

Institutions of Direct Democracy and Accountability in Latin America's Presidential Democracies

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The crisis of representative democracy in Latin America became apparent in a wave of constitutional reforms during the 1990s. A striking feature of these reforms was the incorporation of institutions of direct democracy (IDD) into most post-transitional Latin American constitutions. Despite the shortage of efficient mechanisms of accountability and its concomitant weakening of democratic consolidation in the region, the potential of IDD to bolster accountability in the representative structures of presidential democracies has not yet received systematic scholarly attention. To fill this theoretical gap, the article presents a typology designed to assess the accountability potential of IDD, which is used to classify the constitutional provisions for direct democracy in Latin America's 18 presidential democracies. After juxtaposing the findings of constitutional analysis to the actual record of direct democracy in the region, the article concludes that there is a considerable discrepancy between constitutional accountability potential and the empirical evidence. Whereas the adoption of IDD has hardly affected the vertical dimension of accountability, the practice whereby presidents use referendums to bypass legislative opposition has worked to the detriment of the horizontal dimension of accountability.

Key words: Latin America; direct democracy; accountability; presidentialism

Introduction

Since the beginning of the third wave of democratization in the late 1970s, there has been continuous debate over the effect of the choice of regime type and constitutional design on the stability and quality of newly established democracies. Juan Linz¹ presented a rather gloomy prognosis for the survival of presidential democracies, especially emphasizing the problem of separate origin and independent survival of executive and legislative authority, which in his view involves the risk of divided government and legislative deadlock, making presidential systems prone to democratic collapse. Concerning democratic quality, O'Donnell² came to an equally negative assessment of presidentialism, depicting Latin America's 'delegative democracies' as systems in which the lack of efficient accountability mechanisms

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enables directly elected presidents with fixed terms to govern 'as they see fit', virtually unconstrained by parliamentary control, judiciary supervision, and vertical control by their own electorates once they have assumed office.

Despite this scholarly pessimism, Latin America's presidential systems have remained remarkably stable and the region has accumulated considerable experience in democratic practice since the most recent redemocratization. During the 1990s Latin America saw a wave of constitutional reforms that involved considerable institutional innovations. Comparativists have reacted to this by extending the scope of research on democratic stability and quality from merely analysing differences between regime types to analysing variations within presidential regimes. Extensive research has been done on many features of the 1990s reform wave, for example, the effects of electoral reforms, re-election drive, and term limits on the changing role of legislatures,³ the possibility that presidents assert themselves against oppositional majorities by use of decree power,⁴ or the effects of decentralisation and participatory budgeting on the efficiency in allocation of public goods.⁵

However, an important feature of these reforms has received little scholarly attention so far: the incorporation of institutions of direct democracy (IDD) into most post-transitional Latin American constitutions. Despite the fact that the lack of accountability mechanisms has been identified as one of the major obstacles to democratic consolidation in the region, systematic research on the potential of IDD to introduce accountability into the representative structures of presidential democracies has not been carried out yet. The central aim of this article is to fill this gap. To do so, it will first provide a short overview of the particular problems of agency relations and accountability in presidential systems and then present a typology designed to assess the accountability potential of IDD in presidential systems. This typology is used to classify the constitutional provisions for direct democracy in Latin America's 18 presidential democracies. Subsequently, the findings of the constitutional analysis are compared with the practical record of direct democracy in the region and case studies of the empirical application of the different types of IDD are presented. The conclusion summarizes the empirical findings and makes suggestions for an agenda of future research.

The Problem of Democratic Accountability in Presidential Systems

The concept of democratic accountability derives from the economic theory of principal-agent relations, which consists of the following core components: *principals* can offer binding contracts to *agents*, who perform specified services on their behalf. Three features hold in virtually all principal-agent situations: first, the principal retains certain mechanisms that allow him/her to verify that the agent is performing the specified service and hold him accountable should he defect from the conditions of the contract.⁶ Second, and at the same time, the specialised agent disposes of an informational advantage that limits the principal's ability to monitor and judge his performance. Thirdly, the asymmetric distribution of information entails a certain degree of agency loss, that is to say the agent may misuse his informational advantage in order to extract economic rents.

This economic model has been adapted to democratic theory: voters (as principals) delegate powers to public officials (as agents) via elections thus bestowing them with the mandate to act as their representatives. In this context, the term *democratic accountability* refers to the properties of representative structures that ensure that public officials act in the collective interest of their electorates.

The literature distinguishes between two concepts of democratic accountability.⁷ One is *vertical accountability*: public officials are in an agency relationship with their electors, and the electorate's capacity to hold its agents accountable is basically limited to retrospective voting. Citizens have criteria by which they evaluate the performance of governments and they may either decide to reward incumbents with re-election or to sanction them if they fail to fulfil these criteria by voting them out of office.⁸ At the same time, the public is limited in its capacity to figure out what their agents are doing and why they are doing it.⁹

The second concept of democratic accountability is *horizontal accountability*: executives are in an agency relation with legislatures that delegate power to them in order to advance the goals of congressional majorities.¹⁰ Although the problem of asymmetric information is also present in this horizontal relationship, legislatures are not as informationally disadvantaged as electorates with respect to governmental institutions, and dispose of a relatively large range of punishments and rewards compared with those of ordinary voters.¹¹

There has been extensive and controversial scholarly discussion about the question whether parliamentary systems are superior to presidential systems in terms of democratic accountability.¹² Claims for the inferiority of presidentialism in this respect are mainly grounded on two arguments. One claims that the public can only hold representatives accountable if they are eligible for re-election. The limitations on immediate re-election of presidents that exist in most presidential systems therefore severely weaken the vertical accountability relationship. The other argues that in presidential systems both executive and legislative authority are constituted by direct vote and the president's term is fixed by the constitution. Whereas prime ministers in parliamentary systems depend on the trust of a parliamentary majority for survival and can be removed from office by means of a vote of non-confidence, the fact that legislatures in presidential systems lack a political mechanism to remove executives which lack the confidence of a legislative majority weakens the horizontal axis of accountability.

IDD and Accountability in Presidential Systems: A Typology

When speaking about direct democracy as a complement to representative democracy, it is often overlooked that direct democracy is a complex phenomenon consisting of a wide array of institutional manifestations that can imply quite different consequences with respect to the influence of political actors in the decision-making process.¹³ So far, no universal terminology of IDD exists. The typology presented here seeks to establish how far IDD provide suitable tools to a) provide the electorate with a possibility to exercise vertical control and hold governments accountable by imposing adequate sanctions for non-responsive behaviour, and b) enhance horizontal inter-branch control

between the legislative and executive authority of government. To do so, one must determine which political actors actually control a direct democratic process. Following Hug and Tsebelis,¹⁴ this question is addressed by applying two basic distinguishing criteria: first, who is entitled to initiate a direct democratic process, and second, who sets the agenda of the process by formulating the ballot proposal.

Mandatory Referendums and Facultative Procedures

Who may initiate a direct democratic process? First of all, a distinction has to be made between procedures that are constitutionally required and those that are not. *Mandatory referendums* are triggered automatically in certain situations or on certain types of issues explicitly stipulated in the constitution.¹⁵ On the other hand, *facultative procedures* are promoted at the request of an individual or collective political actor, entitled to do so by constitution or law, who initiates the procedure for obtaining a popular vote on a determined issue.¹⁶ Obviously, in the case of *mandatory referendums* the question of who may trigger the process is irrelevant since they do not require a promoting actor.¹⁷ From a functional point of view, they resemble citizen initiated procedures: *mandatory referendums* introduce the voter as an additional veto player whose consent will be necessary in order to change policies.¹⁸

Referendums and Initiatives

Concerning *facultative procedures*, most authors agree that the main difference between the different tools within this category is the degree to which control over decision-making is transferred from elected representatives to the ordinary voter.¹⁹ Accordingly, the crucial distinguishing criterion chosen in most typologies of IDD is the question: who is entitled to trigger the procedure for obtaining a popular vote? Some commentators have distinguished between government and opposition as possible initiators.²⁰ This concept is suitable for parliamentary systems in which executive and parliamentary majority form a symbiotic action-unit that is controlled by an oppositional block. However, it doesn't seem well defined for presidential systems in which divided government is more likely to occur and coalitions may shift on the basis of subject matter.²¹ Furthermore, if a statement is to be made about IDD's potential to allow for sanction of elected representatives, the decisive question is whether the right to initiate a procedure is a genuine right of the people or merely of an oppositional minority in parliament. Therefore, it is sensible to distinguish clearly between two general classes of *facultative procedures*: those initiated at the request of citizens, on the one hand and on the other, those initiated by representatives. For this purpose, the article adopts Uleri's terminology, denominating *initiatives* those procedures that are promoted by citizen petitions and *referendums* those procedures that are promoted by either the executive or the legislative branch of government.²²

Proactive and Reactive Types of IDD

Who formulates the ballot proposal and thereby sets the agenda of a direct democratic process? Within the category of *referendums*, the question whether agenda setter and

initiator coincide has important implications for the horizontal axis of accountability in presidential systems: according to Shugart and Mainwaring,²³ one possible way to think about executive–legislative power relations in presidential systems is the exercise of power with regard to the legislative status quo. Powers that allow either one of the two branches to challenge the legislative status quo are termed *proactive*, whereas those that merely allow a defence of the status quo are described as *reactive*. This terminology is used here for the distinction of different types of referendums: the exclusive right to initiate a referendum process and ask any question he/she wants, for example, provides a president with a powerful, proactive instrument. Presidents can use this device to bypass an oppositional majority in the legislature and try to impose their preferred policies by putting them directly to popular vote. If, on the other hand, the legislature can demand a referendum on a presidential bill or decree, it disposes of a reactive instrument to limit excessive presidential power in the legislative process.

A similar distinction has to be made with regard to *initiatives*. Here, it has to be determined whether the possibility for citizens to exercise vertical political control is restricted to vetoing legislative proposals brought forward by representatives, or if they are able to raise a ballot measure themselves. Although in both cases the citizenship is the initiating authority, there is an important difference: if an *initiative* may only address decisions made by a governmental body, the role of the citizens is reactive.²⁴ *Reactive initiatives* can thus be described as complementary to representative democracy. On the other hand, if a ballot measure can be formulated by citizens themselves, they are given a proactive tool that enables them to actively challenge the legal status quo by putting issues on the political agenda. Doubtless, the degree of popular control over the political process is higher in the case of *proactive initiatives*. This type can be described as substitutive to representative democracy since the citizenship itself adopts the role of the legislator.

The combination of the criteria proposed so far results in a five-fold basic typology of IDD:

The *mandatory referendum*: A popular vote that must be convoked in certain situations or on certain issues stipulated in the constitution and is triggered automatically.

The *proactive referendum*: A procedure initiated by elected representatives, from either legislative or executive branch of government, who request that a proposal formulated by themselves be submitted to popular vote.

The *reactive referendum*: A procedure initiated by elected representatives, from either legislative or executive branch of government, who request that a proposal formulated by the opposite branch be submitted to popular vote.

The *proactive initiative*: A procedure initiated by a stipulated number or percentage of voters who sign a formal petition, requesting that a proposal formulated by a group of citizens be put to popular vote.

The *reactive initiative*: A procedure initiated by a stipulated number or percentage of voters who sign a formal petition, requesting that a proposal made by elected representatives be put to popular vote.

For the general types of *initiatives* the establishment of further subtypes is necessary. Some authors have postulated that devices of direct democracy should be

distinguished by the nature of the public issue that may be put to popular vote. Butler and Ranney,²⁵ for instance, present a classification comprising subject matters such as constitutional issues, territorial issues, moral issues, and so on. However, such a topical classification is of limited use, since it can only be applied ex-post and leads to a descriptive account.²⁶ A more formal kind of distinction is to identify the specific moment at which the device intervenes in the policy-making process: *reactive initiatives*, which are restricted to reverting laws that have already been enforced, will be referred to as *abrogative initiatives*, while those that allow citizens to vote on a 'decision just taken by government or parliament but not yet enforced',²⁷ such as pending bills or the decision on the signing of an international treaty, will be referred to as *rejective initiatives*.

In the realm of *proactive initiatives*, this analysis refers to citizen proposals that involve constitutional reform as *constitutional initiatives* and *popular initiatives* if ordinary legislation is concerned. Furthermore, in the realm of *reactive initiatives*, we need to distinguish whether a popular vote addresses an issue or a person. Initiatives centred on the control of public officials will be referred to as *recall*. In this case, after the collection of a pre-set number or percentage of signatures, a popular vote of the whole electorate is called to determine whether an elected official should be removed from office prior to fulfilment of his term.²⁸ Table 1 summarizes the classification described above.²⁹

Assessing the Accountability Potential of IDD

Having classified the various types of IDD, we can now address the question in how far these devices are appropriate to induce accountability into the representative structures of presidential democracies.

Provisions for *mandatory referendums* and the various subtypes of *initiatives* aim at strengthening the vertical dimension of accountability at different stages of the political process: *mandatory referendums* and *rejective initiatives* introduce accountability at an early stage. They serve as legal impediments to prevent a change of the legislative status quo that is opposed by a majority of the electorate and allow the electorate, as principal, to sanction its political agents by blocking undesired decisions. *Abrogative initiatives* and the *recall*, on the other hand, introduce vertical control at a later stage of the political process. They correspond to the notion of accountability that has been brought forward by the rational choice school of neo-institutionalism and is based on the concept of retrospective voting: voters receive an opportunity to retrospectively evaluate whether policies or the behaviour adopted by their representatives comply with their preferences and, in the case of a negative assessment, are enabled to sanction defections by either reversing the respective policies or de-authorizing non-responsive agents by revoking their mandates beyond regular elections.

Likewise, *proactive initiative* types (*popular initiatives* and *constitutional initiatives*) constitute strong instruments of vertical control, albeit their relationship with accountability in representative structures is apparently more problematic. Because the citizenship acts simultaneously as initiator and agenda-setter here, it can rule out veto players in the normal legislative game³⁰ and may introduce issues into the

TABLE 1
INSTITUTIONS OF DIRECT DEMOCRACY (IDD)

Constitutionally required:		NO				YES
		Facultative procedures				Mandatory referendum
Initiator:		Citizens		Representatives (Members of the Executive, Members of the Legislature)		
		Initiative				Referendum
Agenda-setter:		Citizens	Representatives		Initiator = Agenda-setter	Initiator ≠ Agenda setter
		Proactive Initiative	Reactive Initiative		Proactive Referendum	Reactive Referendum
Subject Matter (Subtypes)		Vote on Ordinary Legislation	Vote on Enacted Law	Vote on Pending Bill or Decision	Vote on Person	
		Popular Initiative	Constitutional Initiative	Abrogative Initiative	Rejective Initiative	Recall

political agenda that elected officials would prefer to see omitted. This clashes with the rational-choice view, according to which accountability mechanisms mainly operate on the basis of retrospective evaluation and ex-post control that principals exercise over their agents.³¹

It is also important to notice that the degree to which legislative outcomes of initiative procedures truly mirror the preferences of the electorate depends to a good deal on the legal regulations for the application of these instruments. The idea behind minimum signature requirements and geographic distribution of signatures for example, is that initiative proponents should have to demonstrate that their proposal has sufficient popular support that is evenly distributed in the affected territorial unit. At the same time, such requirements present expensive and time-consuming hurdles to be overcome by interest groups, and excessive requirements may obstruct the use of these instruments.³² Critics have suggested that wealthy interest groups may manipulate initiative processes through expensive campaigns, and so obtain policies that correspond to narrowly based economic interests.³³ However, there are means to reduce this risk. Gerber³⁴ presents empirical evidence that different interest groups prefer different direct legislation strategies: broad-based citizen groups tend to have large personnel resources and enjoy an advantage in the labour-intensive task of signature collection. They therefore prefer strategies that influence legislation by proposing initiatives that are supported by a majority of the population. Economic-based interest groups, on the other hand, tend to prefer capital-based strategies. They have a relative advantage at raising funds and often use their resources to finance expensive opposition campaigns. Regulations concerning the dissemination of information in campaigns and restrictions on propaganda may thus be helpful in limiting the influence of narrow economic interests.³⁵

The *referendum* types of IDD initiated by elected representatives affect the horizontal axes of accountability. Provisions for the *reactive referendum* should increase horizontal accountability. Since the implementation of this tool requires preceding parliamentary deliberation it is a classical negative power, aimed at preventing arbitrary collective decisions and populist government: if the executive requires a legislative majority to put a policy measure to vote or, in the opposite case, a draft presented by the legislature may be submitted to referendum by the executive, both branches will be forced to negotiate proposals which are acceptable to as many subsets of the electorate as possible. Therefore, this tool may offer an institutional solution to avert a constitutional crisis resulting from the dilemma of dual legitimation formulated by Juan Linz: 'When a majority of the legislature represents a political option opposed to the one the president represents . . . who has the stronger claim to speak on behalf of the people: the president, or the legislative majority that opposes his policies?'³⁶ The *reactive referendum* leaves it up to the electorate, as principal, to give a final answer to this question.

The *proactive referendum*, however, runs contrary to the concept of horizontal accountability since it increases the chances of the legislative or executive branch evading mutual control, and facilitates a unilateral change of the legal status quo. The adoption of this tool – especially constitutional provisions for executive triggered proactive referendums – has therefore been greeted with a certain amount of

scepticism by scholars, who point out that it might be a dangerous tool in the hands of authoritarian-minded, neo-populist presidents who seek to de-formalize the political process and weaken legislatures.³⁷

Constitutional Provisions for IDD in Latin America

This section presents an overview of constitutional provisions concerning IDD in Latin America's 18 presidential democracies. For each of these countries the analysis consulted the most recent constitution³⁸ and adopted specifications in the constitutional text according to the classification presented in the third section of the article. In cases where these specifications are insufficient, supporting legislation was consulted as well. A summary of constitutional provisions is provided in Table 2.

Mandatory Referendums

Fifteen out of the 18 Latin American presidential democracies present constitutional provisions for the use of instruments of direct democracy on a national level. References to mandatory referendums appear in seven constitutions. Among those, six explicitly refer to required referendums for constitutional changes.³⁹ However, only a few constitutions (Guatemala, Paraguay, Uruguay, and Venezuela) prescribe a ratification of any constitutional amendments by popular vote in a mandatory referendum. In Panama and Peru, by contrast, the obligatory procedure is linked to specific problems in the representative process regulating constitutional reforms. In Panama, a legislative act concerning constitutional reform that has been approved in three readings by a two-thirds majority of the national assembly during a legislative term and is re-approved in a single reading by a two-thirds majority in the subsequent term, can be directly promulgated as law without the need of a referendum. A referendum only becomes necessary if amendments to the act originally approved in the first term are introduced in the second term. In Peru, the public must be consulted only if an amendment to the constitution is approved by an absolute majority in Congress but fails to obtain a two-thirds majority.

Facultative Procedures

Referendums Within the realm of facultative procedures, the referendum type initiated 'from above' clearly dominates: of the 13 constitutions with provisions for facultative procedures, only eight allow for the use of *initiatives* triggered by the citizenship (Bolivia, Colombia, Costa Rica, Ecuador, Nicaragua, Peru, Uruguay, and Venezuela), whereas provisions for *referendums* initiated by elected representatives exist in all of these cases, except Uruguay.

However, it is often problematic to determine whether a referendum is proactive or reactive by constitutional analysis alone. In the majority of cases, the constitutional text clearly indicates which branch of government is entitled to trigger a referendum but remains silent with respect to authorship of the proposal. For the sake of simplicity the following assumptions are made here: a) referendums are *proactive* if the constitution adjudges the right to trigger the process exclusively to either the executive or the legislative branch of government; b) if both branches

TABLE 2
CONSTITUTIONAL PROVISIONS FOR IDD IN LATIN AMERICA

Country	Facultative Procedures					Mandatory Referendum
	Initiative		Referendum			
	Proactive	Reactive	Proactive	Reactive	Reactive	
Argentina	-	-	Congress with absolute majority of both Chambers (Art. 40)	-	-	-
Bolivia	Popular Initiative (Art. 5c Referendum Law)	-	President (Art. 5a Referendum Law), Two-thirds of National Congress (Art. 5b Referendum Law)	President (Art. 5a Referendum Law), Two-thirds of National Congress (Art. 5b Referendum Law)	-	-
Brazil	-	-	Congress (Art. 49)	-	-	-
Chile	-	-	-	-	President on constitutional amendments approved by a two-thirds majority in Congress (Art. 117)	-
Colombia	-	Abrogative Initiative (Art. 170); Recall (Art. 40, 103)	-	-	Presidential proposals for constitutional reforms require absolute majority of both Chambers (Art. 155, 378)	-
Costa Rica	Popular Initiative (Art. 105, 102/9, 123); Constitutional Initiative (Art. 105, 102/9, 123)	Abrogative Initiative (Art. 105, 129)	Two-thirds of Legislative Assembly (Art. 105)	-	Executive proposals require approval of two-thirds of Legislative Assembly (Art. 105)	-
Dom. Rep.	-	-	-	-	-	-
Ecuador	Popular Initiative (Art. 105)	Recall (Art. 109)	President (Art. 104)	-	-	-
El Salvador	-	-	-	-	International treaties, entering supranational organs. (Art. 73, 89)	-

(continued)

TABLE 2
CONTINUED

Country	Facultative Procedures				Mandatory Referendum
	Initiative		Referendum		
	Proactive	Reactive	Proactive	Reactive	
Guatemala	–	–	Congress or President (Art. 173)	Congress or President (Art. 173)	Constitutional Reform (Art. 173, 280)
Honduras	–	–	–	–	–
Mexico	–	–	–	–	–
Nicaragua	Popular Initiative (Art. 133, 135 Electoral Law)	Rejective Initiative (Art. 134, 136 Electoral Law)	President (Art. 133, 135 Electoral Law) One third of National Assembly (Art. 136 Electoral Law)	President (Art. 133, 135 Electoral Law) One third of National Assembly (Art. 136 Electoral Law)	–
Panama	–	–	–	–	Constitutional Reform (Art. 308, §2) Status of Panama Canal (Art. 319)
Paraguay	–	–	Congress (Constitution Art. 121, 122; Electoral Code Art. 259)	Congress on proposal by the Executive (Electoral Code Art. 259, 260)	Constitutional Reform (Art. 290)
Peru	Popular Initiative (Art. 31); Constitutional Initiative (Art. 206)	Recall (Art. 31) Abrogative Initiative (Art. 126 Electoral Law)	Congress or President (Art. 206)	Congress or President (Art. 206)	Constitutional Reform (Art. 206)
Uruguay	Constitutional Initiative (Art. 331/A)	Abrogative Initiative (Art. 79)	–	–	Constitutional Reform (Art. 331/B–E)
Venezuela	Popular Initiative (Art. 71)	Abrogative Initiative (Art. 74); Rejective Initiative (Art. 73); Recall (Art. 72)	President; absolute majority of National Assembly (Art. 71, 73)	President; absolute majority of National Assembly (Art. 71, 73)	Constitutional Reform (Art. 344, 345)

dispose of this right referendums are both *proactive* and *reactive*; c) if the constitution explicitly states that either the executive or legislative can trigger a referendum in reaction to a decision or proposal made by the opposite branch, we can classify them as purely *reactive*.⁴⁰ Nevertheless, a close analysis of constitutional practice – the actual occurrence of facultative referendums – will still be necessary to verify these assumptions. It is important to notice that the constitutional ambiguity with regard to agenda-setting power not only presents a theoretical problem for proper categorization but also carries the potential for conflict when it comes to the practical application of these tools.⁴¹ In five countries (Bolivia, Guatemala, Nicaragua, Peru, and Venezuela) both branches are entitled to trigger the referendum process, whereas in five other countries (Argentina, Brazil, Costa Rica, Colombia, and Paraguay) it is an exclusive prerogative of congress. Only in Ecuador is the right to initiation reserved exclusively to the president.

Initiatives Within the realm of citizen-initiated procedures, constitutional analysis reveals a balanced distribution of reactive and proactive subtypes: the constitutions of Bolivia, Costa Rica, Ecuador, Nicaragua, Peru, Uruguay, and Venezuela allow for *proactive initiatives*. The possibility of reversing legislation by *abrogative initiative* exists in Colombia, Costa Rica, Peru, Uruguay, and Venezuela. *Recall* procedures on a national level are possible in Colombia, Ecuador, Peru, and Venezuela.

Constitutional Practice: Direct Democratic Events in Latin America, 1978–2004

Between 1978 and 2004, a total of 24 popular consultations have been held in nine countries under democratic conditions.⁴²

Seven of the direct democratic events that took place were automatically triggered mandatory referendums on constitutional reforms. It is noteworthy that in three of these cases the amendments proposed by representatives were rebuffed by citizens at the ballot box (for details see Appendix).

Of the 17 remaining facultative events, eight were referendums initiated by either the executive or the legislative branch, thus confirming the dominance of mechanisms initiated ‘from above’ observed in the constitutional analysis, especially the proactive referendum. On several occasions, politically isolated heads of the executive have tried to employ proactive referendums in order to circumvent oppositional majorities in the legislature by appealing directly to the voter. In such a context, the referendum has been used to broaden the president’s legitimation basis rather than as a means of obtaining a popular vote on a specific political decision. The Bolivian referendum on hydrocarbons illustrates this strategy emphatically.

Bolivia

In September 2003, Bolivia’s President Sánchez de Lozada’s backing for a US\$5 billion plan by a foreign consortium to export natural gas to California led to a wave of increasingly violent anti-government protests. Sánchez de Lozada’s attempt to quell the riots with the help of the armed forces led to the deaths of approximately 80 protesters and caused political support for the president to collapse.

TABLE 3
DIRECT DEMOCRATIC EVENTS IN LATIN AMERICA, OCCURRENCE BY TYPE, 1978–2004

Type	Event	Total
Mandatory Referendums	Brazil April 1993	7
	Guatemala May 1999	
	Panama Aug. 1998	
	Uruguay Aug. 1994	
	Uruguay Dec. 1996	
	Uruguay Oct. 1999	
	Uruguay Oct. 1999	
Proactive Referendum	Argentina Nov 1984	7
	Bolivia July 2004	
	Colombia Dec. 1990	
	Ecuador June 1986	
	Ecuador Aug. 1994	
	Ecuador Nov. 1995	
	Ecuador May 1997	
Reactive Referendum	Colombia Oct. 2003	1
Popular Initiative		0
Constitutional Initiative	Colombia Mar. 1990	5
	Uruguay Nov. 1989	
	Uruguay Nov. 1994	
	Uruguay Nov. 1994	
	Uruguay Oct. 2004	
Rejective Initiative		0
Abrogative Initiative	Uruguay Apr. 1989	3
	Uruguay Dec. 1992	
	Uruguay Dec. 2003	
Recall	Venezuela Aug. 2004	1

On 17 October he was forced to resign and his vice-president, Carlos Mesa, was sworn in by the National Congress in his place. Although his assumption of office complied with the constitutional regulations, Mesa did not have an independent and direct popular legitimation and needed to distance himself from his unpopular predecessor. Moreover, being a journalist without a previous political party career, Mesa's lack of a stable support base made it unlikely that he would be able to implement his reform package concerning the national energy policy by employing the usual political route in Congress.

Congressional opposition to Mesa's project came from two directions: whereas legislators representing the interests of business elites from the gas-producing departments favoured maintaining the status quo, the Movimiento al Socialismo (MAS), representing the interests of the indigenous population in the Andean region, proposed recovering state ownership of the privatised energy companies. Meanwhile, Mesa's own preferences were shaped by the challenge of mediating between the demands of an impoverished electorate and the requirements for keeping international lending organisations on board. He thus adopted an intermediate position, proposing the continuation of gas exports while increasing taxes on foreign energy companies

operating inside Bolivia. The extensive wording and complexity of the five questions finally presented by Mesa in July 2004 turned the referendum into a vote of confidence in his person. However, the vague formulation of the questions (see Appendix) made a translation of the results into a clear-cut instruction for the executive impossible and led to quarrels between the government and the oppositional MAS about the ultimate interpretation of the people's will. Despite its affirmative result, the referendum failed to fulfil its hidden agenda: to provide Mesa with a strengthened mandate that could see him through to the end of his term in 2007. The popular bases of the MAS together with the country's trade unions and peasant unions campaigned heavily against the referendum result, arguing that it had discarded the main question, which would have been a straight yes or no vote on the complete re-nationalisation of the gas resources. In June 2005, only one month after the promulgation of the new hydrocarbons law, the wave of collective protest reached a scale comparable to the 2003 unrests that had toppled his predecessor, and Mesa was forced to resign.

Ecuador

A similar strategy, which fared more successfully, was employed by Ecuador's President Fabian Alarcón. The Ecuadorian referendum of 1997 was held in the context of a severe constitutional crisis accompanied by high levels of civil unrest. In February 1997, the country's trade unions launched a series of nationwide strikes in reaction to President Abdala Bucarám's move to eliminate subsidies on public services. Congress responded to the mass demonstrations by impeaching President Bucarám on the grounds of 'mental incapacity'. Congress then voted in its own chairman, Fabian Alarcón, as his successor, even though the constitution required Bucarám's vice-president, Rosalia Arteaga, to fill the vacant position. In reaction to what was widely regarded as a 'congressional coup on the constitution',⁴³ Arteaga refused to recognize Alarcón's appointment. In May, Alarcón proceeded to solve the constitutional void by decreeing the convocation of a 14-question referendum, the main objective of which was to legitimise the congressional ouster of Bucarám and his own succession in office. At the same time, Ecuadorians were asked to vote on such complex issues as the modernization and depoliticization of the judicial system. The outcome gave a clear vote of confidence to Alarcón.⁴⁴ However, in a post-election opinion poll, 36 per cent of the respondents assessed that their compatriots had not fully understood the questions⁴⁵ – an alarming result that provides grist to the mills of those critics who point out the potential for manipulative populist misuse inherent in the referendum tool.

Despite the fact that the majority of constitutions reserve the right to initiate a referendum to congress, legislatures have made limited use of this tool. So far, the Colombian referendum in 2003 is the sole case of a reactive referendum triggered by the legislature on an executive proposal.

Colombia

Although the Colombian constitution does not prescribe popular ratification of constitutional amendments by a mandatory referendum, the president can try to abbreviate the lengthy and complex ratification procedure by submitting a referendum

proposal for a constitutional reform project to Congress, where it needs to be approved by an absolute majority in both chambers. In 2002, Alvaro Uribe obtained the first one-round victory in presidential elections since the introduction of the two-round run-off system in Colombia in 1991. Despite the fact that Uribe had split from the traditional Colombian Liberal Party and ran as an independent candidate, he had available a broad support base in both chambers of Congress.⁴⁶ To understand why he chose to avail himself of the referendum despite such a favourable position, a closer look at his reform proposal is necessary. Uribe had campaigned on an anti-corruption ticket, which gained him enormous popularity. One of his main campaign promises was to submit a referendum proposal with the resounding name “*Referendo contra la corrupción y politiquería*” to Congress.⁴⁷ Many of its measures were directly targeted at the abolition of long-established privileges of Colombian legislators as well as the suppression of traditional ‘pork barrel’ and vote-buying practices. The issue that met with strongest resistance on behalf of legislators was the proposal to merge the two chambers of Congress into a unicameral body, reduce the number of legislators from 263 to 150, and convoke early elections for the new Congress. This proposal was criticised as an attempt to eliminate party mediation through a bicameral congress and as the blueprint for a highly authoritarian presidency.⁴⁸ Immediately upon his inauguration in August 2002, Uribe submitted the draft legislation for the referendum to Congress. Initially, Uribe was intransigent towards Congress, repeatedly stating that the text of the referendum was non-negotiable. However, since the allegiances of Colombian legislators are notoriously fluid and opportunistic, Uribe feared that some of his initial support might melt away, and so he was anxious to shepherd his referendum proposal through Congress before the closure of ordinary sessions in December 2002. This time pressure clearly made itself felt in the negotiations with Congress as Uribe gradually adopted a more conciliatory attitude. The negotiated reform proposal which was finally approved by Congress contained significant concessions on behalf of the executive, such as the preservation of bicameralism, the agreement to reduce the number of legislators by only 20 per cent instead of the originally proposed 43 per cent, and the withdrawal of the clause from the referendum text that would have facilitated the convocation of early legislative elections. In the final referendum vote only one of the 15 issues achieved the minimum turnout of 6.3 million votes required for ratification; in other words, Uribe’s reform failed at the ballot box. Regardless of this outcome, the fact that the constitutional provisions of a reactive referendum forced an extremely popular head of executive to abandon his ideal outcome and negotiate his proposal with Congress indicates that this tool is adequate to foster horizontal accountability and avert constitutional crisis in case of legislative–executive conflict.

Uruguay

Turning to the nine *initiatives* triggered by the citizen, the first thing that catches the eye is that seven of them are concentrated in a single country, Uruguay, thus making it the sole example in Latin America that consistently uses the initiative. Since the country’s democratic restoration in 1985, three abrogative initiatives and four constitutional initiatives have been held.⁴⁹ Citizen organizations have repeatedly

succeeded in using these tools to prevent the state from withdrawing the provision of public goods. Examples are the 1992 abrogative initiative, which revoked a law entitling the executive power to privatize or de-monopolize the national airline, telecommunication, and energy companies; and in 2004 a constitutional initiative that enshrined the right to free access to drinking water and sewerage services in the constitution.⁵⁰ Nevertheless, it is important to notice that Uruguayans' voting behaviour in initiatives contrasts to a considerable extent with what can be observed in other countries. The passage of initiatives in Uruguay largely depends on the mobilization efforts of organized partisan groups, and voters' choices are heavily conditioned by the suggestions of their political fractions (*sub lemas*).⁵¹ Rather than civil society organising ad hoc movements to bypass distrusted political leaders, the Uruguayan experience with IDD displays a degree of party loyalty that is exceptionally high for Latin America.

Venezuela

The first, and so far only, occurrence of a recall procedure on the national level was the vote on the revocation of President Chávez's mandate in Venezuela 2004. In December 1998, Chávez was elected to the presidency with a landslide victory on an anti-corruption, anti-establishment platform. In the same month, Venezuelans approved a new constitution, establishing the presidential recall among several other direct democratic institutions. Following Chávez's re-election to a six-year term in 2000, opposition groups undertook several fruitless attempts to oust him. After the failure of a short-lived coup organized by dissident generals in April 2002, Venezuela's largest labour union and the chamber of business joined government foes at the state-run oil company in calling a general strike in December of the same year. This paralysed the country's oil industry for two months, causing several billion dollars' worth of economic losses. In February 2003, the *Coordinadora Democrática*, an organization comprising several oppositional parties, non-governmental organisations, and neighbourhood associations, as well as employers' associations and church groups, organized a petition drive and managed to gather three million signatures requesting the vote on the revocation of Chávez's mandate. However, the National Electoral Council (CNE) declared the signatures invalid, indicating that they had been collected before the mid-way point of the presidential term, which is stipulated in the constitution as the earliest possible date for the holding of a recall. The *Coordinadora's* second petition drive in October 2003 produced 3.4 million signatures. After several months of bitter legal battles between the opposition and the CNE about the verification of the collected signatures, the CNE finally validated 2.5 million signatures in June 2004 and officially announced the holding of the recall for 15 August 2004.

During the following months Venezuela saw an intense electoral campaign whose highly polarized dynamics mobilized large parts of the electorate. Surveys carried out during the course of the campaign registered a shift in public opinion from an initial 'Yes' to a 'No' vote on the revocation of Chávez's mandate.⁵² On 16 August, the CNE announced Chávez's victory with 59 per cent over 41 per cent of the votes – a result consistent with the predictions of Venezuela's leading polling institutes.⁵³ Although

the Carter Centre and the Organization of American States (OAS), which officially observed the vote, endorsed the result in favour of Chávez, the political opposition claimed that the vote had been fraudulent. Claims of manipulation were levelled mainly against the government-friendly CNE,⁵⁴ which was accused of having created unequal opportunities for both sides and whose restrictive conditions did not allow for an objective monitoring of the electoral process by national and international observers. In fact, the rules set up by the CNE collided with the Code of Conduct of the *International Institute for Democratic and Electoral Assistance*,⁵⁵ and the European Union refrained from sending a mission stating that 'it has not been possible to secure with the Venezuelan electoral authority the conditions to carry out observation in line with the Union's standard methodology'.⁵⁶

The evaluations of the recall by Venezuela's political observers have thus been controversial. Whereas some observers of the political scene consider it to be one of region's most outstanding examples of citizens exercising vertical control, given the serious defeat inflicted on the anti-Chávez camp, others have raised concern that the CNE's lack of openness, Chávez's intimidating tactics, and the opposition's allegations of fraud have 'exacerbated Venezuelans' cynicism toward elections'.⁵⁷

Conclusion

This article addresses a central issue in the study of Latin American politics, namely whether IDD provide adequate institutional solutions to the accountability deficit of presidential democracies in the region. Distinguishing between the horizontal and vertical dimension of accountability, it is shown that the former dimension has been gradually weakened by the increased use of the *proactive referendum*, which is an instrument with great potential for populist misuse rather than responsiveness-enhancing politics. The cases of Bolivia and Ecuador suggest that this type of referendum is a tool ill-suited for the mediation between diverging societal interests, since it facilitates the evasion of horizontal inter-branch control. Conversely, the Colombian experience suggests that the *reactive referendum* fosters horizontal accountability insofar as it forces presidents to negotiate their referendum proposals with the legislature. It appears to be an adequate instrument to break political deadlock and avert constitutional crises in situations where a president is unable to build coalitions for his policies. Regarding the vertical dimension of accountability, the stark contrast between the periodic and uncontroversial use of citizen initiatives in Uruguay and the highly polarized dynamics which evolved around the Venezuelan recall in 2004 suggests that citizen-initiated procedures can be successfully implemented to increase vertical accountability in countries with consolidated and well-institutionalised party systems, while the manner of application is critical in the context of less institutionalised or eroding party systems.

The empirical evidence presented in this article invites us to study the impact of further intervening influences in order to advance our understanding of the causal mechanisms linking IDD and democratic accountability in Latin America. Future investigations should pay heed to the capacity of parties to mobilize the electorate

in citizen initiatives as well as their ability to consensually interpret the results of such procedures and integrate them into the legislative process. In this sense, a more detailed study of the successful citizen initiatives in Uruguay could help us to systematically establish the institutional conditions lacking in other countries where advanced provisions for citizen-initiated procedures exist yet remain largely unused. Furthermore, the referendum events in Bolivia and Ecuador shared the difficult context set by a preceding early termination of the presidency and lack of direct popular legitimation of the presidential successor, highly fragmented party systems and considerable levels of civil unrest. These similarities indicate that future research should go beyond monocausal explanations and try to detect such recurrent patterns if we wish to understand under which conditions IDD can be more of a problem than a solution to the accountability deficit in the region.

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NOTES

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2. G. O'Donnell, 'Delegative Democracy', *Journal of Democracy*, Vol. 5, No. 1 (1994), pp. 55–69.
3. G. W. Cox, W. Gary and S. Morgenstern, 'Latin America's Reactive Assemblies and Proactive Presidents', *Comparative Politics*, Vol. 33, No. 2 (2000), pp. 171–90.
4. G. Negretto, 'Government Capacities and Policy Making by Decree in Latin America: The Cases of Brazil and Argentina', *Comparative Political Studies*, Vol. 37, No. 5, pp. 531–62; J. M. Carey and M. S. Shugart (eds), *Executive Decree Authority* (Cambridge: Cambridge University Press, 1998).
5. M. S. Grindle, *Audacious Reforms: Institutional Invention and Democracy in Latin America* (Baltimore, MD: Johns Hopkins University Press, 2000); J. Manor, *The Political Economy of Democratic Decentralization* (Washington, DC: The World Bank, 1999); B. Wampler and L. Avritzer, 'Participatory Publics. Civil Society and New Institutions in Democratic Brazil', *Comparative Politics*, Vol. 36, No. 3 (2003), pp. 291–311.
6. Strom identifies three abilities of principals as salient forms of sanction: (1) block or amend decisions an agent's decisions; (2) deauthorize the agent; (3) impose specific penalties on the agent. K. Strom, 'Parliamentary Democracy and Delegation', in K. Strom, W. Müller, and T. Bergman (eds), *Delegation and Accountability in Parliamentary Democracies* (Oxford: Oxford University Press, 2003), p. 62.
7. J. Ferejohn, 'Accountability and Authority: Toward a Theory of Political Accountability', in A. Przeworski, B. Manin and S. Stokes (eds), *Democracy, Accountability and Representation* (Cambridge: Cambridge University Press, 1999), p. 133.
8. A. Przeworski, B. Manin, and Susan Stokes, 'Elections and Representation', in Przeworski et al. (note 7), pp. 29–54.
9. Ferejohn (note 7), p. 134.
10. R. P. Archer and M. S. Shugart, 'The Unrealized Potential of Presidential Dominance in Colombia', in S. Mainwaring and M. S. Shugart (eds), *Presidentialism and Democracy in Latin America* (Cambridge: Cambridge University Press 1997), p. 111.
11. Ferejohn (note 7), p. 134.

12. For a more detailed discussion of this issue see: E. Moreno, B. Crisp, and M. Shugart, 'The Accountability Deficit in Latin America', in S. Mainwaring and C. Welna Christoph (eds), *Democratic Accountability in Latin America* (Oxford: Oxford University Press, 2003), pp. 79–131; D. Samuels, 'Separation of Powers', in S. Stokes and C. Boix (eds), *The Oxford Handbook of Comparative Politics* (Oxford: Oxford University Press, forthcoming 2007), pp. 703–26.
13. M. Setälä, 'Referendums in Western Europe: A Wave of Direct Democracy?', *Scandinavian Political Studies*, Vol. 22, No. 4 (1999), pp. 327–40; P. V. Uleri, 'Introduction', in M. Gallagher and P. V. Uleri (eds), *The Referendum Experience in Europe* (London: Macmillan, 1996), pp. 1–19.
14. S. Hug and G. Tsebelis, 'Veto Players and Referendums around the World', *Journal of Theoretical Politics*, Vol. 16, No. 3 (2002), pp. 321–56.
15. Setälä (note 13); Uleri (note 13).
16. Uleri (note 13).
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19. G. Smith, 'The Functional Properties of the Referendum', *European Journal of Political Research*, Vol. 4, No. 1 (1976), pp. 1–23; Uleri (note 13).
20. S. Hug, 'Occurrence and Policy Consequences of Referendums: A Theoretical Model and Empirical Evidence', *Journal of Theoretical Politics*, Vol. 16, No. 3 (2004), pp. 321–56; Jung (note 18).
21. Hug and Tsebelis (note 14).
22. Uleri (note 13).
23. M. Shugart and S. Mainwaring, 'Presidentialism and Democracy in Latin America: Rethinking the Terms of the Debate', in Mainwaring and Shugart (note 10), pp. 12–54.
24. B. Gamble, 'Putting Civil Rights to a Popular Vote', *American Journal of Political Science*, Vol. 41, No. 1 (1997), pp. 245–69; S. Jung (note 18).
25. D. Butler and A. Ranney, *Referendums around the World* (Washington, DC: Macmillan, 1994).
26. Jung (note 18); Smith (note 19).
27. Uleri (note 13), p. 11.
28. There has been discussion about whether the recall should be recognized as an instrument of direct democracy. Some authors have argued that, being a vote on a person, it is a classical instrument of representative democracy, as for instance M. Suksi, *Bringing in the People—A Comparison of Constitutional Forms and Practices of the Referendum* (Dordrecht: Martinus Nijhoff Publishers, 1993), p. 4, who claims that it falls out of the range of direct democracy because it has to be understood as a 'reversed election'. This argument can be contested for a number of reasons: apart from the delegation of power – which is in fact reversed when the citizenry decides to revoke the mandate of one of its agents – one of the most important features of an election is the selective character of the process. Voters are given the opportunity to choose between several candidates who may represent programmes consisting of different policy combinations, and then decide for the candidate who offers the combination closest to their own preferences. If a recall were the exact reversion of such a selection process it would have to be designed like a constructive vote of no-confidence, that is an official could only be removed from office if an alternative successor were simultaneously elected into office. This is not the case, because the recall exists only in destructive form and is therefore an instrument of much narrower scope than an election, leaving the voter with a single issue to decide on: evaluating the overall performance of the representative in question, voters must decide whether their representative should fulfil his/her term. Apart from the specified and limited nature of the decision, the recall bears two other characteristics that are often used to typify IDD: the creation of a single constituency and the majority character of the vote. For these reasons, it is included as a subtype of the reactive initiative.
29. An alternative instrument of citizen participation that is deliberately omitted from this analysis is the legislative petition. This tool allows citizens to present congress with a legislative proposal which, in most cases, must receive preferential treatment in the parliamentary agenda (i.e., Argentina Article 39, Colombia Article 375, Costa Rica Article 123, 124, Uruguay Article 79). In some cases the promoters of a petition are allowed to defend their proposal before the legislature. However, this tool does not automatically imply the holding of a popular vote in the event that the legislature declines to make the proposed legislative changes. Since citizens can only submit their proposals to the legislature and not directly to the ballot, this tool has to be regarded as a semi-direct instrument.
30. Hug and Tsebelis (note 14).
31. Strom (note 6); Przeworski et al. (note 8).

32. B. Thibaut, 'Instituciones de Democracia Directa', in D. Nohlen, S. Picado and D. Zovatto Garetto (eds), *Tratado de Derecho Electoral Comparado de América Latina* (Mexico D.F.: Fondo de Cultura Económica 1998), pp. 65–89.
33. T. Cronin, *Direct Democracy. The Politics of Initiative, Referendum, and Recall* (Cambridge, MA: Harvard University Press, 1999) gives a comprehensive overview of arguments provided by advocates and opponents of direct democracy.
34. B. Gerber, *The Populist Paradox* (Princeton, NJ: Princeton University Press, 1999).
35. The Bolivian referendum law, for example, contains a prohibition on private and party propaganda on the issues of referendums and initiatives and delegates responsibility for the dissemination of information to the National Electoral Court.
36. J. Linz, 'The Perils of Presidentialism', in L. Diamond and M. F. Plattner (eds), *The Global Resurgence of Democracy* (Baltimore, MD: The John Hopkins University Press, 1996), p. 120.
37. M. Barczak, 'Representation by Consultation? The Rise of Direct Democracy in Latin America', *Latin American Politics and Society*, Vol. 43, No. 3 (2001), pp. 37–60.
38. Political Database of the Americas 2005: <http://www.georgetown.edu/pdba/> (accessed 25 February 2005).
39. El Salvador presents an exception, introducing a mandatory referendum for the ratification of international treaties and entering into international organisations. In Panama, bills concerning the status of the Panama Canal require approval in a national referendum.
40. In Chile, according to Article 117, a constitutional amendment which has been approved by two-thirds of both chambers of Congress must be promulgated by the president unless he decides to consult the citizenship on the reform proposal. Article 378 of the Colombian constitution stipulates that the president must obtain an absolute majority in both houses of Congress in order to submit a proposal for constitutional reform to popular vote. In Paraguay, Article 260 of the electoral code entitles the president to formulate a referendum proposal but reserves the decision on whether or not to convoke the referendum to congress. Publications in Spanish language commonly employ the technical terms *iniciativa coordinada* or *convocatoria conjunta* to designate this device.
41. In Guatemala for example, the absence of specifications was responsible for a polemical exchange between executive and legislature about the proper interpretation of the constitutional Article 173 on the occasion of the referendum on constitutional reform 1994.
42. Direct democratic events are listed by type in Table 3. For a more detailed overview see the Annex. The tables are based on the data-set elaborated by the C2D – Research and Documentation Centre on Direct Democracy, Geneva, and data by D. Zovatto Garetto, 'Las instituciones de democracia directa a nivel nacional en América Latina un balance comparado 1998–2001', *Justicia Electoral*, Vol. 16 (2002), pp. 27–44. Additional information from national and international media coverage of these events is used to categorize the events in the classification developed in the third section of the article. The beginning of the 'third wave of democratization' dated by Samuel Huntington from 1978 was chosen as a temporal criterion for case selection. However, events that occurred in a year when the respective country was rated inferior to a score of 3 on the Freedom House political rights index were not included. Another selection criterion was the constitutionality of the process. Extra-constitutional referendums were not included, with exception of the Colombian constitutional initiative and the proactive referendum in 1990, whose results were subsequently declared binding by the constitutional court, as well as the proactive referendum in Argentina 1984, the legal basis of which was set by an accord between President Alfonsín and the Supreme Court. Referendums or initiatives consisting of several questions have been counted as a single event.
43. 'Ecuador's Post-Modern Coup', *The Economist* (US edition), 15 February 1997, p. 37.
44. Results delivered 68 per cent of voters' support for Alarcón's interim government. Support for the ouster of Bucarám was even stronger with 76 per cent of the valid votes (C2D – Research and Documentation Centre on Direct Democracy).
45. 'Ecuador. The Politics of Justice', *The Economist* (US edition), 2 August 1997.
46. A tentative count rated Uribe's support in congress at 86 out of 102 votes in the senate and 143 of 161 votes in the Lower Chamber, in 'Uribe to Start with Congress behind Him', *Latin America Weekly Report*, 11 June 2002, p. 266.
47. Álvaro Uribe Vélez, 'Manifiesto Democrático: 100 puntos', http://www.mineducacion.gov.co/1621/articles-85269_archivo_pdf.pdf (2002).
48. According to a Gallup poll conducted among members of Congress, this proposal was rejected by 89 per cent of all legislators. 'Ahora lo más difícil', *La Semana*, 8 May 2002, p. 1.
49. The fact that the constitutional initiative has been employed to introduce legislation that by its nature would correspond to ordinary law rather than constitutional law can be ascribed to the absence of provisions for ordinary popular initiatives. Article 79 of the Uruguayan constitution merely provides for

legislative petitions. In other words, a citizen-promoted initiative will only be submitted to popular vote if it obtains the support of two-thirds of the general assembly.

50. A. Lissidini, 'Las paradojas de la democracia directa. Plebiscitos y referendos en el Uruguay (1917–1994)', in S. Mallo and M. Serna (eds), *Seducción y Desilusión: La política latinoamericana contemporánea* (Montevideo: AUGM – UNESCO, EBO 2001), pp. 143–63.
51. D. Altman, 'Popular Initiatives in Uruguay: Confidence Votes on Government or Political Loyalties?', *Electoral Studies* Vol. 21, No. 4 (2002), pp. 617–30; Lissidini (note 51); Zovatto Garetto (note 42).
52. G. Reyes and F. Welsch, 'Chronik eines angekündigten Wahlsieges. Venezuelas Präsident Hugo Chávez geht gestärkt aus dem Volksentscheid über seine Amtsenthebung hervor', *Brennpunkt Lateinamerika*, Vol. 17, No. 4 (2004), pp. 185–96.
53. Ibid.
54. Article 296 of the constitution states that the National Assembly must elect five members of the CNE with a two-thirds majority. However, in view of the National Assembly's inability to build the required majority, on 25 August 2003 the Supreme Court proceeded to appoint them. Because three of the appointed councillors were viewed as government sympathizers, the CNE's impartiality had become questionable.
55. IDEA, 'Code of Conduct: Ethical and Professional Observation of Elections', http://www.idea.int/publications/conduct/pdf/obs_english.pdf (1995).
56. European Union, 'Declaration by the Presidency on behalf of the European Union on the Presidential Revocatory Referendum in Venezuela', Brussels, 15 August 2004, <http://www.europa-web.de/europa/03euinf/01GASP/venezuel.htm>.
57. Senior election observer Jennifer McCoy, in an interview with *The Economist*, 2 September 2004, <http://www.cartercenter.org/news/document/doc1826.html>.

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APPENDIX
OCCURRENCE OF IDD IN LATIN AMERICA, 1984–2004

Date	Type	Initiator/Author	Issue	Result
Argentina Nov. 1984	Proactive Referendum	President Alfonsín	Vote on a treaty with Chile regarding the border dispute in the Beagle Canal zone.	Accepted
Bolivia July 2004	Proactive Referendum	President Mesa	<p>Popular consultation consisting of five questions:</p> <ol style="list-style-type: none"> Do you agree with the abrogation of the Law on Hydrocarbons No. 1689 promulgated by Gonzalo Sánchez de Lozada? Do you agree with the repatriation of all of property of hydrocarbons at the moment of their extraction? Do you agree with the re-foundation of YPPFB (the state-owned oil and gas company privatised under Sánchez de Lozada) by restoring state ownership of the Bolivian peoples' stakes in capitalized oil companies, in order to participate in the entire chain of production of hydrocarbons? Do you agree with President Mesa in using the national gas policy as a strategic recourse to achieve a useful and sovereign route of access to the Pacific Ocean? Do you agree that Bolivia should export gas as part of a national framework which <ul style="list-style-type: none"> ensures that the gas consumption of the Bolivian people will be covered fosters the industrialization of gas inside the national territory levies taxes and/or royalties on oil companies of up to 50% of the production value of oil and gas for the nation's benefit? employs revenues from the export and industrialization of gas mainly for education, health, roads, and employment 	Accepted <i>in toto</i>
Brazil April 1993	Mandatory Referendum	Prescribed by the Temporary Constitutional Provisions of the 1988 Constitution	<p>Consultation on Form of State and Government:</p> <ol style="list-style-type: none"> Monarchy or Republic Presidential or Parliamentary 	<ol style="list-style-type: none"> Republic Presidential Republic

(continued)

APPENDIX cont.

Date	Type	Initiator/Author	Issue	Result
Colombia May 1990	Constitutional Initiative	Citizen Proposal	Convocation of a constitutional assembly (Initiated by the student movement <i>Septima Papeleta</i> , and later declared binding by the Supreme Court)	Accepted
Dec. 1990	Proactive Referendum	President Gaviria	Appointment of the constitutional board (Since the Supreme Court had declared the results of student union's initiative legally binding, the newly elected President Gaviria decided to reinforce the legitimacy of the constitutional board by ratifying the results of the election to this body via a referendum.	Accepted
Oct. 2003	Reactive Referendum	15-point consultation initiated by Congress on constitutional reform proposal by President Uribe	<ol style="list-style-type: none"> 1. Bar from public office persons previously convicted for corruption 2. Disclose voting decisions of Congress members and representatives at all levels 3. Abolition of substitutes of representatives (<i>suplente</i>) at all levels' assemblies 4. Increase influence of Congress on budget of public institutions 5. Contract out administration of Congress to an independent body 6. Reduction of Congress members by one-fifth 7. Loss of mandate for representatives at all levels in case of unexcused absence from plenary sessions or violation of regulations for party financing 8. Spending cap of 25 minimal salaries on public-sector pensions 9. Abolition of regional and local revenue courts 10. Abolition of regional public audit offices 11. No public funding for electoral campaigns 12. Redistribute budget freed by abolition of regional and local revenue courts (<i>contralorias territoriales y personarías</i>) to education and health sector 13. Two-year freeze in public-sector wages 14. Set threshold of 2% of the vote for parties to win seats in Congress 15. Immediate implementation of reforms 1 – 14. 	<ol style="list-style-type: none"> 1. Accepted 2. Not accepted 3. Not accepted 4. Not accepted 5. Not accepted 6. Not accepted 7. Not accepted 8. Not accepted 9. Not accepted 10. Not accepted 11. Not accepted 12. Not accepted 13. Not accepted 14. Not accepted 15. Not accepted

Ecuador	June 1986	Proactive Referendum	President Febres Cordero	Possibility for independent candidates to run for elective office	Not Accepted
	Aug. 1994	Proactive Referendum	President Durán Ballen	Popular consultation consisting of seven questions: <ol style="list-style-type: none"> 1. Revision of the constitution through congress 2. Passive right to vote for non-party members 3. Administration of the state budget through congress 4. Dividing the budget along districts or subject matters 5. Unrestricted reelection for every post 6. Parliamentary elections in the first or second round 7. Recognizing citizens of double nationality 	<ol style="list-style-type: none"> 1. Accepted 2. Accepted 3. Not Accepted 4. Subject Matters 5. Accepted 6. First Round 7. Accepted (Results were not implemented)
	Nov. 1995	Proactive Referendum	President Durán Ballen	Popular consultation consisting of eleven questions concerning: <ol style="list-style-type: none"> 1. Decentralization of social and health authorities 2. Privatisation of social insurance 3. Equal distribution of public spending among the provinces 4. Abolition of the right to strike in the public sector 5. President's authority to dissolve congress 6. Four-year terms for local authorities 7. Two-year terms for president and vice-president of the National Congress 8. Implementation of constitutional reforms 1–8 proposed by the president within 90 days 9. Judicial reforms 10. Legal guarantees for civil servants 11. Appointment of a Constitutional Court 	Rejected <i>in toto</i>
	May 1997	Proactive Referendum	President Alarcón	Popular Consultation consisting of 14 questions <ol style="list-style-type: none"> 1. Legitimation of dismissal of President Bucaram by Congress 2. Acknowledgment of Alarcón Rivera as President for a transitional period of 12 months 3. Convocation of a constitutional assembly 4. Direct popular election of a constituent assembly/partial appointment through private and public bodies 5. Introduction of spending limits for campaigns 6. Voting process: possibility of modifying the list of candidates 7. Presidential elections in one or two rounds 	<ol style="list-style-type: none"> 1. Accepted 2. Accepted 3. Accepted 4. Direct Election 5. Accepted 6. Accepted 7. One Round

(continued)

APPENDIX *cont.*

Date	Type	Initiator/Author	Issue	Result	
Guatemala	May 1999	Mandatory Referendum	Proposed by Congress	<p>8. Striking from the register parties that fail to reach 5% twice in a row</p> <p>9. Supreme Court consisting of representatives of the most influential parties</p> <p>10. Parliament appointing the leadership of state enterprises by a 2/3 majority</p> <p>11. Modernization of the judicial system</p> <p>12. Appointment of the judicial authorities by the Supreme Court</p> <p>13. Inclusion of revocation of mandate of elected officials who commit a criminal offence</p> <p>14. Implementation of 1–13 by Parliament</p>	<p>8. Accepted</p> <p>9. Accepted</p> <p>10. Accepted</p> <p>11. Accepted</p> <p>12. Accepted</p> <p>13. Accepted</p> <p>14. Accepted</p>
Panama	Aug. 1998	Mandatory Referendum	Proposed by Congress	Ratification of Constitutional Reform. Main issues: official recognition of Mayan languages, common law and religious traditions, reduce political influence of the military, strengthen autonomy of courts	Not Accepted
Uruguay	Apr. 1989	Abrogative Initiative	Proposed by Congress	Ratification of constitutional reform concerning possibility of immediate presidential reelection	Not Accepted
	Nov. 1989	Constitutional Initiative	Citizen Proposal (supported by Frente Amplia)	Abrogation of military-amnesty law (Ley de Caducidad Nr. 15848)	Not Accepted
	Nov. 1989	Constitutional Initiative	Citizen Proposal (Pensioners' Association)	Proposal for constitutional reform demanding that pensions be adjusted to inflation at same rate as government salaries	Accepted
	Dec. 1992	Abrogative Initiative	Citizen Proposal	Partial withdrawal of privatization laws	Accepted
	Aug. 1994	Mandatory Referendum	Proposed by Congress	Constitutional Reform concerning local delegates' salaries, mode of payment for pensions, and electoral system	Not Accepted
	Nov. 1994	Constitutional Initiative	Citizen Proposal (Teachers' Union)	Constitutional reform demanding 27% of the national budget to be spent on education	Not Accepted
	Nov. 1994	Constitutional Initiative	Citizen Proposal (Pensioners' Association)	Constitutional reform demanding prohibition of 'hidden cuts' in pensions	Accepted

Dec. 1996	Mandatory Referendum	Proposed by Congress	Constitutional Reform concerning reform of electoral system, decentralization of local authorities; national policies on combating drug addiction; foreign trade regulations	Accepted
Oct. 1999	Mandatory Referendum	Initiated by Congress on a citizen-promoted legislative petition	Financial autonomy for courts	Not Accepted
Oct. 1999	Mandatory Referendum	Initiated by Congress on a citizen-promoted legislative petition	Directors of autonomous entities forbidden to run as candidates in parliamentary elections	Not Accepted
Dec. 2003	Abrogative Initiative	Citizen Proposal (supported by Frente Amplia)	Abrogation of Law No.17.448 which terminated the monopoly of the National Company for the Administration of Combustibles, Alcohol and Portland Cement (ANCAP)	Accepted
Oct. 2004	Constitutional Initiative	Citizen Proposal (Promoted by the National Commission in Defence of Water and Life)	Inclusion of access to drinking water and sewage services as a human right into national constitution	Accepted
Venezuela Aug. 2004	Recall	Citizen Proposal (Coordinadora Democrática)	Revocation of President Chávez' mandate	Not Accepted