

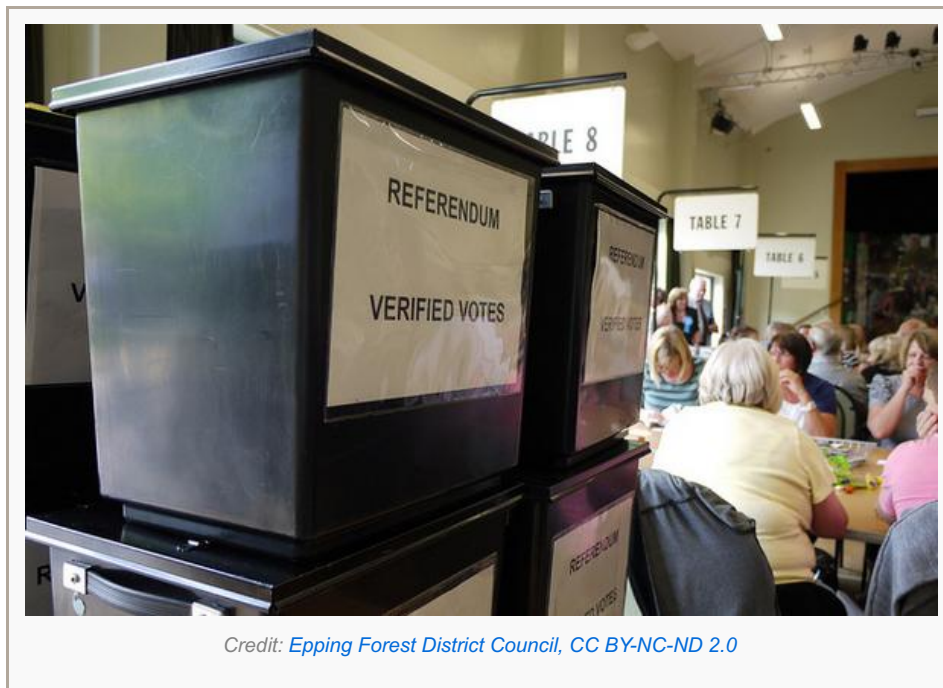
Significant changes to the referendum process are required to make direct democracy deliberative in practice

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By Democratic Audit UK

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*Despite their surface similarity, deliberative democracy and direct democracy often pull in different directions. In this context, **Lawrence LeDuc** asks how the conduct of referendums can be made more deliberative. He finds that the process is currently inhibited by the intrusion of politics, the absence of clarity, the amount and quality of information, and the degree of participation and engagement of citizens in the process.*



The theoretical concepts of deliberative democracy and the institutions and processes associated with referendums have surprisingly little connection, in spite of the similarity of certain key words and phrases. A deliberative model emphasises the importance of *voice* whereas referendums prioritize *votes*. A truly deliberative model would involve citizens at every stage of the political process, whereas a referendum vote typically brings them in only at the very end. A deliberative democratic process is less interested in resolving an issue than in discussing it, while a referendum often takes place solely for the purpose of settling a particular question. However without institutions, deliberative democracy tends to become an elusive and rather idealistic concept.

This raises the question: how might the practice of direct democracy be adjusted to more closely approximate a truly deliberative model? In a [recent article](#), I examined four specific areas in which the conduct of referendums tends to inhibit deliberation, and consider ways in which the quality of deliberation within existing rules and practices might be improved. These are: the intrusion of **politics**, the absence of **clarity**, the amount and quality of **information**, and the degree of **participation** and engagement of citizens in the process.

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. But such neutrality is not easy to maintain or to enforce, as attempts to do so in a number of countries have shown.

A referendum or initiative question needs to be clear, but clarity is not an easy matter either to define or to achieve. 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 expected British “in or out” referendum on Europe sounds clear enough, but the campaign is likely to turn on successful 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 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 deliberation. 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 citizenry. Turnout tends to fluctuate more widely in referendums than it does in elections. In general, it tends to be lower, but can sometimes rise to much higher levels, as it did in Scotland, when a particular issue engages wide voter interest or when a more intense campaign is waged by interested groups. Some jurisdictions impose a turnout quota on referendum votes in order to assure an adequate level of participation. In Italy, a referendum result is ruled invalid unless fifty percent of voters participate. A vote in which only a small minority of citizens participate is not only likely to be a poor vehicle for democratic deliberation, it will often create circumstances under which the legitimacy of the process itself may come under challenge. But turnout cannot be considered in isolation. It is affected by many other factors, including the timing of votes, party mobilisation, levels of information, and the nature of the campaign.

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*.

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