

**LOCAL DIRECT DEMOCRACY: CONSIDERATIONS ON MUNICIPAL CONSULTATIONS\***

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**Abstract**

This article begins with an observation of how, after two decades of municipal experiences in citizen participation, Catalonia – like many places in Europe – is witnessing the emergence of new citizen consultation practices. These new practices, exercised through voting, fall within the framework of direct democracy and need to be contextualised, conceptualised and analysed. The following pages aim to serve as a pathway through which to first develop a theoretical framework that will enable a more accurate understanding of direct democracy, and second, an approach to the “what”, “why” and “how” of local citizen consultations.

Key words: Direct democracy; citizen consultations; local government; political participation.

**DEMOCRÀCIA DIRECTA LOCAL: CONSIDERACIONS SOBRE LES CONSULTES MUNICIPALS****Resum**

*En aquest article partim de constatar com, després de dues dècades d'experiències municipals de participació ciutadana, a Catalunya —com a molts altres llocs d'Europa— estan emergint noves pràctiques de consultes ciutadanes. Aquestes noves pràctiques, exercides a través del vot, s'inscriuen dins el marc de la democràcia directa i necessiten ser contextualitzades, conceptualitzades i analitzades. A les pàgines que segueixen s'inicia aquest camí a través de, en primer lloc, desplegar un marc teòric que ens permeti entendre amb major precisió la democràcia directa i, en segon lloc, una aproximació al què, al perquè i al com de les consultes ciutadanes locals.*

*Paraules clau: Democràcia directa; consultes ciutadanes; govern local; participació política.*

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## Introduction

Citizen participation and local governments have been stable couple since Spain's first democratic elections in 1979. This close-knit association is not exclusive to Catalonia; it has been a constant throughout Western democracies. In his seminal work *Democracy in America*, Alexis de Tocqueville wrote of his admiration for municipal spheres that fostered a division of power and a closeness from which to exercise effective self-government, in addition to a citizenry and community construction process. Years later, *participatory expectations* surfaced in the first electoral debates in 1979.

From the end of the 1980s until the first years of the new millennium, there was no shortage of participatory experiences that employed methods as diverse as their results (Subirats, 2001; Font, 2001 and 2003; Parés, 2009; Font and Galais, 2009). The proliferation of participatory experiences subsided with the advent of the financial crisis in 2007. In times of major cutbacks, pressures on the allocation of increasingly scarce resources may explain why citizen participation all but disappeared from the local political agenda.

By the same token, the incipient recovery and stabilisation of the economy in recent years has engendered a second wave of interest in citizen participation at the local level (Brugué, Pindado and Rebollo, 2015; Blanco and Gomà, 2016; Subirats, 2016). This enthusiasm is manifested in a maturing process for projects that were already underway. But there has also been new interest in participatory formulas that could be grouped in a framework of what theoreticians call direct democracy, something that at the Catalan local council level has been put in practice in the form of *citizen consultations*.

Although the first wave of citizen participation in Catalan municipalities has been analysed in depth, we still lack an accurate reflection on what it means to use direct democracy mechanisms at the local level. Furthermore, we have yet to systematically analyse the empirical experiences that have already begun to accumulate. The authors of this article have launched a research project that aims to advance on both fronts. Firstly, we review specialised literature to develop the proper theoretical framework; secondly, we select a sample of local citizen consultation experiences to analyse as case studies<sup>1</sup>. This article is meant to explore the theoretical and conceptual framework of this matter.

With this aim in mind, the article is divided into three sections, with a number of final thoughts on the myths of direct democracy. Section 1 offers a brief contextualisation of the object of study, placing it at the crossroads of the representative democracy crisis and the appearance of direct democracy alternatives. Section 2 is more conceptual and features a discussion of direct democracy from a political theory standpoint. This is a rich, long-standing debate that will help us clarify concepts, do away with a few clichés and give us the right criteria to assess the advantages and disadvantages of this democratic model. Section 3 takes us into a more instrumental realm, where we introduce and examine the main tool for direct democracy in contemporary society: the referendum and, more recently, a version of it that we call “popular or citizen consultations”.

### 1 Object of study: a new time for democracy?

Democracy has long been one of the most recurrent, debated concepts of political thought. As a term, democracy has been given numerous adjectival uses (direct, representative, popular, elitist, deliberative, aggregative, etc.). Therefore, it has been subject to wide-ranging interpretations and perspectives. This seemingly contemporary debate was already underway in ancient times. It has become a term of reference that is key to understanding our current political systems (Held, 2006; Requejo, 2009). The very first democratic expressions can be found in the means of governing the Athenian polis, as taken up in the writings of Solon or Pericles. In the same vein, the reflections of Plato and Aristotle touch on the limits and potential of democracy. Later, authors like John S. Mill or Alexis de Tocqueville demonstrated that modernity inevitably came with a democracy that took on new shapes. For example, democracy was manifested as a clearly-delimited governmental project in the Philadelphia Constitution of 1787 and in the “Federalist Papers” that preceded it (Madison, Hamilton and Jay, 2009; Burgess and Gagnon, 2013). If this premise, which could

<sup>1</sup>The title of the project is *Democràcia directa municipal: experiències i criteris de bones pràctiques* (Direct municipal democracy: experiences and best practice criteria), with financing from the Government of Catalonia through the DEMOC2017 programme (reference 2017DEMOC00009).

be taken as a simplification, is allowed, these two landmarks in the history of democracy coincide with the two major options that have articulated the main theme of debate on this way of governing ourselves: direct democracy (antiquity) and representative democracy (modernity).

According to various academic experts, we may now be witnessing the arrival of a third democratic era. Spurred by a deep crisis in the representative model, people are seeking and testing new democratic formulas adapted to the unique characteristics of the 21st century (Craig, Kreppel and Kane, 2001; Urquizu, 2016). As the cry “they don’t represent us” goes up, expressing a deep disappoint in the “political class”, there emerges an intense debate on the need to strengthen democracy and on the alternatives that must help achieve it. Popular consultations – especially local ones – form part of these alternatives and therefore, their study must be conducted within this far-reaching debate (Welp and Ordóñez, 2017). Another offshoot of this representation crisis are the new forms of populism that have contributed to the debate on referendums and citizen consultations (Canovan, 1999; Haskell, 2001; Vallespín and Bascuña, 2016).

In this general context, local governments have also renewed their interest in using direct democracy formulas that allow them to make use of their conditions of closeness, and in this way, become key spaces for reinventing and reinforcing democracy. This trend, evident in specific cases such as that of Switzerland, has been spreading throughout much of Europe since the 1990s (Denters and Rose, 2005; Reynaert, 2005; Delwit, 2007; Kersting, 2009; Schiller, 2011).

In recent years, Catalonia has seen a proliferation of local direct democracy projects. Their expression has been disordered, and there has been an increasingly generalised mixing of participatory budgets with more or less formal experiences of binding decisions to citizen votes. Their dispersion makes counting these projects difficult. However, taking the last five years as a sample, Table 1 shows an incomplete, but illustrative, list of the types of citizen consultations being conducted in Catalan municipalities.<sup>2</sup>

Table 1. Citizen consultations in Catalonia: 2012-2018

Municipality	Issue	Participation (over census)	Results (affirmative)
El Figueró i Montmany (2012)	Consultation to determine the local council’s position on the independence process of Catalonia	31.64%	89.42%
Premià de Mar (2014)	Consultation on the purchase of the historic Can Sanpere factory for use as a public facility	8.41%	80.18%
Manresa (2014)	Consultation on the future of the municipal theatre within the Sant Domènec Square extension project	9%	13.13%
L’Esquirol (2014)	Consultation to change the name of the municipality	42%	90% (L’Esquirol)
Municipalities of Moianès County (2015)	Consultation to create the new Moianès County	47.38%	80.4%
Rasquera (2015)	Consultation on development of the anti-crisis plan approved by the local council in plenary session	68%	56.3%
Bellaterra (2015)	Consultation on separating Bellaterra from Cerdanyola del Vallès  (similar cases: Sant Miquel de Balenyà, Medinyà, Valldoreix or Coma-ruga)	53.57%	94%
Salt (2016)	Consultation on the urban planning and development of the municipality’s southern region	21.9%	87.6%
Olot (2016)	Consultation on eliminating correbous (running of bulls) from the Tura festivities	18.2%	60.06%

<sup>2</sup> A few examples (though we are unable to analyse them in this article) are worth mentioning in this context, such as the historic referendum on the urban zoning measures to be enacted for Castell Beach in Palamós (12 June 1994), and the political controversy and media impact triggered by the citizen consultation on Barcelona’s Avinguda Diagonal (16 May 2010).

Molins de Rei (2016)	Consultation on viability of transforming the local highway	8%	35.7% (option A)
Santa Eulàlia de Ronçana (2017)	Consultation on selective waste collection	21.9%	78% (door to door)
Olot (2017)	Consultation on the town planning model of the Firal fair grounds	13%	61.5% (project A)
Tortosa (2017)	Consultation on the future of the Battle of the Ebro monument	29.73%	68.36% (no change)
L'Ametlla del Vallès (2018)	Consultation on authorisation for topless sunbathing at the municipal pool	Unknown (only women could vote)	60.9% (in favor)

Source: prepared by the authors.

The study of these cases is not available yet, so we cannot go into much detail. We can just point out two variables that will help us to analyse these experiences. First, the size of the local council, and second, the subject of the consultation. We can see that smaller municipalities tend to hold more citizen consultations, and there is a certain correlation between the size of the municipality and the participation percentage. As for the subject of the consultations, we would distinguish between those municipalities that hold consultations on aspects of territorial organisation (municipal separations, new counties, etc.), those that conduct them on political-symbolic affairs (monuments, independence, etc.) and still others that hold consultations on specific areas of municipal policies (waste management, town planning, etc.).

## 2 Direct democracy: conceptualisation of the term

This chapter aims to define direct democracy with as much conceptual accuracy as possible. To do so, we shall begin with the term “democracy”, using an etymological approach that defines it as the power (*kratia*) of the people (*dêmos*). Starting from this premise, the following relevant questions emerge: what does it mean to have power, and what scope should that power have? Who are the people? Who can form part? What decisions will be in the hands of the people? How will the people use this decision-making power? In other words, defining democracy as the *power of the people*, is as inevitable as it is uncertain. Therefore, we have to climb the tree of democracy and examine all its leaves and branches.

### 2.1 Democracy with or without intermediation

First, there are two major answers to the question of “Who?”: the power of the people can be exercised directly by the people themselves (direct democracy) or it can be exercised by their elected representatives (representative democracy). The main difference between the two responses is in the existence or absence of some type of intermediation. For that reason, the basic definition of direct democracy entails a form of government where no intermediation mechanisms exist and where, consequently, the people themselves exercise power.

The debate on intermediation has been overlooked for many years in Western democracy, as an idea, according to which direct democracy is an archaic formula, while representative democracy is more suited to modernity, has been brought to bear. We have even come to believe that we – what we now call the Western world – were the inventors of democracy and that therefore institutions like parliaments, representation or universal suffrage are expressions of democracy itself, democracy that sees itself as the best way to approach the government of a society where individual interests enter into constant conflict. As Jane Mansbridge wrote in her work of reference:

When you do not agree, you take a vote, and the majority rules. This combination of electoral representation, majority rule, and one-citizen/one-vote is democracy. Because this conception of democracy assumes that citizens’ interests are in constant conflict, I have called it ‘adversarial’ democracy. (Mansbridge, 1983: 14)

As the author herself acknowledges, this adversarial model enters into flagrant contradiction with an older form of understanding democracy. From that perspective, when individual interests come into conflict, the alternative should not be a vote but rather an exchange of opinions. Instead of each casting their own vote, individuals would meet and come to a collective agreement. This consensual democracy – called unitary by Mansbridge – is based on mutual respect and common interest, while competition and individual interest underpin the “adversarial” version. While adversarial democracy is exercised through individual votes, consensual democracy requires face-to-face relationships and exchanges. Following this line of reasoning, Sartori believes that direct democracy – in the strongest sense – is not only characterised by the absence of intermediation but also, as or more importantly, the existence of a face-to-face relationship among citizens who discuss what their collective interest is (Sartori, 2007).

Therefore, the debate lies between these two ideals that, in this new formulation, emphasise a differentiation between governing through the vote or through the exchange of arguments, more than in the existence of intermediaries. In any case, for Mansbridge, this distinction between *adversarial* and *unitary* democracy is only absolute in theoretical terms. In fact, she believes that both models must be combined in democratic practice and that this must be done to a degree that depends on the intensity of the conflicts meant to be governed. In other words, the option to make decisions through face-to-face dialogue would function if we could work in contexts where it is possible to identify a shared interest. On the other hand, when participants have to face decisions that entail a conflict between partial interests, it would seem more appropriate to accumulate individual preferences through a vote.

The adversarial model has come into being because we have supposed that conflicts of interests are predominant, but that should not prevent us from seeing that human relationships can also be marked by cooperation and shared interests. In Mansbridge’s unitary version, democracy is built on relationships of friendship or kinship among members of a community characterised by equality, complementarity and mutual recognition. This is a context that favours consensus decisions, in which the vote is ruled out for its tendency to reinforce and institutionalise division and antagonism. In the words of Barber (2003), this is a *strong* version of democracy that stands in contrast with its *weak* or adversarial version.

Adversarial democracy is the democracy of a cynical society. It replaces common interest with self-interest, the dignity of equal status with the base motives of self-protection, and the communal moments of face-to-face council with the isolation of a voting machine. (Mansbridge, 1983)

## 2.2 Assemblies and referendums: between dialogue and voting

Translating it into instrumental terms, it can be concluded that direct democracy can take on adversarial as well as unitary forms. In other words, it can be exercised through a vote in a referendum (or consultation) as well as face-to-face dialogue in an assembly. Therefore, referendums and assemblies would be two different ways to put direct democracy into practice. It should be mentioned that this distinction takes us to a conceptual debate between what we have called aggregative democracy (through voting) and deliberative democracy (through dialogue) (Gutmann and Thompson, 2004; Martí, 2006).

Returning to the instrumental distinction between the two operative manifestations of direct democracy – referendums and assemblies – it is usually considered that when individuals enter into social contact, they find the most obvious forms of relating to one another in discussion and agreement. From this it can be deduced that, as Verhulst states (2006), public assemblies become the first and most essential democratic formula. This form is more typical of the polis in ancient times than of modern states. Nonetheless, it has survived in local practices like Swiss cantonal assemblies, or the town meetings that are still held in some cities of the United States (Zimmerman, 1999; Bowler and Donovan, 2000). In our country, we find the formula of open councils for municipalities with fewer than 100 inhabitants.

In the federalist debates that, as we have already stated, ended up consolidating representative democracy, an intense discussion came about on which democratic forms were more suitable for large territories and extensive populations. Among the advocates of the assembly models, Thomas Jefferson himself showed his reservations about a powerful national government and expressed his preferences for citizen assemblies. What always left an impression on Jefferson was the skill and capacity of citizens when it came to managing

public affairs. These affairs also served to unite them and shape a civic community. On the other side of the debate were those who, like Madison, distrusted democratic formulas that could enable the dominance of the community by interest groups who were well-organised but did not represent collective interest.

The representative model prevailed, while the democratic essence of the assembly was redirected – in large territorial and population realms – toward referendums and citizen consultations. These are the instruments that would maintain the basic principles of the assembly when physical meetings were no longer possible. But they would also show certain limitations – linked to the absence of face-to-face contact as well as the material impossibility of submitting all decisions to referendums.

The referendum (later we will expand our view to take in citizen consultations) is, in short, an electoral form by which to adopt decisions, in the understanding that these decisions are about specific political affairs, and not who the representatives to adopt them will be. As Altman and Pindado defined them, we must understand referendums as:

A group of political institutions in which citizens decide or give their opinion in ballot boxes on specific topics through secret universal suffrage, and that do not form part of the regular electoral process of authorities. (Altman, 2010)

That model in which citizens decide directly, through their vote, matters of political content, and not on who their representatives will be. (Pindado, 2015)

### 2.3 The limitations and potential of direct democracy

In his classical work, and in line with the content now being discussed, Sartori states that direct democracy is made up of two ingredients: non-intermediation and face-to-face relations. An assembly would feature both factors, making it an instrument of self-government as well as direct government. On the other hand, a referendum would only incorporate the ingredient of non-intermediation and would become a tool of direct government, but not self-government. Consequently, Sartori believes the referendum to be an “impoverished form of direct democracy”, in which citizens decide directly but without any interaction taking place. According to Sartori, the consequences of this impoverishment are:

- First, while the essence of democracy is to use political debate and/or representation to achieve positive-sum dynamics, referendums imply the emergence of a zero-sum dynamic. In conditions of opposing interests, zero-sum dynamics do not only leave conflicts unresolved; they intensify them.
- Second, another consideration about referendums is to know who is defining the agenda (who chooses the topics to be voted on) and how the question will be posed (in what terms the options will be offered). Both of these factors open possibilities for manipulation or, in the provocative terms of Sartori “the people have the right to err, but that does not justify leading them into error”.

Following this statement, Sartori argues that the capacities that should be required of voters in a referendum are not the same as those for voters who are choosing their representatives. Representative democracy, as has been extensively argued, requires *public opinion*. In other words, voters need diffuse knowledge that allows them to choose between general, non-specific options that express generic preferences (Manin, 1998; Habermas, 2010). Yet in a referendum, a decision on a specific political issue is made. Voters, therefore, should have deeper knowledge – like an *episteme* – guaranteeing that the decision is grounded on a solid foundation. Going from opinion to knowledge is not simple. But according to Sartori, it is an indispensable condition for referendums to work as they should.

There are, however, positive aspects to referendums, such as the decision-making experience they represent for citizens. In other words, referendums are not – as some of their critics have said – instruments that enable a diffusing of governments’ responsibilities, but rather instruments that promote shared responsibilities. They are an exercise of political responsibility that, as it is shared, gives greater legitimacy to the decisions made, better identifies the will of the people and helps build citizenry and community (Kaufmann, Büchi and Braun, 2007).

Referendums, beyond exercising a collective responsibility and contributing to the construction of a community, may also offer significant pedagogical potential. Sartori identified in the lack of an *episteme* one of the main difficulties with referendums. But we could also turn this argument around, and consider referendums an opportunity to make citizens more knowledgeable, to politically educate the people. Clearly, such a goal is achievable. But it requires the vote to be preceded by an honest, consistent public debate. A debate that helps future voters to acquire knowledge, and therefore enables them to make their choice not only with responsibility but also full awareness.

Frequent debates have contrasted the advantages and disadvantages of direct democracy (Budge, 1996; LeDuc, 2003; Lissidini, 2007; Setälä and Schiller, 2009). Among the former, the way it develops the principle of equality is noteworthy, as is the way it expresses citizens' preferences and develops their competency, how it facilitates transparency and the control of representative democracy and how, in short, it promotes an opening of the political process. Among the disadvantages are the need to work at an excessively small scale, citizens' low level of knowledge on public affairs, the opportunities that arise for manipulation or the excess of emotional excitement that they trigger.

### 3 On referendums and consultations: implementing direct local democracy

The aim of this third section is to move from the conceptual framework of direct democracy to our object of study: municipal citizen consultations. We must clarify what we are talking about when using this term, and how to distinguish it from the classic referendary forms thoroughly analysed in specialist literature (Budge, 1996; Bowler and Donovan, 2001). Furthermore, once the term has been clarified (the what) we will look into the reasons that justify their use (the why) and the practical ways to organise these consultations (the how).

#### 3.1 What are we talking about?

Regardless of the underlying debate, a number of classifications and types emerge whenever an effort is made to study forms of direct democracy. These are different ways to specify the instruments of direct democracy that respond to a number of variables or dimensions of analysis:

- On the one hand, the literature takes up different types to classify referendums according to criteria such as the purpose (*a posteriori* ratification or *ex ante* determination), who is promoting them (government or citizens) or their will or obligation (for example when they are used in a regulated manner in certain constitutional modifications).
- On the other hand, there is a scale running from the more restrictive (minimalist) to much broader (maximalist) interpretations. In the first case, reference can only be made to a referendum when there is a formal call to elections that will serve to ratify or reject a law, while in the latter case, popular legislative initiatives or voting in participatory budgets are also referendary structures. Citizen consultations could be found somewhere in the middle.

By crossing two variables (what is decided and who authorises the vote) Pindado (2015) proposes a table to distinguish among different forms of democracy through voting:

Table 2. Types of voting

	Deciding on issues	Deciding on people
Empowering citizens	Proactive referendum	Revocative referendum
Empowering representatives	Plebiscite	Election of representatives

Source: Pindado, 2015.



Clearly, our interest is situated at the intersection of “deciding on issues” and “empowering citizens”. Therefore, for the purposes of this article, we discard the votes held to choose or revoke representatives and any plebiscitary votes. Here it is important to highlight the specificity of the plebiscite, a biased version of the referendum that has been and still is used as a tool of political manipulation by the institution promoting and controlling them: “the aim of a plebiscite is not to implement democracy but to strengthen or rescue those who hold power with the help of the people” (Kaufmann, Büchi and Braun, 2007).

This distinction is vital to understanding the use of direct democracy in a country as emblematic as Switzerland, where only a referendum called either as a citizen initiative or constitutional measure is considered direct democracy. The government, on the other hand, cannot call a referendum, thereby ruling out the possibility of them being used in a plebiscitary way.

One basic trait of “proactive referendums” is precisely that they empower citizens to decide on specific affairs. Therefore, reference must be made to an often-controversial matter: whether or not these initiatives have a binding character. Along these lines, and despite the legal provisions existing in Spain, we believe that in political terms, referendums are always binding. By using this instrument, the decision-making capacity is transferred to voters. It would make no sense to deny that this is a binding democratic mandate.

By going from formal referendums to citizen consultations (on affairs that do not have to be legislative, and without the formal conditions of officially-called elections) a debate has taken place on whether or not the consultation is a non-binding formula. To the point, there is a growing bibliography on what are called “soft” forms of direct democracy: elections interpreted less as a way to make decisions and more as a means of expressing opinions in a consultative manner. The decisions remain in the hands of the representatives, so that these *soft* referendums give citizens the right to be heard, but not to decide (Hug, 2004; Schiller, 2011; Schiller and Setälä, 2012; Gamper, 2015; Fung, 2015; Jäske, 2017).

Citizen consultations would therefore constitute a version of a referendum, though they would differ from a referendum in three fundamental ways:

- They are open to a broader range of public policy decisions. Therefore, they go beyond an exclusive application of approving or rejecting laws and constitutional tracts.
- The vote is called without all of the formal requisites that must accompany elections that are held to select our representatives and referendums of legislative ratification. This absence of formal requisites can be manifested in matters such as granting suffrage rights to individuals who do not have citizenship of the country where they reside (but are registered in the municipal census), incorporating electronic voting mechanisms, prolonging the electoral period over several days and not having all of the supervisory bodies that normally accompany other calls to elections.
- Considering the results as consultative and not binding, although in a legal system such as Spain’s, surprisingly, referendums are not formally binding, either. On this third requisite it is important to note that, contrary to what the aforementioned bibliography assumes, in this article we also propose that as direct democracy mechanisms, consultations must also be binding.

Therefore, citizen consultations would share the two distinctive traits of referendums (decision making without intermediaries and individual votes as a means of citizen participation) while also differing from them in two relevant aspects (focus on public policies and the lack of certain formal requisites). Additionally, based on their recognition in our legal framework, we can say that citizen consultations may be government or citizen initiated.

### 3.2 Why do it at all?

We have already touched on the relationship between interest in direct democracy and the crisis of representative democracy (Sánchez-Cuenca, 2014). Additionally, beyond this context, four specific reasons can be identified:

- Firstly, according to Dalton (2004), more sophisticated citizens with more political resources would demand more direct access to the decision-making process. This premise has been termed *cognitive mobilisation* and it has to do with the pressure being applied by a more educated, demanding citizenry.
- Secondly, the demand for consultations or referendums would derive from the loss of trust in the traditional democratic structures and the consequent political disaffection that is now rampant throughout our societies (Hay, 2007). This political disaffection would justify the use of these democratic instruments as a means of control over elected officials.
- Thirdly, reference has been made to the connection between referendums or consultations and a false populism (Hagen, 2002). One version of this justification could be found in what Morel (2001) has classified as plebiscitary motivations; in other words, the use of referendums or consultations as a way to legitimise and consolidate oneself in power.
- Finally, attention must be directed to the role that referendums or consultations can play as instruments to catalyse governmental capacities in highly complex contexts that tend to block the implementation of public decisions. Along these lines, direct democracy would be a way to gain effectiveness.

These four considerations are systemic and we should therefore adapt them to the local scenario that we aim to analyse in this research. Let's begin this analysis by adding a fifth point the four outlined above.

- First, the greater competencies and demanding character of citizens can be seen in an especially clear way at the local level, as closeness favours knowledge and a willingness to get involved in public decisions.
- Second, institutional mistrust and the discredit of political leaders tend to be lesser. This notwithstanding, local politicians also suffer problems of distance and disaffection, and that leads them to use direct democracy as a way of overcoming them.
- Third, this populist-plebiscitary logic is manifested in the use of citizen consultations to defend symbolic affairs or strengthen political positions that go beyond municipal competencies.
- Fourth, and more frequently, local citizen consultations – especially those oriented toward public policies – are used as a way to legitimise decisions that involve a certain social controversy.
- Last, we cannot overlook the imitation effect (known as “policy diffusion”), as in a context in which the experiences of other municipalities abound and there are constant references to direct democracies, it is very difficult not to imitate these models and include them. The referendum and consultation fad also explains part of their current proliferation throughout Catalan municipalities.

### 3.3 How should they be organised and implemented?

A citizen consultation – like a referendum – requires rules that regulate its operational implementation. In fact, much of the success of direct democracy can be explained by the *how*. Previously, we discussed how, along with their democratic virtues, consultations and referendums were threatened by potential dangers, which will be stimulated or avoided depending on how the initiative is designed and carried out. A number of ingredients come into play in this “how”. We have summed them up in four dimensions:

#### **Dimension 1. Requirements of the proposal**

Promotion of a direct democracy initiative must meet different types of requirements:

- **Content requirements.** Considering that this only refers to local consultations, it is safe to assume that citizens can only be “consulted” on affairs that fall within local competencies. If only the municipal competencies of an exclusive character were taken into account, this requirement would be very restrictive. However, it is less so because the so-called “principle of general competencies” has allowed local councils to intervene in a broad range of public policies (economy, education, social and environmental affairs, etc.). In any event, the limits could be found around those contents in which local

governments could effectively intervene. That being the case, the consultation would only urge others to adopt certain decisions, even if those “others” do not necessarily have to feel called to do so.

In addition to these requirements linked to the capacity for effective action, it is true that local governments can also promote consultations on things of a more symbolic nature that surpass municipal competencies but that, at once, and precisely because they are symbolic, no one expects to be effectively implemented. We have not found any clear position on such cases in the bibliography. Therefore, we will take our own, which is to consider it possible for a local government to use consultations to position themselves symbolically on political affairs that go beyond their competencies.

- **Entry requirements.** With this second requirement, we focus on whether it is citizen or government initiated, with the knowledge that in our legal framework both pathways of entry may be used. However, we are also aware that in other countries such as Switzerland where direct democracy is firmly consolidated, only citizen-initiated proposals are considered to be valid. Additionally, each of these channels has a number of formal requirements that are described in the Consultations Act. But given the short time the law has been in force, and the informality of the experiences, these requisites are not always fulfilled. Among these formal requirements, worthy of mention are the necessary number of signatures or the majorities in plenary session confirming the motion to promote the consultation, the establishment of a calendar, the presence of a supervisory body, the way the application is filed, etc.
- **Formulation requirements.** This refers to the specific wording of the question put to the citizenry, in light of the fact that it is a source of controversy and possible manipulations. On the one hand, the question has to be worded in a clear, direct way, avoiding any confusion about its meaning and biases in the responses it will generate. On another note, the question must also allow a simple, if possible dichotomic, answer. This makes it necessary for the possible answers to be exclusive and extensive. In other words, it should be clear that the answers disqualify each other (exclusive) and that they cover all possible alternatives (extensive). One way to ensure the quality of the formulation is that the question be accepted and assumed by those who advocate the different positions being voted on in the consultation.

## Dimension 2. Public information and deliberation

To a large degree, the quality of a citizen consultation depends on the process leading up to it. This should serve as a reminder that direct democracy requires citizens to have knowledge enough to vote for their preferences. This knowledge has to be built from neutral, true and dialogical information. These conditions describe an ideal situation that is difficult to fully achieve, but that must be attempted. To do so, work has to be done on two fronts:

- **Institutional information and dissemination.** From the start, the institution promoting the consultation must offer all the necessary information on the issue. Additionally, this information has to be available in various formats and registers, for the whole range of demographic profiles to have access to it.
- **Campaigns by the parties.** Furthermore, voting must be preceded by a phase in which the different parties of the consultation process can present and contrast their arguments. Ideally, this campaign will ensure a certain symmetry between the parties, to ensure that all parties have the same possibilities to defend their positions. Regulating this campaign – working to guarantee access to previously-established resources, organising debates and formal exchange opportunities, or ensuring equitable use of public space – is a way of getting information to be transformed into knowledge.

## Dimension 3. Organising the vote

Information and debate campaigns make up the phase preceding the vote. This is a period that also must be regulated, and on which certain crucial decisions have to be made.

- **Who can vote?** In the case of referendums, this question has a very clear answer: anyone who has the legal status of citizenry and who, as such, is listed in the electoral census. However, citizen consultations are relaxing this requirement, opening up to a broader population. Normally they are open to anyone registered in the municipal census (even if they do not have citizenship) who is over 16 years of age. These

seem to be appropriate criteria, as on one hand, they incorporate citizens who exercise this citizenship every day on a *de facto* basis even if it is not legally recognised, and on another, they allow access of the 16-18-year age group, people who already have political criteria and who, through these experiences, can see how their civic-democratic culture is stimulated.

That the vote is individually cast, and that all votes have the same value seem like terms that are too obvious to mention. Nevertheless, it bears mentioning, as we have observed some cases in which the possibility of collective votes and even weighted votes have been explored. In other words, on occasion it has been discussed if it would be necessary, in the case of certain sectoral policy, for the most relevant organisations to cast a collective vote and if furthermore, these votes be given more weight than those of individuals who are distant from the object of the vote.

- **How can voters vote?** There are also certain differences between referendums and citizen consultations in this regard. While the former operates by strict, well-defined rules, there is a certain flexibility around the latter. This flexibility should not be confused with a lack of rigor. For example, it would be possible to consider the possibility of voting over more than one day, voting at different polling stations that are nearer citizens, or by using telematic resources (electronic voting).

#### Dimension 4. The results

Last, before any consultative process is begun, there has to be a clear idea of what will be done with the results. Beyond the logistics of counting the votes and presenting the results, which must be done with all possible guarantees and the utmost transparency, organisers have to take a position on three key topics:

- **The process is consultative or binding.** As pointed out above, although consultations are consultative by definition, we take this as a contradiction in direct democracy terms. Consequently, promoter institutions should assume that they are conducting a binding process.
- **Ensure application.** Considering that the process is binding, the institution must guarantee that the winning results will be applied. This is a guarantee that, beyond political commitment, has to be followed up administratively. Therefore, it is indispensable to set up follow-up mechanisms that enable citizens to observe the implementation of the decision made.
- **Participation threshold.** Last, there is a recurrent discussion on whether it is necessary to reach certain minimum participation thresholds to validate the result of a vote. In this regard, and based on certain reflections at the international level, we believe that these thresholds only make sense when it comes to referendums that affect a community's overall rules of play (constitutional reform). On the other hand, it would not be a requisite when voting on local public policies or affairs of a symbolic nature. Therefore, in the case at hand – i.e. local citizen consultations – we do not advocate the imposition of minimum participation thresholds. We are aware that low participation percentages are frequent (even lower than 5%) and that this could create speculation around the results of the consultation, but we consider this to be an avoidable situation if we improve the previously mentioned requirements.

#### 4 Myths of direct democracy

In this final section, now that we have discussed the why, the what and the how of citizen consultations, we would like to recall a few of the dilemmas that direct democracy can trigger. As these initiatives take place, many questions arise that deserve to be analysed and contrasted with specific practices. We are referring (taking Pindado [2015] as inspirations) to the myths of direct democracy.

The first myth assumes that referendums or consultations are called only to be won. This idea has been closely associated with plebiscitary temptations. On the other hand, it is less frequent when referendums or consultations are citizen initiated. In fact, in Switzerland, it has been calculated that since 1999, 80% of the proposals voted on have been rejected. In the authors' local context of Barcelona, it would seem that the governmental option tends to win, but there are some very important exceptions (for example the Avinguda Diagonal consultation). There are also numerous cases in which the local council does not have its

own internal, concisely explained opinion (for example, road plans, on the purchase of a building, or waste collection models).

The second myth refers to the conservative nature of votes that tend to favour the status quo. It has been argued, however, that consultations do not make societies conservative, but they rather show societies just as they are. In any event, their capacity to favour more or less transformative decisions will have to be confirmed through practical experience, which is still limited in our municipalities. Though only intuitively, it appears that transformation is imposed on stability, both in symbolic consultations as well as those that mean to modify the model of territorial organisation.

The third myth is that referendums or consultations are easy to manipulate and that they can therefore induce majorities to make *erroneous* decisions. Debunking this myth requires a capacity to generate a prior debate that is articulate and objective enough to enable citizens to form their own knowledge before they go to vote. This is a debate where reason and emotions converge, and therefore, steps must be taken for the former not be overwhelmed by the latter. In this regard, many authors highlight the necessary relationship between direct democracy and deliberative democracy (Chambers, 2001). Barcelona's Avinguda Diagonal consultation could be a case in which the instrumentalisation of the various stakeholders made it a more emotional than rational vote. Or, put differently, it was a vote in which partisan positions became more important than the reasons for the necessary transformation of this urban avenue.

A fourth myth indicates that these instruments have a negative impact on minorities, whose capacity for political power would be diminished. This profile must be taken into account. In this regard, we have to assess to what degree the consultations are used to impose decisions that could be specifically negative for a minority. We have also observed the opposite case. In other words, the use of consultations by an active minority that imposes itself on a passive majority (Bowler and Donovan, 2001). It is not simple to give an example without a detailed analysis of the cases. But one could think of the case of Barcelona as an experience in which a minority that is sensitised to the need for a sustainable city does not manage to impose its criteria on a majority that does not have such concerns among its priorities. Or to the contrary, the case of L'Ametlla del Vallès, where an organised "minority" was able to defend its positions thanks to a stronger mobilisation.

The fifth myth refers to the excessive simplification of choosing between binary options or, in any event, from among a very limited range of alternatives. Choosing between black or white is possible in a vote, but it brings about a reduction of often-complex issues into simple choices. This argument, in any event, will depend on the type of issue being voted on in the consultation and how the question put to the citizens is formulated. It is not so much a matter of the simplification of an issue as complex as the possibility to submit certain matters, in specific moments of their resolution, to binary options. For example, it could be thought that the complexity of a plan to fight the financial crisis makes it unsuited to be voted on in terms of "yes" or "no", unless the plebiscitary character of the consultation is most prominent.

A final myth underscores that, especially when the use of these mechanisms is frequent, there is an accentuation of political inequalities where certain parts of the population suffer according to their income, their education or other variables. In other words, not all demographic profiles feel called to vote. This means that the results will be systematically biased. This argument, also applied to elections to choose representatives, can be confirmed by (and is shown in) the low participation figures that are usually registered. Low participation is more of a fundamental problem, one that is not derived from consultations. Rather, consultations suffer from it. It could be thought that referendums or consultations could help overcome the problem, in their capacity as civic education instruments. In any event, this problem will persist as long as societies are unequal, which is why it must be borne in mind.

In short, these myths can play out in very different ways. It is not preordained that one or another result must emerge. Rather, the way consultations are designed and managed may lead us in one direction or another. Future studies must first take a detailed look at the empirical cases and contrast them with the criteria we have been analysing in the foregoing sections. Second, in light of these results, there must be an identification of the factors that facilitate all the advantages of local consultations and the means to prevent their weaknesses as much as possible.

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