Referendums in Peace Processes

Neophytos Loizides
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ABSTRACT

Peace processes could be more effective and durable when boosted by widespread expressions of public support. While the relevance of this claim has been examined with respect to democratic elections following the transition to peace, there has been little systematic attempt to study alternative forms of popular support, specifically peace referendums. Moreover, despite increasing global trends towards direct democracy, international organizations and governments often design peace referendums without adequately considering comparative cases and existing knowledge. Referendums are decisive steps in peace processes and often have long-term effects in consolidating or hindering peace. Drawing from a new dataset, the article demonstrates the influence of institutional design. It highlights some key dilemmas in designing referendums or alternative ratification processes and discusses the merits and weaknesses of different designs. Finally, it notes the advantages of seeking an early mandate in contested peace processes and argues that through informal mandate referendums, leaders could better balance democratic accountability with credibility in negotiations.

BIO

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To what extent are referendums useful in the ratification of peace treaties in divided societies? If Israelis and Palestinians, Sinhalese and Tamils, or the two Koreas reach a settlement in their decades-old conflicts, would a referendum be useful in ratifying these settlements and, if so, how should such a referendum be designed, monitored and implemented? Conventional wisdom assumes that people should be consulted whenever they face important decisions. This line of thought argues that referendums add credibility and durability to negotiated settlements, partly because of their ability to draw a broader cross-section of the populace into the peace process, thus limiting the role of spoilers. Evidence from divided societies suggests, on the one hand, that referendums are legitimate and useful conflict resolution mechanisms, but on the other hand, their merits cannot be generalized. Drawing on several case studies and an accompanying sub-dataset of referendums in peace processes, the article aims to address this tension. Specifically, it demonstrates how design and management of referendums explain puzzling and unexpected outcomes; going a step further, it suggests how to design and manage a referendum to facilitate a peace process.

Although multiple referendums have taken place over the past few decades in divided societies, and even more are frequently discussed, there have been only a few systematic attempts to study and to compare referendums. When and how referendums facilitate a specific mediation remains a puzzle, particularly as governments and political parties often take ambivalent positions and people vote in directions that are hard to predict in advance. Nor does the current literature provide sufficient insights into the relevant political situations of peace referendums, despite their recent popularity. Moreover, while conventional wisdom assumes that people should be consulted whenever they face important decisions, referendums could be
divisive in societies where borders are disputed or citizenship rights are contested. Also problematic – and largely unconsidered – is that governments and international organizations frequently fail to properly consider and select among alternative referendum designs.

In assessing the broader question of whether peace processes should be bolstered by popular expressions of support to be effective and durable, scholars have paid considerable attention to democracy promotion in post-conflict societies. Yet there are very few comprehensive studies on peace referendums addressing questions of popular legitimacy. Nor have scholars considered whether specific peace agreements enjoy public support. This is perhaps not surprising, as referendums are less common than elections, thereby restricting the robustness of scholarly findings and conclusions. Yet recent cases permit a wider exploration of the subject than has hitherto been possible. The referendums covered in this article demonstrate a variety of designs, suggesting a number of available, albeit understudied, options for policymakers and mediators. Local actors and mediators are often unaware of the advantages and disadvantages of a particular design; the article attempts to fill this gap by systematically analyzing dilemmas in the design of referendums and their effects in facilitating or impeding peace processes.

For the most part, peace referendums can be divided into three categories depending on their specific functions in the peace process. First, referendums can help initiate peace processes by offering advice, direction, and more importantly, a mandate to leaders before or during a negotiation. Such a referendum took place in South Africa in 1992 and entailed a call to the white minority to endorse or reject President F. W. de Klerk's reform policies. The referendum was confined to the country’s white minority but aimed at negotiating an end to white minority rule.
through talks with the black majority. Blacks were not allowed to participate in the ballot but the ANC issued a statement clarifying that the referendum could benefit the negotiating process and warned pro-apartheid parties against ending the peace process.\(^5\) Second, referendums can take place after an agreement has been negotiated, often under the auspices of the international community. An example is the referendum in Northern Ireland on the Good Friday agreement, approved in 1998 and aiming to restore a local assembly in the province and power-sharing between Ulster Unionists and Irish Nationalists. Another is the 2004 Annan Plan referendum aiming at the unification of Cyprus. Third, referendums can target reforms in countries with an already established federal or consociational system but facing major divisions such as the threat of secession. Examples include the failed October 1992 referendum in Canada to endorse or reject a constitutional reform package that sought to reconcile the conflicting interests of the country's provinces, territories, and aboriginal peoples, with a key emphasis on the status of Quebec as a “distinct society.”

The above examples also demonstrate that categories overlap, depending on whether they are formal or informal, binding or non-binding, and inclusive or exclusive. Furthermore, whether aiming for constitutional amendments, UN-led peace proposals or renewed negotiations, these referendums share common features such as the categorical and intense contestation of peacemakers and hardliners in determining the outcome of a conflict. More importantly, such referendums are a litmus test of the capacity of societies to overcome deep divisions and create new political dynamics.

Quite simply, successful referendums can be decisive in legitimizing otherwise contested peace agreements. John McGarry and Brendan O’Leary emphasize the need for peace agreements to be inclusive and for people to be consulted if the proposed institutional changes will affect their daily lives and the
balance of community relations. In the case of Northern Ireland, they note the
durability of the Good Friday Agreement which they say results from its endorsement
by majorities on both sides of the decades-old divide. Similarly, British PM Tony
Blair argued immediately after the endorsement of the agreement that “from now on,
no one who turns to violence to make their case can do so other than in open defiance
of the will of the people.” In the case of Northern Ireland, paramilitaries have laid
down their arms, and despite delays in decommissioning and other problems, the
province has entered an era of relative political and economic stability. Thus, in
societies where militant groups exist, democratic legitimization of peace processes
can delegitimize violent actions, especially if large majorities across the ethnic divide
vote for peace. It is important to note that this might not be the case if citizenship
rights are contested and rules are not clearly defined or if referendums take place in a
disorganized and non-peaceful fashion.

An often-cited claim is that in the absence of referendums, hardliners can push
a peace arrangement to a quick collapse. Cases include Cyprus after the 1959 Zurich-
London Agreement, Northern Ireland following the 1973-4 Sunningdale Agreement,
and Rwanda after the collapse of the Arusha Accords in 1993. Yet referendums can
add durability to a peace process despite declining support by voters. For instance,
preceding the signing of the Good Friday Agreement, mediators talked about the so-
called “triple lock,” referring to the need for the agreement to be endorsed by Britain
and Ireland, main political leaders of the two communities, and the public in a
referendum. As a result the 1998 Good Friday Agreement in Northern Ireland
survived against subsequent “Protestant alienation” and the gradual erosion of support
among Ulster Unionists as well as dissident Republicans.
Hardliners managed to increase their support in the Unionist community who had only approved the agreement with a slim majority in 1998. The anti-agreement Democratic Ulster Unionist Party (DUP) of Dr. Ian Paisley (also known as Dr. “No”) became the largest party in the province. Known throughout the world for his refusal to talk to moderate Republicans and his heckling of Pope John Paul II, denouncing him as the Antichrist in the European Parliament in 1988, Paisley was nonetheless unable to argue against dismantling the agreement, promising instead to negotiate better terms for the Unionists. Following the 2006-2007 St. Andrews Agreement, he had to adjust to the realities of the Good Friday Agreement despite politically damaging defections from his own party. This example suggests that peace processes are path dependent events, with referendums playing a key role in determining future actions.

As in Northern Ireland, the “Yes” vote among white South Africans in 1992 added durability to post-Apartheid South Africa even though key demands of the white community for formal power-sharing were not included in the final settlement. Through the referendum process, De Klerk delegimized his opponents and expanded his own credibility. Moreover, the endorsement of De Klerk’s policy added an element of responsibility among ANC elites, which later translated into creating a new common symbolic landscape of racial relationships in South Africa while maintaining and reinforcing the inclusion of whites within ANC and the governing structures of the country.

As these examples show, voting for peace could help reverse hostile images of the past and transform the picture of the “other” in ethnic relations, opening the door for mutual accommodation. On the one hand, referendums entail political risks for incumbent leaders and can divide ethnic constituencies internally between
peacemakers and hardliners supporting the “yes” and “no” camps respectively. On the other, referendums could create new cross-cutting cleavages, including a shared political vision of the future among supporters of the “yes” vote transcending ethnic and communal boundaries.

Finally, referendums build trust of and credible commitments towards minorities. In situations of ambiguity and uncertainty about the implementation of an agreement, a strong yes on the “other side of the communal divide” can help convince undecided and suspicious voters that “ethnic others” are serious about their commitment to implementing the settlement. Even if anti-solution parties come to power later on, referendums have a “long shadow,” making it difficult for radicals to turn against the wishes of their own in-group. Apart from the aforementioned referendum in Northern Ireland, other referendums have helped seal agreements between majority and minority groups. For instance, the 1998 referendum on (Russian-speaker) citizenship in Latvia helped cement a long-term process of mutual integration regardless of subsequent electoral outcomes. The same referendum opened the path for the country’s accession to the European Union. Evidently, promises and commitments to minorities or the international community are more credible if the commitment manifests itself in a referendum – an issue implied in the literature of credible commitments and transparency in ethnic relations and peacekeeping.9

The most crucial issue in referendums is how people actually vote. A “yes” vote means more credibility for the peace process and a “no” vote means increased legitimacy for hardliners. Given this, referendums and their campaigns can result in unwelcome outcomes for mediators and peacemakers. In some cases, hardliners organize referendums without the support or the consent of the international community simply to pre-empt public reaction and prevent a compromise. In 1994,
for example, Bosnian Serbs under Radovan Karadzic organized a referendum in the territories under their military control to prevent a territorial compromise. About 90 percent of the Serb voters came to the ballot boxes to oppose the proposed land concessions that, incidentally, a year later helped end the war in the Balkans.

In other cases, the international community has supported referendums with the partial support of the political establishment. In Cyprus during the abortive 2004 referendum, the leaders did not commit themselves to the plan but accepted that a twin referendum would take place nonetheless. In the Turkish community, the moderates won, but in the south, the Greek Cypriot leadership with the exception of centre-right DISY urged the public to vote “no,” effectively ending the UN-led peace process. The “trap” with such internationally-endorsed referendums is that, if they fail, the international community has to respect the “democratic decision of the people.” since it was international mediators who initiated the vote. In the case of the Cypriot peace negotiations, the failure of the Annan Plan referendum continues to cast a long shadow in the mediations despite the rise in the power of moderate politicians on both sides of the divide.

The Cypriot case also demonstrates how poorly-designed referendums can inadvertently harm long-term prospects for a peace settlement. Following the 2004 events, the Turkish Cypriot side in the negotiations argued that their community voted positively for a Plan mediated by the UN and endorsed by the European Union, Turkey, and Greece; therefore their representatives were justified in continuing to negotiate within the Annan Plan framework. Meanwhile, the Greek Cypriot leadership who won the elections in 2008 on a moderate agenda, yet who were critical of the Annan Plan, argued that in a future referendum, the Greek Cypriot side could not accept provisions rejected by more than three-fourths of the Greek Cypriot electorate.
Neither side is entirely wrong, showing that the initial failure of a referendum has ongoing impact. Thus, unlike Northern Ireland where a referendum solidified support for an agreement, Cyprus demonstrates that failed referendums can have long-term path-dependent effects, preventing moderates from utilizing constructive ideas previously rejected in a popular referendum.

In other cases, moderates agree on a compromise but fail to convince the public to accept the settlement. In Canada’s 1992 Charlottetown Accord and Guatemala’s attempt to provide improved rights for natives, the respective governments failed to convince the public to support the proposed constitutional amendments.

Referendum outcomes are even more puzzling if one examines moderately divided societies, such as Canada, which fail to address ethnic divisions through direct democratic tools. Canada has a long history of accommodating ethnic diversity; it has established multicultural norms which value human rights and community accommodation. The failure of the referendums in Canada in 1992 came as a surprise to the government of Progressive Conservative Prime Minister Brian Mulroney which invested its political capital in the formation of an agreement on Quebec. According to Johnston et al, “the 1992 referendum opened a wound and guaranteed that the wound would stay open.” Canadian voters not only rejected a specific product of elite bargaining, but also severely constrained the prospects for a future consociational agreement in the country. Likewise, the “no” result in Guatemala in 1999 and the Greek Cypriot community in 2004 surprised international mediators because in both cases people were thought to have voted against their own “best interests” and previous commitments to reach a compromise.
Yet referendums have proven to be surprisingly successful elsewhere in places assumed to be facing deeper divisions. For instance, in 1992, the same year as the Canadian referendum, white South Africans voted to move the peace process forward, despite the long history of racism and mistrust fostered by the apartheid regime. Often societies such as South Africa and Northern Ireland vote “yes” for peace out of a fear of renewed and reawakened violence. Certainly, in Northern Ireland and South Africa, there was a widespread perception that a “no” vote would have major consequences leading to new waves of violence or international sanctions respectively.

But fear of violence alone cannot explain popular acceptance of a peace process. Other conflict-ridden areas have produced polarized constituencies and strong reactions to peace agreements, as in Israel/Palestine, Bosnia, and Iraq. The difference in Northern Ireland and South Africa lies in the design of their referendums and in their ability to combine democratic accountability with incentives that minimize the role of potential spoilers. For one thing, the management of critical stakeholders is extremely important. This includes “unlikely peacemakers” such as political parties with conservative/nationalist constituencies, victims’ groups, religious actors, and more importantly, paramilitary organizations. The latter’s role in renouncing violence and in doing so in a credible way is critical in any referendum campaign. To this end, the Good Friday Agreement included the release of Republican and Loyalist prisoners, securing in return the support of their official representatives for the “yes campaign” and the subsequent decommissioning of military equipment. Timing and strategizing could be extremely important as well. Specifically, early mandate referendums, authorizing leaders to finalize a compromise could maximize both democratic legitimization and credibility in negotiations. Mandate referendums such as, for example, the ones in South Africa on ending
apartheid (Guelke, 1999) and in France on ending the war in Algeria (Lustick, 1993) provide comparable cases for investigating creative institutional formulas for the ratification of peace agreements.

**Design Considerations**

The absence of any previous work on the role of institutions in the ratification of peace agreements comes as a surprise to social scientists who have long acknowledged the importance of institutional designs in other areas of conflict resolution. This is even more surprising when we consider that many of the advantages and disadvantages of referendums are both created and mitigated by institutional means. Referendums are important for peace processes and are often central to discussions from the very beginning. In many cases, there are detailed constitutional provisions for referendums constraining peace processes or related constitutional amendments. For example, on the major issue of establishing the north and east as a single province in Sri Lanka, the 13\(^{th}\) Amendment of the Sri Lankan Constitution suggests ratification by referendum when circumstances permit.\(^{11}\) On this point, Qvortrup says that 70 percent of countries have provisions for holding referendums, with most European countries moving towards greater use of direct democracy.\(^{12}\)

Interestingly, the two mostly-commonly cited models of consociationalism and federalism in Europe have different views of the use of referendums, with Switzerland relying heavily on direct democracy and Belgium effectively eliminating the use of referendums at the national level following the unpleasant experience of a 1950 plebiscite when a question on the return of King Leopold III bitterly divided the Flemish and Walloon areas of the country.\(^{13}\) Likewise, the West-Indies Federation
collapsed peacefully in 1962 when the federal idea was defeated in a referendum in Jamaica despite substantial support by domestic political elites.\textsuperscript{14} Other federal or otherwise “divided societies” such as India, the USA and Israel have never experienced a nationwide referendum, although in the latter case, the Israeli Knesset has debated and often voted for laws demanding a referendum before the implementation of peace agreements with Syrians or Palestinians.\textsuperscript{15} Elsewhere in divided societies, we find almost unquestioned social norms that referendums should take place before the ratification of a peace agreement. In post-Annan Plan Cyprus, no politician has ever talked publicly against having a referendum even though a referendum is not a legal requirement for the ratification of a future peace agreement.\textsuperscript{16} Similarly, in Northern Ireland, a referendum was seen as necessary by both parts of the island because of the demand of the Irish side to replace the 1918 mandate for an independent Ireland on an all-island basis (or alternatively for Irish Republicans to renew an act of island sovereignty).

Institutional design is also important to avoid transforming referendums from instruments of cross-community legitimation into instruments of oppression against minorities.\textsuperscript{17} For example while the Swiss referendum design and the country’s political culture protect established communities, immigrant rights are often the target of direct democracy. The November 2009 referendum prohibiting the construction of minarets is one of the most regressive developments in Western European democracies, leading to the deterioration of relationships with the Muslim world. Such referendums against religious minorities are not without precedent. A similar vote targeting the Jewish community in the country dates back to 1897 and prohibits the slaughter of animals according to Kosher rites while, more recently, attempts have been made to prohibit imports of Kosher and Halal meat.\textsuperscript{18}
More importantly, in the case of designing referendums in peace processes, there are difficult questions of who is eligible to vote for what, how majorities are calculated, and whether referendums have binding authority. The question of eligibility reflects the outcome of the peace process itself. In fact, agreeing to a specific referendum option is a partial endorsement of the peace process and the rules of how a peace processes should be decided. For this reason, in referendums concerning the future of the Yugoslav and Soviet republics and of Northern Ireland in 1973, successful boycott campaigns crossed ethnic lines, adding to the polarization across communities. In the case of Cyprus, the main partner in the coalition government, AKEL, considered the possibility of abstaining from the 2004 referendum to minimize the damage of the “no” vote.

Even if sides agree to hold a referendum, the specifics of the design are often contested for a variety of reasons. While the cases of Cyprus and Northern Ireland are frequently compared in the literature, their referendum designs are remarkably different. In Cyprus, the endorsement of the Annan Plan required simultaneous majorities from both Turkish and Greek Cypriot sides. As for the guarantor powers, there were no provisions for referendums in Great Britain or Greece, but the Agreement required ratification by the Turkish Parliament (TBMM). As mentioned in the case of the referendum in Northern Ireland, a simultaneous referendum took place in the Republic of Ireland but not in Great Britain. Moreover, in Northern Ireland, there was no requirement for double majority support (i.e., from both the Catholic and Protestant communities), and it would have been unthinkable to divide voters into separate community polls. Yet majority support was implicitly crucial for the effective enactment of the planned changes, given the nature of the inclusive d’Hondt power-sharing executive. There was fear that a weak Protestant Unionist vote
would lead to executive deadlocks, particularly given the opposition of DUP to the agreement.

What made referendum design less contentious in Northern Ireland was the absence of contested recent colonization practices. In many cases around the world, referendums are considered a major stumbling block in the peace process because of the presence of recent settlers. In Western Sahara, Cyprus, Sri Lanka, New Caledonia, and Kashmir to name only few, if newcomers (settlers/immigrants) become eligible to vote in a future referendum, their decision might be key to deciding the final status or nature of the peace process. Donald Horowitz raises similar concerns in the case of many former Soviet states where “the recency of the Slavic immigration compounds the illegitimacy of the settlers’ claims.”\(^\text{23}\) Settler voting might be legitimized by the needs of the peace processes, but it is against the letter of international law and often in direct contradiction to the wishes of indigenous voters. In the case of Gibraltar, the United Nations General Assembly has decided that as it is a settler colony, self-determination principles should not apply even if people vote for it.\(^\text{24}\) Surprisingly, in Cyprus, the UN allowed “TRNC” citizens of Turkish settler background to vote in the 2004 referendum, with the tolerance of the otherwise tough-minded Greek Cypriot leadership.\(^\text{25}\) An explanation for this puzzling concession is that Greek Cypriot hardliners saw an opportunity in the referendum to derail the UN-led peace process indefinitely regardless of any future political cost.

An additional design issue relates to the rights of constituent states or federal units and whether either has a right to veto an agreement. In Canada, the Charlottetown referendum was technically a non-binding guide for the 10 provincial assemblies. The design privileged federal units but deprived, for example, First Nations peoples a veto role in the ratification process. Similar issues were raised in
the design of the referendum on the 2005 constitution in Iraq. Under Iraqi law, the constitution would have failed if a two-thirds majority in three of Iraq’s 18 provinces voted against it. Though a majority of voters rejected the document in the provinces of Anbar, Salahuddin, and Nineveh, the vote in the latter was fairly close, with 55 percent voting “no” – a percentage that fell short of the two-thirds majority needed to defeat the constitution, however. The other two provinces rejected the charter by more than a two-thirds majority (see Image I below). The referendum eliminated the need for cross-community support by following a design that alienated predominantly Sunni provinces, thus contributing to polarization across sectarian lines.

Image I: Iraqi Referendum Results

As the example of Iraq suggests, holding a referendum is not a panacea in a peace process even when intentions are benign. The Iraqi referendum did not mitigate the tensions and polarization across Sunni/non-Sunni lines and deprived subsequent post-2005 institutions of their legitimizing mission.
In short, a referendum that aims to engage constructively with all sides could add durability to an agreement while “sectarian” referendums could polarize positions and heighten hostility, especially when foreign mediators are seen as dictating the terms using democratic means to legitimize minority alienation. Yet in divided societies with multiple provinces and ethnic groups it might not be always possible or even desirable to allow each party a veto right in the peace process.

In post-war Bosnia, the international community opted for the less risky non-referendum option in the case of the Dayton Accords. The reason for the international community’s reluctance was the certainty of being outvoted. In a previous Serb-only referendum, about 90 percent of voters opposed arrangements later reflected in the Dayton Accords. Here, the international community had to prioritize the urgent need to pacify Bosnia and leave democratic legitimization for a later stage. For the same reason, when in 2010, the Bosnian Serb leadership passed a law making it easier to hold referendums on national issues, both the US and EU immediately argued that the new law could destabilize Bosnia’s constitution.27

Should fear of secession and violence prevent referendums? Even in the successful cases of Northern Ireland and South African, marginal groups opposed the peace process or tried to scare moderate voters before the referendum. In South Africa, more than 220 blacks were slain in township violence during the weeks leading up to the 1992 referendum.28 Likewise, in East Timor, the UN administration was criticized for organizing a premature referendum in 1999 while failing to guarantee the security of the voters in the aftermath of the poll, leading to the massacre of innocent civilians.29 Similarly, in Northern Ireland, both Loyalist and Republican dissident groups participated in violent attacks months before the signing of the Good Friday Agreement. Since any compromise will meet with some
opposition, it is important to distinguish violent opposition by small marginalized groups from the opposition of established popular movements or organized militaries. A referendum in a divided society could aim to include the latter groups through the participation of their political representatives and at the very least should not aggrandize them through the use of unrepresentative or contested political institutions.

Not surprisingly, perhaps, the literature on referendums is divided on their general efficacy, arguing that voters lack the time, commitment, and expertise to deal with complex issues. Also referendums differ from elections in various respects. During elections parties depend largely on mobilizing their core constituencies and standard party mechanisms. During peace referendums such mechanisms often lose their efficacy because of internal disagreements. Political parties might even become organizationally incapacitated as a result of internal divisions on whether to support or not the peace agreement; alternatively, they may lack the experience of running referendum campaigns or of drawing important distinctions between those and normal elections.\(^{30}\) Non-political actors, special interests and the civil society groups gain the opportunity to cover this gap. For instance, even in the successful case of Northern Ireland, the main pro-peace political parties such as the Ulster Unionist Party (UUP) did not fight a whole-scale referendum campaign. Although the UUP supported the agreement, few of its senior politicians actively participated in the “yes” campaign, with the exception of David Trimble himself who arguably lacked the charisma to appeal to the masses. Yet in the absence of active party politics, campaigning was taken over by civil society organizations and by what Dominic Bryan describes as “the respected establishment of Northern Ireland” (e.g., churches, the media, victims groups, and business associations).\(^{31}\)
Referendum processes could delink specific issues from broader political agendas and issues of relevance to political parties during elections. A critical issue in the design of referendums is that people vote on the basis of their preference for a specific issue (e.g. to accept or reject a peace process), setting aside broader domestic politics and party or personality sympathies. Interestingly, voters can decide on specific issues if peace negotiations are divided into smaller, more easily resolved components. For instance, current plans for a settlement in the Nagorno-Karabakh conflict have focused on internally displaced persons, proposing their return and participation in a referendum to decide the future status of the disputed territory.\textsuperscript{32} Equally, a 2009 referendum in Uruguay focused on a single issue – revoking amnesty for crimes committed during the dictatorship. The public voted against a motion revoking a previous amnesty law prohibiting all inquiries for crimes perpetrated under the military junta who ruled the country between 1973 and 1985. Then, in the case of the monarchy referendum in Greece, the issue of the monarchy was delinked from the broader post-civil war conflict to allow the public to bring closure to one of the most controversial issues in the country’s history.\textsuperscript{33} In other occasions such issue linkages have failed as voters chose not to delink the referendum question from their leaders’ popularity. For instance, many Canadians voted “no” in the 1992 referendum to vent their anger against the political and business establishment of the country and Prime Minister Mulroney.

Indeed, in the absence of popular leadership, the role of civil society becomes critical. In Northern Ireland and South Africa, civil society organizations overwhelmingly supported the “yes” campaigns. In both cases, the most remarkable transformations took place in the business community, women’s groups, and church
leaders with linkages to transnational peace networks, particularly the ecumenical movement.

Further to this, practitioners emphasize the importance of hidden agendas and party politics in the design of referendums and subsequent campaign strategies. According to Manfredo Marroquín, a political analyst in Guatemala, while publicly supporting reforms to please the international community, the ruling Partido de Avanzada Nacional (PAN) called on its party to vote “no.” So too, former Greek Prime Minister Karamanlis supported the Annan Plan but did absolutely nothing to promote it among Greek Cypriots for fear of damaging his relationship with the conservative grassroots of his own party.

Another issue evident in the case of Cyprus is the moral hazard effect of referendums. Since the public is assumed to have the final say in a referendum, there is no need for prior public consultation; therefore, negotiations take place behind close doors. The lack of communication between leaders and political parties or civil society groups alienates the public from the peace process and makes ratification very difficult when those same people are eventually invited to express an opinion in a referendum. On the contrary, early consultative referendums allow timely discussion within ethnic constituencies and prevent a gradual build up of public alienation.

More paradoxical for divided societies is the frequent discrepancy between elections and referendum results. Protestants in Northern Ireland voted a majority “yes” in the Good Friday Agreement with a 54 percent (estimate); however, by 2003, the “winning” Ulster Unionist Party lost to the more radical Democratic Unionist Party which had been defeated in the referendum. Likewise, referendum initiators De Klerk and Mulroney, as well as their parties, the National Party and the Progressive-Conservatives, in South Africa and Canada respectively, effectively disappeared from
the political map after the 1992 referendum campaigns.\textsuperscript{35} Similarly puzzling is the case of the Greek Cypriot Democratic Rally (DISY), a centre-right party with a diverse constituency of hardliners and moderates. The party supported the Annan Plan against all odds and “lost” the referendum with a 76 percent “no” vote. DISY nonetheless subsequently has survived multiple challenges including competition from three new parties targeting unsatisfied party hardliners. Even though the voters of the party were evenly divided in the referendum, the overwhelming majority remained loyal to the party in national elections. Paradoxically, the Party did well in subsequent elections and even increased its percentage and social reach. The same processes occurred domestically in other Cypriot political parties, with moderates defeating known hardliners in most occasions, leading to near-majority “yes” parliament within the Greek Cypriot community.\textsuperscript{36}

Academics and politicians acknowledge the differences and complex relationship between referendums and elections. They frequently talk about dramatic and unexpected shifts in public opinion during referendum campaigns partly due to media and propaganda effects\textsuperscript{37}, “informal checks and balances in the electoral system” which yield different results in elections and referendums, and “buyers’ remorse,” indicating how significant numbers of voters might be prepared to support a compromise only if they are represented by their most demanding bloc representative.\textsuperscript{38} Moreover, where referendums take place, they become entrenched in people’s minds and embedded in any discussions of the future. In fact, they are “habit forming.” Thus, once a referendum fails, the “only” legitimate way to address a settlement is through another referendum that clarifies public intentions.\textsuperscript{39} This belief is broadly shared, often even by those defeated in previous failed referendum, and it has the potential to freeze peace processes for years.
As mentioned earlier in the comparison of Iraq and Bosnia, one option is to avoid referendums at all costs and hope that a settlement will gradually become legitimized as people realize the benefits of peace. Individual leaders, elected governments, or the parliaments could also provide alternative ratification mechanisms for peace agreements as in the case of post-civil war Mozambique. Likewise, in post-Dayton Bosnia low levels of violence and the partial return of refugees has added an element of legitimization to the agreement.\(^40\) Moreover, as shown in Table I below, the case of Iraq mirrors Bosnia and Mozambique, as violent conflict followed a successful referendum ratifying a new federal constitution. Nonetheless, the cases of Northern Ireland and South Africa suggest that referendums can play a positive role while the Arusha and Oslo accords offer a reminder that peace agreements could be more vulnerable in the absence of popular expressions of support. Moreover, as suggested in the Catalan-Basque case in Spain referendums could have different effects even within the same country. The case of Spain following the 1978 referendum also suggests that formal and informal elite pacts could supplement or even offer a better alternative to noisy destabilizing referendums. Overall, Table I demonstrates, referendums are neither necessary nor sufficient for a successful peace process. The same applies to non-referendums, suggesting that the overall details of a peace process design might be more important than the choice of a specific ratification tool \textit{per se}. 
Table I: Referendums in Peace Processes

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The cases shown in the table suggest that referendums could work because of a prior large majority ready to make peace. Admittedly, relatively “successful” peace processes could occur without referendums in the presence of such pro-peace majorities. Yet this observation does not cover difficult yet relatively successful peace processes lacking recognizable previous support for a compromise. In these cases, the durability of the peace process could be largely attributable to those institutional designs that facilitate such popular expressions of support. One such mechanism combining the advantages of peace referendums and elections is the mandate referendum used previously in South Africa on ending apartheid and in France on the Algerian question.

Mandate Referendums

Mandate referendums could strengthen the position of conciliatory leaders and offer alternative institutional arrangements to solve many of the problems raised above with respect to peace referendums. In a mandate referendum, a leader presents a general idea or a framework of a peace arrangement to the public and asks the community for a conditional or unconditional mandate to finalize the agreement. The South African white-only referendum of 1992 is an example of such an arrangement. Given its
apartheid origins, it received little attention from political scientists, and its transferability to other settings was not debated, even though this referendum legitimized and facilitated the end of one of the most repressive regimes in the twentieth century. Interestingly, South Africans reached a peace settlement in their first major attempt, unlike other places where negotiations have failed for decades despite systematic UN mediation attempts.

The South African referendum was triggered by a bi-election which led to the defeat of De Klerk’s party and challenged his authority as a negotiator. De Klerk asked voters to reject or endorse his ongoing reform policies to negotiate an end to white minority rule through talks with the black majority. More specifically, the referendum asked, “Do you support continuation of the reform process which the State President began on February 2, 1990 and which is aimed at a new constitution through negotiation?” (see Table I in appendix). The referendum took place in the context of the apartheid regime: blacks were not allowed to participate in the ballot, nor were Indians or persons of mixed-race. De Klerk said he would regard majority support as granting him a mandate to sign “binding agreements” in constitutional talks. What makes the South African case particularly interesting is that De Klerk said in advance that it would be “meaningless” to ask white voters to reauthorize such agreements unless the final settlement was substantially different from that currently envisaged by his party.

De Klerk linked the referendum to his own personal fate and political future. He promised to resign and hold elections if his reforms failed to win a significant majority. His threat targeted, on the one hand, the South African moderates and businesses leaders who feared a return to international isolation and black revolt and on the other hand, the ANC leadership who informally rallied behind De Klerk’s
campaign. ANC issued a statement saying that the referendum benefited the negotiating process and emphasized that this should be the last occasion on which South Africa was subject to the indignity of a racial or ethnic referendum. ANC had no simultaneous referendum to run, and therefore, it felt comfortable intervening in the process, correcting the opposition’s misinformation campaign. For instance, to confront the Conservative Party’s claim that a “yes” vote was tantamount to “white suicide,” Mandela reassured white farmers that “President Robert Mugabe's plans to nationalise farm land in Zimbabwe had no bearing on the situation in South Africa.”

Likewise in France, Charles De Gaulle, one of the greatest political strategists of his time, held a pre-referendum on the self-determination of Algeria in 1961. In an intense political campaign, including three nationally broadcast speeches, he threatened to resign if his proposal to continue negotiations was defeated. As in the case of De Klerk, he used his personal leverage to promote a settlement. He argued that “a weak or negative response would cause the downfall of much he had achieved and trigger renewed subversion and political instability.” He received a massive 72 percent “yes” vote and proceeded to implement his policies, negotiate with Algerians and sideline army radicals and pied-noir resistance.

Likewise, in the case of Northern Ireland, it could be argued that the ambiguity in the agreement offered the British and Irish governments the mandate to implement the agreement and redesign provisions as necessary, thus effectively safeguarding the agreement from subsequent and often unavoidable reversals in public preferences. In the Northern Irish referendum, running a simultaneous campaign on both communities across the sectarian divide was relatively easier as Irish Nationalists were expected to ratify the agreement nonetheless. Other cases such as Cyprus demonstrate the weaknesses of simultaneous referendums as sides aim
exclusively at their own constituencies, often using arguments boosting their own

gains from the negotiations and weakening the position of moderates across the
divide. In 2004 once Turkish Prime Minister Recep Tayyip Erdoğan appeared in front
of the camera celebrating the agreement, Greeks and Greek Cypriots immediately
shifted their attention to the negatives of the Annan Plan. The same dilemma applies
to international mediators having to justify positions that often harm the campaign
efforts in one of the two communities participating in a peace process.

These concerns highlight even more the advantages to De Klerk-style
referendums in informing other divided societies. First, mandate referendums are less
risky for the peace process and in political terms particularly once they target one’s
own community exclusively. If politicians lose the mandate, they could opt to step
down without sacrificing the essence of the peace process. Second, they allow
communities to prepare themselves for peace negotiations. Pre-referendums can
provide leaders with feedback and indicate the priorities to be addressed in finalizing
an agreement. Third, assigning a mandate to an elected leader balances democratic
accountability with pragmatism in negotiations: thus, De Klerk could negotiate a
credible end to apartheid without fearing a risky referendum at the end of the process.
Fourth, pre-referendums improve leaders’ negotiating strategies and chances of
reaching a settlement. By providing certainty to the other side, more concessions can
be demanded at the negotiating table. Fifth, internal and informal referendums are a
better instrument for international mediation. An informal referendum could have the
same positive effects as a formal referendum if it succeeds, but if it fails, its
consequences are limited, because there are no formal international bodies involved in
the process. Because such referendums take place within communities, neither side
has a formal and internationally endorsed right to veto a peace agreement. In
referendums on the Annan Plan, meanwhile, communities effectively assumed a *de facto* right to veto the agreement because UN mediators had formally initiated those referendums.

Finally, as internal referendums target only one of the many communities in a conflict, it is often much easier to have only one community agree to hold a referendum in the first place. A critique frequently made of the EU in Cyprus is that accession was already secured for the island by the time of the referendum, and therefore, Greek Cypriots had no immediate incentive to vote “yes.” Yet if the EU had required Greek Cypriots to vote alone earlier to endorse the peace framework (when Turkish Cypriots and Turkey were refusing to do so), a compromise might have been possible by 2004, when Turkish Cypriots and Turkey changed policies.

**Conclusions**

The analysis provided here suggests the value of comparing and contrasting referendums, in a bid to guide relevant academic research and assist policymakers facing relevant dilemmas in peace processes. This is particularly crucial as the international community urgently debates new referendums in conflict-ridden societies such as Sudan and Kyrgyzstan. The article and accompanying sub-dataset summarize a number of possible designs and note the positive as well as the problematic aspects of referendums in divided societies. Referendums are defining moments of positive political transformation and statesmanship but they are also highly risky for societies in post-conflict transitions. The article demonstrates that as in the case of rapid democratic elections following transitions, referendums might potentially inflame already difficult conditions and unstable ethnic relations. It
recognizes on the one hand that peace processes could be more effective and durable when boosted by widespread expressions of public support. Yet it cautions against establishing universal norms on the necessity and efficacy of such referendums. As Roland Paris and others have shown in the case of elections, premature and wrongly designed referendums could be primarily conflict inducing rather than conflict mitigating opportunities.

People have frequently voted against constitutional amendments and peace agreements including Greek Cypriots (2004), Guatemalans (1999), Bosnian Serbs (1994), and even Canadians (1992). The cases of Bosnia (1995) and Iraq (2004) suggest the prioritizing of needs whenever security or other practical concerns overshadow decisions on democratic participation. If leaderships in any of the flashpoints of the Middle East, sub-Saharan Africa, or the Balkans accept a peace plan to settle an issue, it might be unnecessary to risk its implementation in a popular referendum. Local context, security, and urgency should all be considered, and democratic norms should be carefully balanced against pragmatic considerations. Moreover, there are also questions as to who constitutes the demos when borders are disputed, whether the rights of newcomers are equal to those of indigenous peoples, and how majorities should be calculated when societies are divided as in Cyprus, Kashmir, and Western Sahara. Finally, there is a question of timing and strategizing; should leaders seek a mandate before negotiating an agreement as in South Africa on apartheid, or in France on Algeria?

The discussion herein does not imply the predominance of one particular model, but offers some general principles to guide policy. For one thing, even when popular support for a settlement diminishes, as in Northern Ireland and South Africa, the prior endorsement of a settlement in a referendum could sustain the settlement in
difficult times. In other words, referendums extend into the future and add legitimacy and commitment to a settlement over a longer period than do elections. Furthermore, the proper design of referendums could lead to successful outcomes in peace processes despite conditions that predict otherwise. South Africans succeeded in finalizing negotiations for a peaceful transition from apartheid in their first major attempt at negotiations, while other divided communities have failed to negotiate peace agreements despite intensive and ongoing international mediations.

Finally, the relatively small number of referendums constrains the robustness of findings and conclusions compared to electoral outcomes. Yet current cases and existing knowledge provide sufficient insights as to the design of referendums. The analysis suggests that in designing referendums policymakers are less constrained in available formats than in elections and could therefore maximize the positive effects of novel institutional schemes. Apart from choosing the right timing, actors could decide on limiting the referendum to their own community, addressing only a specific issue or engaging their constituency informally. Questioning the absence of relevant academic and policy literature on the topic, the article demonstrates how the international community frequently proposes and implements referendums throughout conflict-prone societies without systematically observing past failures and successes. In sum, the article draws attention to the need for a systematic comparative study of referendums in divided societies and beyond.

Endnotes

1 See project’s website Referendums in Peace Processes
An example is Qvortrup’s forthcoming book which focuses on ethnopolitical referendums in general rather than on peace processes specifically; see Mats Qvortrup, *Balloting to Stop Bullets? Referendums and Ethnic Conflict*, University of Pennsylvania Press (forthcoming).


ANC encouraged and maintained white representation, and Mandela was initially ambivalent and distrustful of the role of whites in the movement; see Marc Howard Ross, *Cultural Contestation in Ethnic Conflict*, (Cambridge: Cambridge University Press, 2005, p. 257).


Matts Qvortrup, *A Comparative Study of Referendums (Government by the People)*. (Manchester: Manchester University Press, 2002 p.1)


Qvortrup 166; see also Mads Qvortrup, *Barak's French Lessons: the Israeli Referendum in a Comparative Perspective* (available for access November, 08, 2009 at http://www.iandrinstitute.org/Studies.htm)

However, the leader of the main opposition party might raise questions about an early mandate for a referendum in the next parliamentary elections. Leader of Democratic Rally, Nicos Anastasiades, Interview 2009

Interview with member of Turkish Cypriot negotiating team Kudret Özersay, 2007.

Another option proposed to AKEL by the DISY leadership was to let party voters turn down the Annan Plan but try to get a significant minority of around 45 percent support for the Plan in order to re-negotiate the peace agreement and acquire a “yes” vote within a short period.


Interview with anthropologist and referendum activist Dominic Bryan, August 2009.


George Tridimas (forthcoming), ‘Referendum and the Choice between Monarchy and Republic in Greece’, Constitutional Political Economy.


Cyprus Mail, May 28 2006.


Interview with UUP Policy Director Brian Crowe; see also McGarry & O’Leary, ibid

Butler and Ranney, Ibid. 3


Strauss, ibid 347

Ian Lustick, Unsettled States, Disputed Lands: Britain and Ireland, France and Algeria, Israel and the West Bank. (Ithaca, NY: Cornell University Press, 1993, p.289); see also Qvortrup (forthcoming); Ibid.
43 For a relevant critique of this norm see Paris, Ibid