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EU Referendums: What Can we Learn from the Swiss Case

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Abstract

The recent Brexit vote has reinforced scholarly interest in the role of referendums on European Union (EU) matters. This research note argues that when analysing these referendums, more systematic reference should be made to existing research on direct democracy, especially from the Swiss and US context. Therefore, this research note scrutinises the research questions raised, explanatory and methodological models commonly applied in research on EU-referendums, in order to pinpoint insights that have been missed. Offering a comparative perspective on theoretical approaches, empirical findings and methodological innovations in referendum research allows identifying more accurately scope conditions under which referendums operate in the EU. Particularly, the dynamics of referendums depend strongly on the wider democratic institutional framework. Methodological challenges for predicting polling outcomes, and the interplay between direct democracy and populist appeals also need more explicit consideration in EU referendum research.

1 Introduction

The European Union (EU) is often accused of a democratic deficit. One of the politically and academically most disputed potential cures is direct democracy, including referendums both in their current form as national votes (referred to in the following as EU referendums) or optional future EU-wide votes (Hobolt 2006, 2009; Mendez, Mendez *et al.* 2014). Most recently, the Brexit vote has reinforced scholarly interest in the role of EU referendums. We argue that most research on EU-referendums has paid too little systematic attention to direct democracy research and suffers from an inward-looking EU-bias that neglects fruitful comparative perspectives.

Our argument builds on earlier research that emphasises the need to analyse these ballots in the light of “theoretical and empirical work on referendums in national domestic contexts” (Hug 2002: 4; see also Schneider and Weitsman 1996), and pledges to take into account individual behavioural patterns and institutional, comparative aspects (Hug and Sciarini 2000). In this vein, our contribution is twofold. First, while these studies applied the above-mentioned arguments to specific empirical analyses on particular ballots, we focus on the meta level and aim at bringing together different approaches and findings in order to discuss what research on EU referendums could gain by more systematically including insights from long-standing direct democratic practices and research experiences. Second, while previous studies cover a series of referendums held on the Maastricht treaty, other Treaty reforms, and the widening of the European Union, we provide an updated perspective, inspired by the more recent round of votes that took place in a more EU-skeptic environment. The focus of the research note is explicitly on the research questions raised as well as explanatory and methodological models applied.

We start with a short summary of the particular features of EU referendums. The subsequent sections discuss two fundamental research questions on EU referendums to distil the value-added EU researchers can gain when opening their theoretical, empirical and methodological tool-box to findings from direct democracy research. The first question deals with the purposes EU referendums can serve, whereas the second question concentrates on how to explain referendum outcomes. The concluding section discusses the impact referendums may have on policies, politics, and polities. We argue that the interaction between representative democratic, parliamentary and governmental procedures and direct democratic elements is crucial. The ultimate goal is to put the quickly growing research agenda on track at a moment in which demands for more citizen participation continue to rise.

2 Referendums as direct democratic instruments

This section offers a short, simplified sketch of how referendums are used in the EU. Most relevantly, EU-related referendums remain fully detached from other democratic legitimising mechanisms at the EU-level, with far-reaching consequences for both research and praxis. First, the current EU treaties offer no basis for uniform EU-wide referendums (Ponzano, Ziller *et al.* 2007); akin to the United States of America (US), referendums are only possible at the state level. However, while in the US, issues to be voted on regard state matters (e.g., state legislation on marijuana, minimum wage, gun law, or health care), EU-referendums are *national referendums on EU-related issues*. This implies that the electorate of one state can produce outcomes which may impact on citizens of all member states (Auer

2004: 580). In addition, the state-specific democratic purposes to hold a referendum vary strongly. Notably, merely in Ireland referendums are mandatory in case EU treaties impact on the national constitution, whereas the German basic law even prohibits referendums at the federal level. The vast majority of EU referendums are therefore mere plebiscites that are called on voluntarily on initiative of the political leadership (Vatter 2000), or, in still rare cases, citizen initiatives.

Second, EU referendums often fall short of consistent linkages with the standard representative political process. This is in sharp contrast to democracies that regularly apply direct democratic instruments because they are an integral part of the political system. In Switzerland, for example, direct democracy is an element of Swiss consensus democracy, strongly embedded in checks and balances during (pre-)parliamentary and governmental processes as well as regional implementation procedures.

In sum, even though referendums on EU matters are called on to remedy weaknesses of democratic instruments in EU policy making, they differ from referendums in federal systems in that they have direct implications beyond the member states, are typically invoked voluntarily by political leaders, and remain detached from other democratic processes in the EU and mostly also in the member states. Against this background, we next address the question why political actors invoke a referendum, or put differently, which purposes such referendums can serve.

3 Intended and unintended purposes of referendums

EU research offers various explanations for the – mostly voluntary and top-down – decision of political leaders to conduct EU-related referendums (for an overview Hobolt 2006: 157).¹ Overall, “the pattern of referendums on EU treaties is explained by a combination of domestic-level political factors – electoral pressure over European integration, legal obligations to hold referendums and domestic institutional veto players – and differences between EU treaties” (Prosser 2014: 15; also Oppermann 2013b; Trechsel 2010). Furthermore, research shows diffusion and domino effects across states (Atikcana 2015a; Jahn and Storsved 1995), while patterns of path dependency are only partly found (Wimmel 2014). Interestingly, the same explanations have been brought forward regarding governments’ reasons for *not* conducting EU referendums (Closa 2007: 1327). This became an overreaching governmental objective after the negative referendum outcomes on the constitutional treaty in 2005 (Oppermann 2013a).

Even though these studies speak to each other, they cannot provide a consistent explanation of why participatory instruments are used or not used. Direct democracy research offers two avenues to respond to this shortcoming. A first approach is to consider the varying functions of direct-democratic instruments, from which we can deduce differing motives to trigger a popular vote. A second perspective departs from the expectation that direct democracy increases the legitimacy of a decision in a quasi-automatic way. We will argue that this positive effect may be highly contingent on the specific context – an aspect that is often overlooked by researchers when explaining the occurrence of referendum, but also by

¹ Concerning *citizens’* support for EU-related referendums, research has contrasted the cognitive mobilisation of political dissatisfaction with the EU (Schuck and de Vreese 2015) with voters’ dissatisfaction with the performance of respective government (Rose and Borza 2013).

politicians eager to call for a direct-democratic vote.

Various motives for why actors invoke a referendum

Research on Swiss direct democracy demonstrates that actors invoke referendums for very different purposes, the actual policy decision being only one among them (e.g. Linder 2010, 2012; Vatter 2014). Importantly, the motives behind launching a direct democratic process may vary between initiatives and referendums (Linder 2010: 103), and between instruments initiated bottom-up, that is, by the people, or top-down, that is, by the government or the constitution (Vatter 2000). First, referendums can be induced for a *direct effect* (Linder 2010: 103 following). Direct effects include the introduction of a new law or policy in case of a yes-vote, but also a stabilisation of the status quo if a proposal is rejected (Stadelmann-Steffen 2011; Tsebelis 1999). Second, popular votes can also be invoked for a more implicit, *indirect effects*, that is, to place new issues on the political agenda and broaden what is perceived as politically thinkable (Linder 2012: pp 288). Third, direct democratic instruments can serve as an *electoral campaign element*. By proposing a popular initiative or calling for a referendum, a party can distinguish itself and its positions or gain (media) attention (Linder 2012: 289).

These insights on the plurality of motivations to call on a referendum promise explanatory thrust for generalizable findings on EU referendums. In view of votes on EU matters, questions about hidden motives of actors in EU member states arise (on the constitutional treaty see e.g. Crum 2007). Taking the insight on general underlying motivation patterns as a starting point prevents researchers from wrongly assuming EU referendums are invoked solely due to EU-generic reasons.

Direct democracy as legitimacy-enhancing mechanism?

Direct democracy is often seen as a remedy to the alleged EU democratic deficit and lack of legitimacy (Papadopoulos 2005). The underlying assumption is usually that referendums quasi automatically increase the legitimacy and, hand in glove, the acceptance of political decisions. First, policy outcomes in a direct-democratic setting should be closer to the median voter's preferences (see also Gerber 1996; Matsusaka 2010; Stutzer and Frey 2003, 2010). This increases policy congruence between the political elite and citizens, particularly when their preferences deviate (Leemann and Wasserfallen 2016). Second, direct citizen participation is expected to promote the perception of procedural fairness (Stutzer and Frey 2010; Dorn, Fischer *et al.* 2008), ergo the mere possibility to directly participate makes outcomes more acceptable. However, empirical research challenges such an automatic positive effect (Bühlmann and Sager 2009; Stadelmann-Steffen and Vatter 2012; Trechsel 2010). In this vein, confronting EU studies with a comparative perspective on Swiss and US research offers significant insights.

The Swiss case initially underpins that not direct democratic processes as such establish the success of the Swiss half-direct democracy but that precisely the balancing between the direct representation of the people and the representation of the federal elements (the cantons) matters. Since 1874, ballot decision on constitutional amendments (which includes all popular initiatives) must receive both the majority of popular votes *and* a majority in at least half of the cantons (Vatter 2014: 403 following). More generally, direct democracy is firmly embedded in a consensual decision-making process. This "special conflict resolution model" serves to avoid "the threat of a referendum that hangs like the sword of Damocles

over every decision-making process” (Varone 2007: 298; Sager and Zollinger 2011) and helps integrate a variety of actors and interest in the decision making process.

By contrast, the role of direct democracy is quite different in the US states where legislative elections remain the decisive element of political competition and policy making, and where direct democratic rights have not led to power-sharing (Gross and Kaufmann 2003: 3). Direct democracy actually “gets around” the legislature, building a parallel, independent way of policy making. Here, direct democracy may exacerbate the problems of representation that are inherent to majoritarian democracies, and, consequently, negatively affect satisfaction with democracy. Bowler et al. (2007; Smith, Tolbert *et al.* 2010) actually found that citizens in the US are much less supportive of direct democratic instruments than in Switzerland.

This comparison is enlightening for the EU-perspective. Given that consociational decision-making is the rule also in the EU, Papadopoulos (2005) argues that *EU-wide* referendums could be modelled on the Swiss example to increase political legitimacy and accountability. However, this is probably not the case for national referendums on EU matters which lack the embeddedness into representative, consensual mechanisms, and therefore actually come much closer to the above-outlined US model. Accordingly, it can be questioned whether EU referendums are really legitimacy-enhancing. This also suggests that a similar mechanism, namely that referenda increase dissatisfaction with representative democracy, may be at work. In many countries EU referendums are a “once in a lifetime” experience, as Cameron branded the Brexit vote. This exceptionality that does not interlink popular votes with standard representative democratic mechanisms (as the UK High Court argued on the government’s decision to circumvent the Parliament) renders a positive legitimacy-enhancing effect less likely, if not even reducing it.

Having established how comparative insights enhance the understanding of the status and general perceptions about democracy in the EU, the specific nature of EU referendums should also impact on how voters behave. This leads us to next section on how EU referendum research can profit from direct democracy research to explain referendum outcomes.

4 How to explain outcomes of referendums?

What determines voting behaviour? Most recently, the Brexit-vote has highlighted the limited validity of prediction models in highly polarised, “once in a lifetime” referendums (Qvortrup 2016; Vasilopoulou 2016; but also Glencross 2015). To indicate what EU referendum research can learn from explanations developed in other literatures, let us first summarise the main explanations posited for EU referendums. While the literature on the role of information, campaigning and deliberation suggests that voting outcomes are essentially determined by issue positions of the electorate (Hobolt and Brouard 2011; de Vreese 2007), comparative EU research on the Maastricht referendums challenged this view in the early 1990s (Franklin, Mark, Marsh, Michael *et al.* 1994; Franklin, Mark, Marsh, M. *et al.* 1994; Franklin, van der Eijk *et al.* 1995). These studies “spurred a still-ongoing debate between two competing approaches to voting behaviour in EU referendums: the ‘attitude’ school and the ‘second-order election’ school” (Hobolt 2006: 154-55; see controversy between Franklin 2002; and Svensson 2002).² The second-order explanation holds that EU

² Further Research includes actual learning from repeated referendum experiences both on the campaigners’

referendums are decided upon national matters, and are thus a plebiscite on the performance of national governments, with potential effects on states' EU bargaining power (Hodson and Maher 2014; also Hobolt 2006: 160). Empirically, most studies lend support to the issue-voting perspective (Garry, Marsh *et al.* 2005), that is, that "how voters understood the EU polity, in particular whether membership is beneficial to one's own country, was a crucial factor in all the referendums" (Glencross and Trechsel 2011: 755; similar findings focussing on campaigns and discourse Seidendorf 2010; de Vreese and Boomgaarden 2005). In addition, strategic behaviour of governing and opposition parties (Crum 2007), party cues combined with issues (Marsh 2015), and emotional voting (Garry 2014) explain referendum outcomes. Finally, the combined effects of socio-economic reasons, Eurosceptic sentiments and the role of political elites have moved to the forefront (Startin and Krouwel 2013; similarly stressing the pro/contra position of governmental elites Font 2008).

Considering research on direct democratic votes can enrich the EU literature by providing more "traditional" approaches to explain theoretically and examine empirically what drives referendum outcomes (Hug 2002). For example, similar to EU research, Swiss research on direct democratic votes has focused on the role of campaigns and issues (Sciarini and Tresch 2011; Steenbergen 2010; Selb, Kriesi *et al.* 2009; Brady and Johnston 2006; Marquis 2006; Lachat and Sciarini 2002; Lachat 2000). These studies reveal more ambivalent and nuanced results than most EU research. While campaigns may matter in some contexts and for some groups of voters, party affiliation outweighs campaign effects in many situations (Sciarini and Tresch 2011). Especially when confronted with complex questions, voters may rely on heuristics (Milic, Rousselot *et al.* 2014: 24 following) of which Kriesi (Kriesi 2005: 138 following) identifies three: the status quo heuristic, whereby citizens vote no and prefer the known status quo compared to an unclear future; the trust heuristic, whereby citizens follow the government in their decision; and the "quintessential" shortcut, that is, the partisan heuristic, whereby the citizen follows the recommendation of the party to which she/he feels closest". The value-added of this research is hence to systemise the context contingency of campaign effects and to highlight the interaction effects with party positions, so far understudied in EU referendum research.

Besides these theoretical considerations, the study of public opinion in direct democratic debates offers valuable methodological insights. The baseline assumption is that voting on a ballot proposal means revealing one's true preferences (Stadelmann-Steffen 2011). However, predicting public opinion and ballot outcomes is a challenging and error-prone task. The Brexit vote is the most recent prominent illustration, where public opinion polls had predicted a tight race with the remain-side in front. Similarly, pre-poll surveys came under fire in Switzerland after the vote on the initiative "against the construction of minarets" in 2009. Against prior predictions, 57.5% of the voters and a clear majority of the cantons accepted the proposal on the ballot.

These two examples raise serious questions about the methodological accuracy and reliability of pre-polls. In the context of Swiss direct democracy, researchers have recently proposed several solutions for handling these challenges and finally improving the quality of analyses and their interpretations. Funk (2016), based on an analysis of 184 Swiss referendums between 1987 and 2007, concludes that "surveys are inaccurate for topics on

(Atikcana 2015b; on campaign regulations Reidy and Suiter 2015; on internal party effects on EU campaigns Shu 2009) Low levels of popular understanding (also Sinnott 2002) and a lack of deliberation and governmental engagement (also Quinlan, Shephard *et al.* 2015; LeDuc 2015) often explain anti-EU votes in settings in which governments openly promote pro-EU votes.

international integration, immigration, gender equality, and votes involving a liberal attitude” (ibid.: 449; see also Morris 2011; Powell 2013; Hopkins 2009), since individuals do not reveal their actual preferences for politically incorrect views in surveys. Besides misreporting, Sciarini and Goldberg (2016) show that survey bias also concerns the composition of the survey sample in direct-democratic votes in a Swiss canton, which is not easy to correct based on well-known demographic and socio-economic stratifications. In this vein, Leemann and Wasserfallen (2016) have developed novel weighting procedures to reveal valid predictions of voting outcomes based on non-representative samples. Moreover, experimental approaches promise more valid insights on public opinion. Choice experiments have been applied to consider the different trade-offs inherent in many ballot proposals (Häusermann, Kurer *et al.* 2016; Stadelmann-Steffen and Dermont 2016; Bühlmann, Dermont *et al.* 2016). Confronting survey respondents not only with the specific proposal at the ballot but also with randomly varied alternatives allows identifying the crucial aspects or arguments that eventually determine voter behaviour. Eventually, these approaches help to mediate the social desirability bias (Hainmueller, Hopkins *et al.* 2014: 3), generally considered of particular relevance in EU-related referendums.

We argue that these methodological insights and experiences might be useful to consider in polling before and after EU referendums, which – due to the high level of polarization and exceptionality of referendums – might be particularly error-prone.

5 How to deal with the consequences of referendums?

This article concludes by broadening the view to the impacts referendums bear more generally, that is, how the use of direct democratic instruments affects not only policies put to the vote, but also politics and polities. Reviewing all three spheres lines up our key arguments and directs our attention to the core of the relationship between direct and representative democracy in a generalizable fashion.

Referendums should, most obviously, impact on *policies* by strengthening the quality, legitimacy and acceptance of policy decisions. As shown, legitimacy-enhancing effects of direct democracy occur only under specific circumstances. These findings hint to a dilemma with significant implications for the study and the use of referendums on EU matters. In contrast to national democracies with a regular use of direct democracy like Switzerland or the US states, referendums on EU matters are typically not well embedded in the (representative) political system. This disconnectedness increases the uncertainty regarding the outcome and consequences of these votes for politicians, citizens, and researchers.

Based on the above, we argue that for a legitimacy-enhancing effect, EU referendums need to be intertwined with representative democratic mechanisms. However, the expectation about EU referendums is usually the opposite: referendums are applied to remedy the lack of such embeddedness in the absence of strong representative bodies in the EU. This has become obvious in the legal quarrel on whether the Brexit referendum was binding without a vote in Parliament. Similar confusion could be observed repeatedly when a rejected ballot proposals were recast into a second referendum, as for example with the Dutch referendum on the EU constitutional treaty, or the Irish Maastricht and Amsterdam referendums. In short, referendums on EU matters under national rules mostly happen in an institutional vacuum between direct and representative democracy, with severe consequences for the interaction of veto players who tend to act much less constitutionally constrained. The

comparative perspective adopted here stresses that the impact of referendums on policies depends strongly on the wider democratic institutional framework. These aspects need more explicit consideration in EU referendum research.

Second, referendums heavily impact on *politics*. A striking parallel between EU referendums and direct-democratic instruments in Switzerland is that referendums are frequently used for politics rather than policy-focused purposes. Particularly, a link between right-wing populist parties, anti-EU and migration sentiments, and direct democracy can be observed. While in EU member states political mobilisation based on anti-EU attitudes has received increasing attention, the same phenomenon has been studied in Switzerland for some time already (Kriesi, Grande *et al.* 2006; Sager and Thomann 2016). Generally, these studies underpin that EU-issues are particularly prone to resonate with populist politics. However, we still lack studies that systematically analyse the interplay between direct democracy and populist appeals in different contexts. The Swiss experience suggests an increasing instrumentalisation of direct democracy for party political purposes which results in increasing political polarisation. EU referendums as “one-shot” events that are at best loosely embedded into national democratic systems can, in turn, offer relevant insights on this emerging interaction effects between referendums, politicisation and increasing polarisation.

Finally, referendums can impact on *polities*. Especially since the public votes on the constitutional treaty, explicit constituent referendums play an elementary role in the EU. The 2005 referendums have marked a major break in EU integration (Dehousse 2006: 301) and a substantial shift in EU politicising (Hooghe and Marks 2009). Even if apparently non-constituent issues are put to a popular vote, they almost inevitably affect the polity dimension when they involve a shift of sovereignty from the national to the EU-level or vice-versa. The Hungarian referendum on EU migration policy illustrates this. Asking voters if they supported “the European Union to be able to mandate the resettlement of non-Hungarian citizens into Hungary even without the approval of the National Assembly” (2 October 2016), the referendum broke fundamentally with EU treaties that foresee majority decisions in the Council of the EU to be binding for all member states. Also in the Swiss context, direct democratic decisions running against international treaties and obligations repeatedly come to the political agenda.

To conclude, this research note demonstrates that direct democracy must neither politically nor scientifically be considered a simple fix for democratic deficits. Not only does direct democracy entail far-reaching consequences beyond the actual decision; the direct-democratic integration of citizens in the decision-making process also involves trade-offs, including the possibility of decisions that contradict existing institutions, and its general proneness to populism. We have pointed to some conditions for direct democratic instruments to work. Direct democracy is not just an add-on to parliamentary democracy. To enhance democratic legitimacy, it needs to be carefully crafted into representative democracies. While this is obviously an important insight for politicians eager to call for more direct democracy, it is equally relevant for researchers. Only by considering the contextual dependencies and trade-offs of EU referendums and by testing expectations and approaches in different direct-democratic contexts, can we improve our knowledge on how direct democracy actually works in the EU – and beyond.

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