

The Rise of Referendums

ELITE STRATEGY OR POPULIST WEAPON?

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In recent years, democratic countries have turned ever more frequently to referendums as a means of deciding major policy issues. Supporters of these votes argue that they enhance the democratic character of the decision-making process. Referendums, on this view, provide a safety valve for releasing popular pressure under exceptional circumstances, or an option of last resort for raising policy issues that the ordinary political process is failing to address.¹ Yet the increasingly common use of referendums—a form of direct democracy—introduces serious tensions with the regular practices and principles of representative systems, themselves the common foundation of all contemporary democracies.

Referendums do not automatically improve the democratic process. Instead, they often function as a substitute for a comprehensive discussion on the merits of vital policy issues. Referendums have frequently assumed this role during the decades-long process of postwar European integration, which stretches back to the establishment of the European Coal and Steel Community in 1951. They have served a similar function in connection with the more recent movements toward the EU's disintegration. Over the past several decades, as the "permissive consensus" enabling an elite-led European integration process began to break down, mainstream European political elites saw in referendums a useful strategy for shortening debates.

For these elites, referendums offered a top-down mechanism for achieving specific policy outcomes—and, in the process, shutting down burgeoning debate on previously dormant questions about social, political, and economic liberalization. The repeated national-level referendums in Denmark on the 1992 Maastricht Treaty that gave birth to today's European Union, and in Ireland on the EU's Treaty of Lisbon

(2007), are examples of this trend. Elites have also used the need to win referendums at home as a means of enhancing their bargaining power in intergovernmental negotiations over the deepening European integration process.²

More recently, however, marginal political actors have turned the tables by seizing on the momentum for referendums built by their mainstream foes over the past decades. These new actors are appealing to growing and underrepresented segments of the population. They have harnessed the dissatisfaction generated, in part, by the efforts of mainstream politicians to circumvent discussion of popular concerns about European integration and related policies of liberalization. Demands for referendums by populist, Euroskeptic, and other insurgent parties thus reflect genuine popular grievances with political elites' handling of the integration process.

Nonetheless, the growing popularity of referendums raises several serious concerns for democratic governance. First, referendums produce a conflict between competing sources of legitimacy—elected representative bodies on the one hand, and direct popular votes on the other. Second, because referendums are one-time events, they lack the built-in safeguard of repeated voting that usually helps to ensure accountability, incentivize honesty, and allow for the correction of mistakes in representative systems.

Referendums emerged as a widely used mechanism for decision making only in the latter part of the twentieth century. According to the Center for Research on Direct Democracy, a total of only fourteen national referendums took place worldwide between the years 1700 and 1800. All of these fourteen votes took place after 1792, and six of them occurred in France. In the course of the next century, this number went up to 140. In both the nineteenth and the twentieth centuries, the majority of referendums took place in a single country—Switzerland, which introduced the referendum as a national political institution with its 1848 constitution and has since held more nationwide referendums than all other countries combined.

Critics of referendums point to the fact that from the nineteenth century to the present day, a range of authoritarian political figures have used such votes as a vehicle for usurping power. Many of the non-Swiss referendums were in fact top-down attempts by political elites to seize or consolidate power. At least six referendums organized in France between 1800 and 1852 had the goal of granting Napoléon Bonaparte (1769–1821), and later his nephew Louis-Napoléon Bonaparte (1808–73), imperial status and special powers.³

With the advent of the twentieth century, the use of referendums increased somewhat, but this trend had little to do with any advances in democracy. Some of the 295 referendums that took place in the first half of the twentieth century followed, explicitly or implicitly, the logic of

German political theorist Carl Schmitt (1888–1985), who advocated the use of referendums to legitimize and strengthen the power of authoritarian rulers;⁴ Mussolini and Hitler used referendums in this way. In countries that fell under Soviet domination following the Second World War, the new authorities used referendums to legitimize totalitarian regimes. In Bulgaria in 1946, for example, a referendum was used to transform the country from a constitutional monarchy into a communist “people’s republic.”

More recent authoritarian leaders have also taken advantage of referendums. Former Venezuelan president Hugo Chávez (1954–2013), long-ruling Belarusian dictator Alyaksandr Lukashenka (b. 1954), and many post-Soviet Central Asian leaders have employed referendums to hijack the democratic process and award themselves extraconstitutional powers. For others, such as Chile’s military dictator Augusto Pinochet (1915–2006), Libya’s Muammar al-Qadhafi (1942–2011), and Iraq’s Saddam Hussein (1937–2006), referendums have been a means of legitimizing their rule.

Between 1945 and 1972, the number of referendums held worldwide reached 410. Many of these votes concerned the decolonization process and the pursuit of national self-determination. The use of referendums truly took off, however, only in the 1980s and 1990s. Thus between 1972 and 2015, a record number of 1,846 national referendums took place (assessments of the precise figure vary due to the complexity of differentiating between national and subnational referendums). Even when we exclude referendums that were part of authoritarian power grabs, as well as the atypical Swiss referendums, the sheer increase in the number of referendums worldwide, especially in many budding democracies, remains remarkable.

Referendums in Europe

The political dynamics surrounding the use of referendums in Europe—particularly in connection with the European-integration process—have changed dramatically in recent years. For a time, mainstream players used referendums for their own ends. Governing elites at times turned to referendums as a means of overcoming constitutional constraints on the expansion of their powers. Ireland’s government, for example, sought through referendums in 1959 and again in 1968 to transform the country’s electoral system from proportional representation (single transferable vote) to a British-style first-past-the-post system. These referendums, both of which failed, would likely have increased the dominant party’s room for maneuver by diminishing the electoral prospects of parties with a smaller following.

Because they saw referendums as working to their advantage, elites supported the adoption of special constitutional provisions for referen-

dums in many European democracies. Technically available to all actors, referendums were not readily accessible to the marginal parties, which lacked the public support, communications resources, and political weight to initiate them, even when the necessary constitutional provisions were present. Recently, however, two factors have altered this situation: Mainstream political parties in Western democracies have gradually become less representative due to the forces of globalization and European integration. Meanwhile, fast-growing groups of voters who feel unrepresented by the political establishment—particularly older, middle-class, white, rural voters struggling with the consequences of recent social and economic changes—are finding single-issue protest parties more attractive. In this altered situation, antiestablishment political forces have turned referendums from a means of cementing an elite consensus into a strategic instrument for advancing their own profile and issues.

After the end of the Second World War, most European democracies gradually introduced provisions for referendums on constitutional changes, largely as the result of pressure to balance out the preponderant role of political elites in determining major policy directions. This was a period marked by a high degree of independence for elites in shaping policy—the so-called permissive consensus—as well as by a generally coherent alignment between the bases of political parties and the socioeconomic cleavages in their societies. Changes to this situation in the early to mid-1970s, however, touched off an explosion in the use of referendums, especially on issues related to the European Union and its forerunner, the European Economic Community formed by the 1957 Treaty of Rome.

In the 1970s, what was then the European Community experienced both its first enlargement and its first wave of referendums. This was the beginning of the transnational institution's "democratization," reforms aimed at addressing the "democratic deficit" and making pan-European bodies more accountable to the citizens of member countries. By the end of the decade, this process culminated in the first direct elections for the European Parliament. It also coincided with the gradual turn to neoliberal economics as a solution to "Eurosclerosis," or the stagnation of European economies after the oil and monetary crises of the early 1970s. Liberalization of the global economy has transformed European societies, as well as the international environment.

The Single European Act of 1986 provided the first significant revision of the Treaty of Rome. It laid down the initial direction for the project that we know today as the European Union, characterized by a common currency and the Rome Treaty's four freedoms of movement (the free movement of goods, of people, of capital, and of services). The resulting shift toward liberalization coincided with two other developments: the waning role of the unions and professional associations

that had traditionally served as aggregators and articulators of voters' interests, and the increasing inability of political parties to address these

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same voter concerns.⁵ An amorphous mass of unrepresented voters thus slowly began to emerge, a process that has accelerated in recent times.

Recent developments in French electoral politics illustrate how establishment parties, increasingly unsuccessful at representing their traditional constituencies, have gradually lost their support. Over the past twenty years, the radical-right populist National Front (FN) has adopted a strategy of vociferously condemning globalization, Europeanization, and U.S.

domination. This message has attracted both disillusioned blue-collar workers and middle-class small-business owners, who have suffered due to competition from multinational corporations. In France's 2017 presidential election, opinion polls reported 39 percent support for FN leader Marine Le Pen among blue-collar workers in the first round and 56 percent intended support in the second round.⁶ Le Pen also enjoyed strong support among middle-class demographics that have traditionally backed France's mainstream center-right party, the Republicans.

The FN had also outperformed Socialist Party (PS) candidates among blue-collar workers in polls conducted during earlier races in 2012 (the first-round presidential contest) and 2014 (elections to the European Parliament), as well.⁷ At the other end of the populist spectrum, the charismatic ultraleftist 65-year-old Trotskyite and Euroskeptic Jean-Luc Mélenchon also made a splash in the 2017 presidential race. Voters with ties to two of the three largest labor unions in the country—the General Confederation of Labor (CGT) and Workers' Force (FO)—told pollsters that they preferred Mélenchon over the official PS candidate Benoît Hamon by wide margins in the election's first round.⁸

Faced with increasingly restless voters, the governing political elites did not focus on finding ways to represent their electorates more effectively. Instead, they sought to quash the rising tidal wave of unarticulated voter grievances, many of which concerned the difficult social and economic consequences of the four EU freedoms and the zero-sum politics of economic liberalization. Elite actors sought to solidify the status quo through two shortcuts: silencing debates and holding referendums. These processes became especially widespread in the 1990s and 2000s.

In the first instance, the dominant Western political elites—emboldened by the triumph of liberal-democratic values over communist ideology with the collapse of the USSR and its satellite regimes in Eastern Europe—sought to cement, at least rhetorically, the unchallenged status of liberal democracy as the “end of history.” They went so far as to obstruct any meaningful discussion of the merits or costs of liberalization and the four freedoms, especially where the most vulnerable strata of European societies, the blue-collar workers, were concerned. Those who dared to criticize, even mildly, various aspects of European integration, to question its logic, or to discuss possible harmful consequences were stigmatized as “Euroskeptics” and then marginalized. The term “soft Euroskepticism” gained traction as a means of labeling and delegitimizing nuanced criticism that did not entail actual opposition to integration.

Referendums composed a second pillar of these elites’ strategy for brushing aside the backlash against European integration. Of course, not all referendums are alike. The individual constitutions of some states required a referendum on the question of EU accession. In Ireland, referendums must be held after any change in the EU treaties, although this is an exceptional case. The majority of the referendums held over the past forty years in connection with European integration, however, were not constitutionally required; nor are the overwhelming majority of those currently on the table. And it is the governing political elites who bear responsibility for the proliferation of these nonmandated referendums.

Elite Uses of Referendums

Amid debates over European integration in the last decades of the twentieth and early years of the twenty-first centuries, mainstream political elites made heavy use of referendums. Elites utilized these votes to curtail policy discussions, circumvent challenges to the legitimacy of their decisions, and push through unpopular policies. Mainstream political elites enjoyed a monopoly over decisions about the holding, sequencing, and structure of referendums, including how much time to allow for deliberation (with a shorter period allowing for less discussion and facilitating the spread of factual misrepresentations) and whether to strategically hold simultaneous votes on separate issues.

Elites used and abused referendums for domestic strategic goals, as was the case with the June 2016 vote supporting a British departure from the EU (Brexit) and with what has become known as the “Oxi” (“No”) referendum of 2015, in which a 61 percent majority in Greece voted against accepting EU and IMF terms for a financial bailout that included harsh austerity policies. Beyond the domestic political sphere, Greek politicians also saw the “Oxi” vote as a means of boosting their country’s international bargaining power. Other countries have similarly employed referendums at home—such as the repeat votes on treaties in Ire-

land (2001, 2002, 2008, and 2009) and Denmark (in 1992 and 1993)—as bargaining chips in EU-level negotiations, a practice that brings to mind political scientist Robert Putnam's concept of a two-level game.⁹

EU political elites have scheduled referendums strategically in order to ensure specific outcomes. For example, they would run two referendums together under the pretense of greater cost-effectiveness, but with the real goal of confusing voters into seeing separate issues as one and the same. Slovenia held a 2003 referendum on EU accession, which enjoyed popular support, in parallel with a referendum on the less popular prospect of joining NATO. In a similar vein, the Irish government strategically bundled a 1998 referendum on the EU's Amsterdam Treaty with a vote on the Belfast peace agreement for Northern Ireland. Given popular support for the Belfast accords, this decision enhanced the Amsterdam Treaty's chances of approval, but somewhat convoluted the debate on both questions.

Referendum organizers also have employed the so-called domino strategy, as in the EU-accession referendums of Austria, Finland, Sweden, and Norway in the mid-1990s. The idea was to put pressure on the more Euroskeptic Norwegians to vote "yes" by having them vote last, after the more Euro-enthusiastic Austria, Finland, and Sweden. (The strategy failed, as Norwegians voted "no.") Backers of the botched 2005 effort at adopting an EU Constitutional Treaty utilized similar tactics. France scheduled its May 29 referendum on the treaty at the start of the vacation season so as to avoid higher turnout. French voters nonetheless turned down the agreement at the polls, and this outcome together with a similar vote in the Netherlands a few days later derailed the project.

The Constitutional Treaty nonetheless soon reappeared in a new form, as the 2007 Treaty of Lisbon. More strategic scheduling ensued, with the British Parliament rushing its ratification of the Lisbon Treaty before a referendum in another country could torpedo the agreement, or the opposition Conservatives could demand one in the United Kingdom. Remembering the Constitutional Treaty, the EU elites judged—perhaps wisely—that only countries required to do so by their constitutions would have to hold referendums in order to approve the Lisbon agreement. Thus, European elites not only used referendums repetitively until they got their way, but also sought to avoid holding referendums when opposition actors could take advantage of them.

Referendums in Populist Hands

For most of the postwar period, European elites enjoyed an overwhelming advantage in determining how, when, and whether referendums would be held. Recent years, however, have seen a dramatic change in this situation. As mainstream political parties increasingly ceased to represent their traditional constituencies, and as mainstream political elites attempted to confine discussion within the straitjacket of a dogmatic pro-integration

consensus, an army of small populist, antiestablishment, and protest parties—on both the left and the right—appeared in response.

According to a recent study, there are no fewer than 45 such insurgent parties in the European Union.¹⁰ By blending antiglobalization, anti-immigration, and paradoxically, anti-Westernization messages, many of these parties gradually became significant political players. Some of the more progressive fringe parties, which harbored ambitions of gaining mainstream status, adjusted their message in order to widen their constituencies.¹¹ “Technological democratization” has also aided these peripheral actors: New communications technologies allow them to reach much greater numbers of citizens, and to raise their demands despite the resistance of mainstream elites.

The power of referendums did not go unnoticed by these political outsiders.¹² Facing a political *cordon sanitaire* that blocks their ability to have a meaningful influence on policy making through traditional representative channels, the new fringe parties instead press for referendums, which they cast as the only legitimate means of making decisions. They have, as of this writing, launched more than 35 initiatives for referendums. Especially popular topics for suggested referendums include EU membership (a question proposed by populist parties in founding member-states France, Italy, and the Netherlands as well as those from newer entrants such as Estonia and the Czech Republic) and refugee policy (the subject of a referendum held in Hungary in October 2016, and of referendum proposals in Poland, Sweden, and elsewhere). Populists have also raised the possibility of referendums on other questions relating to the EU, such as enlargement (in countries as diverse as Austria and Bulgaria) or the Eurozone (in Italy and Germany).

Responding to their inability to break into mainstream policy debates, many of these marginal parties have adopted a populist rhetoric of moral superiority, denouncing traditional politics as “corrupt” and calling for the “return of power to the people.” They position themselves as the only true spokespersons for “the people” and depict referendums as the only legitimate expression of the people’s sovereign will. Along the way, they also claim for themselves the right and the power to decide who counts as part of “the people” and who does not.¹³

One can understand why populists view referendums as a necessary means of making the “voice of the people” heard. Europe’s peripheral parties sometimes raise perfectly legitimate questions regarding the level of European integration, its social and economic costs, and the political ramifications of growing centralization—questions that both national elites and EU elites in Brussels seek to mute or ignore. In this setting, referendums have become a powerful instrument helping the new populist parties not only to address their core issues, but also to enhance their own political influence.

Yet the recourse to referendums creates worrisome incentive struc-

tures. As marginal players, populists have little to lose from misrepresenting their preferences and policy goals. The dynamics of referendums exacerbate this problem. This is because referendums are not just *one person, one vote* expressions of democracy, but also typically *one-time* events. They thus represent a departure from the usual structural principle of the democratic process, with its cyclical repetition of elections for representatives. In this cyclical setup, elected representatives continually discuss policy issues throughout the tenure of a given government or administration, with regularly scheduled elections providing an opportunity for citizens to evaluate their performance. Referendums, on the other hand, establish a new status quo without addressing the related policy contingencies.

Moreover, unlike regularly scheduled elections, referendums do not offer built-in options for holding campaigners accountable or deciding on a change of course. Referendums are usually one-directional: They irreversibly alter the status quo, not necessarily for the best. They thus leave voters with few alternatives if they experience “buyer’s remorse,” or realize that they have voted on the basis of misleading information or unrealistic policy proposals. The dramatic case of the Brexit vote clearly illustrates this problem. During the campaign period leading up to the vote, both sides—Leave and Remain—engaged in gross misrepresentations of the facts, while voters remained poorly informed about the grave and irreversible consequences of their decision. It is telling that even after months of intense public campaigning, the most searched phrases on Google the morning after the results came in were “What is the EU” and “What is Brexit.”

Complications for Democracy

Support for referendums dates back to the Enlightenment. The Marquis de Condorcet (1743–94) allegedly provided a mathematical proof of democracy’s virtues that has been interpreted as an endorsement of direct democracy.¹⁴ More recent arguments in favor of direct democracy rest on the view that citizens have too restricted a role to play in representative democracy. As a result, so the argument goes, voters become less able to grasp the growing complexity of policy decision making, understand the issues at stake, and take responsibility for their political decisions.¹⁵ Other proponents of referendums emphasize the fact that direct democracy “leaves no ambiguity about the answer to the question: What did the people want?”¹⁶

Before dealing with *what* “the people” want, however, one first needs to clearly understand *who* “the people” are. In their bare essence, referendums are a type of electoral institution that grants legitimacy to a majoritarian decision. This approach can lead to what is often called the “tyranny of the majority,” and to the false equation of “the major-

ity” with “the people” as a whole. In addition, when we consider trends of ever lower voter turnout, the actual “majority” in a given vote may in fact represent only a politically active minority of the electorate. In

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Europe, for example, people over 55 are politically more active than those under 30. Furthermore, referendums offer no protection against situations where voters are unable to make informed decisions due to the complexity of the issues at stake, misinformation, or a lack of detailed knowledge about how policy decisions are made.

Referendums can be seen as a kind of zero-sum game: The victory of the majority in a referendum means the loss of the minority. Referendums also

share certain features of the famous Prisoner’s Dilemma, in which two apprehended criminals decide whether to sell one another out in order to win a reduced sentence. In this hypothetical scenario, since the interaction will not be repeated, each player has an incentive to deceive the other instead of cooperating and acting honestly (a recurring interaction would incentivize greater honesty). As Kenneth Arrow’s well-known “impossibility theorem” demonstrates, it is impossible for the electorate to express any real “will of the people” without introducing a “dictator.”¹⁷

The impossibility of appealing to the people’s will leaves us with a “minimalist” perception of democracy where people use ballots in lieu of pitchforks and knives, as a way of “flexing muscles” to read their chances “in the eventual war.”¹⁸ In this context, the cyclical repetition of elections for representatives—which not only allows for greater accountability, but also ensures “another chance” to vote—is key. This promise of another chance in the future induces citizens to accept the verdict reached through ballot “muscle-flexing,” rather than to get into a real civil war over policies with one-time outcomes. The repetition of elections thus allows the democratic process to continue uninterrupted and to keep its participants fully committed. In the words of Adam Przeworski, who has insightfully captured this dynamic, “Democracy is a system in which parties lose elections.”¹⁹ If those who have lost an election think that this may be a one-time event, they will have little to no incentive to accept the result, and will find it more profitable to “misrepresent” their real intentions and to rebel against unfavorable outcomes.

As referendums grow increasingly frequent, both the one-directional nature of these votes and their lack of mechanisms for penalizing dishonest campaigners leave us with cause for concern. Voters may know

little about a given issue, and many frequently follow the cues from their preferred political parties. This situation presents dishonest political actors with an opportunity to sway voters who are not well informed. In addition, recent studies have shown that random events external to politics, such as natural disasters or shark attacks, in the days and weeks preceding the election may influence voters.²⁰ These facts call into doubt appeals to the “wisdom of the people.”

Referendums are also poor tools for addressing complex questions that cannot be posed in a straightforward yes-or-no manner. The “Oxi” referendum, initiated by Greece’s populist ruling party Syriza, contained 68 words and name-checked four international institutions. It also asked citizens to give their opinion on an EU and IMF proposal whose deadline had already passed by the time of the vote. In holding this referendum, Greece’s leaders seemed to be interested more in rallying support that might aid them at the international negotiating table than in setting the actual policy options clearly and honestly before the voters.

The 2016 Brexit referendum also failed to offer clear options. Were the Leave supporters voting for a “hard Brexit,” a complete political and economic break with the EU, or were they voting for one of the many “soft Brexit” options, each marked by different policy nuances with serious implications for the future of the U.K.–EU relationship? Would voters have opted for Leave had they known that their vote would trigger a “hard exit” option that would end the free movement of capital, goods, and services along with that of people, and would ultimately increase the cost to U.K. taxpayers? In the aftermath of Brexit, taxpayers will not see the country’s £350 million a week contribution to the common EU budget invested into the National Health Service, as the U.K. Independence Party’s Leave campaign promised. Instead, they will have to grapple with far greater payments now owed by the United Kingdom for projects that it approved and participated in while an EU member. And how many voters would have changed their support for Leave had they known that their vote might lead to another Scottish referendum for independence and possibly the eventual disintegration of the United Kingdom itself?

Finally, referendums and direct democracy introduce a competing source of legitimacy in tension with the basic constitutional principles of representative democratic systems. While the proponents of direct democracy claim that referendums make political elites more accountable, elected public servants in representative democracies can and frequently do hold different views on various issues from the majority of the electorate. What is the correct course of action when these views conflict with the results of a referendum?

Consider again the Brexit referendum, which was, at least in the legal sense, only advisory. Had the British Parliament not voted in favor of the bill to begin implementing Brexit (it did in fact pass the

bill on March 14), the government would have been legally unable to trigger Article 50 of the Lisbon Treaty and start the process of exiting the EU. This situation would have presented a conflict over who holds greater legitimacy: the 51.9 percent of Britons who voted for Leave—a total of 1,269,501 more voters than Remain—or the U.K. Parliament, which was elected by the same voters and is constitutionally the country's sole sovereign. This hypothetical scenario illustrates how decision making through direct democracy can come into conflict with the regular processes of representative democracy.²¹

Furthermore, the “Great Repeal Bill,” which is supposed to terminate the 1972 European Community Act that sanctioned the United Kingdom's entrance into the Community, contains so-called Henry VIII clauses. Such provisions allow the government to alter or repeal primary acts of Parliament by means of secondary acts, legislation that can be enacted directly by the executive without a parliamentary vote.²² Some top British jurists have openly warned against following this dangerous precedent. Former lord chief justice Lord Igor Judge, for example, cautioned that, “unless strictly incidental to primary legislation, every Henry VIII clause, every vague skeleton bill, is a blow to the sovereignty of Parliament. And each one is a self-inflicted blow, each one boosting the power of the executive.”²³ The Henry VIII clauses give the prime minister and the government royal powers that trump the sovereignty of Parliament, and thereby that of the people who elected its members.

Vox Populi?

The popular Latin phrase *vox populi, vox Dei* (“The voice of the people is the voice of God”), attributed to Charlemagne's advisor Alcuin of York (C.E. 735–804), is frequently quoted as the quintessential expression of the spirit of democracy.²⁴ Supporters depict referendums as an indispensable means of consulting that voice. Conceptually, normatively, and ideologically, however, democracy is much more than just “the voice of the people.” Even procedurally, the expression of the people's will through voting is only one of the many elements of the democratic system. And while the *vox populi* expression underlines the importance of political participation, it does not tell us what form this participation should take, or how the people's voice should make itself heard.

In fact, referendums are a highly problematic mechanism for channeling the people's voice in representative democratic systems. Referendums raise difficult questions concerning the nature of legitimacy within these systems. They also often fail to allow for adequate public debate, as the recent experiences of the “Oxi” and Brexit referendums have revealed. Nor do they have the cyclical character of regular elec-

tions for representatives, with the promise of future recourse for election losers that these entail. These problems are all the more worrisome in light of the fact that referendums, empirically speaking, tend to grow increasingly common once introduced as a form of decision making. That is why it is perhaps wise to consider the historical context of the dictum *vox populi, vox Dei*. The phrase actually originated in a letter sent by Alcuin to advise Charlemagne *against* following without reservations the will of the majority. It was not an encomium to popular rule, but rather an admonition to be mindful of the dangers posed by popular sentiments when settling differences in public life.

NOTES

1. See David Altman, *Direct Democracy Worldwide* (New York: Cambridge University Press, 2011); Sara Binzer Hobolt, *Europe in Question: Referendums on European Integration* (New York: Oxford University Press, 2009); Matt Qvortrup, *Direct Democracy: A Comparative Study of the Theory and Practice of Government by the People* (Oxford: Manchester University Press, 2013).

2. See Simon Hug, *Voices of Europe: Citizens, Referendums, and European Integration* (Lanham, Md.: Rowman & Littlefield, 2002); and Simon Hug and Thomas König, "In View of Ratification: Governmental Preferences and Domestic Constraints at the Amsterdam Intergovernmental Conference," *International Organization* 56 (Spring 2002): 447–76.

3. See Laurence Morel, "France: Towards a Less Controversial Use of the Referendum?" in Michael Gallagher and Pier Vincenzo Uleri, eds., *The Referendum Experience in Europe* (New York: St. Martin's Press, 1996), 66–85.

4. Carl Schmitt, *Constitutional Theory*, trans. and ed. Jeffrey Seitzer (Durham: Duke University Press, 2008).

5. See also Matt Qvortrup, "Introduction: Theory, Practice and History," in Qvortrup, ed., *Referendums Around the World: The Continued Growth of Direct Democracy* (Basingstoke: Palgrave Macmillan, 2014), 12–13.

6. Ifop poll conducted 23 April 2017, www.ifop.com/media/poll/3749-1-study_file.pdf, 20; Ipsos-Sopra Steria poll conducted 4–6 May 2017, www.ipsos.fr/decrypter-societe/2017-05-07-2nd-tour-presidentielle-2017-sociologie-electorats-et-profil-abstentionnistes (summary) and www.ipsos.fr/sites/default/files/doc_associe/ipsos_sopra_steria_sociologie_des_electorats_7_mai_20h15_0.pdf, 7 (full report).

7. Ifop data based on polls conducted from November to December 2011, www.ifop.com/media/pressdocument/393-1-document_file.pdf, 13; Ipsos-Sopra Steria poll, 22–24 May 2014, www.ipsos.fr/decrypter-societe/2014-05-25-europeennes-2014-comprendre-voix-francais.

8. Harris Interactive poll conducted 23 April 2017, <http://harris-interactive.fr/wp-content/uploads/sites/6/2017/04/Rapport-Harris-vote-1er-tour-de-lelection-presidentielle-proximite-syndicale-Liaisons-sociales.pdf>, 5.

9. See Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," *International Organization* 42 (Summer 1988): 427–60.

10. Susi Dennison and Dina Pardijs, "The World According to Europe's Insurgent Parties: Putin, Migration and People Power," European Council on Foreign Relations, 27 June 2016, www.ecfr.eu/page/-/ECFR_181_-_THE_WORLD_ACCORDING_TO_EUROPE'S_INSURGENT_PARTIES_NEW.pdf.

11. See Liubomir Topaloff, "Euroskepticism Arrives: Marginal No More," *Journal of Democracy* 25 (October 2014), 76–87.

12. See also Dennison and Pardijs, "The World According."

13. See also Jan-Werner Müller, *What is Populism?* (Philadelphia: University of Pennsylvania Press, 2016).

14. See Qvortrup, *Direct Democracy*, esp. ch.1.

15. See in particular Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge: MIT Press, 1996).

16. Brian Beedham, "A Better Way to Vote," *The Economist*, 11 September 1993, 7.

17. Kenneth J. Arrow, "A Difficulty in the Concept of Social Welfare," *Journal of Political Economy* 58 (August 1950): 328–46.

18. For more on this analogy, see Adam Przeworski, "Minimalist Conception of Democracy: A Defense," in Ian Shapiro and Casiano Hacker-Cordón, eds., *Democracy's Value* (Cambridge: Cambridge University Press 1999).

19. Adam Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (Cambridge: Cambridge University Press, 1991), 10.

20. For an excellent historical case study, see Christopher H. Achen and Larry M. Bartels, *Democracy for Realists: Why Elections Do Not Produce Responsive Government* (Princeton: Princeton University Press, 2016).

21. Outside the EU, dueling sources of legitimacy have been more than a hypothetical problem: Directly elected presidents in Latin America, Eastern Europe, and Central Asia have frequently drawn on majoritarian arguments to assert their greater legitimacy vis-à-vis elected parliaments.

22. The clauses take their name from King Henry VIII (1491–1547), who in 1539 passed the Statute of Proclamations endowing his decisions with the same status as legislative acts of Parliament and granting him the power unilaterally to amend or abolish legislative acts.

23. Lord Judge, "Ceding Power to the Executive; the Resurrection of Henry VIII," lecture, King's College, London, 12 April 2016, www.kcl.ac.uk/law/newsevents/newsrecords/2015-16/Ceding-Power-to-the-Executive---Lord-Judge---130416.pdf.

24. See Elizabeth Webber and Mike Feinsilber, *Merriam-Webster's Dictionary of Allusions* (Springfield, Mass.: Merriam-Webster, 1999), 560.