by Jonathan R. Rinne
Department of Political Sciences, Goethe-University Frankfurt, Germany

DO NOTE CITE WITHOUT AUTHOR’S PERMISSION

Panel 7
Democratic Innovations through Direct Democracy: What is the Relation between Direct Democracy and Representative Democracy?
chair: Zoltán Tibor Pállinger, co-chair: Theo Schiller
1. Introduction

Direct democratic instruments are used for more than 100 years in some modern nation states, with Switzerland being the most prominent example. In the context of an alleged crisis of representative democracy in the West, direct democracy is considered to be one possible democratic innovation to cure the malaise (cf. Geissel/Newton 2006). In the debates on how to reform representative structures, the term direct democracy is often used rather broadly – the variety of diverging instruments is not assessed properly.\(^1\) Especially ever since a crisis has been diagnosed, the scientific community strives to study direct democracy more intensively, for example exposing the factors of success, the impacts on policies and on the political system of the various instruments. These studies are very important for understanding direct democratic instruments and evaluating the possible benefits of institutionalizing certain procedures in representative structures. But as progress in understanding the democratic innovation ‘direct democracy’ is made, innovating direct democratic instruments themselves lacks behind.

This paper is based on research conducted as part of early stages of my dissertation, which explores a new direct democratic instrument. The structure is as following: I will at first argue, there is a room for improvement in direct democratic instruments. Secondly, I will describe basic characteristics of a newly designed direct democratic instrument. Following, I will discuss possible impacts of the voting procedure on the representative structures with regard to Schumpeter’s and Barber’s democratic theories.

2. Drawbacks of established direct democratic instruments

Before presenting the new voting-procedure, let’s turn to the question: Why is there actually a need for innovations in direct democracy? One could point to the fact that currently used instruments have proven to be quite effective when institutionalized correctly, as the Swiss experiences show (cf. for example Möckli 1996, Linder 1999 and Kriesi 2005). But the success of certain instruments does not imply there is no room for improvement. While there are different shortcomings for the various direct democratic procedures, I want to highlight two major drawbacks: The first drawback is the yes/no design of direct democratic instruments.

\(^1\) Here forth the term direct democracy refers to voting procedures on substantial issues (cf. Schiller 2002, Newton 2012). Some scholars use a wider concept direct democracy. By their definition a more direct influence on the selection of personnel as administrative officials is also to be considered as direct democratic (cf. for example Kost 2008).
procedures, i.e. citizens are “being asked merely to veto or affirm a proposal” (Barber 1984: 286). This argument is refuted by the fact that there are certain established direct democratic instruments that include counter-proposals to substantial issues on the ballot (cf. Kaufmann et al. 2007). Still, with these instruments the electorate is only able to choose between two alternatives or reject them altogether. Two implications can be derived from the instruments’ design: On the one hand there are no provisions for more alternatives. On the other hand, the instruments are not capturing the degree of support for the respective options. In “Strong Democracy”, Barber (1984) proposed to introduce ‘multichoice’ formatted voting to compensate these limitations. However, Barber’s proposal does not eliminate the second major drawback common to established instruments to be highlighted: only one single issue can be covered. This might not seem to be a great obstacle, as it is simply possible to have multiple procedures for all the issues to be decided on. In reality, asking the electorate to go voting many times or having one time-consuming voting procedure at once would probably lead to low turnouts. With low participation rates for the votes, the democratic legitimacy would therefore suffer. So, how can there be a vote on several substantive issues with a timesaving ballot-casting procedure?

One proposed possibility is to have direct democratic votes on entire policy programs (cf. Budge 2012). The institutionalization of these kinds of procedures is not widespread. Apart from that, voting on entire policy programs has drawbacks in regard to the stated citizens’ preferences on participation in the decision-making process, as influence on single issues and therefore puntual impact is not possible; all issues can only be accepted or declined as a whole. On top of not being inline with citizens’ preference in regard to participation, Budge (2012: 28 ff.) calls attention to much more far-reaching consequences of not having influence on distinct issues on a policy program: Voting on complete policy programs cannot adequately capture the citizens’ preferences on substantial issues. With regard to Brams’ (1976) ‘paradox of the platform’, he points to a hypothetical setting with three issues (x, y, z) and two parties A and B which hold position ‘a’ and ‘b’ respectively on each of the issues. If

2 Cf. Jung (2001) for a discussion of the argument direct democracy represents a procedure that simply consists of the yes/no option on the ballot.

3 Barber stresses though, he has not invented this procedure. The concept he proposes is practiced for centuries in the Republic of Raetia (Eastern Switzerland). Multichoice Format gives the electorate the option to choose between strong support or strong opposition to an issue on a five point scale (cf. Barber 1984: 286p).
you assume five voters’ preferences on each issue as shown in fig. 1, the policy program of Party B would receive the majority of votes (voter 1, 2, 3) and thus win the election. When evaluating the positions on each issue separately, for every issue position ‘a’ would actually have a majority.

<table>
<thead>
<tr>
<th>voter</th>
<th>issues</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>x</td>
</tr>
<tr>
<td>1</td>
<td>a</td>
</tr>
<tr>
<td>2</td>
<td>b</td>
</tr>
<tr>
<td>3</td>
<td>b</td>
</tr>
<tr>
<td>4</td>
<td>a</td>
</tr>
<tr>
<td>5</td>
<td>a</td>
</tr>
</tbody>
</table>

*Note: a and b are different alternatives on each issue x, y and z, which are the positions endorsed by political parties A and B respectively.*

Fig.1: “Table 1.2 Party B wins on its overall programme even though a majority opposes its position on each specific issue.”
Source: Budge (2012: 29).

Budge (2012: 28) concludes, “a direct policy vote thus records citizen preferences more sensitively than an overall, programmatic vote”. While having three issues in mind, having referendums held on each issue seems the obvious solution. If you intend to capture the citizens’ preferences on more issues, it should be researched if there are better solutions than having myriad referendums.

3. **A new direct democratic instrument**

One attempt to address the shortcomings of known instruments for capturing citizens’ preferences will be outlined here forth. In order to create a voting procedure that allows for distinctive influence while also having many substantive issues on the ballot, the proposed new direct democratic instrument basically combines policy program voting with tools of free list proportional voting procedures known from representative elections.⁴ Before explaining the ‘tools’ available to the voters, the layout of the ballot will be presented. To retain clarity in the description, technical details are not included herein. However, some additional information on the voting procedure can found in the appendix.

---

Outline of the voting procedure

On the ballot various policy programs are listed (see fig. 2). All parties participating in the voting procedure submit their policy program and each of these lists is displayed in a column. The individual issues within a program list are clearly separated and organized in rows. The number of issues constituting a program list should be limited, in order to guarantee the clarity of the ballot and thus of the voting process. But research on the ideal maximum number of issues is yet to be conducted, as the clarity of the ballot has to be weighted up against the scope of input of the voting procedure.

Next to the several columns occupied by parties’ programs there is a separate area on the ballot where discrete items that are not part of parties’ lists are listed. These items can be submitted by the citizens and roughly correlate to petitions for referenda. I.e. citizens’ issues that are in accordance to the law and fulfill certain other requirements, such as the collection of a certain amount of signatures, are allowed to be on the ballot, too.\(^5\) As citizen submitted issues are not necessarily coherent, these issues are not treated as a connected program list. This design of the ballot’s layout provides different options for voting. One option is to vote for a program list as a whole by using the vote on top of that particular party program. Additionally, voters may then alter the chosen list by using the mentioned ‘tools’ named discarding, cross-voting and cumulative voting. Discarding refers to the possibility to select distinct issues within the chosen program list that are not supported by the voter, i.e. these issues will not receive votes. Cross-voting refers to the possibility to vote for issues on the ballot that are not part of the chosen party program. I.e. citizens may vote for distinct issues

\(^5\) For example Schiller (2002) and Jung (2002) provide a description of established requirements for citizens’ proposals.
that are part of different party programs or citizens’ proposals in addition to voting for one party program. Cumulative voting refers to the voters’ ability to express priority preferences by allocating up to three votes for one issue. Cumulative voting can be used for issues within a selected program list as well as for issues of other program lists or citizens’ proposals.

A second approach to voting provided by the outlined voting procedure is to make no use of predefined program lists altogether but rather compile an individual program from scratch, i.e. voters may opt to vote for all preferred items on the ballot distinctively. Of course, cumulative voting is feasible in this scenario as well.

**Election returns**

After having outlined the voting procedure the question arises what the result of such a direct democratic instrument would constitute. The intention is to have multiple issues elected\(^6\) that yield in a policy program shaped by the peoples’ preferences on distinct topics. Ideally, the results would result in a government program created and directly legitimized by the electorate. In this context, government programs are conceived as constituting of a mixture of specific policies and broad guidelines (cf. von Beyme 2001) and functioning as the basis for developing policies (cf. Murswieck 1990). With this premise in mind, what kind of parameters of implementation for this direct democratic instrument can be derived? How to utilize this concept in a representative system properly?

**Variables of implementation in the representative system**

First of all, evidently the herein outlined voting procedure is not to be used ad-hoc but rather on a periodic basis – a continually changing government program can hardly be a reliable basis for developing policies. The ideal point in time to hold the proposed direct democratic instrument would be ahead of representative elections. This way, there would be a debate on and selection of policies before electing the personnel responsible for implementing such policies.

Other parameters of implementation known from practiced direct democratic procedures are applicable to this new concept. The option to make results binding or consultative only, possible limitations of policy fields or a possible irreversibility of decisions by representatives

\(^6\) The description of the procedure for vote counting and determining the „winning“ issues are highly complex and thus the discussion would beyond the scope of the paper. Rinne (2012) provides a detailed explanation of conceived procedures.
(for a limited period of time) are examples for variables that apply to practiced direct democratic instruments as well as to the herein outlined concept.7

The impacts of different arrangements of implementation on the various common direct democratic instruments are being researched for some time now. One key finding is, that different arrangements’ impacts are specific for the various instruments – applying findings about the arrangements’ impact of one instrument on another is not adequate (cf. for example Setälä 2006, S. Jung 2001, Linder 1999). A beneficial arrangement of these variables for the outlined voting procedure has yet to be determined.

4. Impacts on representative structures

Especially Setälä’s (2006) research indicates, the impacts of different arrangements of various direct democratic instruments on representative structures are highly specific. The identification of impacts of the herein outlined voting procedure on representative democracy therefore has to be subject of further research. Nevertheless a discussion of possible impacts can be fruitful for highlighting benefits and disadvantages of the instrument but also contribute to designs of further research. To illustrate various aspects of the proposed instrument in the context of representative systems, the instrument will be discussed in the light of Schumpeter’s and Barber’s democratic theories.

4.1. Elite theory of democracy (Schumpeter)

In differentiation of classical democratic theories, Schumpeter famously redefined democracy as an “institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote” (1976: 269).

Moreover, Schumpeter (1976: 252) negates the existence of a volonté générale, which is – at least - implied in classical theories, most specifically by Rousseau. According to Schumpeter, citizens do not have predefined opinions on policies. The will of the people is rather created in the process of the elite’s competition for votes – which includes manipulation of the people by the elite (Schumpeter 1976: 256 ff., Schmidt 2010: 186 ff.). In Schumpeter’s view, citizens lack competence and interest to make reasonable decisions. From this perspective, it is consequential for Schumpeter to depreciate direct democracy as part of classical democratic

7 See for example Jung (2001) for an overview of possible variables of implementing direct democracy in a representative system.
theories that utilize direct democratic instruments to capture the postulated predefined opinions and implement a common good (1976: 251).

The herein outlined direct democratic voting procedure is – not different than direct democratic instruments – evidently not in line with Schumpeter’s definition of democracy. If democracy is defined solely as the process to select representatives, citizens’ influence on substantial issues is not a quality of the democratic decision making process. Additionally, Schumpeter’s view on citizens does not seem to comply with giving the electorate power to directly decide on policies: with the premise that the electorate has no predefined preferences, is easily manipulated by the elite and has neither interest nor competence in politics, any form of direct democracy seems unsuitable for a functioning democracy.¹

**Inferences from Schumpeter’s democratic theory on the outlined voting procedure**

Although not consistent with his elite theory of democracy, still, some insights of Schumpeter’s concept may be valuable for assessing impacts of the described direct democratic instrument on the representative system. Specifically, discarding the idea of a predefined, through reason accessible volonté générèrale and replacing it with the concept of a people’s will defined in process of public contestation, can help understanding the impact on the representatives of the outlined instrument. Möckli (1994: 231 ff.) provides evidence that parties use referendums as a power tool - their motives are not to share the power with the electorate. Furthermore he shows (1994: 287 ff.) that in some referendums, a manipulation of the electorate – as described by Schumpeter – is taking place in the course of contestation between advocates and objectors of the issue at vote. Applied to the proposed direct democratic procedure, it may be assumed, there will be a contestation between the parties for their votes on the basis of policy programs. The competition will probably drive manipulation of the voters by the elite; additionally, it could also imply a higher incentive for parties to include “eventually appropriate items in [their] competitive offering” that are (latently) voiced by citizens (Schumpeter 1976: 270). But in simple terms, the voting procedure would serve as an additional arena for the elite’s contestation for votes, next to representative elections. In Schumpeter’s theory, the contestation for votes in case of representative election is based on the whole policy program proposed by a candidate. When running for office, he or she competes on the basis of all issues that promise to attract votes. In the case of the proposed direct democratic voting procedure, the rigidness of policy programs is purposely broken

¹ See for example Cronin (1989: 60 ff.) for a discussion of preconditions for functioning direct democracy in regard to citizen competence.
open by giving voters influence on distinct issues. Thus, the need to bring forward arguments or manipulate the electorate for every single issue on the policy program is much higher. Consequently, public deliberation on a wide range of topics may be expected to be a result of the outlined instrument. If the instrument creates a functioning contestation for the realization of policies, i.e. a functioning political process, results of the voting procedure can be seen as representing the will of the people in Schumpeter’s (1976: 263) definition. Schumpeter also defines some requirements for a functioning democracy respectively a functioning democratic process. For the contestation of policy programs some of Schumpeter’s requirements ought to be applied: First, qualified party members, representatives and ministers and second, a high degree of intelligence and morality among the electorate are necessary for a functioning democracy (cf. Schmidt 2010: 192). Furthermore, “democracy cannot be expected to function satisfactorily unless the vast majority of the people in all classes are resolved to abide by the rules of the democratic game and that this in turn implies that they are substantially agreed on the fundamentals of their institutional structure” (Schumpeter 1976: 301).

4.2. **Strong democracy (Barber)**

Barber has portrayed his concept of a participatory democracy in his work “Strong Democracy” (1984). In contrast to Schumpeter and liberal democratic theories, Barber defines the ideal of democracy as “self-government by citizens rather than representative government in the name of citizens. Active citizens govern themselves directly here, not necessarily at every level and in every instance, but frequently enough and in particular when basic policies are being decided and when significant power is being deployed” (1948: 151). Consequently, citizens are seen to be capable to participate actively “in agenda-setting, deliberation, legislation and policy implementation” (Barber 1948: 151). Insofar, deliberation is an important factor of a functioning strong democracy, as it is necessary to transform (conflicting) private interests into public ends. Thus it can be stated, Schumpeter and Barber agree on a nonexistent volonté générale; while Schumpeter stresses competition between elites as the major factor for creating people’s will, Barber sees public ends “literally forged through the act of public participation” (1984: 152). In order to reach consensual policies, Barber proposes the institutionalization of direct democracy – among other participatory instruments. The legislative initiative and referendum process in context of a strong democracy is conceived to be combined with “a mandatory tie-in with neighborhood assemblies and interactive-television town meetings for the purpose of civic education”, the
vote should have “a multichoice format” as well as “a two-stage voting process providing for two readings” (Barber 1984: 284 f.). Schiller (2007: 56) derives from Barber’s concept for implementing direct democracy three quality standards: “a popular vote has to be validated by deliberative talk; […] voting should allow the differentiated expression of preferences in a multiple-choice format (yes/no in a strong and in a qualified version); and […] decisive voting should be protected against the risk of volatility in public opinion”.

In order to discuss the direct democratic voting procedure outlined in this paper in the context of Barber’s democratic theory, I want to turn to the question: To what extend - if at all - does the described new instrument comply with these identified quality standards? Beginning with the validation of a popular vote by deliberative talk, it seems likely that – just as with other direct democratic instruments – the vote on policy programs with distinct influence on issues will cause a public debate about the topics. But a public debate on the basis of a determined ballot obviously does not conform to public deliberation aimed at finding consensus. The debate rather constitutes a source of information for the electorate to make a founded decision. Consensus developing deliberation among citizens is therefore not likely a result of the proposed voting procedure. But deliberation among the parties might be encouraged. Since issues are more likely to receiving more votes when they are part of multiple parties’ policy programs, there is an incentive for parties to come to a compromise in regard to a certain substantial issue; thus, deliberation among the elite could be encouraged. In case consensual positions can be reached, the parties of the issue-based coalition would propose the consensual proposal on each of their policy programs. By allowing for issue-based coalitions, it is also possible to have coalitions composed of different parties depending on the topic; for example, party A, B and C could agree on a consensual proposal for economic policies, but on social policy, there could be a coalition of party B and D, and so on. To précis, there might be impulses for more elite deliberation, but deliberation among the citizens is not adequately institutionalized by the voting procedure. Thus, the identified quality standard in regard to deliberation is not met.

Barber’s proposed multichoice formatted vote allows capturing the degree of support for an issue, including the assessment if the proposed policy is in general favorable but needs further adjustments (Barber 1984: 286 f.). This kind of multiple-choice vote is not incorporated in the direct democratic voting procedure outlined in this paper: There is the opportunity to allocate

---

9 See LeDuc (2006) for findings on the low quality of deliberation resulting from common direct democratic instruments.
multiple votes for one issues (cumulative voting) and by choosing so, indicating a voter’s stronger support for the issue. Additionally, the design allows for multiple issues on the ballot with different positions on a shared topic, thus enabling the electorate to make a more precise choice. It is not possible to derive the need for adjustments on any of the issues and it is only possible to decline an issue, if there is an opposing issue on the ballot that equals a decline, though. Therefore, reliably capturing the need for further deliberation in order to reach a public end is not provided by the outlined voting procedure as it is possible with Barber’s multichoice formatted voting.

The third quality for implementing direct democracy identified by Schiller is in regard to volatility in public opinion. Barber proposes a second ballot-cast six months after the first vote. In-between there is supposed to be further deliberation on the issue. As the new voting procedure outlined in this paper is not initiated ad-hoc, but rather periodically, there is less need for ‘protecting’ the decisions from volatility in public opinion. If the outlined voting procedure is – as proposed – held periodically in accordance with representative elections, the same volatility of public opinion is to be expected that is already part of the representative democratic process.

Inferences from Barber’s democratic theory on the outlined voting procedure

As discussed, the outlined direct democratic instrument does not meet certain core criteria of Barber’s concept of democracy - but what may be inferred from the shortcomings in regard to Barber’s theory for the design of the outlined voting procedure? The central insufficiency is the outlined procedure’s missing institutionalization of taking results of deliberation on the level of citizens into account. The instruments’ design should thus be altered to better capture the electorate’s (ideally consensual) positions on policies that are reached after deliberation on the basis of the ballot, i.e. the ballot should not be definite when it is made available to the public. Meeting this demand can be achieved rather easily: By allowing citizens to submit their proposals after the parties presented their policy programs. On the basis of the parties’ programs deliberation among the electorate could take place and then consensual proposals resulting from the deliberation would be submitted as citizens’ proposals.

Further adjustments according to Barber’s democratic theory could be made in regard to measuring the degree of support for single issues. The allocation of (up to three) votes for one issue, as proposed for the outlined instrument, is not the same as using a five point scale to express the degree of support for one issue, as proposed by Barber; still, by not merely counting the number of votes for one issue, it is possible to also take the amount of cumulatively distributed votes into account: Using counting methods that capture the degree
of support for one issue by measuring the amount of cumulative voting. Because the counting procedures for the herein described direct democratic instrument are already quite complex, a detailed discussion of the possibilities and impacts of more sensitive counting procedures goes beyond the scope of this paper.

5. Concluding remarks

In this paper, a direct democratic instrument was outlined, that is supposed to give the electorate influence on a wide range of issues at once. In order to achieve this, the procedure is basically a vote on policy programs of parties extended by voting tools of free list proportional procedures as well as by including citizens’ proposals. Through the design of the instrument, a wide scope of ‘voting intensity’ is made possible: On the one hand, citizens can express support for a number of substantial issues by simply casting one vote thus only spending little time on the participation process. On the other hand, citizens who are interested in a more precise influence on the policy-making process are able to do so with the very same procedure by alternating a program list or solely voting on distinct issues. Therefore the outlined direct democratic instrument theoretically provides an adequate way of participation for different participation preferences of citizens, thus increasing the probability of satisfaction with the participation possibilities for a greater number of people.

In order to estimate possible impacts on the representative system, the voting procedure was discussed in regard to Schumpeter’s and Barber’s democratic theories. The outlined direct democratic procedure was shown not to be in line with the elite focused theory as well as with the participatory theory. Further research needs to be conducted for identifying an appropriate theoretical framework, which then can be used as a basis for discussing impacts of an implementation of the described innovation on representative structures.

However, applying the logic behind both discussed theories allowed revealing aspects of the impact of the outlined voting procedure. For example the possible contestation between the parties but also the possible cooperation of the parties in the course of the voting procedure were discussed. In the end, a forecast of the way the instrument is going to be used in reality is not reliable solely on the basis of a theoretical discussion; as for common direct democratic instruments, the historical circumstances, federalism, non-parliamentary governance and the political culture (cf. Möckli 1994: 367 ff.) will likely determine the practical use of the herein outlined voting procedure.
Literature


Appendix

The direct democratic instrument outlined in this paper is the result of applying representative free list voting procedures on substantial issues voting. As there are some provisions in free list voting procedures that are only applicable to representative elections, some adjustments had to be made. The herein described instrument does have several complex regulations as a result. The most important technical details are presented in the following.

As described in section 3, each party’s policy programs are listed in columns on the ballot, the individual issues within the lists are organized in rows. Moreover, the order of the items represents a hierarchy. The parties therefore ought to put those issues considered to be important higher on the list. Citizens’ proposals on the other hand, do not compose a policy program; rather, they are a distinct issues incoherently grouped together on the ballot. Thus, the order of Citizens’ proposals does not represent a hierarchy. Additionally, there is no provision for voting for all citizens’ proposals as it is feasible for party lists.

From a critical perspective, observant readers probably have already identified several necessary constraints resulting from the ballot layout and voting procedures. The most important of these constraints are in regard to the relation between issues as well as in regard to the number of votes available for allocation. The relation between several issues on the ballot is important because of two aspects: Firstly, the expression of will made through the voting procedure ought to be coherent. Secondly, cumulative voting limits, i.e. the predefined maximum number of votes to be allocated to a single issue, may not be circumvented. The requirement of coherence implies that voters must not vote for issues if the issues’ content contradicts each other. Thus, issues that are inconsistent with each other need to be identified. The requirement to comply with the cumulative voting limits implies that voters must not vote for multiple identical issues listed in different program lists on the ballot. Thus, issues that are identical need to be identified, too.

As the identification and labeling of the relation between issues can potentially be used as a tool for manipulating the vote and distorting the results, it is important to provide institutional provisions benefitting assessments above party lines. In order to meet these standards the concept proposes to create a new administrative entity responsible for the identification whose personnel is selected through an consensual election procedure. The selection process of the German constitutional court judges seems to be a suited model.10

10 The discussion of the institution’s requirements, benefits and problems would go beyond the scope of this paper. The reasons for proposing a selection process loosely based on the
Due to these institutional provisions the examination of requirements in form and content for issues, known from practiced direct democratic procedures – for example the requirement for issues’ content to be constitutional and in accordance with laws as well as providing enough signatures of support in the case of citizens’ proposals -, are also best allocated at the new administrative entity.

The other important constraint of the voting procedure is related to the number of votes available to the electorate. As the tools discarding, cross-voting, and cumulative voting are yet only used for representative election procedures, some problems occur when applying them to substantial issues voting: For representative elections the number of votes available is defined by the number of open mandates/offices (Kersting 2004). Evidently, this ‘natural’ limitation is not given for substantial issues voting. Therefore, the number of votes available needs to be predefined upon other standards. How to assess the exact recommendable amount of votes is to be researched. It should be mentioned though that the maximum amount should be set with regard to the maximum number of allowed issues on a program list in order to assure effects of cumulative voting. To understand how the number of available votes influences cumulative voting the procedures of votes’ distribution need to be outlined.

Obviously, when not selecting a party program but rather voting for distinct issues only, voters may allocate as many votes as available freely to whatever issues they prefer – with the mentioned constraints regarding a coherent expression of will as well as complying to the maximum number of votes to be cumulated on one issue. The allocation of votes is more complex though, when a program list is voted for: In the first step, all votes that are distributed through cross-voting and/or cumulative voting are counted. The remaining votes (maximum number of votes minus votes distributed through cross-voting and/or cumulative voting) are in the second step distributed among the selected program list. In order to take the hierarchy into account the distribution starts on top of the list. From top to bottom one vote is distributed issue. Once the issue on the bottom of the list received a vote, the distribution starts over from the top. This is procedure is repeated as long as votes are ‘available’. In case one of the German constitutional court result from the assessments of the functioning of the court: although the rulings are not always above party lines, the majority of decisions do not seem to be based on party interests (cf. for example Schmidt 2007: 226 f., Bryde 1982: 181 f.). The selection process as well as the independence of judges, for example established by allowing only one term of office of 12 years, contribute to the court’s success (cf. von Westphalen 2001: 366).
the maximum number of votes is so high that it amounts to more than three times the maximum number of issues on a program list, cumulative voting would have little influence and the order of the list would not represent a hierarchy, because by voting for the list all issues on the list would receive the highest amount of cumulative votes possible.

In addition to the limitation of votes, another constraint for the voting act can be integrated to the herein outlined instrument: A budget (see fig. 3). While it is not necessary to include this constraint it would accommodate for the limited financial resources that are available for implementing the substantial issues on the ballot. To give citizens the opportunity to make a cost-benefit equation between issues is increasing their level of information on which their decisions are based. In order for a total budget to be distributed among the issues, the distinct issues ought to number the expected implementation costs.

<table>
<thead>
<tr>
<th></th>
<th>Party A</th>
<th></th>
<th>Party B</th>
<th></th>
<th>Party ...</th>
<th>Citizens’ proposals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue 1</td>
<td>€ 2.0</td>
<td>Issue 1</td>
<td>€ 2.9</td>
<td>Issue 1</td>
<td>€ 1.0</td>
<td>Issue 1</td>
</tr>
<tr>
<td>Issue 2</td>
<td>€ 3.6</td>
<td>Issue 2</td>
<td>€ 1.3</td>
<td>Issue 2</td>
<td>€ 3.3</td>
<td>Issue 2</td>
</tr>
<tr>
<td>Issue 3</td>
<td>€ 0.0</td>
<td>Issue 3</td>
<td>€ 0.0</td>
<td>Issue 3</td>
<td>€ 4.2</td>
<td>Issue 3</td>
</tr>
<tr>
<td>Issue 4</td>
<td>€ 0.0</td>
<td>Issue 4</td>
<td>€ 0.0</td>
<td>Issue 4</td>
<td>€ 5.1</td>
<td>Issue 4</td>
</tr>
<tr>
<td>Issue 5</td>
<td>€ 2.1</td>
<td>Issue 5</td>
<td>€ 0.0</td>
<td>Issue 5</td>
<td>€ 9.1</td>
<td>Issue 5</td>
</tr>
<tr>
<td>Issue 6</td>
<td>€ 1.0</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
</tbody>
</table>

![Budget Table]

<table>
<thead>
<tr>
<th>Budget</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Distributed</td>
<td>€ 1,234</td>
</tr>
<tr>
<td>Available</td>
<td>€ 4,321</td>
</tr>
</tbody>
</table>

Fig. 3: Outline 2 of ballot design.

To comply with before mentioned constraints during the voting act – i.e. not voting for contradicting or identical issues – alone would be a hard task for voters. Incorporating a budget makes the voting procedures practically impossible to conduct without auxiliary resources. In order to make the voting procedures manageable for the broad electorate, computers should be used during the ballot casting.

---

11 The amount of three times the maximum amount of issues on a list is a result of the limit of three votes for cumulative voting. In abstract terms, for N votes allowed for cumulative voting, the number of available votes should be no higher than N times the maximum amount of issues on a list.