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Author post-print (accepted) deposited by Coventry University's Repository

Original citation & hyperlink:

Qvortrup, M 2015, 'A Brief History of Self-determination Referendums Before 1920' *Ethnopolitics*, vol 14, no. 5, pp. 547-554.

<https://dx.doi.org/10.1080/17449057.2015.1051820>

DOI 10.1080/17449057.2015.1051820

ISSN 1744-9057

ESSN 1744-9065

Publisher: Taylor & Francis

This is an Accepted Manuscript of an article published by Taylor & Francis in *Ethnopolitics* on 2015, available online: <http://www.tandfonline.com/10.1080/17449057.2015.1051820>

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A History of Self-Determination Referendums

By Matt Qvortrup

Abstract: The article presents an account of the history of the discourses of self-determination referendums from 1552-1920. The referendum has played an important part in the discourse of self-determination since it was first pioneered by the French King Henry II in the 16th Century. While the principle of self-determination expressed through plebiscites was mentioned *en passant* by Erasmus of Rotterdam, Grotius and Pufendorf, it was only after the French Revolution that the doctrine gained wider practical recognition. In the mid-19th Century the referendum was much debated and practiced in Italy during the *Risorgimento* in the early 20th Century the doctrine was once again revived by Woodrow Wilson. But generally the principle was been used by statesmen in pursuit of narrow self-interest idealistic goals.

Speaking in Sevastopol in Crimea, President Vladimir Putin on the 12th of May 2012 called on all countries “to respect the right of Russians to self-determination”¹. This came a few weeks after he had backed and probably helped organize the plebiscite in Crimea². After the collapse of the Soviet Union, Russia has on several occasions encouraged referendums on self-determination in areas with a large number of Russian speakers, such as in Abkhazia in 1999, in Transnistria in 1995, 2003 and 2006 and in South Ossetia in 2001, 2006 and 2011 – and arguably in Eastern Ukraine in the Spring of 2014³. Yet at other times this principled commitment to ‘the self-determination of the people’ has been less forthcoming. Russia – to name but one example – was less than enthusiastic about the independence referendum in Tartarstan in 1992⁴.

While history is rarely a guide for the future it is instructive to consider how the concept of self-determination through plebiscites has evolved throughout history. This article is intended to provide a prolegomena to future study of the subject.

“Discussion of the doctrine of national self-determination falls naturally into three periods”, wrote Sarah Wambaugh⁵. She identified the votes held by the French after the 1789 revolution, the referendums at the time of the Italian *Risorgimento* (1848-1870) and finally the votes held in the aftermath of the First World War⁶.

¹ BBC World News 12 May 2014.

² Hill, Ronald. J and White, Stephen (2014) ‘Referendums in Russia, the Former Soviet Union and Eastern Europe’ in M. Qvortrup (Editor) *Referendums Around the World: The continued use of direct democracy*, Basingstoke, Palgrave, p. 26

³ Hill and White, Ibid

⁴ Giuliano, E. (2011). *Constructing grievance: ethnic nationalism in Russia's republics*. Cornell University Press, p.122

⁵ Wambaugh, S. (1919) *The Doctrine of Self-Determination Vol.1: A Study of the Theory and Practice of Plebiscites*, Oxford: Oxford University Press, p.: xxiii

⁶ In the following a referendum is defined as a vote by the whole electorate on a policy issue. The words referendum and plebiscite will be used interchangeably.

It is still too early to present a detailed account of the latter referendums. This article— due to the limited space – covers only the period up to the First World War. The aim is primarily to identify the different and possibly shifting discourses of self-determination referendums in the period since the Middle Ages and the end of the First World War.

A Foucault Inspired Analysis of Concepts

In analysing a concept or a historical phenomenon we are often tempted to go back to the origins as if the first is in some way the true representation of a phenomenon. However, there is another approach; one that stresses the changes concepts undergo as a part of their *Wirkungsgeschichte*. Without being too constrained by the epistemological constraints that go with borrowing theoretical frameworks from different disciplines, Foucault's notion of *genealogy* may be useful for studying the phenomenon of self-determination referendums.

Inspired by Friedrich Nietzsche, Michel Foucault made a distinction between a concept's *Ursprung* (origin) and its *Herkunft* (descent). Whereas the 'origin' of a phenomenon is the pursuit of the "immobile form" and the 'primordial truth'⁷, the *Herkunft* is the study of the "myriad of events through which – thanks to which, against which – they [the concepts] are formed"⁸.

A genealogical approach to studying the discourses self-determination referendums is not just about the 'origin' – i.e. the first referendums held- but more about the changes the discourse has undergone over a period of centuries, in short its *Herkunft*. For the historian of ideas the aim is to understand the different and sometimes interwoven ways in which thinking about a concept proceeded through history. That said, this does not purport to be a genealogical study in the true sense espoused by Foucault. But the article is based on the *a priori* assumption that it is more important to understand the *Herkunft* or a concept than its *Ursprung*.

Earliest Referendums on Self-Determination

Historically, the first instances of self-determination referendums in anything like the present day form date back to 1527 when the French King Francis I (1494-1547) held a plebiscite in Burgundy on whether to transfer the area to the Spanish King in 1527 as he had agreed to in the Treaty of Madrid⁹. The people rejected the transfer and stayed with France. Sarah Wambaugh speculates – though without concrete evidence¹⁰ - that Francis was inspired by Erasmus of Rotterdam (1466-1536) who –in 1517 – had made a case for the view "what

⁷ Foucault, M. (1986) 'Nietzsche, Genealogy and History', in Paul Rabinow (Editor) *The Foucault Reader: An Introduction to Foucault's Thought* London, Penguin p. 81

⁸ Foucault, Ibid.

⁹ Vattel, Emer de (1758) *Le droit des gens*, Liber 1. Chap.21, Para 263. A contemporary statement by the authorities cited by Vattel reads: "that, having never been subject but to the crown of France, they would die subject to it; and that, if the king abandoned them, they would take up arms, and endeavour to set themselves at liberty, rather than pass into a new state of subjection."Ibid.

¹⁰ Wambaugh, S. (1919) *The Doctrine of Self-Determination Vol.1*, p.: xxiii

power and sovereignty soever you have, you have it by the consent of the people”¹¹. Of course, “the people” in those days was a rather small number of people. In these votes those so entitled were merely property owning males. Whether a practical man like King Francis devoured texts of renaissance theologians – as suggested by Wambaugh¹² – can perhaps be questioned, but a few years later, Francis son, Henry II (1519-1559), who organised a plebiscite in 1552 in Verdun, Toul and Metz before their annexation”¹³.

Before the vote Bishop de Lénoncourt, is reported to have said, to the inhabitants of Verdun, ‘that the King of France had come as a liberator who will treat the citizens as good Frenchmen...He appealed to the vote of the people’¹⁴.

It is remarkable – and possibly a result of Solière’s enthusiastic recounting of the vote that Bishop Lénoncourt used words such as ‘bourgeois’ and ‘people’ at a time when Jean Bodin (1530-1596) expounded his theory of divinely sanctioned absolutism by the grace of God in *Six livres de la République* (1576).

However, we have few contemporary accounts of what motivated the use of referendums at the time and it took almost 100 years before these practices of proto-self-determination were placed on anything like a theoretical footing. Hugo Grotius (1583-1645) observed in *De Jure Belli ac Pacis* that “in the alienation of a part of sovereignty, it is required that the part which is alienated consent to the act” (ut etiam pars de que alienda agitur consentiat)¹⁵. Samuel Pufendorf (1632-1694) was even more explicit when he wrote in *De jura naturae et gentium* (1672) that “in the alienation of a part of the kingdom, there is required not only the consent of the people which continues to be with the old king, but the consent of that part too, especially, whose alienation is at stake” (*sed maxime consensus illius partis, da qua alienda agitur*)¹⁶. Grotius and Pufendorf were not the only ones expressing this view. Emer de Vattel (1714-1767), roughly 100 years later cited the example of a vote held in Burgundy in 1527 in which the citizens had objected to a plan to transfer them to the Spanish King. Though Vattel added realistically that “Subjects are seldom able to make resistance on such occasions; and, in general, their wisest plan will be to submit to their new master, and endeavour to obtain the best terms they can”¹⁷.

¹¹ Erasmus, Desiderius (1907) [1517] *Erasmus Against War* (J.W. Mackail, Editor), Boston : The Merrymount Press, p. 51.

¹² Wambaugh, *The Doctrine of Self-Determination*, p.xxiv

¹³ Solière, Eugène (1901) *Le Plébiscite dans l’annexion. Étude historique et critique de droit des gens*, Paris, L.Boyer, p.26.

¹⁴ Solière, *ibid.*

¹⁵ Grotius, Hugo (1625) *De Jure Belli ac Pacis*, Liber 2, Cap. 6, Sec 5.

¹⁶ Pufendorf, Samuel (1672) *De jura naturae et gentium*, Liber 8, Chapter 5. Para.9

¹⁷ Vattel, Emer de (1758) *Le droit des gens*, Liber 1. Chap.21, Para 263-264. In the light of these frequent references to the people, and the stated legal position as expressed by some of the foremost legal minds, it is perhaps instructive to note that modern lawyers are less convinced about the people’s right to be consulted. Indeed, as Peter Radan has shown in a careful analysis, “that there is no rule in international law that requires a referendum”, Peter

As Danspeckgruber has hinted the concept of self-determination had its roots in the enlightenment and the ideals of the idealistic philosophers like Kant and Fichte who championed the notion of freedom¹⁸. Not surprisingly, therefore, the concept of self-determination as a recognised doctrine of practical politics first appeared in the wake of the French Revolution when *Constituent Assembly* in Paris passed a degree renouncing conquest and decreeing that henceforth declaring that *la nation française renounce à entreprendre aucune guerre dans la vue de faire de conquêtes*¹⁹.

As a consequence the annexation of Avignon in 1791 only took effect after a referendum had been held in the area. True to the letter of the aforementioned law, Robspierre (1758-1794) stated in debate about the referendum that “if we have no right over this country we cannot send an army there without being oppressors”²⁰. The vote was an endorsement of French rule. As a contemporary report concluded:

Considering that the majority of the communes and citizens have expressed freely and solemnly their wish for a union with Avignon and France...the National Assembly declares that in conformity with the freely expressed wish of the majority...of these two countries to be incorporated into France²¹.

It would be almost trite to point out that the Congress of Vienna dealt a blow to the doctrine of self-determination. As Griffiths points out, “The Congress of Vienna in 1815 did not accept self-determination as a basis for reshaping the map of Europe”²². The victors in the Napoleonic Wars were conservatives who wanted to return to a time when the popular sovereignty was *not* the gold standard of political legitimacy. This attempt failed. Possibly because even the victors were aware that the proverbial genie was out of the bottle. Indeed, they even accepted that a vote was held in France on the re-establishment of the pre-revolutionary monarchy, namely the referendum on the return of the Bourbons in 1815.

Nevertheless, the perception was that The excesses of revolutionary fervour and the horrors of the Napoleonic wars gave self-determination a bad name. However, this changed after the revolutionary year of 1848 when referendums once again became fashionable. As Eric Weitz

Radan (2014) ‘Secessionist Referenda in International and Domestic Law’ in M. Qvortrup (Editor) *Nationalism, Referendums and Democracy*, London, Routledge, p.12

¹⁸ See inter alia, Danspeckgruber, W. (2000). *Self-Determination, Self-Governance and Security*. *International Relations*, 15(1), 11-21.

¹⁹ Cited in J.B Duvergier, Editor (1824) *Collection complète des lois, décrets*, Vol.1 *Bulletin des lois de la République française*, p.191.

²⁰ *Archives Parlementaires* 1 Series, Vol. 25, Paris, P. Dupont, 1875, p.425

²¹ Cited in Martens, G.F. von (1801) *Recueil de Principaux traits d’alliance de paix*, J.C. Dieterich, Göttingen, pp.400-401.

²² Griffiths, M. (2003). “Self-determination, international society and world order’ *Macquarie Law Journal* Vol. 3 (1) pp.29-49.p.38

has pointed out, self-determination of the people was accepted again and the ideals espoused by the Vienna Congress faded – though not in a uniform fashion²³.

Two areas are of particular interest, Italy (where several referendums were held in the name of self-determination as a part of the process to unify the country) and Schleswig-Holstein (between present-day Denmark and Germany) where a referendum was proposed – but not held – over the fate of the province.

Risorgimento-Referendums

The Risorgimento referendums were held to put pressure on the great powers that were reluctant to change the status quo. In a series of votes held between 1848 and 1870 different part of Italy voted to join the new unified state under the constitutional monarch Victor Emmanuel of Sardinia. Camillo Benso di Cavour (1810-1861) expressed the consensus among those advocating the use of referendums at the time in a letter before the referendum in Toscana and Emilia in 1860, in which he wrote,

“I await with anxiety the result of the count, which is taking place in Central Italy. If, as I hope, this last proof is decisive (*questa ultima prova*), we have written a marvellous page in the history of Italy. Even should Prussia and Russia contest the legal value of universal suffrage, they cannot place in doubt (*non potranno mettere in dubbio*) the immense importance of the event today brought to pass. Dukes, archdukes and grand-dukes will be buried forever beneath the heap of votes deposited in urns of voting places of Tuscany and Emilia²⁴.

Cavour was perhaps correct in expressing doubt about the sincerity of the commitment on the part of more autocratic powers such as Prussia and Russia, yet even these countries were surprisingly positive towards referendums on self-determination in the 1850 and 1860 – at least as long as the aspiration of self-determination supported their own foreign policy goals. As Sarah Wambaugh observed, “There was not one of the great powers, not even Austria or Russia, which did not participate in those years [1848-1870] in some form of appeal to national self-determination to settle Europe’s numerous territorial questions”²⁵.

Britain’s mediation between Denmark and Prussia following the first part of the First Schleswig War in 1848-1851 is a case in point. Lord Palmerstone (the British Foreign Secretary 1846-1851) suggested to the Christian von Bunsen, the Prussian ambassador in London, that the dispute should be decided “with reference to the ascertainable facts”, and

²³ Weitz, E. D. (2008). From the Vienna to the Paris system: International politics and the entangled histories of human rights, forced deportations, and civilizing missions. *The American Historical Review*, Vol. 113(5), 1313-1343.

²⁴ Di Camillo, Cavour to Villamarina, Minister of Sardinia at Naples, March 1860 (1883) *Lettere edite ed inedite di Camillo Cavour* (Chiala Luigi, Editor) Torino: Roux. Vol.3, p.211

²⁵ Wambaugh, Cit. Op, p.xxxiii

that these could only be found through a referendum²⁶. The Prussian diplomat responded consented to this, responding the

Germany [sic!] cannot give up the principle declared on all occasions that no separation of any part of Schleswig can ever be thought of, unless the population in the northern districts themselves declare, by an open and unbiased manifestation of their intention to that effect²⁷.

The proposal was, however, rejected by the Danes who militarily had the upper hand. In 1864, during an armistice following Prussian victories in the first part of the Second Schleswegian War, the Prussian Foreign Minister Peter Graff von Bernsdorff maintained at the London Conference that he was guided by the conviction that the conference should be aware of the wish of the people whose future they were debating” and that “the inhabitants of Schleswig should be consulted on the subject”²⁸.

The Danes rejected the proposal believing – wrongly it turned out – that the British would oppose Prussian annexation. After the Prussian defeat of Denmark, the Treaty of Prague made annexation conditional upon the consent of the people. However, in January 1867, Prussia (having realised opposition against its rule) annexed Schleswig-Holstein in toto without a referendum²⁹. Once again pragmatism had triumphed over idealism.

The referendum on self-determination played a very minor role in the years following the Franco-German War. Interestingly, given that the referendum often is used in an opportunistic way, leading German lawyers now rejected the use of referendums whereas French international lawyers and intellectuals rediscovered the attractions of letting the people decide.

Referendums on Self-Determination after the First World War

In the wake of the First World War – at the behest of the American President Woodrow Wilson- eight referendums were held to determine the borders in Europe. Wilson’s commitment to self-determination was not – in seems – only a result of a study of the European doctrines espoused in the wake of the French Revolution, still less the ideals of the Italian Risorgimento or the doctrines of Grotius and Pufendorff. Rather Wilson’s commitment was also inspired by his early years as a populism campaigner for more direct democracy. Earlier in his career, Wilson had stated his commitment to direct democracy in domestic politics. He had noted that,

²⁶ Palmerstone to von Bunsen, 24 June 1848, *British and Foreign State Papers*, Vol.40, p. 1321

²⁷ Graff von Bunsen to Palmerstone, 24 June 1848, *British and Foreign State Papers*, Vol.40, p. 1321

²⁸ Bernsdorff – in *Conference of London*, Protocol No.10, 1864

²⁹ See M. Qvortrup (2014) *Referendums and Ethnic Conflict*, Philadelphia: University of Pennsylvania Press, p.22

It must be remembered that we are contrasting the operation of ... the referendum, not with representative government, which we possess in theory...but with the actual state of affairs, with legislative processes which are carried out in secret, responding to subsidized machines, and carried through by men whose happiness it is to realize that they are not their own masters but puppets of the game³⁰.

These ideals – so it seems – inspired the President in his espousal of national self-determination. Wilson did not – as commonly assumed - mention referendums in his famous Fourteen Points speech to Congress on 8 January 1918. However, it is clear from the context that the 28th President wanted the decisions regarding the borders to be taken by the peoples concerned through plebiscites³¹. As he said in another speech at the time;

Peoples may now be dominated and governed only by their own consent. Self-determination is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril. The settlement of every question, whether of territory, of sovereignty, of economic arrangement, or of political relationship [must be] upon the basis of the free acceptance of that settlement by the people immediately concerned, and not upon the basis of the material interest or advantage of any other nation which may desire a different settlement for the sake of its own exterior influence or mastery³².

For all his idealism Wilson was not always true to his word. Indeed, a referendum organised by the council in Tyrol was ignored – at the insistence of the French - despite the fact that more than 90 percent voted for union with Germany³³. Not all the votes resolved the matters. However, it is worth noting, that, as Bogdanor has pointed out

“It was precisely in the those areas where plebiscites were refused (with the exception of Alsace-Lorraine) - Danzig, the Polish corridor and the Sudetenland - that were the subject of revisionist claims by the Nazis in the 1930s”³⁴.

Tellingly, German revisionist claims were *not* made in areas that were ceded after a referendum, such as Nord Schleswig where there was a large German speaking minority.

³⁰ Woodrow Wilson quoted in William Munro (1912) *The Initiative, The Referendum and the Recall*, New York, D.Appleton, p. 87 *An Introduction to the Law of the Constitution*, Indianapolis, Liberty Fund and A.V. Dicey (1890) ‘Ought the Referendum to be Introduced into England’, *Contemporary Review*, Vol.57, pp.499-511.

³¹ J. L. Snell (1954) ‘Wilson on Germany and the Fourteen Points’, *Journal of Modern History*, Vol.26, No.4, p.364-369.

³² Woodrow Wilson quoted in Lawrence T. Farley (1986) *Plebiscites and Sovereignty: The Crisis of Political Legitimacy*, Boulder, Westview Press, p.3.

³³ See New York Times (1921) ‘French try to stop Tyrol Plebiscite: Vote on Annexation to Germany set for April 24 Strongly Opposed by Paris’, April 11, A6.

³⁴ Vernon Bogdanor (1981) ‘Referendums and Separatism II’, in Austin Ranney (Editor) *The Referendum Device*, p.145.

This is possibly because “frontiers that were fixed by plebiscite could not easily be undermined”³⁵.

However, at the time when Wilson and other espoused the plebiscite – though with notable opportunistic exceptions (e.g. Tyrol) – the nascent Soviet State and its leader Vladimir Lenin made some surprising overtures towards a recognition of the people’s right to self-determination. In the Bolschevik leader’s own words, “all nations dwelling in Russia...the genuine right to self-determination”³⁶. It is beyond the scope of this brief note to go into details about this. It should be noted, however, that for Lenin, national self-determination had to be understood from within a Marxist framework and not from the perspective of theories of popular sovereignty. As Lenin made clear in *Critical remarks on the national question: The right of nations to self-determination*,

“From the standpoint of national relations, the best conditions for the development of capitalism are undoubtedly provided by the national state. This does not mean, of course, that such a state, which is based on bourgeois relations, can eliminate the exploitation and oppression of nations. It only means that Marxists cannot lose sight of the powerful economic factors that give rise to the urge to create national states. It means that “self-determination of nations” in the Marxists’ Programme cannot, from a historico-economic point of view, have any other meaning than political self-determination, state independence, and the formation of a national state”³⁷.

Conclusion

The history of self-determination and referendums started in the late middle-ages in France. But while the referendum was pioneered by France in the 16th century, the link between the two was not formally established before the French Revolution. E.H. Carr, the British historian and theorist of international relations observed correctly that,

Self-determination and democracy went hand in hand. Self-determination might indeed be regarded as implicit in the idea of democracy; of if every man’s right is recognised to be consulted about the affairs of the political unit to which he belongs, he may be assumed to have an equal right to be consulted about the form and extend of the unit³⁸.

Genealogists would not be surprised to conclude that the discourse of self-determination has changed considerably since the time of Henry II. The idea that people have a right – at least in principle – to determine their own affairs has become an unquestionable principle in international politics.

³⁵ Vernon Bogdanor (1981) ‘Referendums and Separatism II’, *ibid*.

³⁶ Lenin quoted in U.O. Umozurike (1972) *Self-Determination in International Law*, Hamden, Archon, p.162.

³⁷ Lenin, Vladimir I. (1972) “Critical remarks on the national question: The right of nations to self-determination” in *Lenin: Collected Works* Vol. 20: Moscow: Progress Publishers, Moscow, p. 393

³⁸ Edward Hallet Carr (1942) *The Conditions of Peace*, New York, Macmillan, p.39

As we have seen, despite the changes in the discourses, more often than not the right to self-determination has been tempered by short- and long term political calculations. Writing about the referendums on self-determination held in France in the 16th Century, Johannes Mattern concluded:

We find in France in the sixteenth century a policy of opportunism which recognised, or even insisted upon, the principle of popular self-determination in the transfer of cities and territories if such self-assertion was favourable or could be forced into an expression favourable to France, but which refused to acknowledge any voice or opinion to those who wanted to conquer against their will, or to any section of the Kingdom which for some reason or other might wish to sever its former or forced connection to France³⁹.

The referendums held up to the end of the First World War did not change that pattern. Whether the same conclusion can be drawn as regards the more recent votes in Crimea and other parts of Ukraine in the spring of 2014 is for future historians to decide.

³⁹Johannes Mattern (1921) *The Employment of the Plebiscite*, p.53.