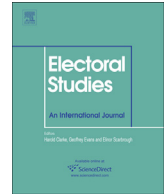




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Contents lists available at ScienceDirect

Electoral Studies

journal homepage: www.elsevier.com/locate/electstud

Referendums and deliberative democracy



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ARTICLE INFO

Article history:

Available online 26 February 2015

Keywords:

Deliberative democracy
 Direct democracy
 Citizen initiative
 Referendum
 Participation
 Voice

ABSTRACT

The theoretical concepts of *deliberative democracy* and the institutions and processes associated with *direct democracy* often pull in different directions, despite their surface similarity. A deliberative model emphasizes the importance of **voice** whereas referendums prioritize **votes**. A deliberative model would involve citizens at every stage of the political process, whereas a referendum typically brings them in only at the very end. A deliberative democratic process is less interested in resolving an issue than in discussing it, while a referendum often takes place solely for the purpose of settling a particular question. However without institutions, deliberative democracy remains an elusive and idealistic concept. Here, I examine four specific areas in which the conduct of referendums often tends to inhibit deliberation, and consider ways in which the quality of deliberation within existing rules and practices might be improved. These are: the intrusion of *politics*, the absence of *clarity*, the amount and quality of *information*, and the degree of *participation* and engagement of citizens in the process. Together, the cases considered here suggest some ways in which the familiar institutions of initiative and referendum could be retooled to approximate a more deliberative form of direct democracy.

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Deliberative democracy is an attractive concept. Under a deliberative model, citizens make political choices freely, following extensive debate and discussion regarding the implications and consequences of those choices, both for themselves as individuals and, for the society as a whole. A deliberative democratic polity demands more of its citizens than merely voting to “throw the rascals out” in an election and installing a new set of rulers. It promotes rational, carefully considered, well informed political decisions, respectful of the opinions of others, made in an environment free of coercion, deception, or invective. Under such an ideal model, citizens would be more positively disposed towards their institutions and processes of governance, because they would be more fully engaged in these. Leaders in turn would be more confident that they enjoyed broad public support, because the basis for making sometimes difficult and complex political decisions would be more transparent and legitimate. Although it may represent

something of an idealized version of modern democratic life, a more deliberative model is clearly worth striving for in a world that has grown disenchanted with many of the more traditional institutions and practices of electoral democracy.

The theoretical concepts of deliberative democracy¹ and the institutions and processes associated with referendums² appear to have little connection, in spite of the similarity of certain key words and phrases. A deliberative model emphasizes the importance of **voice** whereas referendums prioritize **votes**. A deliberative model would involve citizens at every stage of the political process, whereas a referendum vote typically brings them in only at

¹ For a concise review of the theoretical literature on deliberative democracy and a discussion of key concepts and ideas, see Chambers (2003).

² See Altman (2011) and International IDEA (2008) for a review of key ideas and concepts in the conduct of direct democracy. See also Mendelsohn and Parkin (2001), LeDuc (2003) and Setälä and Schiller (2009).

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the very end. A deliberative democratic process is less interested in resolving an issue than in discussing it, while a referendum often takes place solely for the purpose of settling a particular question. However without institutions, deliberative democracy remains merely an elusive and idealistic concept. The articles in this issue examine a range of referendum cases in Europe, as well as the extensive American experience with ballot propositions. An empirical examination of these cases raises the question: how can the institutions and processes of direct democracy be made to more closely approximate a deliberative model? Do some elements of direct democracy come closer to the deliberative ideal than others? If so, how might the familiar institutions of direct democracy be retooled to more closely approximate a truly deliberative model?

Many of the cases examined in the articles following suggest that democracy by referendum as currently practiced in Europe and North America falls considerably short of a deliberative ideal. Can some of these shortcomings be addressed, aspiring to a higher deliberative standard, even if an imperfect one, in the institutions and processes that currently exist? Here, I examine four specific areas in which the conduct of referendums tends to inhibit deliberation, and consider ways in which the quality of deliberation within existing rules and practices might be improved. These are: the intrusion of **politics**, the absence of **clarity**, the amount and quality of **information**, and the degree of **participation** and engagement of citizens in the process.

1. Politics

Politics gets in the way of deliberation. Many of the referendums considered in this issue were initiated either directly or indirectly by governments, and the motives that lead governing parties to call a referendum invariably shape the context in which the vote takes place. Governments rarely call referendums merely to promote deliberation, but they are sometimes called because a governing party finds itself divided on an important issue. In a few cases, such as the several Irish referendums on EU treaties, the referendums were constitutionally mandated (see Marsh, in this issue). In others, such as the Danish and Swedish referendums on the Euro, they were *politically* necessary, since the governments in those instances could not have risked adopting the Euro without a public consultation (Downs, 2001; Widfeldt, 2004). A variety of political calculations often enter into a government's decision to call a referendum on a particular issue, but governments in such circumstances are not usually neutral parties. When a governing party opts for a referendum strategy, it generally does so in the expectation that it will win, by definition placing the emphasis on *votes* rather than *voice*. Rarely does a president or prime minister take the decision to hold a referendum that s/he expects to lose, but such strategies are subject to calculations that can easily be wrong, particularly if a volatile campaign ensues after the decision to hold a referendum has been made, as was the case in a number of the European treaty referendums.

Government initiated referendums are not the only example of the role that political motives may play in

bringing about a vote and the way in which they may disrupt the deliberative process. Even in the case of citizen initiated referendums, the undertaking generally requires the political and financial resources of a well organized group in order to collect the thousands of signatures needed to get a proposed measure onto the ballot. A group (sometimes a political party) often has its own motives for undertaking such an effort, and deliberation is not commonly among these. More generally, a group or organization that promotes an initiative is seeking to effect a particular policy or constitutional change. Sometimes, it may act in the belief that raising a particular issue at a particular time may help to promote another political agenda. It was widely believed, for example, that the Republican party helped to promote initiatives on issues such as gay marriage and abortion in certain U.S. states prior to the 2004 election in the belief that these would help to mobilize conservative voters who were likely to also support the President's re-election (Smith et al., 2006).

How partisan the deliberative context of a referendum will depend in part on the manner in which the referendum came about in the first place, the timing of the vote, and the stake which parties have in the outcome. When a party-led government calls a referendum for its own strategic purposes, one might expect it to mobilize its own supporters in support of its position, as Felipe González attempted to do in the 1986 Spanish vote on NATO (Canals et al., 1986). And, when the partisan stake in the outcome is high, the degree of coercion felt by partisans will certainly be greater. It would be naive to think that issues of a partisan or ideological character can be deliberated in an environment that is truly free of partisanship.

Where governing parties are seriously divided on an issue, a better quality of deliberation may occur simply because more voices will be heard. Also, the level of coercion felt by citizens may be considerably reduced when parties are divided or when members of the government express divergent views. Some important referendums, such as the French vote on the European Constitutional Treaty, have featured members of the governing party campaigning on opposite sides of an issue (Marthaler, 2005). However, this is not the same thing as government neutrality. In a few instances, notably in Ireland in recent years and in Spain during the 2005 EU constitutional treaty referendum, attempts have been made to force governments into a more neutral role in referendum campaigns. During the 2005 Spanish referendum, the electoral commission ruled that the government's active "First in Europe" campaign in support of ratification was in violation of a section of the electoral law that restricted the activities of public officials in such campaigns. Ireland has gone further, forbidding the expenditure of public funds in support of one side of an issue, and placing responsibility for enforcement of rules and dissemination of information in the hands of an independent referendum commission (Seyd, 1998; Reidy and Suiter, in this issue). Such measures might be seen as positive for creating a better atmosphere for deliberation of an issue, because they constrain the activities of governments – potentially one of the most powerful actors in any campaign. However, they can also restrict the flow of information to the public, and make the

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