The Institutional Settings of Direct Democracy - II

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Outline of the Lecture

- The Legal Effects
  - Binding ballots
  - Non-binding (advisory, consultative) ballots

- Campaign Regulation
  - Independent monitoring body
  - Campaign spending
  - Public resources

- Discussions
The Legal Effects

- **Binding Ballots**
  - The voting results carry legal weight
  - Dealing with very important political/policy issues
  - *Directly shaping* the decisions of the government/parliament

- **Non-Binding Ballots**
  - The voting results can be disregarded
  - Dealing with relatively less important/salient issues
  - *Indirectly constraining* the decision-making of the government or the parliament
The Legal Effects

- The reality usually lies between *de jure* non-binding ballots and *de facto* binding ballots
  - ‘most *de jure* advisory votes have been considered *de facto* as binding ones, whereas binding votes sometimes still allow scope for parliamentary manoeuvring.’ -- Uleri (1996)

- Gerber et al. (2000) *Stealing the Initiative: How State Government Responds to Direct Democracy*

- The political implications of a non-binding voting result

- Using procedural approaches to delay (or even water down) the implementation of a binding voting result
The Legal Effects

Some examples

The Norwegian referendum on joining the EC (1972)
- Turnout 79.2% and ‘no’ votes 53.5%
- Consultative in law but binding in reality
- Not only did Norway stay outside the EC/EU, but the government resigned after the referendum

The Swedish referendum on driving-side (1955)
- Turnout 53.2%, and the proposal was vetoed by 82.9% ‘no’, 15.5% ‘yes’ and 1.6% blank ballot papers
- Changed to right-hand driving in 1967 without calling for another referendum
Campaign Regulation

- Independent Monitoring Body
  - The election (referendum) commission
  - The incumbent government is not suitable for such a role

- The responsibilities of the Monitory Body
  - Publicizing ballot proposal/question(s)
  - Distributing public funding
  - Monitoring referendum campaigns
  - Organizing ballot counting
  - Announcing voting results
Campaign Regulation

- Campaign Spending
  - Requirements on maximum campaign spending?
  - Publication of the sources of campaign spending
  - Rules on private (and foreign) donations/contributions

- Rules on campaign spending vary across different countries
- Rules also vary according to the ballot issues
Campaign Regulation

- Providing Public Funding and Resources
  - Minimum financial support for each side (umbrella organization) of the referendum campaign

- Free use of public facilities
  - Postal services
  - Public broadcast
  - Office spaces

- Newspaper articles/columns devoting to the arguments of the two sides on an equal basis
Discussions

- Why doesn’t the binding and non-binding characteristic of a popular ballot matter under certain circumstances?

- Should there be a ceiling on campaign spending in direct democracy?

- Why is it necessary to provide public resources to both sides of the campaign?

- How do the institutional settings (re-)shape the behavior of campaigners and voters in direct democracy?
Reading suggestion for next week's class