

**A NORMATIVE INQUIRY to the PLACE of REFERENDUM in DEMOCRATIC
PRACTICE**

By
Tugba Akkaya

Submitted to
Central European University
Department of Political Science

In partial fulfillment of the requirements for the degree of Master of Arts

Supervisor: Professor Zoltán Miklósi

Budapest, Hungary
(2011)

Abstract

This study provides a normative inquiry to the place of referendum in democratic practice. Its primary aim and contribution is the presentation of the political legitimacy assessment for a particular form of decision making in democracy, which in this case is referendum. For that reason, political legitimacy of referenda is evaluated with a particular model that is advanced with reference to the literature. The model encapsulates both procedural and epistemic dimensions of referendum. The former dimension is evaluated with respect to criteria of political equality and political responsibility while the latter is assessed with respect to epistemic benchmark of tyranny of majority. The evaluation enables to capture the contemporary complexities of referenda in representative democracies by considering its procedure and outcome. In its concluding remarks, this thesis states that considering both procedural and epistemic evaluations, political legitimacy of referendum is weak due to vulnerabilities that lead to conflicts with the criteria of the model of this study.

TABLE OF CONTENTS

INTRODUCTION.....	1
CHAPTER 1: CLARIFICATIONS ON REFERENDUM.....	7
1.1 Why do Representative Governments Go for Referenda? Ideals with Referendum under Representative Democracies	7
1.1.1 Maximizing Legitimacy	8
1.1.2 Maximizing Participation	10
1.2 Problematization of Referendum under Representative Form	12
CHAPTER 2: FORMS OF REFERENDUM AND ACCOUNTS OF POLITICAL LEGITIMACY	16
2.1 Different Forms of Referendum	16
2.2 Different Conceptions of Political Legitimacy	20
2.2.1 What is Legitimacy? Traditional Accounts.....	20
2.2.2 The Legitimacy of Democracy.....	26
2.3 Building an Account for Evaluating the Legitimacy of Referenda.....	29
2.3.1 Procedure.....	33
2.3.1.1 Political Responsibility	34
2.3.1.2 Political Equality.....	36
2.3.2 Outcome	38
CHAPTER 3: DIAGNOSIS AND EVALUATION	40
3.1 The Problems with Referenda under Representative Democracies	40
3.1.1 Manipulation	41
3.1.1.1 Information Asymmetry	42
3.1.1.2 Agenda Control	45
3.1.1.3 Elite Effect.....	46
3.1.1.4. Campaign Effect.....	49
3.1.2 Low Turnout.....	51
3.2 Evaluating Referenda with Respect to Legitimacy	54
3.2.1 Procedural Evaluation	56
3.2.2 Epistemic Evaluation.....	62
CONCLUDING REMARKS.....	65
REFERENCE	69

INTRODUCTION

In his famous book '*Is democracy Possible here?*' (2006) Dworkin assesses American politics and presents two main arguments: 1-America is divided deeply into two political cultures (the so called blue-democrats and red-republicans line) 2- the construction of possible common ground starting with an argument at a philosophical level with the twin principles of human dignity (the principle of intrinsic potential value and the principle of personal responsibility) that everybody accept. The second argument requires a public argument accommodated by the political system. He discusses the question whether America has the kind of political system. However, throughout his analysis, the realm of American politics is not so promising. He makes the claim that the current political system has dimensions such as misinformed and ignorant public; finance based electoral campaigns that leads to corrupt politics; media that worsens these previous dimensions rather than being the objective information provider for the public or being the voice of people. Although Dworkin is not a defender of direct democracy and his proposal of partnership view of democracy remains in the domain of majoritarian representative form, his depiction of the problems of current democratic political system, a representative one, suggests that those problems undermine the promises of the system.

What is the alternative way of making democracies more people-oriented and more inclusive? In the debates over the will for more democracy, direct democratic forms of decision-making gather attention. Direct democracy proposes the idea of direct participation of the citizens for policy-making and legislation. Trust in the people's ability and belief in people's right to make decisions on the matters that concern people as well as the idealization of governance by people in its most abstract sense composes the reasoning of direct democracy. The opponents of this form of democracy point to the practical problems of institutional design for huge populations and people's ability and willingness. They claim that people are not willing to

participate in each political decision and even if they have the will, they do not have the ability to make rational decisions. The former is well presented in the Paradox of Voting (Down's paradox) that claims the benefit of voting may not exceed the cost of voting. Apart from the problems of cost-benefit analysis of participation in politics, there is another kind of problem in collective decisions. Each individual presents a different interest on a subject and then forming a collective decision that satisfies all the interests becomes not possible. In an environment of more than two alternatives, Arrow's Impossibility Theorem articulates the essence of this collective choice problem in a detailed manner. In its essence, this theory claims that the consistency of the individual rational choice cannot be transferred to collective modes of decision-making. This theory raises questions about the collective decisions and the political system based on the collective decisions formed by the individuals.

In practice, direct democracy does not exist as the sole political system of a state. In other words, the exercise of direct democratic forms of decision making such as referenda , initiatives and recalls take place under representative political systems. Since there is not pure form of direct democracy, the issue at stake is the degree of use of direct democratic means and involvement of citizens in the decision making process. Kriesi, in his study on direct democracy in Switzerland, makes this view as the assumption of his study: "Moreover, the study assumes that the mechanism of choice operating in the two models of democracy-representative and direct –are not fundamentally different from each other. According to this point of view, the two models differ in degree rather than in kind" (Kriesi, 2005; 2). At the same time, the rise of referenda in the recent decades demonstrates the willingness of more use of direct democratic means: increase in the number of referenda in consolidated democracies (*Western democracies*) since 1960s, in Latin American regimes after 1978 (*Chile referendum in 1978 and 1988 on regime change, Uruguay referendum 1992 on privatization law, Brazil*

referendum in 1993 on political regime, Venezuela referenda in 2004 and 2007 on political regime), in Africa after 2000 (*Somali referendum in 2001 on constitution, Senegal referendum in 2001 on constitution, Uganda referendum in 2000 on form of government, Zimbabwean referendum in 2000 on constitution, Botswana referendum in 2001 on constitution, Gibraltar referendum in 2002 on sovereignty, Rwanda referendum in 2003 on constitution*), in Eastern and Central European countries after 2000 (*Poland 2003, Hungary 2003, Slovakia 2003 referendum for European accession*) and some countries in the Middle East and Asia (*Pakistan in 2002, Taiwan in 2003, Qatar in 2003, Turkey in 1982 and 2010*). Moreover, the regular use of popular vote for legislation via referenda in Swiss and Californian experiences also present the rising degree of direct forms within the states.

Not all referenda indicate the will of more democracy or more inclusion of people or less mediated presentation of the individual preferences since they still hold the problems current representative political systems have as well as the problems specific for direct forms such as the incapacity of the citizens and their lack of interest in politics ending in the possibility of manipulation and demagogue (Kriesi, 2005); ‘mistaken votes’ (Butler and Ranney, 1994; 18); and the possibility of undermining the elected officials’ decision (Butler and Ranney, 1994; Hug and Tsebelis, 2002). For sure, there is the question of empirical presentation of these problems. For instance, in the case of the claim that people do not have the capacity and the interest in politics, the empirical studies vary. The studies vary in terms of the results about the capacity and the interest of the people. In the American context there have been studies on the consequences of the direct democratic experience as noted by Kriesi (2005): “Several studies have found that the voters’ experience with direct democracy promotes political efficacy, stimulates discussion of policy issues, leads citizens to seek out more political information and increases voter turnout (Bowler and Donovan 2002; Hero and Tolbert 2004; Smith 2001,

2002; Smith and Tolbert 2004; Tolbert et al. 2001, 2003)” (Kriesi, 2005; 12). On the other hand in the Latin American and post communist Europe context, the studies are more skeptic about the direct democratic experience and claim the misuse or abuse of this means by the incumbent governments in different ways (Breuer, 2008; Kornblith, 2005; McManus-Czubinacuteska C. et al. 2004). Notwithstanding, Butler and Ranney (1994) notes in 1988 Chile referendum brought an end to the Pinochet dictatorship; Leduc states that “the 1992 referendum in South Africa advanced the process of dismantling apartheid” (Leduc, 2003).

Given this complexity of the referenda within the umbrella of representative democracies, the reasons why referenda should be preferred to representative forms of decision-making and legislation is raised as the question for democracies. These reasons find themselves manifested in a normative inquiry to the place of referenda in democratic practice. For an attempt that tries to understand the place of referenda in democracy with a normative inquiry, an evaluation of political legitimacy of referenda is more promising since political legitimacy as a normative concept is enabling to shed light into values and deficiencies of referendum within a representative context. Moreover political legitimacy evaluation is more enabling to capture the contemporary complexities of referenda in representative democracies with its reference to both procedure and outcome of referenda. In the literature on political legitimacy, legitimacy has been considered within authority and democracy context but not within a specific form of decision-making. In the literature on referendum, the legitimacy consideration of referendum has not been normative but rather as practical legitimacy that renders legitimacy synonymous with majority consent.

Taking into account this puzzle as the gap in the literature, this thesis aims to evaluate referenda in terms their legitimacy. Here the evaluation refers to discussion of referenda in

terms of their legitimacy dimension. The question to be answered is whether referenda hold their legitimacy in their practice in representative forms and the idea is that this evaluation of legitimacy of referenda will shed light on the place of referenda for democratic practice. In this thesis, I will argue that the legitimacy of referendum under representative governments is weakened due to the transfer of the problems of the representative forms of decision making to the referenda. The methodology this thesis follows is a critical review of the literature on referenda in the light of political legitimacy. The literature on legitimacy offers traditional accounts of authority and state as well as justification accounts of democracy. The latter offers evaluations of democracy with reference to either procedures or outcome or both. In this thesis a democratic form of decision-making referendum is going to be evaluated with reference to both procedure and outcome.

For this purpose, the structure of the thesis is composed of three main chapters. In the first chapter clarifications on the issue is provided. These clarifications include two parts, which are respectively the reasons why representative governments go for referendum and the problematization of referendum under representative governments. In the second chapter different forms of referendum and different accounts of legitimacy is presented. In this chapter, the purpose is to review the literature and consider the conceptualizations applied in the thesis and draw the theoretical framework on which the arguments and assessments are grounded. Besides, what is meant by referendum in this thesis is explained and a new model of legitimacy that is specifically designed for evaluating the referendum is introduced. In the third chapter, the problems with referendum practices that are all under representative democracies are diagnosed. After the diagnosis, referendum is evaluated in terms of its legitimacy. In the evaluation, referendum and its diagnosed problems are considered with respect to the model designed in the previous chapter. In the last part of chapter three, a

normative prescription is presented for the legitimacy problems of referenda. After the presentation of the chapters, in the conclusion part some concluding remarks and insights are provided.

CHAPTER 1: CLARIFICATIONS ON REFERENDUM

This chapter is composed of two clarifications on the questions in mind while taking up the referenda under representative forms of decision-making. One question is why the governments that already have the representative form of decision-making go for referenda and the other is the question what is the problem with that. The discussion on the reasons of governments going for referenda explains two ideals that are maximizing legitimacy and maximizing participation. The latter form of legitimacy discussed in this part is different from the political legitimacy that makes the theoretical framework of this thesis since it refers to the practical legitimacy that incumbent governments generally seek. The discussion on the problematization of referenda under representative forms makes explanations on the reasons how and why referendum is problematic.

1.1 Why do Representative Governments Go for Referenda? Ideals with Referendum under Representative Democracies

In its practicality governments go for referenda for different reasons. The reasons can be as follow: referenda for ratification of constitutions (Australia, Canada); referenda for regulating “the functioning of political institutions themselves” (Mendelsohn and Parkin, 2001) (Italy and US); referenda due to election fears of governments in cases of important decision (most of the European Union related referenda in Denmark, Norway, Netherlands); referenda due to division among the elites (Ireland). However theories of referenda offer two ideals that are pursued by applying direct democratic means: maximizing legitimacy and maximizing participation. Butler and Ranney (1994) assess these as the expectations of advocates of supplementing representative democracy with referenda. This perspective takes

these two not as ideals but as the conditions of successful combination of direct and representative democracy.

1.1.1 Maximizing Legitimacy

Within the purposes of going for referenda, the legitimacy is rather practical not moral or political philosophical. The practicality includes both the proposal offered and also political authority involved. In other words maximizing legitimacy by applying referendum has the capacity to involve legitimacy of the envisaged proposal in the referendum as well as the incumbent government depending on the features of the referendum. However the 'legitimate' proposal or government indicates no opposition both from the citizens and international arena. Features of the referendum have the effect in the sense that it identifies which one looks for legitimacy. To explain with an example, in an obligatory referendum on constitutional change, legitimacy functions mostly for constitution itself but not for the incumbent government. To continue with the similar example; when the referendum on constitution is not obligatory but rather ad hoc legitimacy functions differently and includes the legitimacy of the incumbent government that proposes the constitution. In the second example, the ad hoc-ness brings the identification of the constitution with a government proposal while in the first one, constitution is proposed independent of the intentions or decisions of the government.

Furthermore, gaining legitimacy via the consent of the people directly by referenda has another point to discuss: the expression of political consent and support directly by the citizens. As I stated above, in defense of direct democracy, that the advocates of direct democratic means of decision making point to the mediator-less representation of the interests, values and beliefs of the individuals in the political realm. Mediator-less

representation is assumed to be better in terms of legitimacy since the system of mediated representation brings the conflicts and discrepancies of wills and interests between the voters and the representatives they vote for as well as the problems with the institutions of representation such as time lag between two elections to call back the representatives. Representative democracies' practice of direct democratic means intends to fill the gap for the legitimacy of certain decisions of theirs. When the citizens give direct consent and support for the concerned proposal in the referendum, the legitimacy of the action is increased.

To be back to the example of constitution referenda , constitutional change has the potential to affect all people in the given democracy, ideally (or assumed) the citizens are more prone to believe in the legitimacy of the one they directly voted for than those proposed from the government. In other words, in liberal democracies where the rule of law is the highest political legitimacy for the governments, the right to determine those rules (constitution) provides more legitimacy in the eyes of citizens since without the mediation and interpretation of the law makers (that includes special interests of elites), public interests are more presented via referenda. Butler and Ranney notes the similar position with advocates of referenda : “ they (decisions by people) are more likely than acts of legislatures to promote the public interest over special interests; and ordinary citizens are less subject than public officials to bribery, intimidation, and other forms of pressure” (1994; 14). Butler and Ranney also refer to studies that tend to conform the idea that referenda provide more legitimacy with their feature of least mediation among declarations of popular will that leads to proposition that “in a system based on the principles of popular sovereignty, political equality, popular consultation, and majority rule, direct popular decisions made by referenda have a legitimacy that indirect decisions by elected representatives cannot match” (1994; 15).

1.1.2 Maximizing Participation

Political participation can have broad and narrow definitions. In the narrow definition it means merely the act of voting while in the broad definition it means more than mere voting. To clarify the broad definition, under representative models this definition includes participation in means such as political parties, interest and pressure groups and also civil society and movements (both for supporting and protesting). In direct democratic means, I define the broader meaning of political participation as the involvement in the political discussions around the proposal of the referendum, keeping informed about the discussions and events. This definition implies the micro level (individual level) information and attention in politics. However, within the scope of this paper narrow definition of political participation is considered rather than broad definition.

Citizens are expected to vote more in the referenda since the decision makers are themselves. The possibility of direct effect on policies without mediation encourages citizens for more participation. Moreover the content of referenda also promote more involvement in politics, they require more attention and more knowledge so the citizens are demanded to be more involved in politics during the process than election voting. The whole mobilization process for the referenda itself involves more participatory behavior of the citizens. On the other hand, the participation demanding nature of referenda depends on the type of the concerned referendum. Referenda that are mandatory are different from referenda that are optional or referenda initiated by people are different from referenda initiated by governments. The nature of the referendum affects the participation not only in terms of numbers of participants but also in terms of the nature of their participation. On the one hand when a referendum is mandatory and proposed by the government, the citizens participate via their votes. On the other hand when referendum is not mandatory but rather optional and is initiated by the

citizens themselves, citizens are both the initiators and voters. In the second case, they are active veto players while in the first one they are passive veto players.

Apart from its participatory dimension, Butler and Ranney notes the claim of participationists that direct democratic means are indicators of civic education in a society: "...most important single indicator of a democratic nation's civic health is the degree to which its citizens participate in politics: high participation is a sure sign of political good health, while low participation is an unmistakable symptom of political sickness" (1994; 15). Furthermore Barber, who is an advocate of direct participation as well as civic education, states that: "Only direct political participation-activity that is explicitly public-is a completely successful form of civic education for democracy. The politically edifying influence of participation had been noted a thousand times since first Rousseau and then Mill and de Tocqueville suggested that democracy was best taught by practicing it... Of course, when participation is neutered by being separated from power, the civic action will be only a game and its rewards will seem childish to women and men of the world; they will prefer to spend their time in the 'real' pursuit of private interests. (Barber, 1984; 235-36 in Butler and Ranney, 1994;15).

Since the civic virtue (I define as the fulfillment of the role of citizenship) of the citizens in a given democracy is increased by direct democratic mechanisms, maximizing participation with referenda serves also to maximizing civic virtues of citizens. This characteristic of referenda as maximizing civic virtues of citizens is naturally affected by the information providers of citizens. Media and the political environment where citizens pursue information to construct their opinions and make their decisions.

1.2 Problematization of Referendum under Representative Form

In their theory of referendum, Butler and Ranney discuss the case against referendum and consider the following counter arguments against referendum as follow: “1. Ordinary citizens have neither the analytical skills nor the information to make wise decisions; 2. decisions by elected officials involve weighing the intensity of preferences and melding the legitimate interests of many groups into policies that will give all groups something of what they want; 3. Decisions made by representatives are more likely to protect the rights of minorities; and 4. By allowing elected officials to be bypassed and by encountering officials to evade divisive issues by passing them on to the voters, referendums weaken the prestige and authority of representatives and representative government” (Butler and Ranney, 1978; 17-18). These counter arguments present the defense of representative forms while they do not point to the problems with referendum practice. However, it is worth taking these counter arguments seriously when they point out that there are points to make counter arguments to referendum. Although the purpose here is not to provide counter arguments against referendum practice, problems with referenda are acknowledged. In the case of exceptional exercise of referendum within the regular representative forms of decision-making, complexities arise and these complexities base the problematization of the referendum under representative forms. First of all different expectations from citizens for different forms of decision making, and secondly the transfer of practices of representative forms like election campaigns to referendum periods.

Under representative systems citizens are not expected to have political knowledge (the knowledge that is required for making political decisions, for instance the reasons of the each clause in the constitution or the possible consequences of those clauses). The only expected judgment on the political parties and their candidate delegates for the parliament and this is more or less can be acquired based on the inclined ideology in rough terms. The whole

representative system based on the delegate or representative selection for representing the interests of the citizens and also the expected expertise of those people in decision making in the political realm. Exercise of referendum under this system has many consequences but one of them is relevant here which is the unreasonableness of expecting the capability (including the knowledge and the consciousness of considering not own interest but rather the overall good) of making one of those decisions from citizens on behalf of those representative and also for themselves. One can also approach this knowledge and capability issue from a different point of view by considering the ignorance or education limitations of the citizens in which the arguments may be two sided: either one can oppose to referenda by pointing to the inadequate education of the citizens for making those decisions; or one can propose to educate the citizens by imposing more knowledge on political matters or education the citizens by more exercise of referenda, in other words civic education by more referendum exercise. When the former argument is valid, direct involvement in decision making will mean an exercise of voting right without accomplishing the duty that complements that right.

The format of the referenda that is a ballot, prepared by the incumbent government and proposed to be decided (or ratified in a sense) by the citizens themselves results in complexities. The power given to citizens to be veto player in a decision-making has positive and negative consequences. For the positive consequence, when the citizens become veto players in a decision, a power share between the government and the citizens prevents the concentration of power. On the other hand, although the citizens become veto players, they do not hold any political responsibility to each other because the composition of their decision is not supposed to consider overall good. So the political responsibility of the governments while making decision does not hold for the citizens while they are making the decision. The political responsibility of the decision- making is bypassed so is the political responsibility of

the government. Moreover, the veto player role of the citizens can be illusionary. The claim of illusionary power will be more meaning after the following discussion of practice transfer.

The transfer of practices of representative system to the referenda exercise occurs because of its exercise under representative systems. What does this mean? Basically, since there is no practice of referendum as a sole decision making procedure, or there is not pure direct democratic system of governance, the existing practice of referendum is presented as a mixed format of party elections and direct decision making. To clarify with an example, the campaigns of part elections are also practiced during the referenda and these campaigns are implemented by the political parties (both the incumbent governments). The campaigns for the referendum can be the sources of information on the content of the ballot proposal or they can be the sources of periods for manipulation by the interest groups, elites or the incumbent governments who has the financial and other means of power. The latter, which is the case mostly, results in an asymmetry on the use of decision making power between the citizens and the representatives¹. Citizens are not immune from the manipulation in their exercise of decision making power. It should be clarified that here the issue is not independence from the source of that power which is the constitution, but rather the issue of the power asymmetry between the agencies of the decision making power, citizens and the representatives. Thereupon the power share effect of referendum is overshadowed.

These complexities of the referenda under representative forms are introductory problematization of the referendum. In the following chapters, the diagnosis of the practical risks and problems and legitimacy evaluation makes up the main discussion of this paper. This

¹ Here representatives is used in its other meaning that contains the incumbent government, opposition parties, elites and interest groups that has the access to agenda control.

chapter is provided to comprehend the reasons and problems of referenda exercise under representative forms.

CHAPTER 2: FORMS OF REFERENDUM AND ACCOUNTS OF POLITICAL LEGITIMACY

In this chapter, the literature is reviewed for capturing the form of referendum to consider here and to draw the theoretical framework. Different forms of referenda and different conceptualizations of legitimacy from varied theories are reviewed.

2.1 Different Forms of Referendum

Representative forms are used here in their narrow understanding. They are more of election based parliamentary or presidential systems where decisions and politics are based on the decisions of the delegates elected by the people. Therefore, the representative system in which referenda take place has a parliament where the decisions are formulated and voted by the delegates elected through elections. As opposed to representative forms, direct democratic forms are the means of decision-making in which decisions are produced by popular voting.

The initiative, recall, and referendum are the three forms of direct democratic mechanisms through which people participate in politics, more specifically to decision making and legislation of representative forms. In this thesis the scope of direct democracy is narrowed to referenda which is the most wide spread used form. First, the referendum evaluated here is binding not consulting. The reason for this kind of referenda to be evaluated is to understand the power-sharing dimension of referenda. Hug and Tsebelis (2002) claim that when referenda are applied in representative democracy, people become another veto player in decision-making process since the preferences of the people and the government does not necessarily coincide. A referendum that is only for consulting, in other words the results of referendum that can be ignored by the government, does not and cannot make people veto player in decision-making.

The main point on the regulations of referenda is how a representative democracy perceives referendum in its overall political and legal system. Whether referendum is mandatory and regulated by important legal sources such as constitution or other forms of laws; whether is optional and not forbidden by law and the initiation depends on the government or people themselves; whether those regulations both in mandatory and optional cases let for initiators to have campaigns; whether in optional cases the government has the right to ignore the results of referenda are the questions to be answered. A classification that takes referenda ' as a part of political process in law making may be helpful in this case. Setälä provides a classification as such:

Table1: Different Forms of Referendum

<p>A) Law-Controlling Referendum</p> <p>1. Mandatory (law-controlling, decisive) Government (p) → (constitution)* → referendum (d)</p> <p>2. Non-Mandatory</p> <p>2.1. Facultative law-controlling</p> <p>2.1.1. Rejective (law-controlling, decisive) Passive: government (p) → par. majority → parl. Minority*/ head of the state*/ other* → referendum (d) (decisive) Active: government (p) → parl. Majority → citizens* → referendum (d)</p> <p>2.1.2. Abrogative (law controlling, decisive) Passive: government(p) → parl. Majority (d) → parl. Minority*/head of the state*/ other* → referendum(d) Active: government(p) → parl. majority (d) → citizens* → referendum(d)</p>	<p>B) Law-Promoting Referendum</p> <p>2.2. ad hoc or optional (law promoting, advisory, in some cases decisive) government(p) → parliamentary majority*/ president → referendum → parliamentary majority(d)</p> <p>2.3. popular initiative (law-promoting, active, decisive) citizens(p)* → (government) → referendum(d)</p>
<p>Explanation of the symbols: *stands for the actor who initiates the referendum p refers to the actor who makes the legislative proposal d refers to the actor who makes the final decision</p>	

(Setälä, 1999; 74)

Setälä's first distinction between the law promoting and law controlling referendum is based on the agency of the legislation proposal. "In law-promoting referenda, the author of the proposed law and the promoter of the referendum is the same political actors, whereas in the law-controlling referenda, the referendum is not initiated by the author of the law proposal." (Setälä, 1999; 71). The second distinction she provides is between the mandatory and non-mandatory referenda which is based on the constitutional requirements on referenda. It is explained as follow: "Mandatory referenda are constitutionally required upon certain issues. Non-mandatory (facultative) referenda are triggered only at certain political actors' request." (Setälä, 1999; 71) For the latter the agencies are sometimes specified by the constitution. In the table those agencies are stated as the parliamentary minority, head of the state, citizens and others.

Within the non-mandatory law-controlling referenda, there is another distinction between the rejective and abrogative referenda. This distinction is based on whether or not the legislative proposal is enacted as law. "Rejective referenda are held upon legislative proposals which have already been accepted by the parliamentary majority but which have not yet been enacted as a law. Abrogative referenda are held on laws which are already in force. Abrogative and rejective referenda may be initiated by the parliamentary minority" (Setälä, 1999; 72). Each of the rejective and abrogative referenda is also separated as passive and active. Setälä states that distinction as follow: "Furthermore, using Suksi's terminology, non-mandatory referenda may be classified either as passive, when they are initiated by actors in the representative government, or as active, when they are initiated by citizens." (Setälä, 1999; 71)

Within the law promoting referenda, optional (ad hoc) referendum and popular initiative's distinction is based on the agency of the referenda proposal since for the former the agency is

the government and for the latter the agency is the citizens. “The terms ad hoc or optional referenda are used to refer to institutions of passive law promoting non-mandatory referenda, which are initiated by the representatives and are held on law proposals put forward in the normal parliamentary way” (Setälä, 1999; 73). The consultative nature of these forms of referenda makes the citizens as the consulters and parliament remains as the veto player. Popular initiatives are the forms of referenda that give citizens active effect on the formation of the proposal as well as in the initiation. “Popular initiative refers to law-promoting non-mandatory referenda initiated by a certain number of citizens” (Setälä, 1999; 73). In practice optional referenda that are consultative is widespread among the states this thesis went through in the literature.

Apart from the popular initiatives, in all referenda the agency of the legislative proposal is the government while not in all referenda the final decision maker is the government. Apart from the ad hoc referenda, in all forms the final decision makers are the citizens. In other words those referenda are binding and they enable citizens to be veto players in the decisions in comparison to delegated representatives’ making the decisions on behalf of them. In the subject of bindingness and consultative nature of the referendum, Setälä explains for different forms of referendum as in the following:

As pointed above, referenda may be whether binding or consultative, according to their effects on the final decision-making. This refers to the judicial status of the referendum. Those referenda, which are binding, de jure have immediate normative consequences, because in this case the referendum is the decisive stage of the decision-making in the issue in question. After the referendum has been held, the parliament should have no discretion with respect to the political decision: either the result of the referendum has immediate normative consequences or the parliament is constitutionally obliged to follow the outcome of the referendum, as is the case in some initiative-based and abrogative referenda. Mandatory and popular initiative-based referenda are typically legally binding, as well as rejective and abrogative referenda. Ad hoc referenda are binding when that is stated in the law on the organization of the referendum, and optional referenda are binding is that is mentioned in the constitution. (Setälä, 1999; 75).

The referendum that is evaluated here includes both law controlling and law promoting. The agency of the legislative proposal is governments not people (when it is people, referenda are named as initiatives or recalls) so in that sense they are passive referenda. Moreover, it should be noted that the format of the referendum considered here is the yes/ no vote format in which people are proposed to vote for one option out of two.

2.2 Different Conceptions of Political Legitimacy

A deep discussion over the question why political legitimacy is required for any kind of authority is a philosophical one that goes beyond the scope of this paper. For that reason, the necessity of legitimacy for any political arrangement that creates authority over the citizens is taken as axiomatic. The focus is on what and how political legitimacy is understood and assessed for the authority creating political arrangements. In the literature, the general aim is to understand the legitimacy of state and their regimes, more specifically democracy. The puzzle this thesis is started is the absence of legitimacy evaluation of a specific democratic mechanism, referenda. Therefore, for providing a response to this puzzle, the concepts, approaches, and conceptualizations on the legitimacy of authority are reviewed.

2.2.1 What is Legitimacy? Traditional Accounts

In the literature the legitimacy of authority is denoted as the legitimacy of states or the regimes but not as the legitimacy of the mechanisms to make those directives, legislations or decisions over the issues that concerns people. There are different understandings of legitimacy basis for the authority creating political arrangements. However, before discussing those different

understandings, a note on the conceptualization considered here and a definition of the concept should be made.

It should be noted that legitimacy could be approached from different conceptualizations such as moral legitimacy, practical legitimacy or political legitimacy. For the moral legitimacy, the idea is to denote the moral grounds of the authority while for the political legitimacy the idea is to denote the political grounds of the authority. In this thesis, the focus is on the political legitimacy meaning that the evaluation is going to focus on the political grounds such as political equality and political quality².

Stanford Encyclopedia of Philosophy provides a definition of legitimacy that roughly explains the general understanding: "... legitimacy both explains why the use of political power by a particular body—a state, a government, or a democratic collective—is permissible and why there is a *pro tanto* moral duty to obey its commands. On this view, if the conditions for legitimacy are not met, political institutions exercise power unjustifiably and the commands they might produce do then not entail any obligation to obey." Four comments on the definition can be made. First, legitimacy is a characteristic of institutions that have authority on people. Second, legitimacy demonstrates how authority creates obligation on people for obedience. Third, the legitimacy as a concept is understood and conceptualized independently from the practical effectiveness of those institutions. In the literature the issue of practicality has been distinguished from the political legitimacy of the institutions since a legitimate democratic institution may function poorly while an illegitimate dictatorship may be functioning effectively. However, the effectiveness also depends on how the goals with effective functioning are defined. In this thesis the practicalities are considered in the

² These grounds are going to be explained in detail.

evaluation of the legitimacy of referendum. The reason for this consideration is the practical dimension of political legitimacy of institutions. Lastly, it is not specified where does the permissibility or the moral duty of obedience grounds on. This matter of grounding the legitimacy actually composes a considerable part of legitimacy discussions.

There are different accounts of legitimacy. Consent based legitimacy appears to be one of the promising legitimacy ground for political power. John Locke is one of the founding fathers of this account of legitimacy. Simmons, briefly explains the Lockian account: “For Locke, remember, “no one can be put out of [the state of nature] and subjected to the political power of another without his own consent.” (Locke, section 5). Political power is morally legitimate, and those subject to it are morally obligated to obey, only where the subjects have freely consented to the exercise of such power and only where that power continues to be exercised within the terms of the consent given. The legitimacy of particular states thus turns on consent, on the actual history of that state’s relations with its subjects.” (Simmons, 1999; 745). Locke’s account presents a comprehensive understanding of legitimacy that is grounded on the relation between the power holder and the ruled. Following (or founding) the liberal doctrine of minimal state, Locke’s account provides legitimacy for the minimal state with the consent of the citizens.

Another account on legitimacy, which again considers the relation between the power holder and the ruled, is based on the realization of individual rights and their protection by law. Kantian account, briefly articulated by Simmons, proposes the following: “... all persons possess an innate right to freedom, and many persons, even in a state of nature, possess “provisional” property rights (“Division,” secs. 15, 44). These rights, however, cannot possibly be respected or enjoyed except in a civil society. Since rights correlate with the

obligations of others to respect them, each person has an obligation to leave the state of nature and to accept membership in a civil society under coercive law (sec. 42)So for Kant the justification of the state—its necessity for the realization of freedom and rights and justice—entails an obligation to enter civil society and accept the duties society imposes.” (Simmons, 1999; 755). Kantian account of legitimacy is based on the idea that law and authority is required for individuals’ rights and on the claim that this is possible only under the rule of state. The ground of legitimacy is drawn on the state’s coercive power that can ensure the protection of individual rights.

In political philosophy, Simmons identifies two kinds of evaluation: generic and transactional. He notes that generic evaluations are “grounded in the general moral virtues or other positive qualities of political arrangements (such as their justice or their reasonable acceptability) or their moral accomplishments for their subjects conceived as a whole. (such as increases in the social happiness)” while transactional evaluations are “grounded in morally significant features of the specific histories of interaction between individual persons and their polities (features such as the giving of consent or the receipt of benefits, along with the subsequent absence of rights-violations)” (Simmons, 1999; 764). In general evaluations, the idea is to evaluate the political arrangements within themselves while in the transactional evaluations the idea is to evaluate the political arrangements in relation to people.

In his own account (more of transactional evaluation), Simmons makes a distinction between *legitimacy* and justification although most of the scholars use them interchangeably. This distinction is important for his account. He notes what legitimacy means as in the following “Legitimacy, I have suggested, is the exclusive moral right of an institution to impose on some group of persons binding duties, to be obeyed by those persons, and to enforce those duties

coercively. Legitimacy is thus the logical correlate of the (defensible) individual obligation to comply with the lawfully imposed duties that flow from the legitimate institution's processes. The proper grounds for claims of legitimacy concern the transactional components of the specific relationship between individual and institution" (Simmons, 2001; 155).

On the other hand, he defines justification as follow: "Justifying an act, a strategy, a practice, an arrangement or an institution typically involves showing it to be prudentially rational, morally acceptable, or both (depending on the kind of justification at issue). And showing this, in standard cases, centrally involves rebutting certain kinds of possible objections to it: either comparative objections-that other acts or institutions (etc.) are preferable to the one in question-or non comparative objections- that the act in question is unacceptable or wrong or that the institutions practices or sanctions wrongdoing or vice. Justification, we might say, is large measure a 'defensive' concept, in that we ask for justifications against a background door presumption of possible objection....." (Simmons, 1999; 740). Simmon's definition of justification has the idea of comparative or non-comparative defense by giving response to the objections raised. In other words, justification for Simmons, is demonstrating the desirability against the objections. For this thesis, the core principle of Simmons' justification concept is taken with the choice of considering a mixture of comparative and non-comparative objections not in a pure defensive manner. Since the basic idea is to evaluate the legitimacy of referendum, both justifications against the objections and reasons of weak responses to those objections are considered.

Another conception of political legitimacy is the service conception of legitimate authority, mostly improved by J.Raz. Raz's conceptualization of legitimacy is more about the relation (more of a service-based one) between the authority and the people under that authority. The

evaluation or the reasoning of legitimacy does not remain with the authority itself but rather includes the reasons why it is reasonable to take authority as binding. He presents three theses on the legitimacy of authority where each of them focuses on the reasons of authority's right to command people and denoting its rationality: Dependence thesis: "All authoritative directives should be based, in the main on reasons which already independently apply to the subjects of the directives and are relevant to their action in the circumstances covered by the directive." (Raz, 1990; 125); Normal justification thesis: "it claims that the normal and primary way to establish that a person should be acknowledged to have authority over another person involves showing the alleged subject is likely better to comply with reasons which apply to him (other than the alleged authoritative directives) if he accepts the directives of the alleged authority as authoritatively binding and tries to follow them, rather than by trying to follow the reasons which apply to him directly." (Raz, 1990; 129); The preemptive thesis: "It turns on the general relation between the justification for a binding directive and its status as a reason for action, and more generally the relation between rules as reasons for action and their justification" (Raz, 1990; 133) and "Since the justification of the binding force of authoritative directives rests on dependent reasons, the reasons on which they depend are (to the extent that the directives are regarded simply authoritative) replaced rather than added to by those directives. The service conception leads to the preemption thesis. Because authorities do not have the right to impose completely different duties on people, because their directives should reflect dependent reasons which are binding on those people in any case, they should have the right to replace people's own judgment on the merits of the case." (Raz, 1990; 135). Raz also notes that these three theses are to advance the comprehension of legitimacy of authority "by showing how authoritative action plays a special role in people's practical reasoning" (Raz, 1990; 137). Raz's emphasis on the people's reasoning relation with the authority is not considered here due to the complexity of considering the people's reasoning. Rather, in this

thesis, the evaluation remains within the authority created by the referendum. The authority of referendum signifies the binding character of the referendum results for the legislation. This binding character of referenda depends on their regulation within the constitutions that is why the legitimacy evaluation focuses on the binding referenda.

These traditional accounts of legitimacy have the tendency to be the accounts of general authority or state legitimacy as noted above. The general characteristics and some specific approaches such as Simmons' definition of justification and common points of the legitimacy definitions of these accounts are considered or adopted here for the evaluation of referenda. However, referenda are specific forms of decision making under direct democracy theories and under representative democracy practices. Therefore, accounts of democratic legitimacy are more promising for the purpose of this thesis.

2.2.2 The Legitimacy of Democracy

In the case of legitimacy of democracy, discussions have a different characteristic. The question of source of legitimacy raises two broad arguments; intrinsic justification and instrumentalist justifications of democracy. These two arguments do not totally neglect each other since the distinction between them is not so clear. Intrinsic justification of democracy, named also as procedural justification of democracy focuses on democracy in terms of the methodology of decision making rather than the outcomes of those decisions. Christiano provides a definition of the intrinsic justification view as follow: "On the other hand, we evaluate the decisions from the point of view of how they are made. We are concerned to make the decision in a way that includes everyone who by right ought to be included and that is fair to all the participants. Here we may think that the method by which the decisions are

made should be intrinsically fair” (Christiano, 2004: 266). As in the definition although this justification does not neglect the fact that the purpose of intrinsically justified procedure is to produce an outcome that is again for the good of participants of those decisions, the difference from the instrumental justification lies on the exclusion of outcomes’ evaluation in the justification.

Proceduralist conceptions also are divided as pure proceduralist conceptions and rational proceduralist conceptions. Pure proceduralist conceptions of democracy approaches legitimacy with certain conditions: “According to them, an outcome is legitimate if the democratic process satisfies certain conditions. These conditions are primarily conditions of ‘political fairness’ or ‘political equality’. They demand that democratic decisions be the result of an equal consideration of individual interests.” (Peter, 2007; 332). Rational proceduralist conceptions of democracy: “A second category of conceptions of democratic legitimacy can be characterized by their inclusion of conditions that refer to the rationality of the outcomes of the democratic process in addition to procedural constraints. Approaches of this category, too, take fair procedures purely on instrumental grounds. ...The emphasis of approaches in this category is on the ability of fair procedures to generate outcomes that satisfy certain rationality constraints” (Peter, 2007; 332). Although rational proceduralist accounts seem to deviate from proceduralist accounts with its emphasis on the outcomes and their instrumentality for the procedures, it is not the case. Its inclusion of outcomes points to the idea that the evaluation should focus on the ability of those procedures to produce outcomes that are also evaluated but with their legitimacy but rather some rationality conditions.

On the other hand instrumental justification (outcome based assessment or epistemic accounts of justification) makes the emphasis on the fairness of outcomes that: “Authority is legitimate, never because there is anything in the authority that confers this status, but merely to the

extent that obeying it brings about better compliance with reasons that are independent of the authority. This is generally thought of as an instrumentalist approach to the authority. The reason for this must be that the reasons that are independent from authority are thought of in terms of the outcomes of the exercise of authority, which outcomes are valuable however they are brought about” (Christiano, 2004; 278). In this account, legitimacy depends on the approach of assessment benchmarks in the sense that different conceptualizations of ‘valuable outcome’ will bring different legitimacy outcomes. Moreover outcome of the procedures are not stable by their nature. Hence a complexity arises due to iterative nature of the outcome based evaluation: the legitimacy of the democratic decision is not grounded on a solid one. Unless these outcomes are not thought as they are long term, stable outcomes of the procedures, this complexity will remain. In this sense independent thinking of the outcome from the procedure will also lead to problems in the political obligation towards democracy.

Epistemic accounts of legitimacy of democracy emphasize the epistemic value of the outcomes meaning that they somehow tend to produce knowledge. For example, Joshua Cohen considers three conditions for an epistemic interpretation of voting: “1. An independent standard of correct decisions—that is, an account of justice or of the common good that is independent of current consensus and the outcomes of votes. 2. A cognitive account of voting—that is, the view that voting expresses beliefs about what the current policies are according to an independent standard, not personal preferences for policies. 3. An account of decision making as a process of the adjustment of beliefs, adjustments that are undertaken in part in light of evidence about the correct answer that is provided by the beliefs of others” (Cohen in Hershenov, 2005; 220). Given the fact that epistemic conception takes legitimacy in terms of the epistemic value of the outcomes, these three conditions of interpretation grounds on the independent but commonly formed outcomes.

2.3 Building an Account for Evaluating the Legitimacy of Referenda

Aforementioned accounts of legitimacy are either general accounts of authority or accounts of legitimacy of democracy that do not specifically focus on different mechanisms of democratic decision-making. On the contrary, this thesis purposes to do so for referenda. For this purpose, a specific account for evaluating the legitimacy of referenda seems more promising. However, it should be clarified that by building a model for referenda, the aim is not to form a completely new account but rather reconsidering the accounts in the literature with adjustments for legitimacy evaluation of the referenda. The model advanced here aims to provide a systemic political philosophical frame where the requirements/criteria for the legitimacy of decision-making are set in order to consider while evaluating. While advancing the model, democratic authority accounts of legitimacy seem to be the closest in purpose and their conceptualizations are more convenient for the purpose. Estlund's account of *epistemic proceduralism* in which he considered the both epistemic and procedural justifications of democracy serves to the purpose of the model. Therefore the model is built by rethinking the main framework of Estlund's epistemic proceduralism with adjustments, reformulations and incorporating new dimensions.

Before grounding the account with its content and claims, the meaning of *evaluating in terms of legitimacy* should be determined. In his distinction between justification and legitimacy, Simmons defined justification as follow: "Justifying an act, a strategy, a practice, an arrangement or an institution typically involves showing it to be prudentially rational, morally acceptable, or both (depending on the kind of justification at issue). And showing this, in standard cases, centrally involves rebutting certain kinds of possible objections to it: either comparative objections-that other acts or institutions (etc.) are preferable to the one in question-or non comparative objections- that the act in question is unacceptable or wrong or

that the institutions practices or sanctions wrongdoing or vice” (Simmons, 1999; 740). The evaluation in terms of legitimacy makes a similar act with justification but not with the purpose of defending but rather understanding the procedural and epistemic virtues as well as deficiencies. The objections against referenda and problems of referenda within its procedures are discussed with reference to its virtues and deficiencies within the legitimacy framework asking whether referenda under representative forms are politically acceptable.

In his account on democratic authority named ‘epistemic proceduralism’, Estlund developed an account that combines both procedure and epistemic approaches. He takes the main points from proceduralist and epistemic accounts but his consideration of the outcomes is rather limited in the sense that the cohesiveness of the decisions is based on the procedures’ tendency to produce better outcomes by virtue of their epistemic value. So the unjust or unfair (defined according to whatever approach) decisions are still cohesive by virtue of the procedures’ justification as already noted in Estlund’s presentation of the framework for the epistemic proceduralism. He explains this structure as in the following: “On this account, the bindingness and legitimacy of the decisions are not owed to the correctness of the decisions, but to the kind of procedure that produced them. Still, a central feature of the procedure in virtue of which it has this significance is its epistemic value... Democratically produced laws are legitimate and authoritative because they are produced by a procedure with a tendency to make correct decisions. It is not an infallible procedure, and there might even be more accurate procedures. But democracy is better than random and is epistemically the best among those that are generally acceptable in the way that political legitimacy requires” (Estlund, 2008; 8). Estlund denotes the reasons why people are morally obliged to give consent to epistemic proceduralist democracy with an analogy of a jury trial. In the jury analogy, he considers the epistemic virtues of the jury trials and lists them as follow: “elaborate process of

evidence, testimony, cross examination, adversarial equality, and collective deliberation” (Estlund, 2008; 8). This consideration of Estlund demonstrates the understanding of the epistemic virtues of a process where the decision is processed by knowledge that is produced for the process. The epistemic dimension of Estlund’s epistemic proceduralism is based on the virtues of the procedure that require knowledge. The decision that is produced by this procedure, thanks to its epistemic virtues or epistemic value, has political bindingness.

In Estlund’s account, the inclusion of outcomes for the democratic justification is not independent from the procedure since unfair/ unjust outcomes are justified by epistemic virtue of their procedures. The epistemic value of the decisions on the other hand is measured or in a sense evaluated in comparison to random procedures with respect to certain criteria. The criteria he points to is the following. According to Estlund, democracy is far better performing in preventing the *primary bads* which is a category of outcomes that are claimed to be ‘reliably’ avoided. The performance of democracy is measured (not concrete measurement but rather an evaluation) with reference to avoidance of these primary bads. He considers ‘primary bads’ as the epistemic benchmark’ which are namely “war, famine, economic collapse, political collapse, epidemic, and genocide” (Estlund, 2008; 163)- and notes that these are not definitive set of bads since they have degrees.

Estlund acknowledges the complexities with these benchmarks while assessing the outcomes: “The terms in the list are shorthand for a more complex set of things. For example, famine, epidemic, and genocide are evidently always great disasters. On the other hand, I assume that war, economic collapse, and political collapse might be necessary evils in some extreme cases. Wars of self-defense or humanitarian intervention, for example, are sometimes justified, and they are not then disasters in the relevant sense for our purposes. Economic or political

collapse is a disaster only if the continuation of the existing system is not an even worse ongoing disaster. Obviously, then, it is only fortunate examples of war and collapse that I am counting as primary bads” (Estlund, 2008; 163). Apart from these complexities, these primary bads have the problem of being too general evils that cannot capture the specific problems with the procedures. This leaves a space for those problems and malfunctions not to be accounted while evaluating the legitimacy.

In the model for evaluating referenda, the epistemic value of the procedure, similarly with Estlund’s account, rests on benchmarks. The departure is on the content of the set of epistemic benchmark for the reason that Estlund’s list is too broad for a model and is composed of bads that are too evil decisions to have via referenda. The content is based on the idea that referenda should not lead to tyranny of majority and the set is specified by a subset of considerations such as bypassing the minority rights and restricting the rights of the citizens. This benchmark set is also not definitive in the sense that one can enlarge the list with the conditions of universal validity and conformity with human rights. Moreover, the possibility of majority of the voters’ lack of ability or exposure to manipulation is another reason for the content of this set of benchmark. This possibility is one of the arguments against direct democratic forms of decision-making since the fallacy of the masses may end in catastrophic results. Given that there is the possibility that racist or xenophobic tendencies of the people may be widespread enough to outvote the minorities, the epistemic benchmark considered for this account is the tyranny of majority. In the model, the procedural virtues of referendum as a specific form of decision-making are evaluated with reference to their tendency to make good laws similar to Estlund’s account. . However differently from Estlund’s account, the tendency of procedures to make better laws than random procedures is considered by pointing to procedure itself in

terms of its regulations and arrangements. The procedural justification comes from its satisfaction of criteria: political equality and political responsibility.

Table 2. Model for evaluating political legitimacy of referendum

Criteria for evaluation		
Procedure	Political equality	equal distribution of goods equal inclusion in the procedure
	Political responsibility	Political responsibility shared between the ruled and the rulers
Outcome	Epistemic virtues/ epistemic value of the procedures Reliable avoidance of epistemic benchmark: tyranny of majority	Primary bads enlarged: tyranny of majority composed of subset considerations The subset considerations: - bypassing the minority rights - restricting the rights of citizens

2.3.1 Procedure

In the procedural assessment, the concerns of procedural approach are generally the conformity with the requirements of the procedure generally rules to follow in the accomplishment of the procedure. Barnard provides a list of questions of the procedural approach: “are the credentials of those who make public decisions in order? Are their actions adequately accounted for? Have questions of competence and jurisdiction been fully examined? Is there enough consultation? Is conflict of interest avoided? Are votes properly counted? These are the sorts of queries that arise when we probe legitimacy in a procedural way; they are ‘agency values’, which serve as standards for what is ‘done’....” (Barnard, 2001; 28). However these requirements of ‘agency values’ are more convenient to ask in a contextual procedure assessment where the purpose is to evaluate the practical conformity of the procedures. Here the aim is to provide a model of non-contextual normative standards that should be taken for evaluating referenda both non-contextually and contextually (practices of referendum).

In the model, two dimensions are considered while evaluating the referendum procedurally: one is political equality and the other is political responsibility. The reasons for considering these two dimensions are grounded on the idea that decision-making processes and decisions themselves need to include equality and responsibility. The need for political equality finds itself among the foundational premises of democracy since the definition of democracy already includes equality of people and popular control as the two *sine qua non* principles. In this study, political equality dimension of referenda goes beyond citizens' equal right to vote by its consideration of equal opportunities (in terms of distributions of the goods³ required for referendum) and equal inclusiveness. The need for political responsibility finds itself manifested in the fact that political responsibility secures the rights and liberties of the citizens under representative governments. In other words, political responsibility ensures the limitedness of the rulers' power and provides the reasons and grounds of the power that is exercised upon the citizens. In this thesis, political responsibility dimension of referenda considers the accountability of the representative forms in a different manner. The idea with this different consideration is the fact that as opposed to representative systems' responsibility between delegates to citizens, referendum has the oneness of ruler (final decision maker) and ruled.

2.3.1.1 Political Responsibility

Political responsibility here is used interchangeably with political accountability. In general accountability is used as a specific form of relationship between the politicians and citizens where the specificity is grounded in the axiom that politicians have to explain the reasons of their decisions or have the responsibility for the consequences of their decisions. Schmitter

³ These goods required for referendum will be explained further in the political equality dimension part.

puts it this way: “Generally speaking, political accountability is a relationship between two sets of persons or (more often) organizations in which the former agree to keep the latter informed, to offer them explanations for decisions made, and to submit to any predetermined sanctions that they may impose. The latter, meanwhile, are subject to the command of the former, must provide required information, explain obedience or disobedience to the commands thereof, and accept the consequences for things done or left undone.” (Schmitter, 2004; 47). He adds the rights of citizens in accordance with the political accountability as follow: “...each citizen has the same rights and obligations, that is, to be informed (with limited exceptions) about official actions, to hear justifications for them, to judge how well or poorly they are carried out, and to act accordingly-electorally or otherwise” (Schmitter, 2004; 48). The definition of political responsibility points to two characteristics of: it holds the responsibility in relational terms between the ruler and the ruled; and this relational framework is vertical⁴ and is intertwined with a time framework (pre-decision; during decision making; pro-decision).

This form of political accountability is designed for representative forms of decision-making where the delegates of the citizens make the decisions and they are held responsible for those decisions while the citizens are the ruled who has the power to effect those decisions by voting for the delegates who are going to make them. The sanction of holding responsibility is two folded: one is the legal and the other is electoral. The former refers to the conformity of the decisions and the decision making process with the legal rules or else penalizing. The latter refers to loss in the elections. These sanctions hold for the accountability in decision making, since for the sake of limited scope of this paper, the accountability is restricted within this respect. However as stated above this form of political accountability is designed for

⁴ Although horizontal accountability between the rulers is the case, I am not including that discussion here to keep the complexity minimal.

representative form of decision making where one of the grounding idea of accountability is delegation to specialized representatives. When decision makers are not those specialized representatives, then the complexity of the concept is the subject under discussion. For that, this reason in this thesis political responsibility is understood in a different form because differently from the representative form of decision-making, under referenda although the decision is written by those representatives, the final decision makers are the citizens. In other words the oneness of the rulers and ruled is the key complexity for designing political responsibility in case of referenda.

The main idea of this form is two folded: keeping the vertical accountability since the ballot proposals are still provided by the specialized representatives and adding the horizontal accountability to the final decision makers. What does this denote? This means that the citizens are responsible while they are making the decisions. The content of this responsibility is the consideration of the interests of other citizens, meaning overall good. Although it is not reasonable to expect citizens to live aside their own beliefs, values and interests while making the decision on their vote but it is reasonable to expect citizens to reconcile their interests with the overall good and give priority to overall good in the cases of conflict between the overall good and individual interest. For instance when the ballot proposal is consisted of laws of taxation, then citizens are expected to consider the optimal tax rate even if it is higher than the percentage they have interests on.

2.3.1.2 Political Equality

While considering political equality as a criterion of procedure's legitimacy, it is acknowledged that there is no concrete and universal definition of political equality since it is such a complex and multidimensional concept that one theory or model can only take up

limited aspects of it. The grounds and the content of political equality here is limited with the number of requirements that compose the concept. Beitz defines political equality as follow: “Political equality refers to a set of requirements that apply to the institutions that enable citizens to participate in political decision making in a constitutional democracy” (Beitz, 1989; 6). Institutional requirements for enabling citizens’ participation are embedded in the procedures of those institutions. In other words, the characteristics of those institutions make it possible for equal participation.

In its substantive sense equal voting rights already enable this requirement although in its substantial sense political equality requires beyond one-person one vote. The claim can be thought with respect to citizens’ differences in terms of political effect in the decisions. While thinking beyond equal right to vote, in this model equal participation is perceived from two standpoints: equal inclusion in the procedure and equal distribution of the goods. The former refers to the equal consideration of the votes by means of effecting the decision. The idea here points to the means that are available for inclusion of the minority⁵ preferences. Putatively in representative mode of decision-making the procedures (for the elections) still protects the preferences of the minorities via including minorities’ representatives in the legislative institutions (mainly parliament).

The political system is not grounded solely on voting, there are political tools that enable the whole system such as electoral regulations, regulations of campaigns, and regulations of political party candidates. With this idea in mind, the second standpoint points to the distributional considerations. In other words, here the concern is on the distribution of the goods required for referendum. Considering the process of referenda under representative

⁵ Here ‘minority’ is used with its numeric sense. In the epistemic (outcome) part, ‘minority’ refers to ethnic, religious and sexual minorities.

governments, the goods required for referendum denotes the ‘the ballot proposal’ (agenda setting) and ‘the information to make sense of it’. Therefore in the model distributional components of the referendum includes the agenda control on the ballot proposal and the required information to comprehend the reasons, content and the possible consequences of the ballot proposal. While taking up the political equality for evaluating legitimacy of referenda, the approach is going to be assessing the distributional characteristics of referendum.

2.3.2 Outcome

As stated above that the outcome based assessments of political legitimacy focus on the desirability of the outcome produced from the decision making process. Although the model of Estlund’s epistemic proceduralism is more proceduralist than epistemic, the inclusion of outcome-based elements helps it to give a more comprehensive account of legitimacy. The inclusion of outcome-based elements is limited in the sense that in the case of undesirable outcomes (with certain limits), the legitimacy holds. For that reason in this model, the outcome inclusion of the model considered for referenda is also limited. Differently than Estlund’s account, the model here has different epistemic benchmarks for the limited consideration of the outcome for assessment. The idea is refraining from the epistemic benchmark considered here that is the ‘tyranny of majority’. Tyranny of majority should be clarified for evaluation references with subset considerations. Tyranny of majority in this model encompasses the following acts: bypassing the minority rights and restricting the rights of the people. The proponents of representative form of decision making make emphasis on the risks of referenda with reference to the possibility that the majority of people can have the racist tendencies that suppress minorities by disregarding the rights and liberties of them. Besides the other dimension of the benchmark is the suppression of rights of the people, meaning that the numeric majority may decide to restrict the rights of numeric minority. That

is why here minority has two meanings, one is minority groups and the other is numeric minority.

CHAPTER 3: DIAGNOSIS AND EVALUATION

This chapter provides the analysis that is necessary to depict the framework how referenda are problematic. In the analysis the problems with referenda are diagnosed with reference to literature and they are evaluated with respect to the theoretical framework considered here. The theoretical framework refers to the model built in the previous chapter that is specifically modeled on referenda. Notwithstanding throughout the analysis and diagnosis of the problems with referenda, theoretical framework (political legitimacy) is not referred since the in the following part where results of the diagnosis is evaluated with reference to theoretical framework. Therefore the diagnosis presents the problems with the referenda in terms of its agencies (agenda setters and voters) and procedurally design (campaigns, agenda setting and decision formation).

3.1 The Problems with Referenda under Representative Democracies

Under representative political systems, referenda are used generally in the following form: the decision is formulated by the incumbent government, it is proposed in the ballot for approval of the public. The voting options are yes and no. Therefore, the principal distinction from the decision-making procedure is the agency of formulation of the decision since the parliament is not included in the process and the final approval agency of the decision. The general characteristics of referenda also compose the referendum framework considered here. In its essence referendum with these characteristics, carry the legacy of representative forms of decision-making. Referenda are based on the majoritarian understanding of legitimacy that minority has the political obligation to follow the rules of majority while majority has to protect and respect the rights and demands of minority. In the representative system, the

interests and demands of people are represented by the delegates elected by the elections. Although the rule making institutions- generally parliaments-are composed of the delegates elected by the majority, they are assigned to take into account the interests and demands of the minority who did not elected (did not voted for) them. Rule making by referenda has some complexities in this sense because the ballot proposal is presented by the government and voted by the people, so the procedure that has promised to protect and take into account the minority interests and demands is bypassed.

In addition to these complexities, the procedure of the referenda itself carries risks that arise before the referenda or during the referenda. Therefore, although the ideal with direct democratic mechanisms in liberal democracies is to maximize participation and legitimacy, in practice the non-ideal features emerge in the referendum periods. Two types of problems are considered: I. Manipulation and II. Low turnout

3.1.1 Manipulation

Here manipulation refers to taking control and producing the outcome that is at the expense of the others through misrepresenting, altering the alternatives or making the voters have incomplete or missing information. Riker (1982) states that even if the society resist the power concentration, two methods of manipulation is always available for power holders: manipulation of the agenda as well as manipulation of the voters. Manipulation of the agenda can be done by agenda control, elite effect as well as information asymmetry. Manipulation of the outcomes depends on either the existence of a regulation that allows the power holder to ignore the decision of the citizens or the authoritarian degree of the power holders where they

can even nullify the outcome of citizens' decisions. Since the referendum considered here has binding outcomes, the possibility of manipulating the outcome is not considered here.

3.1.1.1 Information Asymmetry

In this part, information asymmetry discussion is presented with definition of information asymmetry, and the problematization of information asymmetry for the referendum. Here political ignorance of the voters, its reasons and consequences for the referenda are considered. Information asymmetry refers to the lack of equivalence between the representatives who form the ballot proposal and the voters who are the decision makers on the proposal. Its discussion requires a sub-discussion that demonstrates the importance of political information for the decision and judgment of the people. It should be noted that here information itself refers to the knowledge specific for comprehending the ballot proposal of the referendum. Here beyond general political knowledge that may be sufficient to make decisions on the party or presidential elections, policy and legislation specific knowledge is required. This requirement finds its base in the fact that voters of referendum are the decision makers/ veto players on the ballot proposal.

Studies on political ignorance and information asymmetry (within the representative systems' framework) show that policy-specific knowledge matters in the decisions of the voters and it has consequences on the outcomes of the elections. In an empirical study on political ignorance of the citizens and people's decision making on the policies, Gilens (2001) observes that not only general knowledge of politics, interest or capacity of individuals that matter for political judgment of the people, but also issue specific political knowledge matters. His findings on the vitality of information on the decisions of the voters demonstrate that the not every kind of information makes a difference on the decisions of the voters but it is rather

policy-specific facts affecting public's discernments on policies. This study presents results on people's judgments of the policies but not their decisions on the votes or referendum decisions. At the same time, this study confirms the claim that information matters in the decisions. Another empirical study presents an analysis of the effect of political information on people's support for policies (case policy of Bush tax cuts between the years 2002 and 2004), Bartels draws conclusions that point to the intrinsic value of information on people's decisions on political issues. He argues that:

These results suggest that, had the public as a whole been better-informed, public support for the tax cut would have been significantly lower than it actually was. Indeed projections based on statistical results in tables 6.3 and 6.4 imply that more than 80% of the net majority in favor of the tax cut in 2002 and 2004 (among people who took position one way or the other) would have disappeared had the entire public been fully informed, reducing the actual 32 point margin of support for the 2001 tax cut seems to have been grounded in the political ignorance of ordinary citizens. (Bartels, 2008; 186)

Apart from verifying the vitality of information for decision-making, the last part of Bartel's conclusion is that a political decision was made through people's lack of political information on the issue. This conclusion raises questions about the grounds which people make their decisions on. In people's decision-making process different factors such as ideology, economic interest, political interests, beliefs, values have a role. However, lack of information has a different meaning than these factors. The decisions of people based on political ignorance question the grounds of those policies they enabled. It is also a possibility that people may choose to be ignorant about politics and they may deliberately choose not to reach the required information. The problem arises when they ask for information but they cannot access information with fair terms. Therefore, in this thesis the problematization of information asymmetry starts at this point when the citizens ask for information but they cannot obtain it.

In the specific case of referendum, information for decision-making has a crucial role since voters are the direct and final decision makers. Information asymmetry between the agenda setters of referendum and citizens occurs because citizens are not provided with the required information for referendum. At this point, the question is the ambiguity of the agency that is responsible for the provision of the knowledge. Are voters supposed to have the specific information for comprehending the ballot proposal? If yes, is this a moral obligation since voters are assigned to make the decision concerning all citizens? Is the government responsible for providing information? Generally, in practice governments, political parties and media are the agencies that provide information to voters. Although this provision is open to discussion in terms of its manipulative, subjective and misinforming dimensions, it can be claimed that the presence of these agencies prevents voters' complete lack of information. However, these are not procedural requirements, but rather common characteristics of referendum exercise. The problem certainly remains and voters still lack the sufficient objective information to comprehend the referendum proposal and this leads to the consequence of voters' vulnerability to manipulation by the agenda setters with different kinds of strategies. In her study on the effect of political parties on vote choice, Hobolt concludes: "As pivotal information providers, parties can frame the meaning of the choice that voters face in referenda . Building on a spatial model of voting behavior, this article has suggested that parties can convince voters to vote in favor of (or against) a ballot proposal by framing the proposal as close to the ideal point of the median voter and the reversion point as more extreme" (Hobolt, 2006; 641). Information asymmetry goes hand in hand with the existence of agenda setter monopoly over the ballot proposal.

3.1.1.2 Agenda Control

In this discussion, agenda control by the incumbent government and interest groups (elites) is explained and its consequences for referendum are considered. The risk of agenda control is twofold: the control over content, and the control over formulation of the proposal. Setälä defines agenda-manipulation as follow: “Agenda-manipulation, on the other hand, means that those who control the agenda and the voting procedures may achieve the outcomes they want by selecting the alternatives and structuring the procedures” (Setälä, 1999; 27). The main idea of this definition is also supported by the economists’ models on agenda control and information asymmetry (Romer and Rosenthal, 1978 and Banks, 1990). Rosenthal and Romer’s model on monopoly over the agenda (where there is information asymmetry between the agenda setter and the voters) demonstrate that this model has the potential to present a ‘take it or leave it’ situation. They state, “When the setter has monopoly power, voters are forced to choose between the setters’ proposal and the status quo or fall back” (Romer and Rosenthal, 1978; 27-28). Banks’ model extends this to an environment with perfect information of agenda setter⁶. Although these models are based on economic analysis with complicated numbers and many assumptions, this applies to the very nature of referendum practices where the agenda setter has the sophisticated information that allows control over the referendum proposal’s content and formulation. More specifically when the proposal requires expert knowledge on an important subject such as constitutional changes, information asymmetry and agenda control become more important. Fundamentally, the problem is deep down. When the ballot proposal is only prepared by the power holders, that are usually incumbent governments, referendum becomes a confirmation means or tool for the power holders. The reason why they need confirmation depend on the subject but taking popular will

⁶ Although Romer and Rosenthal’s model involves information asymmetry, agenda setter still has imperfect information in terms of outcome but in Banks’ model agenda setter has the perfect information about the outcome of failure.

on which they have the means to manipulate and take the most control seems to be promising for the realm of politics.

3.1.1.3 Elite Effect

The effect of elites is intertwined with their monopoly over agenda control and information advantage. Elites with both control power and information-specific information required for comprehending the political decisions- have the opportunity to mobilize citizens in the direction they want to. Not only elites who have monopoly over the ballot proposal, but also elites who have the sufficient resources to have an intensive campaign have the same possibility⁷.

Interest groups' effect on the shape of proposal plays a crucial role in terms of proposal's alternatives as well as in terms of the scope of citizens' participation in decision-making. Gerber (1999) indicates four possible means of interest groups' interest promotion in direct decision-making: direct modifying; direct preserving; indirect modifying; and indirect preserving influence. In these means of influence modifying influence refers to the change of policies via new laws whereas preserving refers to not changing of policies via preventing new laws. Direct influence refers to having active participation in the policy arena to affect the same arena whereas indirect influence refers to "using one policy-making mechanism (i.e., the initiative process) to bring about an effect on policy in another policy-making arena (i.e., the legislative process)" (Gerber, 1999; 21).

⁷ The discussion here focuses mostly on the elite effect on ballot proposal since the elite effect on campaigns is discussed below under the campaign effect part.

Table 3: Forms of Influence

<i>Forms of Influence</i>	<i>Direct</i>	<i>Indirect</i>
Modifying	Pass direct initiative or submitted referendum	Pass Indirect Initiative Support initiative or submitted referendum
Preserving	Block Initiative or submitted referendum Pass popular referendum	Oppose initiative or submitted referendum

Gerber, 1999; 22

The table above provides a schematic presentation of forms of influence where the influences are achieved via affecting the means of initiatives or referenda : Passing, blocking, supporting or opposing initiatives and referenda .

Equally important is the fact that the achievement of the influence on direct legislation matters in the practice. There are some factors playing crucial roles in their accomplishment. Kriesi articulates the situation in Switzerland as follow: “The alternatives of the choice are defined by political elites here, too. The competing elites provide the crucial cues for the vote and they mobilize the citizens during the campaign. This does not mean that the elite as a whole is in complete control of the direct democratic process” (Kriesi, 2005; 45). He points out that the scope of the elite effect depends on the existence of division or coalition between the elites. When there is division, the element of unpredictability comes to scene of decision-making process while in the case of collation between the elite then “...the citizens do not have any other choice but to follow the lead of their elites” (Zaller, 1992 in Kriesi, 1999; 46).

Apart from the coalition formation among the elites, accomplishing the influence depends on the conditions and regulations such as the unity or the power of the elites in politics, the legal possibility of having campaigns, campaigns’ finance regulations and the responsiveness of the people to the campaigning (the degree of mobilization by the elite) as well as the responsiveness of the legislation to the elite influence. These conditions determine the costs of

the influence of interest groups on the legislation concerned. The calculation of costs matters since from the interest groups' point of view, the basis of the willingness to influence is the cost and benefit analysis where the net benefits should exceed the costs. Gerber (1999) notes different ways of achievement of direct and indirect influence: for direct influence, "the Interest Group can use the direct legislation process to achieve direct modifying influence if it can overcome the hurdles associated with placing a proposition on the ballot and can persuade the Voter to vote for the initiative" (Gerber, 1999; 31); for indirect influence, "the Interest Group must be able either (1) to threaten to propose and pass an adverse initiative, or (2) to use the initiative process to signal its preferences to the Legislature. For the Interest Group to achieve the second form of influence, its preferences and the Legislature's must be sufficiently aligned to make the Legislature willing to respond" (Gerber, 1999; 32). An evaluation of the elite's influence on direct legislation points to the idea of their will of surpassing the obstacles in institutional level via mobilization of the voters, and via collaboration with the legislation. Mobilization of the voters can be achieved with campaigning which depends largely on voters' monetary resources and responsiveness affected by many other factors. Collaboration with legislation depends on the legal regulation of the legislation as well as the elite's cooperation among themselves.

The mechanisms of elite effect and its conditions are important to understand because they refer to the systematic problems that open the ways for it. The same considerations are also valid for electoral campaigning, however in the referendum context the elite effect becomes more problematic because citizens are direct decision makers for the ballot proposal concerned. The elite effect raises questions on the composition of people's free will while formulating the public policies through their decisions. These questions are part of the skepticism but still this does not bring the conclusion that elites have the whole control over the

citizens considering the complexity of people's decision formation and also the existence of other factors effecting it.

3.1.1.4. Campaign Effect

Although the effect of referendum campaigns changes contextually with respect to different political, economic and social conditions of the given country as well as the regulations in terms of campaigning, referendum campaign periods makes up the most vulnerable times for manipulation of people through media and other means of campaigning. In the campaigning periods media is the most powerful device for manipulating voters in terms of information providing that eventually leads to skepticism about the people's free will immune from external manipulations.

One of the important dimensions of campaign effect is the scope of campaign in shaping citizens' decisions. In terms of this consideration, campaigns present variety. Therefore, it is helpful to go for a categorization with respect to the relation between the campaigns and opinion formation of the voters, which is provided by Leduc (2002-b) in his study on the difference between election and referendum campaigns. Leduc (2002-b) considered three types of referendum campaigns and in each of them the effect of campaign changes. In the first form, referendum on a not well-known issue, the opinion of the citizens is formed during the campaign. In many of these cases elites' positions are rejected by the citizens; in the second form in referenda on a reasonably well-known issue and oppositions' campaigns converge the issue to a new direction with the opposition, in other words a change in subject occurs. For the second type, he notes that in Irish referendum on divorce "raising doubts about the motives of the proposing referendum, or changing the subject of the debate in mid-course, can often be an effective campaign tactic" (Leduc, 2002-b; 159). In the third form of

referendum campaign in which the opinions of the voters are comparatively firmer since the clues are based on partisanship or ideology. Leduc presents the example of 1986 Spanish referendum on NATO where the Gonzalez government was successful in mobilizing the partisans for support. In her research on the impact of campaigns on public opinion as well as assessment of incumbent government and leaders' effects on public opinion, Vreese came up with results that “stress the necessity if considering the campaigns and the specific content of the media to understand fluctuations in public opinion during a referendum campaign” (Vreese, 2004; 45). In another research of Vreese and Semetko (2002), the results suggested that citizens were cynical about the campaign, this cynicism together with negativity increased during the campaign, and lastly exposure to news about the campaign exacerbated this.

The other dimension of campaign effect is the finance-based format of campaigns. This finance-based format refers to the necessity of financing for campaigns. This statement may sound trivial in the sense that it can be stated by logic that campaigns require financing due to expenses of campaigners such as media advertisements, tours around the country. However, the concern of this study about the finance-based format of the campaigns is the unequal sources of the financing of the campaigns. Campaigns may have private and/or public financing sources depending on the regulations by the states. In the case of private funding for the campaigns, the unequal sources of the campaigners involve the problem of unequal opportunity of presenting the views on the ballot proposal. In other words, if the scope of campaigns is taken up with respect to the number of voters reached by the campaigners, then better-financed campaigns have more opportunity to reach more voters.

Campaign effect, like elite effect and agenda control, points to the same problem of voters' decision-making manipulated or affected by particular groups or institutions in different ways.

The actuality that these effects matter in voters' opinion signifies the absence of immunity from manipulation. On the contrary, voters as direct decision makers on the ballot proposal, have the political responsibility to make the decision in a way that takes into account the overall good. This responsibility is brought into disrepute by these external interventions. On the other hand, there are theories on moral imperfection of the voting that argues for the impossibility of the true and fair amalgamating of the individual judgments due to violation of the principles of fairness by all forms of voting (Riker, 1982). Moreover Arrow's Theorem refers to the same paradox in a more general manner: "The essence of Arrow's theorem is that no method of amalgamating individual judgments can simultaneously satisfy some reasonable conditions of fairness on the method and a condition of logicality on the result" (Riker, 1982; 116). These theories raise question about the possibility of having fair and good decisions via having more voting process in direct democratic decision making since direct democracy means more involvement in voting in comparison to representative democracy.

3.1.2 Low Turnout

Voting can be approached from two ways: one as right to vote; the other as civic duty to vote. On the one hand, right to vote refers to the exercise of voting by preference in the sense that citizens have the right to vote if they wish so, on the other hand voting as civic duty of the citizens under democracies refers to the moral and sometimes legal obligation of the citizens to participate in the act of voting. Moreover the formal way of not voting, the act of abstention, is not considered as an option in the elections. When the voter formally chooses not to choose one of the options presented in the ballot, his/her absence does not affect the results of the elections. The results are interpreted within the voters who voted against or for the proposed list in the elections. On the subject, Beetham and Boyle present a normative

argument: “The act of abstention should be positively recorded on the ballot paper, rather than simply expressed by non attendance, along with the apathetic, the absent and the deceased.” (Beetham and Boyle, 1995; 41). Although their argument lacks a theoretical basis, the main point of the their argument stating the consideration of the formal rejection to vote as affecting the election results promises to help in a normative argument for moral obligation of voting in the referendum.

In the referendum, the tension between voting as a right and as a duty and the act of abstention gets complicated when the voting becomes the way of finalizing the decision itself. To put it differently, when in referenda voting transforms to be an act of veto and an act of decision-making, the civic duty to vote in referendum becomes more demanding. It gets more demanding since the duty requires more comprehension in complex issues, and it ascribes direct responsibility on the voters. The act of abstention also becomes more complex when the voters are presented with two options while deciding on the ballot proposal. The absence of formal options of neither (the act of abstention) in referenda leaves the citizens with take it or leave it situation. Putting aside the act of abstention discussion, the practical act of absence of the individuals in high numbers, aka low turnout in referendum may be interpreted as a systemic problem or as an indicator of citizens’ ignorance or lack of interest in decision making. Essentially these two interpretations are not disconnected from each other. The lack of knowledge on the specific subject of the ballot proposal is one the reasons of low turnout in referendum.

Empirical studies on the subject demonstrate that turnout is lower compared to elections. Butler and Ranney (1994) observe this phenomenon in a number of referenda. They found that the average turnout in referenda is 15 percent average lower than the turnout in elections in

same countries. On the other hand these low turnouts are also known to be contextual. Jenssen and Listhaug states: “ A closer look at their data, however, shows that while average turnout is lower, standard deviation is of turnout is much higher, with turnout varying greatly by the type of issue being submitted to a vote. The lowest turnouts in democratic states frequently occur on issues of low salience to many voters, like new adoption laws (Ireland, 1979: 28.0 percent), hunting laws (Italy, 1990: 43.3 percent) or driving on the right-hand side (Sweden, 1955: 52.2 percent)” (Jenssen and Listhaug in Mendelsohn, and Parkin, 2001: 175). Leduc also supports this claim. He articulates it as follow:

...the evidence shows that voter participation may vary much more widely in referenda than it does in elections...However there is no reason to believe that turnout in referenda is necessarily lower than the turnout in elections, and turnout in some of the more important European referenda has generally been quite comparable to the turnout in national elections, and turnout in the 1995 Quebec sovereignty referendum registered an astonishing 94 percent, higher than any provincial or federal election. (Leduc, 2003; 169-170).

The content of the ballot proposal and the timing of the referenda are the factors that effect the turnout. The content of the referendum makes difference when the issue is rather complex that requires technical knowledge and does not perceived as effect on the lives of the voters (the actuality of the effect is open to discussion), then the turnout is low. Leduc (2002) notes that while the 1992 Canada referendum on constitution, the 1994 Norway referendum on European Union accession, the Danish referenda on Edinburgh Agreement in 1993 and on European currency in 2000 had turnouts higher than elections, the New Zealand referendum on electoral reform in 1992, the Swedish referendum on nuclear power referendum in 1980 and the Spanish referendum on NATO in 1986 are all cases in which turnout is lower than previous national election. It is for sure that these examples do not have the sufficient explanatory power for lower turnouts in referendum, but they suggest a clue on the reasons of low turnout in referenda.

Low turnout in itself is a problem for democratic decision making whether it is in direct or indirect form since democracy in its essence means popular will together with equality of rights. The non-participation of the numbers of voters in the system means incomplete representation of the citizens and the systemic problem of decision making by voters for citizens as well as citizens' perception of their civic duty to participate in politics. However, when voting is perceived as voters' preference on their exercise of the rights, low turnout may be interpreted as one of the natural consequences of the process. In the context of referendum, as noted above, low turnout denotes problematic due to the oneness of voters and decision makers (oneness of ruled and ruler). The foundation of the complexity of low turnout for referenda lays in the fact that reasons of low turnout is the content of the proposal intertwined with the information problems of the citizens. Leaving aside the citizens deliberate choice not to be informed and not to participate in the voting, the absence of participation due to the complexity of the ballot proposal points to a procedural problem with the referenda.

3.2 Evaluating Referenda with Respect to Legitimacy

Before starting to analyze the referendum both procedurally and epistemically, there are two clarifications to be made. First clarification is about the reasons of this thesis's attempt to evaluate a particular form of decision-making in terms of its political legitimacy. If one accepts that the legitimacy of the decision making process, referendum in this thesis's subject, is derived from the its regulation by the constitution and its application in accordance with the regulations in the constitution, then it misses the point where the procedural problems of that particular decision-making procedure raise complexities with respect to its political legitimacy. In other words, if legality is supposed to ensure political legitimacy, then the

complexities with the respect to legitimacy is missed. Those complexities are the grounds where the rationale behind the application of that particular decision making mechanism weakens. The attempt of this thesis is to present those complexities and assess referendum as a decision making process with respect to its legitimacy.

Second clarification is about the problems with evaluating procedural and practical problems with respect to a model that is based on political philosophical accounts. In this study the acceptance is that these problems are arising because of the gap between the realm of politics and the realm of political philosophy ideals. Barnard in his book *Democratic legitimacy: plural values and political power* (2001) faces similar problems and asks the following questions: “To what extent do regulatory modes of ordering political activity relate to justificatory modes of normative validation?”; and “What is the role of prudentially grounded principles of reasoning-as opposed to strictly moral and strictly legal precepts- in the creation and operation of distinctly democratic standards of political agency?” (Barnard, 2001; 42). In his discussion to reply to these questions, he provides not a solution but rather an espousal of tension within the discussion: “Answers to these questions, taken together, involve, I shall suggest, a problematic tension between viewing political legitimacy always as legitimacy in context-as most social and political scientist do- and the idea-favored by many political philosophers-that standards of political legitimacy must command general normative validity regardless of particular contexts” (Barnard, 2001; 42). In this thesis the tension between the contextual and non-contextual is considered with the same reasoning and embraced. The reason of this embracement has one specific and one general reason: the general reason is that viewing political legitimacy contextual cannot be purely independent from considering the non-contextual normative validity standards of political legitimacy while the vice versa is true for viewing political legitimacy non-contextually; the specific reason is that it is not feasible

to deal with the tension within the framework of this thesis that exactly intends to combine the contextual practices and non-contextual normative standards.

In the evaluation, the basic idea is understand virtues and deficiencies of referendum with respect to legitimacy. The content of the evaluation is composed of the discussions on the procedural and epistemic characteristics of referenda and the diagnosed problems in its practice under representative systems with respect to the model's criteria. The forms of referendum to be evaluated in this study are referendum that is both law controlling; law promoting; passive (the agency of the legislative proposal is governments); legally binding. The problems diagnosed with referendum's procedural characteristics and practical problems are manipulation (agenda control, information asymmetry, elite effect, and campaign effect) and low turnout. The model that assesses these has two dimensions to be considered: the procedural and the epistemic. For the procedural assessment, political equality and political responsibility are the criteria to be considered; while for the epistemic virtues assessment the set of epistemic benchmarks that is the tyranny of majority with subset considerations of bypassing the minority rights and limiting the rights of citizens.

3.2.1 Procedural Evaluation

Given that there are complexities arising from the procedural characteristics and exercise of referendum, it can be stated that these complexities result in complexities with respect to political equality and political responsibility criteria of the political legitimacy model advanced here. In this sense referendum are vulnerable to conflicts between their procedures and the criteria set in the model. On the other hand, evaluation here does not only denote the complexities. It also points to the virtues of the referendum with respect to criteria in the

model. Political equality defined in the model has two benchmarks: equal distribution of the goods required for referendum and equal political inclusiveness. The former benchmark refers to the distribution of agenda control (formulation of ballot proposal) and information required for comprehending ballot proposal. Agenda setting and ballot proposal preparation are procedurally integrated to referendum. In other words, they are common characteristic requirements of referendum and they are crucial because referendum ballot includes the decision to make and the ballot has an information demanding nature. In the diagnosis part, the analysis identified four problems: agenda control; information asymmetry; elite (interest group) effect; and campaign effect. These problems raise complexities when they are thought with respect to requirements of political equality.

Agenda setting constitutes an important procedural requirement of referendum. The reason for its vitality is the determination of the ballot proposal, which is the decision to be voted. In the diagnosis part, the problem of agenda control is defined as agenda manipulation that denotes the act of selective content and alternatives for the proposal. In this regard, agenda setters have the means to manipulate the agenda by being selective in the alternatives for the proposal. Furthermore, those who have the means to control the agenda gain the opportunity to accomplish the results they want. While assessing agenda control with regard to political equality criteria, the agency of agenda setter is critical to consider. Content of the political inequality changes depending on the constitutional regulations of the agency of agenda setters. When the incumbent government has monopoly over the agenda, excluding the parliament members who represent the minority (numeric minority) and voters who are going to make the final decision on the proposal, inequality takes place in terms of both distribution of the agenda control and political inclusiveness. Monopoly of incumbent government conflicts with political equality in terms of equal political inclusion because it excludes parliament members

who are procedurally among the members of decision making under representative systems. Generally, under representative systems, the proposed bills can be formulated by the parliament members who are not in the incumbent government and the passing of legislation bills needs parliamentary majority. Since referendum is regulated and exercised under the representative system, it has to comply with this power sharing principle between government and parliament. In these regards, referendum becomes a confirmation tool for the power holders. When the constitutional regulation of the agency of agenda setter allows elites to have effect on the agenda, it conflicts with political equality with regard to distribution of agenda control that is defined as a good in the model. The inequality is between the voters who have the means to create an effect on the agenda setting and voters who do not have.

The problem of information asymmetry is directly linked with the political equality requirement of the political legitimacy model. In the diagnosis part, the vitality of information for decision-making is demonstrated together with voters' lack of information and voters' misinformation. Voters' lack of information on the subject is not exclusively valid for referenda but it is more problematic for referenda because of its information demanding nature of procedures. To put it differently, information provision before the exercise of referendum is a crucial requirement of referendum since the voters' decisions on their vote requires them to comprehend the ballot proposal that contains knowledge they do not have. Referendum expects citizens to make decision on a proposal that requires information/ knowledge that is not provided by the referendum as a procedure itself. In addition, incomplete or missing information weakens the judgments of the people and indirectly their supposedly good decisions, and brings into disrepute to the reliability of the decisions made by citizens. With respect to people's lack of information, the reasons for that should be assessed since it is also possible that people prefer to be ignorant about the subject.

With respect to political equality, the problematization of information asymmetry starts when citizens wish to access information but they cannot. Within the procedural characteristics of referendum, the information dimension is not considered despite the fact that voters (common citizens who are not formally assigned to acquire knowledge in politics) are expected to make the decision and are given with the veto power. Considering all these sub-problems with information asymmetry, complexity emerges with respect to political equality that has the requirement for equal distribution of information that is for comprehending the ballot proposal. In other words, referendum that suffers from information asymmetry cannot satisfy the equal distribution requirement of political equality considered in the model. A further complication is when information problem is considered with complex ballot proposals. In the diagnosis part the discussion on the low turnout draws attention to the low turnout problem as one of the consequences of complex ballot proposals⁸. The lowness is taken in comparison to election turnouts. When low turnout problem is a consequence of the complex ballot proposal, and the causal link between has the ground voters' lack of information on the subject, then low turnout in referenda conflicts with political equality criterion of the political legitimacy model. Voters' lack of information leads their absence in the decision-making.

When they are constitutionally allowed, campaigns are expected to be the periods that involve information provision for the citizens. Notwithstanding campaigns' practice for referendum take in a form, that has the same mentality with election campaigns. In other words, campaigns in pre-referendum are legacies of representative system with their mentality and format. Here by mentality I mean the campaigns' exercise by the political parties as party

⁸ Here the low salience problem of some ballot proposals of referenda is excluded since the salience of the proposal requires a subjective discussion that goes beyond the scope of this thesis.

oppositions. The purpose is to present the subjective views of the campaigners on the ballot proposal and spread it as much as possible. Furthermore, from the perspective of political equality, campaigns hold problems in terms of their distribution of ‘information’ required for referendum. In this regard finance-based format of campaigns constitute the problematic aspect of referendum campaigns. Unequal sources of the campaigners lead to unequal distribution of information by different campaigners. Leaving aside the problems within the provision of information by the campaigners, the inequality in terms of campaign financing has consequences in terms of the number of voters reached by the campaigners. Better-financed campaigns by using more channels in media or campaigning tours reach more voters. Regulations on the referendum campaigns determine the scope of the financing sources for the campaigns, whether they can get private financing or whether state provides financing. In case of private funding, campaigners with more financing has the advantage.

The constitutional regulations that allow for campaigns and other agenda setters apart from incumbent government, indirectly allow for the elite effect that is intertwined with the monopoly over the agenda control and information asymmetry. Elites effecting the agenda as well as the voters directly or indirectly and their power on the ballot proposal or mobilization of the voters point to the fact that there is an unequal distribution in the case of affecting the proposal and there is the unequal distribution of the information between the elites and the voters. Therefore, unequal distribution of the agenda control and information between the voters and the agenda setters is the primary problem with respect to political equality.

Agenda setting, information asymmetry, campaign and elite effects are the problems that occur due to procedural and practical problems with referendum. When they are evaluated with respect to political legitimacy model advanced in this study, they raise complexities

mainly with respect to political equality criterion's requirements. Equal distribution of the agenda control and information are difficult to realize within this procedural framework of referendum. Certainly constitutional regulations of referendum procedures are able to limit the problems. Together with these problems and their complexities with respect to political equality criterion, referendum holds disqualifications with respect to political responsibility criterion.

When political responsibility is thought in terms of agencies and sanctions, the complexities of referendum regarding political responsibility starts with the ambiguity of the agency and sanction. To clarify the matter, political accountability in the representative systems is mostly vertical, the responsible agency is the power holders, and the sanctions are constitutionally regulated legal punishments as well as electoral sanctions (no chance of electoral win in the following elections). In the case of referendum, the decision-making power/ veto power is transferred to voters for a particular subject, and the accountability is not considered because citizens' decision is not perceived as a decision that requires responsibility. Addressing political responsibility with this reasoning leads to overlooking responsibility of the decision makers in referendum. In the model for political legitimacy evaluation, political responsibility is defined as the voters' consideration of the interests, beliefs and values of the all citizens, and overall good. This criterion intends to appreciate the underlying idea of disregard of political responsibility but still claims that decision making has to hold political responsibility. Consequently, political responsibility criterion of the political legitimacy model approaches political responsibility horizontally. Horizontal approach accepts the responsibility between the voters as decision-makers.

Assessment of referendum with respect to political responsibility starts with a sub-discussion whether it is reasonable to hold citizens responsible from their decisions. Under a representative system where the main framework of the politics is delegation and transfer of the power and responsibility to the chosen representatives, voting is considered as a civic duty. Although in some practices, voting is compulsory and not voting is sanctioned, it is still open to debate to turn a right to an obligation. In this study, it is considered that it is reasonable to hold citizens responsible while they are veto players, and they are hold responsible to other voters. However, referendum suffers from the vulnerability of the voters to manipulation leading to complications for the decision formation of the voters. Decision-formation of the voters is crucial to consider for assessment since the collective will formation through referendum is aggregation of the individual voters. Individual decision formation is not immune from the manipulation, then the political responsibility in collective decision-making is open to question in terms of its representation of the true will. Furthermore, manipulation weakens this responsibility of the voters by giving way to results that the campaigners desire to achieve. Information problem is also another reason of weakening the political responsibility of the voters. Even if the voters wish to make their decisions based on their considerations of overall good, taking into account the interests, beliefs and values of the other, lack of information on the subject limits their capacity to make the good decision.

3.2.2 Epistemic Evaluation

In the model, the criterion for assessing the outcome of referenda is refraining from the epistemic benchmark of tyranny of majority. In the model, tyranny of majority encompasses the following acts: bypassing the minority rights; and restricting the rights of the people. As stated in the model, the reason for including the tyranny of majority benchmark is general objections against referenda that it may give way to majority suppress minorities. In those

objections, the minority refers to those ethnic, sexual or religious minorities. In the legitimacy model for referendum, minority has additional meaning with its numeric sense; consequently, the benchmark also refers to the restriction of the rights of citizens by the numeric majority. Although these concerns have point that referenda have that potential if not regulated, generally this possibility is anticipated by the constitutions that regulate referendum and limit the subject matters that can be proposed in the referenda's ballot proposal.

Empirical studies on the relation between referendum and minority rights, point that as opposed to general objections that voters are not intolerant towards the minorities and their rights. In their study on the assumptions on the relation between direct democracy and minority rights, Bowler and Donovan examines the assumptions of those objections to direct democracy which are the following: first “ the process of direct democracy allows a majority relatively free rein over drafting and implementing laws”; second “popular majorities are expected to be intolerant of minorities and civil rights, especially intolerant when compared to elites”; and third “ elites play little or no role in a process which is shaped by (intolerant) voters themselves ”. (Bowler and Donovan in Mendelsohn and Parkin, 2001; 125). They come up with the following conclusion: “In looking at the record of outcomes produced by the initiative process, however, we conclude that-although we can indeed find examples of abuse-direct democracy is no uniformly or even frequently tyrannical of minorities.” (Bowler and Donovan in Mendelsohn and Parkin, 2001; 142-143). Although their study includes the initiatives where the content of the ballot proposals are prepared by the voters, their study draws a conclusion on direct democracy and its objected tyrannical tendencies. Therefore in referendum where the ballot proposals are prepared by the representatives in accordance with the constitutional regulations (if exist), by inferring from this study result, should have less tyrannical tendencies. However, the possibility of conservative governments finding ways to

restrict minority rights still holds. When this possibility is considered together with the study results, then the model on political legitimacy of referenda suggest that referenda remains vulnerable to conflict with the benchmarks of bypassing the minority rights and restricting the rights of people.

CONCLUDING REMARKS

The concluding statement of this thesis' attempt to provide a political legitimacy evaluation of referendum under representative systems is not providing an opposition to or a defense of referendum but rather remarks on its problems with respect to legitimacy. As the heading of the study suggests, the overall study is a normative inquiry to the place of referendum in democratic practice. This normative inquiry started with the puzzle whether referendum that is experiencing problems that may be outcomes of its practice or may be due to its procedural problems, hold political legitimacy under representative forms.

For these objectives, the study offered a model of political legitimacy for assessing a particular mode of decision making in democracy, referendum. The model mostly adjusted and rethought Estlund's account of epistemic proceduralism that provides a justification of democratic authority for referendum. In the model advanced, procedural aspects are provided with two criteria political equality and political responsibility and epistemic (outcome) aspects are provided with a benchmark of tyranny of majority encompassing restriction of citizens' rights and bypassing minority rights. In chapter II, the subject of assessment is drawn from a literature review on referendum. The review provided a diagnosis of the problems with referendum practice. Manipulation (agenda control, information asymmetry, campaign and elite effect) and low turnout are the problems diagnosed. In the final chapter, referendum with its procedural requirements and diagnosed problems is evaluated with respect to political legitimacy that is modeled. The final chapter provided a supporting argument for the claim made in the beginning of the thesis, the legitimacy of referendum under representative governments is brought into disrepute due to problems that are transferred from representative systems to referendum as well as procedural problems with referendum. The diagnosis and

critical review of the problems with referendum such as campaign effect, agenda control and information asymmetry suggests that the reasons of these problems lie on this transfer.

The procedural evaluation of referendum indicates that referendum raise complexities with respect to political equality requirement of political legitimacy. Although these complexities can be overcome by constitutional regulations and prevent the underlying reasons of the problems, referendum within this framework holds these challenges. Unequal distribution of the goods (agenda control and information) and unequal political inclusion are the two grounds to state that referendum's political legitimacy is weak. Following Simmons' justification and legitimacy distinction's basic idea that justification requires responses to the objections, referendum should satisfy at least as much equality as representative decision-making provides. The other procedural criterion, political responsibility is more complex than thought. Apart from the ambiguity of the agency and sanctions with respect to responsibility, an account of political responsibility that intend to bypass this discussion by considering responsibility horizontally still suffers from complications. Political responsibility in the model expects citizens to make decisions that consider overall good. However vulnerability of the voters to manipulation and their lack of complete information raise doubts on the capability of voters to form decisions that considers the interests of the other citizens and overall good. The epistemic evaluation of referendum indicates findings that are more promising. The epistemic benchmark of tyranny of majority that is constituted with sub-considerations of bypassing minority rights and restricting citizens' rights, are hard to be produced with referendum. Although it is a fact that referendums are vulnerable to be exercised as tools by the power holders to achieve their ends, and they carry the potential to serve tyrannical ends, this anticipation of these possibilities by the constitutions reduces them to minimum. Constitutions that regulate referendum and limit the content of ballot proposals

render referendum epistemically legitimate. However, it should be noted that the vulnerability still remains since if not regulated by constitutions in a preventive manner, referendum may conflict with the benchmarks of bypassing the minority rights and restricting the rights of people. Considering both procedural and epistemic evaluations, in its overall concluding claim, this thesis states that political legitimacy of referendum is weak in the sense that it holds many vulnerabilities to conflict with the criteria in the model advanced in this study.

Coming up with a conclusion as such and claiming to be a normative inquiry to the place of referendum, this thesis offers a normative prescription for taking up with the legitimacy problems of referendum: deliberative referendum. The idea is to combine the deliberative democratic mechanisms with referenda so that the problems that bring into disrepute the legitimacy of referenda. Deliberation theory considered here is collective decision making through deliberation among the citizens. A more elaborative form of deliberative democracy theory is provided by Habermas as follow: “political will formation through the process of deliberative democracy; conceived as processes which cultivate rational and moral subjects through reflection, argumentation, public reasoning , and reaching consensus” (Habermas, 1992; 445). Habermasian account of deliberative democracy notes the basic idea of it that is will formation-collective decision making-through deliberation among the citizens. To consider the practicalities, it is useful to note that in many countries different forms such as opinion polls; citizens’ juries; consensus conferences; planning cells; citizens forums are exercised. Although many of them function as consulting institutions, they offer deliberative democracy in their designs. Fishkin and Luskin are important scholars in the field and in their article “The quest for deliberative democracy” (2000), they offer deliberative polls. Their model *Deliberative Poll* brings the following results: more engaged, thoughtful and

knowledgeable public; provision of factual information as well as a higher level of mutual understanding, dialogue among the citizens.

The combining idea refers to having deliberation before referendum exercises. This combination is promising to tackle the information asymmetry, agenda control and campaign effect problems articulated in this study. Through deliberation before the referenda- not in a form of campaign- not only the information provision problem but also political responsibility can be taken up. The deliberative referendum among citizens has the potential to bring in both information and mutual understanding. It is for sure that this prescription is intuitive and needs deeper thinking and more discussion. Therefore, this intuitive idea can be the subject of further research for tackling the problems of referendum.

REFERENCE

Books

- Arrow, Kenneth. 1963. *Social Choice and Individual Values*. New Heaven: Yale University Press.
- Barnard, Frederick M. 2001. *Democratic legitimacy: plural values and political power*. Montreal, Ithaca. McGill-Queen's University Press.
- Bartels, Larry M. 2008. *Unequal Democracy: the political economy of the new gilded age*. New York: Russell Sage Foundation; Princeton : Princeton University Press.
- Beitz, Charles R. 1989. *Political Equality*. Princeton, New Jersey: Princeton University Press.
- Beetham, David and Kevin Boyle. 1995. *Introducing Democracy. 80 Questions and Answers*. Polity Press and UNESCO Publishing.
- Butler, David and Austin Ranney, (eds) (1978), *Yes No Referendums: A Comparative Perspective of Practice and Theory*. Oxford: American Enterprise Institute, USA, Nuffield College.
- Butler, David and Austin Ranney, (eds) (1994), *Referendums around the World*. Washington: American Enterprise Institute for Public Policy Research, The AEI Press.
- Dworkin, Ronald. M. 2006. *Is democracy Possible here: principles for a new political debate*. Princeton, N.J: Princeton University Press.
- Estlund, David. 2008. *Democratic Authority*. New Jersey, USA: Princeton University Press.
- Gerber, Elisabeth. R. 1999. *The Populist Paradox . Interest Group Influence and the Promise of Direct Legislation*. Princeton, New Jersey: Princeton University Press.
- Kriesi, Hanspeter. 2005. *Direct Democratic Choice: the Swiss Experience*. USA : Lexington Books.
- Leduc, Lawrence. 2003. *The politics of Direct Democracy Referendums in Global Perspective*. Toronto: Broadview Press, 2003.
- Mendelsohn, Matthew and Andrew Parkin, (eds) (2001), *Referendum Democracy: Citizens, Elites and Deliberation in Referendum Campaigns*. Houndmills, Basingstoke, Hampshire ; New York : Palgrave.
- Riker, William. 1982. *Liberalism against Populism A confrontation between the Theory of Democracy and the Theory of Social Choice*. Illinois, USA : Waveland Press.
- Setälä, Maija. 1999. *Referendums and Direct Democratic Government Normative Theory and the Analysis of Institutions*, New York: Macmillan.
- Smith, Daniel A. and Caroline J. Tolbert. 2004. *Educated by Initiative: The Effects of Direct Democracy on Citizens and Political Organizations in the American States*. Ann Arbor: University of Michigan Press.

Book articles

- Barber, Benjamin R. 1984. Strong Democracy: Participatory Politics for a New Age. Berkeley: University of California Press. Cited in *Referendums around the World*. Eds. Butler, David and Austin Ranney, 1994, Washington : American Enterprise Institute for Public Policy Research, The AEI Press.
- Bowler, Shaun and Todd Donovan. 2001. Popular Control of Referendum Agendas: Implications for Democratic Outcomes and Minority Rights. In *Referendum Democracy: Citizens, Elites and Deliberation in Referendum Campaigns*, eds. Mendelsohn, Matthew and Andrew Parkin, Houndmills, Basingstoke, Hampshire ; New York : Palgrave.

- Fishkin, James and Luskin, Robert. 2000. The quest for deliberative democracy. In *Democratic Innovation Deliberation, representation and association*, ed. Michael Saward London : Routledge /ECPR.
- Habermas, Jurgen. 1992. Further Reflections on the Public Sphere. In *Habermas and the Public Sphere*, ed. Calhoun, Craig. Cambridge, Mass. : MIT Press.
- Jenssen, Anders Todal and Ola Listhaug. 2001. Voters' Decision in the Nordic EU Referendums. In *Referendum Democracy: Citizens, Elites and Deliberation in Referendum Campaigns*, eds. Mendelsohn, Matthew and Andrew Parkin, Houndmills, Basingstoke, Hampshire ; New York : Palgrave.
- Leduc, Lawrence. 2002(b). 'Referendums and Elections How do campaigns differ?', In *Do Political Campaigns Matter? Campaign Effects in elections and referendums*, eds. M.Farrel, David and Rüdiger Schmitt-Beck, 145-162. London : Routledge.
- Raz.J. 1990. Authority and Justification. In *Authority*, ed. J. Raz, New York: New York University Press.

Journals

- Banks, Jeffrey S.1990. Monopoly Agenda Control and Asymmetric Information, *The Quarterly Journal of Economics*, Published by MIT Press / Jstor.
- Bowler, Shaun and Todd Donovan. 2002. Democracy, Institutions, and Attitudes about Citizen Influence on Government, *British Journal of Political Science* 32: 371-90.
- Breuer, Anita. 2008. The Problematic Relation Between Direct Democracy and Accountability in Latin America: Evidence from Bolivian Case, *Bulletin of Latin American Research*, Vol. 27, No 1, pp.1-23.
- Christiano, Thomas . 2004. The Authority of Democracy" *Journal of Political Philosophy*, accessed from : <http://philpapers.org/s/Thomas%20Christiano>.
- Gilens, M. 2001. Political Ignorance and Collective Policy Preferences, *American Political Science Review* 95 (2): 379-96.
- Hero, Rodney E. and Caroline J. Tolbert. 2004. Minority Voices and Citizen Attitudes about Government Responsiveness in the American States: Do Social and Institutional Context Matter? *British Journal of Political Science* 34: 109-121.
- Hershenov, David. 2005. Two epistemic accounts of democratic legitimacy, *Polity*, Vol. 37, No. 2: 216-234.
- Hug, Simon and George Tsebelis. 2002. "Veto Players and Referendums around the World" *Journal of Theoretical Politics* 14(4): 465-515.
- Kornblith , Miriam.2005. Direct Democracy and The Referendum to Recall The President in Venezuela, *Paper to be presented at the 6th Global Forum on Reinventing Government. Toward Participatory Methods and Transparent Governance. May 24-27, COEX, Seoul.*
- Leduc, Lawrence. 2002(a). Opinion Change and voting behavior in referendums, *European Journal of Political Research* 41: 711-732 Published by Blackwell Publishers, USA.
- McManus-Czubinska, C., Markowski, R., Miller, W.L. and Wasilewski, J. 2004 "The misuse of referendums in post-communist Europe," *Journal of Communist Studies and Transition Politics*, 20:1: 56-80.
- Peter, Fabienne. 2007. Democratic Legitimacy and Proceduralist Social Epistemology, *Politics, Philosophy and Economics* 6 (3):329-353.
- Romer, Thomas and Howard Rosenthal. 1978. Political Resource Allocation, Controlled Agendas, and the status quo, *Public Choice* 33: 27-43.
- Simmons, John. Justification and Legitimacy. *Ethics*, July, 1999.

- Smith, Mark A. 2001. The Contingent Effects of Ballot Initiatives and Candidate Races on Runout, *American Journal of Political Science* 45, no. 3: 700-706.
- Smith, Mark A. 2002. "Ballot Initiatives and the Democratic Citizen," *Journal of Politics* 64, no.3: 892-903.
- Tolbert, Caroline J., John Grummel, and Daniel A. Smith. 2001. The Effect of Ballot Initiatives on Voter Turnout in the American States," *American Politics Research* 29, no. 6: pp. 625-48.
- Tolbert, Caroline J., Ramona McNeal, and Daniel A. Smith. 2003. Enhancing Civic Engagement : The Effect of Direct Democracy on Political Participation and Knowledge," *State Politics and Policy Quarterly* 3, no. 1: pp.23-41.
- Vreese, Claes H. de. 2004. "Primed by the Euro: The Impact of a Referendum Campaign on Public Opinion and Evaluations of Government and Political Leaders," *Scandinavian Political Studies*, Vol. 27-No 1 @ Nordic Political Science Association.
- Vreese, Claes H. de and Holli A. Semetko. 2002. "Cynical and Engaged Strategic Campaign Coverage, Public Opinion, and Mobilization in a Referendum," *Communication Research*, Vol.29 No.6 December 2002. 615-641.