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Voice vs. Votes: Adapting the Institutions and Processes of Direct Democracy to Improve Citizen Engagement and Participation

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The need to improve both the quantity and quality of citizen engagement in the political process is greater than ever, as is attested by growing evidence of citizen dissatisfaction with traditional democratic institutions and processes (LeDuc and Pammett 2014). Increased use of mechanisms of direct democracy such as referendums or citizens' initiatives has often been suggested as part of the solution to the inadequacies or constraints of electoral democracy. However, periodic experience with these in both Canada and Europe has exposed their many limitations and deficiencies. A 1992 referendum on constitutional renewal in Canada failed to deliver change, and several national votes on European treaty issues derailed (at least temporarily) the process of reform in Europe. Part of the reason for these outcomes is that the referendum process, as it has been applied in these cases, prioritizes *votes* over *voice*. Proposals developed by elites were submitted to voters for their expected approval, and the process of debate was quickly transformed into a "win or lose" campaign waged around a multiplicity of issues. The high-stakes nature of such votes tends to encourage negative campaigning, deceptive advertising, disinformation, and second order effects, generally

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defined as the spillover from other (and often unrelated) elements of national politics (Setälä and Schiller 2009). Following such short, intensive, and frequently negative campaigns, citizens often feel that their voice has not been heard at all. But the political actors conclude that “the people have spoken” and quickly turn their attention to other issues and concerns.

A more constructive model of direct democracy would encourage deliberation and would involve citizens at every stage of the political process, whereas a referendum typically brings them in only at the very end. A deliberative democratic process is less concerned with resolving an issue than with discussing it, while a referendum often takes place solely for the purpose of settling a particular political question (Chambers 2003); Mendelsohn and Parkin 2001). In this brief, I examine a number of areas in which the traditional method of conducting referendums tends to inhibit citizen deliberation, and consider ways in which the quality of deliberation within existing rules and practices might be improved. In conclusion, I will suggest some ways in which the familiar institutions of initiative and referendum could be retooled to more closely approximate a more deliberative form of direct democracy. In this context, I will examine two cases that have followed a different model: the 1980 Swedish referendum on nuclear power and the 1992-93 New Zealand referendums on electoral reform (Granberg and Holmberg 1988; Vowles 1995). As Canadians consider the prospect of a national debate on electoral reform and Europeans evaluate the contribution of the new European Citizens’ Initiative, a more careful consideration of the structure and purposes of such consultative processes is both timely and useful.

Politics gets in the way of deliberation. Many referendums are initiated either directly or indirectly by governments. A variety of political calculations often enter into a government’s decision to call a referendum on a particular issue, but governments in such circumstances are not usually neutral parties. When a governing party opts for a referendum strategy, it generally does so in the expectation that it will win, by definition placing the emphasis on *votes* rather than *voice*. However, a referendum is sometimes called because a governing party finds itself divided on an important issue, as the Conservatives in the UK have been for a number of years on Europe. Where governing parties are divided on an issue, a better quality of deliberation may occur simply because more voices will be heard. But if the partisan stake in the outcome is high, the degree of coercion felt by voters will undoubtedly be greater. On balance, it is probably more positive for the deliberative process if governments or political parties are neutral or otherwise constrained in referendum campaigns.

A referendum or initiative question needs to be clear, but clarity is not an easy matter either to define or to achieve (LeDuc 2015). Both Quebec referendums were widely criticised at the time that they took place because the questions put to the voters left in some doubt both the boundaries of the debate about Quebec sovereignty and the possible consequences of a YES vote. This made deliberation of the sovereignty question considerably more difficult for voters, but it served the agenda of the Quebec

government on both occasions quite well. American state ballot propositions often suffer from problems of clarity, sometimes because of poor drafting, but also because of deliberate campaign tactics. The forthcoming British “in or out” referendum on Europe sounds clear enough, but the outcome is likely to turn on different interpretations of the negotiations, which can more easily be fudged. One can readily see that deliberation is likely to work best when the public is able to focus on a single issue, and when the various dimensions of that issue are already reasonably well-known. But this may be difficult to accomplish in circumstances where large packages of constitutional proposals or complex international treaties that have already been negotiated are put to a popular vote.

Deliberation requires a well-informed citizenry. But surveys regularly show that “insufficient information” is one of the most common complaints of citizens about the referendum process. Genuinely deliberative democracy requires that all arguments be heard equally, but referendum campaigns sometimes appear to work against this goal because of inequality of resources. The increasing use of disinformation and negative campaign messaging further inhibits deliberation. These tactics can be quite effective, particularly in a short campaign involving an issue on which there has been little prior public consultation. In some jurisdictions, this problem is addressed by having neutral authorities provide more balanced information. Ireland has perhaps the most tightly regulated environment in referendum campaigns, while other jurisdictions such as Switzerland maintain much lighter regulation of campaign activities and finances. Where regulation is overly tight, the opportunity for adequate deliberation may be lost as the restrictions imposed limit the free expression of positions. But an entirely unregulated campaign environment runs the risk of tilting the “playing field” sharply in the direction of those with the deepest pockets or the greatest access to channels of communication.

A truly deliberative direct democratic process requires both the engagement and participation of the public. If the overtly partisan motives that drive many referendum campaigns can be limited or controlled, if better question wording and availability of information can lead to greater clarity, and if citizens can be more fully engaged over a longer period leading to higher and more inclusive rates of participation, there is every reason to believe that direct democracy can become more deliberative in practice. But the tension between the expression of *voice* and a campaign for *votes* is likely to remain a factor in the practice of direct democracy in today’s world, even if the balance between these goals can be shifted somewhat in the direction of providing greater *voice*.

What might a more constructive consultative process look like for consulting the citizenry on issues such as electoral reform in Canada or the continuation of British EU membership? First, a referendum on such issues should take place earlier in the deliberative process, while a proposed change is in its formative stages, rather than completed. The 1980 Swedish referendum on nuclear power and the 1992 New Zealand referendum were both consultative votes, intended to help in shaping public policies on

these issues rather than finally resolving them. Both placed multiple options on the ballot, thus better reflecting the diversity of opinion on these complex issues. Because they did not involve proposals put forward by the government, the political stakes were lower and the campaigns less divisive. Both referendums were a part of discussions that had been going on for some time, thereby creating a more informed and engaged body of knowledgeable citizens. Public education on the issue(s) was an important part of these campaigns, particularly in the New Zealand case, where a neutral authority was charged with the task of providing extensive public information (McRobie 1993).

In both of these cases, the referendums provided a forum for public discussion of the issues (*voice*) and a highly visible public test of various positions. In the Swedish case, the referendum outcome did not lead immediately to a “final” decision on the nuclear issue, but it did provide an essential guideline for the shaping of public policy over a considerable period following the vote. In the New Zealand case, the 1992 vote led to a second referendum a year later, in which voters *were* asked to render a verdict on the issue. The fact that New Zealand is one of the few countries in the world that has actually been able to accomplish a major institutional change of this type shows that the process chosen for this purpose was indeed the one most suited to the task of creating an informed citizenry and involving it constructively in the decision process. The contrast with the 2011 British referendum on a similar issue is stark (Whiteley et al 2012).

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