

## **2. Initiative and Referendum**

Two variants of democracy are found today – direct and indirect. Modern democracies are basically indirect democracies. Still, it is in Switzerland where the surviving traces of direct democracy can be discovered. Even today, Switzerland is regarded as the home of direct democracy and direct legislation.

In Switzerland, the direct form of democracy works through the institutions of initiative and referendum. These two institutions enable the Swiss citizens to take direct part in the governmental system of the country. Of these two, initiative is a positive institution, where as referendum is a negative institution. Initiative enables the people to do or creat something for themselves. But referendum is a kind of veto power to express favourable or unfavourable opinion.

**Initiative** : According to the Concise Oxford Dictionary initiative means" (esp. in Switzerland and some US states) the right of citizens

outside the legislature to originate legislation." Or, as W. B. Munro said, initiative "is an arrangement whereby a specified number of voters may prepare the draft of a law and may then demand that it either be adopted by the legislature or referred to the people for acceptance at a general or special election. If approved by the required majority, it then become a law."

The Swiss Constitution provides for popular initiative for the purpose of revision of the Federal Constitution. Popular initiative may take place either for total revision of the Federal Constitution or for partial revision of the Federal Constitution. In both the cases 100,000 citizens, entitled to vote, may propose either a total revision or partial revision as the case may be, of the Federal Constitution. The proposal for total revision of the Federal Constitution has to be submitted to the people by referendum. Similarly, in case of partial revision of the Federal Constitution, the initiative is submitted to the vote of the people and the Cantons.

According to the Swiss Constitution, popular initiative for partial revision of the Federal Constitution may take either of the two forms: formulative and unformulative or general. According to the Swiss Constitution the popular initiative for a partial revision of the Federal Constitution may be in the form of a general suggestion or a formulated draft. In both the cases, required number for popular initiative is 100,000 citizens. They must be entitled to vote. In case of formulative popular initiative, the initiative is submitted to the vote of the people and the Cantons.

General popular initiative may in the form of a general suggestion, demand to change or abolish provisions of the Federal Constitution or statues. As a matter of fact, in case of a general popular in initiative, the courses open before the Federal Parliament are :

(i) "If the Federal Parliament consents to the initiative, it adopts the requisite change of the Federal Constitution or of federal law" [Art 139 a (3)].

(ii) "The Federal Parliament may contrast the requisite change by the initiative with a counter proposal. The requisite change of the federal Constitution and the Counter proposal are submitted to the vote of the people and the Cantons, the requisite change of federal law and the



counter proposal are submitted to the vote of the people." [Art 139a (4)].

(iii) "If rejected by the Federal Parliament, the initiative is submitted to the vote of the people. If the initiative is adopted, the Federal Parliament establishes the requisite change of the Federal Constitution or of federal law." [Art 139a (5)]

**Referendum** : Another institution of direct democracy in Switzerland is referendum. As we have already said referendum is a negative institution, it a kind of veto power. The Swiss Constitution recognizes two kinds of referendum : a) mandatory and b) optional.

**Mandatory referendum** : Article 140 of the Swiss Constitution deals with mandatory referendum. Article 140 mentions the subjects on which mandatory referendum can be held. Here again, (1) some are submitted to the vote of the People and the Cantons and (2) some others are submitted to the vote of the people only. In the first category falls (a) revision of the Federal Constitution; (b) the entry into organization for collective security or into supranational communities. (c) Federal Statutes declared urgent which have no constitutional basis and whose validity exceeds one year. In the second category falls (a) popular initiatives for total revision of the Federal Constitution. (b) popular initiative for partial revision of the Federal Constitution in the form of a general suggestion which were rejected by the Federal Parliament; and (c) The question whether a total revision of the Constitution should be carried out if both Chambers disagree.

**Optional Referendum** : Article 141 has dealt with optional referendum. Optional referendum means, according to this article of the Swiss Constitution, those referendum which are held on the demand of 50000 citizens entitled to vote or 8 Cantons. According to this Article, the following instruments are submitted to the vote of the people :

- (a) Federal Statutes;
- (b) Federal Statutes declared urgent with a validity exceeding one year;
- (c) Federal decrees to the extent the Constitution or the statute foresees this;
- (d) International treaties. It is to be mentioned here that only those



international treaties are to be placed for optional referendum (i) which are of unlimited duration and may not be terminated, (ii) which provide for the entry into an international organization and (iii) which include important legislative provisions or require the adoption of federal law.

Proposals placed for referendum have to be accepted by 'required majorities'. However, the term 'required majorities' means two things : (i) proposals submitted to the vote of the People shall be accepted if the majority of those voting approves them [Art. 142(1)] and (ii) proposals submitted to the vote of the People and the Canton's shall be accepted if the majority of those voting and the majority of the Cantons approve them [Art. 142(2)]. Again in the case of Cantons, vote of the Canton is determined by the result of a popular vote.