



Citizens' Initiatives

Standard Note: SN/PC/04483

Last updated: 1 May 2008

Author: Lucinda Maer

Section Parliament and Constitution Centre

On 30 April 2008 Douglas Carswell MP introduced a Bill “to permit members of the public to initiate legislation; and for connected purposes”. This Note considers proposals for the introduction of a ‘Citizens’ Initiative’ process in the UK, where citizens would be able to petition for referendum questions to be placed on ballot papers or for legislation to be introduced in Parliament. Such systems operate in New Zealand, Switzerland, and in some parts of the United States.

This information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as being up to date; the law or policies may have changed since it was last updated; and it should not be relied upon as legal or professional advice or as a substitute for it. A suitably qualified professional should be consulted if specific advice or information is required.

This information is provided subject to [our general terms and conditions](#) which are available online or may be provided on request in hard copy. Authors are available to discuss the content of this briefing with Members and their staff, but not with the general public.

Contents

- 1 Proposals for the adoption of Citizens’ Initiatives 3**
 - 1.1 *Citizens’ Initiative (Legislation) Bill 2007-08* 3
 - 1.2 The Power Inquiry 4
 - 1.3 Our Say 5
 - 1.4 Unlock Democracy 6
- 2 Arguments concerning the introduction of citizens’ initiatives in the UK 7**
- 3 Citizens’ initiatives overseas 9**
 - 3.1 The United States of America 9
 - 3.2 New Zealand 11
 - 3.3 Switzerland 13

1 Proposals for the adoption of Citizens' Initiatives

1.1 Citizens' Initiative (Legislation) Bill 2007-08

On 30 April 2008 Douglas Carswell MP introduced a *Citizens' Initiatives (Legislation) Bill*. The Bill would "permit members of the public to initiate legislation". He explained:

Under the Bill, citizens could trigger debates and votes in Parliament on topics of their choice. Part of the House's legislative agenda would be determined directly by the ordinary citizen, not just MPs and officials. Bills would be introduced on things that mattered to the people, not merely those that excite politicians.¹

He continued by explaining the process for introducing such legislation:

To initiate a law, a citizen would submit a written proposal to the Clerk in the Table Office. Just as in New Zealand, the Table Office Clerk could determine the precise wording and rule frivolous or fantastic proposals out of order. Proposals would be out of order if, in the opinion of the Clerk and the Speaker, a similar proposal had been put forward within five years. Once a proposal had been approved by the Table Office, citizens would have 12 months to collect signatures.

[...]

Rather than having an arbitrary threshold selected, under my Bill those six proposals with the most signatures would qualify. Ensuring that each proposal was, in effect, in competition with other proposals would have advantages. It would encourage proposals that were, by definition, able to command widespread support and would favour measures that were inclusive and unifying, and progressive and uplifting, over and above what was narrow and sectional.

The half dozen proposals with the most signatures would then be presented to Parliament during the state opening. Having listed those Bills that the Sir Humphrey Appleby types, the remote officials and even, it has to be said, the occasional Minister wanted, Her Majesty would then read out those Bills that the people wanted on the statute book. And what a Queen's Speech that might be! Perhaps people beyond the Westminster village might want to watch and debate the contents for the Gracious Speech – a speech which would have purpose as well as pageantry.

Every couple of months, the Commons would debate and vote on one of the people's Bills. ...²

Douglas Carswell explained that in his view:

A right of initiative would strengthen Parliament and revive our much diminished standing. Far from bypassing or marginalising the Commons, my Bill would give this institution a little backbone. We would still be, in Edmund Burke's memorable phrase, a "deliberative assembly"; it is just that those assembled here would deliberate what counted with the country. This House, under Governments of both parties, has grown less effective at holding those who wield Executive power to account. It should not surprise any of us that fewer people both voting in elections to determine who sits here.³

¹ HC Deb 30 April 2008 c309

² Ibid, cc309-310

³ Ibid, c310

The proposals in this Bill differ from other recent proposals for citizens' initiatives in at least one important way: the proposals in the Bill do not involve popular referenda on citizens' initiatives.

1.2 The Power Inquiry

The Power Inquiry, chaired by Baroness Kennedy of the Shaws, was established in 2004 to consider how political involvement and engagement can be increased in Britain.⁴ Their 2006 report *Power to the People* placed an emphasis on direct democracy, and what they had termed 'Downloading power'. They explained that "many people want more influence over political decisions, but regard elections as far too blunt a tool for the exercise of that influence" and found that "the majority of citizens are attracted by such direct mechanisms and that many are willing to engage with them".⁵ Power's recommendations included that "all public bodies should be required to meet a duty of public involvement in their decision and policy-making processes" and "that citizens should be given the right to initiate legislative processes, public inquiries and hearings into public bodies and their senior management".⁶

In a report on Democratic Innovations written for the Power Inquiry, Professor Graham Smith of Southampton University has stated that:

Used widely in Switzerland and a number of states in the US, citizen initiative and popular referendum provide a mechanism for citizens to set the political agenda and for the whole population to make the final decision on their proposals. Most referendums held across the world are government-sponsored – in this innovation the government does not have the primary role in decision-making (although it can obviously campaign for or against proposals). Citizen initiative and popular referendum require citizens to mobilise support for their petition – without a significant number of signatures, the proposal will not be placed on a ballot. The lesson from the actual practice of citizen initiative and popular referendum is that governments need to ensure that money does not affect the outcome – both in terms of generating petitions or in the campaigns once the proposal is on a ballot. If this can be effectively achieved then they are powerful democratic innovations – one of the few direct democratic innovations that can be used in large-scale democracies.⁷

Since the Inquiry reported, a campaign associated with the Inquiry has been established called 'Make it an issue'. This organization has made the case that:

Our political system has always been self-policed by a professional political class, which in turn lacks the power (and often the will) to hold any Government elected on a large majority to account. Since the mid-twentieth century, the damaging effects of this elitism have been exacerbated by an ever increasing centralisation of political power. Along side this distant and antiquated power structure, and in today's increasingly globalised world, the democratic rights won in past struggles feel like blunt instruments.

⁴ Library Standard Note SN/PC/3948, *Power to the People: the report of Power, an Independent Inquiry into Britain's Democracy*

⁵ Power, *Power to the People*, 2006, p 220, http://makeitanissue.org.uk/devlog/2007/01/the_power_commission_was_estab.php (last viewed 19 October 2007)

⁶ Power, *Power to the People*, 2006, p 220, Recommendations 23 and 24

⁷ Graham Smith, *Beyond the Ballot Box: 57 Democratic Innovations from Around the World – A report prepared for the Power Inquiry*, May 2005, p41, <http://www.makeitanissue.org.uk/Beyond%20the%20Ballot.pdf> (last viewed 19 October 2007)

People no longer feel they have choice, voice or influence in a political process that has been frozen around the needs of last century's mass political parties.⁸

1.3 Our Say

A campaign associated with the direct democracy aspect of 'Make It An Issue' has also been established called 'Our Say'. It is chaired by Saira Khan (who came to public attention after taking part in the television programme *The Apprentice*). They argue that:

There is a serious problem with politics in Britain. Fewer and fewer people are voting in elections, there is widespread cynicism and opinion surveys show that, increasingly, mistrust is directed not just at politicians as individuals but towards representative government as a whole.

Far from having a sense of ownership of their democracy, people feel impotent when it comes to influencing decisions taken by those in power. Unless this changes, things will only get worse.

21st century Britain is a highly sophisticated society but we still make do with a crude 19th century system of limited and indirect democracy that was designed in – and for – a different era. Almost every other aspect of our lives has been transformed by social, economic and technological progress, but the way we make collective decisions is now hopelessly outdated.

In previous centuries, it was supposed that ordinary people were too ignorant and irresponsible to be allowed to vote at all. Under pressure, the franchise was extended gradually (and grudgingly) and it was only in 1928 that the right of every citizen to vote on equal terms was conceded. Our current system retains much of that spirit of mistrust of the people - and the public knows it.

Today, an increasingly educated and confident electorate is clearly dissatisfied with the limited form of democracy on offer. This is the direct result of a political system that does not - indeed cannot - reflect the wishes of the people.

The only way to restore trust and credibility to British politics is to give people a real and direct say over issues that matter most to them and their lives. That means allowing them to decide on national and local issues, on a case by case basis, by voting in a referendum instead of simply electing a government once every five years to make all the key decisions on their behalf.

OUR SAY's proposals would not be an instant panacea for the disillusionment that exists. But they would be an important step in rebuilding faith in our democracy. Nor would referendums replace representative democracy. Instead, direct democracy would complement our existing system, acting as a check on the power of government and bureaucracy alike. Even in countries where referendums are in widespread use, like Switzerland, the vast majority of decisions are still taken by elected representatives at national and local level.⁹

Their website explains that:

Based on the recent Power Commission, Our Say has developed a proposition that would allow citizens to trigger referendums on any national or local issue.

⁸ Make it an issue, *10 Reasons for Democratic Reform*, <http://www.makeitanissue.org.uk/10Reasons.pdf> (last viewed 19 October 2007)

⁹ <http://www.our-say.org/Why-Our-Say.aspx> (last viewed 19 October 2007)

- Each year, on Referendum Day, people would be able to vote on issues of concern, both national and local. To trigger a referendum on a particular topic, 2.5% of the electorate would need to sign a petition. This would mean that, for national issues, a million signatures would be required to trigger a ballot. For local issues affecting, say, a district council, this would require around 4,000 people to back the proposition. Referendum Day would be held on the same day as the local elections.
- The Electoral Commission would need to agree the wording of the question on the ballot paper to ensure that the question was fair and balanced. The Commission would also be given new powers to check the validity of the petition and the number of signatures.
- People would need to sign petitions in person and the signatures to trigger a vote would need to be collected in a one-year period.
- There would be strict limits on the amount of money that could be spent on referendum campaigns and these would be the same for those supporting and opposing the question on the ballot paper.
- Balance in TV and radio coverage of the issues under discussion would be a legal requirement, as well as fair access to other media coverage for each side.

In a contribution to an Unlock Democracy publication *Taking the Initiative: The case for citizen-led decision making* Siara Khan concludes by stating “There is one thing I’m certain of: we are no threat to politicians. On the contrary, we are the answer to their problems”.¹⁰

1.4 Unlock Democracy

Unlock Democracy is a campaign which had brought together Charter 88 and the New Politics Network. In their August 2007 publication *Taking the Initiative: The case for citizen-led decision making* they argue that reasons for declining voter turnout:

...include the deteriorating standards of contemporary politics. By cutting out the middle men (politicians), Citizens’ Initiatives could represent a timely answer to the sloganeering and obsession with personality that has long infected political discourse.¹¹

Unlock Democracy have proposed that citizens should be able to place questions on ballot papers:

The system proposed for the UK by Unlock Democracy is unique both in breadth and scope. Initiatives would be available at local, regional and national levels. Not only would they permit citizens to initiate a ballot on specific topics; they would also include provisions for triggering public inquiries, as well as hearings into the performance of public bodies. The process would contain about three deliberative stages in order to ensure thorough consideration of each initiative. Crucially, additional provisions would be included to enable the reversal of unpopular decisions.¹²

They also argue that if such questions were placed on the ballot paper, this would encourage higher voter turnout.

¹⁰ Unlock Democracy, *Taking the Initiative: The case for citizen-led decision making*, 2007, <http://www.unlockdemocracy.org.uk/wp-content/uploads/2007/08/text.pdf> (last viewed 19 October 2007)

¹¹ Ibid.

¹² Ibid.

2 Arguments concerning the introduction of citizens' initiatives in the UK

The arguments in favour of citizens' initiatives to some extent differ depending on the exact procedures involved, but can be generally classified as follows:

- they would give citizens direct control on issues which they feel strongly about;
- voting in general elections is not sufficient for a modern democracy, citizens' initiative would give a greater role to voters; and
- citizens' initiatives would tap into the public's willingness to become involved in single issue campaigns.

For those schemes which involve referendums, these further points are made:

- referendums act as a restraint on the abuses of government power and a control on government by political elites;
- turnout in general elections would rise if there were referendum questions on the ballot paper; and
- they would increase trust in the political process.

Arguments have also been made against the adoption of a citizens' initiative procedure for the UK. These can be categorised as follows:

- decisions by representatives are more likely to defend the rights of minorities;
- ordinary citizens do not have the time, the information or the analytical skills to make decisions equal in quality to those made by members of the legislature, executive and civil service;
- a low turnout can produce a result which distorts rather than reflects the majority view;
- wealthy vested interests and/or the media can influence the outcome of the debate (although the Political Parties and Referendums Act 2000 regulates referendum spending in the UK);¹³
- referendums compress decisions into rigid two-alternative scenarios;
- the potential for large number of questions to appear on ballot papers would be inconvenient and perhaps confusing for voters; and
- such systems have little room for flexibility once a decision has been made.

These arguments would not necessarily apply in a scheme which did not involve referendums.

Professor Matt Qvortrup has argued that giving citizens opportunities to initiate referendums and be more involved in policy and decision making would increase the demand for ways to get involved. Although he acknowledges that initiatives are not the only factor in determining

¹³ See House of Commons Library Research Paper, *The Political Parties, Elections and Referendums Bill – Referendums and Broadcasting [Bill 34 1999-2000]*, 00/04

turnout, he points to overseas evidence to show increased turnout where such citizens' initiatives take place:

It would certainly seem that turnout is correlated with those electoral ballots which contain provisions for initiatives. While the evidence is hotly debated, voting statistics may corroborate this thesis. Turnout in American states that used initiatives between 1978 and 1984 was on average 5 percent higher than in the states that did not...¹⁴

Professor Phil Cowley has disputed that giving more opportunities to people to participate would be a panacea to falling turnout and concerns about citizen engagement. He wrote that the Hansard Society and Electoral Commission's April 2007 *Audit of Political Engagement*.¹⁵

...is a good antidote to the starry-eyed naivety of the recently published Power Inquiry, for example, with its desire for citizens' initiatives and referendums.

For one thing, some of those who don't vote really are apathetic. Not only did the audit discover 14% of the public who are "not at all interested" in politics, it also found that one in six people (17%) did not want a say in how the country is run. How else to describe someone who does not even want a say in how their country is run apart from apathetic.

And of those who claim to want to be involved, only a minority are prepared to do very much about it. Out of ten possible activities, there was just one – signing a petition – that the audit found a majority of the public said they would be willing to do (72%).

He concluded that:

In itself, this is an important cautionary note about the extent to which we should recast our democracy along participatory, rather than representative, lines. But the audit goes further: it notes that those who are willing to participate in this way are the affluent and those with resources. This will come as no surprise to anyone who has read any half-decent literature on political participation in almost any country over the last 50 or so years, but it sadly appears necessary continually to remind people.

In practice, opening up new avenues for participation, as we are forever being urged to do, simply results in giving the affluent more avenues to drive down.¹⁶

Writing for the Hansard Society, Declan McHugh and Phil Parvin similarly have argued that:

It is not immediately obvious that opening up more channels of communication – either direct or indirect – would successfully engage more of the people than it does already. Recent research by MORI suggests that the majority of public policy debates and political activity in Britain is driven by around 6% of the population – whether it is in the form of voting, marching, signing petitions, or whatever. The claim that direct democracy would automatically empower the 'silent majority' to contribute to political debates is therefore at best questionable.¹⁷

McHugh and Parvin go on to argue that direct democracy, in fact, should be avoided:

¹⁴ Matt Qvortrup, 'Say's Law' Revisited: Citizens; Initiatives and Democratic Engagement', in Unlock Democracy, *Taking the Initiative: The case for citizen-led decision making*, 2007.

¹⁵ Hansard Society/Electoral Commission, *Audit of Political Engagement 4*, April 2007, http://www.hansardsociety.org.uk/assets/Audit_4_final_2007_without_pics.pdf (last viewed 19 October 2007)

¹⁶ Phil Cowley, 'Comment is free: Apathy is the only word for it', *The Guardian*, http://commentisfree.guardian.co.uk/philip_cowley/2006/03/sometimes_it_is_apathy.html (last viewed 19 October 2007)

¹⁷ Phil Parvin and Declan McHugh, *Neglecting Democracy*, February 2006, p15, http://www.hansardsociety.org.uk/publications/recent/neglecting_democracy

As we point out, the argument for greater democracy rests on two very distinct ideas; namely, the good of democratic *debate* and the good of democratic *decision making*. These are not the same thing and while widening democratic *debates* to as many people as possible is beneficial, devolving decision making power down to the citizen body is potentially very bad, and should be avoided.

Expressing this view in the current climate of political debate is practically heresy. The claim that problems with our democratic system need to be resolved by providing more power to the people to get involved is now so ingrained in the political psyche that it seems unquestionable; any argument to the contrary is viewed as somehow rooted in elitist views about the inability of 'common people' to have valid opinions about politics, or the desire to trample upon the needs and interests of minority groups. The dominant view is that the key to resolving social and political exclusion is to place decision making power more firmly in the hands of the people as a whole. The problem with this is that, in so doing, you may well make the plight of the excluded, the poor and the marginalised worse.¹⁸

They also argue against the widespread use of referendums:

Those that have argued for this believe that it is the purest and most defensible model of democracy, where decision-making is taken out of the hands of institutions altogether and shared equally among the population. Far from improving and purifying democracy, however, such a system would simply enshrine the vested interests of the powerful and replace truly democratic, reflective, decision-making with what John Stuart Mill called the 'tyranny of the majority', where the interests of minorities are systematically over-ridden and marginalised by the voting power of the groups who happen to compose the largest or most powerful group in society.¹⁹

3 Citizens' initiatives overseas

3.1 The United States of America

Forms of citizens' initiative are used in 24 of the 50 states of the United States of America, with twenty states introducing the process between 1898 and 1918. Only one state, Mississippi, has introduced the initiative since 1978. Some states only allow for constitutional initiatives, some only allow for statutory initiatives, some allow for both. Some states operate a direct initiative, where the proposed law goes directly to ballot. Others operate an indirect initiative, where the state permits the legislature to consider and possibly adopt the proposed law or constitutional amendment. Constitutional initiatives can be changed only by a subsequent vote of the people; statutory initiatives can be often be changed by votes of the legislature. Major issues such as tax reduction, education policy, healthcare reform and, more recently, environmental issues have been put on the ballot.²⁰

The Initiative and Referendum Institute at the University of Southern California has explained that:

Although 24 states have the statewide initiative process, 60% of all initiative activity has taken place in just six states – Arizona, California, Colorado, North Dakota, Oregon and Washington.

¹⁸ Ibid, p4

¹⁹ Ibid, p16

²⁰ See David B. Magleby, 'Direct legislation in the United States', in Butler and Ranney eds, *Referendums around the World*, 1994

Only a fraction of initiatives that are filed actually make it to the ballot. In California, according to political scientist Dave McCuan, only 26% of all initiatives filed have made it to the ballot and only 8% of those filed actually were adopted by the voters. During the 2000 election cycle, over 350 initiatives were filed in the 24 initiative states and 76 made the ballot – about 22%.²¹

The number of signatures required for measure to be placed on the ballot differs from state to state, and is often higher for constitutional initiatives than for statute initiatives. Thirteen states have a geographic distribution requirement for signatures on direct legislation petitions. Initiative petitions typically may circulate for up to 120 days, but the time limitation can be as short as 50 days or as long as 360 days. Other procedural issues include who is tasked with providing a title and summary of the question, and whether there are limits on the subject matter of questions. The vote needed for the enactment of legislation also differs from state to state, some requiring a majority of voters in the election, rather than just responding to the referendum question. Nevada requires a majority vote in two consecutive elections for a constitutional initiative to take place (voters had to vote twice, once in 1988 and once in 1990, for a constitutional initiative banning income taxes). Some states used to have limitations on paid signature solicitation, but this was declared unconstitutional by the Supreme Court in 1988. California permits signature solicitation by mail, with political consulting firms which specialize in direct mail fund-raising now being paid to circulate petitions.²²

Assessing the role of the initiative in the United States, Professor David Magleby of Brigham Young University stated that:

Political reforms often have unintended consequences that may be more important than other results. In the case of direct legislation, the process in the United States is now a high-stakes battleground for well-funded interests. Some measures reflect a grass-roots citizen activism, but they are often defeated at the ballot box by the targeted interests who can spend large amounts of money on campaigns against them. While direct legislation can be a safety valve against the failures of representative democracy, comparatively few initiatives fall into the safety-vale category. For voters, direct legislation affords an opportunity to respond to issues placed on the ballot in increasing numbers, sometimes with multiple initiatives on the same subject. These issues, however, reflect a narrow range of interests and are often complex and confusing. Voters are typically inclined to vote against initiatives but still want to keep the process. While the initiative has had some beneficial consequences for the institutions of the states that use it, it has fundamentally altered the relationships between the institutions and the people among the institutions themselves. Direct legislation has been and will be an important part of the way politics is done in many American states.²³

Many of the states that have the initiative process also have a Referendum Process whereby citizens have the ability to reject law or amendments proposed by the state legislature. The initiative process is used much more frequently than the Referendum process and is considered by many to be the most important of the two.

²¹ <http://www.iandrinstitute.org/Usage.htm> (last viewed 19 October 2007)

²² See David B. Magleby, 'Direct legislation in the United States', in Butler and Ranney eds, *Referendums around the World*, 1994, p235

²³ *Ibid*, p257

3.2 New Zealand

The Citizens Initiated Referendums Act 1993 gives New Zealanders the power to initiate non-binding referendums on any almost any subject.²⁴ The process for introducing a petition is as follows.²⁵

- written proposals are given proposals are given to the Clerk of the House of Representatives;
- the public is given at least 28 days to make written comments;
- the Clerk has three months to determine the question's wording;
- the Clerk approves the form on which signatures are to be collected as soon as practicable;
- the petition then needs at least 10% of the signatures of all eligible electors on the approved forms. These must be delivered to the Clerk within 12 months;
- the Clerk then has two months to check that the petition is signed by at least 10% of all eligible electors (If not, the petition lapses. There are then two months during which more signatures can be collected and it can be resubmitted to the Clerk.)
- the Speaker presents the petition to the House of Representatives;
- the Governor-General either sets the referendum date or specifies that the referendum is to be held by postal voting;
- the referendum is held and the result announced;
- the Government may or may not act on the referendum result.

There are limits on the amount of money an individual or organization can spend on promoting and campaigning around a petition

Only three petition questions have successfully completed this process in the last 14 years:

Should the number of professional firefighters employed full-time in the New Zealand Fire Service be reduced below the number employed in 1 January 1995?

2 December 1995?²⁶

Turnout: 27%

Yes: 12.2% No: 87.8%

Should there be a reform of our justice system placing greater emphasis on the needs of victims, providing restitution and compensation for them and imposing minimum sentences and hard labour for all serious violent offenders?

27 November 1999

Turnout: 85%

Yes: 91.8% No: 8.2%

²⁴ The only subjects on which referendums cannot be held are: inquiries into the way a previous CIR Act referendum was conducted; the challenging of an election result; and those questions which have already been the subject of a referendum 'of like effect' under the CIR Act.

²⁵ New Zealand Government Ministry of Justice, *Citizen Initiated Referendums*.

²⁶ Note that the aim was in fact to elicit a 'no' response.

Should the size of the House of Representatives be reduced from 120 members to 99 members?

29 November 1999

Turnout: 84.8%

Yes: 81.5% No: 18.5%

The government is not bound to act upon the results of the referendums. According to Caroline Morris of Victoria University, Wellington, "The Government refused outright to respond to the firefighters' referendum, passed the issue of the MP numbers to an electoral reform review committee (which recommended no action because it could not agree) and made some minor changes to sentencing and parole provisions in response to the other referendum".²⁷

An initially enthusiastic public response to the legislation has apparently tailed off. Caroline Morris has explained that although in 1994 eighteen questions were submitted by seven different organizations and individuals:

Within one decade of the Act's coming into force, enthusiasm for citizens-initiated referendums seems to have waned considerably. In 2000, only three petition questions were submitted, two lapsed, and the other was withdrawn. In 2001 two questions were submitted; both have lapsed. In 2002, not one question was submitted. Two questions have been submitted so far in 2003. Within a decade, the Act appears to have fallen into desuetude.²⁸

Concerns about the operation of the New Zealand legislation appear to include that:

- petitioners are given no formal drafting assistance in formulating their question. Therefore a number of questions submitted have been marked by bias, are excessively long, or have used confusing or ambiguous terms;
- there are few rules about the scope of the questions, including whether or not they can refer to more than one matter;
- there is no requirement for the government to inform voters about the referendum – this is up to the petitioners themselves.

Furthermore, as Matt Qvortrup has pointed out:

There are a number of restrictions on the use of the Initiative in New Zealand. The number of signatures required to trigger a ballot is high – 10% of the population – severely limiting the number of issues ever likely to be decided by referendum. More importantly, however, the result is not binding. David Lange, the then Prime Minister, expressed reservations about this when the Initiative was being considered:

[I]t is actually a fraud on the community for the Government to ask it for its opinion when the Government has said that it will not necessarily follow that opinion.²⁹

²⁷ Caroline Morris, *Lessons in Direct Democracy from New Zealand*, Centre for Policy Studies, 2007

²⁸ Caroline Morris, 'Improving Our Democracy or a Fraud on the Community? A closer look at New Zealand's Citizens Initiated Referenda Act 1993', in *Statute Law Review*, 25(2), 116-135.

²⁹ Matt Qvortrup, *Supply-side politics: How citizens' initiatives could revitalise British politics*, 2007, www.cps.org.uk/cpsfile.asp?id=677 (last viewed 19 October 2007)

3.3 Switzerland

The Swiss system of government places referendums at the centre of political life. Between 1848, when the system was introduced, and 1992, Switzerland had held a total of 398 referendums. Kris Kobach in his book *The Referendum: Direct Democracy in Switzerland* explained that:

In most years, the Swiss voter is called on to decide 6-12 national questions, which are typically spread over 2-4 separate ballots. In addition, he will be asked to vote in numerous cantonal and communal referendums. When elections of national, cantonal, and communal representatives are added to these, it is no exaggeration to say that the average Swiss citizen is called to the polls more times in one year than an Englishman is in his lifetime.³⁰

There are four basic types of federal referendums in Switzerland:

- *The constitutional referendum* – all constitutional amendments must be submitted to a popular vote in an obligatory constitutional referendum. On all constitutional questions, a double majority (a majority of votes national and a majority of votes in more than half of the twenty-three cantons) is required for the change to be approved.
- *The constitutional initiative* – these can be triggered when any seven votes submit a request for an initiative and a description of the desired change in the Constitution. They then have eighteen months to collect 100,000 signatures in support of their petition. There are different procedures for total and for partial revisions. The only two attempts at total revision both failed. Before an initiative is placed on a ballot, the government can either endorse it, recommend rejection, or recommend rejection and submit a counter-proposal of its own.
- *Facultative referendums* are processes to which any law or decree passed by the Federal Assembly is susceptible. A referendum is called if, within ninety days after the law's publication, 50,500 voters of eight cantons demand one. The question is then placed on an upcoming ballot. This can involve long delays and a process exists for dealing with legislation classified as 'urgent'.
- *The optional treaty referendum* allows the people to veto any agreement that might impinge upon the country's long established tradition of neutrality. Any agreement involving a collective security organisation or supranational community is treated as a constitutional amendment and must win a double majority. All other treaties are subject to a referendum only if one is demanded by 50,000 voters. Only a popular majority is required.

The areas where questions have been raised about the operation of the initiative process include:

- The potential for delay: The Assembly and Council have up to four years to consider their position on an initiative before it needs to be placed on a ballot. Kobach explained that although it is rare for referendums to be pushed far into the future, it is a tool which can be exploited politically. For example, in 1977 the Social Democratic Party submitted an

³⁰ Kris Kobach, *The Referendum: Direct Democracy in Switzerland*, 1995, p1

initiative to relax Switzerland's controversial banking secrecy regulations. The vote did not occur until 1984, long after the issue had lost its buoyancy amongst the public.³¹

- There is no legislative initiative at federal level – citizens cannot propose ordinary statutes, only constitutional amendments. Statutory reforms are often therefore packaged as constitutional amendments.
- The amount of money now spent on initiative campaigns (groups opposing the initiative to abolish the army in November 1989 spent 4 million S.Fr) and a surrounding industry has grown up around the process. Furthermore, the strict tradition of financial confidentiality means that campaigns do not have to disclose amounts spent or the sources of their donations. Kobach has argued that “while it is questionable whether campaign expenditures can actually beget victory from defeat, money unquestionably affects the outcome to some degree”.³² The government does provide equal amounts of free television time to both sides in campaigns and allows each to contribute to government mailings.

For further information on referendum campaigns please see the Library Standard Note *The regulatory regime for an EU referendum*.³³

³¹ Kris Kobach, 'Switzerland', in Butler and Ranney eds, *Referendums around the World*, 1994, p 106

³² Ibid, p108

³³ Library Standard Note SN/PC/4465, [The regulatory regime for an EU referendum](#)