When the Demos Shapes the Polis - The Use of Referendums in Settling Sovereignty Issues.

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Introduction

This chapter is a survey of referendums dealing with questions of sovereignty. This unique category of referendum usage is characterized by the participation of the demos in determining the shape of the polis or the nature of its sovereignty. The very first recorded referendums, following the French Revolution, were sovereignty referendums. Though far from transparent and fair, these votes were strongly influenced by notions of self-determination and the idea that title to land could not be changed without the consent of those living on that land. Since then there have been over two hundred and forty sovereignty referendums.

In the first part of this chapter I will briefly review referendum usage in general. This international analysis of 1094 referendums excludes the United States of America, where initiatives are extensively used by various states and Switzerland, which conducted 414 votes on the national level from 1866 to 1993. This comparative analysis of trends in referendum usage will provide both a sketch of the geographical distribution of use and a sense of use by issue. In the second section of this chapter I examine the history and origins of the sovereignty referendum and identify broad historical trends in its use. It will be demonstrated there have been several high tides in the use of sovereignty referendums and that these high tides are linked to high tides of nationalism, which have often followed the collapse of empires. Following this historical overview a basic typology of six sub-categories, describing sovereignty referendums will be suggested. These six sub-categories cover the use of referendums to: celebrate national independence; settle border disputes; determine the status of dependent territories; enable the transfer of sovereignty; facilitate the secession of territories; and finally to incorporate certain territories into larger existing entities.

The various sub categories of sovereignty referendum use will be addressed in greater detail and some salient issues concerning sovereignty referendums will be touched upon. These include, the centrality of elite consensus, the danger of loosing sovereignty referendums on "non-related" issues, like economics or rural–urban divides and the question of legitimacy. This latter concern has emerged as a central theme in sovereignty referendums and the role of referendums in marginalizing hard-line opposition will be explored. Finally, the appropriateness of this mechanism in addressing questions of sovereignty will be addressed.

Basic Trends in Referendum Use

Between 1791 and December 1998 over 1094 referendums have been held worldwide. These have included controlled and uncontrolled referendums as well as initiatives and

they have been conducted on both a national or sub-national scale. These referendums have been used to mediate and make decisions on five clusters of issues: 1) constitutional issues; 2) sovereignty issues; 3) moral issues; 4) "other issues" and; 5) in securing support for leaders or their policies.

In terms of the geographical distribution of use, Europe accounts for 29.4% of the 1094 referendums and remains the largest referendum user, notwithstanding Switzerland's exclusion from this survey. Africa and the Near East, follows with 18.6% and the third largest region, which accounts for 17.1%, includes Canada, New Zealand and Australia. Though not geographically a single unit, these former British colonies are considered distinct from their neighbors. The rest of the Asia–Pacific region accounts for 12.2% and Latin America and the Caribbean have used 11.8% of the world's referendums. Finally, Eastern Europe with only 10.9% of these referendums is a "late bloomer" as very few referendums were held under communist rule.

The most frequent category of referendum use is that of **constitutional referendums**, which account for 39.6% of all referendums. In this category we include referendums on the nature of the constitution, constitutional amendments, the electoral system, etc. The referendum was first used for constitutional ratification in Massachusetts in 1778, when voters rejected the proposed constitution. In countries like Ireland, Switzerland, Uruguay and Australia the referendum is an integral part of the constitutional milieu and any change in the constitution automatically triggers a referendum. With the exception of Europe and Canada Australia and New Zealand, this category is the most frequent category of referendum usage in all the regions. Constitutional referendums have also been used to undermine democratic rule and strengthen the hegemony of certain elites or regimes. Recently Zimbabwean voters thwarted a new constitution designed to entrench Robert Mugabe's ruling ZANU P.F. Party. In April 1999, Colonel Hugo Chavez used the referendum mechanism, for the first time in Venezuela's history to create a constituent assembly that would politically "refound" the country. Whilst Chavez claims that the referendum will break a legislative gridlock that obstructs modernization reforms, his critics fear that he is using it to erode democracy.

The second category covers use of the referendum mechanism to resolve **moral issues,** like abortion, gambling and alcohol prohibition. These account for 9.4% of referendum use and Australia, Canada and New Zealand in particular have frequently staged referendums on prohibition. Of the 187 referendums conducted in these areas, 79 were used for moral issues. It is notable that both in Asia-Pacific and Africa-Near East no single moral referendum has been staged to date, whilst Latin America and Eastern Europe, with one and two moral referendums respectively, are also infrequent users of the moral referendum.

The third category of referendum use denotes **other issues** and accounts for 23% of referendum usage. This category, which is by definition broad and therefore by default large, includes referendums invoked to settle matters like pricing policy, environmental questions, daylight saving, education, etc. Notwithstanding the broad nature of this category, the Africa-Middle East (4) and Asia–Pacific (19) have seldom used

referendums to settle "other matters." In contrast Canada, Australia, New Zealand and European states regularly consult the public on these issues. In the relatively short period that Eastern Europe has been re-using referendums they have been relatively frequently used on "other issues."

The fourth category includes referendums used to secure ***popular approval*** for leaders and their policies. Though the smallest category of referendum usage, only 5.9%, these votes have muddied the image of the referendum. Napoleon, Mussolini and Hitler's use of such votes has shaped the opinions of some influential referendums critics and military juntas in Latin America continued this use of the referendum. The Duvallier dynasty of Haiti has the distinction of securing 100% support from the people of Haiti in one of their referendums. In Asia Ferdinand Marcos used the referendum with equal effect, as did notorious African dictators like Mobuto Sesoseko. Syrian and Egyptian leaders have also frequently used the referendum in order to legitimate their rule. African and the Near East countries, with 37 such referendums, are by far the largest consumers of the referendum for this purpose. More recently some of the newly independent states of the former Soviet Union have developed an appetite for these referendums. Canada, Australia and New Zealand have never dabbled in such referendums.

These votes, which are often highly dubious, provide regimes and heads of state with approval rates of 99%. It is worth noting that Anwar al-Sadat called a referendum on the Camp David Accord. Primarily a response to Egypt's marginalisation within the Arab World, the exercise was designed to show Arab countries that the process enjoyed support. Notwithstanding an "emphatic mandate" of over 99% for the peace process, the referendum seems to have had little impact on the legitimation of the process.

The final category of referendum usage, and the focus of this chapter, is the *sovereignty referendum*. In overall terms it has emerges as a significant category of use over time, accounting for 22% of all referendums. With the notable exception of Latin America and Canada, Australia and New Zealand, it is the third largest category in the other regions. In Eastern Europe, Asia Pacific and Europe in particular sovereignty referendums have been frequent occurrences.

The Rise of the Sovereignty Referendum

The rise of the referendum and the sovereignty referendum are inextricably linked to the emergence of the ideas of sovereignty, popular sovereignty, nationalism and self-determination, which are linked to the emergence of the centralized state. Popular sovereignty, the idea that people should choose their own rulers, evolved from the less benign idea of sovereignty, which grants "supreme coercive powers" within a given territory to the state (Camilleri and Falk, 1992: 16). Rousseau, the father of popular sovereignty, differed with the supporters of sovereignty in his insistence on the principle of consent and "retaining for the people the sovereignty," which Hobbes and others had transferred to the state and its rulers (Held, 1989: 222). Whilst the state in theory "embraced all men by its territorial nature" (Laski, 1931: 26), modern nationalism was to prove less tolerant of difference. Though often linked to pre-modern identities, modern

nationalism was triggered by the emergence of the centralized state and later by industrialization. Charles Tilly (1994), who ascribes the emergence of the central state to the exigencies of modern warfare, suggests that the limitations of "supreme coercive powers" encouraged Europe's monarchs to engage in state-led nation building. For it was only through a measure of popular identification with the goals of the state that taxes could effectively be collected and that standing armies could be maintained. State-led nation building, which often demanded the assimilation of cultural groups and language dialects, in turn, spawned state-seeking national movements.

These new ideas challenged many of Europe's political and social conventions, one of these being the notion of title. Prior to the American and French Revolutions it was customary for title to land to change through conquest or as a result of allegiances. These revolutions changed this and established the idea of self-determination, which was first applied when the citizens of Avignon and Comtat Venaisin (1791), Savoy (1792) and Nice (1793) voted to be incorporated into France. The incorporation of Avignon and Comtat Venaisin was a particularly drawn out process as Paris insisted on repeat votes in order to be sure that this indeed was the wish of the local people. Tension soon emerged between the revolutionary ideals of the Republic's and the less benign exigencies of France's state consolidation and international relations. This conundrum was resolved by introducing the principle of "no annexation without consultation of the inhabitants." In practice this meant that French conquest was followed by a plebiscite, which emerged as an instrument of state–led nationalism. French abuse of the plebiscite, particularly by Napoleon, however served to discredit the mechanism for much of the nineteenth century. Notwithstanding the crude nature of these votes and cynical French adaptation of the principle of self-determination, the practice of association by consent was established and a benchmark set for others to follow.

The return of the plebiscite was precipitated by the collapse of the Mettenrich system, following the 1848 Revolution and Crimean War. Napoleon's Italian adventures resulted in the export of the ideas of the French Revolution and it was here that the idea that "all nations be freely allowed to choose their status" was resuscitated. In Italy, the "plebiscito" became a central feature of the Italian reunification process and a vote was held before each territory was incorporated into the Kingdom of Sardinia. As was the case in France, these "rigged" votes (Mack Smith, 1969: 25, 66-67), were part and parcel of state-led nation building. The plebiscite was conspicuously absent in Bismark's reunification of Germany. In parallel to these developments in Italy, Prussia's capture of the duchies of Schleswig–Holstein in 1864 and Alsace-Lorraine in the Franco–Prussian War of 1870 sparked a lively debate between liberal and conservative thinkers on the role of popular expression in matters of sovereignty (Wambaugh, 1920: 22 – 33). Liberals focused their criticism on Prussia's failure to hold a plebiscite on the Schleswig-Holstein question, as agreed in the Treaty of Prague. Whilst the ideal of self-determination enjoyed an intellectual renaissance of sorts, the plebiscite - with the notable exception of Italy - primarily served as an instrument of realpolitik. Prominent votes in this period included an 1860 vote in Nice and Savoy, ceded to France by Sardinia by the Treaty of Turin and an 1857 vote by the residents of Moldavia and Wallachia to form Rumania following the Crimean War. Similarly Britain insisted on popular consultation before

returning the Ionian Islands to Greece in 1863, whilst Denmark insisted on popular consultation prior to selling the Islands of St. Thomas and St. Johns to the USA. The Swedish return of the Island of St. Bartholomew to France was also preceded by a plebiscite. Wambaugh (1920: 19, 23, 131, 156) posits that Denmark's insistence and France's acceptance of these plebiscites served to legitimate their demands for a plebiscite in Schleswig–Holstein and Alsace-Lorraine. Annexation without consultation however remained the rule, as demonstrated by America.

The third wave of nationalism and its continued eastward migration was prompted by the outbreak of World War One and Lenin and Wilson's re-emphasis on the principles of self-determination. For the former support for this principle was a means to realize worldwide socialism and for the latter it was the basis for lasting peace in Europe (Cassese, 1995: 13). Whilst Lenin's emphasis on secession through popular votes shares interesting similarities with contemporary democratic theories of self-determination (Beran, 1990 and 1998), he failed to incorporate internal self-determination. Lenin's legacy however had a three-pronged impact on the "awakening" of nationalism and the use of referendums. In the immediate term, Bolshevik insistence led to pledges that all nationalities determine their status by referendum in the Treaty of Brest Litovsk. Whilst Germany refused to implement these referendums, the Bolsheviks made self–determination a central issue for the first time in the War. The second consequence was that the Allies, who had until Russia's surrender refrained from pledging support for the national aspirations of several groups – in exchange for their support in the war – now made such commitments. Until then, this practices had been pursued by the Central Alliance, whilst the Entente members refrained from doing so due to Tsarist opposition. Thus Cobban (1969: 51) posits that the Russian Revolution broke the ice and the "dammed-up waters of nationality began a wild rush." Finally, Leninist principles, which underpinned the Soviet Union's constitution, made the collapse of the Soviet Union into independent nation states possible. Moreover, the Soviet Union's constituent republics and autonomous regions were organized along ethnic lines. As a supporter of the USA's Progressive movement, Wilson would have identified with their call to "take politics out of the smoke filled rooms" (Magleby, 1984: 21). And it was this principle that he wished to apply to international relations. Wilson's early pronouncements in favor of self-determination were also designed to serve as propaganda against Germany.

Cobban (1969: 47 - 49) argues that re-emergence of self-determination was largely a by-product of World War One and that prior to the war the principle was in decline and replaced by "aggressive nationalism" in the form of imperialism. This supposition is substantiated by the secret agreements between the various allies, premised on territorial rewards, in exchange for participation in the war. Whilst these war period developments served to resurrect the issue of self-determination, they also imposed constraints on the implementation of the principle of self-determination and the victorious allies had to balance their pre-war commitments and strategic interests. It was for these reasons that the principle of self-determination was often undermined and the respective agreements produced few referendums. Indeed, the demand for a plebiscite was primarily a demand of the vanquished.

Whilst the third tide in referendum use was primarily one in which the War's victors set the tone, frequently preventing its application, it represented a major shift in referendum use – from a tool of state-led nationalism to a tool of state-seeking nationalism. These referendums held on matters of sovereignty, which mainly related to borders and Fascist and Nazi use of the referendum discredited the referendum mechanism in Europe. The sovereignty referendum was to find its next lease of life in the Third World as a result of de-colonization. From 1947 to 1967 both de-colonizing powers and the newly created states adopted the referendum. For the former it was often a strategy to manage its exit from these colonies, whilst the latter embraced the referendum as an expression of newfound self-determination. France for example held a massive "empire-wide" vote in 1958 to receive a mandate for continued French rule. In the case of Britain, the retreating colonial power attempted to create federations out of its former colonies, using referendums. In other cases former colonial territories were allowed to vote on which of the newly independent states they would join.

The collapse of Communism in the Soviet Union and the former Yugoslavia in particular unleashed seemingly dormant East European nationalism and provided a platform for the next rush of the sovereignty referendum. The first to brave the storm and declare their independence were the Baltic republics. They did so using referendums that provided them with vital international legitimacy. In response to the strengthening of the centrifugal forces, Michael Gorbachov called a Union wide referendum to secure renewed legitimacy for the USSR. In certain republics local elites however "hijacked" this referendum and used it to further there own independence agenda. In the former Yugoslavia referendums became part of a bitter struggle between conflicting national groups in ethnically heterogeneous territories. The use of referendums in the former Yugoslavia raises some pressing questions about the appropriateness of referendums on issues of sovereignty.
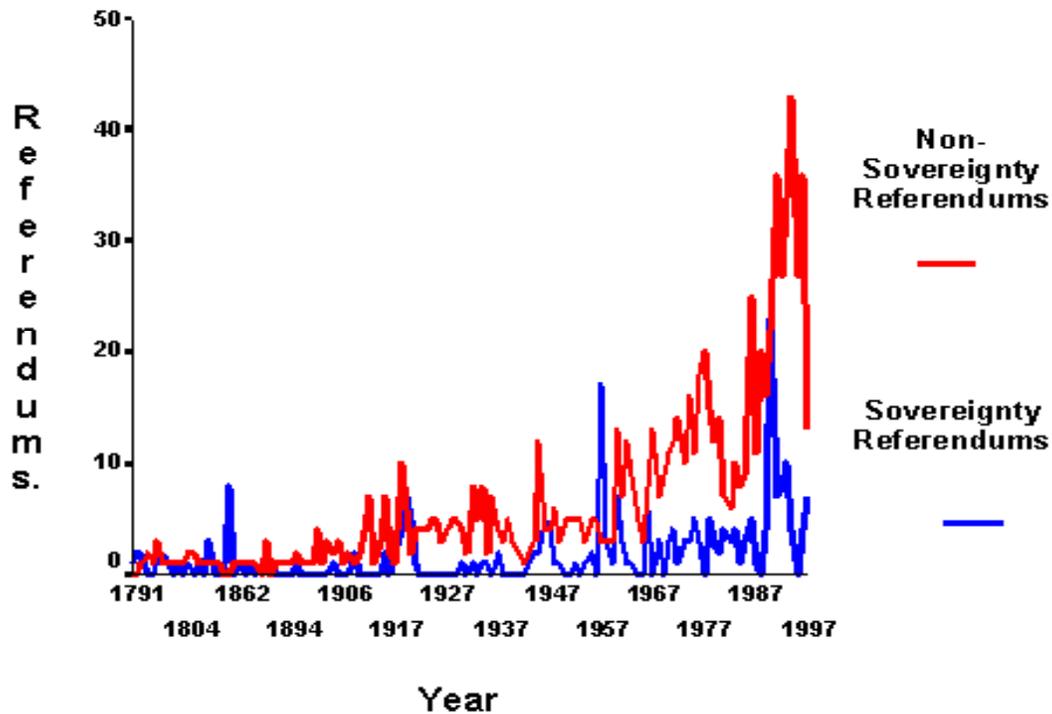
Figure 1, Referendum Use Over Time

Broadly speaking, we have identified 5 tides of referendum use on matters of sovereignty and these high tides have largely corresponded with high tides of nationalist awakening and the collapse of empires. Trends of referendum use over time would seem to support this claim. In figure 1 the use of sovereignty referendums from 1791 to 1998 is compared with the use of non–sovereignty referendum (i.e. constitutional, moral and other) over the corresponding period. The blue curve denotes sovereignty referendums seems to correspond with the five high tides suggested: 1) the French Revolution; 2) Italian reunification; 3) the Paris Peace talks; 4) de-colonization from 1947 – 1967 and finally; 5) the late 1980s and early 1990's following the collapse of Communism. These sovereignty referendums are divided into six sub-categories.

1. Referendums used to celebrate the **independence** of nation states. Borrowing from corporate jargon these referendums are a public listing of sorts. Groups seeking independence have also used referendums to further their cause.
2. Referendums to **settle border disputes**.
3. Referendums to **determine the status of territories**, particularly the relationship between colonies and the metropole and between trusteeship territories and the trustee power.
4. Referendums that facilitate the **transfer of sovereignty**. Either when the central state grants greater autonomy to regions and ethnic or national groups, or transfers sovereignty to supra-national organization, as is the case with the EU. This sub-category also includes cases where entities transfer defense responsibilities to larger nation states.

5. "Downsizing" referendums facilitate the **secession or cession of territories**. Here the central state or a colonial power uses the referendum to gain public support for the return of territory or a de-colonization process. The proposed Golan referendum is such a downsizing vote. Referendums staged by irredentist movements – though counted in this sub-category - are unilateral votes that are at best a form of protest.
6. Finally, "upsizing" referendums involve cases where states **incorporate territories**.

It is important to note that several of these categories, notably independence, downsizing and upsizing referendums, are not mutually exclusive categories and are indeed often practically and theoretically linked. A referendum on secession is a prelude to independence, whilst a referendum on the status of a colony may result in independence or incorporation. Two prominent examples where rejection of the status quo leads to independence are Guinea in 1958 and East Timor in 1999. In the case of New Foundland in 1948, rejection of the status quo later led to its incorporation into Canada. Independence referendums may serve as a catalyst for secession or autonomy demands, as witnessed in the former Yugoslavia, whilst irredentist referendums may later result in incorporation. More importantly, the key actor, as ever, remains the central state. Only Jakarta, for whatever reasons, could have agreed to a referendum on East Timor. Only Madrid and Westminster could agree to devolution referendums for Basques and Scots and only Addis Ababa could agree to Ertirean secession. Any vote without the consent of the central state is a "unilateral" vote, at best a statement of protest.

Independence Referendums

The 43 independence referendums staged to date have roughly fallen into two groups. The first have been referendums held after the secession or the independence of a territory has been agreed to. Here the referendum is used to celebrate newfound independence and early examples of celebratory independence referendums were provided by Norway in 1905, Liberia in 1918 and Iceland in 1944. In the de-colonization era several independence referendums were held in Africa, Asia-Pacific and Latin America following de-colonization. Some examples include Mongolia (1945), Cambodia (1945), Algeria (1961), Western Samoa (1961), Anguila (1967), the Comoros (1974) and Djibouti (1977). The most recent example of referendum following secession by consent was Eritrea's 1993 referendum.

The independence referendum has also been used to legitimate secessionist or independence claims in less congenial conditions. White South Africans voted in a republican referendum in 1960 and white Rhodesians declared UDI (unilateral declaration of independence) following a 1969 referendum. In our region, Northern Cyprus staged an independence referendum in 1985 as a part of its effort to receive international legitimacy. The referendums held in the former Soviet Union and the former Yugoslavia were a key tool of nationalist elites in their efforts to gain independence from the federal / central state. In the case of the Baltic republics, which led the independence charge, the referendum served to secure international support and "undermined

Gorbachov's claims that a union was still viable" (Brady and Kaplan, 1994: 194). In response to these developments Gorbachov proposed a Soviet Union wide referendum "to outflank his opponents" (White and Hill, 1996: 158) and obtain a new mandate for the Union. This belated attempt by the center to stem the wave of nationalist awakening however served to speed up the centripetal process. Six Soviet republics (Estonia, Latvia, Lithuania, Armenia, Georgia and Moldavia) adopted resolutions against the referendum and Lithuania, Estonian, Latvia, Georgia and Armenia proposed referendums on independence. Nine other republics changed the question or added their own questions.

The disintegration of the former Yugoslavia was also helped along by a series of independence referendums and counter referendums. In response to independence referendums by Croats and Bosnians the large ethnic Serbian communities – particularly those living near the former military borders (kraijna) - staged their own counter referendums demanding their own autonomy and later secession and incorporation into Serbia. The Yugoslavian experience highlights the dangers of applying majoritarian mechanisms in ethnically divided societies, particularly on matters of sovereignty and these questions will be elaborated in the concluding section.

Possibly the most salient example of the use of the independence referendum in a developed a western democracy is that of the Quebecois. The province's nationalist elites have to date staged two referendums on independence, the first in 1980 and the second in 1995 after the failure of the Meech Lake Accord and the defeat of the Charlottetown Accord in the 1992 referendum. Whilst the "sovereignty" demand has twice been defeated, it has not discouraged nationalists. Indeed, the margin of defeat was much reduced in the 1995 vote.

The so-called independence referendum has not been widely employed in Latin America (1) and in Australia, Canada and New Zealand, which have been conspicuously low consumers of sovereignty referendums in general. Even Europe with 6 independence votes has been a relatively small consumer of the independence vote. Eastern Europe (14) and Africa – Near East (11) on the other hand have staged several such independence votes.

Upsizing/ Incorporation Referendums

This sub-category represents the largest group of sovereignty referendums (71) and includes those referendums in which regions or groups indicate their desire to be incorporated into a particular state. Such votes can either be held prior to or after incorporation occurs. These referendums featured prominently after the French Revolution and during Italian reunification and were a part of state-led nation building. The early ideological zest displayed by the First Republic, was however short-lived and from 1793 all of the Republic's subsequent "upsizing" referendums - Belgium (1793), the Rhine Valley (1793) and the Republics of Mulhausen and Geneva (1798) - were retroactively used to legitimate French expansionism. Italian reunification produced two bursts of incorporation votes, the first in 1848 and the second from 1858 – 1860. Referendums also assumed an important role in Greek state building and the people of

Crete conducted a series of popular expressions in favor of joining Greece. During this period the British insisted on a vote by the residents of the Ionian Islands (1863), which Britain had agreed to return to Greece. Later, in 1950, the people of Cyprus indicted their desire to be incorporated into Greece.

The former colonies that make up present day Australia all held referendums in 1898, prior to their integration into the federal Australia. In South Africa, the colony of Natal conducted a similar vote to facilitate its incorporation into the Union of South Africa. In contrast, the people of Southern Rhodesia, present-day Zimbabwe, rejected incorporation in South Africa in 1922. In 1920 the people of Denmark formally voted in a referendum to accept the return of Northern Schleswig after two status referendums staged in Northern and Southern Schleswig. Prior to the Second World War Adolph Hitler used the referendum mechanism to legitimate German-Austria Anschluss. Hitler's decision to invade and stage a referendum was sped up by the Austrian Chancellor Kurt von Schuschnigg's decision to stage a referendum to undermine German claims.

Later, these referendums became an integral part of the process of de-colonization and the management of conflicts that emerged from the process. This was particularly the case where colonial power had the unenviable task of mediating rival claims over certain territories. In 1956 for example, the people of British Togoland voted to join Ghana and similar votes were held in North and South Cameroon in 1959 and 1961. The former Dutch colony of West New Guinea (West Irian) voted in favor of incorporation into Indonesia in 1969. Having rejected their status as a British dependent territory, the people of New Foundland voted in favor of incorporation into Canada. In the case of India–Pakistan two referendums were held in Sylhet and the North West Frontier Province as part of the formal partition. The former voted to join East Bengal (India) and the latter to join Pakistan. The question of the incorporation of three principalities into either India or Pakistan was left up to the local populace. Unilateral actions however prevented the staging of these referendums and, in the case of two regions, the votes were used retroactively to legitimate Indian annexation. In 1967, the Portuguese colonies of India (Goa, Damân and Diu) were also incorporated into India following referendums.

British de-colonization efforts produced attempts to create three federations out of former British colonies. The first was the Far Eastern Federation, which incorporated Malaysia, Singapore the Territories of North Borneo (Brunei, Sarawak and Sabah). Similar federations were attempted in the West Indies and in Central Africa. In all three of these "upsizing" initiatives referendums were employed to weld these associations. Whilst the attempt to amalgamate Nyasaland (Malawi), Southern Rhodesia (Zimbabwe) and Northern Rhodesia (Zambia), was approved by a referendum in Southern Rhodesia in 1953, opposition by black political leaders in the other two colonies led to the scrapping of the initiative. Singapore's two referendums, staged in 1962 and 1965 concerned Singapore's advent and departure from the East Asian federation. In 1961 Jamaica rejected the West Indian federation by referendum, initiating the independence of many of the larger Caribbean islands.

The Middle East and North Africa also witnessed several "upsizing" votes as a result of Pan–Arab, Syrian and Egyptian, mergers of 1958 and 1971. Similarly, the proposed merger of Libya and Morocco was also the subject of a referendum in Morocco in 1984. With the exception of these Pan-Arab state-building efforts, the large majority of the incorporation or upsizing referendums following the French Revolution and Italian reunification have been a part of the process of de-colonization. The Italian reunification and French expansion account for Europe's dominance in this sub-category (36 out 65 in total). The 11 votes in the Asia Pacific and 12 in Africa – Near East reflect the contribution of the de-colonization process.

Referendums and Border Disputes

The victorious allies of World War One set out to ensure the restitution of certain borders and territories and allow for the creation and recreation of nation states. Poland, Hungary, Czechoslovakia and Yugoslavia, which were carved out from Prussia and the Austro-Hungarian Empire, were primarily perceived as buffers against future German and Russian aggression. Hence strategic considerations and not the ideal of self-determination served as the victor's compass. Moreover, the victors were mindful of the effects of the excessive dismemberment of Germany and Austria. This restitution process inevitably resulted in conflicting territorial claims and the claimants, mainly the defeated parties, were quick to request referendums to settle these differences. Yet in practice referendums were the exception and not the rule. The allies often rejected demands for a referendum, as they would "call into question areas of strategic or economic importance to the new states such as Poland and Czechoslovakia" (Bogdanor, 1981 B: 145). For this reason a plebiscite on Danzig was refused, thereby ensuring that the Poles would have an outlet to the sea. Indeed, the rare decision to stage a referendum reflected a failure on the part of the victorious allies to reach consensus and it was often British and not American pressure that led to the adoption of these referendums. The Treaty of Versailles contained only five referendums and the Treaty of St. Germain only one. In the case of Eupen and Malmedy, the Belgian government, which was given the territory by the Treaty of Versailles, allowed the local population to express their protest in a publicly signed register – very few choosing to do so. A subsequent referendum was held on the Sopron (Odenberg) area in accordance with the Treaty of Trianon between Hungary and the Allies. Wilson's' Secretary of State, Robert Lansing (1921:88), who resigned over differences with Wilson on key issues pertaining to the Paris talks, argues that in many of its actions of the conference violated the principle of self-determination.

There is however broad consensus that where votes were implemented in a fair and impartial manner the outcome was accepted and that those territories where votes were refused were those subjected to German revisionist claims in the 1930's. The referendum on the question of Schleswig is perhaps the most successful of the border votes. Bogdanor (1981 B: 146) argues that even in the case of Upper Silesia, where the border remained contested, the referendum served to weaken support for German revisionist claims. One of the major weaknesses that plagued these votes was the inability of the weary allies, pressed to de-mobilize, to provide sufficient troops and staff to administer the referendums and ensure that the vote was free and fair. As a result the international

troop contingents were over-stretched and often largely comprised Italians and French troops. Germany viewed French troops as an obstacle to impartiality, particularly in territories contested by Poland and similar claims were made against Italian troops deployed in the former Austro-Hungarian Empire. In the case of the Counties of Spisz and Oravia the referendum was cancelled due to intimidation. These problems served to discredit the plebiscite as a mechanism to resolve border disputes. Many of these insights and lessons were however applied in the highly sensitive Saarland plebiscite administered by the League of Nations in 1935. In this regard it is remarkable that the UN did not have the foresight to plan for the various contingencies of the East Timor referendum. Even a cursory glance at Wambaugh's detailed descriptions and analysis of the failings of the votes administered after World War One would have alerted planners to some of these issues. The events in East Timor may well serve to discredit the referendum as a mechanism to resolve disputes over territories and borders.

The border referendum is generally a solution imposed by international third parties invited by the disputing parties to solve a conflict. To date only 11 votes were held in order to settle borders and most of these occurred after the First World War and 9 of these were staged in Western and Eastern Europe, with 6 and 3 respectively. In 1992 Canada settled the borders of the newly created province of Ninuvut by a referendum. Latin America has also staged a single vote on borders with the 1984 Argentinean vote on the Beagle Channel. Africa - Near East and Asia – Pacific have to date not held votes on border disputes. Two examples of referendums called to settle border disputes and not implemented include the proposed referendum over the status of the Tacna and Arica provinces, disputed by Chile and Peru and more recently proposed referendum over the future of Western Sahara. The relative dearth of the border (and secession) referendums can be accounted for by the high premium that the international community has placed on the respect of international borders. Indeed between 1948 and 1991 Bangladesh was the only example of a new state to be created as a result of secession.

Status Referendums

The second most frequent use of the sovereignty referendum (56 cases) is in managing relations between colonies and colonial powers and trustee territories and UN trustees. This accounts for the predominance of these sovereignty referendums in both the Asia – Pacific (19) region and Africa and the Near East (18). Latin America's 10 status referendums have mainly been held in the Caribbean islands and the continent itself has engaged in relatively few sovereignty referendums in general. France for example conducted an "empire wide" vote in 1958 to receive a mandate for its continued control of its overseas territories. This resulted in 15 different votes on 28 September 1958 alone. As already described, the only territory that rejected the status quo was Guinea, which as a result received its independence. New Foundland provides an example of a status vote, which resulted in incorporation, in 1948. The Netherlands and Spain have also employed referendum to gain popular approval for the existing relationship with their overseas territories. In 1967 the people of Gibraltar, which Spain contests, displayed their strong desire to continue living under British rule. Over the last 20 years in particular the USA has regulated its relationships with the territories that it controls under UN Trusteeship in

Asia Pacific through referendums. These constellations of small islands, Palau, the Micronesian Federation and Guam, which the USA captured from Japan in the Second World War, have at regular intervals approved their status or voted to change it. Both Guam and Micronesia have subsequently entered into a new relationship with the USA through a Compact of Association.

The British government administered a "border poll" in Northern Ireland in 1973 following the suspension of the Sunningdale process and the local parliament in Stormont. Republicans and nationalists viewed the poll as an attempt to secure international support for Britain's continued control of the region and boycotted the vote. The failed Soviet Union wide referendum of 1991 was ostensibly designed to reconfirm the constitution of the Soviet Union and the federal status quo, but many republics used the vote to erode the Union. Finally, the 1992 Canadian referendum on the Meech Lake Accord is classified as a status referendum. The vote, which centered on new constitutional arrangements for federal Canada, was in part a response to Quebecois demands for independence and included provisions to recognize the special status of Quebec and to create an Inuit entity. This rejection of the Meech Lake, considered a vote against "first-minister federalism" (Boyer, 1992: 235), resulted from the Canadian government's failure to create a solid coalition in favor of the reform. Instead a variety of political and social movements, women's groups, first people and certain state elites formed an effective "No" coalition. Opposition to Meech Lake mainly focussed on hostility to the special status granted to Quebec and dissatisfaction with concessions made to Canada's first nations people. The government's efforts were compounded by a poor economic situation and low public approval for Prime Minister Brian Mulroney.

The Transfer of Sovereignty

Three distinctive clusters of referendums dealing with the transfer of sovereignty have emerged. The first relates to referendums by which several European member states have sought popular approval for the requisite transfer of sovereignty to the European Union. The second area where the referendum has been used to transfer sovereignty is in managing devolution processes, often in response to the demands secessionist or irredentist groups. Whilst the former referendums are national referendums, autonomy votes are by and large sub-national votes. 33 of Europe's 88 sovereignty referendums were concerned with the transfer of sovereignty, either in regard to the EU or devolution and Europe's dominates this sub-category which totals 49 votes. The third use of the referendum to legitimate the transfer of sovereignty concerns the transfer of external sovereignty. In the case of the Island states of the Asia-Pacific region, Guam and Palau have entered into a Compact of Association Agreement with the USA. According to this arrangement, which is regularly ratified by a referendum the USA takes care of their external defense. This accounts for Asia – Pacific having staged 12 such votes. Eastern Europe is yet to stage a "transfer" referendum such an issue and precious few were held on this issue in Australia, New Zealand and Canada (2) as well as Latin America and the Caribbean Islands (1) and Africa and the Neat East (1).

Europe has experienced two major waves of integration referendums. The first of these was in the 1970s after the EU expanded its membership to include Ireland (yes), the UK (yes), Norway (no), Denmark (yes). The second wave, from 1992 – 1994, followed further expansion and the ratification of the Maastricht Accord. The referendum mechanism has become an important instrument in the European integration process and these votes have, with the exception of Austria and Ireland, not been constitutionally required. Instead these referendums have either occurred in response to backbencher or opposition demands for a referendum, or as a result of an elite desire to legitimate European integration. It has more often been the case that opponents of the European integration have ensured the application of the referendum. The 1975 UK referendum on continued EC membership was largely as a result of internal pressure from Labour Party backbenchers and served as a "political rubber life raft" for a divided the Labour Party. Though Labour Party leaders insisted that this would be Britain's first and last referendum, the same government employed a referendum on Scottish and Welsh devolution 4 years later. Bogdanor (1994: 74) notes that in the case of the Scandinavian countries these EU referendums are a sign that consensus and compromise, essential features of Scandinavian politics, has broken down. Such internal divisions are central to Tor Bjorklund's theory to account for when referendums arise. Referendums have been promised in the UK, Denmark and Sweden on joining the European Monetary Union (EMU).

Perhaps the most noteworthy of the European referendums were the Danish (1992) and Norwegian (1974 and 1992) votes, where voters blocked their elite's desire to join the European project. In the case of Norway the rejection of EU membership has been ascribed to deeper rural–urban or center–periphery divides (Grimond and Neve, 1975: 56). Moreover, these and other cases underscore the point that controlled referendums do not ensure that elites get their way. In the case of both Norway and Canada non-related issues had a major impact on the vote outcomes. In the context of high unemployment, a faltering economy, social divides or a highly unpopular government or Prime Minister a referendum can potentially serve as a lightening rod for dissent. The "Yes" camp therefore needs to focus much attention on coalition building and ensuring favorable elite cues. Rourke, Hiskes and Zirakzadeh (1992: 156, 175) suggest that governments generally "lose referendums unless they first build a broad coalition among major parties and interest groups."

Where the central state has agreed to grant autonomy to certain groups, it has often pre-conditioned devolution on a referendum. In the case of Spain, the people of Galicia, Catalonia and the Basque territories held referendums on autonomy in accordance with the 1978 constitution. In response to these new developments political leaders in Andalusia agitated for greater autonomy and won that autonomy through two referendums (Rourke, Hiskes and Zirakzadeh 1992: 116 - 118). In the case of the UK, the early Scottish and Welsh devolution processes were the result of coalition commitments to the Labour party's junior allies, the Scottish National Party (SNP) and the Welsh Plaid Cymru. However, Labour Party backbenchers opposed to devolution demanded that a qualified majority, representing 40% of the registered voters, approve the Scottish devolution arrangement. In doing so they placed a hurdle that prevented devolution in

1979 but in a subsequent vote in 1998 devolution was overwhelmingly approved. Rourke, Hiskes and Zirakzadeh (1992: 144) argue that in most cases referendums on autonomy were proposed by those who saw themselves as disadvantaged, Labour Party activists in Wales and Scotland and Andalusian leaders who thought that their region was being neglected. Goodhart (Ranney, 1981: 139) contends that referendums "generally come from those who are most anxious to preserve the unity of their country." Whilst this claim may in part account for the UK's 1979 devolution referendum, where Welsh and Scottish Labour Party backbenchers opposed to devolution demanded these votes, it has more often served those demanding autonomy or secession.

Perhaps the most important and interesting devolution referendum was the 1998 Good Friday Accord referendum. Firstly this vote was in effect a double vote, which on the one hand required that voters in the Republic of Ireland amend the Irish Constitution's claims to Northern Ireland, conditioning the unification of Ireland on consent, through a double referendum. Thus the Good Friday Accord referendum may be viewed as a tactical downsizing in order to facilitate future upsizing. On the other hand the people of the "troubled" province voted to legitimate the agreement, which included devolution, power sharing and the creation of cross-border structures involving the British and Irish governments, as well as elected representatives of the devolved Northern Ireland Assembly. The Good Friday process was rather curious in that the politicians engaged in the Mitchell Talks did not directly negotiate the deal with each other and did not sign the eventual accord. Instead the people ratified the accord. For unionists and their supporters, the analogy with Scottish and Welsh devolution, which occurred a year earlier, was very important and it legitimated the devolution aspect of the arrangement. Equally important for unionists was the Irish vote amend Articles 2 and 3 and thereby condition the unification of Ireland to consent. Staging a referendum in a divided society such as that of Northern Ireland was not without its pitfalls as it opened up dangers to a sectarian majority (i.e. nationalist and republicans voting in favor and unionists and loyalists voting against), which would have de-legitimated the deal. Thus elite cues and consensus were essential in the case of Northern Ireland. Northern Ireland's experience validates Bogdanor's (1994: 45 and 1981 A, 144) assertion that referendums cannot create consensus where none exists. The common ground, which was lacking in the case of Northern Ireland in the 1970's, existed in the 1990's.

Secession or Downsizing Referendums

Finally we turn our attention to the downsizing referendum. Two types of downsizing referendums are distinguished, the first involves cases where irredentist groups vote in favoring of leaving their current state and joining another state. These votes have largely been "unilateral" votes of protests by these communities, be they the people of the Aaland Island wishing to join Sweden (1919) or Serbs minorities wishing to be incorporated into Serbia after Croatian and Bosnian independence referendums. Secondly, downsizing elites have used the referendum legitimate their decisions to return territory or de-colonize. In this regard the French experience in Algeria (1961 – 1962), as well as in New Caledonia (1988) and South Africa's (1992) experience are instructive. These sovereignty referendums often involve cases of double domination. Here

significant settler populations bolster colonial rule and some examples include English colonization of Ireland by Scottish Protestants, French colonization of Algeria and Israeli settlement in occupied territories. And it is as a result of these settler populations and a deep sense of attachment by groups in the metropole to the territory that the process of downsizing is so complicated.

The first example where the party "surrendering" territory held a downsizing vote occurred in the case of Nice and Savoy in 1860. Sardinia had in exchange for Napoleon's assistance against the Austro-Hungarian Empire in 1858, ceded these territories to France under the Treaty of Turin. Cavour insisted on the use of a referendum "to legitimate in the eyes of Europe a transaction sure to be repugnant to it as well as to protect himself against the certain attack of Italian patriots against the cession of Sardinian soil" (Wambaugh, 1920: 76). France provides the most familiar example of the downsizing referendum and the Algeria referendums played a vital role to breaking the impasse and settling an issue that divided France. Any downsizing initiative faced vehement opposition from the French settlers, who made up 10% of Algeria's population. The settlers also enjoyed important support from the military, which was embroiled in the conflict and from conservative politicians in France. Whilst de Gaulle's behavior in calling this and other referendums was un-constitutional (Wright, 1978: 152 – 154 and Morel, 1996: 73), the votes did manage to reveal a consensus in an atmosphere of incipient civil war. Though not assured of a parliamentary majority, de Gaulle was convinced that the masses were with him and he used the referendum to communicate directly with them. In doing so, de Gaulle used his favored weapon, the referendum, to marginalize hard-line opposition and expose their low public support (Wright 1981, 159 – 160 and Bogdanor, 1994: 49 – 58). Ultimately, "The Algerian referendums legitimized a badly needed surrender, isolated the extremists, and helped ensure the loyalty of the army" (Wright, 1978: 164).

In the case of New Caledonia French settlers were even more demographically predominant than they were in Algeria. French settlers accounted for 39% and the indigenous Melanesian community 44.8% was a de-facto minority. Again efforts to find a solution that accommodated the aspirations of the Melanesian were resisted by both the colonists and opposition in France, and metropolitan France voted in a referendum in 1988 to approve the Matignon peace agreements with the KANAK independence movement. Similarly FW de Klerk, who was facing growing opposition from the white right, called a snap referendum to gain a mandate from whites for a negotiated settlement with the ANC. The 1998 Irish vote to amend Articles 2 & 3 of the constitution, which formally claim Northern Ireland, also serves as an example of a downsizing referendum.

One of the key difficulties confronting "downsizing" elites is the stiff opposition that they confront in pursuing their policies. Their opponents make every effort to de-legitimate their policies as treacherous, comparing Rabin to Marshall Petain or branding de Klerk a traitor. Northern Ireland's unionists and loyalists have invoked the term "Lundyism" to de-legitimize moderates. Deep divisions facilitate these de-legitimation initiatives and a simple parliamentary majority may not be considered legitimate. Bar Siman-Tov (1997) has demonstrated how, in the case of the Oslo process, the absence of formal

(parliamentary) legitimacy undermined the informal legitimacy of the process. The mechanisms of representative democracy therefore not only fail to provide but become the focus of disagreement. Moreover, the existing party system may be unable to handle differences on issues of sovereignty Bogdanor (1994: 89 – 90).

Thus referendums have a major role to play in supplementing representative democracy and regulating internal divisions that result from downsizing processes. For one they defuse the issue by taking it out of the hands of extremists (Bogdanor, 1981: 6). And by virtue of the perception that referendum decisions are perceived as being more legitimate (Butler and Ranney, 1978: 25), they provide important legitimacy for compromise. As de Gaulle demonstrated with his two referendums, "no one could claim that the patriotic and unwilling masses had been stabbed in the back by a handful of cowardly politicians" (Wright, 1978: 160). In his case it required 70% and 90% in the two Algeria votes to attain this legitimacy. In order for Ehud Barak to make the same claim he will need to ensure that at least 60% of Israel's voters support the return of the Golan. In contrast to de Gaulle, Barak has to contend with the highly contentious question of a "Jewish majority" and any failure to secure a "Jewish majority" will undermine the legitimacy of territorial cession. This target is wholly attainable but requires that Barak builds a coalition with key elites and emulates de Gaulle's renowned ability to speak directly to the French public - over the heads of the politicians that they follow.

Some Final Thoughts

The referendum mechanism is generally considered inappropriate in ethnically divided societies and in societies that have adopted consociational arrangements to regulate ethnic, religious and other conflicts (Bogdanor, 1994: 88). Belgium's only national referendum on the reinstatement of King Leopold following World War Two demonstrates these pitfalls. Whilst 57% of all Belgians voted in favor of the King's reinstatement, the majority of Walloons opposed his return. The referendum thus served to heighten tensions between the two communities and the King was perceived as a Flemish leader, eventually abdicating in favor of his son Crown Prince Baudouin. Switzerland is however a telling exception. And whilst referendums are inherently confrontational, there are some circumstances when some decision is better than no decision.

Following the events in Yugoslavia, where referendums "often seemed like battle cries of highly mobilized and desperate populations than instruments of deliberative democracy" (Brady and Kaplan, 1994: 206), these reservations assume greater significance. Qvortrup (1999/B) suggests the application of the traditional "eastern-western" nationalism dichotomy in order to understand where and why referendums may exacerbate conflict. In settings where "eastern nationalism" pervades the dominant group uses the referendum to consolidate its power and exclude other ethnic minorities. In contrast Qvortrup suggests that western nationalism use referendums as a mechanism to include others and cites Norway's independence referendum as an example of the referendum serving as a "wide legitimacy generating device." Norway, however, presents a relatively homogenous setting, certainly when compared to Yugoslavia.

The problem may rather lie with the international community and its inconsistent application of the principle of self-determination. This inconsistency, which was a feature of Versailles and sowed the seeds of future conflict in Eastern Europe, became a feature of the dissolution of the former Yugoslavia. Susan Woodward (1995) who is highly critical of the EU and German policies during the unfolding of the Yugoslavia crises argues that international recognition of the Croatian and Slovenian votes for independence – primarily led by Germany – exacerbated the crises. Chancellor Kohl had convinced his European counterparts that international ("preventative") recognition of the independence of the two former republics would internationalize the conflict and deter Serbian aggression. Germany and Europe however failed to condition such recognition on a respect for human and group rights. Furthermore Woodward suggests that the Europeans overlooked the fact that it was impossible to apply self-determination in Bosnia at the time that they recognized Slovenian and Croatian sovereignty. Whilst the application of self-determination was less problematic in Slovenia, the ethnic composition of Croatia and Bosnia–Herzegovina made its application highly impractical in these two territories. In response to Croatian and Bosnian self-determination referendums Serb minorities boycotted and staged their own votes, at first for autonomy and later for secession. This situation was compounded by Germany's efforts to stall the recognition of Bosnian sovereignty following the Bosnian independence referendum and Europe's failure to relate the Serb autonomy and secession votes. Goodhart (1976: 163) makes the highly valid point that; "It is plain that the holding of a plebiscite does not provide a panacea for the problems of sovereignty; but one lesson can be drawn from experiences in all parts of the world is that the surest recipe for provoking trouble to proclaim the virtues of self-determination and then fail to consult the people." In this particular case, Europe failed to listen to all the people. This particular question, though beyond the scope of this descriptive survey, demands further research.

Appendix 1, Referendum Use - Region Cross Tabulation.

	Europe	Africa-Near East	Asia - Pacific	Latin America	Canada, N.Z & Australia	Eastern Europe	Total
Constitution	98	119	54	79	41	40	431
Sovereignty	87	44	48	19	11	33	242
Moral	21	0	0	1	79	2	103
Other Issues	104	4	19	22	56	37	242
Popular Support	11	37	12	8	0	7	75

Total	321	204	133	129	187	119	1093

* Missing Value = 1, N = 1094.

Appendix 2, Sovereignty Referendums - Region Cross Tabulation.

	Europe	Africa-Near East	Asia – Pacific	Latin America	Canada, N.Z & Australia	Eastern Europe	Total
Independence	5	11	8	1	2	16	43
Secession	5	0	1	2	2	4	14
Incorporation	37	13	12	3	2	4	71
Transfer	33	2	11	2	2	0	50
Status	5	19	17	10	2	3	56
Border	3	0	0	1	1	6	11
Total	88	45	49	19	11	33	245

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