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## **BREXIT – AN OPPORTUNITY FOR ENGAGEMENT? A CASE FOR SMART REFERENDA**

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The European Project, overall, with or without Brexit, is a success. It is true that the EU experienced a fair share of political and economic challenges. However, it would be unfair to attribute the issues only to the EU – the world economy experienced a slowdown as well. Overall, “the Europe”, as a political, cultural and economic phenomenon has never been more successful.

As described by Henry Kissinger in his *World Order*, in some sense, the EU was a reunification of Westphalia. Yet, the EU can also be interpreted as Europe’s return to the Westphalian system. The EU has combined aspects of both the national and the regional approaches without, as yet, securing the full benefits of either. The EU diminishes its Member States’ sovereignty and traditional government functions, such as control of their currency and borders. On the other hand, European politics remains primar-

ily national, and in many countries, objections to the EU policy have become the central domestic issue. The result is a hybrid, constitutionally something between a state and confederation, operating through ministerial meetings and a common bureaucracy. EU states have surrendered significant portions of what was once deemed their sovereign authority. Because Europe’s leaders are still validated, or rejected, by national democratic processes, they are tempted to conduct policies of national advantage and, in consequence, disputes persist between the various regions of Europe – usually over economic issues.

Especially in times of crises such as that which began in 2009, the European structure is then driven toward increasingly intrusive emergency measures simply to survive. Yet when people are asked to make sacrifices on behalf of the “European project”, a clear understanding of

its obligations may not exist. Leaders then face the choice of disregarding the will of their people or following it in opposition to Brussels.<sup>1</sup>

The Lindy Effect or the survivorship bias, as formulated, among others by Benoit Mandelbrot and Nassim Taleb, states that things (phenomena) that existed for a long time are more likely to survive than things that have not passed the test of time.<sup>2</sup> As Winston Churchill once famously said, democracy is “the worst form of Government except for all those other forms that have been tried from time to time”. The referendum, a direct vote in which an entire electorate is invited to vote on a particular proposal, has been in use under various names since, at least, the days of the Roman Republic as a Decree of the Concilium Plebis (Plebeian Council). The Westphalian system of public international law which is based on the principle of the state sovereignty over its territory, can be traced to the Peace of Westphalia (1648). In other words, the referendum, under various names, is likely to remain in use within the EU and elsewhere in the future. On top of having the survivorship bias on its side, it is hard to imagine anything more democratic than a direct vote of all the voters. Then, the question is if whether this ultimate expression of democracy would work in favour of the European project or against it.

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<sup>1</sup> World Order, HENRY KISSINGER, Penguin Press, 2014, page 59.

<sup>2</sup> Unlikely Timeless Relics Explained by the Lindy Effect by PATRICK MURPHY, 2017, <https://trig.com/tangents/2017/9/21/unlikely-timeless-relics-the-lindy-effect>

According to a famous piece of political wisdom, “perception is reality”. Depending on the point of view, Brexit can be viewed as a dramatic event, as an opportunity or as a continuation of an old trend. Let us not forget that the UK has never adopted the Euro or the Schengen Zone. Let us not forget as well that the European Constitution has been defeated by a wide margin in a referendum both in France and the Netherlands in 2005, not in the UK. Arguably, the UK has never been fully integrated in the “European Project” in the first place. Perhaps, at some point, there was a hope that, over time, the UK would “join in the spirit of the European Project”. However, a combination of factors, such as the economic crisis of 2008, mass migration and other, led to Brexit which is not a “cessation from the European State” which never existed in the first place.

Although the use of referenda varies widely from country to country, in general, it can be said that they are viewed as risky, “lumpy” and unpredictable or something which is exploited by “populists”. After a number of failed attempts to pass the European Constitution in 2005, the referendum, as an instrument of direct democracy which can be used for the advancement of the European Project, was discarded in favour of passing “constitution-like-treaties” through national parliaments which alienated a large number of voters toward the project.

Votes tend to question un-elected bureaucracies, whether officials do a good job or not, because, among other

things, as observed by Nassim Taleb, “they have no skin in the game”. The EU, which existed for a much shorter period of time than any of the European states, is exceedingly viewed as a bureaucratic entity which is trying to impose its will without democratic representation on the citizens of the European Union which, at the same time, happen to be voters in their sovereign European States.

Reported in the news, in a 2018 poll, a third of the Polish voters feel “hostility” towards EU bureaucracy and would back “Polexit” from the EU<sup>3</sup>. A somewhat earlier survey by Pew Research Center in 2017 showed that while most EU citizens do not want their countries to leave the EU they would support a referendum on membership while Greece and Italy recorded the highest level of support (35%) for the actual departure from the EU.<sup>1</sup> Interestingly, the same poll showed that in Britain, after the 2016 Brexit vote, more than a half of respondents (54%) said that they were positive about Europe compared to 44% in the 2016 survey.<sup>2</sup>

Under the “anti-EU-bureaucracy” perception of the European reality, Brexit is not a sign of something new but

rather a reminder of an ever growing need to have a critical look at the European Project. The question is not so much what would happen to the UK after Brexit but about the future of the European Project with or without the UK which would remain a key member of the “European Family” in the future but on its own terms.

Is there an opportunity to use the referendum, as an instrument of direct democracy, for the advancement of the European Project? Historically, representative democracy appeared on the scene as a practical way of governance where politicians act as “policy specialists” akin of any other profession. Casting a vote was and still is accompanied by a complex ritual of going to a special location to cross a circle on a special piece of paper. The whole process was created in the pre-Web Age to prevent electoral fraud and ensure each voter’s right to safely cast a vote. As a result, each referendum is a complex and expensive process making referenda relatively rare and limiting them to a few “grand issues” such as passing the European Constitution or leaving the EU.

The Age of the Internet has yet to change this ritual process but, in principle, after 2005, a combination of technological advancements made it possible and inexpensive to eliminate a traditional voting machinery from the loop by providing each owner of a smart-phone with an option to vote directly in a referendum at her or his convenience from anywhere and at any time. All or almost all smart-phones are linked to individual owners. A growing number of smart-

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<sup>1</sup> “Time to get out” Will Poland leave the EU? Third of Poles demand EU Polexit by SEBASTIAN KETTLEY, March 22, 2018, <https://www.express.co.uk/news/world/935620/Poland-EU-exit-Polexit-will-Poland-leave-European-Union>

<sup>2</sup> Support for EU and exit referendums up across Europe: survey by CYNTHIA KROET, June 16, 2017, <https://www.politico.eu/article/eu-support-increases-in-europe-continent-but-also-exit-referendum-support/>

phones have a fingerprint scanner. An overwhelming majority of voters in the European Union have at least one smartphone. As the wide use of banking apps shows, it is easy enough to have a safe connection to each and every client. In other words, offered for consideration, is an idea of using direct democracy to remediate voter disengagement, whether real or perceived, resulted from a relatively complex political structure of the European Union via the use of contemporary technology linked to an almost universal adoption of smartphones by the EU citizens.

Reported by [www.gsma.com](http://www.gsma.com), at the end of 2017, there were 465 million mobile phone subscribers in Europe, equivalent to 85% of the total population of the EU.<sup>1</sup> An extremely high cell phone penetration in the EU coincides with the first ever use of smart-phone voting software by US military personnel stationed abroad. Developed by Voatz, a Boston start-up, an app uses a face recognition software and block chain to secure the voting process.<sup>2</sup> While, in practice, it would be impossible to guarantee a 100% penetration on smartphones among voters in the EU, it is easy enough to distribute a limited number of basic smartphone and/or provide voters with a “back-up alternative”.

The Age of the Internet made it possible, for each and every user, to access

a wide range of sources of information on any conceivable subject. An argument about a highly qualified “political class” does not hold for any informed voter anymore. For example, politicians are not known to understand meteorology and computer generated climate models while actively participating in various climate related forums. Granted they would argue that they rely on the opinion of the experts. However, so does any user of the Internet. The same applies to each and every conceivable issue other than a few classified matters of national security, which can be left to a few individuals with proper training and security clearance.

Once referenda on the EU level becomes cheap and easy to organize it would allow voters in various countries to participate in the European Project themselves. Thus, over time, it would help to eliminate a “Brussels bureaucracy imposed from the top” image of the European Union.

Once referenda becomes a common tool of the European Democracy, it would also eliminate a need for “once in a time all-or- nothing” referenda. For example, rather than having a referendum on an “all-or-nothing creation of the European State”, a number of simple referendums can be conducted on the individual aspects of such a state. Perhaps, turning this process from a “once in lifetime Brexit-like” to a fluid process would help to guide the European Project toward a higher level of integration. It is equally possible that the EU-level “smart referenda” would

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<sup>1</sup> <https://www.gsma.com/mobileeconomy/europe/>

<sup>2</sup> <https://money.cnn.com/2018/08/06/technology/mobile-voting-west-virginia-voatz/>; <https://voatz.com/>

demonstrate that, at the moment, the European Project is not ready for deeper integration. Perhaps, as pointed by Henry Kissinger, the most important goal of the EU-level smart referenda would be creating a clear understanding

of the citizen's obligation toward the European Project outside various rights and benefits created by the European Union as “an in- tangible something” which distinguishes a legal construct from a proper state.

*Published: European Review of Public Law. 2019. Vol. 31. P 337–347.*