

Are discretionary referendums on the EU becoming 'politically obligatory?'

*Do governments call referendums on EU matters because contextual circumstances make them 'politically obligatory' or because ruling politicians believe they are the 'appropriate' decision-making mechanism? **Aude Biquelet-Lock** and **Helen Addison** argue that, contrary to these suggested reasons, politicians have the freedom to choose whether and when to use referendums strategically to achieve their domestic and European policy objectives.*



Posters in France for the EU Constitution referendum, 2005. Picture: [Trainthh](#), via a CC-BY-SA-3.0 licence from Wikimedia Commons

Referendums as 'appropriate mechanisms' for deciding important European questions

European governments have increasingly held referendums to decide matters associated with the EU since the first one was held in France in 1972, even though all EU states have representative democratic institutions and referendums entail considerable [risk of defeat](#).

This surge in non-obligatory referendum pledges inspired some scholars to suggest that referendums are becoming '[politically obligatory](#)' despite being formally discretionary. The essential feature of this argument is that politicians choose referendums not for instrumental reasons (such as fear of electoral backlash) but because of a normative belief that direct decisions are right under certain circumstances, such as if a treaty or a question is symbolically significant; if pressure groups and the public strongly favour a referendum; if opposition parties and some governing party members pressure the government to hold a referendum; and if there are precedents of prior referendums held on EU matters in the country. Arguing that the contextual pressures are persistent, this account implies that referendums on EU matters will be more frequently used, even when not in a government's self-interest.

Contested conceptions of sovereignty, representation and participation

In a recent article published in [Parliamentary Affairs](#), we contest the assertion that referendums are increasingly 'politically obligatory' and that politicians view them as the only 'appropriate' mechanism for deciding important EU matters. We do so based on the analysis of: (1) political thought in France and the UK; and (2) the discourses of contemporary parliamentarians on the appropriate mechanism for ratifying important EU treaties, including the Maastricht Treaty, the EU Constitutional Treaty and the Lisbon Treaty, in both upper and lower chambers.

We show that the constitutions of both France and the UK enshrine different, long-standing and equally legitimate interpretations of the concepts of sovereignty and political representation. In France, these have been shaped by three contrasting and long-standing views – namely the *Rousseauian* and *Sieyessan* views on the exercise of sovereignty and the *Directorial* view on direct participation. In the UK, conceptions of representation and the transfer of sovereignty have found contrasting resonance in the *Burkean-Lockean* dialectic – a tension that arises out of the contradiction between Burke's view of representation (which invests politicians with the duty to represent the best interests of the country rather than act as representatives in the sense of popular delegates) and Locke's view on participation (which argues that when matters of great importance arise decision-making ought to be deferred to the people). As in France, the ambiguity of these 'essentially contested concepts' fuels invigorating disputes that are constitutive of the political culture. For instance, what constitutes a matter of 'great importance' remains a contested issue and one that is constantly open to re-evaluation.

Our findings suggest that legislators draw on these conflicting interpretations to argue for either direct public ballots or a parliamentary vote and deploy their arguments strategically to build a rhetorical case for the decision-making mechanism that suits their party's interests. Even when pressure groups, political elites, party activists and popular opinion strongly demand a referendum and there are precedents of referendums, French and UK legislators draw selectively on these divergent conceptions to justify either popular or parliamentary vote even if this means advocating contradictory positions from time to time. Contrary to the claim that governments are increasingly holding referendums on EU matters because contextual conditions induce politicians to believe that referendums are the 'appropriate' decision-making mechanism, our study concludes that governments retain discretion over choice of mechanism despite these conditions.

Another referendum?

The recent experiences of referendums resulting unexpectedly in outcomes contrary to governments' interests and having major implications for international treaties, governance arrangements and international relationships – such as the Dutch and French 'no' to the EU Constitution and most especially the Brexit vote – will probably have a chastening effect on politicians as well as the public in the near future. In addition, even if direct participation is no longer perceived as a rupture with the traditional role of Parliament in the UK, it is still perceived as a challenge to it, especially when matters of crucial importance are at stake. It is precisely because an issue is of paradigmatic importance that, according to the many political representatives, Parliament should remain the locus of decision-making. That being said, it is also true that politicians' views on direct participation are [slowly changing](#). No doubt future debates on the EU will bring diametrically opposed answers as to whether or not we should have another referendum.

*This article represents the views of the authors and not those of Democratic Audit. It draws on their article '[Are Discretionary Referendums on EU Integration Becoming 'Politically Obligatory'? The Cases of France and the UK](#)', published in *Parliamentary Affairs*.*

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