initiative is an amendment to the constitution that requires parliament to adopt a specific law in order to implement it.

14.3.5 Zooming in: The proposal for a climate council in Switzerland

A particularly inspiring proposal to combine CAs with DD *and* the institutions of representative democracy comes from Switzerland, where in September 2020 the Greens filed a parliamentary initiative demanding the creation of a "climate council"; essentially a CA of 200 members randomly selected for a period of six years from all Swiss residents (Swiss and foreign nationals alike) aged 16 and above.[6] Its task would be "to develop measures to protect the climate and achieve greater climate justice", noting that "these measures must be capable of gaining majority support". Its powers would be analogous to the prerogatives and the legal standing of a committee that has successfully launched a citizens' initiative.

In other words, if the climate council was to make a proposal in the form of a constitutional amendment – requiring in such a case the support of a two-thirds majority within the council – it would be sent to parliament as if it were a citizens' initiative that had succeeded in gathering the necessary number of signatures (i.e. 100,000). Hence, the government and parliament would be obliged to take a stance and decide whether to accept or disapprove the proposal or make a counterproposal. In any event the council would be free to decide to withdraw the proposal, in the light of the conclusions reached by parliament, or to let citizens decide in a popular vote. As in the case of a citizens' initiative, any proposal would need to gather a double majority, of both citizens and cantons, in order to pass. If successful, it would enter the constitution and would thus have a binding character.

Even though in December 2021 the parliamentary initiative of the Greens was eventually rejected by a strong majority[7] of the Swiss National Council, it is worth mentioning in the context of this chapter because it neatly illustrates how a CA could be

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6 https://www.parlament.ch/en/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20200467.

7 136 against 33, with 19 abstentions; only Green MPs and a handful of Social Democrat ones supported it.

inserted into a political system that already combines institutions of representative democracy and DD. Contrary to the CAs held in Ireland, British Columbia, and Ontario, which had follow-up referendums (Courant 2021), the decision on whether or not to put the conclusions of a CA to a popular vote ought not to be left to the mercies of the government or parliament but is something that could be enforced by the citizens comprising the mini-public.

14.4 Side-effect: Impact on turnout (the example of "demoscan Sion")

In the previous section I have tried to put forward the possible uses of CAs, within a political system combining DD and representative democracy, from the point of view of its interest for elected politicians, advocacy groups, and ordinary citizens. I have shown that there are many options to use CAs in a meaningful way to enhance articulation between the institutions of DD and representative democracy.

But the interest in holding CAs in such contexts extends far more broadly. When we organized the first[8] randomly selected mini-public in Switzerland ("demoscan Sion"), following the CIR model and as a pilot, there was one aspect that was of upmost importance for the municipal authorities as well as a frequent question among the media: will the citizens' statement – i.e. the formal outcome of the mini-public – improve turnout? The background to this question is the relatively low turnout in Swiss popular votes (46 % at national level between 1990 and 2020). The interest in turnout seems to be an exception, however, both in the literature and in real-world experiences; in fact, in other CIRs, in Oregon and in Finland, this issue did not feature at all.[9]

"Demoscan Sion" took place in November 2019, with 20 randomly selected citizens of the town of Sion, the capital of the canton of Valais, and was organized in collaboration with the municipality and in particular with the office of the mayor and the mayor himself. The topic of its deliberations was a federal popular initiative on affordable housing, launched by the main Swiss tenants' association, which is close to the parties of the left. On 9 February 2020 the popular initiative was rejected by 57.1 % of Swiss voters. In Valais, the initiative was rejected by 67.1 %. In Sion, however, the share of "no" votes was significantly lower than in the rest of the canton (58.7 %). It is interesting to note that the result of the vote held within "demoscan Sion" (11 out

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8 The second "demoscan" took place at cantonal level in Geneva (September 2021) and the third one in the city of Bellinzona (March/April 2023).

9 Gastil et al. (2017) do not even mention the word "turnout" in their assessment of the 2016 CIR held in Oregon. Setälä et al. (2020: 9) mention it only once, simply to inform the reader of the final turnout in the local referendum.

of 19 citizens, that is 57.9 %, rejected the initiative) was as close as it could be (given the small N) to the final result both in Sion and at federal level.

The turnout in Sion was 44.0 %, which was slightly higher than the turnout in Valais (42.5 %) and at federal level (41.7 %). Based on comparisons with past popular votes, as well as with turnout rates in Sion compared to those at the level of the district, region, canton, and federation, the citizens' statement distributed to all Sion's voters in early January 2020 might well have had a small positive effect on the turnout. Nevertheless, the increase is almost certainly not as large as one might have hoped for (Geisler and Stojanović 2020).

Table 14.2: Turnout in the popular vote on affordable housing (9 February 2020; %)

	City of Sion	Local district of Sion	Region (Valais central)	Canton (Valais)	Switzerland
Turnout	44.0	45.0	44.3	42.5	41.7
Difference compared to the turnout in Sion	–	+1.0	+0.3	−1.5	−2.3
Average difference compared to turnout rates in Sion between 2016 and 2020	–	+1.7	+2.6	+0.1	−3.2

However, the results of our survey experiment do show a more optimistic picture when we focus on the reported likelihood of voters participating in the popular vote (Geisler and Stojanović 2020).

In fact, in order to determine the impact of the citizens' statement and its support among the wider public, we conducted a survey experiment. A sample of 2500 randomly selected enfranchised citizens of Sion received a letter inviting them to participate in three waves of online surveys. The letter was co-signed by the mayor of Sion and the author of this chapter and bore the municipality's coat of arms. Approximately 1159 respondents (46.4 %) responded to the first survey wave.

The survey experiment randomly assigned participants to reading one of four different variations of the citizens' statement; one control group that did not receive a statement; and one modified control group (see Figure 14.1). Once they had completed pre-treatment questions on their awareness of "demoscan Sion" and the topic of the initiative, participants were randomly assigned to either treatment or control conditions. In the four treatment groups, they read one of four otherwise identical statements, including or excluding (1) the result of the vote of "demoscan Sion" on the popular initiative; and (2) the result of the vote on the popular initiative held within the Swiss Federal Assembly. In the two control groups, participants read only a four-paragraph newspaper-style article about the general proceedings of "demoscan Sion", one of them containing a cue (Gastil et al. 2017: 39) that this had voted by a small majority against the initiative.

The mean comparisons in Figure 14.1 show that the citizens' statement significantly enhanced the readiness of respondents to take part in the popular vote. The average intention to participate, measured on a seven-point scale, was up to 8 per cent higher when comparing the control groups and the treatment groups. An exception is the difference between the control group and the group that received the citizens' statement together with the result of the vote of the Federal Assembly. The difference here amounted to just half the size of that with the remaining treatment groups (Geisler and Stojanović 2020).
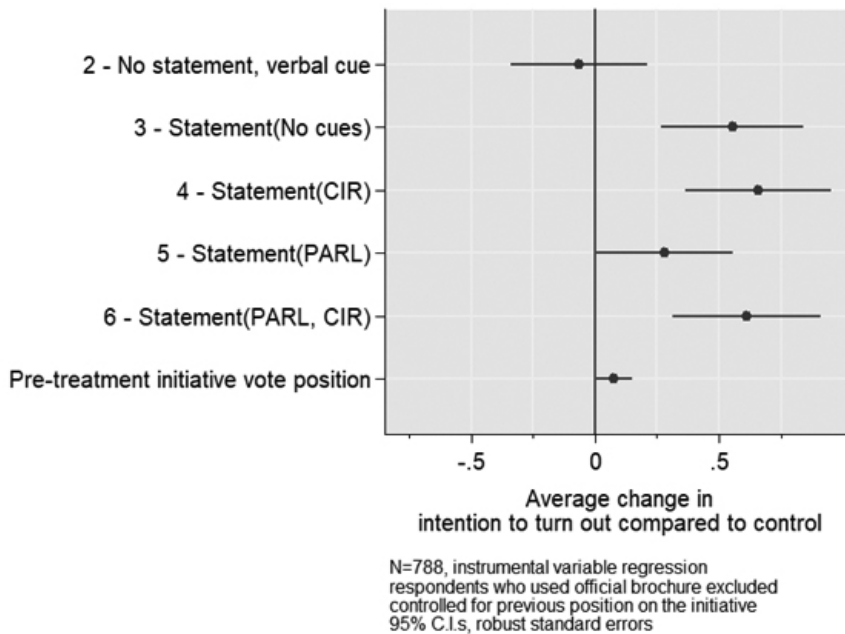

N=788, instrumental variable regression
respondents who used official brochure excluded
controlled for previous position on the initiative
95% C.I.s, robust standard errors

Figure 14.1: Average change per condition in voters' reported intention to take part in the popular vote compared to control groups

To sum up, while is too early to assess the impact of CAs (here: CIR) on turnout, the results of our survey experiment do indicate that an improvement might be an important side-effect if CAs were to be institutionalized and become a permanent component of a political system based on a combination of representative and direct democracy.

14.5 Conclusion

The main goal of this chapter has been to elaborate a conceptual roadmap regarding the linkage between CAs and DD and to present an overview of the various points, within the process leading to a popular vote, at which deliberative mini-publics

could be meaningfully deployed. The underlying idea has been that deliberative and direct democracy should not be seen in opposition but that they support each other and ultimately provide a promising way to address the alleged "crisis" in the institutions of representative democracy.

The main difficulty with this approach is that there are simply not too many democracies in which the instruments of DD are employed with a relatively high degree of frequency. In many European countries it is not even legally possible to hold referendums at national level (e.g. Belgium, Germany). In others (e.g. Austria, France) the thresholds for triggering a referendum are so high that the instrument is rarely used. Hence, the discussion on the possible use of mini-publics in DD is *de facto* limited to a handful of polities, mainly to Switzerland, a number of US states and Ireland. Greater variety and frequency, however, can be found at municipal level.

As a consequence, only a few models of mini-publics have so far been used in relation to DD. The most promising are the Irish model (see Courant 2021) and the CIR or Oregon model (Gastil et al. 2017). Since 2019, the Oregon model has found three opportunities for testing in Switzerland, under the label "demoscan", and once in Finland (Setälä et al. 2020). In Section 4 of this chapter, I have thus focused on our main findings from the first "demoscan" pilot, the one held in the city of Sion in November 2019 (Geisler and Stojanović 2020).

I see two main avenues for future research on the use of mini-publics in DD. First, there is a need to provide a comprehensive assessment of the various experiences that have taken place up to now, by comparing the mini-publics held in Ireland, Finland, Oregon (as well as in a couple of other US states), and Switzerland. Second, we need more experiences with mini-publics, ideally one for each of the various stages of the political process, starting with the draft of a law (in the case of referendums) or the draft of a citizens' initiative and ending with the implementation of the decision taken by the citizens in a popular vote.

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