Ups and Downs of **Direct Democracy** Trends in Asia: Country Cases

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Asia Democracy Research Network

In 2021, Asia Democracy Research Network (ADRN) selected institutional and non-institutional mechanisms of direct democracy as the key element to achieve 'full democracy' in Asia.

Against this background, ADRN published this special report to evaluate the current state of the trends and trajectories of direct democracies in the region by studying the phenomenon and its impact within seven different countries in Asia, as well as their trends in the near future.

The report investigates contemporary questions such as:

How to describe/explain the democratic governance structure in each country? Is the structure more inclined to direct democracy or representative(indirect) democracy?

What are the institutional as well as non-institutional mechanisms of direct democracy in each country? What is the background in building such mechanisms, and what does it entail?

Are there any new aspects/issues/trends of direct democracy in each country?

What are the key areas requiring reform in the existing and new institutional, as well as non-institutional mechanisms of direct democracy, to achieve 'full democracy'?

Drawing on a rich array of resources and data,

This report offers country-specific analyses, highlights areas of improvement, and suggests policy recommendations to implement measures of accountability and inclusiveness under direct democracy in their own countries and the larger Asia region.

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Table of Contents

Executive Summary

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Francisco A. Magno[1]
DLSU Institute of Governance

Direct democracy includes people's initiatives, referendums, and plebiscites where citizens vote on specific policies instead of electing candidates. There are scholars who limit the scope of direct democracy to mechanisms where secret balloting is conducted. However, others acknowledge citizen assemblies and public participation in government planning and budgeting as equally important forms of direct democracy. The broader view of direct democracy that encompasses referendums, recall voting of elected officials, and citizen participation in the budget process is taken in a set of studies conducted under the Asian Democracy Research Network.

The nature and characteristics of direct democracy were examined in seven Asian nations, namely India, Indonesia, Malaysia, Mongolia, Philippines, Sri Lanka, and Thailand. Each of the country studies specified the direct democracy mechanisms and the contexts that shaped their emergence. The key mechanisms identified are referendums, recall of public officials, and people's initiatives. Various authors examined the claims for or against these mechanisms, and identified the actors, demographics, and levels of government that were involved in their implementation. They also looked into the effectiveness of direct democracy mechanisms in fostering reform and improving the overall quality of democracy. Finally, they considered the new trends, including the use of digital technology, that are coming out in the exercise of direct democracy.

The evolution of direct democracy in Asia can be better understood by looking at their underlying historical contexts. For instance, the rise of vote-based direct democracy mechanisms can be linked to the international surge of democratization in the 1980s and 1990s. The Philippines provides an interesting case for the institution of direct democracy mechanisms following the removal of an authoritarian government in 1986. A new Constitution that provides the framework for democratic governance was passed in 1987. Among its key provisions is the people's initiative which is one of the modes for amending the Constitution upon a petition of at least twelve percent of the total number of registered voters with the Commission on Elections, of which every legislative district must be represented by at least three percent of the registered voters there. The Philippine Initiative and Referendum Act of 1989 is an enabling law which allows voters to directly initiate the passage of laws and to call for national and local referendums.

In Thailand, the referendum was used as a mechanism to get the people's approval of Constitutional changes, including those made in 2007, and in the latest revisions drafted in 2016. The issues surrounding the

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[1] Senior Fellow and Founding Director, DLSU Institute of Governance

Constitution were not fully discussed prior to the referendum as the military government curtailed debates and stifled any form of opposition against the proposed charter. Under the new constitution, the prime minister does not need to be an elected member of the House, and would be chosen by the full Parliament, including the 250 members of the Senate who are appointed by the military. The current Constitution of Thailand, officially promulgated in 2017, provides a system of people's initiatives to recommend legislation and recall elected officials.

In Indonesia, the referendum was authorized as a means of amending the 1945 Constitution under Law Number 5/1985. However, this rule is no longer valid after it was revoked in 1999. A notable example where the referendum was conducted concerned asking the residents of East Timor whether they wanted to stay as a province of Indonesia or become an independent state. The referendum was carried out following a United Nations resolution calling for the right to self-determination of the East Timorese people. The economic crisis and political reforms in Indonesia facilitated the government's decision to hold the May 1998 referendum in East Timor under UN supervision.

The provision on people's referendum is found in Article 24 of the 1992 Constitution of Mongolia. The 1995 Law on People's Referendum specified that the authority to initiate a national referendum belongs to the President and the Parliament. The law has several drawbacks, including restrictions on citizens' rights to initiate a referendum. It also lacks clarity on the preconditions for holding a referendum. Since its adoption, not a single referendum was held in the country. In 2016, the Law on People's Referendum was amended to make it consistent with the Law on General Elections that adopted automated election tools.

A Westminster parliamentary structure was introduced in Sri Lanka in 1944. The institutions established under this structure were governed by Commonwealth parliamentary traditions, in addition to the constitution that was in force at the time. Among these Commonwealth parliamentary traditions was the ability for citizens to directly engage in government through instruments such as Private Member Bills, Public Petitions, and Parliamentary Questions. However, there are challenges in accessing and being able to meaningfully use these mechanisms.

Aside from referendums, the recall of public officials, and people's initiatives on policy reform, citizen participation in planning and budgeting especially at the sub-national level have become an important feature of direct democracy in Asia. In India, the 73rd and 74th Constitutional Amendment Acts enacted in 1992, made provisions for Gram Sabhas, an assembly of the electorates, and Ward Committees. Both the Acts elaborated the functions of Gram Sabhas and Ward Committees respectively, which included participation in planning and monitoring of all local development work.

In the past two decades, Philippine civil society organizations (CSOs) have become critical players in ensuring the integrity of public service delivery. Formal and informal spaces for citizen participation are now available in the areas of public financial management. The Philippines developed a decentralized system of government with the passage of the Local Government Code of 1991. Local development councils in every province, city, municipality, and barangay determine the use of the local development fund which represents 20 percent of the Internal Revenue Allotment from the national government. Under the law, a quarter of the seats in these councils and other local special bodies are occupied by CSO representatives.

In the case of Thailand, participatory budgeting was discussed in the Thai Development Strategic Plan of 2008–2012. In Strategy 2, the participatory planning and budgeting strategy of the Ministry of Interior emphasized the importance of strengthening local communities through the people's budget. There are local governments that adopted participatory budgeting, such as Amnat Charoen Province, Yala Province, Ko Kha Subdistrict Municipality, and Lampang Province.

In Indonesia, various CSOs provided technical assistance and training at the local level on planning and budgeting issues. This became especially significant as the national government implemented the Village Law in 2015 to accelerate poverty alleviation in the country. Under this policy, villages have the authority to manage their own resources for development purposes. There were concrete results from the implementation of programs such as the establishment of various basic infrastructures in many villages. However, the number of cases of misuse of village funds by village heads showed that there were still serious problems in the governance of program implementation and accountability.

In Mongolia, a Law on Deliberative Polling was ratified in 2017. It stipulates that executive and legislative organizations at all levels can hold deliberative polling to identify issues and consult with citizens on policy priorities. The deliberative polling comprises a random and representative sample of the population to engage in dialogue with experts using carefully balanced briefing materials and questionnaires. This deliberative polling process is a requirement in making authoritative decisions such as amending the Constitution, selecting projects to be funded by the local development fund, and the planning of cities and green facilities in public spaces.

The use of digital technology and online engagement platforms have gained significant attention as direct democracy mechanisms in Asia. In India, several governmental initiatives have tried to leverage technology for soliciting public consultations in public policy planning and monitoring. For example, Mobile Vaani is a mobile-based voice media platform of Gram Vaani. It has a unique model wherein it enables people to call up from their basic analog mobile phone to a designated phone number and register their complaints in their local dialect. Another example in India is Jandarpan which is an initiative of Samarthan – Centre for Development Support working in Madhya Pradesh and Chhattisgarh since 1995 on participatory governance. The Jandarpan platform was developed during the pandemic to facilitate the migrant workers the access of benefits from the public programs.

The role of social media in Malaysia has evolved to fill the gap in political literacy. Social media has helped boost movements like "Wednesday Vote" (Undi Rabu) and "Let's Go Home to Vote" (Jom Pulang Undi) which were devised by netizens and CSOs to encourage the citizens to get out and vote. Many first-time voters gained basic knowledge regarding the state of national politics, voting, and voters' rights from these platforms. In Thailand, the use of social media and websites like *www.change.org,* have become tools through which citizens send a signal to the government, especially on important issues in the country. Citizens in Indonesia also use digital technology to access information and monitor public accountability with the help of open government partnership programs.

The E-Governance program in Mongolia introduced 25 types of E-services. Since 2013, a call center provides a platform to get citizens' feedback, and this was expanded in 2019 to a Government Public Communication Center which receives feedback and provides referrals to relevant government agencies. The

deployment of civic technology in the Philippines contributes towards enhancing citizen participation in monitoring public service delivery. The DevLIVE is a mobile application developed by the United Nations Development Programme. It has been adopted by the Department of the Interior and Local Government to become an online platform for collecting citizen feedback on the quality of local infrastructure projects.

The key direct democracy mechanisms such as referendums, recall of public officials, and people's initiatives are formally available in the legal systems of the majority of countries in Asia covered by the study. However, these mechanisms have not been widely applied in practice. Many initiatives at the national level have faltered, while a few cases of successful implementation were seen at the sub-national level. While the principle of democratic governance is extolled in the Constitutional provisions that authorize these mechanisms, there are significant practices that use referendums, recall of public officials, and people's initiatives to undermine democracy and promote authoritarianism.

There are encouraging trends in the emergence of formal and informal governance avenues for integrating citizen participation in local planning and budgeting, as well as utilizing digital platforms to foster social accountability. However, there is still a need to enhance the quality of citizen engagement as there are tendencies for the direct democracy mechanisms to yield limited results due to the token nature of civil society participation. There is a tendency for elected officials under the dominant system of representative democracy to look down on the mandate of non-elected stakeholders in the policy decision-making process. This dilutes the effectiveness of direct democracy that is supposed to provide voice mechanisms to sectors that are excluded in voting processes that focus on candidates. In this sense, it is important that representative democracy and direct democracy mechanisms are both attuned in efforts to foster democratic values, institutional frameworks, and practices that genuinely support the promotion of democratic quality in the various countries in Asia.

Country Case 1: Indonesia

Examining Direct Democracy in Indonesia

Devi Darmawan[1], Sri Nuryanti[2]
Indonesian National Research and Innovation Agency

Abstract

As a country with a representative democratic system, Indonesia once had regulated the referendum mechanism to amend the constitution and implemented referendums as part of direct democracy practices. However, the referendum practice on East Timor's case worsened the political situation at that moment, which affected the government decision to permanently revoke the law on referendums. The feasibility of executing another referendum in order to amend the constitution is hardly impossible. Accordingly, the trend of implementing other direct democratic practices remains wide open, including citizen initiatives to deliberate active public participation at the local level. Based on that proposition, this paper tries to examine referendum practices in Indonesia, their impact, and feasible ways to sustain more direct democratic mechanisms to foster public participation and engagement with the government agenda to strengthen democracy. The result of this paper illustrates the possibility to utilize direct democracy at the local level by considering the opportunity provided by the Village law as well as the growing digital technology that created a new public sphere for better engaging the society.
Keywords: Referendum; Direct Democracy; Indonesia

1. Introduction

Democratic regimes are now fragile, easily backsliding into authoritarian regimes. The global democracy index has illustrated the pattern of democratic decline across countries worldwide. However, there is hope of sustaining democratization due to the broad support that exists for deepening democracy globally. Based on the survey conducted by Pew Research Center in 2017, roughly a majority of nations support both representative and direct democratic systems. Only nations with less education and higher levels of dissatisfaction with the way democracy is currently working in their country are more willing to consider non-democratic alternatives such as government by military rule (Wike et al. 2017). The survey finds that there is

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[1] Researcher at Research Center for Politics, National Research and Innovation Agency
[2] Senior Researcher at Research Center for Politics, National Research and Innovation Agency

support within Indonesia for military rule as a way to govern, although the country transitioned to a democratic regime in 1999 (Wike et al. 2017). The country has varied between a representative democratic system and a direct democratic system.

However, some democratic scholars have indicated concern about Indonesia's direct democracy practices. They seem to worry about the capacity of citizens and their competency to decide critical policy issues. In other scenarios, democratic governance may make it likely that the elite could manipulate their participation into passing harmful policies (Matsusaka 2004, 186). Consequently, this generates criticism of direct democracy practices. One of the most prominent criticisms of direct democracy is that voters lack the competence to make policy decisions. Indeed, decades of survey research have shown that most voters are uninformed to the point of ignorance about public policy, politics, and government in general. In other words, the lack of competence among voters appears as the lack of information itself. In any case, the argument that voters are incompetent and uninformed would seem to cut against democracy in general, rather than against direct democracy alone (Matsusaka 2004, 198).

Another criticism mentioned is that voter ignorance and apathy allow organized and wealthy special interests to use the tools of direct democracy for their own benefit and to the detriment of the public. This would have a damaging effect on policies. Oftentimes, direct democracy mechanisms are seen as a tool that empowers populist authoritarians. However, in fact direct democracy mechanisms have their own advantages and disadvantages when it comes to real politics. The advantages of direct democracy practices can depend on the feasibility of mass gatherings which require voters to gather in one place, and include enabling specific issues to be discussed and debated directly, ensuring inclusiveness by engaging society to influence the decision making process, allowing majority support to be considered and win out, facilitating community meetings to assign or appoint government officials who hold administrative posts, and allowing voters to submit legal drafts as well as propose amendments the constitution based on community support.

However, there are also disadvantages of direct democratic practices that can endanger future democratic consolidation. Recent studies have shown that direct democracy has the tendency to expand authoritarianism by empowering populists to rise and make use of the popular vote, such as by using referendums to be an effective mechanism to get into power (Collin 2019). In fact, direct democracy is a normal feature of healthy democratic systems, rather than a bug that endangers liberalism. Referendums may function as part of the system of institutional checks and balances that maintain liberal order, or they can undermine it (Collin 2019). Hence, it was critical to arrange such institutional constraints on referendums to prevent them from working against democratic notions.

Despite the existing criticisms toward direct democracy practices, direct democracy continues to be implemented in waves. As the number of countries with representative democratic systems has increased, a similar trend occurred with direct democratic system's implementation. Recent studies have illustrated a growing number of direct democracy practices around the world because they influence government in a better way (Matsusaka 2004, 201). The spread of such practices was triggered by the rapid development of technology that enables citizens to access information and participate directly in policy decisions or policy processes through referendums or initiative mechanisms. Mechanisms of direct democracy (MDDs) have been used in both dictatorships and democracies; in presidential and parliamentary regimes; in poor, developing,

and rich countries; in federal and unitary states; in both the south and the north; at the local, regional, and national levels of government; in times of joy and in times of trouble. Almost every imaginable political subject has been put forth for public consideration at one time or another (Larry 2020, 141). The regions with the highest level of direct democracy practices are Eastern Europe and Central Asia, followed closely by the so-called developed world (Western Europe, North America, Australia, and New Zealand). The least direct democratic regions in the world are the southeast. The Asian continent is certainly weak in any aspect of direct democracy, be it a referendum or an initiative (Altman 2015, 17).

Unfortunately, Indonesia has been considered at the lowest end of the spectrum of direct democracy practices due to its straight implementation of a representative democratic system. In fact, in the trajectory of the country's democratic transition, Indonesia has held referendums as a direct democratic mechanism. This paper aims to examine the direct democracy mechanisms available in Indonesia, with a specific focus on implementing referendums. The paper is broken into three subsections. First, we reflect on referendum practices in Indonesia. Second, we examine the current trends of referendum practices in Indonesia, and finally we explore the feasibility of sustaining direct democracy practices in Indonesia.

1.1. Problems and Significance

This article evaluates the existing direct democracy mechanisms and the feasibility of adopting and developing direct democracy practices in Indonesia, both through referendums and initiatives. This study aims to contribute to the political discourse and prevent democratic erosion. Further, it aims to highlight the importance of public engagement in influencing public policies or political decisions by assessing the compatibility of direct democracy mechanisms in Indonesia.

1.2. Literature Review

Democracy is a system that is completely responsive to all its citizens. While there are various definitions of democracy, we describe democracy as a system of government with four key elements: i) a system for choosing and replacing the government through free and fair elections; ii) active participation of the people, as citizens, in politics and civic life; iii) protection of the human rights of all citizens; and iv) a rule of law in which the laws and procedures apply equally to all citizens (Diamond and Morlino 2004, 22). However, when it comes to the democratic practices of today, the concept of democracy has many variants. Even though direct democracy is often seen as conflicting with representative democracy, both democratic systems have supporters across the globe. Representative democratic systems have been more widely adopted in comparison to direct democratic systems.

According to Pew Research's survey, at least 38 countries show a preference for committing to representative democracy (Wike et al. 2017). This high number shows that countries support democratic representation as well as direct democracy by considering some advantages of well-functioning democracy. Proponents of direct democracy argue that it has two main virtues (Matsusaka 2004). First, direct democracy allows voters a way to circumvent representative institutions that may have been captured by elites or other special interests. Second, compared with meetings, elections allow a greater number of citizens to participate

directly in political decision making, and this increased participation may enhance the legitimacy of political decisions, even if the decisions themselves do not change (Lind and Tyler 1988).

Essentially, direct democracy and representative democracy differ in the context of public deliberation. Direct democracy roots in the idea of giving citizens the chance to actively participate in the decision-making process of their country. In contrast, representative democracy gives citizens the opportunity to participate in decision making through elected representatives. This main difference is sometimes considered a constraint for representative democracy, since it limits the degree to which public engagement or public participation in decision making is activated. Representative democracy oftentimes focuses its concerns on primary elections and how to increase public participation through voter turnout. Ultimately, active public participation should manifest as more than just casting ballots, since every person has their own opinion on particular issues in their region. This gap has been filled by direct democratic mechanisms such as referendums or initiatives that provide a pathway for citizens to deliver their voices to influence or amend public decisions.

"Referendum" is the term given to a direct vote on a specific issue. This is in contrast to votes cast during elections, which are made in relation to parties or individual candidates and generally reflect voters' preferences over a range of different issues. Referendums may be held in relation to particular circumstances (e.g., to amend a country's constitution) or in relation to particular political issues (e.g., whether or not to join an international organization), but are in general held in relation to issues of major political significance.

"Initiatives" are put forth by citizens to provide for the inclusion of constitutional or statutory proposals on the ballot during an election if enough signatures are collected in support of the proposal. The number of signatures required to place an initiative on the ballot varies, but is usually a proportion of the number of voters who voted in the most recent election, or a fixed number of registered voters. Depending on the design of the initiative process, if the ballot measure is passed by voters, it may become part of the state or country's law. The initiative process therefore provides citizens with an opportunity to directly frame the laws and/or constitution under which they live (Bulmer 2017, 6). Thus, the referendum is a process that allows citizens to approve or reject laws or constitutional amendments proposed by the government. Meanwhile, the initiative is a process that allows ordinary citizens to propose new laws or constitutional amendments via petition. The main difference between initiatives and referendums, therefore, is that citizens can write the former whereas only government officials can draft the latter (Matsusaka 2004).

1.3. Methodology

This study employs qualitative research methods to explore the practice of direct democracy mechanisms in Indonesia. In the process, this research collects data through literature studies on how direct democracy has been held in Indonesian politics. Subsequently, literature and documents such as laws and regulation related to referendum as part of direct democracy mechanisms, article or publication about democratic transitions, and research on public engagement as part of political discourse will be covered in this paper.

2. Indonesia and its Direct Democratic Mechanism Practices

According to Freedom House, Indonesia has made impressive democratic gains since the fall of the authoritarian regime in 1998, establishing significant pluralism in politics and the media and undergoing multiple, peaceful transfers of power between parties (Freedom House 2021). However, the country continues to struggle with challenges including systemic corruption; discrimination and violence against some marginalized groups; tensions related to the independence movement in the Papua region; and the politicized use of defamation and blasphemy laws. In recent years, authorities have responded to recent mass protests against the controversial 2020 omnibus law with violence and repression. During the transition to democracy, Indonesia has implemented a representative democratic system whereas every citizen can vote for their president and representatives directly. However, in its democratic trajectory, Indonesia has combined the direct democracy mechanism into its democratic system by implementing referendums to manage specific critical political decisions for the sake of the people. A referendum was held to decide whether to amend the 1945 Constitution and another to allow East Timor province to vote on their affiliation with Indonesia (Pereira 2006). Indonesia previously had a regulation concerning referendums, Law No. 5/1985. However, this regulation was revoked in 1999 and is no longer a valid legal foundation for future referendums.

Although the legal framework for referendums no longer exists, Indonesia has implemented direct democracy in the past in the form of referendums. As mentioned above, one notable example is the referendum held by East Timor province to vote on their affiliation with Indonesia (Pereira 2006.). During the referendum, the people of East Timor were asked to determine their citizenship status (Soares 2003). East Timor voters were asked whether they would like to remain affiliated with Indonesia or become independent. The East Timor area was historically annexed by Indonesia during Soeharto's presidency back in the New Order period. The referendum was a consequence of UN resolutions calling for the right to self-determination (Pushkina and Maier 2012). The 1997 Indonesian economic crisis and political reforms in May 1998 facilitated the Indonesian government's decision to hold a referendum in East Timor under UN supervision. In other words, Indonesia practically has only held one referendum as the amendment of the Indonesian constitution has been held without a referendum process behind it.

Based on Indonesia's experiences in amending the constitution, the amendment was established four times within 4 years starting from 1999, 2000, 2001 to 2002. The amendment process was ruled out by the People's Consultative Assembly (MPR) to respond to the demands of mass protesters from various levels of society to conduct a reform. In this regard, the demands were among others motivated by the practice of administering the state during the centralized authoritarian Suharto regime by using the Constitution as an instrument to perpetuate its power. Therefore, the regulation about referendums in Indonesia was only implemented once in the East Timor referendum on self-determination. It was never a legal framework to generate an amendment for constitutional reform since the political decision to amend the constitution has been passed without a referendum mechanism. Thus, even though there was a regulation on law 5/1985 on referendums, the four times amendments for constitutional reform in 1999-2002 were held in the absence of referendum process and performing based on the people power demands in May 1999. In addition, soon after the loss of Timor Leste after the referendum in August 1999, the regulation was revoked.

Since the law on referendums was revoked, recently a number of people have demanded another referendum in order to amend the constitution, particularly to expand the time limit of presidency in Indonesia. These demands have come from political scientists, political elites, political parties, and non-governmental organizations. Based on their motives to reinstate the referendum mechanism, It is hard to say that these demands stem from public preferences or are rooted within the best interest of the public because it was coming to enable incumbent to run for the next election in 2024 and leverage the chance of incumbent to get in power for three times of presidency period. The other demands to establish referendums ranged from strengthening the bicameral system in Indonesia, rearranging the authority of state institutions of Indonesia, and regulating state policy guidelines (GBHN) into the constitution. The current official government responded to this demand by ruling out any possibility of holding a referendum, stating that a referendum could not be held because it had no legal basis and only existed in the past.

The public response to these calls for referendums to amend the constitution was divided into two opposite groups. The first group was made up of those who were willing to amend the constitution and fully support the referendum, believing constitutional reform would improve the quality of the political and democratic system. The second group felt that the constitution should not be amended through any mechanism because they believed that there was no need to do so (Maiwan 2013). The supporters of the referendum proposal were not victorious, and it does not appear that there is sufficient momentum to implement a referendum in the near future. However, demand for reinstituting referendums is still high, especially from political parties and political elites who support constitutional amendment regarding specific issues.

2.1. The Legal Perspectives of the Referendum in East Timor

Presidential Decree No. 5 issued in 1985 laid out the requirements for amending the 1945 Constitution, stating that such an amendment would only be allowed through a referendum. In this decree, a referendum was defined as an activity to directly ask whether the people agree with the wishes of the People's Consultative Assembly (Majelis Permusyawaratan Rakyat/MPR) to amend the 1945 Constitution. The decree stated that public opinion must be conveyed in the form of a statement by the People's Opinion Giver, where The People's Opinion Giver is a citizen of the Republic of Indonesia who meets the requirements set out in the law. The proposed amendment to the 1945 Constitution was as follows.

The MPR resolves to uphold the 1945 Constitution, does not intend and will not make changes to it, as stated in the MPR Resolution of the Republic of Indonesia Number I/MPR/1983 on the MPR Rules of Procedure, and MPR Resolution of the Republic of Indonesia Number IV/MPR/1983 on the referendum. However, the MPR will implement Article 3 of the MPR Resolution of the Republic of Indonesia Number IV/MPR/1983 on the referendum, and therefore it is necessary to establish a law in governing the referendum. Referendums are held through direct, public, free, and secret public opinion polls. Public opinion is polled using the people's opinion letter. The decree further stated that the public would be declared to agree with the wishes of the MPR to amend the 1945 Constitution if the results of the referendum as referred to in Article 17 showed that at least 90% of the total number of registered Public Opinion Givers have exercised their right to give public opinion, and at least 90% of the People's Opinion Givers who exercise their rights express agreement with the will of the MPR to amend the 1945 Constitution.

2.2. The Historical Background of Referendum in East Timor

Timor-Leste is located in the eastern part of the island of Timor with an area of 15,007 km^2, and was previously a colony of Portugal known as Portuguese Timor. Due to the struggle of the Revolutionary Front for an Independent Timor-Leste (Fretilin), the region declared independence from Portugal on November 28, 1975. Under the leadership of Soeharto, Indonesia carried out a military invasion that ended in the annexation or forcible incorporation of Timor-Leste into Indonesian territory. Soeharto gained this momentum by taking advantage of the situation in Timor-Leste, which was divided between left and right-wing groups. East Timor was declared the newest province of the Unitary State of the Republic of Indonesia. Indonesia attacked Timor-Leste with a military operation known as Operation Seroja, the largest military operation ever carried out by the Indonesian army. Thousands of troops were mobilized to invade Dili City. They captured and destroyed Fretilin. Around 15,000 Indonesian troops were deployed to secure the second largest city, Baucau. On July 27, 1976, Indonesia officially declared East Timor its 27th province (Handoyo 2014).

The changes in global and domestic politics in Indonesia have implicated the Indonesian policy on Timor-Leste. When Habibie became president, the autonomy of East Timor became a crucial issue. Demands were made by countries beyond Europe and ASEAN for Indonesia to carry out political reforms and particularly to help Timor-Leste determine its own destiny. In this regard, Portugal, as a former colonizer of Timor-Leste, demands the Indonesian government jointly determine the future of Timor-Leste. As a result, Indonesia and Portugal concluded an agreement on May 5, 1999 in New York under the UN corridor (Braithwaite et al. 2012). The agreement laid out a procedure for hosting public opinions in a confidential, direct, and universal manner.

2.3. The Referendum of Timor Leste

The significance of the change in East Timor began in January 1999 when President Habibie announced a "second option" for East Timor to choose between regional autonomy or independence. Habibie asked the then Secretary-General of the United Nations, Kofi Anan, to bridge the disagreement between Indonesia and Portugal over East Timor. An agreement was reached to use the popular opinion poll in consultation with the East Timorese community (Agussalim 2019). At the suggestion of the United Nations, President Habibie held a referendum on August 30, 1999, under the supervision of the United Nations Mission for East Timor (UNAMET) that was attended by the people of East Timor. The police and Indonesian military (Tentara Nasional Indonesia/TNI) accompanied UNAMET, which was the UN mission formed based on UN Security Council Resolution No. 1246 dated May 5, 1999, to carry out the task of polling in Timor-Leste. The climax of the referendum was on August 30, 1999 (Puspita 2008). Simultaneous polls were held throughout and outside Timor-Leste. In the referendum, the people of East Timor answered two questions (Anderson 1993):

    a. Do you accept special autonomy for East Timor within the Unitary State of the Republic of Indonesia?

    b. Do you reject the proposed special autonomy for East Timor, which will lead to the separation of East Timor from Indonesia?

The results were announced in Dili on September 4, 1999. A total of 451,792 East Timorese attended the event where the results were announced. Out of a total of 438,968 valid votes, 344,580 (78.5%) people voted for independence, while 94,388 (21.5%) chose to remain with Indonesia. The participation rate in the referendum was very high, with 451,792 people representing 98.6% of all registered voters. The results of the referendum led to the official separation of East Timor from Indonesian control, and the territory was temporarily placed under the authority of the United Nations.

A total of 78.5% of the population of East Timor rejected the special autonomy offered by Indonesia, choosing independence instead. After the referendum results were announced, riots broke out in East Timor. Armed militia groups supported by the TNI went on a rampage and burned the city of Dili and other places (Crouch, H. 2003). Records show that around 1,400 people died and 300,000 people fled to Atambua. This also tarnished Indonesia's credibility in the eyes of the international community, since the Republic of Indonesia had guaranteed security during the referendum. On October 19, 1999, the results of the East Timor referendum were approved by the MPR, which confirmed that East Timor was no longer Indonesian territory. Historical records reflect that Timor-Leste separated itself from the Unitary State of the Republic of Indonesia on August 30, 1999 through the implementation of an independence referendum. On May 20, 2002, Timor-Leste was officially declared an independent and sovereign country. The leader of the liberation struggle, Xanana Gusmao, was elected the first president of East Timor.

2.4. The Impact of the Referendum in Timor-Leste on Indonesia

By holding a referendum on East Timor, President Habibie opened a new chapter for democratization in Indonesia. The decision taken by Habibie placed him in a conflicting position. At the national level, Habibi's image received less sympathy due to the separation of East Timor. On the contrary, on the international side, Habibi's decision had a positive impact and managed to lift the image of Indonesia, since the country used a direct democratic mechanism to solve conflict and uphold the political preference of locals with regard to East Timor. At that time, the referendum affected national political stability and created massive turmoil in various regions in Indonesia. In other words, the referendum as a feature of direct democracy worked positively for the freedom and self-determination of local citizens in East Timor. However, at the same time, it indeed created a high risk threat for national unity and stability.

3. Current Trends of Referendum Practices in Indonesia

As mentioned above, theoretically, referendums may be held in relation to particular circumstances (e.g., to amend a country's constitution) or in relation to particular political issues (e.g., whether or not to join an international organization) but are in general held in relation to issues of major political significance. Indonesia previously had a regulation governing referendums as a direct democracy mechanism in the political system. In 1985, Indonesia acknowledged law Number 5, Year 1985 to amend the 1945 Constitution through a referendum. The referendum decreed that it would be held within a maximum of one year from the

commencement of the registration of the People's Opinion Giver until the results of the referendum were submitted to the president as stipulated in the Law Number 5 Year 1985. Article 7 of Law Number 5 Year 1985 stated that the people's opinion poll was to be conducted simultaneously in one day in all territories of the Republic of Indonesia. The implementation of the referendum would be led by the president. To implement the law, the president should appoint a committee to conduct the referendum, which was to be chaired by the Minister of Home Affairs.

To carry out the referendum, a Referendum Implementation Committee was formed at the provincial, regency/municipality, sub-district, kelurahan/village level, and at the representative of the Republic of Indonesia abroad. For this purpose, the governor, Regent/Mayor, sub-district head, village head, and head of representative of the Republic of Indonesia abroad, due to their respective positions, served as the chair of the Referendum Executive Committee. The Referendum Implementation Committee consisted of elements of the government. To help the implementation of the referendum, a Referendum Supervisory Committee was established. The composition, duties, functions, working procedures, and other matters concerning the Referendum Implementation Committee and the Referendum Supervisory Committee fell under government regulation. To exercise their right, the People's Opinion Giver had to be registered in the People's Opinion Giver Register. To be registered in the Register of Public Opinion Givers, the following conditions must be met:

a. Not be a former member of a prohibited organization of the Indonesian Communist Party,
b. Be of sound mind,
c. Possess the right to vote.

A People's Opinion Giver who, after being registered in the List of People's Opinion Givers, no longer meets the requirements, is unable to exercise the right to give the people's opinion. Citizens of the Republic of Indonesia who are former members of prohibited organizations of the Communist Party of Indonesia, including mass organizations of the Indonesian Communist Party, cannot be registered in the People's Opinion Register. Immediately after a people's opinion registration ends, a people's opinion poll is held at the people's polling place. The People's Opinion Giver may be present to count the ballots. The results of the count are submitted to the referendum committee. The Referendum Implementation Committee collects the results from each level committee in their designated areas. This referendum practice depicted how the process of direct democracy once lived in Indonesian politics despite the unpleasant results that caused the Timor Leste to be separated from Indonesia.

4. The Feasibility of Sustaining Direct Democracy Practices in Indonesia

4.1. Digitalization and Technology Development to Help Citizens Participate in Politics

The trauma of the political loss in the referendum over East Timor should not be a reason for removing direct democracy practices in Indonesia. There is another direct democracy mechanism that could be established to allow ordinary citizens to express their views about public decisions utilizing digital technology. Technological

development has given rise to a new public sphere in cyberspace created as internet penetration expanded. Many scholars have shown the impact of internet penetration in changing social or political interactions between members of the public and their democratic representatives (DiMaggio 2001, Margetts 2013). The internet has facilitated the participation and engagement of individuals with the government agenda at the national and local levels. Nowadays, society can rely on open internet access to acquire information and influence public decisions. The public can utilize apps and social media and join online communities to express their views, raise awareness, recruit activists, and organize protests against specific government policies. Furthermore, they can use social media platforms to promote voting drives and other community engagement initiatives. This recent development of using digitalization to improve citizen participation in democratic processes is often called digital democracy. However, digital democracy is a term filled with political aspirations which emphasize the idea of democratization through technology. A central common idea of these configurations refers to the use of communication technologies for implanting direct-democratic elements into representative democracy.

In other words, digitalization provides new channels and opportunities for sharing information and engaging citizens in policy and legal initiatives and design. In this sense, technology can contribute to revitalizing democracy, enhancing participation, openness, transparency, inclusiveness and responsiveness. Thus, digital democracy implies various new notions of democratic governance. These notions include initiatives for open government (Noveck 2015) to make policy processes more responsive and transparent. By empowering citizens to directly engage with government administrations, policies can be tailored more closely to their needs. The concept of open democracy extends to all levels, from local to nationwide collaborations. In the Indonesia context, digital democracy is available at every level of society, making it possible to scale up alternative mechanisms to address initiatives and engage with the government at the national or local level (province, municipality, or village level). These initiatives could start from planning and budgeting issues.

In fact, initiatives have been implemented by various non-government organizations to provide training and assistance to the public so that they can work together to deliver their opinions to influence local government planning and budgeting. Some of the NGOs that have taken on this role at the national level include associations for election and democracy (Perludem), Indonesian Corruption Watch (ICW), and others. In addition, rapid changes in technology can reduce the gap between government and society. The public can access information through digital technology and participate in creating initiatives to give input to the government. The public can also monitor government accountability in public decision making through Indonesia's open government partnership program. Moreover, people can create or support petitions to track and tackle the most important topics that affect their lives.

Despite the flourishing of citizen initiatives through digital technology, there are still a few things to be considered with regard to digital participation. The first is the inequality of digital infrastructure. This ultimately lies at the core of the issue with digital participation. Not every citizen has a smartphone, computer or even a stable connection to the internet. For instance, individuals who live outside Java might not have a stable internet connection. Individuals in rural areas often lack the digital infrastructure necessary to boost their digital participation. Many scholars have stated that this is an inevitability of digitalization. There will always be inequality produced in every layer including availability and quality of internet access, ability to use

the internet, and the way people use the internet, such as whether they participate and engage the government agenda or get updates on news, etc. This inequality of the digital public sphere translates into a digital divide across society. Second, many people affected by inequality (Dimaggio 2001) themselves lack the technical knowledge or desire to engage with the government digitally. While digital citizenship is visible in several democratic countries, its influence in Indonesia is still debatable. In Indonesia, generally only people with political backgrounds or affiliations use the internet to politically participate and engage with the government agenda. These people are part of the same element as the political activists that exist in society. Recently, several publications have questioned the effectiveness of the online community and bloggers in influencing public views. Ironically, they found that the online community and bloggers tend to spread disinformation and create more polarization. As long as these people exist, there must be non-digital methods of political participation that intertwine along the way with digital participation.

Miguel Moreno states that digital technology can harm or undermine democracy if it is controlled by too few (Anderson and Rainie 2020). He explains that there is a clear risk of bias, manipulation, abusive surveillance and authoritarian control over social networks, the internet and any uncensored citizen expression platform, by private or state actors. In some countries, there are initiatives promoted by state actors to isolate themselves from being criticized by citizens by claiming that they were acting to reduce the vulnerability of critical infrastructure to cyberattacks to the government. Indeed, this has serious democratic and civic implications. In countries with technological capacity and a highly centralized political structure, favorable conditions exist to obtain partisan advantages by limiting social contestation, freedom of expression and eroding civil rights (Anderson and Rainie 2020). In Indonesia, the government limited citizen engagement in Papua by intentionally shutting the internet down when Papuans protested massively over racism against a Papuan student studying in Surabaya, East Java in August 2020. The government tried to shut the internet down through the Ministry of Information and Informatics to reduce the turmoil caused by the mass protesters (CNN Indonesia 2020). This is an example of authoritarianism in the digital sphere. To avoid this negative consequence of increased digital democratic participation, demand for strong regulation to push against authoritarian control in digital participation is urgently needed.

4.2. Village Law Provides Access to the Public to Execute Initiatives in Local Politics

Democratization processes have been established at not only the national context but also at the local level. In the reformation era, Indonesia centered the democratic process within the national government. However, since then the center of democratic development has shifted to the local level to invite more public participation and public engagement in local provinces. The national government established a new regulation to support local governments in implementing democratic governance. This regulation is called the Village Law (UU No. 6/2014). Through this law, the government initiated a village fund program in order to accelerate poverty alleviation in the country by allocating a certain budget for every village. Since 2015, the Indonesian government has implemented the program and specifically allocated funds to every village in Indonesia. The fund is to be managed by each village in the framework of village development. As mandated by Law Number 6 of 2014, villages have the authority to manage their own resources for village development. The

implementation of the Village Fund program quickly gave rise to some concrete results such as the establishment of a variety of basic infrastructure in many villages.

However, the number of cases of misuse of village funds by village heads has shown that there were serious problems with program governance and accountability. In many cases, this is due to the ineffective participation of the village community in implementing the programs. There is often no community participation at all, and even if the community participates, their inability to support the weak village governments in managing village funds properly has resulted in the ineffective implementation of programs and uncontrolled corruption. In this regard, there is a strong correlation between the level of competence and public education and the effectiveness of community participation. A better level of community knowledge will not only increase the level of community participation in the process of policymaking and the implementation of the program, but also the quality of the policies made and the results of programs that affect the community to participate more in democracy.

It is highly likely that village law alone will not be enough to facilitate public initiatives to execute direct democratic practices in local provinces. The implementation of such programs accommodated by the Village Law needs to come along with the assistance of the local government and local NGOs to reshape citizen capacity to address their needs, views, and ideas as inputs to the government and participate in local politics and the government agenda, especially in the fight against local corruption. In other words, citizen initiatives in the local context remain open, and the regulations in the Village Law have created a formal way to accommodate public participation and initiatives to their local governments.

5. Conclusion

Various literature has revealed the advantage of direct democracy in meeting public demand and achieving satisfaction by providing the means for the public to participate more directly in shaping political decisions. The most common mechanisms in direct democracy are the referendum and citizen initiatives. In this regard, referendums might be an alternative pathway to urge constitutional reform or respond to issues of major political significance.

In Indonesia's political trajectory, the direct democracy mechanism was implemented in East Timor to allow residents to determine whether they wished to remain part of Indonesia. Unfortunately, the referendum on East Timor heated up the political instability in Indonesia. After two decades of Reformasi, there was a growing demand to reinstate referendums in order to manifest public needs to change the constitution. However, some academicians and politicians have in doubt to conduct a referendum by emphasizing the risk or its potential to threaten democratic transition. These views emerged since the rising issues to be addressed by the proposed referendums are harmful for democratic institutionalization, such as allowing the president to serve three terms instead of two. Such propositions show the potential for referendums to be a means to sustain authoritarian regimes in Indonesia's political system. Therefore, the most feasible direct democracy mechanism to prevent democratic recession is to implement citizen initiatives at the local level by considering the Village Law and the emergence of digital technology that has created cyberspace as a new public sphere for ordinary citizens to engage with the government agenda. However, implementation of direct democracy

through the accommodation of Village Law and the usage of the internet has encountered its problems. To solve these challenges, the public should be supported by local NGOs to enhance their capacity and knowledge to actively and effectively participate in democracy.

To conclude, the democratic transition in Indonesia has shown the potential for initiatives to be an effective direct democracy mechanism at the local level. This potential is supported by the Village Law and digital transformation which has allowed ordinary citizens to access information and engage with public decision making. The strengthening of direct democratic practices is thus deemed a democratic institution to ensure the functioning of civil society organizations and other interest groups to engage in policy decision making. Ultimately, these direct democratic practices have successfully bolstered Indonesia's resilience from democratic setbacks. At the same time, there is a need to fight back to reduce the attempts to use direct democracy mechanisms as a means to promote populist policies.

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Country Case 2: India

Can Public Participation Online Strengthen Direct, Deliberative, and Participatory Democracy in India?

Kaustuv Kanti Bandyopadhyay[1]
Participatory Research in Asia (PRIA), India

1. Introduction

Most modern constitutional democracies govern themselves through representative forms of democracy. This representation is determined by fair, regular, and competitive elections. However, the limitations of representative democracy are well documented (Jayal 2009; Hirst 1988). To address these limitations, several innovations have been put in place by governments, civil society, and citizen associations, variously known as direct, deliberative, and participatory democracy. In spite of their common goal of complementing representative democracy, the theoretical underpinnings, trajectories, and practices for direct, deliberative, and participatory democracy, as elaborated elsewhere, are quite distinctive (Leib 2006; Carson and Elstub 2019).

Direct democracy is understood to incorporate those rules, institutions, and processes that enable the public to vote directly on proposed constitutional amendments, laws, treaties, or policy decisions. The most important forms of direct democracy are referendums and initiatives (Bulmer 2017). By contrast, deliberative democracy incorporates the participation of the public in deliberations and decision-making as a central element in democratic processes. In deliberative democracy, the public deliberation of free and equal citizens is the basis of legitimate decision-making (Joseph and Joseph 2018). In deliberative democracy, the emphasis is on deliberation, not voting, which is the focus in direct democracy. The promotion of participatory democracy exhibits a prioritization of public engagement in both formal activities, such as consultations, committee hearings, and participatory budgeting sessions, as well as in less obviously political actions such as spontaneous protests, volunteering, and in decision-making (Dacombe and Parvin 2021). Many scholars have studied, critiqued, and questioned the efficacy of direct democracy (Lupia and Matsusaka 2004), deliberative

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[1] Director of Participatory Research in Asia (PRIA)

democracy (Owen and Smith 2015), and participatory democracy (Parvin 2021) in their theoretical constructs and their practical approaches.

A key expectation for a regime of democratic governance is the formulation of policies that promote equity and ensure justice. Public participation in policymaking is the cornerstone of a mature and consolidated democracy. Public policymaking that affects millions of citizens cannot rely on representative and procedural democratic mechanisms alone. It must embrace direct, deliberative, and participatory mechanisms and practices.

This paper describes the practice of public participation in the promotion of direct democracy and dives deeper into questions of potential and actual barriers to online public participation, especially with reference to policymaking. It maps existing interventions in online public participation and suggests improvements to existing approaches. After gaps in the present discourse are identified, recommendations are made to develop the most meaningful and inclusive ways to engage in public consultation online when making public laws and policies.

India, although it is the largest democracy in the world, often relies more on procedural democracy and has created very little space for direct public consultation in its national, sub-national, and local policymaking at a substantive scale. The emergence of institutions of local governance in the early 1990s has created significant spaces for public participation in decision-making related to local development. The 73rd and 74th Constitutional Amendment Acts, passed in 1992, made provisions for Gram Sabhas (an assembly of all the electorates within the territory of a Gram Panchayat[2]) and Ward Committees (made up of elected or nominated members in a municipal ward and that are to be constituted in municipalities with a population of more than 300,000). These acts broadened the functions of Gram Sabhas and Ward Committees, including participation in the planning and monitoring of all local development work. Although they form the only institutionalized space for direct participation, the experience for Gram Sabhas has been mixed. The experience of Ward Committees, for their part, has been generally disappointing, as most state governments and municipalities have not formed or activated these committees.

Over the last decade, many public programs have emphasized the importance of public participation for the effective implementation and monitoring of these programs. A few ministries and departments of both union and state governments have occasionally solicited comments, suggestions, and objections with regard to proposed policies or plans. However, in the absence of a robust mechanism and coherent laws that require mandatory public consultation, such initiatives have often been short-lived and have dissipated before they could accomplish their goals (Arora and Bandyopadhyay 2022).

In the absence of an institutionalized space for public participation in the planning and monitoring of public policy, several civil society organizations and citizen associations have used a social accountability approach and tools to promote public participation, engaging in participatory data gathering and analysis, sharing of findings with public authorities and the media, and negotiating with the public institutions responsible for the implementation of a program or policy. The civil society organizations have used many tools, including citizen report cards, community score cards, and social audits. Such initiatives have amplified citizen voices but have fallen short of institutionalization and scaling up public participation (Bandyopadhyay 2015). In cases where social audits have been institutionalized, such as in the Mahatma Gandhi National Rural

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[2] The lowest level of governance structure within the three-tier governance structure of the Panchayati Raj Institutions (PRIs) in rural areas.

Employment Guarantee Scheme (NREGS), implementation has fallen far short of expectations due to the lack of alacrity on the part of public institutions and the insufficient capacity of local governance institutions.

Over the past few years, as technological innovations progressed, several governmental initiatives have leveraged technology to solicit public consultation in public policy planning and monitoring. On several occasions, ministries and departments have invited members of the public to share their concerns, comments, and suggestions regarding a specific policy or program initiative online. However, the lack of a legal framework for organizing online consultations with members of the public and affected persons in making public laws and policies undercuts the government's efforts to place citizens at the center of policymaking. The practice of public consultation in developing public laws and policies has been sporadic, subject to whim, and inadequate. In several cases, in which suggestions, comments, and feedback have been sought from citizens on draft bills or draft rules, the government was under no obligation to close the feedback loop by disclosing specifically what feedback had been the public was considered, what was or was not included, and why this was done or not done (Arora and Bandyopadhyay 2022). However, a few civil society groups have leveraged online technology to channel public concerns and suggestions in public policymaking.

This paper pursues the following research questions: What lessons can be drawn from the online mechanisms and practices currently used by governments to consult members of the public in making laws and policies? How do civil society organizations influence policymaking using online public participation? What principles can be suggested to make online public consultations more reliable, inclusive, and ongoing?

To assess examples of governmental and civil society initiatives that promote online public participation, this paper uses a simple yet meaningful framework: Inform, Listen and Consult, Consolidate and Prioritize, and Feedback.

Inform: Communicate the details of the program or policy under consideration directly to the public. Raise public awareness and educate them about the initiative. Prepare them to engage by conveying what the institution expects from them as part of developing a program or policy and why public participation is critical.

Listen and Consult: Engage with the public by asking questions and listening to their responses. Ask specific questions to obtain quality information on the issues and ideas relevant to the program or policy under consideration.

Consolidate and Prioritize: Collect, analyze, and evaluate public responses on an ongoing basis. Different methods will require the use of different tools, but analysis will uncover important trends for various aspects of a program or policy.

Feedback: Communicate findings to the public to keep them informed. This will ensure that the public is aware of how their participation is influencing the program or policy.

2. Promise of Online Technology for Promoting Direct Democracy through Public Participation

In the last decade, as digital and information technology has developed its usefulness in all spheres of human activity, copious work is being undertaken to make development, democracy, and governance more inclusive

through such technologies. Champions of a tech-driven development community often advocate the range of virtues associated with digital and information technology for promoting public participation, including:

Ease of participation–Online technology enables communication and participation between multiple actors, both state and non-state, in multiple arenas.

Scaled-up outreach despite limited resources–Constraints on the resources available to reach people collectively and en masse can be overcome with the use of online platforms. The public and other non-state actors use multiple social networking sites and online meeting platforms for communication with each other across geographies, as well as for communicating with state actors in some cases, allowing a higher degree of outreach at a larger scale.

Access to decision-makers–Multiple experiments and initiatives using online technology have provided members of the public with the ability to access decision-makers remotely, without having to encounter the bureaucratic hierarchy physically.

Integration of information from multiple ministries–Online portals have enabled the integration of information from multiple departments and ministries or across silos of domains and jurisdictions together, such that it is not necessary to spend time physically going to look for information from a certain source or to meet the exact government official in one department or another.

Artificial intelligence (AI)-based labeling and sorting for ease of analysis and decision-making–AI technology has the potential to sort and analyze a vast and diverse quantity of information using predefined labeling that otherwise would have been cumbersome and daunting to handle manually.

3. Barriers to Online Public Participation

Online public participation, especially in the Indian context, is not without limitations. The following are the most prominent barriers to scaling up online public participation.

Digital divide–The fundamental challenge for India in this area remains access to the internet and the availability of technology for all. While access and inclusivity have improved enormously in recent years, continuous, high-speed internet connectivity is still limited to pockets of the population. Many groups continue to face exclusion from access to high-speed internet access and technology, which further impacts their access to technology-based services and continues the existing gender inequality (Sheriff 2020). However, there are other chronic inequalities as well, based on intersecting factors such as income, language, literacy, disability, caste, and religion. The infrastructural challenges here include the unstable supply of electricity or power cuts in many parts of the country, poor telecom service provider signals or networks, the higher price of high-quality devices that have higher storage capacities (for which the pricing depends upon the manufacturer), and the higher price of high-speed internet broadband plans or mobile data plans (where the pricing depends on the internet service provider), among others.

Polarization of information due to predesigned algorithms–The information and news that internet users receive comes to them thanks to predesigned algorithms that provide information that is increasingly tailored to and influenced by their searches and browsing histories. This creates a cycle of polarized opinions, as a multiplicity of voices and opinions is often less tolerated and accounted for. This has contributed to a deep-

seated polarization of political views and opinions among the residents of India. Thus, echo chambers or information cocoons are a growing phenomenon, in which similar views and opinions are recycled and thereby reinforced. The algorithms in play block out the diversity of perspectives.

Majority takes all–In a majoritarian democratic state and culture, there is the risk that important minority voices may be overlooked or ignored. These could be the voices of marginalized people or unpopular opinions that do not have sufficient traction or prioritization. Interactions to influence different interest groups or perspectives and facilitating a shared agenda is not easy using online consultations alone. Trust in online consultations without an offline relationship is thereby obstructed.

Untrained staff–Efforts are underway to enhance individual and organizational capacity for using technology in the functioning of governance institutions. However, these capacities vary across levels of government machinery and at present are the weakest at the district, city, and block levels. Most staff members are not trained to facilitate public participation using technology.

Sense of a safer space–Public policymaking is intrinsically political. Discussions on social media are often full of threats, trolling, and abuse, which may reduce the motivation to engage online. This poses a huge barrier to building a positive culture of participation and civic discourse. A safe space requires mutual trust and respect, especially to allow marginalized people and groups to share and communicate their vulnerabilities and lived experiences. Online modalities may not enable deep listening to alternative points of view, which is an important aspect of creating a safe space.

Obtaining relevant responses can be difficult–Promoters of public participation will likely face the challenge of receiving disparate and mixed responses based on a range of personal experiences, opinions, perceptions, evidence, and so on. This may increase the challenge of finding relevant responses. Seeking pointed and objective responses might also be subject to the biases of the institution that is seeking public participation. This is particularly relevant to the case of online responses, where opportunities to probe deeper and seek additional clarification are limited.

Extractive nature of information gathering–Information gathering exercises, even in non-digital modalities, are largely extractive in nature, such that communities and respondents are not informed how their data will be used. A similar trend is seen in digital modalities. A growing awareness of data privacy is linked to this concern.

4. Use of Technology in Public Participation–A Typology of Purposes and Mechanisms

This section lays out the landscape of civil society initiatives and government programs that are using technology for public engagement in India at the present time. It elaborates on the typology of purposes and mechanisms used, as evidenced in various Indian examples. These are organized around the following five major purposes of public engagement.

4.1. Dissemination of Information and Online Campaigns

Several civil society initiatives provide relevant information online in a language and manner that are accessible to ordinary citizens. Most government initiatives relating to the provision of information online are focused on raising awareness and driving behavior change.

Open Budgets India (OBI) was created by the Centre for Budget and Governance Accountability (CBGA) in 2017–18. CBGA realized that despite a great deal of government effort being put forward in the field of Open Data, such as Mygov.in and Open Government Data India, gaps remained with respect to information and public participation in budgetary transparency. OBI was conceptualized as an online platform to bring budgetary information and analysis into public discourse for greater transparency related to budget allocation and utilization. Here, the focus is on putting forth locally relevant, usable, accessible, and simplified budgetary information on the OBI portal (https://openbudgetsindia.org) in a timely manner. The OBI platform makes budgets more transparent and easier to for the public to understand for the public, and this is complemented by public engagement efforts featuring more personalized and face-to-face interactions to enable the public to engage in the public financing discourse (overcoming the challenge that among those who are literate, budgetary knowledge remains a gap). Many times when the district-level data are not available to the public to allow analysis of the trends, CBGA uses the Right to Information Act to source the information. They believe that the trends observed and analyses produced in the process of simplifying the relevant budgetary information should be used to make policy recommendations.

Nyaaya was incubated at the Vidhi Centre for Legal Policy in late 2016 and launched in 2017. It is a tech-legal start-up and has a website digital interface that is a complete repository of laws in India. Its key purpose is to disseminate legal information to increase knowledge and awareness of their legal rights to the public at large. It does not engage in policymaking per se but only works with policies that are already in effect. It uses its website and social media channels to increase awareness and disseminate information in audio, video, and text formats. The information on the website is organized thematically, and it is available in English, Hindi, and Kannada. The information provided is given in simple, actionable, and authoritative form after being vetted by a team of lawyers. To make the platform more accessible, there are plans to expand it to multiple languages and make the information more relevant to the population. The portal features an Ask Nyaaya section, in which people can ask questions and find answers. Its strength lies in its connection to the legal community, and the model relies on leveraging technology to expand legal knowledge of the citizens.

Nyaaya has explored multiple strategies to diversify its outreach. During the pandemic, it created a WhatsApp group featuring lawyers who provided legal information to users. It also collaborated with other organizations, such as Gram Vaani in rural Bihar, working on violence against women. The Nyaaya team provided answers to legal questions posed by the community, and this information was further disseminated on the Mobile Vaani channel that is run by Gram Vaani. Mobile Vaani runs in Hindi and a local language. By this means, legal information is disseminated to Mobile Vaani users in sync with the local realities in a way that is contextually relevant. It has also leveraged this technology through social media platforms in an online community of 90,000 people. It also works with educational institutions and student volunteers to help with dissemination. It is planned to start an online campaign with Instagram and We the Young that explains laws to young people by young people. It is creating content on YouTube and is getting more traction for the regional

audience. It is in Hindi and Kannada. Earlier it was used to translate the content from English to Hindi. However, having realized that this resulted in a loss of nuance and contextuality, it is planned to partner with local organizations for better dissemination.

Mobile Vaani is a mobile voice media platform developed by Gram Vaani. It has the unique feature that using it, people can call in using their basic analog mobile phone to a designated phone number to register their complaints and grievances in their own language. The team that monitors the platform publishes the relevant inputs from those using the platform. People can also listen to other recordings on the channels. This enables two-way communication. Hence, the platform serves the function of disseminating information on multiple issues related to health, education, and other topics; by listening to the concerns and issues of people using offline mechanisms, they can communicate these concerns with the relevant authorities.

4.2. Facilitating Access to Government Schemes and Programs

A few civil society organizations and social entrepreneurial initiatives have developed online platforms that not only provide information on government schemes and programs but also allow members of the public to check their eligibility and enroll themselves as beneficiaries.

The Jan Soochna Portal was conceptualized in 2017 by a network of CSOs working in Rajasthan within the Soochna Evam Rozgar Adhikar Network and launched by the Government of Rajasthan in 2018. Its development began in 2016, when the network submitted a report on the challenges related to the timely delivery of rations for citizens. The government accepted the recommendation to publish the information on the abeyance list that was causing non-transparency in the data on rations. This sparked a dialogue for the provision of transparent information and the redressing of grievances for citizens for all other schemes under various ministries. The Department of Information Technology began a digital dialogue with the network to develop the portal Jan Soochna portal. The portal features a website interface that consists of integrated information regarding all schemes under various ministries. This portal enables users to obtain information related to multiple ministries and file their grievances. It features a helpline number, and grievances can also be registered by telephone. Intermediation is provided through the Information Resource Centre, equipped with an e-Mitra (a facilitator) and run at the block level to apply for benefits under a given scheme.

Jandarpan is an initiative of the Samarthan–Centre for Development Support, which has been working in Madhya Pradesh and Chhattisgarh since 1995 on participatory governance. The Jandarpan platform was developed during the pandemic to enable migrant workers to access benefits from public programs. Jandarpan supported migrants who were stranded during lockdown without resources. Migrants who returned faced multiple challenges in accessing services and entitlements, including rations, pensions, and employment from the state government. Toll-free helpline numbers dedicated to supporting migrant workers were not always functional. Samarthan developed Jandarpan as an interface to streamline the interaction between local administrations and its citizens. At first, they only integrated limited schemes for rations (under the public distribution system) and the Mahatma Gandhi National Rural Employment Guarantee Scheme but expanded it over a period of time. They had brought the local administration on board to administer and address the requests that were arriving through the portal. The cycle began with people putting their requests in while the local administration was administering the responses. The idea of the program was that citizens who had been

excluded from entitlements and benefits would have a platform to push their issues toward resolution. There were about 12 to 14 schemes on the portal, and as the need arose, additional schemes were added. The primary function is that of grievance redressal for citizens who are entitled to benefits but are not receiving them. However, this application does not enable registration for the scheme, as this requires an offline interface to submit documentation to the respective Gram Panchayats or relevant authorities. The platform can provide intermediation between the government and its citizens. Samarthan enables citizens to file their complaints online as there is a huge gap in digital access and literacy. It also allows administrators to observe emerging trends regarding complaints that can influence policy planning and implementation. The portal requires login using a phone number, whether that of the complainant or the intermediary who is supporting them.

Haqdarshak uses technological solutions for last-mile service delivery of government entitlements and benefits. The Haqdarshak mobile platform hosts information on all welfare schemes and maps the eligibility of various welfare schemes to the characteristics of given citizens. Eligibility is based on the identifiers of the citizen, customized for them. It is based on the eligibility parameters of the specific program that is laid out by the government. In the beginning, a subscription was required for citizens to access the information through the mobile application. As they realized the challenge of getting people to download the app through the Play Store, an offline architecture was introduced to the concept of Haqdarshak. This enabled user of the app to go door to door and raise awareness of the platform. This could be paid by CSR projects or by charging citizens directly.

Bandhu uses technology to streamline rural to urban migration in India through working with migrant workers, contractors, and employers. Its technology products reduce transaction costs, improve time management, and provide quality assurance. It includes a digital platform that connects workers with contractors and employers. If a worker hopes to obtain a better paying job quickly without paying too much, a contractor wants the right number of workers or the right kind of tender at the right price. Or an employer wants a certain number of workers at a certain price and timeframe, the platform can solve the problem effectively. However, it also provides in-person intermediation for workers who do not have a bank account or a cash card. It also facilitates access to workers' entitlements through a digital platform, in collaboration with other organizations that work as intermediaries between workers and the district administrations, or municipal corporations, or industry associations. It tracks the migration corridor between East Odisha and Gujarat to support over one million workers. It also works on the issue of affordable rental housing through digitization, standardization, and price rationalization. It facilitates the interface between landlords and workers for mutual benefit.

The Mera App is the digital interface in the form of a mobile application that was developed by the Digital Empowerment Foundation as part of their Soochnapreneur Program, which works to bridging the gap between citizens and government by creating greater awareness and linking citizens to their right to entitlement and benefits. It developed an offline infrastructure according to which the ground team conducted campaigns to generate awareness of the schemes through door-to-door visits, formal and informal meetings, organizing camps for information dissemination; conducting surveys to link citizens to their entitlements; creating a database of the existing schemes in each district; and continually monitoring them. In this design, the app provides a catalog of welfare schemes in the areas of health, education, social security, finance, and livelihoods.

The app is multilingual and runs in both offline and online modes to allow citizens to follow up their applications for entitlements.

4.3. Grievance Redressal

Yet other online platforms have been developed by civil society groups to allow members of the public to register their grievances and share their experiences in accessing public services. The information collected through these platforms is collated and analyzed for use in advocacy and engagement with relevant public departments.

Janaagraha, a CSO based in Bengaluru, has created two platforms for use in engaging citizens in grievance redressal. *I Paid a Bribe* is a crowdsourcing platform that features a desktop interface enabling citizens to report their complaints related to bribery. This platform is used to generate city-level reports in the fight against corruption in India. *I Change My City* is another initiative that develops participatory ward budgets and crowdsources citizens' complaints related to civic amenities for grievance redressal by municipalities. I Change My City also features a desktop interface for citizens to file complaints. It has an offline interface for participatory budgetary processes carried out in Bengaluru, Mangalore, and Vishakhapatnam as well, where citizens can meaningfully engage and connect more locally in their cities. They are most interested in addressing infrastructure problems, such as roads, footpaths, parks, streetlights, solid waste management systems, and so on. Decentralization works in cases like these, as it brings the response system closer to home. A heightened level of engagement is attained through ward committees, associations, and so on that is scalable through technology. This allows larger access to information, even for those outside the given transactions. They engage closely with platforms such as Swacchta, developed as part of the Swachh Bharat Mission of the Government of India, which began as a way for citizens to connect with cities to submit their grievances. In this context, it was observed that the ministry was open to gathering feedback from citizens to identify what cities are seeking in terms of solid waste management systems, garbage-free cities, or even the quality of infrastructure that cities have. Within this citizen engagement, citizens are galvanized to participate in budget-making at scale. Technology allows this to be done at scale. Without it, it is impossible to reach an adequate number of citizens. At the same time regular meetings through the ward committees and complementary online and offline models, are effective. Technology allows participation in ward meetings while traveling or otherwise unable to attend to enable the user to maintain voice and agency to impact the outcome even while not physically present.

4.4. Highlighting Policy Issues through Online Petitioning

A few online platforms developed by other civil society groups allow members of the public to initiate petitions, either to change certain policy provisions or to draw the attention of the policymakers to a defined policy gap. These platforms encourage citizens at large to support specific petitions.

Change.org is an international organization that has been working in India since its inception. Their website interface allows civil society groups and individuals to initiate petition campaigns for social change. The Change.org model is based on the premise that certain social issues do not receive sufficient attention from the mainstream media but nevertheless concern the citizens and civil society groups to a considerable degree.

The platform provides a space for the citizens to begin their petitions, allowing the issue to come into the limelight, spurring more people to talk about it, and drawing attention from the media and policymakers and decision-makers who become informed about the demands from certain groups of citizens. Change.org features a network of decision-makers. As the first step, they train the petitioner by drafting a petition, and once it receives the signatures of thousands of others online, they facilitate the process of the decision-makers who receive the demands stated in the petition to act upon. They have a tool that allows the decision-makers to receive alerts as the issue receives more and more signatures. This provides a mechanism for public pressure. The petitions are addressed to a specific individual decision-maker or the relevant authority with a specific ask or demand. A decision-maker sign-up option is also available on the portal for decision-makers to observe the petitions and act. This model has the potential to provide civic education through training, as well as bridging the gap between citizens and the decision-makers to reversing actions that go against the principles of human rights.

Jhatkaa.org uses digital media for collective action to promote public participation. When this organization begins a campaign, their first step is to map out the decision-makers for a particular issue to who needs to be influenced, what their positions are on the issue, and what tactics could be used to influence them. One avenue for this could be, when the government opens up a question to public consultation, a response could be made to those consultations. However, those processes are often tokenistic and not meaningful in themselves, although value is seen in informing citizens of the given processes. The organization uses petitions as an opinion-gathering tool that can be circulated among people to collect signatures. Once citizens are signed up for a key demand, the organization can work with partners, who bring in research and policy analysis expertise. They describe issues in a way that is understandable to an average citizen, invite these citizens to sign a petition, and take the petition to the relevant decision-makers. Each petition takes a different turn because much depends upon how the recipient responds. However, their tactics are also used to influence the media, especially media channels that can access the given decision-maker. Now that decision-makers also tend to have a social media presence, this can also be leveraged. Sometimes they do a call-in campaign, where, after they have submitted a few representations and they are yet to receive a response, they get representatives to call in into the decision-maker's office. This can be a very useful pressure-building technique because most government and administrative offices are not used to receiving a hundred calls at once. This type of collective action helps the voices of citizens to be heard.

4.5. Crowdsourcing Ideas and Suggestions for Policymaking

A few government ministries and departments are publishing draft public policies or laws on their websites to solicit comments, suggestions, and objections from the public. This has largely been an ineffective way to promote public engagement, as in most cases the legal jargon, lack of facilitation, and rigidity of the platforms do not allow for meaningful deliberation. In recent years, a few civil society organizations have developed online platforms that organize online deliberation and consultation with the public, especially with affected persons in relation to a specific law or policy. They collate responses from the public and share the consolidated findings with the concerned ministry or department.

Civis is an online platform with a website interface for public consultation, developed as an initiative of the Civic Innovation Foundation. The Civis platform provides legal knowledge to citizens in the form of

legal text summaries to promote the understanding of the laws in the simple, non-jargonistic language in Hindi and English. A key purpose of Civis is to solicit feedback from individuals or groups on the laws that the government designates as needing citizen feedback. They aggregate all the draft laws that require public participation, as these are often scattered over different platforms. They have a team of legal volunteers who summarize those laws to ensure that the information goes out to the citizenry without bias. Once all the feedback is received, they consolidate the data and compile a report to submit to the relevant authority. Once the law is updated, the percentage of feedback taken on board is calculated, and this result is shared with their community of citizens. This enables the feedback loop of participation to continue. In many cases, the multiplicity of the voices is an aspect that makes consolidation difficult while compiling the report. However, the suggestions are hardly ever irrelevant. Civis considers that the onus is upon them to make the law simpler to allow that more citizens can actively participate in the processes.

For communities that do not have digital access, Civis facilitates citizen consultation in offline spaces as well. They make sure that impacted groups are identified and contacted for consultation on certain policies. For example, when the Government of Maharashtra intended to construct a flyover in Mumbai, Civis organized an online consultation on the subject. Many responses were received online from middle-class citizens who were not directly impacted by the decision regarding the construction of the flyover. The directly impacted communities were the slum-dwellers around the flyover, who needed to be consulted primarily for the policy planning.

When working with constituency-based laws, Civis reached out to impacted communities to gather their feedback, as the basis of consultation is the lived experiences of the individuals of that community; with more generic laws, they expect only general suggestions from the citizens. Citizens' suggestions can be anonymous as well, as impacted communities might fear repercussions if the identities of the citizens are revealed. In their facilitation of the consultations, Civis also considers it important to frame the questions carefully so that the responses are relevant, and the overall process is meaningful.

While innovative spaces to promote online public participation have largely been spearheaded by civil society groups, governments have also leveraged online technology to solicit input from the public. Two such initiatives are pertinent here.

Smart City Mission was launched by the Government of India in 2015 with the intent to drive economic growth and improve quality of life by enabling local area development and harnessing technology, especially technology that leads to smart outcomes. Public participation emerged as an important arena for municipalities while undertaking the planning and development of their smart city plan. A major emphasis in the Smart Cities Mission Guidelines (Ministry of Urban Development 2015) falls upon engagement strategies that involve better communication on the part of the government, soliciting feedback for problem identification, co-creating solutions, and involving local citizen champions, while ensuring the active participation of various groups, such as youth and student associations, welfare associations, taxpayers associations, senior citizens, special interest groups, slum dwellers, and others. Citizen engagement was undertaken by the cities selected by the Smart City Mission. A research study conducted by PRIA (2016), found that citizen engagement fell broadly under four stages: i) generating awareness about the concept of a smart city; ii) mobilizing citizens for gathering opinions and suggestions on vision, goals, and developmental priorities for both city-wide solutions and choice for area-based development; iii)

assimilating citizens' opinions and suggestions to prioritize the contours of smart city plan; and iv) feeding back to the citizens about the final choices made under the smart city plan.

A combination of face-to-face and ICT-based online methods and tools have been used by the city authorities to reach out to citizens. A few cities, however, relied more on offline, in-person, face-to-face, and personal contact modes for engagement with the citizens, while other cities leveraged ICT tools. The kind of methods and tools used are dependent on the stage of engagement, the population profile, access to various interfaces in the community itself, and the familiarity of the city managers or the consulting agencies with leveraging these tools.

The online methods included: sending SMS text messages and telephone voice messages; advertising on radio and local TV channels; telecasting recorded expert talks and messages from the Mayors through YouTube; disseminating periodic information through the website of the Municipal Corporation (either on existing websites or new ones developed exclusively for the smart city proposal), along with hosting online discussion forums on the MyGov.in portal, where citizens shared their opinions and priorities in large numbers and participated in online surveys, polling, and voting; and using social media platforms like Facebook, Twitter, and WhatsApp for both sharing information and receiving suggestions. Other methods used to collect data include surveys, competitions, advertisements, hackathons, and exhibitions. These allowed governments to reach out to hundreds and thousands of citizens in most cities and in slightly smaller numbers in a few others. Multiple parties, such as partner agencies, youth volunteers, and NSS were involved in the data synthesis phase.

Mygov.in is a multi-purpose platform of the Government of India used for direct citizen engagement in governance. It is an initiative of the Ministry of Electronics and Information Technology (MeitY) of the Government of India. The platform has integrated information related to the regulations, laws, and policies of multiple ministries and departments. Citizens' suggestions are solicited on draft policies and regulations in the form of comments through the site's discussion forum or through the use of polling and surveys. Ideas and suggestions for the topic of the prime minister's Mann Ki Baat are also sought. Participation for this requires a person to register on the portal using an email address or mobile telephone number. The multi-purpose nature of the platform enables the transfer of other information as well, for example, calls for individuals to submit posters, photographs, films to competitions. A blog section is also hosted that consists of posts written by union ministers, as well as a talk section, consisting of Mann Ki Baat recordings. The MyGov.in platform is used by ministries and departments to initiate a public discourse around various issues and to seek citizen feedback on proposed policies and laws.

While this platform is multi-purpose, it has quite a few gaps. For instance, there is no feature for citizens to initiate a discussion themselves. The site lacks the capability to close the feedback loop with citizens after the closure of the citizen consultation process. For example, reports of citizen consultations are not shared, and feedback is not provided to the citizens. It is difficult for users to learn whether the concerned authorities have received the suggestions. Because individual responses are received from citizens registered on the platform, it is also difficult to understand through the user interface whether collective suggestions from a group of citizens are received. Moreover, there seems to be a unidirectional flow of information in functions such as Blog and Talk. It is also difficult to understand if the portal is a one-stop shop for all the policy drafts (from the ministries and departments that are seeking citizen

consultation). In other words, this site does not appear to fulfill its function of bringing the laws for citizen consultation in one place, comprehensively and efficiently.

5. Framework for Effective Online Public Consultation

The foregoing context and analysis provides a sound basis for suggesting a framework for effective online consultation with the public in matters of public policymaking. The framework consists of four key phases, as follows.

5.1. Inform the Public

Information is power. This step raises awareness about the governance systems, laws, policies, and entitlements that are important to the public. Unlike means of information sharing and mobilization of the public that took place face-to-face, remote and digital platforms are being explored at this time. Technology is being used to simplify the dissemination of knowledge, raise awareness, and create an informed public. Multiple platforms are being used for information dissemination. The focus here is on simplifying and making information accessible, simpler, and with appropriate context for a wider audience, in some cases in multiple languages or local dialects as well. The following points comprise a set of best practices identified for ensuring citizens are meaningfully informed.

Contextualized information: Contextualizing information in a way that is appropriate to the demographics of the population is the most important aspect of public participation. We must ensure that the modalities of engagement, whether online, offline, or both are used to leverage the process of contextualizing the information.

Homogeneity in mobilization: Homogeneity in the mobilization of the excluded groups is an important topic of consideration. Again, the modality of engagement must be designed so that it reaches out to the homogenous communities and so that they use it for the intended purpose.

Training the communities in public participation: Investing in capacity building in the homogenous community is important for enabling public participation, as they are considered equal and primary stakeholders in the consultation phase.

Maintaining neutrality: The other critical point in this phase for intermediaries is to ensure that neutrality is maintained in the summaries given of the legal texts while adopting tech-based solutions.

5.2. Listen to and Consult with the Public

In this phase, the public are listened to and consulted with to facilitate the use of diverse perspectives in decision making during policy planning. Very few initiatives currently have this goal in mind in the Indian context. The following points constitute a set of best practices adopted to ensure citizens take part in meaningful consultation.

Who, what, why, and how of the consultation: Consultation with citizens includes important considerations, such as who is consulted, why they are consulted, what they are consulted for (evidence, lived experiences, opinions, ideas, perceptions, or other aspects), and how they are consulted (digitally, online, face-

to-face, or in another way). Here primary stakeholders must be considered, but who should be a target contact for laws that are generic and not constituency-based?

Reaching out to the excluded groups: It is important to identify a pathway to intentionally reach out to caste-, gender-, religion-, location-, literacy-, language-, and disability-based minority groups to prevent disfavoring them while providing technology that enables their participation.

Meaningful public participation happens incrementally: In the study, a few examples were seen where citizens were consulted for policymaking, by both the CSOs and the governments. Public participation is seen in multiple degrees, along the scale of tokenistic to meaningful participation. This range needs to be seen more incrementally. It is not made up of leaps, as participation is a learning process, even for those being consulted.

Setting the norms for the online platform: In online spaces, the consultation process needs to set the norms and ground rules to encourage engaging respectfully, acknowledging feedback received (the administrator can do this), and encouraging respondents to keep the conversation relevant.

5.3. Consolidate and Prioritize Responses

It is not very difficult to collect data and hold consultations, but it is not easy to analyze and consolidate a vast amount of data. The steps in the process are the following: making sense of the data as a whole, identifying trends and patterns in the data using labels, consolidating the data, and prioritizing the key ideas that emerge from the consultation. The following points are a set of best practices identified for ensuring the consolidation of data is done meaningfully.

Disaggregated data: Consider the heterogeneity of the group to disaggregate the data. Gender, age, caste, religion, ethnicity, and socio-economic disaggregation is important to identify what different constituencies are saying. Technology must be designed to provide solutions to understand data in a disaggregated manner.

Consider minority views: In the labeling system, technology must consider minority or less popular opinions and views. There is a chance that breakthrough suggestions and recommendations can be found in the minority views.

Transparency: Data consolidation and results need to be transparent for the citizens who provide the feedback. Citizens must be made aware of the process of consolidation and prioritization to produce trust in the process.

Confidentiality of the sensitive data: Sensitive data cannot be given out to any institution, whether it is the government, private companies, or civil society groups. The growing awareness and concerns around data privacy must be respected and citizens should not be discouraged to participate by asking for unnecessary identifications.

Social accountability approach: Consider a social accountability approach when submitting the report. Governments make various commitments nationally and internationally. There are national and international frameworks that obligate the government to encourage public participation. This makes the government accountable to the citizens for including their voices meaningfully.

5.4. Closing the Feedback Loop

This is an important phase, in which the government or the public participation promoter shows that it cares and is invested in the process.

Communication exchange: Exchange between the public and the government is important for meaningful dialogue. Feedback to the public is important to provide the rationale for decisions taken, explain how inputs were used, and close the feedback loop. This communication exchange between the government and the public is important if mutual trust and understanding are to be increased.

Long-term vision: Feedback must showcase a long-term vision with the inputs received. Participation does not stop there. The cycle of participation will improve the quality of input from the public and make the government more responsive.

6. Institutionalizing Online Public Participation

6.1. Effective Hybrid Models for Collective Public Participation

While the push toward innovative technology and improving digital connectivity offers new ways of organizing citizen consultation, civil society groups and experts in the field are wary that a fully digital model is insufficient. One of the most significant limitations of using only digital technology, which has been more fully exposed by the pandemic, is that marginalized people may not feel safe enough to share their experiences and vulnerabilities or to assert their demands, especially when speaking with people in authority, due to existing power asymmetries. The risk with using only digital modalities is also that the voices and experiences of marginalized communities may not be heard (an important aspect of meaningful inclusive participation) in the process of citizen consultation. Citizen consultation requires the government to adopt an effective hybrid model (a combination of online and offline modes). Parallel efforts must be made for mobilizing marginalized communities and using traditional and pre-existing ways of organizing face-to-face, collective consultations. Physical and collective consultations, when conducted with empathy and care, can offer strength to marginalized communities to engage with the decision makers in an atmosphere of trust. While a systemized way can be adopted to put the offline discussions into the online sphere for public knowledge, adopting an effective hybrid model of consultations for enabling empathy, care and trust are critical.

6.2. Bridge the Digital Gap—Affordable, Accessible, and Inclusive Reach to the Internet and Technology for All

Concerted efforts need to be made to bridge the digital gap for meaningful participation from all spheres. This includes making the internet and technology more affordable, accessible, and inclusive, especially with respect to caste-, gender-, religion-, location-, literacy-, language-, sexual orientation-, and disability-based marginalized groups. The following suggestions should be considered.

To make the internet and recent technology affordable, it is important to not consider it a luxury but rather a necessity in the present context. Government programs that offer mobile phones or laptop devices

along with data packages as entitlements need strengthening. It is also necessary to ensure the quality of these products. Additionally, easy availability of Wi-Fi services in public areas will help in deeper penetration. These can be steps in the direction of bridging the digital gap.

To increase the accessibility of the internet and recent technology, it is important to work with marginalized communities. This includes making efforts in the direction of challenging the oppressive social norms that act as barriers for girls, women, and transgender individuals to claim their access. Additionally, improving digital literacy is a critical element in enabling communities to leverage technology to voice their opinions and experiences. Similar efforts to close the urban-rural divide are also important.

To make and design the technology architectures of the online portal inclusive for all, it is important for tech developers to consult the neo-literate groups and consider their usage patterns, lived realities, and so on, especially those who have traditionally not had access to the internet and technology.

6.3. Creating a Positive Culture and Reimagining Online Platforms for Direct Public Participation

There is a need to bring about a cultural change to support direct public participation. India has very little space for direct citizen consultation, so change is needed here to create a positive attitude and cultural shifts among people and the government. This change can happen incrementally by enabling citizens to provide relevant, mature, and informed responses. Moreover, direct public participation can be strengthened by ensuring the following.

Providing civic education to the people, elected representatives, and other actors to create a more informed and aware mass base to ensure everyone is equally invested in public participation, not just for grievance redressal and access to services but also in policymaking.

For meaningful participation, governmental bodies need to process citizens' inputs and go back to the citizens for dialogue on how the inputs were used and what the rationale for the ultimate decision was. At the same time, informing the long-term vision for using the inputs received and then closing the consultation process will add additional value.

6.4. Reimagining Online Platforms for Adopting an Effective Model that Enables Citizen-initiated Discussions in Policymaking

Existing online platforms for citizen consultations in policymaking have multiple limitations. They do not enable citizen-led or citizen-initiated discussions but only offer a way for citizens to make comments on selected policy drafts. Moreover, not all policies of multiple ministries are provided on the portal for consultation. Therefore, reimagining the portal so as to build and sustain it such that all departments intentionally reach out to the citizens, that there is transparency, and that citizens have more voice and control in the pre-legislative stages is important, and this should continue until the final stage of having a policy enacted.

6.5. Legislative Change to Mandate Citizen Consultation in Pre-Legislative Stages

For citizen consultations to become a substantive part of policymaking at a national scale, as well as a sub-national one, it is important to introduce legislation mandating citizen consultation in the pre-legislative stages.

This will help involve the ministries and departments of the union and state government for standard-setting and promoting good practices. They are the most powerful and have the greatest degree of influence. The same practices also need to be followed at the municipal and ground levels.

7. Conclusion

This article indicates that in the absence of a robust legal framework for promoting public participation in public policymaking, civil society has created direct, deliberative, and participatory spaces to complement India's representative and procedural democracy mechanisms. The rise of online technology has opened new vistas for direct public participation in public policymaking. However, the impact, outreach, and institutionalization of such efforts require deeper investigation and interrogation. Nevertheless, some lessons could be applied to scale up the use of online platforms to strengthen direct and deliberative participation.

Fully digital channels for information dissemination will not be effective in rural and other marginalized communities that do not have adequate access to the internet and other such technology. Online channels for information dissemination could be more effective if used together with organizations that have a physical presence in these communities. The people who are directly impacted by a program or policy must be consulted. It is important to gather and provide relevant budgetary information to the public to ensure transparency in fiscal policies. If the information is relevant, it can influence budget planning in the future. Participatory budgeting has the potential to bring transparency, accountability, and effectiveness to local development.

Low digital penetration is among the largest challenges that members of the public face in accessing services through online systems. Significant effort is needed to increase the public's digital access, awareness, and literacy in linking them to government schemes and programs. Public application submissions require an offline interface. It is mostly grievances from the public that can be resolved through online mediums. An effective grievance redressal mechanism is a good source of public feedback about government programs and policies. It is also important for local civil servants to be trained to respond to online queries and grievances from the public.

Petition platforms are important models for civic education and citizen-led campaigning. Petition pathways directed toward the key decision-makers can be strengthened to increase direct public participation. Digital methods of crowdsourcing ideas, such as text messages, social media channels, and government discussion forums, can be leveraged to scale up public participation. Well-equipped systems and multi-sectoral partnerships between civil society groups, national, state, and local governments, and the private sector may be needed to scale up crowdsourcing ideas and suggestions for program planning. However, who is being consulted and why must be taken into account. Such consultations also need to maintain the spirit of collective participation. While offline discussions can be shifted into the online sphere for public knowledge, adopting an effective hybrid model of consultations to encourage empathy, care, and trust is also critical to the continued promotion of direct, deliberative, and participatory democracy.

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Country Case 3: Philippines

Direct Democracy in the Philippines

Francisco A. Magno[1]
DLSU Institute of Governance

1. Introduction

There is an increasing trend towards the adoption of direct democracy mechanisms globally. A 38-country survey conducted by the Pew Research Center indicates that roughly two-thirds of citizens surveyed favor direct democracy (Wike et al. 2017, 23). This may be fueled by the notion that allowing voters to cast their ballots on issues rather than candidates can alleviate the problems of socio-economic, political or legal inequality in representative democracy (Krämling et al. 2022; Williams 2019). It is argued that direct democracy can provide a voice to constituencies who perceive that their interests are not taken care of by the political elites (Pantazi et al. 2022, 531).

Direct democracy is defined as an institutionalized process by which citizens vote on specific policies instead of electing people into positions of power under representative democracy. For Altman and Sánchez (2021), direct democracy only includes mechanisms like initiatives, referendums, and plebiscites where secret balloting is done, but does not cover open deliberative assemblies (28). However, other scholars like Matsusaka (2005), who also accorded primacy to the ballot system, nevertheless referred to the town meetings, in which citizens congregate at a particular time and place to make public decisions, as the earliest forms of direct democracy (187).

The holding of thematic assemblies where citizens participate in some form of participatory budgeting has widened from a few local governments in Brazil to thousands of sub-national jurisdictions around the world since the 1990s (Cabannes 2015, 257). In these exercises, citizens have direct participation in public financial management. They engage in the allocation and utilization of public resources in their communities (Marquetti et al. 2012, 63). This often contains a portion of capital funds, but it may also include operating budget funds (Rubin and Ebdon 2020).

This study adopts the expanded definition of direct democracy that considers both vote-centric mechanisms, such as initiatives, referendums, and plebiscites, as well as citizen engagement in thematic assemblies and participatory planning and budgeting activities. The scholarly literature indicates that direct democracy functions to compensate for the inadequacies of representative democracy and foster more

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[1] Senior Fellow and Founding Director, DLSU Institute of Governance

responsive governance (Merli 2020, 199). On the other hand, the effectiveness of direct democracy mechanisms would hinge on their interactions with the representative system (Emmenegger 2022). The results from direct citizens' initiatives are often incremental but can accumulate to effect change (Tosun et al. 2022, 2).

The global surge of democratization in the 1980s and 1990s generated a heightened clamor for political participation. This contributed to new types of vote-based direct democracy mechanisms (Kersting and Grömping 2022, 218). The Philippines provides an interesting case study for the rise of direct democracy coming on the heels of a people's power movement that removed the authoritarian government in 1986. A democratic constitution was passed in 1987. Among its key provisions is the people's initiative, which is a mechanism that allows voters to petition the government to put new policy proposals on the ballot. In addition, the participation of citizens in local development planning and budgeting is recognized under the Local Government Code of 1991.

2. Democratic Transition in the Philippines

The Philippines experienced the renewal and broadening of civil society during the 1980s as mass mobilizations helped bring down the Marcos dictatorship. As a product of democratic transition, the 1987 Constitution recognizes the importance of civil society and its participation in governance and development. The Charter declares that the state shall encourage non-governmental, sector-specific, and community-based organizations that promote the welfare of the nation. It emphasizes that the right of the people and their organizations for effective and meaningful participation at all levels of social, political, and economic decision making shall not be abridged. To pursue this aim, adequate consultation mechanisms will be set up by the government.

The Philippines is a unitary state with a presidential system of government. It is characterized by the formal separation of powers between the executive, legislative and judicial branches of government. Historically, the executive agencies under the direction of the president enjoyed wide latitude for development planning, spending decisions, and appointments of key people to steer the bureaucracy. Nevertheless, these actions were subject to the oversight authority exercised in the budget and confirmation hearings of Congress as well as the audit procedures of independent constitutional bodies, including the Commission on Audit and the Civil Service Commission.

Since 1946, free elections were held on a regular basis to choose the country's leaders, from the president to legislators and local government officials except for the fourteen-year interregnum from 1972 to 1986 when the country was placed under martial law. As a platform for voice and accountability, elections leave much to be desired. The combination of a weak political party system, poor election administration, and inadequate voter education have led to the low quality of democracy and the failure to convert campaign platforms into effective governance programs. In this landscape, rent-seeking opportunities to use campaign finance contributions as a window to get state-conferred business contracts and other concessions abound. At the same time, the politicized recruitment of executives for bureaucratic positions from the top down to the level of middle managers distorted efforts to professionalize government careers of executive service.

The weakness of democratic institutions like political parties fostered a state that became vulnerable to capture by politicians and their business allies while being unable to provide ordinary citizens with the mechanisms to express their demands and gain access to public services. A two-party system shaped the contours of electoral politics from 1946 until it was destroyed by martial law in 1972. The return of formal democracy in the aftermath of the people power revolution in 1986 gave rise to a multi-party system. Nevertheless, the shift from a two-party towards a multi-party system did nothing to alter the general lack of clear programmatic differences among the major parties.

The downfall of authoritarianism led to the establishment of a Constitutional Commission by President Corazon Aquino. In 1987, a new Philippine Constitution was ratified. Reacting to the twenty-year rule of Ferdinand Marcos as president, the new Charter limited the term of office of the president to a single six-year term. Other elected leaders like legislators and local government officials are also governed by term limits, but can seek re-election under restricted successive term provisions. Another feature is the introduction of proportional representation in Congress for party-list groups that promote the interests of marginalized sectors. Twenty percent of the seats in the House of Representatives are allocated for proportional representation. A party-list group gains a seat when it reaches the threshold of 2% of the national vote and can occupy as many as three seats in Congress.

As a product of the democratic transition, the 1987 Constitution recognizes the importance of civil society and its participation in governance and development. The Charter declares that the state shall encourage non-governmental, sector-specific, and community-based organizations that promote the welfare of the nation. It emphasizes that the right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision making shall not be abridged. To pursue this aim, adequate consultation mechanisms will be set up by the government.

3. People's Initiative

The 1987 Constitution has a clause for a people's initiative that is one of the modes for constitutional amendment upon a petition of at least 12% of the total number of registered voters with the Commission on Elections, of which every legislative district must be represented by at least 3% of the registered votes therein. The other routes for revising the constitution are the Constituent Assembly and the Constitutional Convention. The Philippine Initiative and Referendum Act of 1989 allows voters to directly initiate the passage of new laws and call for national and local referendums.

Towards the end of the administration of President Fidel Ramos (1992-1998), the People's Initiative for Reform Modernization and Action (PIRMA) started a signature campaign to amend the constitution. Among the proposals submitted were the shift to a parliamentary system of government and the lifting of term limits on elected officials, including President Ramos himself. PIRMA's petition was eventually elevated to the Supreme Court, which ruled that the group's petition was defective.

In 2014, the People's Initiative Against Pork Barrel (PIAP) was announced in Cebu City. It proposed to criminalize pork barrel fund creation and spending. The initiative was pursued by various groups, such as the #AbolishPorkMovement, the Cebu Coalition Against the Pork Barrel System, the Church People's Alliance

Against Pork Barrel, the Empowered People's Initiative and Reform Movement Alliance (ePIRMA), Solidarity for Transformation, Youth Act Now, and the Scrap Pork Network. They were joined by Cebu Archbishop Jose Palma and former Supreme Court Chief Justice Reynato Puno.

The proposition was one of civil society's resulting reactions to the Priority Development Assistance Fund (PDAF) scam of 2013 and the Million People March and other protest actions that ensued. Under the PIAP's proposed Pork Barrel Abolition Act, all budgets submitted to any legislative body shall contain only itemized appropriations, except funds for relief and rescue operations during disasters and funds for intelligence work and security. The proposed legislation also called for the abolition of the Presidential Social Fund which was also described as a form of pork barrel. Violators were to be penalized with a permanent ban from holding public office.

In his January 2015 press conference, Archbishop Palma deplored the intervention of politicians in the turnout of citizens at the signature centers in his parishes. Apart from a lack of knowledge about the pork barrel, Palma claimed that the poor participation in the signature campaign was also due to families who had children enrolled in schools under politicians' pork-funded scholarship programs whose relatives then refused to sign the proposition. In his blog of July 4, 2016, direct democracy advocate Jojo Soria de Veyra, a member of ePIRMA, confessed that after the initiative's launch the signature gathering was mostly left to certain parishes of the more organized Catholic Church and the primary backing of the Cebu Coalition. De Veyra, also a convener of a Facebook group called Forum for Direct Democracy, proceeded in his blog to propose amendments to the Initiative and Referendum Act that would make the law easier for the people to use as well as obligate the Commission on Elections to do its part in the initiative process within a limited time period.

After the failed anti-pork barrel campaign, the only other significant effort to use the people's initiative as a direct democracy mechanism was the Pirma Kapamilya initiative. This was aimed at giving the ABS-CBN a franchise through the people's initiative after the House of Representatives denied its application for the renewal of its legislative franchise in 2020. However, this effort fizzled out after failing to gain popular support.

4. The 2019 Bangsamoro and 2021 Palawan Plebiscites

The 2019 Bangsamoro autonomy plebiscite and the 2021 Palawan plebiscite are the two examples of plebiscites that took place in the Philippines in recent years. The direct democracy activity in the Bangsamoro region was a two-part plebiscite that took place in Mindanao to ratify the Bangdamoro Organic Law (BOL) that replaced the Autonomous Region in Muslim Mindanao (ARMM) with the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), as well as the scope of the region.

The first part of the plebiscite was held on January 21, 2019, where voters from the ARMM voted on the BOL's ratification and residents of Cotabato City and Isabela City voted for or against their city's inclusion in BARMM. The second part was held on February 6, 2019 to potentially expand the BARMM. On January 25, 2019, the Commission on Elections announced that the BOL was deemed ratified after results in the first part of the plebiscite showed majority support for the law's ratification. It was also that majority of voters in Cotabato City who voted in favor of joining the BARMM, while voters of Isabela City rejected their inclusion.

During the February 6 plebiscite, 63 of the 67 Cotabato barangays, and 9 of 22 towns in Lanao del Norte saw voters in favor of joining the BARMM. Despite the fact that the six municipalities in Lanao del Norte which petitioned to join were among the nine voting in favor of inclusion, a majority of support was required from not only from voters in the individual municipality, but also from voters throughout the rest of the province as well. As a result, no municipality in Lanao del Norte joined the autonomous region. All of the barangays in Cotabato province which saw voters vote in favor of joining, however, joined the region as well.

In Palawan, a plebiscite was held in the province on March 13, 2021. As required by Republic Act No. 11259, the plebiscite was conducted to obtain the consent of the residents of Palawan on a proposal to divide the province into three separate provinces: Palawan del Norte, Palawan del Sur, and Palawan Oriental. The plebiscite was originally scheduled to take place on May 11, 2020, but was postponed due to the mobility restrictions imposed in response to the COVID-19 pandemic. It was eventually held on March 13, 2021. The voters rejected the proposal to divide the province.

Studies indicate that in Africa, referendums have played a crucial part in advancing electoral authoritarianism by extending presidential terms and eliminating term limits. In Europe, on the other hand, voters and institutional constraints have helped to limit the impact of populist referendums (Collins 2019). Unlike the cases in Africa, the Philippine example showed that initiatives, referendums, and plebiscites as vote-centric mechanisms have not been used to extend the term of the president, which is constitutionally limited to a single term of six years in office, despite the growing strength of authoritarian populism. Instead, the plebiscites focused on the requirements to ask the consent of local residents on a law that created a new region and another law that divided a province.

5. Direct Democracy and Public Financial Management

In the past two decades, Philippine civil society organizations have become critical players in ensuring the integrity of public service delivery. Formal and informal spaces for citizen participation are now available in the areas of public financial management. Civil society organizations, both at the national and local levels, have developed and implemented tools and technologies aimed at fostering transparency, accountability, and citizen empowerment in various stages of public financial management, including planning, budgeting, implementation, and monitoring. While there are documented best practices of citizen engagement in governance in various sectors aimed at addressing development issues, the comprehensive stocktaking, knowledge generation, and analysis on how citizen technologies and tools have contributed towards fostering transparency, accountability, and integrity of the overall public financial management process remain scant and under-publicized. Distilling lessons from existing civil society practices can serve as inputs in developing key recommendations in improving citizen participation in public financial management.

6. Community-Driven Development

The community-driven development (CDD) mechanism is anchored on citizen initiatives in public financial management. It is pursued through the provision of grants for community-based social preparation, planning, and implementation of sub-projects such as water systems, access roads, schools, health stations, and daycare centers. The goal is to enable communities in target municipalities to enhance their access to social services and to engage in more inclusive local planning, budgeting, implementation, and disaster risk reduction and management.

The Kapit-Bisig Laban sa Kahirapan-Comprehensive and Integrated Delivery of Social Services-National Community-Driven Development (KALAHI-CIDSS-NCDD) program encouraged marginalized communities to engage with their barangay officials in identifying their needs and accessing resources from other government agencies. The program enabled communities to participate in decision making, exact accountability from local officials, and foil efforts to divert funds.

The Barangay Assembly became a venue not just for reporting but also for accountability. It introduced the residents to the objectives and processes of the KALAHI-CIDSS-NCDD program and validated the priority problems and proposed sub-projects identified during the participatory situation analysis. The Barangay Assembly approves the various aspects of the chosen sub-projects. During sub-project construction, the Barangay Assembly instructs the village sub-project management committees to report on the progress of implementation.

The Municipal Inter-Barangay Forum is the mechanism for sub-project selection within the KALAHI-CIDSS-NCDD program. Each village presents its proposal to the Forum, followed by an open forum where representatives of other villages are given an opportunity to raise questions about the proposal. After the sub-project presentations are completed, proposals are graded using the criteria agreed upon earlier. The scores of the proposals are consolidated to arrive at the overall ranking of the sub-projects. The ranking of the sub-projects is then used for the allocation of the KALAHI-CIDSS-NCDD program municipal grant.

The Forum is a collaborative activity between the DSWD and the LGU. It aims to elevate people's understanding of the status of local development, especially in the areas of local governance, poverty reduction, and public empowerment. It provides a platform for face-to-face dialogue between project implementers and beneficiaries. It promotes the use of information by municipal and barangay officials to support better planning, implementation, and reporting.

7. Citizen Participatory Audits

The transition to democracy in 1986 opened windows for civil society participation in monitoring government development programs. In 1987, the National Economic and Development Authority (NEDA), the central planning agency of the government, signed a Memorandum of Agreement with the Concerned Citizens of Abra for Good Government (CCAGG) to monitor the projects under the Community Employment and Development Program in the province of Abra.

To prepare for the task, the CCAGG volunteers underwent rigorous training on project monitoring. Capacity building was provided by the NEDA Region I office. The CCAGG conducted community meetings and used local radio and newspapers to inform residents about the status of public infrastructure projects. In the past, it was common for government agencies to declare the completion of projects and programs that had not been validated, especially in remote areas where there are no local monitoring teams.

In a celebrated case, the CCAGG decided to conduct a social accountability check on the then-Ministry Public Works and Highways report on the completion of 27 road projects in Abra. Mobilizing its band of citizen volunteers, the CCAGG produced detailed documentation of the actual state of the "finished" projects. The civil society audit contradicted the government report, finding that many of the projects were only just beginning or were mid-way through the construction stage. The CCAGG report was submitted to the national government. An official audit on the road projects was launched. The COA report concurred with the findings of the CCAGG. As a result of public participation in infrastructure monitoring, 11 public works officials were suspended for dishonesty and misconduct. The Chief Engineer and Deputy Chief Engineer of MPWH in Abra were suspended without pay and debarred from serving in the province. Recognizing the critical role of the CCAGG in corruption prevention, the COA decided to partner with the CCAGG in conducting participatory auditing with the support of the United Nations Development Programme. The lessons from the audit exercises were later incorporated into a Manual on the Conduct of Participatory Audits. Given its pioneering and extensive experience in infrastructure monitoring, the CCAGG was chosen to serve as Chair of the *Bantay Lansangan* (Road Watch) civil society network that monitored DPWH procurement processes under the Benigno S. Aquino III administration.

The Citizens Participatory Audit was launched in 2012 by the Commission on Audit (COA) and the Affiliated Network for Social Accountability in East Asia and the Pacific (ANSA-EAP). This mechanism makes it possible for civil society organizations and private professional organizations to participate in audit teams headed by the COA. The CPA is based on the notion that the people have the "primordial right to a clean government and the prudent utilization of public resources," and that "public accountability can prosper only with a vigilant and involved citizenry" (Department of Budget and Management 2016). The following lists the projects audited by civil society under the CPA: Barangay health centers in Marikina City; a Farm-to-Market Road project; the CAMANAVA region flood control project; the solid waste management program of Quezon City; and a Water, Sanitation, and Hygiene (WASH) project.

Textbook Count, a collaborative initiative between Government Watch (G-Watch) and the Department of Education that started in 2003, was intended to ensure that the right quantity and quality of textbooks are delivered to the right recipients at the right time. This effort was meant to put an end to corruption in the procurement of textbooks. It also systematized the delivery of textbooks, pressuring suppliers to become more responsive to the needs of the citizens. It established standards regarding the performance of the Department of Education, and organized citizens for monitoring and inspection efforts to attain greater transparency (Government Watch 2012).

The CSOs involved in the Textbook Count program monitored the delivery of textbooks and teachers' manuals. Errors or discrepancies discovered by the volunteers during the monitoring process were reported to the G-Watch, which then alerted the Department of Education (La Salle Institute of Governance 2012).

With the assistance provided by citizen volunteers, this initiative succeeded in ensuring the integrity of the bidding process, guaranteeing good textbook quality, assisting high schools and districts in checking that textbooks are correctly delivered, and distributing textbooks to different elementary schools (Government Watch 2012). It is likewise important to consider how civic technologies are increasingly being used to improve the effectiveness of third party monitoring of government projects.

8. People's Councils

The Philippines developed a decentralized system of government with the passage of the Local Government Code of 1991. Specifically, the Code included the concepts of devolution, funding of local government units, and citizen participation. Local development councils in every province, city, municipality, and barangay determine the use of the local development fund, which represents 20% of the Internal Revenue Allotment from the national government. Under the law, a quarter of the seats in these councils should be occupied by CSO representatives.

In 1995, a landmark piece of legislation called the Empowerment Ordinance mandated the city government to recognize the importance of public participation through non-government organizations (NGOs) and people's organizations (POs) federated in the Naga City People's Council (NCPC) in fostering good local governance. The NCPC was empowered to appoint CSO representatives to local special bodies of the city government. It can observe, vote, and participate in the deliberation, conceptualization, implementation, and evaluation of city government projects, activities, and programs. It can propose legislation, participate, and vote at the committee level of the elected city legislative council, and act as the people's representatives in the exercise of their right to information on matters of public concern and access to official records and documents.

Under the Empowerment Ordinance, there shall be one representative in the city council from each of the non-agricultural labor, women, and urban poor sectors of the city who shall be elected from among the members of the accredited NGOs and POs in each sector. The term of office of the elected sector representatives shall be co-terminus with the term of office of the regular members of the city council. They shall not be entitled to any salary. They may receive allowances as may be granted by the city council to defray the expenses for attending and participating in official functions, including city council sessions, committee hearings, and other activities in aid of legislation. The sector representatives shall enjoy the same rights and privileges, and exercise the same powers and responsibilities, as the regular members of the city council.

Through the efforts of the Naga City People's Council (NCPC) and with the support of the United Nations Democracy Fund, capacity-building activities leading to the formation of local CSO networks were undertaken in the peripheral-urban municipalities that form part of the Metro Naga Development Council. The NCPC model has been replicated in many parts of the province of Camarines Sur. The Naga City People's Council, which was mandated by the Empowerment Ordinance of 1995, is a network of approximately 100 NGOs and POs in Naga. The NCPC functions not only as a watchdog of government actions but also as an active collaborator in making decisions and in the policy-making process. It is also a part of the *Sangguniang Panglungsod* committees, special local government bodies, and other groups (Naga City People's Council 2015).

The Naga City Empowerment Ordinance empowered the NCPC to appoint CSO representatives to local special bodies of the city government. Under the ordinance, CSOs can observe, vote and participate in the deliberation, conceptualization, implementation, and evaluation of projects, activities, and programs of the city government. They can designate representatives to all city council committees, as well as suggest legislative measure and participate in deliberation and vote on a proposed legislation at the committee level of the *Sangguniang Panlungsod* of Naga. They can act as the people's representatives in the exercise of their right to access information on matters of public concern (Naga City People's Council 2015; Lacson, De la Rosa, and De Guia 2018).

9. Bottom-Up Budgeting

Being the constituents of a democratic state, Filipinos have the right to participate in decision making processes regarding public affairs and are encouraged to do so. This is to improve accountability and transparency, which are closely associated with good governance (La Salle Institute of Governance 2012). In fact, the 1987 Constitution states that: "The state shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation" (Art. 2, Sec. 23). Another important provision in the 1987 Constitution states that: "The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision making shall not be abridged. The state shall, by law, facilitate the establishment of adequate consultation mechanisms" (Art. 13, Sec. 16).

In addition to this, the 1991 Local Government Code set down the structures of local government units (LGUs) as well as their powers and responsibilities. Aside from requiring LGUs to deliver the necessary basic goods and services to their constituents, the Code also promotes the participation of citizens in all aspects of governance. Some participatory mechanisms that serve as an avenue for the people to participate include mandatory consultations and public hearings. The Code also encouraged the formation of Local Special Council Bodies, which are semi-autonomous components linked to local governments that allow for the representation of CSOs as well as the private sector. Furthermore, one of the bodies mandated by the Code, the Local Development Councils, functions as "the mother local planning structure" (La Salle Institute of Governance 2012). These legal frameworks, supported by the increasing desire of the public for greater accountability, have helped cultivate an environment that is conducive for CSOs inclined towards monitoring and evaluation. Such organizations include Procurement Watch, G-Watch, Social Watch, Local Government Watch, and the Social Housing Watch (La Salle Institute of Governance 2012.).

Over the last few decades since the post-martial law period, CSOs have greatly improved in terms of effectiveness through "networking and coalition building, campaigning for policy reform, adopting good practice standards, and advancing 'sustainable development' as a uniting vision for all organizations" (Asian Development Bank 2007). The PFM reforms over the last few years were pursued to address the persistent problems of corruption and poverty (Magno 2015). According to the Caucus of Development NGO Networks (CODE-NGO) (2005), the Office of the Ombudsman determined that around USD $48 billion was lost to government corruption between 1977 and 1997. This led to "the emergence of a set of core civil society beliefs about combating corruption and promoting good governance" (Dressel 2012).

Citizen participation in the budget process is necessary for "better decision making, better planning, better budgeting, better expenditure and better accountability" (Department of Budget and Management 2016). Some of the most notable efforts include the Budget Partnership Agreement (BPA), Bottom-Up Budgeting (BUB), and the Citizen's Participatory Audit (CPA), all of which boosted the partnership between CSOs and the government (Department of Budget and Management 2016). Opportunities for citizens and CSOs to participate in the budget process were widened from 2012 to 2016. They took part in budget formulation, decision making, monitoring budget execution (ANSA-EAP 2010), budget analysis, as well as in public expenditure or input tracking (La Salle Institute of Governance 2012). Interestingly, the Philippines ranked first among some selected Asian countries in the 2016 CSO Sustainability Index for Asia (United States Agency for International Development 2016).

The Bottom-Up Budgeting (BUB) process was introduced in 2012 for the preparation of the 2013 budget. Also known as Grassroots Participatory Budgeting (GPB), the BUB provided a mechanism for locally identified projects to be supported under the General Appropriations Act. It enabled the convening of a general assembly of CSOs who elect their representatives to the local poverty reduction action team (LPRAT) to determine local priority projects. The CSO assemblies were convened by city and municipal level officers of the DILG, with the support of the provincial representatives of the basic sectors in the National Anti-Poverty Commission (NAPC). These projects were submitted for incorporation into the budget of national agencies. Half of the membership in the LPRAT was from the government, while the other half was from the CSO sector. The team was co-chaired by the local chief executive and the CSO representative.

The first round of the BUB process started with 5,898 projects in 609 cities and municipalities with a budget allocation of PHP 8.39 billion. The second round began in December 2012 for the 2014 budget. It expanded to 1,226 cities and municipalities involving 20,047 projects and funding support amounting to PHP 20.04 billion. Joint Memorandum Circular No. 4 was issued by the DBM, DILG, DSWD, and National Anti-Poverty Commission (NAPC) in November 2013 for the 2015 budget preparation. All 1,534 cities and municipalities were covered. A total of 20,899 projects were identified with a budget of PHP 20.8 billion. Two modalities were applied, including the regular BUB process for the areas not covered by the Kapit-Bisig Laban sa Kahirapan-Comprehensive and Integrated Delivery of Social Services (KALAHI-CIDSS) program, and the enhanced BUB process for LGUs that have graduated from or are currently under the KALAHI-CIDSS program.

Under the regular BUB process, the government representatives included the chair of the city or Municipal Committee on Appropriation, as well as the city or municipal department heads such as the planning officer, budget officer, fishery and agriculture officer, social welfare and development officer, health officer, Community, Environment and Natural Resource Management officer (CENRO), and the Public Employment Service Office (PESO) manager. The representatives of national government agencies that sat in the LPRAT include the DSWD Municipal Links, the DILG local government operations officer, the school district supervisor, and the agrarian reform officer.

The CSOs with seats in the LPRAT came from the following groups: i) Pantawid Pamilya Parent-Leaders recognized by the DSWD, ii) leaders from DOH-organized community health teams, iii) leaders of the Parent-Teacher Associations, iv) leaders of CSOs accredited by LGUs, v) leaders of CSOs accredited by any national government agency, vi) leaders of a women's group, vii) leaders of a basic

sector organization recognized by the NAPC, and viii) leaders of other community or grassroots organizations. In cities and municipalities where indigenous peoples (IP) constitute over 20% of the population, one of the elected CSO representatives must come from the IP sector. A representative from a local business association also joins the LPRAT.

Municipalities that graduated from or implemented the KALAHI-CIDSS Program followed the enhanced BUB process. The LPRAT served as the technical working group of the enhanced Local Development Council (LDC). To encourage the meaningful participation of CSOs in the CSO assembly and LPRAT workshop, it was suggested that CSOs should be given ample time to consult with their members and prepare for the BUB activities, while LGUs should inform CSOs and send invitations ahead of time. The need for a thorough mapping of CSOs was also identified (Pastrana and Lagarto 2014).

10. Open Government and Fiscal Transparency

Supply-side governance reforms have led to the institution of open data mechanisms that provide financial and budget information to citizens. The Transparency Seal pushes for the mandatory disclosure of key budgets and major programs and plans on their websites. The Full Disclosure Policy of the DILG has resulted in the mandatory disclosure of key financial documents of local government units including budget, procurement, and special purpose fund reports such as the utilization of the Gender and Development (GAD) Fund, Internal Revenue Allotment (IRA), and Disaster Risk Reduction and Management (DRRM) Fund.

The Philippines-Extractive Industries Transparency Initiative (EITI) has created a tripartite working group involving government, civil society, and business to ensure greater transparency in revenues from extractive industries. The aim is the publication of a report that compares government and industry figures on government revenues in mining, oil and gas. The key challenge is how to make revenue reporting a mandatory, rather than voluntary, effort.

11. Public Participation in Budget Policy

Over the past five years, various efforts were made to enhance public participation in the budget cycle, from budget formulation to budget oversight. The Budget Partnership Agreement creates means for CSO engagement with national government agencies in crafting budget proposals. Aside from providing local CSOs with a formal mechanism to engage in national and local budgeting, the Bottom-Up Budgeting process also sought to make the national government more responsive to local needs, as well as to improve the quality of governance and service delivery at the local government level.

The pilot implementation of the BUB process in 2012 involved 595 cities and municipalities, resulting in PHP 8 billion worth of locally-determined poverty reduction programs and projects integrated into the 2013 budget. Since then, the Aquino government has gradually expanded the BUB process. In crafting the 2015 budget, the participation of grassroots organizations in 1,590 cities and municipalities resulted in a larger allocation of PHP 20.9 billion.

Through the KALAHI-CIDSS-NCDD program, the barangays of target municipalities were empowered to improve their access to social services and to participate in inclusive local planning, budgeting, and implementation of budgets. On the other hand, the Citizens Participatory Audit led to the conduct of performance audits with CSOs to help find out whether public funds are efficiently allocated and properly spent.

12. Public Participation in Performance Monitoring

The key performance monitoring system for local government units is the Seal of Good Housekeeping (SGH) which has been succeeded by the Seal of Good Local Governance (SGLG). The implementation of the SGH has enabled citizens to gain better access to information on local government finances and development projects. Through this performance system, local governments started sharing financial documents with the citizens online through the FDP portal. About seven out of every 10 LGUs have regularly uploaded their financial documents. Due to good financial housekeeping encouraged by the SGH, there was a decline in the number of local governments obtaining a negative COA opinion report.

The implementation of the SGH and SGLG assessment has resulted in more CSO engagement in program development and performance monitoring nationwide. Thousands of development projects have been and continue to be implemented with the support of the Performance Challenge Fund (PCF). More communities are able to enjoy public services, including water systems, health centers, public markets, and farm-to-market roads that were created through PCF projects.

In monitoring the compliance of government agencies with the Anti-Red Tape Act of 2007, CSOs join surprise visits to government agencies through the ARTA Watch of the Civil Service Commission. This social accountability mechanism is used by the Commission to promote awareness and compliance with the service standards identified in the Citizen Charters of national agencies and LGUs.

13. Reforms toward Democratic Quality

The divide between government and CSOs has become more blurred today than ever before. Both actors have begun to work closely together to address societal issues and to achieve greater transparency and accountability. This is known as co-production, which is defined by Elinor Ostrom (1996) as "a process through which inputs from individuals who are not 'in' the same organization are transformed into goods and services." This implies that consumers of public goods and services may also serve as producers, which makes them *consumer producers* (Alford 2014).

However, for citizens to better participate in co-production mechanisms, they must be empowered and competent, especially since these individuals serve as the backbone of any organization. Human capital development is essential for any group to function. In his book *Development as Freedom*, Amartya Sen (1999) asserted that freedom is both the end and the means of development. He specified five freedoms: i) political freedom, ii) economic facilities, iii) social opportunities, iv) transparency

guarantee, and v) protective security. These individual freedoms are needed to achieve development, which he defined as the "process of expanding the real freedoms that people enjoy." Hence, to build their capacity, it is necessary for individual citizens to have the freedom to make use of opportunities in exercising their rights such as the right to participate in the decision-making process in public affairs; this is what Sen's (1999) capability approach is all about.

Based on the experiences of the CSOs concerned, it is apparent that the ties between the government, CSOs, academia, and other stakeholders have become more intertwined. It has become more practical and convenient for them to work together in carrying out tasks, especially since a single actor does not possess all the necessary resources, funds, manpower, and assets to achieve certain functions. In the examples provided above, both the national and local governments working with CSOs are actively engaged in the budget preparation process. The Senate and Congress are the main actors in the budget legislation phase, while CSOs participate in the procurement and accountability phases through monitoring. In short, CSOs play a vital role in planning for projects and programs and in monitoring these initiatives that are then implemented by the government.

The participation of CSOs, especially in monitoring, has been proven effective in improving transparency and accountability as well as in reducing the incidence of corruption in government. The direct involvement of stakeholders and local CSOs in the budget cycle is necessary because these are the very people who have experienced and therefore understand the issues within their respective localities. Ultimately, most of these concerns are better addressed at the micro-level. Thus, enabling CSOs to assume an active role in the budget process empowers them since they get to decide for themselves and their community. It is important that the citizen volunteers who are involved in conducting projects be knowledgeable and competent. This is the reason why some CSOs conduct training or capacity-building mechanisms to train and empower their volunteers.

It is also interesting that the media and online platforms are considered important tools in strengthening ties and harmonizing relationships between the government and the citizens. With the massive exposure of people to social media, they can easily post and disseminate social concerns that can be addressed by the government. This kind of action shows that by simply posting and sharing something on social media, a citizen can have the power to influence government actions. The Filipinos' basic right to free speech is better used not simply for creative expression but also for positive empowerment in strengthening the democratic process.

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Country Case 4: Sri Lanka

Promoting Democracy through Direct Public Engagement:
The Sri Lankan Experience

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1. Introduction

In the contemporary context, democracy is synonymous with a form of government that is reflective and representative of the general will of the people (Wallace 2021). Throughout history, democratic government has mainly been carried out in two ways: i) directly by the people; and ii) by representatives of the people. Where democratic governance is direct, the people, as individuals, participate in the policy formulation and decision-making processes (Encyclopedia Britannica 2022). In contrast, where democratic governance is representative, policy formulation and decision making are undertaken by representatives who are elected by the people (Haxhiu and Alidemaj 2021). Due to the complexities involved in policy formulation in modern-day states, and the impracticalities involved in obtaining the views of an entire population, modern democracies are premised on representative democracy.

Nevertheless, direct democracy remains and continues to be regarded as the purest form of democracy. As such, certain governance mechanisms that are premised on direct democracy continue to find their place in modern constitutions and legal frameworks. Traditionally, direct democracy has been concerned with formal instruments such as referendums and votes to recall officials. However, alternative instruments that allow citizens to be directly involved in governance, such as public petitions, have been formalized by law and through practice and have been accepted as loosely falling within the scope of direct democracy. Thus, for the purpose of this research study, an expansive scope of direct democracy will be considered so as to include both traditional and alternative instruments of citizen engagement.

Sri Lanka has recognized and formalized traditional and alternative instruments that allow citizens to directly engage in policy making and matters of governance. This research study explores these instruments, which include: i) referendums; ii) private members' bills; iii) public petitions; and iv) parliamentary questions, with a view to assessing the modalities within which they operate and analyzing their efficacy in promoting direct citizen engagement.

This research study is presented in three sections. The first section explores the instruments that widen the ability of citizens to directly engage with and be involved in governance in Sri Lanka. The second discusses inherent and structural challenges that undermine the meaningfulness and effectiveness of these instruments.

The final section provides conclusions drawn from the preceding analysis and briefly discusses solutions to address these challenges.

2. The Formalized Instruments recognized under Sri Lanka's Legal System

2.1. Introduction

The evolution of public participation in the democratic processes in Sri Lanka can be traced back to its colonial period, during which the country inherited its existing democratic structure (Cooray 2005). In 1944, a Westminster parliamentary structure was introduced to Sri Lanka, and the institutions established under this Westminster-style structure were governed by Commonwealth parliamentary traditions, in addition to the Constitution that was in force at the time. Among these traditions was the ability for citizens to directly engage in government through instruments such as private members' bills, public petitions, and parliamentary questions (Sixth Report of the Committee on Public Petitions 2016). In 1972, Sri Lanka adopted its First Republican Constitution, which continued the Westminster-style of government (Wasanthakumar and Abeyratne 2015).

In 1978, Sri Lanka adopted its Second Republican Constitution, which introduced a semi-presidential system, that is, a combination of both a presidential and a parliamentary system, which was a departure from the previous Westminstersystem. Article 3 of the Constitution recognizes that the sovereignty of the Republic of Sri Lanka is inalienably vested in the people of Sri Lanka. Article 4 of the Constitution formulates the structure of democratic governance in Sri Lanka and sets out that the executive power of the sovereign people shall be exercised by the executive president, the legislative power of the sovereign people shall be exercised by the Parliament, and the judicial power shall be exercised by Parliament through the system of courts (Ratnapala 2021). The sovereign people shall elect the executive president and the Members of Parliament as their representatives every five years. Accordingly, governance in Sri Lanka is carried out through this structure of representative democracy.

However, the Constitution and laws of Sri Lanka recognize a number of mechanisms and instruments by which the sovereign people can directly be involved in governance. These mechanisms and instruments are twofold: i) referendums; and ii) other formalized instruments of direct engagement.

2.2. The Referendum

The essence of a referendum is that it enables people to directly vote to approve or reject a law or proposal. Articles 85 and 86 of the Constitution empower the executive president to proclaim that any bill or other matter of national importance shall be put to the people for their approval (Manthri.lk 2017). The procedure for carrying out a referendum is prescribed in Referendum Act No. 7 of 1981. The need for a referendum can also arise in two other instances. The first of these is when a bill proposes the amendment, repeal, or replacement

of any of the entrenched articles of the Constitution. The second is where the Supreme Court determines that a proposed bill is inconsistent with an entrenched article of the Constitution.[1]

There has been only one referendum in Sri Lanka. It took place when then-President J.R. Jayawardena submitted a proposal to the people to extend the term of the existing Parliament for a further six years without conducting a general election (Jayawickrama 2021). On December 22, 1982, the referendum was held and 54.6% of voters approved the proposal, while 45.3% rejected it, thereby effectively extending the term of the then-Parliament to 1989 (Manthri.lk 2016).

However, there are two critical shortcomings in Sri Lanka's framework on referendums that undermine its ability to be used as an instrument of direct democracy. The first of these shortcomings is that a referendum can only be called by the President. There is no modality by which the people can mandate a referendum. As such, the calling of a referendum is purely at the President's discretion. The second shortcoming is that it is limited to approving bills at the parliamentary level and matters of national importance. Accordingly, the referendum framework has no application to matters at the local level, thereby preventing communities from directly participating in policy making at the local government level on matters that are likely to impact them on a day-to-day basis (William Horace Brown 1905). By contrast, in Switzerland, the people can request local government bodies (cantons) to initiate legislative processes and to propose amendments to existing laws. Furthermore, Swiss citizens are empowered to call for administrative referendums, at which the people are entitled to vote on projects that will incur high levels of public expenditure (Electoral Knowledge Network 2004).

2.3. Other Formalized Instruments

Article 74 of the Constitution empowers Parliament to formulate standing orders for the purposes of, among other things, regulating its own procedures. The parliamentary standing orders that are presently in force formalize three instruments that are intended to widen citizen engagement and involvement in governance. These three instruments are: i) private members' bills; ii) public petitions; and iii) parliamentary questions.

2.3.1. Private Members' Bills

A private members' bill is a formal instrument that has the potential to be used by citizens to directly participate in legislative and policy formulation.[2] Parliamentary Standing Orders 52 and 53 state that a private member can present two types of bills to Parliament. The first of these types are bills that are intended to affect or

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[1] The entrenched articles of the Constitution are set out in Article 83 of the Constitution. They are Article 1 (the name of the state: Sri Lanka), Article 2 (the nature of the state: Unitary), Article 3 (recognizing the inalienable sovereignty of the people), Article 6 (design of the National Flag), Article 7 (lyrics and melody of the national anthem), Article 8 (declaration of the national day), Article 9 (granting Buddhism the foremost place), Article 10 (freedom of thought, conscience, and religion), Article 11 (freedom from torture or cruel, inhumane or degrading treatment or punishment), and Articles 30(2) and 62(2) (prescribing the term of office of the executive president and of Parliament).

[2] Parliamentary Standing Order 24(3) interprets the term 'private member' to mean any parliamentarian who is not a holder of the office of the speaker, deputy speaker, deputy chairperson of committees, prime minister, cabinet minister, state minister, deputy minister, leader of the house of Parliament, leader of the opposition in Parliament, chief government whip, and the chief opposition whip.

benefit a particular person, association, or corporate body. The second are bills that are intended to be in furtherance of the public interest.

The modality of using private members' bills is a two-step process. First, a citizen must advocate for and gain the support of a parliamentarian who is a 'private member' for the purposes of introducing a bill to Parliament. Secondly, said parliamentarian must sponsor the bill proposed by the citizen in Parliament. Once this process is completed, the bill will be deliberated according to generally acceptable procedures, that is, the bill would be referred to the Attorney-General for their opinion, and if they deem that the proposed bill is consistent with the Constitution, the bill is published in the Gazette, and members of the public are given the opportunity to challenge the proposed bill before the Supreme Court within seven days from the date of its publication (SL Const Article 121(3)). Thereafter, the bill will proceed for deliberation in Parliament.

However, data collated by Manthri.lk — an independent monitoring platform of Sri Lanka's parliament — suggests that private members' bills are underutilized as an instrument of direct citizen engagement. The data revealed that between August 2015 and October 2021, a total of 209 private members' bills were presented in Parliament, yet only 12 of these concerned matters of public interest (see Table 1). Thus, it is evident that private members' bills have been predominantly utilized as an instrument to regulate the affairs of incorporated bodies, rather than an instrument to address issues of public interest. However, during the last decade two significant bills were adopted: i) the Right to Information Act, and ii) the amendment to the Fisheries and Aquatic Resources Act to ban the destructive fishing practice of bottom trawling, both of which were initially submitted as private members' bills. Their introduction along with focused civil society advocacy efforts drove public conversations around these two issues. Both bills were later adopted by the government and passed as government bills. For more details please see Annexures 1 and 2.

2.3.2. Public Petitions

Petitioning the Parliament is a traditional democratic instrument that was inherited by Sri Lanka from the British Westminster system (Huzzey and Miller 2020). At present, the mechanism of public petitions enables a citizen "to bring to the notice of parliament the flaws in the administrative machinery of the government and seek redress for grievances suffered" (Wijesekera 2002).

Therefore, an aggrieved citizen can submit a petition to any parliamentarian requesting that the matters contained therein be considered and resolved. The petition is required to be submitted in writing and endorsed by the aggrieved citizen. If the parliamentarian to whom the petition is addressed is satisfied that there is a valid grievance, said parliamentarian can endorse it and refer it to the Committee on Public Petitions (Manthri.lk 2018). This committee currently comprises of 15 parliamentarians representing all political parties in Parliament. The Committee has the authority to entertain an unlimited number of petitions on an unrestricted range of topics (Parliamentary Standing Order 122). Where the Committee on Public Petitions is of the view that any petition reveals that there has been an infringement of the citizen's fundamental rights or if any other injustice has been caused to the citizen, the Committee may either conduct an inquiry by itself or refer the petition to the Parliamentary Commissioner for Administration (Ombudsman) for consideration and granting of due relief (Parliamentary Standing Order 122(3)).

Statistics published on Manthri.lk revealed that during the 8th Parliament of Sri Lanka (August 2015 to August 2020), a total of 2,401 public petitions were submitted to the Committee on Public Petitions by 181 of the total 225 parliamentarians (see Tables 2 and 3).[3] Therefore, 42 parliamentarians did not submit any public petitions to the committee. Of the 2,401 submitted, a total of 1,115, that is, 46% of all petitions, were presented by only 10 parliamentarians (see Table 4). Similarly, during the present Parliament of Sri Lanka (September 2020 to October 2021), a total of 712 public petitions were submitted to the Committee on Public Petitions by 138 parliamentarians, indicating that 85 parliamentarians have not yet submitted any to the committee (see Tables 5 and 6). There is no publicly available information regarding any direct policy changes achieved using public petitions. However, the Parliament is working on a system that would allow citizens to directly submit petitions and follow their status.

These statistics indicate that public petitions are neither extensively nor uniformly used by the citizenry of Sri Lanka as an instrument for directly engaging with the government.

2.3.3. Parliamentary Questions

Parliamentary questions are another instrument that potentially enables citizens to directly engage with Parliament and policy formulation. Parliamentary questions are, in essence, the posing of oral and written questions by a parliamentarian to the prime minister or to any other minister on matters of public affairs (Policy.lk 2020).

In order to utilize this instrument, an individual or a group is required to advocate for and obtain the support of a parliamentarian who will pose questions on their behalf. The posing of questions is governed by the parliamentary standing orders, which allow members to direct any questions to any minister in respect of matters of government policy that fall within their purview. While questions posed to Parliament must generally be placed on the Order Book of Parliament, Standing Order 27(2) of the parliamentary standing orders allows the leader of the opposition and any party leader to raise questions relating to matters of public importance without the need for such questions to be included in the Order Book. Moreover, following the parliamentary tradition of the United Kingdom, from 2018 onwards, parliamentarians are entitled to direct up to four questions to the prime minister pertaining to governmental policies during the prime minister's question time. Accordingly, citizens can urge their representatives to take advantage of the opportunity to ask parliamentary questions for the purposes of voicing the public's questions on matters of policy and administration.

Statistics compiled by Manthri.lk revealed that during the tenure of the 8th Parliament of Sri Lanka, a total of 2,372 questions were raised by 105 parliamentarians (see Table 7). Of these, a total of 1,324 questions (approximately 56%) were raised by only 10 parliamentarians (see Table 9). During the tenure of the present parliament as well, 10 members were responsible for raising 397 questions (approximately 64%) out of a total of 619 (see Table 10).

Thus, similar to private members' bills and public petitions, the instrument of parliamentary questions also appears to be inadequately and ineffectively used for the purposes of direct engagement with matters of governance.

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[3] The speaker and the deputy speaker are excluded as members of Parliament for the purposes of this calculation.

3. Challenges for Use of Formalized Instruments within the Context of Sri Lanka

Analysis of the frameworks within which the aforesaid formal instruments function reveals three critical challenges that undermine the ability of the people to directly engage in matters of governance: i) the absence of mechanisms to mandate the implementation of instruments of direct engagement; ii) the absence of mechanisms to improve parliamentary accountability; and iii) systematic and structural issues that inhibit access to instruments of direct engagement.

3.1. Absence of Mechanisms to Mandate the Implementation of Instruments of Direct Engagement

Although the parliamentary standing orders provide for the presenting of private members' bills, public petitions, and parliamentary questions, the functionality of these instruments is premised solely on the discretion of parliamentarians. This is because a private member's bill, public petition, or question will be presented to Parliament only if the parliamentarian who has been approached by a citizen agrees to do so. None of the frameworks of these instruments contemplate a mechanism by which a citizen or a group of citizens can trigger mandatory action by a parliamentarian. There is no way that the citizen can compel the parliamentarian to submit such a petition or ask such a question, regardless of the validity of the concerns raised by such a petition or question. This challenge also arises with regards to referendums, as the ability to call a referendum is vested solely in the president and cannot be triggered by the people with respect to matters of national or local importance.

3.2. Inadequacy of Mechanisms to Improve Parliamentary Accountability

Accountability can serve as a critical check against the tyranny of unbridled discretion. Thus, improving mechanisms that hold parliamentarians accountable can serve as a valuable method of ensuring that the discretion afforded to parliamentarians in terms of implementing instruments of direct engagement is exercised fairly and reasonably.

However, Sri Lanka faces a lack of mechanisms that improve and assure the accountability of Parliament. For instance, there is no mechanism by which a petition submitted by a citizen can be tracked. Thus, an aggrieved citizen has no way through which the progress of their petition can be monitored. Moreover, prior to the publication and compilation of statistics on the submission of public petitions and parliamentary questions by Manthri.lk, there were no mainstream platforms that published statistics on parliamentary attendance or how parliamentarians implemented and gave effect to these instruments. Further, Sri Lanka is yet to implement a mechanism that calls parliamentarians to report their progress as a public representative on a monthly or annual basis. These gaps in holding parliamentarians accountable enable them to exercise discretion without sufficient checks, thereby undermining the ability of citizens to fully instrumentalize the frameworks of private members' bills, public petitions, and parliamentary questions. The lack of mechanisms

to mandate the implementation of these instruments is thereby compounded by the lack of mechanisms to hold parliamentarians to account.

3.3. Systemic Issues that Inhibit Access to Instruments of Direct Engagement

Considering that access to democratic institutions is essential to the meaningful utilization of instruments of direct engagement, certain systemic issues in Sri Lanka have significantly inhibited access to such institutions and instruments. A few of these issues are explained as follows.

3.3.1. Limited Access to Parliamentary Proceedings

Parliamentary proceedings in Sri Lanka are physically and virtually accessible to the public, and sittings are telecast on national networks. However, this accessibility is limited to the proceedings of the main chamber of Parliament. Accordingly, the proceedings of the numerous committees and sub-committees, which deliberate on matters of public interest, are not accessible to the public.

3.3.2. Gender Gap in Democratic Institutions

In the 2021 Global Gender Gap Index, Sri Lanka is ranked 116th overall out of 150 countries and 90th in terms of political empowerment of women (Democracy Reporting International 2021). Sri Lanka's rank is predominantly premised on the low presence and participation of women in political organizations, government institutions, and elected offices. Limited female participation in public life has been linked to several causes, including Sri Lanka's patriarchal culture, violence against women, and the negative portrayal of female political candidates in the media and by political rivals. Although Sri Lanka introduced a quota for female politicians at the provincial and local government authority levels, women are still underrepresented in Sri Lanka's representative bodies. This low level of participation in formal politics by women inhibits female citizens from exercising their democratic rights by effectively engaging with the country's democratic institutions.

4. Conclusion and Areas for Improvement

4.1. Conclusion

Two findings can be derived from the above analysis. First, it is clear that Sri Lanka has mechanisms in place that enable citizens to directly engage in matters of governance, administration and policy making. Through the exploitation of these mechanisms, ordinary citizens seek to achieve a higher level of involvement in matters that will affect their day-to-day lives. Second, there are challenges in accessing and being able to meaningfully use these mechanisms. These challenges stem from inherent issues in the mechanisms themselves, such as the fact that they all appear to be operational at the discretion of a representative of the people, as well as issues that are systemic in Sri Lanka's governance framework, such as inadequate access to parliamentary proceedings.

Thus, in order for citizens to be able to participate more directly and meaningfully in democratic governance, these mechanisms need to be improved on a number of grounds, such as:

4.1.1. Expanding the Scope of Referendums

Although Sri Lanka's Constitution recognizes referendums as a method of direct democracy, the executive president is the only individual with the authority to call for a referendum. Sri Lanka could resolve this problem by adopting a system similar to that of Switzerland, where the people can trigger legislative initiatives and referendums. Sri Lanka can also explore the introduction of referendums for resolving legislative and policy issues at the local governmental level by allowing citizens to trigger referendums through proposals once they receive endorsements or signatures from a sufficient portion of the constituency.

4.1.2. Introducing Mechanisms to Increase Accountability of Public Representatives

Although Sri Lanka recognizes private members' bills, public petitions, and parliamentary questions as formalized instruments that allow citizens to directly engage with Parliament, the successful implementation of all such instruments is contingent on effective implementation and follow up by parliamentarians. Thus, Sri Lanka can explore the possibility of introducing mechanisms that permit the monitoring of the utilization of such instruments by citizens and parliamentarians, while also raising general awareness of the utility of such mechanisms among the general public.

4.1.3. Introducing Mechanisms to Mandate the Implementation of Formalized Instruments

As discussed before, currently the formal mechanisms of direct engagement have no threshold or trigger by which they are mandatorily implemented. Therefore, Sri Lanka should introduce procedures that trigger the automatic implementation of such formalized instruments in specific circumstances, such as when a petition or proposal has been endorsed or signed by a specific number of citizens.

Annexure 1: Banning Bottom Trawling

The Amendment to the Fisheries and Aquatic Resources Act was first tabled as a private member's bill in February 2016 by Member of Parliament (MP) M.A. Sumanthiran. The amendment prohibited the mechanized operation of trawls. The bill also identified that the use, possession, import, purchase or selling of such nets was an offense and punishable by a fine of up to Rs 50,000 or up to two years imprisonment.

The ban on bottom trawling had geopolitical consequences as well. Since the end of the Sri Lankan Civil War, Indian trawlers have been using the destructive fishing practice in Sri Lankan waters. This has encroached on Sri Lankan fishermen who have used traditional and non-mechanized forms of fishing. Many fishermen in Northern Sri Lanka welcomed the banning of bottom trawling because of this. However, fishermen in India's Tamil Nadu opposed it.

The bill was eventually endorsed by the Sri Lankan government and the ministry in charge of fisheries and was brought as a government sponsored bill. The amendment to the Act was a total legal ban on mechanized bottom trawling in Sri Lanka, which was the first country in Asia to completely outlaw this type of destructive fishing activity in 2017.

Annexure 2: The Right to Information

The Right to Information (RTI) Bill was first tabled as a Private Member's Bill in 2011 by then-opposition Member of Parliament Karu Jayasuriya. The 2011 bill was defeated with 99 Members of Parliament voting against it and only 32 in favor.

The 2015 RTI bill was an improved version of the private member's bill that was tabled in 2011. Public consultations on the 2015 RTI bill went through multiple rounds and included stakeholders from the private sector, media representatives and civil society. Several concerns raised during the consultations were addressed in a revised RTI bill that was tabled in March 2016 and was passed in Parliament on 24 June 2016.

What is RTI?

The right to information provides citizens with the right to access government information. This right to information in theory enhances government transparency and also provides avenues for citizens to hold the government accountable. In Sri Lanka, Article 14A(1) of the Constitution identifies that any citizen has the right to access information that is being held by the State, a ministry, a government department or any statutory body that has been established under law.

With the passage of the 19th Amendment by the *Yahapalana* government, this opened up the democratic space in Parliament to work on the Right to Information Act, No. 12 of 2016 (RTI Act). Under the 100-day work program by then-President Maithripala Sirisena, the RTI Act was drafted and passed, and has been operational since February 2017. Although the Act has identified certain exceptions where information need not be disclosed to the public, it has provided citizens with the right to information and a clear avenue to access information held by the government. The RTI Act in theory fosters government transparency and a culture of openness and empowers the public to seek accountability from their government.

Right to Information Act, No. 12 of 2016 through the perspective of direct democracy

Government transparency is a prerequisite when it comes to democracy. Disclosure of information plays a vital role when it comes to advancing aspects of direct democracy. The Sri Lankan Parliament is the primary legislative body. Citizens elect 225 Members of Parliament (MPs) to serve five-year terms and they are entrusted to represent their constituents' interests in national decision-making. However, beyond the election cycle there is limited public visibility over MPs' activity during the parliamentary cycle, which is compounded by limited media attention on the proceedings. This results in a general lack of awareness and understanding of what occurs in Parliament. Enhancing transparent proceedings and also access to information for constituents would in theory lead to voters holding MPs accountable. Constituents who elect politicians should have access to information on their elected representative's activity in Parliament. Therefore, the availability of information ensures and encourages democracy. (See Table 12: Selected Decisions by the Right to Information Commission, for a summary of decisions that advance five key democratic principles.)

As information becomes available to the public, it further allows people to be actively involved in the decision-making process. Access to information also means that constituents can hold their elected representatives accountable for decisions that they make in Parliament. Citizens through their elections are therefore able to make more informed decisions on who should be in government and also who should not.

The right to information in theory gives citizens access to information related to public authorities in Sri Lanka. It provides a significant opportunity for civil society organizations and think tanks to drive public accountability of public authorities. For example, in 2019, Verité Research's RTI Investigative Unit used RTI requests to uncover a key failure in the administration of Sri Lanka's disaster management framework. The team published a report, "Disaster Management in Sri Lanka: A Case Study of Administrative Failures," detailing these findings that were uncovered through RTI (Verité Research 2019). Knowing what the government is doing enables citizens to hold the government accountable. However, obtaining information through RTI requests can be a lengthy process. Verité Research's key success in the RTI Investigative Unit component of this project was using such requests to gain access to data that had previously been inaccessible to the public. The meeting minutes and attendance lists of the National Council for Disaster Management—Sri Lanka's apex body for Disaster Management—revealed that there was a serious gap in how the country's disaster management framework functions. The RTI that was filed revealed that not only was the Council not meeting as often as it should or with the required quorum but that in some instances, attendance lists and minutes for Council minutes were not properly maintained.

List of Tables

Table 1. Private Members' Bills Presented in 8th (Sep 2015 to Feb 2020)
and 9th (Aug 2020 to Jun 2022) Parliaments

Parliament	Number of Bills Presented for the Common Public Interests	Number of Bills presented for the interest of Individual, Association or the Corporate Body
8th Parliament	153	3
9th Parliament	46	9

Table 2. Annual Number of Public Petitions Presented to the Parliament 2015-October 2021

Year	2015	2016	2017	2018	2019	2020	October 2021
Number of Public Petitions Submitted to the Parliament	134	959	650	335	323	263	449

Table 3. Public Petitions Presented to the 8th Parliament by Political Parties

Political Party	Number of Petitions
All Ceylon Muslim Congress (ACMC)	11
Eelam People's Democratic Party (EPDP)	03
Ilankai Thamil Arasu Kachchi (ITAK)	20
Jathika Hela Urumaya (JHU)	09
Janatha Vimukthi Peramuna (JVP)	370
Mahajana Eksath Peramuna (MEP)	11
National Freedom Front (NFF)	30
National Union of Workers (NUW)	08
Sri Lanka Freedom Party (SLFP)	490
Sri Lanka Muslim Congress (SLMC)	07
United National Party (UNP)	1,388
Democratic Left Front (DLF)	32
People's Liberation Organisation of Tamil Eelam (PLOTE)	02
Democratic National Movement (DNM)	08
Pivithuru Hela Urumaya (PHU)	02
Tamil Eelam Liberation Organisation (TELO)	03
TOTAL	2,394

Table 4. Top 10 Parliamentarians who Presented Public Petitions to the 8th Parliament

Rank	Name of the Parliamentarian	Political party affiliated	Number of Petitions Presented
1	Buddhika Pathirana	UNP	307
2	Susantha Punchinilame	SLFP	142
3	Nalinda Jayathissa	JVP	126
4	Palitha Thewarapperuma	UNP	105
5	Sunil Handunneththi	JVP	98
6	Wajira Abewardana	UNP	85
7	Ranjith Aluwihare	UNP	76
8	Nihal Galappaththi	JVP	75
9	Ajith P Perera	UNP	56
10	Sujeewa Senasinghe	UNP	45
Total			1115 out of 2394

Table 5. Public Petitions Presented to the 9th Parliament by Political Parties

Political Party	Number of Petitions
All Ceylon Muslim Congress	01
Eelam People's Democratic Party	02
Thamil Arasu Kachchi (ITAK)	02
Jathika Jana Balawegaya (JJB)	57
Samagi Jana Balawegaya (SJB)	163
Sri Lanka Podujana Peramuna (SLPP)	487
TOTAL	712

Table 6. Top 10 Parliamentarians who Presented Public Petitions to the 9th Parliament

Rank	Name of the Parliamentarian	Political Party Affiliation	Number of Petitions Presented
1	Buddhika Pathirana	SJB	60
2	Vijitha Herath	JJB	38
3	Jayantha Samaraweera	SLPP	28
4	Gamini Lokuge	SLPP	24
5	Wasudewa Nanayakkara	SLPP	21
6	Wasantha Yapa Bandara	SLPP	17
7	Rohana Disanayaka	SLPP	15
8	Ramesh Pathirana	SLPP	15
9	Lasantha Alagiyawanna	SLPP	14
10	Rohini Kumari Wijerathna	SJB	13
			245 out of 712

Table 7. Annual Number of Parliamentary Questions Raised in the Parliament
between 2015 - 2021 October

Year	2015	2016	2017	2018	2019	2020	2021 till October
Number of Questions raised in the Parliament	88	671	656	388	515	240	433

Table 8. Top 10 Parliamentarians who Raised Questions in 8th Parliament

Rank	Name of the Parliamentarian	Political Party Affiliation	Number of questions raised
1	Buddhika Pathirana	UNP	280
2	Bandula Gunawardana	SLFP	189
3	Bimal Rathnayake	JVP	137
4	Nalinda Jayathissa	JVP	133
5	Chaminda Wijesiri	UNP	115
6	Hesha Withanage	UNP	111
7	Udaya Gammanpila	SLFP	105
8	Wasudewa Nanayakkara	SLFP	89
9	Nihal Galappaththi	JVP	75
10	Udaya Shantha Gunasekara	SLFP	64
			Total 1298 out of 2372

Table 9. Top 10 Parliamentarians who Answered Parliamentary Questions in 8th Parliament

Rank	The Name of Minister who answer the question	Governmental position if any	Number of Questions answered
1	Gayantha Karunathilaka	Chief Government VIP	605
2	Lakshman Kirialla	Leader of the House	159
3	Akila Viraj Kariyawasam		131
4	Niroshan Perera		82
5	Iran Wickremarathne		65
6	Rajitha Senarathna		65
7	Ravi Karunanayake		54
8	Wasantha Aluwihare		52
9	Sagala rathnayake		51
10	P Harrison		49
			1313 out of 2372

Table 10. Top 10 Parliamentarians Raised Questions in 9th Parliament

Rank	Name of the Parliamentarian	Political Party Affiliation	Number of questions Raised
1	Buddhika Pathirana	SJB	126
2	Chaminda Wijesiri	SJB	50
3	Hesha withanage	SJB50	50
4	Shantha Bandara	SLFP	38
5	Mohomed Musammil	SLPP	34
6	SM Marikkar	SJB	23
7	Charlse Nirmalanadan	ITAK	21
8	Anura Disanayaka	JJB	19
9	Ishak Rahuman	SLMC	18
10	Velu Kumar	SJB	18
			Total 397 out of 619

Table 11. Top 10 Parliamentarians who answered Parliamentary Questions in 9th Parliament

Rank	Name of the minister	Governmental position if any	Number of Questions Answered
1	Jonstan Fernando	Chief Government VIP	67
2	GL Pieris		46
3	Chamal Rajapaksa		45
4	Ajith Niward Kabral		35
5	Bandula Gunawardena		28
6	Mahindananda aluthgamage		25
7	Gamini Lokuge		22
8	SM Chandrasena		19
9	Dinesh Gunawardena		19
10	Namal rajapaksa		18
			Total 324 out of 619

TABLE 12. SELECTED DECISIONS BY THE RIGHT TO INFORMATION COMMISSION[4]

This table provides a summary of selected decisions that were ordered by the Right to Information Commission during March 2019 to January 2021. The selected decisions have been categorized into 5 key areas that advance democratic principles: i) transparency of information by public authorities; ii) accountability of the public authorities; iii) protection of Human Rights; iv) minimizing corruption; and v) information on functions of Parliament.

Category	Name of Case	Request for information	Decision by Commission
Transparency	T.R. Siriwardena v Urban Development Authority[5]	The appellant, by information request dated 19.06.2019, requested several items of information relating to the construction of 'Egoda Uyana' in Galle Road using public funds. This included information relating to the total cost of expenditure for the repairs in the second phase, information relating to the tender process, tax collection and so on.	At the appeal, the Public Authority (PA) had provided the requested information to the appellant.
	Lionel Guruge v Human Rights Commission of Sri Lanka[6]	The appellant, by information request dated 29.05.2019, requested information on the number of complaints received by the Human Rights Commission (HRC) between 2015- 2019, the number of complaints for which steps have been taken and the number of cases that had been solved.	At the appeal hearing, the Right To Information Commission (RTIC) ordered the PA to provide the appellant with the requested information.
Accountability	N. W. C. P. Lanka v Geological Survey and Mines Bureau[7]	The appellant made an information request dated 27.09.2018, requesting for inquiry reports, final decisions (if any) and relevant details from the Environmental and Mahaweli Development Ministry in relation to the large-scale disasters that occurred as a result of excavations in the Gampaha district (as identified within the information request).	At the subsequent hearing, the requested information was provided by the PA to the appellant.

[4] "Table of RTIC Decisions Classified as per UN-SDGS (582), 2020." Right To Information Commission. Accessed August 23, 2022. https://www.rticommission.lk/web/images/pdf/SDG/TABLE-OF-RTIC-DECISIONS-CLASSIFIED-AS-PER-UN-SDGS-582-2020.pdf

[5] RTIC Appeal (In-Person) 1789/2019, RTIC Minute of 11.03.2019

[6] RTIC Appeal (in person hearing) 1799/2019, RTIC Minute of 07.01.2020

[7] RTIC Appeal (In Person) 1212/2019, RTIC Minute of 10.12.2019

	Dr. K. Guruparan v University Grants Commission[8]	The appellant by information request dated 13.11.2019 requested; a copy of the Memo and all documents attached to it placed at the 1017th meeting of the UGC in relation to the applicant and Minutes of the decision taken at the 1017th meeting as confirmed in the 1018th meeting. The Information Officer (IO) in response provided a copy of the memo requested by the appellant. The PA provided some of the information and informed the appellant that a decision had been made to withhold information relating to the letter received by Army Headquarters dated 21.08.2019,since the information is considered as exempted information under Section 5(1)(i) of the RTI Act, due to it being supplied in confidence to the PA concerned by a third party and the third party did not consent to its disclosure.	At the appeal hearing, the commission did not find the letter received by the Army to be a confidential document as contemplated by Section 5(1)(i) of the Act. As such the RTIC held that the release of such information meets the requirement of accountability and transparency provided for in the preamble of the RTI Act and directed the PA to release the said information.
	M. S. M. Fasan Rismi v Agrarian Service Centre[9]	The appellant, by information request dated 19.10.2018 requested information regarding the letter dated 17.08.2018 sent by the PA, details of the official actions taken against the residential construction activities on the agricultural lands near the Salvattiyan Canal, details of the Police action taken against the builders on the agricultural lands near the Salvattiyan Canal and such other information.	At the appeal hearing, the PA had drawn the attention of the Commission to the communication made with the appellant. Accordingly, the PA had provided part of the information requested and with regard to the other information the PA had informed the appellant that there was no such communication made by the PA. Since the PA had satisfactorily responded to the request made by the appellant, the appeal was concluded.

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[8] RTIC Appeal (In Person) 1891/2020, RTIC Minute of 21.01.2020
[9] RTIC Appeal (Documentary)/ 1704 / 2019, RTIC Minute of 22.09.2020

	K. Prasanna Kumar v Ministry of Education[10]	The appellant, by information request dated 06.09.2019, requested information relating to the implemented activities and allocated budget of the 'Nearest School is the best school project', project implementation details in Maskeliya Bloomfield Tamil Maha Vidyalaya, reasons for not completing the project in the said school and such other information.	At the appeal, requested rnformation had been provided by the PA in response to the notice by the commission.
	S.R.S. Udheshi v National Salaries and Cadre Commission[11]	The Appellant, by information request dated 29.10.2019 requested, a certified copy of the source of authority, which enabled the National Salaries and Cadre Commission (NSCC) to act superseding the Universities Act whereas only the University Grants Commission (UGC) has the power to decide the salaries and salary structures paid to the different staff of Higher Educational Institutions and the UGC.	At the appeal, the PA had provided the requested information to the appellant.
Protection of Human Rights	Pulasthi Hewamanna v University of Ruhuna[12]	The Appellant, by information request dated 15.08.2019 requested information regarding the Anti Ragging Committees (ARC) formed under Circular No. 919, certain details about student counsellors and information relating to ragging in the University. The PA responded denying the request under and in terms of Section 5(1).	At the appeal hearing, RTIC ordered the PA to provide the appellant with the requested information.
	N.S. Leelawathi v. Sri Lanka Army[13]	The appellant by information request dated 2018.11.10 requested information regarding the appellant's son who went missing on 1999.06.15 while in service. Even at the time of the hearing, the appellant had not been able to find out how his son died or what happened to him.	At the appeal, the RTIC held that the PA had provided the appellant with the information that they were in possession and control of at the time of the hearing.

[10] RTIC Appeal (Documentary)/ 2011/ 2019, RTIC Minute of 22.09.2020
[11] RTIC Appeal (Documentary)/ 2050 / 2020, RTIC Minute of 28.07.2020
[12] RTIC Appeal (Documentary)/2093/2020, RTIC Minute of 18.08.2020
[13] RTIC Appeal (In-person hearing) 1624/2019, RTIC Minute of 05.02.2020

Minimizing Corruption	A. S. M. Jayaratne - Ministry of Power and Renewable Energy[14]	The appellant, by information request dated 15.10.2018 requested a report made by the independent inquiry committee appointed by the Minister of Power and Renewable Energy to investigate the fraud and corruption taking place at the Lanka Electricity Company (Pvt) Ltd.	At the appeal, the RTIC instructed the PA to give the appellant a brief inquiry report.
	R.J.R. Wimal Perera. v. Commission to Investigate Allegations of Bribery or Corruption[15]	The appellant, by information request dated 07.06.2019 requested certain information regarding a complaint he made to the PA including names of respondents whose statements were taken, certified copies of relevant statements and the case number if it had been reported to court.	It was discovered that the PA has provided the requested information to the appellant by the time of the hearing for the appeal.
Parliament *The Ombudsman *Asset Declaration	Chamara Sampath v Parliament of Sri Lanka[16]	The appellant, by information request dated 21.06.2018, requested the list of names of Members of Parliament who had handed over their respective Declarations of Assets and Liabilities in 2018 and from 2010. Dissatisfied with the response of the PA, the appellant preferred an appeal to the RTIC. At the appeal hearing, the following matters were raised: (i) Was the PA in 'possession, custody or control' of the information requested as envisaged in Section 3(1) of the Act? (ii) the applicability of the Declaration of Assets and Liabilities Act (DALL Act) and the RTI Act, and (iii) the applicability of section 5(1)(a) of the RTI Act.	The RTIC provided the following conclusions: (i) The threshold requirement of the PA being in possession, custody or control of the requested information is satisfied to the extent that the Secretary General holds institutional possession, custody or control over the impugned information, (ii) the lists of names requested by the appellant did not fall under the DALL Act but under the RTI Act, and (iii) Section 5(1)(a) does not apply to deny the release of the information in the first instance and, in any event, Section 5(4) operates as a public interest override to enable such release. The PA was directed to release the requested information after the

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[14] RTIC Appeal (In person)/855/2019, RTIC Minute of 26.03.2019
[15] RTIC Appeal (In Person)/1655/2019, RTIC Minute of 11.02.2020
[16] RTIC Appeal (In person)/ 719/2018, RTIC Minute of 15.12.2020

			decision of the Designated Officer (DO) was overturned.
	W.M. Dharmasena v Sri Lanka State Plantation Corporation[17]	The information request dated 2019.05.31 was based on the fact that the Cabinet approved the recommendations of the Committee to provide relief to those who had faced various problems due to political reasons in the Ministry of Public Administration and the benefits to be rendered to the victims of the State Plantation Corporation. As such the appellant requested the documents prepared at the request of the Chairman of the State Plantation Corporation including salary arrears and compensation due to the appellant and the measures taken to provide the report requested by the Ombudsman.	At the appeal hearing, the RTIC directed the PA to provide the requested information.
	G. A. J. Weerasinghe v Ministry of Education.[18]	The appellant, by information request dated 03.04.2019 requested information on the action taken on order letter OMB / P / 2/10/1333 dated 14.03.2019 (Operation of the letter of the Ombudsman).	At the appeal hearing, the RTIC observed that the PA had provided the requested information to the appellant.

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[17] RTIC Appeal (Documentary proceedings) 1772/2019, RTIC Minute of 2020.06.09
[18] RTIC Appeal (Documentary)/2025/2020, RTIC Minute of 29.09.2020

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Country Case 5: Thailand

Direct Democracy in Thailand

Thawilwadee Bureekul[1], Ratchawadee Sangmahamad[2] & Arithat Bunthueng[3]
King Prajadhipok's Institute

1. Introduction

Direct democracy is a form of democracy beyond representative democracy. It is the basic political process which allows ordinary citizens to not only vote for their representatives in the parliament, but also participate in political activities and policy decisions (Matsusaka 2005, 187). Moreover, direct democracy utilizes the communication technology revolution, and is the better tool when policymakers require deep information that experts do not know (Matsusaka 2005, 186). Nowadays, popular initiatives and referendums are the key mechanisms of direct democracy. According to the V-Dem Institute's report (2015), the use of direct democracy has been increasing worldwide. However, citizens still face challenges in accessing their right to participate in direct democracy due to a lack of measures and a lower capability in assessing the quality of such measures (Altman 2015). In the V-Dem Institute report, direct democracy (DD) refers to the institutionalized process by which citizens of each country register their opinions on a specific issue via a ballot, consisting of initiatives, referendums, and plebiscites. This definition excludes recall elections and deliberative assemblies. Figure 1 illustrates the score of Direct Democracy Practice Potential (DDPP) around the world.[4] Darker shades indicate a higher DDPP. The maximum score is 0.849, the minimum score is 0, and the mean score is 0.162. Thailand's score is 0.088, among which its obligatory referendums (OR) score is 0.306, and its popular initiative (PI) score is 0.048 (Altman 2015).

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[1] Director, Research and Development Office at King Prajadhipok's Institute (KPI)

[2] Senior Academic, Research and Development Office at KPI

[3] Academic, Research and Development Office at KPI

[4] The results from the addition of the scores of each type of popular vote studied (popular initiatives, referendums, plebiscites, and obligatory referendums). The maximum score is calculated from two results (ease of initiative and ease of approval). Each of these terms obtains a maximum value of one and works as a chain defined by its weakest link. The maximum possible overall DDPP is 8 (here it is scaled to a 0-1 range for illustrative purposes).
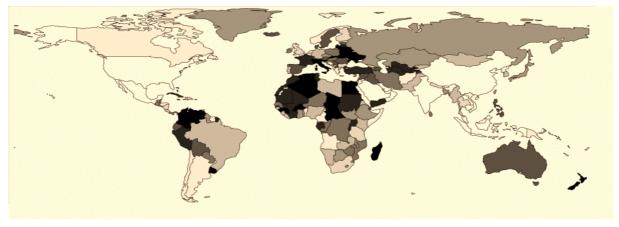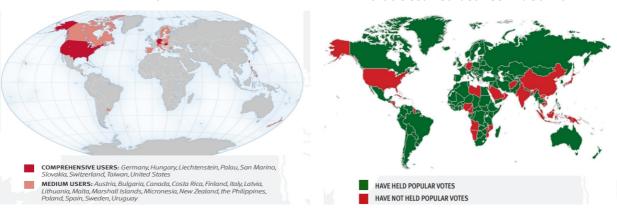
Figure 1. Direct Democracy Practice Potential (DDPP) around the World (2000)

Source: Photo by David Altman, https://ssrn.com/abstract=2701164, 2015

The global passport to modern direct democracy (IDEA 2017) presents three modern forms of direct democracy: tools initiated by citizens, government-triggered popular votes, and other participatory instruments. The first of these are direct democratic (bottom-up) initiatives by citizens, such as law initiatives and popular referendums. This is the most powerful form since it is derived directly from the hands of citizens themselves. Additionally, this form is used by a number of countries around the world, which include three types of users: comprehensive users, medium users, and initiative rights users. The European Citizens' Initiative (ECI) reported Thailand was the country which utilized the law initiatives (Figure 2).

Figure 2. Citizen Initiatives around the World in 2017

Figure 3. Popular Votes on Substantive Issues that Occurred between 1980–2017

Source: IDEA (2017),

https://www.idea.int/sites/default/files/publications/global-passport-to-modern-direct-democracy.pdf

Government-triggered popular votes are the second type, of which there are two distinct forms: mandatory referendums (to change a legal provision or to make a decision), and plebiscites (voluntary popular vote initiatives by an elected public authority). As shown in Figure 3, the majority of countries in the world have held popular votes, including Thailand. The final form of direct democracy is other participatory (consultative) instruments. This includes the tools that citizens can use to make their voices heard through inclusive

procedures for participatory democracy, including participatory budgeting, online petition platforms, and deliberative assemblies (IDEA 2017). If these participatory methods include a decision made by citizens, they would have the same effect as a referendum.

In Thailand, there are many forms of direct democracy mechanisms, but there are limitations in each, for example, limited awareness of people's rights by the public and authorities. The objectives of this article are to study the state of direct democracy in Thailand and propose mechanisms to strengthen direct democracy. The methodologies of the study include: i) a literature review on direct democracy including articles, books, journals, newspapers, and official documents; ii) interviews with four key informants from relevant sectors, the academic sector, the Integrated Provincial Executive Committee, the Community Organizations Development Institute (CODI) in Thailand, and the Council of Indigenous Peoples in Thailand (CIPT).[5] The research questions are: i) How can direct democracy in Thailand be described; and ii) What mechanisms can be used to strengthen direct democracy in Thailand? The in-depth interview questions used in this study are in the appendix.

2. Literature Review on the Concept of Direct Democracy

Democracy means rule by the people, which is based on the principle of representative government. This definition takes a strict representative approach and views direct voting of any kind as impairing the principle of representative democracy and therefore argues that it should be avoided (Beramendi et al. 2008, 1). Direct democracy is meaningfully contrary to representative democracy as an umbrella term that covers a variety of political processes, rules, and institutions that enable people to vote directly on a proposed political decision, treaty, law, or constitutional amendment rather than candidates for office (Matsusaka 2005, 187; Bulmer 2014, 3). Direct democracy can override decisions made by deceptive politicians. There are many reasons why representatives may not support a faithful and accurate reflection of public views. One such reason is that political representatives are typically drawn from the higher social classes and could be bound by the will of the old society of rank and caste (Bobbio 1990, 28; Bulmer 2014, 4). Conversely, there are arguments that the people are not capable of true self-determination. These arguments take a negative view of the public and call into question citizen information and competence, voter irrationality, governability, and conservative bias (Bulmer 2014, 10–12). These opinions create a binary opposition between representative democracy and direct democracy that is restricting and unhelpful.

Direct democracy can vary considerably from one jurisdiction to another. The main forms are referendums, citizen initiatives, and recalls. A referendum gives the public a direct vote that would be binding or advisory on a particular legislative, constitutional, or political issue. This can include nonbinding referendums to get a sense of public opinion. An advisory referendum is sometimes called a plebiscite. There are several concerns about the role of referendums as democratic deconsolidation. Even referendums as the decision of the popular majority can be indicated beyond representatives that are possibly distorted and elitist. However, this mechanism may become a tool of majoritarian populism and empower populist authoritarians. Turkey, Mexico, and Thailand provide examples of how authoritarians can use referendums to undermine

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[5] See the appendix for details regarding the in-depth interview

liberal democracy (Collin 2019, 1–4). The voting majority risks undermining the rights of a minority. Examples include referendums on same-sex marriage in US states, ethnic minorities in California, and naturalization in Switzerland. Moreover, it can be used both by democratic and autocratic regimes to confirm newly written constitutions. Acknowledged examples are the 1958 French constitutional referendum and the subsequent 1969 referendum that led to the resignation of President de Gaulle, the 1992 apartheid referendum in South Africa, the 1993 Malawian democracy referendum, the 2019 Cuban constitutional referendum (Kyburz and Schlegal 2019, 3), and the 2016 Thailand constitutional referendum. Historically, authoritarian rulers such as Franco in Spain, Pinochet in Chile, Marcos in the Philippines, and Park Chung Hee in South Korea abuse the popular vote by using uncompetitive referendums to create a false veneer of democratic legitimacy. Populist leaders may have also used referendums to bypass legislative, judicial, or constitutional restraints on their power in order to marginalize domestic political opposition or overturn constitutional prohibitions on re-election (Bulmer 2014, 12). The foregoing cases are mostly a problem of top-down referendums in which direct democracy is likely to be used as a political tool of ruling politicians. Bottom-up referenda and initiatives can go beyond the decision of the executive or the legislative branch of government to call a vote. The nature of bottom-up direct democracy complements mandatory referendums that are automatically triggered over the introduction of specific legislation (Kyburz and Schlegal 2019, 5).

Direct democracy is not a substitute for representative democracy to create a full democracy, and it is also not a tool for reducing dissatisfaction with elected representatives. Full democracy is about how and when to compatibly use direct democracy mechanisms to appropriately enhance democratic systems as well as how to build and design democratic structure and institutions in the practical context of very political cultures. Other goals of direct democracy include promoting participation or acting as a check on the executive or legislative body. As Habermas observes, "A political vote is not final, but rather an interim result of an ongoing process of deliberation." Thus, direct democracy in the sense of the popular vote should never be a one-time game, but an indication of a lively political process and a political tool that citizens must grow into. Measures by which the success of direct democracy as a component of a democratic regime might be judged include the level of participation and engagement. Both direct democracy mechanisms and representative democracy mechanisms can complement and enrich each other rather than being seen as opposed (Beramendi et al. 2008, 1; Kyburz and Schlegal 2019, 5).

3. The Development of Direct Democracy in Thailand

Thailand fundamentally changed its form of government in 1932 after a coup d'état which ended the absolute monarchy and started a long and ongoing process of democratization. Since 1932, Thailand has experienced 13 successful military coup d'états with the most recent taking place on May 22, 2014. It can therefore be argued that Thailand's representative democracy remains fragile. A significant political development occurred after the 1992 Black May protests when the public was invited to be involved in crafting a new constitution. The social atmosphere at the time was very active and politically engaged, with a trend in civic politics that led to political reforms. There were efforts to include the principle of direct democracy in the 1997 Constitution to allow people to participate in government and exercise greater control over the power of the state. The 1997

Constitution provides that citizens have the right to vote and participate in politics in three important ways, namely by impeaching a person holding a political position, participation in the legislative process through legislative initiatives, and through referenda.

Prior to the 1997 Constitution, several constitutions provided for referendums, namely the 1949 Constitution, the 1968 Constitution, the 1974 Constitution, and the 1991 Constitution, the 6th Amendment in 1996. However, these were limited to constitutional amendments. A referendum on a law affecting the interests of the country or the people was first recognized in Article 214 of the 1997 Constitution. In many ways, the 1997 Constitution marked the beginning of direct democracy in Thailand in terms of permitting referendums on laws, recalls, and initiatives.

From an in-depth interview with an academic informant, direct democracy has developed through laws and constitutions. Before the 1997 Constitution, the people only had a right to participate in national and local level elections, but the 1997 Constitution explicitly included the right for the public to initiate laws. By the time the 2017 Constitution was developed, people were more alert and aware of their rights and there had been improvements in the initiation of laws at both the national and local levels. Nonetheless, limitations remain for the community dimension. Despite direct democracy being defined in the 2017 Constitution, it has not led to action. Moreover, one informant who works with movement groups considered direct democracy to be in a worse state under the 2017 Constitution, citing the provincial development plan due to the limited number of public sector representatives, thus limiting opportunities for direct democracy participation.

While the structure and mechanisms of direct democracy have improved, public practice with the democratic process remains limited in Thailand.

4. Direct Democracy in the Constitutions of Thailand

The current Constitution of the Kingdom of Thailand promulgated on April 6, 2017, has in many cases guaranteed the right of direct popular participation in politics. The 2017 Constitution states that a person and a community have the right to sign a joint petition to make recommendations to a governmental authority for the taking of action that is beneficial to the people of the community (Sec. 43); at least 10,000 persons having the right to vote may submit to the House of Representatives their proposed laws relating to the rights and liberties of citizens and duties of the state (Sec. 133); local people have the right to sign names to propose local ordinances or to remove members of a local assembly or a local administrator (Sec. 254); and not less than 50,000 voters may sign to propose amendments to the Constitution (Sec. 256). Moreover, the same Constitution recognizes the right to participation in several cases, for example, the environment (Sec. 57, para. 2), local wisdom, arts, culture, and traditions (Sec. 57, para. 1), to counter corruption (Sec. 63 and 78), treaties with other countries or international organizations (Sec. 178), local government (Sec. 252 and 253), and the legislative process (Sec. 77).

The 2017 Constitution requires a referendum as part of its constitutional amendment process. In addition, the Referendum Act is part of the national reform law under Chapter 16 of the Constitution. The Referendum Act B.E. 2564 (2021), which came into force on September 12, 2021, sets out five cases in which people have the right to vote in a referendum: constitutional amendment, a matter that the cabinet considers

reasonable, when a referendum is required by law in order to hold a vote, a matter parliament deems reasonable, and when more than 50,000 people have submitted their names to the cabinet.

The Legislative Initiative under the 1997 Constitution and the Legislative Initiative Act of 1999 specify that the number of eligible voters required to request the right to submit a legislative proposal has been reduced from 50,000 to 10,000 under current law. The 1997 Constitution provides that at least 50,000 voters have the right to petition the president of the House of Representatives to have the Senate pass a resolution to remove an individual from office. The 2007 Constitution also affirms the rights of the people in the same way, stipulating that the names of more than 20,000 people must be registered. However, the current constitution no longer guarantees the people's right to recall and vote out political officeholders.

5. The State of Direct Democracy in Thailand

Direct democracy in Thailand includes referendums, law initiatives, and recalls. In addition, some activities such as demonstrations and protest marches can be considered direct democracy. Unconventional political participation is also considered a form of direct democracy (Bureekul and Sangmahamad 2014). Moreover, there are other forms of direct democracy such as participatory budgeting. The key direct democracy activities in Thailand are as follows.

5.1. Referendums

Thailand held the first referendum under the Constitution of the Kingdom of Thailand. (Provisional) B.E. 2549 (2006), which aimed to allow people to vote approving or disapproving of the Constitution draft of the Kingdom of Thailand, B.E. 2550 (2007), on August 19, 2007. The second referendum, which was held on Sunday, August 7, 2016, was to vote on Thailand's draft 2016 constitution. However, the opposition groups to the constitution were barred by the military government from formally campaigning against it, while the military government actively campaigned for its adoption. These referendums are called "roadblocks to democracy" (International Federation for Human Rights 2016), and seem to be a military representation (BBC 2016). Because of the oppressive environment in which the National Council for Peace and Order (NCPO) (Kurlantzick 2016)[6] orchestrated the constitution drafting process, the referendum process was marred by severe restrictions on people's ability to debate and criticize the content of the draft charter. Moreover, a draft constitution written by an army-appointed committee entrenched military control by proposing that the appointed senate should be involved in selecting a prime minister.

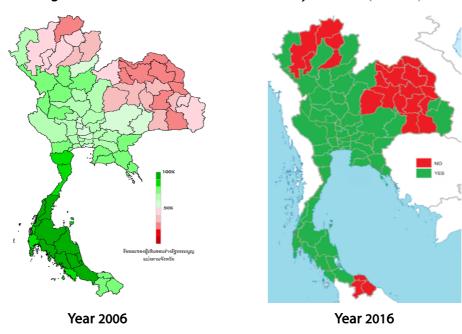[6] The military junta ruled Thailand between its 2014 Thai coup d'état on May 22, 2014 and July 10, 2019.

Figure 4. Referendum Results in Thailand by Province (Charter)

Year 2006   Year 2016

Source: Photo from Wikipedia, February 10, 2022,

https://en.wikipedia.org/wiki/2007_Thai_constitutional_referendum;

https://en.wikipedia.org/wiki/2016_Thai_constitutional_referendum

The first referendum showed a turnout rate of 57.61% of registered voters. Of those who voted, 57.81% approved and 42.19% disapproved. Thus, the military government would have had the freedom to choose any previous constitution to adapt and promulgate instead. For the second time, the charter offered only semi-democracy and was seen to tighten military rule in Thailand. However, it was approved by 61.35% and disapproved by 38.65% of voters, with a voter turnout of 59%. Moreover, a second proposal for the next prime minister to be jointly elected by senators and MPs was also approved (Secretariat Office of the House of Representatives 2022). Above are the referendum results on the draft charter, with a comparison of the provinces of Thailand between 2006 and 2016.

The 2017 Constitution does not directly address local referendum provisions. However, Section 167 of the 2007 Constitution confirms the people's right to vote in a referendum, in both the case of the cabinet requesting a referendum and in the case of law requiring a referendum. Additionally, the Municipality Act of 1953 provides that everyone who is eligible to vote in a municipality may participate in a referendum under Section 32 in any matter that might influence the municipality or local population's interests. A referendum may be presented to the council president either by the mayor or by not less than half of the council members, but such referenda are only consultative. It is notable that referenda have not been conducted by local governments due to the government and public sector's lack of awareness and comprehension of the enforcement of such regulations. Additionally, the law that creates other types of local government organizations does not contain a clause that certifies the people's right to a local referendum, including for Provincial Administrative Organizations, Subdistrict Administrative Organizations, or Pattaya and Bangkok.

5.2. Law Initiatives

Under the 1997 Constitution and the 1999 Initiative Process Act, there are many conditions for participating in law initiatives that make it more difficult to fulfill the process. Examples include the number of names of qualified eligible voters required, supporting documents, and methods by which the names must be entered. When the 1997 Constitution was being implemented, sixteen bills were proposed, with only one legal draft being adopted and promulgated by the parliament. Under the 2007 Constitution, there were 51 draft laws submitted to the parliament, with eight of them being adopted by the parliament and enacted into law. In addition, the number of eligible voters who can propose a law has been reduced from 50,000 to 10,000, although 50,000 are still required for a proposed constitution. Under the 2017 Constitution, people can more easily submit a bill by using only one copy of their identity card. It is not necessary to provide a copy of one's household registration. As of February 23, 2022, there have been 71 law proposals put forth under this method, but none of them have been passed into law yet. However, the process of initiating the law under the Initiative Process Act C.E. 2021, which was promulgated May 27, 2021, makes it easier for people to bring in legislation. The eligible voters can verify identities and examine themselves in case of submitting a bill proposal through such information technology without their signatures (Initiative Process Act 2021, Sec. 8). The previous law required a signature on the specified form along with a copy of the person's identity card. Because the current legal initiative system is electronic, it is more practical than systems of the past, and people are therefore more likely to propose laws. The trend of public participation and the government's ability to allow people to directly participate in politics through the channels of law initiatives are positive signs of direct democracy. However, there are some constraints to consider, such as political will and the prime minister's endorsement of the public's proposed bills related to a money bill, such as the regulation of taxes or duties, the allocation of state funds, or transfer of expenditure estimates of the state, etc. (Constitution of Thailand 2017, Sec. 133 and 134) In addition, legislative amendments to the bill may also distort the intent of the bill's proponents.

At the local level, the right of the Thai people to submit a proposal to a local ordinance was first recognized by the 1997 Constitution, Section 287. The provisions of the aforementioned Constitution were then put into practice by the Local Ordinance Initiative Process Act of 1999. However, the law had several limitations. One such limitation was the requirement of not less than half of voters in the locality supporting the referendum, which is inconsistent with promoting local direct democracy. Moreover, the law does not guarantee a way to electronically enter names in support of a referendum. In addition, centralized control is exercised by the governor or unelected sheriff being able to regulate the issuance of local ordinances. To submit a local ordinance, the draft local ordinance must also be attached, yet no government agency offers support to those wanting to draft local ordinances which require knowledge, expertise, and skill in drafting laws. As a result, few local ordinances have been proposed by the people and promulgated. The Tha Sala Subdistrict Administrative Organization Ordinance on Conservation and Sustainable Utilization of Marine and Coastal Resources 2009 is one such local ordinance. Fisherfolk proposed the local ordinance as a tool to combat commercial fishermen who used illegal fishing gear and depleted marine resources. The objective of this ordinance was to enable people to participate in the sustainable management of natural resources and the environment.

Section 254 of the 2017 Constitution certifies the right of people to sign their names to local ordinance initiatives. The bill was enacted to enable people to propose local ordinances by 2022 in order to implement

the current constitution and amend existing laws to make the process of local ordinance initiative more convenient and appropriate (Local Ordinance Initiative Process Act 2022). Important principles have been changed, including: the number of voters required to propose a bill has been reduced to no less than 3,000 people or not less than 5% of the number of eligible voters (Local Ordinance Initiative Process Act 2022, Sec. 7, para. 2); information technology systems can be used to open channels to lodge local ordinance initiatives without the need for signatures (Local Ordinance Initiative Process Act 2022, Sec. 9, para. 4); it is now stipulated that the local government organization is responsible for drafting local ordinances where requested by an individual who has the right to lodge a local ordinance initiative (Local Ordinance Initiative Process Act 2022, Sec. 9, para. 1); and local ordinance can be drafted by the local government organization before consideration by the local council. Additionally, an extraordinary committee should be set up to consider the draft ordinance. The representatives of the participants must be appointed as extraordinary committee members who should make up not less than one-third of the total number of extraordinary committee members (Local Ordinance Initiative Process Act 2022, Sec. 13) This improves the process of considering and drafting ordinances that increase participation from the public sector and are in accordance with the national legislative process. Yet despite the enactment of a new law in 2022 to improve the 1999 Local Proposal Law, some conditions that limit the consideration of draft bills proposed by local residents still exist, such as local ordinances still having to be considered by the central government rather than the local government.

5.3. Recalls

In Thailand, the recall mechanism is frequently used as a political tool by authoritarian dictatorships rather than to promote democracy. This is because there has never been a recall mechanism that can remove a person from office under democratic governments, whereas a recall mechanism has been used to remove people from political office or high-level positions in order to maintain authoritarianism by the legislature that stems from appointment after a coup. The first was the recall of a member of the Human Rights Commission by resolution of the National Legislative Assembly appointed after the coup in 2006. There was also the recall of former Prime Minister Yingluck Shinawatra by resolution of the National Legislative Assembly, which was appointed after the 2014 coup, and so on. Furthermore, while the recall mechanism for political office holders and high-ranking positions is not endorsed by the existing constitution, there are political movements to recall incumbents through signature campaigns on the website www.change.org. For example, a petition demanding the recall of Ms. Parena Kraikup, a member of the House of Representatives from the Palang Pracharath Party, for inappropriate behavior and not setting a good example for the people received more than 75,196 signatures. The petition for the Election Commission's recall has more than 861,843 supporters. These campaigns are symbolic representations of the people's political will, although such signatures have no legal effect (Secretariat Office of the House of Representatives 2022).

At the local level, local residents have the right to recall members of local councils or local administrators. This was first adopted by Article 286 of the 1997 Constitution, and subsequent constitutions have continued to endorse the principle (Constitution of Thailand 2007, Sec. 285; 2017, Sec. 254). The provisions of the 2017 Constitution are currently being enforced by the Voting to Recall Members of the Local Assembly or Local Administrators Act C.E. 1999. The conditions for the required number of voters to submit

a petition to the provincial governor for a vote to recall a member of a local council or a local administrator differ in each local government district (Local Administrators Act 1999, Sec. 5).

1) In the case of voters not exceeding 100,000, no fewer than one-fifth of the number of eligible voters in that local government district must support the petition.
2) In the case of voters exceeding 100,000 but not exceeding 500,000, no fewer than 20,000 of eligible voters in that local government district must support the petition.
3) In the case of voters exceeding 500,000 but not exceeding 1,000,000, no fewer than 25,000 eligible voters in that local government district must support the petition.
4) In the case of voters exceeding 1,000,000, no fewer than 30,000 eligible voters in that local government district must support the petition.

Such conditions create a burden on the local people and a mechanism that makes local recall difficult compared to a national-level recall. At the national level, the 1997 Constitution Section 304 stipulates that at least 50,000 eligible voters are required to submit a petition to the president of the Senate for the Senate to remove an individual from office. Meanwhile, the 2007 Constitution required at least 20,000 eligible voters to submit a petition for the removal of persons from office. This demonstrates that it is far more demanding to submit a recall petition at the local level. Between 2003 and 2017, 13 petitions were filed and only four recalls were successful. Seven of these unsuccessful petitions were because less than half of eligible voters submitted a petition to the provincial governor in the area, while the remaining two unsuccessful petitions received less than three-quarters of the vote (Vititanon 2021).

At present, a draft bill for the recall of local assembly members or local administrators is under consideration by the House of Representatives and is in the process of passing the consideration of the Extraordinary Commission (Thansettakij 2022). The draft bill seeks to reduce the required number of eligible voters to submit a petition to the provincial governor to a more reasonable number for the size of each local government. However, decentralized academic networks have opposed the draft bill (Prachatai 2022) since they view the draft law as having principles that are not conducive to the development of local democracy. The draft law was initiated by the Department of Local Administrative Promotion in the Ministry of Interior. The cabinet presented the bill to the House of Representatives for consideration on January 26, 2021 (Secretariat of the Cabinet 2021).

The draft bill was not an initiative of the people and did not go through the process of hearing the opinions of those involved and comprehensively and systematically analyzing the potential impacts of the law as required by Article 77 of the 2017 Constitution. The draft law is of a lower standard than the original law. Due to the removal criteria under the Act on Voting for the Recall of Members of Local Councils or Local Administrators, B.E. 2542 (1999), after a provincial governor accepts a request to proceed with the removal of the vote and receives clarification from the local council members or local administrators to give notice (Local Administrators Act 1999, Sec. 7, para. 2), the Election Commission would hold a vote on the recall of local council members or local administrators (Local Administrators Act 1999, Sec. 8). Withdrawal would only be successful if more than half of the total votes were cast in the local government by not less than 75% of voters

(Local Administrators Act 1999, Sec. 23). From the said provisions, the system for the removal of local political office holders under the 1999 law is a direct and secret vote to recall or maintain the status of a local councilor or local administrator. This differs from the 1997 and 2007 constitutional provisions on the removal of national incumbents, which can be characterized as quasi-recall and quasi-impeachment.

This draft law aims to abolish the principle of direct recall by local people by changing the process for recalling a local council member or local administrator. After the petition is submitted to the provincial governor, it is then reviewed by an investigation committee. The outcome of the investigation is subject to an investigation by an investigative committee appointed by the provincial governor, which is itself a central-government appointed position. Rather than promoting direct local democracy, the essence of the draft law on the removal of local political office holders instead would reduce local people's right of recall and increase the control of central bureaucrats, who are not elected by the local people but have the power to interfere with local politicians. This is contrary to the principles of local self-government.

5.4. Other Forms of Political Participation

5.4.1. Participatory Budgeting (PB)

At the local level, another interesting aspect of direct democracy is participatory budgeting (PB). Although there is no law to guarantee participatory budgeting and/or a requirement for government agencies to comply with PB, it nevertheless appeared in the Thai bureaucratic development strategic plan (2008–2012). In Strategy 2, the initiative for participatory planning and budgeting and the strategy of the Ministry of Interior in the 6th policy line strengthened communities based on the people's budget. Additionally, numerous local government organizations have created participatory budgets, such as Amnat Charoen Provincial Administrative Organization, Amnat Charoen Province Yala Municipality, Yala Province, Ko Kha Subdistrict Municipality, and Lampang Province (Wangkanond 2019).

In addition, Article 71 of the 2017 Constitution adopted the principle of budget allocation that the state should take into account the different needs, gender, age, and conditions of the population to ensure fairness. This is termed Gender Responsive Budgeting (GRB), and is considered to be an important instrument in terms of administration and management of budget preparation. However, to push GRB on national and local policies requires knowledge and comprehension of budget preparation among the concerned stakeholders. Such projects have been developed and studied since 2013 by the Research and Development Office, King Prajadhipok's Institute. One dimension is to promote gender equality while also seeking to encourage participatory local budgeting (King Prajadhipok's Institute 2018). KPI has conducted Gender Responsive Budgeting (GRB) projects for volunteer local government organizations by using action research and has developed a training module disseminated through training workshops. From 2017 until 2022, approximately 30 local administrative organizations have attended in-person and online training, including those from Khon Kaen, Roi Et, Kalasin, Sukhothai, and Surin province among others. Moreover, Section 12 of the Public Health Act (No.3) B.E. 2560 contains a provision for public hearings, for example in the case of preventing nuisances that affect the suitability of living conditions for the livelihood of people, communities, or the environment.

5.4.2. Utilization of Social Media Platform to Express Public Opinion

Another form of direct democracy is the political innovation of the "*Voice of the People"* forum, which allows people to take votes of confidence for all eleven government ministers. The forum is a collaboration of academics from four Thai universities (Thammasat University, National Institute of Development Administration, Srinakharinwirot University, and Rangsit University), civic groups, and four television channels (Thairath TV, PPTV, the Nation, and Workpoint). During the period of censure debate in the parliament, from July 19 to July 22, 2022, this collaborative group used the social media platform to persuade people to express their opinions on whether they approved of the continued employment of certain cabinet members. In total, 524,806 people participated and all eleven ministers and the Prime Minister were rejected by 95% of the participants. This could be used as an additional mechanism for people to express their opinions about politicians (Thairath Online 2022).

5.4.3. Unconventional Political Participation (UPP)

The final form of direct democracy in this paper is unconventional political participation (UPP) (KPI 2014). Examples include organizing with others to raise an issue or sign a petition, attending demonstrations or protest marches, or using force or violence for a political cause. Figure 5 can be used as an indicator of mass mobilization for democracy. It presents countries in which large-scale pro-democracy protests took place in 2021 and relates that level to whether the country was becoming more democratic, more autocratic, or stable compared to ten years ago based on the Liberal Democracy Index (LDI).

The indicator of mass mobilization for democracy captures the size and frequency of pro-democratic events. Gray lines represent the mean level of mobilization in each category. For Thailand, many large events have occurred to demonstrate against the present Prime Minister, Prayuth Chan-ocha, who served as chief of the Thai army from 2010 to 2014 and led the 2014 Thai coup d'état, which installed the National Council for Peace and Order (NCPO) the military junta which governed Thailand between May 22, 2014 and July 10, 2019.
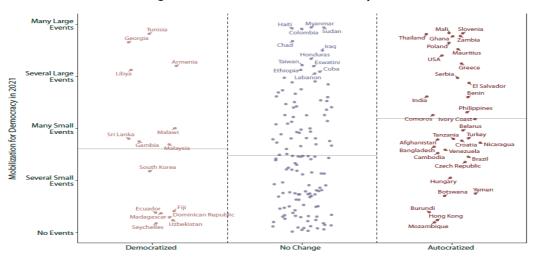
Figure 5. Mobilization for Democracy in 2021

Source: V-Dem Report, 2022, https://v-dem.net/media/publications/dr_2022.pdf

85

Figure 6 shows responses from the Asian Barometer 2001-2018 survey and the 2022 King Prajadhipok's Institute national survey when asked whether they had ever attended a demonstration or protest march.
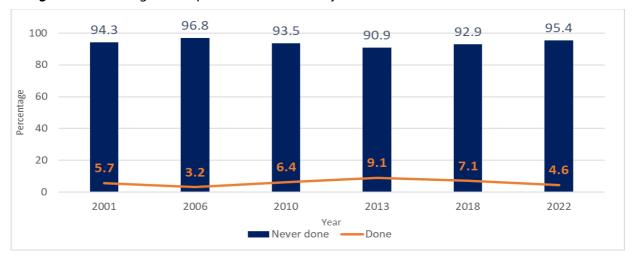
Figure 6. Percentage of People who had Previously Attended a Demonstration or Protest March

Source: Data adapted from KPI, Asian Barometer Survey, 2018; KPI, 2022

According to Figure 6, most people have never attended a demonstration or protest march before. However, this percentage decreased after 2006, which was the same year that Thailand conducted its first referendum. This suggests that the referendum potentially prompted more people to participate in political activities. In May 2014, a coup d'état was conducted in response to the political situation after months of political demonstrations, a disrupted and ultimately invalidated election, and accusations of government mismanagement. In 2022, KPI's national survey found that 4.6% of the respondents had participated in political demonstration activities. Thus, it can be said that unconventional political participation has become a signifier of the political situation and that greater government attention should be paid to the voices of the public.

From in-depth interviews, public participation in direct democratic systems must start by building awareness, satisfaction, friendship, and impression of each other. These actions have made strong contributions to society. At present, online participation is widely used, yet insufficient information may result in people misunderstanding the subject. Meanwhile, public demonstrations may be justified for people to express themselves, yet they may not influence negotiations with the government. The interviewees also mentioned that from the perspective of people's rights, political participation can result in highly progressive democracy.

6. Problems of Direct Democracy in Thailand

1) Referendums have become a political mechanism and no longer reflect the will of the public. There is no guarantee of holding a referendum initiated by the people, known as popular referenda, at the national or local levels.

2) While the number of people proposing bills through the law initiative mechanism has increased, few bills can pass through parliament and become law because bills related to the budget have to

be endorsed by the Prime Minister. In addition, there is limited civil society support for people to propose bills and strengthen direct democracy.

3) Recalls seem to be impossible since there is no national law to endorse recalls. At the local level, the new recall mechanism is a central state tool for local control rather than for the promotion of direct and local democracy.

4) The other form of direct democracy is popular democracy. The importance of this mechanism appears to be increasing because of the application of social media and websites such as www.change.org, which have become tools through which to send signals to the government, especially on important issues. Unconventional forms of political participation such as demonstrations on the streets, motor vehicle demonstrations, and the application of social media have become more frequent than conventional forms. However, people who participate in acts of popular democracy risk violating the law.

5) From a legal perspective, direct democracy mechanisms can be divided into two groups: those to promote public participation and those to protect the rights of citizens. However, these mechanisms are less enforceable, and some limit the rights of citizens and are more inclusive in the public sector.

6) People do not have sufficient knowledge and understanding of their own rights to participate in direct democratic processes, meaning that they lack the courage to propose their claims or promote their interests.

7. Recommendations for Direct Democracy in Thailand

1) More legislation that facilitates direct democracy is required. There must be a review of the core mechanisms under which this is being implemented, and whether it is important that the legislation is issued to benefit the community. For instance, the Human Rights Commission should seek to better promote and facilitate direct democracy. Some of the divisions formed under the 1997 Constitution have not yet favored this development.

2) Successful public participation in direct democracy requires different groups of people to discuss issues and raise awareness so that issues can be resolved. Those involved in direct democracy must listen thoroughly and sincerely. In addition, they have to have courage and volunteer.

3) Promoting a direct democratic system will encourage a more complete system of representative democracy. The ultimate goal is to meet the needs of society and enable direct democracy to be more pronounced and applied more broadly.

4) A strong network of direct democracy should be created. For instance, King Prajadhipok's Institute could enhance its efforts to disseminate knowledge and foster cooperation within and between provinces.

8. The Trend of Direct Democracy in Thailand

The authors see positive signs of direct democracy in Thailand, especially in terms of legal initiatives, since new laws promulgated according to the 2017 Constitution have allowed for the application of social media in lawmaking while previous laws did not. With the adoption of technology to support legal initiatives, the authors believe that forms of direct democracy—especially legal initiatives—will increase in importance. However, without political will and support for these mechanisms, legal initiatives will not be realized. Both representative democracy and direct democracy are the foundation of a truly democratic regime, and are consistent with and support each other. Therefore, the stability of representative democracy and government and law-makers' willingness to promote direct democracy are important. If people are unable to participate in direct democracy through legal and conventional channels, they may seek to express their voices through unconventional political participation. Thus, the development of direct democracy in Thailand may continue to encounter obstacles due to the country's unstable democratic regime. Lastly, all sectors concerned with direct democracy, including King Prajadhipok's Institute, the Community Organizations Development Institute, and the media among others must collaborate, design, and work cooperatively. In coordination with local communities, they should create a participation model with the goal of creating direct democracy to transform Thailand's development structure.

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Appendix: Details on the In-depth Interview

1. Lists of Interviewee

Number	Experience field on direct democracy	Date of interview
1	The academic sector	July 8, 2022
2	The Integrated Provincial Executive Committee	July 8, 2022
3	The Community Organizations Development Institute (CODI) in Thailand	July 12, 2022
4	The Council of Indigenous Peoples in Thailand (CIPT)	July 15, 2022

2. Questions Used in the Study

1) How can the development of direct democracy in Thailand be described?
2) What do you think about the direct democratic mechanisms in Thailand, such as the constitution and laws, and are they sufficient for Thailand?
3) What is the current situation and trends of public participation in direct democracy in Thailand?
4) Is direct democracy necessary to strengthen the democratic regime?
5) Do you think promoting direct democracy will reduce the role of representative democracy, and will such a mechanism make representative democracy more fully functioning?
6) Do you have any comments, suggestions, or concerns about the legal mechanism, system, or the current situation of direct democracy in Thailand?

Country Case 6: Mongolia

History and Trends of Direct Democracy in Mongolia

Tamir Chultemsuren[1], Dolgion Aldar[2]
Independent Research Institute of Mongolia

Although hailed as a democratic anomaly in Central Asia, Mongolia remains a country with a limited space for direct democracy, considering the essence of direct democracy, namely 'direct voting'. Since its democratic transition in the 1990s, there has been no referendum organized in Mongolia, while citizens' initiatives are rarely considered and demands for recall actions are disregarded. Institutional mechanisms of direct voting are therefore lacking. The first section of this working paper describes the institutional mechanisms of direct democracy in broader terms of public participation rather than direct voting. The second and third sections examine predominant claims and trends supporting and hindering democracy in general in Mongolia.

1. Background

Mongolia is the second communist country in the world after Russia and the first Asian country to transition from communism to democracy. In 1911 Mongolia declared its independence from the Manchu-led Qing dynasty and in 1921 it adopted communism and eventually became a so-called 'satellite' country of the Soviet Union (Udo 2013). In 1984, the *glasnost* and *perestroika* programs of the Soviet Union also influenced the political situation in Mongolia resulting in the ruling party (Mongolian People's Revolutionary Party, MPRP) officially adopting similar reform and restructuring policies at its Fifth Plenary Session held in December 1988 (Chultemsuren 2018, 15-24). However, in January 1989, the first unofficial groups were established to demand political and economic reform and by December 10 of that year, Mongolia's first opposition party called the Mongolian Democratic Union was created and organized its first public demonstration (Chultemsuren 2018, 15-24). In the spring of 1990, Mongolia held its first multi-party parliamentary elections and in 1992, Mongolia's Constitution ensuring a free and democratic society was ratified.

Today, Mongolia is classified as a free yet 'flawed' democracy. According to the Freedom House index, Mongolia's status has been 'free' since 1990 with a score of 84 of 100 in 2022 (Freedom House, 2022). The Economist Intelligence Unit's 2021 democracy index shows Mongolia's democracy to be 'flawed' with a

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score of 6.42, ranking 62nd out of 167 countries (Economic Intelligence Unit, 2022). Further, according to the Bertelsmann Transformation Index, Mongolia's status has slightly increased from 6.85 (1 being worse and 10 being best) in 2022 to 7.25 points as of today and the country remains a 'defective democracy'.
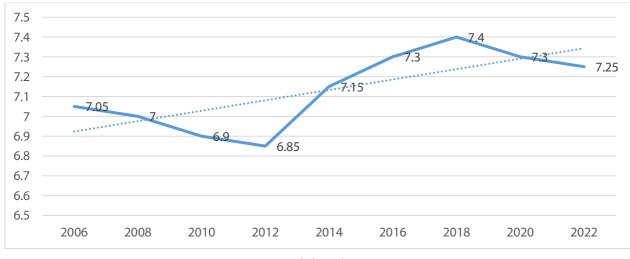
Figure 1. Bertelsmann Transformation Index: Democracy Status

Source: bti-project.org

International scholars highlighted several characteristics of Mongolia's democracy: an anomaly that successfully transitioned to democracy even though it did not have the necessary prerequisites, (Fish 1998; Fritz 2002), the absence of a democratic political culture, (Sabloff 2002), the prevalence of corruption as harmful for perceptions of and satisfaction with democracy (Fritz 2008), and the political implications of the country's over-dependence on the mining sector (Bulag 1998). In a more optimistic way, Fish and Seeberg (2017) distinguished the role of civil society as secret forces in strengthening democracy in Mongolia. Also, Julian Dierkes (2016) wrote that Mongolia's democracy has its own electoral legacy and there is a chance for the country to make a "reinforced dedication to democracy."

2. Institutional Mechanisms of Direct Democracy

Mongolia has been making progress in institutionalizing mechanisms of direct democracy since its democratic transition in 1990. The first democratic Constitution of 1992 includes several articles that have a bearing on direct democracy.[3] Since then, legal reforms have been undertaken to establish and strengthen democracy. During the early stages in the 1990s, foundational laws such as the Law on People's Referendums of Mongolia

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[3] **Article 3** stipulates "the people of Mongolia shall directly participate in State affairs and shall exercise such right through the representative organ of the State power established by their election." Clause 12 of **Article 16** stipulates "the right to submit petitions or complaints to the State organs and public officials, and get it resolved by those State organs." Clause 16 of **Article 16** stipulates "freedom of thought, opinion and expression, speech, press, and peaceful assembly." Clause 16 of **Article 25** on referendums stipulates that the State Great Khural "holds national referendums, verifies the validity of a referendum in which the majority of citizens who are qualified for elections have participated, and to consider the question which obtained a majority vote as decided."

(1995) and the Law on Non-Governmental Organizations (1997) were ratified. The 2010s saw another surge in direct democracy initiatives through the ratification of laws promoting government transparency, citizen participation, and participatory budgeting. Notable legislation includes the Law on Information Transparency and Right to Information (2011), the Integrated Budget Law, which allows direct participation by citizens in local development funds (2012), the Law on Glass Accounts (2014) requiring transparency of the state budget, the Law on Citizens Halls, and the Law on Deliberative Democracy (2017), all of which allow Mongolia to exercise various direct democracy mechanisms. This section elaborates on the current implementation of these mechanisms, challenges faced, and changes and reforms needed.

Various development partners and international NGOs including the Swiss Agency for Development and Cooperation (SDC), the United Nations Development Program (UNDP[4]), the Asia Foundation (TAF), International Republican Institute (IRI), and the Open Society Forum[5] (OSF) have been actively supporting Mongolia's direct democracy initiatives. Since 2007 the SDC has been supporting projects on transparency, citizen engagement, deliberative polling and participatory budgeting (SDC 2022). The IRI has been supporting the institutionalization of public hearings and the engagement of youth and women in decision-making (News.mn 2018). The UNDP has been providing technical assistance on e-governance, fighting corruption, and for the drafting of the Constitution (Parliament of Mongolia 2017). The various direct democracy initiatives have resulted in positive partnerships between the government of Mongolia, civil society and development partners.

The role of political leaders has also been important. For example, since 2009, former President Elbegdorj Tsakhia of the Democratic Party has been leading direct democracy initiatives. He has supported the projects that resulted in the ratification of the Law on Glass Accounts as well as, the establishment of Citizens' Halls and public hearing mechanisms. Since the Mongolian People's Party (MPP) won a parliamentary majority, the Speaker of Parliament Zandanshatar Gombojav has initiated a deliberative polling project (*Montsame* 2017) while his other party colleagues have been drafting laws that could potentially restrict civic space.

However, the incident of July 1, 2008, shaped and highlighted the need for promoting direct democracy and ruptured this first wave of peaceful transition. After the 2008 parliamentary election, in which there were allegations of electoral fraud and lack of transparency during the process, some opposition parties and civic movements organized a protest in front of the ruling party MPRP building. The protest turned into a riot and five protesters were killed, over 300 injured, 700 arrested, the MPRP building set on fire and physical clashes took place between citizens and police resulting in the country's first state of emergency being declared[6]. In retrospect, it is believed that the incident has negatively affected and disseminated fear among the citizens in the way they engage with the government.

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[4] UNDP implemented various programs and projects to support Mongolian democracy in the last thirty years. Please see https://www.undp.org/mongolia

[5] Please see more details. http://www.openforum.mn/

[6] A mass protest where about 220 civilians and 108 servicemen were injured, 700 protesters were detained, and 5 were shot dead. (Halasz 2008; Badamragchaa et al. 2008)

2.1. Referendums

Article 24 of the Constitution of Mongolia (1992) specifies the regulations surrounding people's referendums, and the Law on People's Referendums of Mongolia (1995) specifies that only the president, government, or Parliament (with at least one third of members voting in favor) have the right to initiate national referendums. This latter law has several drawbacks. First, it restricts the right of citizens to initiate a referendum. Second, it lacks clarity on what preconditions must be met to initiate a referendum. Third, there are strict limitations on holding repeat referendums if needed, making it difficult to use national referendums due to their irreversible nature. For example, if the resolution of the referendum needs to be amended after the referendum has been held, it can be done if at least three quarters of the Parliament agree, and the period within which a subsequent referendum can be organized is limited to five years for a referendum that passed with a clear majority and two years for a referendum that did not have a clear majority. Fourth, the cost of organizing a referendum is equivalent to that of a general election (Chultemsuren 2007).

As a result, following its adoption, the law was only amended in 2016 and thus far not a single referendum has been held[7]. Although no substantial changes were introduced in the 2016 amendment, the Law on People's Referendums was revised to make it consistent with the Law on General Elections, which uses automated election systems. The Constitutional Amendment in 2019 introduced a clause relating to referendums, stating, "Mongolia shall not allow any attempt to negate its independence and territorial integrity and prohibit [sic] a referendum for this purpose." The fact that referendums have been used for political motives in Russia and neighboring countries might have been the trigger to adopt such cautionary clauses.

2.2. Right to Information

The 2011 Law on Information Transparency and Right to Information (Law on RTI) requires all government organizations (the judiciary, Parliament, the executive, and local governments to fulfill transparency in operations, human resources, budgets, and procurement. The law specifies methods, timelines, and standards of information transparency to facilitate citizen access to information and to provide feedback to the government. The Independent Research Institute of Mongolia (IRIM) has engaged in regular monitoring of the implementation of this law and has documented the gradual improvement across organizations in transparency. Yet, the lack of timeliness, availability and relevance, and user-friendly information persists[8]. However, the 2016 Law on State and Official Secrets presented constraints on the progress made through the Law on RTI and, according to a CIVICUS analysis, "allows virtually all information to be classified as a state or official secret, leading in some cases to the prosecution of journalists exposing corruption (CIVICUS 2020)."

In 2021, laws on public Information transparency and protection of personal information were approved by the Parliament. The laws allow for establishing and use of open data and make improvements in the mechanisms of information transparency and access to information, but only for that information that is

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[7] The Parliament of Mongolia did not hold a referendum when it introduced amendments to the Constitution of Mongolia in 2000. When the second set of amendments to the Constitution were introduced in 2019, deliberative polling (explained later in this paper) was used.

[8] As of 2021, the government digital transparency index was 0.602 out of 1.0 according to the IRIM monitoring (IRIM 2021).

not classified as secret. However, as mentioned in the BTI index 2022, "the new law allows the government to define the scope of state secrets." The Globe International notes that the amount of classified information as a 'state secret' in Mongolia increased from 60 in 2017 to 565 in 2019, indicating a serious setback for the right to access information (Bertelsmann Stiftung 2022).

2.3. Petitions, Comments, and Complaint Mechanisms

The 1995 Law on Resolving Petitions and Complaints of Citizens to State Organizations and Public Officials (henceforth Law on Resolving Petitions and Complaints of Citizens) was a significant step forward in formalizing the political participation of citizens. The law aimed to ensure the right of every citizen to receive a response and proposed solution to their problems, offering four types of mechanisms for participation – petitions, proposals, notices, and complaints. The law has been revised several times. In 2003, improvements in the registration and status tracking of citizen complaints were introduced, and in 2009 articles to guarantee that those who lodged a petition or complaint would receive a final response and resolution were added. In 2016, additional clarifications were issued regarding how to handle appeals against the government response and how to address higher-level organizations and officials.

Despite these updates to the law, several further changes and reforms are needed. First, the period to respond to a petition or complaint should be shortened to meet the needs of the public in the digital information era. The current law specifies "a petition or a complaint shall be resolved within 30 days of its receipt," "this period may be extended for up to 30 days," and "a response to a petition with the nature of a proposal shall be provided within 90 days." Second, there should be clarity and criteria about the meaning of "resolve." Current practice considers a problem "resolved" when a written response is provided (Natsag 2013). Third, the distinction between the four types of feedback (petitions, proposals, notices, and complaints) should be revised to meet international standards, and the process to resolve them should be clearly mapped out (Chultemsuren 2005). The lack of clarity surrounding the definition of these main concepts has resulted in a poor registration and reporting system nationwide, which in turn has affected the ability to engage in adequate planning.

In 2012, Parliament[9] established a Standing Committee on Resolving Petitions and Complaints for the first time. The same year, the Standing Committee received 1090 petitions and complaints and since then, the number of petitions by citizens have been steadily increasing until 2016 reaching an average of 3,000-4,000 petitions and complaints in 2016. However, in 2018 the number declined to a total of 1,233 complaints/petitions received per year (State Great Khural Committee on Petition 2018). It is interesting to note that only 25 percent of the total petitions were issues pertaining to the public interest and in 2018 the proportion was even lower with only 9.2 percent (State Great Khural Committee on Petition 2015 and 2018).

The Standing Committee is an important mechanism of direct democracy and accountability, as it can create working groups, initiate public hearings, appoint analysts to conduct further investigation, or submit an inquiry from government officials and organizations. However, the current Parliament does not have a dedicated Standing Committee on Petitions and Complaints[10].

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[9] Parliament of Mongolia. http://urgudul.parliament.mn/content?id=31#.Y1eTcbbP2Ul
[10] State Great Khural. Ekhlel. https://www.parliament.mn/

2.4. Citizen's Halls

The first Citizens' Hall was established at the Government Palace in 2009 under President Elbegdorj Tsakhia as a permanent venue for public hearings on draft laws, the first of which would be the amendments to the Law on Freedom of Press (Benequista and Andy H. 2011). The Citizens' Hall provides the venue and means to discuss and incorporate public suggestions and concerns into draft legislation being considered (Benequista and Andy H. 2011). Since 2010, Citizens' Halls have been established at district/provincial and sub-district/*soum* (Mongolian name for a secondary administrative division) levels. Although the use of such facilities largely depends on the local government, citizens and local NGOs' initiatives (Chuluunbaatar et al. 2021), having a public space dedicated to discussing public issues is one of the important prerequisites for ensuring citizen participation in decision-making.

According to the 2021 survey by the IRI and IRIM, when the question "through what activities can ordinary people influence decisions made in our country?" was asked, 'petitioning' ranked as the sixth most popular mechanism, mentioned by six percent of the respondents (IRI 2021).

2.5. Public Hearings

The Law on Public Hearing (2015) provides that public hearings shall be held before the approval of administrative legal acts, and before the approval of administrative decisions concerning the public interest. The law provides mechanisms for direct democracy by allowing government organizations and officials to consult, monitor, evaluate, and obtain expert views on nine types of issues.

The proposal to hold a public hearing can be initiated by a citizen, local governments, or a legal entity. Parties who can participate in such hearings are those directly involved in the given issue, including the victims, the affected citizens or entities defending the rights of those affected.

In 2012, the Parliamentary Sub-Committee on Human Rights organized the first public hearing on the incident surrounding the event of July 1, 2008.[11] Since then, dozens of public hearings have been organized concerning both national and local level issues.[12]

Public hearings are regularly employed by a wide range of stakeholders at different levels regarding a variety of topics. The law has been amended and improved in a timely manner. However, efforts should be made to increase public knowledge about the public hearing mechanism, its potential for use, and monitoring on the implementation of the results of hearings.

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[11] https://legalinfo.mn/mn/detail/12254

[12] Examples include appointment of head of the Anti-Corruption Agency, local budgeting of Bayanzurh District of Ulaanbaatar city, land use planning, the access and right to education of children with disabilities, socio-economic development planning in Bayanzurkh District, and consultation on amendment of the Law on General Elections. Various international organizations including IRI and Open Society Forum were providing training and technical support in these processes.

2.6. Deliberative Polling

In 2015 at the invitation of the then Mayor of Ulaanbaatar Bat-Uul Erdene of the Democratic Party, Stanford University Professor James Fishkin visited the city to provide assistance in identifying development priorities and key development projects. In doing so, the deliberative polling method was tested.[13]

The 2017 V-Dem Annual Democracy Report prepared by the Gothenburg-based V-Dem Institute states that the key indicators of an 'engaged society,' namely principles of open, deliberative democratic processes have been declining in countries such as the United States and other countries "considered to be success stories for the third wave of democratization, such as Ghana and Mongolia, as well as in global powers such as Brazil and India (V-Dem Institute 2017, 43)."

Since then, Zandanshatar Gombojav (MPP) provided political support and leadership to draft and ratify the Mongolian Law on Deliberative Polling in 2017 based on Fishkin's theory of deliberative polling. The law stipulates that executive and legislative organizations at all levels can hold a deliberative poll to identify issues and consult with citizens on policy priorities. Such a poll should comprise a random and representative sample of the population to engage in dialogue with competing experts using carefully balanced briefing materials and questionnaires. This deliberative polling process is required prior to a constitutional amendment, projects to be funded by the local development fund, and for planning of cities and green facilities in public spaces (Naran 2019). The organizational cost is covered by the state budget.

Using this law, the first deliberative poll was held in Mongolia in April 2017 as part of an effort to amend the Constitution. The quantitative results were used as the basis for recommendations to the Parliament about which proposals had sufficient support to merit consideration in a constitutional amendment (Naran 2019). In total, 1,570 citizens were polled on six topics related to constitutional amendments and received a written explanation and oral consultation with experts (Lundeejantsan 2017). As the constitutional researcher Munkhsaikhan Odonkhuu observed, "It was an innovative experiment not only in Mongolia but also around the world (Odonkhuu 2021)." In 2018, deliberative polling was organized on various topics including illegal coal extraction, and in 2020 on protection of rangeland.

2.7. Local Development Fund

The Local Development Fund (LDF) initiative was based on the Integrated Budget Law (2012) and has been implemented by the Ministry of Finance with the support of donors including the World Bank and SDC across the country in all 330 *soums* across Mongolia (Khorolmaa 2019). The current LDF program financed through the Sustainable Livelihoods Project Phase 3 "aims to improve governance and community participation for the planning and delivery of priority investments in rural areas of Mongolia." The LDF sets out a mechanism for citizen participation, budget preparation, procurement, supervision, reporting and monitoring and evaluation. It builds on the Integrated Budget Law's articles on "local citizens' councils mandate to debate and approve local budgets and oversee execution and inform the

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[13]   News. City administration met https://vip76.mn/content/30068

public. The public can provide input to council discussions regarding budget preparation, and budgets must be made available to the public in a transparent manner (ADB 2021)."

Citizens in their localities participate in voting for their preferred local (*soum and khoroo*) projects. As reported by the World Bank and MoF in 2021, the percentage of citizens throughout the 300 *soum* reporting that LDF financed investments reflect their priority needs was 46.6 percent, less than half of those surveyed. Meanwhile, the percentage of *bagh* households participating in public *bagh* meetings was higher at 62.4 percent (a *bagh* is a subdivision of a *soum*).

The major criticisms about the LDF include the types of projects that can be financed through the fund at the local level are not often relevant to the citizens' needs and interests; and the performance evaluation system used to rank and reward soums is flawed as it tends to penalize highly populated areas (Khorolmaa 2019). Another criticism is that the local governments are merely increasing their capacities to prepare documents for auditing and monitoring while ignoring meaningful participation by their citizens.

There are other mechanisms of public participation as part of the State Decentralization Policy such as citizens' participation in setting local budget priorities and voting for LDF investments. However, the scale of these local budgets is relatively small, and the participation is not mainstreamed in the general state budget processes.

2.8. The Results of the Direct Democracy Initiatives

There are success stories using the mechanisms presented above in Mongolia. To state a few, the Constitutional Amendment held in 2019 used the deliberative polling mechanism; using the public hearing mechanism allowed the prosecution of those responsible for and involved in the shooting of protesters during the incident of July 1, 2008; the use of the Glass Account Law allowed the exposure of unnecessary procurement and purchases among state-owned entities; and women's rights NGOs have been fighting for and achieved the ratification of the Law on Domestic Violence and a package law on children's rights and protection. However, the use and enforcement of direct democracy mechanisms have been insufficient and there has been a lack of both political will and incentives to promote these mechanisms. Therefore, there remains a significant task to ensure the various direct democracy mechanisms are operational and effective, to ensure the participation of every citizen to protect their rights and to defend these mechanisms from private interests of politicians, in order to be able to hold decision-makers accountable.

3. Prevailing Claims about (Direct) Democracy

3.1. Popular Claims in Support of (Direct) Democracy

Major claims made to argue why direct democratic mechanisms should be implemented are linked to Mongolia's independence and identity as a free and democratic country, its small population that facilitates participation in decision making, opportunities for budgetary efficiency, and ensuring accountability. Groups supporting or advancing these views include civil society organizations (CSOs), media representatives, pro-democracy activists, and politicians.

Table 1. Claims in Support of (Direct) Democracy

Popular Claims in Support of Direct Democracy	Which Groups	Reasons/Rationale
Mongolia is a democratic country; the principle of citizen participation is in the Constitution.	Opposition parties (e.g. Democratic Party), journalists, activists, and CSOs	Depending on which party wins elections, the leadership of presidents, prime ministers and the Parliament is critical to support efforts to advance direct democracy.
The opportunity to directly influence decision making should be given to marginalized and vulnerable groups.	Marginalized and vulnerable groups (youth, older persons, people with disabilities), CSOs	Due to limited access to other lengthy participatory processes (writing official petitions and complaints, limited ability to use digital tools etc.).
The efforts needed for facilitating direct democracy mechanisms have been simplified and cost has decreased thanks to digitalization. Therefore, direct democracy mechanisms should be used more often.	Media, IT, Ministry of Communications	Tools used for direct democracy such as e-tools are expanding direct democracy. COVID-19 lockdowns emphasized the need for enhanced direct democracy.
Need for direct participation - Parliamentarians and local representative councils have been ineffective in reflecting and acting on the voices of the public.	General public	Expressed through demonstrations and social media demanding direct participation. Also providing opportunities and signals for the population to participate in politics. Reinforced by media and social media.
Citizens and businesses should not/cannot afford to wait for the bureaucracy and government to solve social problems. Hence, direct action and implementation is needed.	CSOs, communities, activists	Citizen cooperation and support – citizen groups and NGOs taking initiative to solve social problems.
There is a need for direct oversight of budgeting, contracting, and procurement. Accountability should be demanded from politicians.	Micro, small and medium-sized business owners	MSMEs bore the costs of economic loss during the pandemic and suffered from the embezzlement of public funds. This pushed MSME owners and employees to support democracy.

3.2. Popular Claims against (Direct) Democracy

Concerns about minority rights, voters' competence in making well-informed decisions, the potential misuse of referendums for political reasons and the potential external funding of citizen initiatives, and lack of authentic citizen movements and initiatives exist in Mongolia. However, the popular claims against direct democracy are mostly embedded within the larger discussion of claims against democracy rather than the direct democracy itself as shown in the table below.

Table 2. Claims against (Direct) Democracy

Popular Claims Against Direct Democracy	Which Groups	Reasons/Rationale
Nationalist claims – anti democratic claims and attacking so-called Pro-American 'liberals'	Nationalist groups	Extremist and discriminatory /far-right views are spread through social media.
National security concerns should limit the intervention of foreign agents and interference on government operations (CIVICUS 2020)	National security, justice and defense sector members	Mongolia's independence from and fear of external factors such as an over-dependence on Russia and China, could affect national development. Need for a friendly relationship with the two neighbors.
Unity and need to support each other. There is no need for debate or arguments during emergencies/crisis situations	Government, politicians, opposition	Prioritizing unity takes precedence over the notion of plurality and democracy.
CSOs should be restricted and controlled in terms of registration, funding, and operations to avoid money laundering and misuse by political powers (CIVICUS 2020)	Leaders and members of national defense, security, and justice systems	Increasing risks for money laundering, terrorist groups, and their call for disobedience.
Inequality - democracy only benefits the rich and their affiliated big businesses. Ordinary citizens get nothing from it.	Media, journalists, and politicians	Declining trust in representative democracy, increased corruption, unethical behavior of politicians. Increasing poverty and inequality - disappointed with democracy in the last 30 years and unfulfilled expectations.
Corruption - Democracy is ineffective in fighting rampant corruption		"It is notable that in many countries, such as Indonesia and Mongolia, democracy has not brought about reductions in corruption, even when a number of other aspects of democracy have improved since the time when democracy was first introduced to the country—over the last 20–30 years" (International IDEA 2008)
Mongolia should **prioritize friendly relationships** above all and avoid adopting values that are too 'Western' and 'liberal'	Nationalist movements	Unfavorable international environment and disinformation/propaganda by Russia and China
Lingering emergency situation justifies quick, direct decisions making rather than a lengthy consultative process	Government, Parliament and some academics	Increasing restrictions on demonstrations and protests in public spaces to defend the ruling party's interests.

| Rather than direct and regular criticisms that risk stalling progress, direct support is needed for the country's achievement of **long-term vision and prosperity** | Government/ cabinet, politicians | Due to several changes in government and instability of civil services, calls for government stability have been increasing.[14] Stagnating economic growth and uncertain times. |
| The '**masses**' are inherently uneducated and incapable of making informed and rational decisions therefore should not be included in governance[15] | Journalists, influencers, and politicians | Elitist arguments |

4. Elements Supporting and Hindering (Direct) Democracy

Some popular claims in support of implementing direct democratic mechanisms in Mongolia are enabled by several elements including the experience of electoral democracy, political leadership, digital and e-governance, social media, and civil society.

4.1. Elements Supporting Direct Democracy

4.1.1. Experience in Electoral Democracy

Mongolia is a democratic country; the principle of citizen participation is in the Constitution. Depending on which party wins elections, the leadership of presidents, prime ministers and the Parliament is critical to supporting efforts to advance direct democracy. Since the 1990s, Mongolians have participated in nine parliamentary elections resulting in a change in ruling political parties six times, eight presidential elections resulting in 5 different presidents, and eight local elections. This indicates the population has some experience of participating in various political and social movements and the foundations for representative democracy could be a useful factor in promoting direct democracy as well.

4.1.2. Political Leaders' Support

Since the 1990s, in each government led by varying political parties and leaders there has been support for direct democratic mechanisms. To state a few examples, in 1995 the MPRP decision-makers supported and passed the Law on Referendum and the Law on Resolving Petitions and Complaints of Citizens and the MPP led efforts to pass the Law on Deliberative Democracy (2017). During the Presidency of Ochirbat Puntsag (1993-1997), the Law on NGOs was passed and under the Democratic Party –affiliated Elbegdorj Tsakhia (2009-2017), several laws mentioned in earlier sections were passed. E-governance initiatives were advanced especially during the former and current Prime Ministers, respectively, Saikhanbileg Chimed and Oyun-Erdene

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[14] https://ikon.mn.n/2egn
[15] Prominent politicians decried the participation of "ordinary citizens" in a discussion of legal affairs, arguing that only a panel of experts should be allowed to comment on draft laws. https://participedia.net/case/1150

Luvsannamsrai. The political willingness of decision-makers and political leaders has been important to promote direct democracy mechanisms.

4.1.3. Digital and E-governance

The efforts needed for facilitating direct democracy mechanisms have been simplified and associated costs have decreased thanks to digitalization. Therefore, direct democracy mechanisms should be used more often. Instruments such as e-tools can expand direct democracy and are necessary to participate in it.

E-governance has become a major focus of the government of Mongolia. The e-Mongolia national program was first approved in 2005 with the aim of increasing the number of internet users and improving digital infrastructure in the country.[16] Between 2008 and 2012, the National Data Center was established,[17] and between 2012 and 2016, the e-governance national program introduced 25 types of digital e-services.[18] Since 2013, the call center 11-11 provides a platform for citizens to give direct feedback. This was expanded in 2019 to the Government Public Communication Center, which accepts feedback, transfers callers to the relevant government organization, and monitors the implementation of the program. Since 2018, the LDF voting exercise for prioritizing local development projects allowed online voting at the initiative of Ulaanbaatar City, the SDC and the TAF (Baljmaa 2021).

Overall, according to the United Nations' E-Participation Index, Mongolia ranked 65th with a rating of 0.736 in 2018. However, in 2020 the country slid to 87th place with a rating of 0.607 (United Nations 2020). The Global State of Democracy Report 2021 prepared by international IDEA highlighted Mongolia's use of digital applications to allow citizen participation. According to the report, "a number of democratic innovations have also been implemented in other regions during the pandemic. In Mongolia, an app was developed to allow citizens to digitally vote on infrastructure investments during the pandemic (International IDEA 2021)."

Although the digital transformation is making services easily accessible to citizens and providing more opportunities to participate in governance, as some studies note, Mongolia's preparedness remains insufficient, with one in five inhabitants living with limited access to electricity (Galbaatar 2020). The digital divide is real, especially among persons with disabilities and older persons (IRIM and UNDP 2021). Capacity building to improve the digital skills of marginalized groups, as well as support for e-participation and actual implementation of initiatives, monitoring, and accountability on the implementation are needed. Digital platforms are used mostly to regulate state to citizen relationships rather than the reverse or other feedback relationships. The enabling environment for citizens to use digital methods to directly participate and vote on issues pertaining to their needs remains inadequate.

4.1.4. Social Media

The Internet was first introduced to Mongolia in 1995 and started to become publicly used by 2001. In that year, only 1.26 percent of the population was using the internet while in 2018 it increased to 23.71 percent and 51.08 percent in 2020. The spread of internet use among the population has enabled direct communication and

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[16] Resolution #216 of the Government of Mongolia, 2005
[17] Resolution #78, Annex 1 of the Government of Mongolia, 2008
[18] Resolution #101, Annex 1 of the Government of Mongolia, 2012

information sharing related to direct democracy. Further data revealed by the Social Indicator Simple Survey (part of UNICEF's global MICS program) in 2018 shows 63.9 percent of men and 73.6 percent of women have used internet, 94.5 percent of men and 97.2 percent of women have used mobile phones, and 35.3 percent of men and 36.2 percent of women had used computer in the three months prior the interview (NSO 2019).
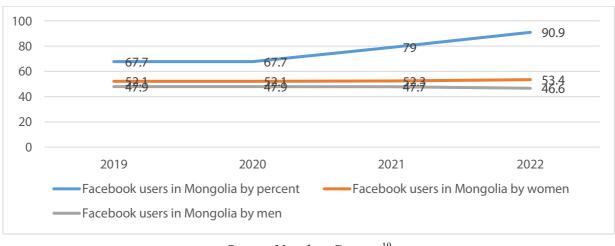
Figure 2. Facebook Users in Mongolia (2019–2022)

Source: NapoleonCat.com[19]

The above graph data shows the percentage of Facebook users in Mongolia; the average figure is higher than the global Facebook user rate (40.8) (World Population Review 2022).

Similarly, the number of people using social media in general and Facebook in particular has significantly increased since 2013, reaching the highest country in Asia by number of Facebook users per capita (World Population Review 2022). In the same nationwide survey by the IRI and IRIM in 2021, 67 percent of the respondents mentioned they received political information primarily from social media (IRI 2021). Furthermore, the same survey revealed 29 percent of the respondents considered 'raising concern on social media' as a main activity for ordinary people to influence decisions made in Mongolia (IRI 2021). Among those who saw using social media as the main way to influence policy, young people aged 18-35 were the majority.

Therefore, on the one hand, the internet and social media overall present opportunities for citizen mobilization and movements, as well as influencing policies. Several online movements and actions have been organized recently during COVID-19 restrictions.[20] As highlighted by International IDEA, "today's communication revolution facilitates greater direct participation by citizens in their own governance […] where citizens can instantly communicate with elected leaders through on-line petitions, blogs, tweets, and Facebook posts (McLoughlin and Shah 2016)."

On the other hand, the issue of digital divide remains a pressing challenge. According to the qualitative assessment of digital access, vulnerable groups are most susceptible to the digital divide and vulnerable groups in rural areas face a 'double digital divide' in Mongolia (IRIM and UNDP 2021).

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[19] https://bti-project.org/en/about
[20] No Naadam movement initially started on social media and later turned.

4.1.5. The Role of Non-Governmental Organizations

There is a general tendency in Mongolia to use the terms civil society organizations (CSOs) and 'NGOs' interchangeably. The Law on NGOs was first ratified in 1997[21] and was amended in 2002 to add 'regulations on foundations;' in 2003 to make changes to the registration of NGOs; and in 2015 to dissolve NGOs, to require NGOs to report their activities to the National Registration Office and to introduce punishment based on the Criminal Law and the Infringement Law for those NGOs that did not submit reports. In 1998 Mongolia had in total 1075 NGOs while in 2020 there were an estimated 24276 NGOs of which around 11,000 are active and the rest are inactive or non-operational (Batsugar and Saranchuluun 2021).

So far, there have been four unsuccessful attempts to significantly amend the Law on NGOs. These attempts can be classified around several issues as explained by government agencies. First, to clarify the definition of NGOs, to identify their different types, and to diversify and refine their registration process. Second, to regulate the NGOs' financial income and taxation issues, and third to regulate the reporting and accountability of NGOs.

The latest attempt to regulate NGOs was initiated by the Ministry of Justice and Internal Affairs, which submitted two bills on associations and on foundations. However, researchers note that these attempts have also focused on controlling and limiting civil society activities and to reduce external donor funding in support of national and local NGOs (Batsugar and Saranchuluun 2021). According to a political analyst in Mongolia, these bills expose Mongolian CSOs to be at significant risk and 'revamp the country's NGO regulatory environment' (Castagna 2022). There is a strong push-back from CSOs against these restricting efforts and IRIM is also actively participating in defeating these harmful proposals, suggesting more appropriate upgrades to the regular environment. According to a 2021 national poll that asked, 'Through what activities can ordinary people influence decisions made in our country?' 8 percent of the respondents mentioned 'engage in CSOs," making it the fourth most named activity (IRI 2021).

4.1.6. The Support of Democratic Countries

International cooperation with democratic countries provided opportunities to promote democracy and support democratic parties and civil society actors. The financial and technical assistance provided in the early stages of the transition played a vitally important role in encouraging democratic change and discouraging rollbacks of democratic progress. Although such encouragement was often coupled with the push to gain membership in international financial institutions and adopt 'shock therapy' policies, Mongolia's integration to the international system allowed the country to assert its independence by establishing the identity of democracy and by facilitating a relationship with the world 'beyond its expansionist neighbors.' This identity as a democratic nation along with a relatively free market economy, forms the foundation of its 'Third Neighbor' policy that forges close ties with industrialized and democratic nations globally (Campi 2020). However, the support from bilateral and multilateral organizations for promoting democratic values has been shrinking in recent years coupled with the worrying developments in 2021, including the introduction of a law prohibiting foreign grants to CSOs in Mongolia (Delegation of the European Union to Mongolia 2022).

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[21] https://legalinfo.mn/en

4.2. Elements Hindering Direct Democratic Mechanisms

4.2.1. Decreasing Public Trust and Youth Disappointment

The Sant Maral Foundation's nationwide polls indicated in 2010 that the proportion of respondents stating they are 'satisfied'[22] with democracy and the present political system was 18.8 percent while in 2022 only 9.3 percent indicated this. Furthermore, the same polls asked, 'In your opinion, how much influence do voters have on political decision making?' In 2010 27.3 percent said they have a rather strong influence on political decision making, but in 2022 it had fallen to 15 percent.

Similarly, results of the 2020, 2021 and 2022 IRI and IRIM polls overall show the majority of Mongolians still believe democracy is the best possible form of government yet there is a tendency of declining public satisfaction and trust in democracy (IRIM 2020; IRI 2021; IRI 2022). For example, the 2020 National Survey of Mongolian Youth showed 55.3 percent viewed Mongolia as a flawed democracy and 42.1 percent were dissatisfied with 'the way democracy is developing in the country' (IRIM 2020; Myagmartsooj 2021).
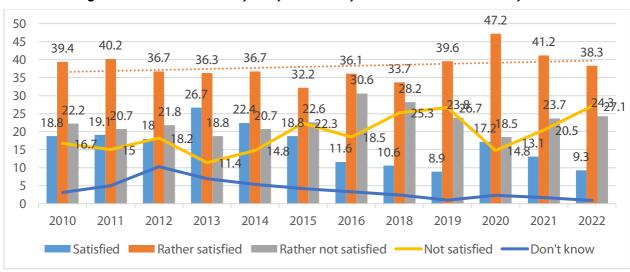
Figure 3. How Satisfied are you by Democracy and the Present Political System?

Source: Sant Maral Foundation https://www.santmaral.org

According to an expert survey conducted by the Academy of Sciences, nearly 68 percent of experts assessed the quality of democracy in Mongolia as regressing in 2016 in contrast to nearly 90 percent who saw it as progressing in 1992 (Khatanbold 2016).

The survey results mentioned above indicate Mongolian citizens' trust and satisfaction with democracy are declining and there is a need to promote direct democracy as a way to restore links between citizens and decision-making.

The disappointment in democracy among the public is occurring concurrently with an increasing trend in nationalistic views. Nationalist claims embedded in anti-democratic messaging that targets so-called

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[22] The poll used four scales – satisfied, rather satisfied, rather not satisfied and not satisfied.

pro-American 'liberals' are appearing. Extremist and discriminatory or far-right views are widespread through social media often amplified by political leaders rejecting pluralism and demanding unchecked power.[23]

4.2.2. Poverty and Inequality

Mongolia used to receive external assistance from the former Soviet Union through COMECON (Council for Mutual Economic Assistance) which ended with the fall of the Soviet Union. Subsequently in the early 1990s, the Mongolian government implemented the so-called 'shock therapy' program to transition from a planned economy to a free market one (Rossabi 2005, 10-20). In 1994, the GDP per capita was 412 USD while in 2009 it had reached 2109 USD per capita before declining back to 1688 USD following the global financial crisis. Thanks to an increase in coal and copper prices, the GDP per capita reached its peak in 2014 (4292 USD) yet as of 2020 it was down to 4,245 USD. Although the economic growth had reached 17.3 percent in 2012, since then and in 2018 the growth stagnated at 1.2 percent.
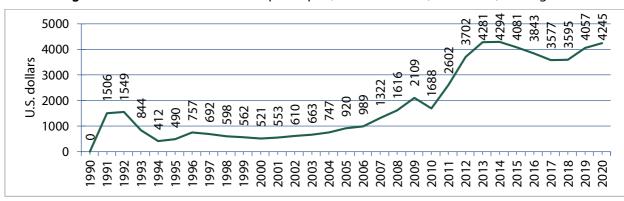
Figure 4. Gross Domestic Product per Capita, Current Prices (U.S. dollars) - Mongolia

Source: https://knoema.com/atlas/Mongolia/GDP-per-capita

As highlighted in the Mongolia's Economic Prospects report prepared by the Asia Development Bank (ADB), over three decades after the democratic transition, "poverty remains high and there is a strong perception among the population that inequality—not only of income but also opportunity—is increasing (ADB 2020)." This relates to the popular claim against democracy which is "democracy only benefits the rich and their affiliated big businesses but ordinary citizens get nothing from it."

The cases used for promoting authoritarian regimes for higher economic performance are taken from elsewhere including China, Russia and Kazakhstan. The poverty rate in Mongolia was 36.3 percent in 1995 and as of 2020 it remained high at 27.8 percent, meaning nearly one third of the population live below the poverty line. Furthermore, as reported by the National Statistics Office, the Gini index was 33.2 percent in 1995 and 33 percent in 2018. However, looking at regional disparities in Human Development Index (HDI) rates provides a more qualitative assessment of inequalities in Mongolia.

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[23] For example, the Facebook page the Darkhan Mongol Green Union (DMNN) regularly posts similar content. https://www.facebook.com/dmnegdel/posts/1674334319512538/

Figure 5. WB, World Development Indicators (WDI) Poverty Headcount Ratio at National Poverty Lines (% of population): Mongolia

Source: https://knoema.com/atlas

The consequences of poverty and inequality are not harmless. There are many ways inequality can affect democracy. The relationship between democracy and inequality are formed through distrust in institutions; through the composition of social class and polarization (e.g. rural versus urban, rich versus poor) which becomes a breeding ground for populist politicians to find easy and quick solutions; and ineffectiveness of governance including corruption. The Asian Barometer Surveys between 2002 and 2014 reveal the nexus between democracy and inequality. In 2002, 52 percent of the respondents in the nationwide survey opined that reducing economic inequality was more important, while 25 percent placed greater importance on protecting political freedom and 21 percent said both were important. This proportion changed in 2014, when 69 percent said reducing economic inequality is important, 22 percent protecting political freedom, while only 6 percent mentioned both as important (Damba, 2018). Democracy does not reduce inequality per se and quality and coverage of democratic institutions matter more in reducing inequality than their mere presence.

It is interesting to note that between 2010 and 2014 economic growth was high, reduction in the poverty rate was significant and legal and policy changes promoting direct democracy mechanisms were extensive. However, more research is needed to identify the relationship and pathways between economic growth and direct democracy initiatives during these years.

4.2.3. Governance Ineffectiveness and Corruption

Since the 1990s, Mongolia has been grappling with the challenge of corruption. According to the World Bank's governance indicators, Mongolia's score in the Control of Corruption index has been steadily decreasing from +0.11 in 1996 to -0.76 in 2009, when it bottomed out. Since 2010 there were slight increases and as of 2020, the index remains low at -0.46[24].

Researchers stress the roles of corruption and power elite in the pattern of 'captured democracy' where changing political institutions is more difficult than changing economic institutions "whereby democratic institutions may survive but end up creating equilibrium economic institutions that are in line with the interests of the elite (Acemolgu and Robinson 2008)." Meanwhile, Hartwell et.al. stress that democracy is more effective to "minimize resource-related inequality relative to more authoritarian states (Hartwell et al. 2019)."

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[24] The index ranges from approximately -2.5 (being worse) to 2.5.

As noted in International IDEA's Asia-Pacific report, "It is notable that in many countries, such as Indonesia and Mongolia, democracy has not brought about reductions in corruption, even when a number of other aspects of democracy have improved since the time when democracy was first introduced to the country—over the last 20–30 years (International IDEA 2021)."

Figure 6. World Governance Indicators: Control of Corruption Score for Mongolia between 1996 and 2020

Source: Worldwide Governance Indicators, www.govindicators.org, the World Bank

COVID-19 restrictions have worsened the situation. The lingering emergency justified swift and direct decision-making rather than a lengthy consultative process coupled with increasing restrictions on demonstrations and protests in public spaces. This was made possible through the passing of the Law on Prevention and COVID-19 and Mitigation of its Social and Economic Impacts and other draft laws that were passed by Parliament.

During the COVID-19 pandemic, the number of cases in which activists and citizens were attacked and arrested by policemen increased as they protested against government measures (NHRCM 2021, 25-46). For example, protests and movements named No Naadam and No Double Standard were held in 2021 raising concerns about poor and unfair COVID-19-related regulations while the Do Your Job movement was organized in 2022 to raise issues about soaring inflation and the unfulfilled promises of the country's democratic transition. Furthermore, micro, small and medium enterprises bore the costs of economic losses during the pandemic and also suffered from the embezzlement of public funds. This pushed the small enterprise owners and employees to demand direct oversight of budgeting, contracting, and procurement.

4.2.4. Pressure from the Big Powers

Mongolia's independence from and fear of external actors, especially concern about over-dependence on its two authoritarian neighbors, Russia and China that could hinder the country's development, characterize its international relations. However, there is also a need to keep friendly relations with these two neighbors and a

tendency in the name of 'national security concerns' to limit the intervention and perceived interference of 'foreign agents' in government operations (CIVICUS 2020).

In this regard, Patrick Wintour wrote in *The Guardian* that "Mongolia, a squeezed outpost of democracy in north-east Asia, is under renewed pressure from its authoritarian neighbors, Russia and China, to shed its independence and form a triangle of anti-western cooperation in the wake of the war in Ukraine (Wintour 2022)." Recent citizen movements such as the movement to oppose the War in Ukraine in front of the Russian Embassy in Mongolia have faced unequal treatment and punishment from the police and related authorities (Undarmaa 2022; Dorgio 2022a). The movement also opposed Mongolia and Russia's joint military exercises held in 2020 and 2022 and again was criminalized for its opposition (Dorgio 2022b). These events expose the contradiction between the citizens' efforts to exercise direct democracy mechanisms and the geopolitical interest and policies of the current government of Mongolia.

5. Conclusion

The technical, legislative, and cultural environment, as well as the leadership of politicians and non-state actors favorable to direct democracy exist in Mongolia. Nonetheless, recent years have seen accelerating regression, with increasing censorship of freedom of expression and speech, as well as demonstrations and protests during COVID-19 lockdowns. This has been exacerbated by the unfavorable external environment and events including the mass protests in Kazakhstan, economic dependence of Mongolia on China strongly felt through border closures during the pandemic, and Russia's invasion of Ukraine. Furthermore, the declining support of Western bilateral and multilateral organizations for promoting democratic values has been strongly felt.

As noted by Chuluunbaatar Gelegpil, on the surface the mechanisms of citizen participation seem to have developed yet the incentives, the way citizens protect their rights and voice their concerns, as well as the results of these actions have been insufficient and does not meet various quality criteria of democracy (Chuluunbaatar 2020).

In terms of direct democracy mechanisms, although they were introduced through various legislative acts, their use has been scarce. The facts that the Law on Referendum has not been used since its ratification, and that the proposals for new laws and regulations are often made by government officials and politicians rather than citizens themselves indicate direct democracy mechanisms have not been embedded. Hence, it is important to promote the regular and effective use of direct democracy mechanisms in voicing and defending the interests of citizens.

The following short to mid-term recommendations are intended to strengthen direct democracy mechanisms. First, there should be a revision and update of the laws and regulations related to direct democracy mechanisms: most importantly the **Law on Referendum** by bringing it in line with recent developments to reflect citizen views in decision-making; the Law on RTI by reversing the harmful clauses related to state secrecy and continuing monitoring the implementation of the law; **Law on Resolving Petitions and Complaints** by updating it to meet international practices, reduce bureaucracy and length of days to respond to comments and complaints to up to five working days, instead of thirty.

Second, to encourage use of Citizens' Halls, increase the budget allocated to operationalize them and allow local CSOs to use them. The use of deliberative polling in decision-making should continue expanding and the capacity of external and independent research organizations should be increased to organize deliberative polling. Third, the Local Development Fund mechanism should focus on quality of citizen engagement rather than meeting administrative requirements and the existing good practices should be promoted. Finally, to avoid further democratic backsliding, the proposed laws on Associations and Funds (2021) should be reconsidered: rather than restricting NGOs there should be more incentives to support accountability and transparency of operations of NGOs and to allow NGOs to access a variety of funds without fear of political implications.

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Country Case 7: Malaysia

Malaysia's Ongoing Tussle with Democracy

Halmie Azrie Abdul Halim[1], Amanda Loi[2] & Sean Eeshwaran[3]

Institute for Democracy and Economic Affairs

Abstract

As a result of the undercurrents of change since the twelfth general election (GE12) back in 2008 with opposition parties winning several state governments and then the popular vote in the thirteenth general election (GE13) in 2013, Malaysia gradually began making difficult transitions away from the traditional political arrangement of consociationalism, as well as colonial legacies like patronage and feudalism. Following Malaysia's fourteenth general election (GE14) in 2018, there was a genuine sense of optimism brimming in the imagination of many citizens. A more democratic environment began to organically take shape in many layers of Malaysian society in tandem with the gradual electoral rejection of the long-ruling National Front (Barisan Nasional) coalition. This culminated in the first ever democratic change of federal government in GE14 after more than six decades of single-party dominance.

However, the sudden fall of the Pact of Hope (Pakatan Harapan) coalition in 2020 due to party defectors and ideological differences led to an unprecedented political and constitutional crisis that gave birth to a new governing coalition named the National Alliance (Perikatan Nasional). After witnessing the government's poor handling of the COVID-19 situation and blatant attempts to undermine democratic pillars, Malaysians again endured a period of uncertainty as the National Alliance coalition went through an internal reshuffle involving the prime minister's post. All of these recent incidents gave rise to many questions concerning the health of democracy in Malaysia. Some citizens feel utterly confused and disillusioned with the entire democratic process, while others find it actually galvanizing to pursue alternatives via more direct forms of democracy.

1. Introduction

Many observers of Malaysia anticipated a more progressive form of democracy for the country in 2018 as it uniquely bucked against the global and regional trend of sliding backwards into a more authoritarian regime

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[1] Researcher, Democracy and Governance at the Institute for Democracy and Economic Affairs (IDEAS)
[2] Former Intern at IDEAS
[3] Former Intern at IDEAS

or being taken over by far-right populist rule. Unfortunately, after only a couple of years of being in opposition, the deposed National Front coalition effectively manufactured an ultra-conservative narrative in 2018 to entice its long-time political rival, the Pan-Malaysian Islamic party (Parti Islam Se-Malaysia), into working together to form the National Concord (Muafakat Nasional) as a purely Malay-based political cooperation to put pressure and destabilize the multiracial Pact of Hope government, as well as potentially return the National Front coalition to power. This strategy led to the eventual resignation of the seventh Prime Minister Dr. Mahathir Mohamad.

The sudden and controversial resignation was mainly due to Dr. Mahathir's refusal to commit to his electoral promise of handing over succession to the Pact of Hope coalition chairman Anwar Ibrahim and the cabinet's inability to counter the ultra-conservative narratives of Muafakat Nasional, leading to the self-sabotage of the promising "New Malaysia" agenda. Leadership ambiguity and political turmoil ensued for several weeks in February of 2020 until the hastily assembled National Alliance coalition stepped in as a substitute amidst the start of the pandemic. This "appointment" was done without going through a vote of confidence in Parliament, but rather was facilitated by the monarchy on the basis of resolving the ongoing crisis amidst the looming threat posed by the COVID-19 pandemic.

The far less transparent and rather desperate installation of the National Alliance government without the people's mandate led to clear and urgent demands from the Malaysian public, especially across its civil society, to rethink democracy and reform its decaying institutions that could no longer protect the interest of the voters. In less than seventeen months, the eighth Prime Minister Muhyiddin Yassin was forced to make way for the current Prime Minister Ismail Sabri Yaakob to avoid being removed in a vote of no confidence in Parliament. This was against the backdrop of Muhyiddin Yassin suspending Parliament under emergency rule and subsequent insolent behavior from several of his cabinet members in manipulating the monarch's decree to extend the National Alliance political advantage.

As a result, Ismail Sabri acceded into the prime minister's post, but was forced to make numerous concessions for the reform agenda that were dealt out as part of a Memorandum of Understanding (MOU) between the fragile government and the largest opposition bloc led by Anwar Ibrahim. This arrangement invited initial public criticism as the deal was discussed and done behind closed doors between the leaders of the respective parties and their supporting Members of Parliament (MPs). A lot of party loyalists at the grassroots level from both sides were also hesitant to support the arrangement, as indicated by the online petition titled "We don't want Ismail Sabri Yaakob to be prime minister of Malaysia" which was signed by more than 300,000 individual Malaysians in just several weeks. The people's sentiment was palpable, but it was completely ignored (Rodge 2021; FMT 2021).

Such an "elite" form of deliberation adds salt to the wounds of the voters who already felt cheated by some of their elected representatives who jumped ship and collaborated with the electoral losers during the infamous "Sheraton Move." Many of the policy reforms promised in the Pact of Hope manifesto were either suspended or incomplete. This frustration was further exacerbated by the double standard SOP practiced by law enforcers during the COVID-19 lockdowns in Malaysia under the National Alliance government that gave high-profile politicians under its influence plenty of leeway, whilst the public received the full brunt of penalties. There is a huge deficit of trust towards the entire political establishment on both sides of the aisle,

triggering conversations of renewing calls for a more inclusive and direct form of democracy that can actually help resolve some of the real issues that average Malaysians are facing, such as restoring livelihoods in a post-pandemic era, addressing the rising costs of living due to inflation, and battling rampant corruption.

2. Definition and Local Context

Essentially, direct democracy is a political process which aims to gather the relevant stakeholders, or those citizens whose daily interests and future prospects are affected by a particular issue, to willingly participate in expressing their opinions and exchanging ideas. Once these valuable inputs are shared and critically evaluated amongst their peers, participants begin to discuss and determine for themselves what sorts of policies derived from the dialogue are best put forth in the interest of all members of the public, irrespective of background or social status. Once a consensus is reached, this inclusive decision-making approach not only gives citizens a platform to voice their concerns and influence policymaking, but more importantly, it gives a certain measure of responsibility to the stakeholders themselves to ensure that their recommendations are indeed implemented, thereby letting them develop a sense of mutual ownership of public policy.

Deliberative democracy, or participatory democracy, has been described as a nascent social movement, a response to the perceived inadequacies of representative democracy. The Deliberative Democracy Consortium defines the concept as follows:

> Deliberation is an approach to decision-making in which citizens consider relevant facts from multiple points of view, converse with one another to think critically about options before them and enlarge their perspectives, opinions and understandings. Deliberative democracy strengthens citizen voices in governance by including people of all races, classes, ages and geographies in deliberations that directly affect public decisions. As a result, citizens influence—and can see the result of their influence on—the policy and resource decisions that impact their daily lives and their future.

Historically, Malaysia has practiced an indirect form of democracy, which is the representative mode it inherited from its British colonial experience. This foreign concept was carefully designed and infused with the existing local context during the early formation of the Federation to establish the current modern system, which is a constitutional monarchy. Nevertheless, Malaysia's democracy is somewhat distinct compared to other nations in the world on the basis of its complex power structures and diverse social fabric. Even at the highest level, the elected King (Yang di-Pertuan Agong) is subject to consultation with his fellow brethren through the Conference of Rulers (Majlis Raja-Raja) regarding any official matters. As there are nine monarchs in Peninsular Malaysia, they each assume Kingship of the Federation of Malaysia on a five-year rotational basis after internal deliberations.

Beneath the royal institution, which is limited by the federal Constitution, are the executive, legislative, and judiciary branches of government that were heavily adopted from the Westminster system. As the executive and legislative branches are fundamentally elected from amongst the public, it is here that the

functions of democracy apply. Candidates stand for elections at both federal and state levels on behalf of their constituencies, and the prevailing winners then enter the lower chamber of a bicameral parliament structure or state assemblies to convey issues, debate motions, and suggest policies to be enacted. The party or coalition that gains the majority of MPs in the lower house will go on to form the cabinet for the executive branch.

Delving deeper into Malaysia's representative democracy, the interactions or affiliations between the MPs and their grassroots base through various avenues and local activities remain a vital component of public engagement. As representatives, maintaining such physical outreach and channels of communication is necessary to enable greater participation among the constituency. It also functions as a means of information dissemination for government initiatives, whereby national agendas are explained to the public and feedback is channeled through the elected representatives, who then take this feedback into consideration when forming policies at the executive level or passing laws at the legislative level. Nevertheless, there exist crucial gaps within such dealings, with the example of some MPs who respond by providing community services and cash handouts for their voters to curry favor for the next electoral cycle.

3. Core Concept and Examples

Elaborating further, direct democracy in our understanding contains two components, namely the deliberative element and secondly the participatory element. With regards to the deliberative, an example would be a citizen's assembly that functions to gather the relevant stakeholders so that they may interact with other fellow stakeholders with a goal of reaching a consensus on a particular problem. The more deliberation takes place in these sorts of public spaces, the more direct form of democracy is established. The other element is participatory, which to us means the extent to which digital democracy can foster greater inclusiveness and enhance opportunities for collaboration. The greater the reach made by incorporating more technology into our democracies, the better inclusion can be obtained for all types of people in communities to participate in direct forms of democracy.

There exist clear gaps between the citizens and the state on these two components, leading to voters feeling disenfranchised and disempowered. The decreasing level of trust in politicians and disenchantment with the political system is a growing modern phenomenon which contributes to the erosion of liberal democracy worldwide. Although there has always been demand for greater citizen input in the decision-making process via community actions and wider engagement, the openness by the state itself towards more deliberation and better participation varies from time to time. People do want to have a say in decisions that affect their lives, hence the importance of voters to influence governance. Only by organizing more grassroots deliberations and expanding the digital reach will policy be democratized and brought closer to the public in terms of communication and involvement.

Some of the positive experiences from abroad of direct democracy working include the Switzerland model, which practices that any law enacted by the nation's elected legislative branch can be vetoed by a vote of the general public. The citizens can also vote to require the national legislature to consider making amendments to the Swiss constitution. The main argument in favor of the benefits is that direct democracy makes the government more accountable and transparent. It demands a great level of commitment on the part

of the government because it is made fully aware of the public's intentions from the get go and must deliver on those demands. Furthermore, interference in the legislative process from political parties is largely decreased. Another aspect is increased citizen cooperation as people are more likely to comply with laws they create themselves. When people believe that their opinions matter, they are more willing to take part in the processes of government.

Another popularly cited case study is the Ireland model with the Irish Citizens Assembly and its constitutional conventions. Done at a national level as recently as 2021, it is now beginning to take place in local governments as a level-up agenda to disseminate direct democracy effectively. The Irish Citizens Assembly did not replace any of its democratic structures but rather strengthened their representative democracy by bolstering the role of its people in the system. The key lesson from their success story in implementing direct democracy is how crucial it is for citizens themselves to have workable links, especially in terms of communication and involvement with their representative institutions, from policymakers to civil servants, and with politicians in the executive and lawmakers in the legislative.

One of the major obstacles they faced was battling the perception on what constitutes a legitimate way of policymaking, between the Citizens Assembly's resolutions and the local council's authority. Efforts were made by the Citizens Assembly leaders to convince their local councils, who understandably were nervous of status quo powers suddenly being redistributed to the public. It was a steep learning process for both sides to adjust and complement each other's roles in a more direct form of democracy. All this time, we have witnessed lobbying conducted by various interest groups such as industry, consultants, unions and even civil society organizations that "speak on behalf," so why shouldn't the people themselves directly lobby for what they want in their own communities? Shifting such narratives is a gradual process and will take an investment of time as well as resources.

Politicians have been largely out of touch with citizen needs, often having only limited opinion polls or media vox pops, which are merely informal comments that reflect a small segment voicing public concerns or conversations that occur during meet and greet sessions as their "go-to" point to shape policy. A more systematic and structured way to gain insights from the public is needed to improve the quality of democracy. Randomly selected but informed citizens, for example, by sorted interviews, could gather in a citizen's assembly to allow policymakers to listen to evidence from all sides involved in a more representative and inclusive decision-making process, and not just rely on personal opinions from polls or media soundbites.

Direct democracy gives citizens an avenue to prove that they are capable of serious debates and not just random thoughts, unlike how most politicians view them. This requires citizens to reorient their politics by shifting conversations from merely wanting something beneficial, like material aid or cash handouts, to more practical solutions such as co-ownership or collective bargaining. It is also more relevant in the fast-moving age of information as voters become far more educated and do not see the average five-year electoral cycle as sufficient to compel politicians to make better decisions. A higher level of engagement and frequency due to access to hybrid forms of media makes the conversation on policymaking and democracy much more complex and intricate.

This is why allowing citizens in on the policymaking process is actually a gain because trust is gradually built between all parties involved, and the needs on the ground are better understood by the

implementers when proposing a suggested policy. One more interesting dimension in which direct forms of democracy can make significant changes is through indirectly helping with intra and inter party divisions or deals with the various factions that emerge between coalition partners that have the potential for political deadlock. Bringing the public's voice into the political culture conversation creates a conducive atmosphere for reforms that is less adversarial, especially when it comes to unpopular or very sensitive issues that are difficult to de-politize such as marriage equality, abortion, or climate change.

Another worthwhile example would be the Westminster Citizen's Assembly, a combination of several MP select-committees pushing forth the Climate Assembly UK (CAUK 2021) that focused on the climate change emergency at the legislative branch. Unfortunately, it did not get enough buy-in from the executive branch that was battling the COVID-19 pandemic. A decent citizen's assembly set-up is best led by former senior civil servants who would have the basic know-how on policymaking processes. Such an actor would also be given some measure of operational independence and room to implement safeguards needed to make autonomous evaluations to improve the degree of clout and influence of the citizen's assembly. The citizen's assembly can also be enhanced to lead to referendums and constitutional amendments to better reflect the quality of democracy.

Through the citizen's assembly platform, a unique type of cooperative endeavor takes place between the government, Parliament, civil society organizations and citizens to produce outputs and establish networking links that can have a positive impact on the public's measure of trust towards democratic institutions. This can only occur after making sacrifices of time, effort and thought exchanges. Policymaking can evolve from the zero-sum game practiced by political parties into a win-win situation when a consensus is reached to formulate new stories for the sake of the future and the overall greater good. Citizen's assemblies such as those in Switzerland, Ireland and UK, as well as others in Canada and Scandinavian countries, give a competent model that celebrates diverse narratives by putting concerns raised by the right's common sense and the left's marginal classes to gaining from each other's learning and experience to open up space for innovation and new ideas to emerge.

4. Neighboring Developments

Although Malaysia shares a geographical landscape and common cultural features with the rest of ASEAN, the country's path to democracy differs greatly from its counterparts. The experience in gaining independence, its population makeup, and the political choices taken by the founding fathers when appraising democracy were dissimilar. Due to anxieties surrounding racial and religious sensitivity, Malaysia chose to adopt a more exclusive form of democracy that entrusts its elite segments of society to assume leadership decisions and facilitate items relating to personal liberties. Direct democracy was not an attractive option during the inception of Malaya as a nation-state back in the 1950's, yet the topic seems fairly relevant today, especially for the younger generation. Direct democracy is being explored seriously given the challenges and changes taking place in many contemporary democracies.

Malaysia's strategic location in the heart of Southeast Asia, along with its long-held stable democracy (which some define as a semi- or quasi-democracy) provides it with generous access to its neighbors' political

developments so as to learn from their different models of governance. That being said, popular trends and new changes, particularly those pertaining to democracy, that occur in the ASEAN region will in some way or form permeate Malaysia and impact its own trajectory. The propagation of identity politics and the appointment of "strongman" leaders amidst crises have recently stalled democracy's inroads in this region. The examples of very open democracies such as Indonesia and the Philippines practicing direct or deliberative democracy at the village or community level are offset by the extreme fundamentalist and populist authoritarian tendencies in the very same countries.

Additionally, Malaysia's well-developed infrastructure as compared to the rest of the region has given many Malaysians wider access to international news coverage and knowledge exchanges from universities abroad regarding the political experiments performed in more advanced liberal democracies. Malaysians have, at their fingertips, access to real-time updates on events such as the United Kingdom's exit from the European Union (Brexit), the presidency of Donald Trump in the United States, and the Arab uprisings across the Middle East and North Africa (MENA) region, allowing them to observe the many volatile drawbacks and difficulties of sustaining democracy. These global events, coupled with the nearby examples of China's rapid prosperity despite its excessive display of human rights violations, as well as India's escalating social polarization despite being the world's largest democracy, have put discussions on democracy in Malaysia at a disadvantage.

5. Recent Issues

As a consequence of Malaysia's rapid modernization in the 1980's and 1990's, we witnessed a clear national direction that invested early in the technological ecosystem. This broadened the digital space and created a partially free public sphere as a by-product. Internet cafes, blogs, online forums, and social media sites like Yahoo and Myspace revolutionized Malaysia's democratic scene by providing alternative avenues for deliberation and dissent to take place. Over time, this fostered the steady advance of prominent civil society organizations and informative media outlets to enrich conversations about democracy. This now seems to be bearing fruit seeing that their integrity as an autonomous "third force" remains intact against the backdrop of the political establishment's scramble for power.

A burgeoning volunteer culture is also seen with the growth of the #WeTakeCareOfUs (#KitaJagaKita) movement during the pandemic and recent flood disaster relief efforts. The multiple lockdowns in Malaysia between 2020 and 2021 precipitated the #WeTakeCareOfUs movement as the livelihoods of thousands of citizens were severely affected. Along with that, the #WhiteFlag (#BenderaPutih) movement encouraged people to seek help by raising white flags outside of their houses. Assistance was then delivered to these people by fellow ordinary citizens who prepared aid packages out of their own pockets. Many people also used their small businesses to raise funds. They achieved this by promoting and selling their products and services through social media, then channeling a portion of the proceeds to established organizations which support underprivileged communities.

Furthermore, various non-governmental organizations (NGOs), including those whose focus areas are not directly related to assisting the disadvantaged, collaborated to collect donations and distribute food baskets to whomever reached out for help. The success of the #WeTakeCareOfUs movement was fueled by

not only the people's altruism, but also the feeling that the people could not rely on the government to have their backs. The perceived lack of integrity of government institutions after many decades of mishandling of social welfare services was further pushed to the limit at the peak of the COVID-19 infections, with a huge number of cases in ICUs and frontline doctors succumbing to death. Poor coordination among the various agencies and general under-preparedness to mitigate such an unprecedented disaster were made worse by a government distrusted for stepping into power without an electoral mandate.

Another example of formidable networking in Malaysia is the increasing presence of NGOs at stakeholder engagement events hosted by the government. Such consultations, either through high-level face-to-face meetings or town hall dialogues, have in recent years become more widespread as the government acknowledges the important role played by civil society organizations in both nation building and policymaking. The impact they have can be recently seen with more federal level policies incorporating stakeholder engagement, such as townhall sessions and online feedback forms, as part of their deliverables. Furthermore, thanks to the constant surveillance of the 24/7 news cycle, no sitting government can afford to discount strategic partners or casually dismiss their demands as they did in the past. This is because doing so would severely hurt their reputation and subsequently affect their electability, particularly in city-centric and ethnically mixed seats.

All of this indicates that there is already latent potential for community-driven initiatives in Malaysia to step up and fill in the gaps, as well as rectify the abuses committed by formal institutions, rigid administrations and, most troublingly, political parties, which had principally dictated public affairs from 1957 up until 2018. With the continuing fragmentation of the political class, there is ample room and purposeful interest for a reconsideration of the democratic models in Malaysia. A citizen's assembly mirroring the Scandinavian and Irish case studies has been touted by the Better Malaysia Initiative and has garnered considerable traction. However, criticisms include the implementation mechanism, as well as the fact that it is a proposal by elite individuals to start an elite council consisting of eminent Malaysians, emulating the National Operations Council in the early 1970's after the deadly racial riots of May 13th.

The Better Malaysia Initiative collaborated with the Malaysian United Democratic Alliance (MUDA) party at the state level to organize a People's Forum (Majlis Rakyat[4]) on July 30, 2022. This is the first time that the pilot project was conducted in Malaysia, with the state assemblywoman of the Puteri Wangsa constituency in the southern state of Johor hosting the session to hear directly from grassroot communities on existing problems that they face in their day-to-day lives. For this particular session, a random sampling of around 50 local voters, mostly parents, teachers and administrators, was brought together to discuss the topic of improving the education syllabus for the constituency's primary school. The overall feedback has been generally positive, and MUDA as a party has pushed for this to be carried out nationwide as part of their manifesto moving forward.

Nonetheless, there are more positive indicators in favor of direct democracy. This is illustrated by the way Malaysians have recently responded to the bungling of national affairs with hashtags and petitions demanding the resignation of culpable politicians. For instance, following a light rail transit (LRT) collision in

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[4] https://fb.watch/eVBsNw-wt5/

2021, a petition titled '#TajuddinResign' (#LetakJawatanTajuddin) was started on change.org as a result of the insensitive comments made by Dato' Sri Tajuddin Abdul Rahman, then Chairman of Prasarana, the public transport company which operates the LRT. The petition garnered over 100,000 signatures. Although the government did not formally respond to the petition, Dato' Sri Tajuddin's position was nevertheless terminated two days after the crash (Anand 2021; Rahim 2021).

Besides the mounting influence of online petitions to generate pressure towards specific issues, the policy suggestion from the influential civil society organization BERSIH 2.0 (Coalition for Clean and Fair Elections) on recall elections to hold party-hopping MPs accountable has seen considerable progress, as the discussion was incorporated in the drafting of Malaysia's bipartisan anti-hopping law (BERSIH 2022). The process undertaken by groups such as BERSIH to push for policy reforms often involves their primary research questions conducted by a panel of experts before those findings are then released for public feedback as a memorandum or petition. These two documents of research, as well as the results of the public opinion survey, will then be handed over to MPs after BERSIH rallies a public campaign to organize a walk to Parliament.

Another effort led at the civil society level is with subnational efforts by IDEAS to encourage citizens to monitor[5] state government budgets and procurement, demonstrating that efforts towards direct democracy are already in the pipeline. IDEAS has conducted the open budget survey since 2015 and more recently on July 22, 2022 launched its latest report which saw participation from the local-level youth groups and individuals in scrutinizing state budget documents and demanding greater transparency of public funds (Yusuf et al. 2022). This capacity building training pioneered by IDEAS has gained momentum in recent years. Even state governments were assessed in the survey and became more responsive, and most of them acknowledge the due diligence work done by the individuals or groups that participate in the project.

6. Some Challenges Ahead

The main obstacle in Malaysia for something as well-established as representative democracy to evolve into direct democracy would be convincing the persons located in semi-urban and rural constituencies of its merits. The inequalities that they suffer from, be it in terms of accessibility to robust discourses or economic opportunities, can very much hinder their appreciation of untested measures. It would seem far more practical for these communities to delegate the responsibilities of managing policies to an elected representative while they attend to their daily affairs. An entrenched system of race-based policies, religious bureaucracy, and the decades-long nexus between political status and business interests further complicate any attempts at altering the status quo. A time-consuming paradigm shift through awareness campaigns is needed prior to the adoption of a new system.

As exemplified by the political turmoil post-GE14, there have always been elements of resistance and skepticism, both within administration hierarchies and the general populace. These factors push back against progressive ideals by casually labeling them as foreign undesirables that threaten the majority's way of life. It is often implied that implementing greater democracy would dilute certain facets of the social contract; thus, the conservative narrative is merely to tolerate the beneficial outcomes of democracy like peace and freedom,

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[5] https://www.pantauwangkita.com

while overlooking its core principles like good governance and justice. Moreover, the proponents of democracy and human rights in Malaysia are usually found in urban-centric commercial areas. They are also commonly involved in activism, exposed to multicultural surroundings and/or belong to the younger age bracket.

Those who identify themselves in any of the four quadrants tend to be willing to support direct democracy tools like referendums and petitions. Despite the presence of efforts to implement direct democracy in Malaysia's political landscape, there are still numerous challenges that must be addressed in order to make it a success. The first is the lack of political literacy and the role of social media. Malaysia's education systems lack proper political education, and many topics like the rights of voters are omitted from the basic education of many citizens. The school syllabus conveys a very biased narrative, and students are not encouraged to seek out the truth for themselves. Politics in general, whether it be current issues concerning the country, the region or the globe, is considered a taboo subject and rarely discussed in Malaysian education institutions.

Many people dare not vocally critique or criticize the government for fear of sedition charges. Years of political propaganda have further exacerbated the situation as many have been indoctrinated to believe that voting for the opposition party or coalition is considered an act of disloyalty to the King and Country. This is especially true for Malays, indigenous peoples and B40 citizens (people who are in the bottom 40% by income). Thus, the role of social media has evolved to fill the gap in political literacy. Since the days of GE12, social media has taken center stage. Whenever elections are upcoming, infographics begin to pop up all over platforms such as Twitter and Facebook, with topics ranging from the steps to successfully register as a voter to the proper way to cast a ballot.

Social media has also helped to boost movements like Wednesday Vote (Undi Rabu) and Let's Go Home to Vote (Jom Pulang Undi), which were devised by netizens and civil society organizations to encourage the masses to come out and vote. Many Malaysians, some of whom are playing an active role in the first major election of their lives, gain basic knowledge regarding the state of national politics, voting and voters' rights from these platforms. However, this type of discourse is primarily found on Twitter and Instagram, which are dominated by the "woke" left-wing population, and does not permeate all social media platforms. Meanwhile, Facebook and WhatsApp, which are dominated by political fundamentalists, are used to spread right-wing, race-based propaganda instead of educating the masses on the fundamentals of voting and the importance of each vote, whether it be for the government or the opposition.

The significance of social media was also witnessed during the 2020-2021 political crisis, which saw Malaysia swear in two new prime ministers in the span of just 17 months. Posts regarding how a new prime minister would be selected by the King (Yang di-Pertuan Agong) and which coalition controlled the majority of seats within the House of Representatives (Lower House of Parliament) were then created, helping many citizens navigate Malaysia's whirlwind political landscape. Despite the numerous benefits brought by social media, there is still an obvious divide between the population. Many Malaysians, especially those on the other side of the digital divide, continue to be at a loss and are kept in the dark regarding the pressing issues the nation is encountering. Key knowledge like this must be made available to all, and Malaysians must be taught from a young age to play an active role in the country's political scene regardless of individual political ideologies and beliefs.

Citizens must be given the tools to make informed choices about their own lives. Until the issue of political literacy is resolved, it will continue to hinder Malaysia's progress in implementing direct democracy. The next item to address is Malaysia's constitutional monarchy and race-based politics. Although Malaysia is a secular nation, the King and the Conference of Rulers are tasked with defending the position of Islam as the official religion of Malaysia among other ceremonial responsibilities. In the last two years following the collapse of the Pact of Hope government, we have seen the scope of these responsibilities expand to include the selection of the eighth and ninth prime minister of Malaysia. Despite this responsibility being warranted under the Westminster System, the final decisions put forward by the Conference of Rulers have fallen under the scrutiny of public and international media.

Many have questioned the reasoning behind the decisions and how they may be tied to personal interests, judicial protection, and financial gains. A clearly defined system must be drawn up so that national interests are always prioritized over personal interests. Steps must also be taken to modernize the Malaysian monarchy and bring it into the 21st century. Initiatives, such as slimming down the number of royal family members who receive allowances funded by taxpayer money and making the royal families more accessible to the public, must be taken. Royal houses must also maintain strict political neutrality, both in public and on social media, and must always have the people's interest in mind. These steps have proven to be effective, as countries like the United Kingdom and Denmark have managed to maintain their constitutional monarchies through times of political upheaval.

If Malaysia's monarchy is open to modernizing its ways, it may just become the people's biggest ally in times of political turmoil. If not, it will be a blockade in the road to implementing direct democracy. In terms of race politics, steps must be taken to identify and address the root of institutional racism. Many would say that it is impossible to remove the deep-seated race politics completely from the Malaysian political scene. As efforts are being made to advance and modernize Malaysia's democracy, the issue of race politics must be dealt with as the abuse of racial identity to curry favor with the people will only continue to hinder the country's progress and aggravate disparities between citizens. As long as race is being used by politicians to divide and conquer, efforts to introduce direct democracy will be futile. This is due to the visceral fear of certain groups who think that they are under threat when the needs of others are being met.

The final challenge is the lack of youth empowerment and brain drain. With the lowering of the voter age from 21 to 18 in the year 2021, some 7 million new voters emerged. Although this is a cause for celebration, there is still uncertainty as to whether or not these new eligible voters will actually come out to cast their votes. This is mainly because the younger generation does not feel empowered to be politically involved. A great number of individuals have also grown disenchanted with the value of voting due to the 2020-2021 political crisis discussed earlier. Some youths are caught in a dilemma: stay and fight for a better Malaysia, or leave and make a better life elsewhere, with the former involving the sacrifice of personal ambitions and goals. In the two years following the collapse of the Pact of Hope government, many youths have begun to question whether the better Malaysia they are fighting for will ever become a reality.

This question is yet to be answered. The option to leave has never been as attractive as it is today as all over social media, we see the success stories of Malaysians who have emigrated, some of which would not have been remotely possible given the current situation back home. A key example of brain drain is Penny

Wong, the Malaysian-born Australian Foreign Affairs Minister, who emigrated some two decades ago and eventually rose to become one of the highest office-bearers in the Australian government. Many have pondered as to whether this would have been possible had she remained in her home country. Would the same opportunities be available to her regardless of her race and gender?

The issue of a lack of youth empowerment is worsened by ageism in the Malaysian political landscape, where young politicians and elected representatives are openly discriminated against by those who are more senior. The many times youth MP Syed Saddiq Syed Abdul Rahman was called "cucu" and "budak" during parliamentary sessions are stark reminders of this unjustified bias (Tan et al. 2020; Astro Awani 2020). The epithets "cucu" and "budak" are the Malay words for "grandchild" and "kid" respectively. It is also lamented that this sort of blatant disrespect is tolerated over and over again as seen in the way the Speaker of the House of Representatives regarded the insults as light-hearted jests. This apparent discrimination and the unwillingness of older politicians to relinquish control to make way for the new has led many young people to avoid politics altogether, as the prospects are bleak. Until this issue is resolved, Malaysia's democracy will not be able to modernize and improve.

By addressing the aforementioned challenges, worries about direct democracy such as too many cooks spoiling the broth can be dispelled. By increasing political literacy and empowering people from all walks of life, we can rest assured that those who make the decisions are well-informed and that the interests of the people, whose lives are directly affected by those decisions, are accurately represented.

7. Food for Thought

Looking at the issue of direct democracy to be implemented in Malaysia, some questions would be raised by those unfamiliar with the subject matter. These would include who can be a part of direct democracy? When a townhall or citizen's assembly is gathered, how inclusive and representative can the sample size in a constituency be using the random sampling method? Another query would be on the implementation of the forms of direct democracy. Can typical practices abroad, like how the British government approaches petitions where a petition that garners X number of signatures means the government is obligated to do Y as a measure, be upheld? Could such practices be modified to suit what is best for the local context? There must be some flexibility within the policy framework that facilitates the further development of the features of direct democracy.

Other concerns involving democracy include the issue of overcoming the situation of attempting to "please all but eventually pleasing none," whereby it is impossible to accommodate everyone's suggestions. There is also the matter of difficulty in reaching an agreement or consensus during citizen's assemblies, where an impasse or standstill decision happens causing difficulties in getting a united voice. This would increase the time cost involved when discussions drag out or become prolonged. On the issue of time, if all citizens get the chance to participate in the decision-making process, how much time do they have to commit to direct democracy? How often would there be matters requiring their attention, opinion, or participation? They would need ample time to discuss, understand the issue, deliberate their options and so on. Do they have enough time to spare to also make consultations with their colleagues and family members as well before coming to a conclusion?

8. Emerging Trends and Conclusion

Looking at the upward trend among Malaysians to seek direct democracy as a remedy for their disappointment with representative democracy, we find that much of the frustration centers around shattered expectations for institutional reform after the infamous Sheraton Move incident in February 2020. The collapse of the Pact of Hope government created intense debate as to the motives of elected representatives, as well as the actual value of the people's votes and opinions. The situation has also fashioned a variety of choices as new political parties emerge, such as the youth-based party Malaysian United Democratic Alliance (MUDA), the anti-corruption party Homeland Fighters Party (PEJUANG), and the inclusive Malaysian Race Party (PBM), to name a few. This suggests that the decentralization of traditional power distribution in Malaysia is well underway.

Elaborating on the decentralization, the MOU signed between the National Alliance government and the Pact of Hope opposition bloc has revisited the issue of federal-state relations between Peninsular Malaysia and the Bornean territories with regards to the Malaysian Agreement of 1963 (MA63). As such democratic discourse gains momentum, civil society organizations and progressive politicians have also suggested improvements to local council elections in hopes of moving the needle on Malaysia's conventional political culture. Leading the charge is the influential 18Vote (UNDI18) movement that successfully pursued the lowering of the legal voting age, together with the implementation of automatic voter registration in Malaysia. Their advocacy and organization of the #Fight (#Lawan) street protests, which saw hundreds of young individuals assemble peacefully to demonstrate their frustration towards the Cabinet of the time, built optimistic expectations for MUDA as a young generation bloc aiming to disrupt the status quo.

With a weakened majority government as well as an opposition coalition in such disarray, the predominant logic in reading Malaysian politics would be the formation of post-electoral pacts or shared governments for the foreseeable future. A far less powerful state and a steadily influential civil society segment do indeed encourage more involvement from the public, thereby further endorsing direct forms of democracy. The key lessons are to further strengthen the people's space for dissent and protect their civil liberties in tandem with basic human rights. Simultaneously, enhancing democratic literacy that can create more awareness of disinformation is pertinent to restoring the people's trust in public institutions. By executing such reforms, there is potential for progress. However, further nurturing is required before a mature democracy can benefit all.

Other options for the ways forward in favor of improving the quality of direct democracy in Malaysia are the efforts made by young start-up cohorts like Undi18, Architects of Diversity, Arus Academy, YPolitics, Komuniti Muslim Universal, Teach for Malaysia, and many more groups that are pushing for innovative democratic designs. These activities they conduct with their young target audiences would inspire co-designing policies via policy labs, the promotion of using digital devices as contemporary forms of democracy, and even the organization of a "people's panel" instead of the typical "expert guests" in forums gives a refreshing dimension and more compelling argument to the various possibilities of expanding democracy to be more direct in Malaysia.

The youths in Malaysia are far more advanced and appreciate processes rather than "touch and go" consultations on the basis that merit should be front and center in propagating democracy instead of practicing "tokenism"-type representations or having a diverse panel onboard for optics. Youths today also place large

importance on creative tools like modeling or collages in their exploration of better ways for democracy. Only when the tensions between frustrated citizens and worried authorities can be balanced in a mitigating fashion of dialogue on the topic of infrastructure, budgeting, or even procurement, can more direct forms of democracy begin. Only then can new ways of brokering power in local spaces to offset the old model of decision making occur. This is even more prevalent in a post COVID-19 era, where we witness many falls between the social gaps and the line of accountability is blurred by officials to present an opportunity for new democratic relationship dynamics to appear.

Growing discussions on direct democracy taking place in pockets of spaces to educate citizens of the complexities faced by politicians in performing their duties as lawmakers and policymakers generate ample empathy and expose the common oversimplifications regarding the policymaking process. It allows citizens to understand the inner workings of bureaucracy, all of the difficulties involved in the respective tradeoffs or compromises made involving different stakeholders and party leadership directions, and offer their perspective on possible improvements. The same will also work on the opposite side when it comes to politicians better understanding the situation faced by the citizens themselves with a greater nuance.

With the younger generation being more technologically savvy digital natives, the democratic system ought to also accommodate more online deliberations in addition to intensifying the face-to-face interactions. The idea is to properly give the people back control or a greater say in the trajectory of their democratic livelihoods. The usage of e-petitions and social (or unsocial) media networks are key factors to be further studied with regard to how technology driven mechanisms must be improved to elevate the aspect of direct democracy. Barriers such as digital exclusions and inequality of access and data are serious issues that must be tackled prior to advocating for direct forms of democracy. The bad perception of technological abuses such as emotional bullying, nonsensical debates, and overwhelming streams of information must be dealt with.

Greater participation from the public and adoption of digital technologies would profoundly deepen the understanding of the impact from direct democracy and also contribute to the leveling of the playing field. This can create new democratic spaces in a manner that constantly evolves using a wide range of applications like open-source tools, civic hacking communities, and even give birth to new activism movements. This, coupled with running programs off the ground closely by trialing citizen's assemblies at the local authority level, places a good foundation to hold the government into account. It also mitigates the weaknesses of the current electoral system as inroads are made to modernize the voting system. Some measure of proactive engagement must be done to persuade ministers to take risks in opening up and ultimately embracing the changing landscape of democracy.

The difficulty in trying to get buy-in from political leaders requires those assuming the role as democrats who want to see democracy evolve better be careful about advocacy and balance that out with the appropriate communications strategy. There have been plenty of examples from other countries that give evidence that having more participation from citizens and implementing more digital tools has a positive effect on local authorities in the long term, in addition to further empowering the citizens to be more involved in building momentum for their fellow peers. This act of "bursting the bubble" that formulating policies from afar as the "one golden rule" is crucial, because it opens up the possibility of shaping policy packages that can

prioritize people first from the grassroots upwards. When the challenge is correctly understood, then solutions produced would be of higher quality.

One primary example shown is the digital parliament session conducted by the Undi18 youth group on two separate occasions. This session was to debate pressing national issues despite the multiple restrictions made by the government, and it shows how the elements of greater participation and digital platforms certainly improve the quality of direct democracy in Malaysia. A potential hurdle would be how these resolutions or recommendations can instigate actual change. They must be acted upon and must be placed with extra emphasis to be taken seriously enough or give birth to specific sets of commitments. When the resolution or recommendation manages to continually be communicated or followed-up on by MPs or the chairperson to stakeholders, then it would avoid becoming an expansive "talking shop" that is very resource intensive, especially in terms of time consumption.

The actions taken by those eager to promote direct democracy must also highlight the processes already taken forward by the government, even if it made a subtle difference, as the power to implement or mandate to carry out the policies still resides with the authorities. But reducing the boundaries between citizens and policymakers at the formulation stage through active engagement helps mend the damaged trust, as the policy dialogue becomes more reciprocal and some measure of neutrality is ensured with a common shared line. The role of schools and early exposure to democratic practices would help with public literacy as children learned how to converse with MPs as well as use correct channels to improve society. An example would be the initiatives to revive university student unions. Democracy is only a tool that depends on its users. It's the personification of a contract between citizens and the state.

Nevertheless, there has to be caution against the potential return of feudalistic mindsets and political patronage heavily influenced by cronyism and grassroots servicing. At present, attempts at a political comeback by the sixth Prime Minister Najib Razak using a populist personality to manipulate loopholes in the existing democratic institutions, despite the tainted image of the 1Malaysia Development Berhad (1MDB) corruption scandal, is truly frightening and threatens Malaysian democracy as a whole. When concentration of power is effectively decentralized, especially from the executive branch, and more local autonomy as voter empowerment takes place that demands for changes, only then will we see a more open political culture that can embrace innovative forms of direct democracy.

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