

FROM THE GOLDEN TEMPLE TO PUNJAB INDEPENDENCE

PRACTICAL AND POLITICAL ISSUES PERTAINING TO A NON-GOVERNMENT-EXECUTED INDEPENDENCE REFERENDUM IN THE INDIAN-GOVERNED REGION OF PUNJAB

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MATT QVORTRUP
DANE WATERS





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Cover picture: Thousands of Sikhs rally in London on 12 August 2018 to demand a referendum on Punjab's independence from India. © Sikhs for Justice

Institut de recherche sur l'autodétermination des peuples et les indépendances nationales
www.irai.quebec
info@irai.quebec

About the IRAI

Founded in the spring of 2016, the Research Institute on Self-Determination of Peoples and National Independence (IRAI) is an independent and non-partisan research institute whose mission is to carry out and disseminate research on all issues pertaining to the self-determination of peoples and national independence. The IRAI thus strives to improve scientific knowledge and to foster an open and constructive citizen dialogue on these themes.

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EXECUTIVE SUMMARY

The year 2021 could be marked by a referendum on the independence of the Indian-governed region of Punjab. This non-government-executed referendum would enfranchise not only the region's current citizens, but also members of the Sikh diaspora spread across the globe.

Independence referendums are often labelled as "unofficial" by their opponents, as was the case in Catalonia and Iraqi Kurdistan in 2017. Yet, many of these votes still achieve an appreciable degree of success, for a referendum is not only a decisional tool, but also a political lever. As such, a vote on the independence of Punjab would help draw international attention

to Sikh nationalism and solidify popular support for the movement.

This report outlines examples of successful "unofficial" referendums and draws up a practical roadmap towards legitimacy and international recognition.

Precedents in South Sudan, Eritrea, and East Timor would strongly support letting the diaspora vote in a referendum held in a region such as Punjab. Furthermore, given the historical underpinnings for the proposed referendum as well as the political obstacles preventing such a vote in India, Punjab Referendum 2021 would be on robust legal and historical footing to be considered a legitimate, non-government-executed referendum.

ABOUT THE AUTHORS



Matt Qvortrup

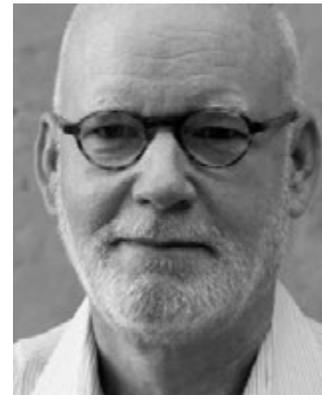
Matt Qvortrup, DPhil (Oxon.) is professor of Political Science at Coventry University. Since 2016, he has been Joint editor of the top academic journal *European Political Science Review*.

Described by the BBC as “the world’s leading expert on referendums”, Professor Qvortrup is the author of several books, including *Referendums and Ethnic Conflict* (2014) as well as *Government by Referendum* (2018). Trained in both political science and law, he has published over 40 peer-reviewed articles and more than a dozen books on comparative politics and constitutional law.

Having served as head of section in the British Home Office, Matt Qvortrup has also been a diplomatic envoy for the US Department of State in Sudan. He served as the chief legal advisor for the House of Commons Constitutional Affairs Committee and has recently been an advisor to the British Foreign and Commonwealth Office. He has worked as a consultant in Australia, Papua New Guinea, Colombia, Mexico, Sudan, Ethiopia, Denmark, and Spain, amongst other places.

Dane Waters

Dane Waters has worked on six continents, providing strategic advice to governments, activists, and NGOs. He has also consulted on projects with the United Nations, the US Department of State and the International Republican Institute. Having served as a political appointee in President George H. W. Bush’s administration, Dane Waters has worked on five US presidential campaigns, as well as on several foreign elections. He has worked on all concrete aspects of direct democracy – from drafting the laws that govern an election, to helping tip the balance on the ballot question, to bringing together international observers to ensure adherence to internationally accepted democratic standards.



Dane Waters is the founder and Chair of the Initiative & Referendum Institute at the University of Southern California. He also serves on the board of Democracy International, an organization that works to strengthen direct democracy around the world.

Dane Waters has authored and edited numerous articles and books on direct democracy. He regularly appears in the international media to comment on governance issues.

INTRODUCTION*

In 2020, New Caledonia narrowly rejected independence: from 43 percent two years prior, support for the “yes” raised to nearly 47 percent in this second referendum. In 2019, a 97-percent majority of voters in Bougainville decided to part ways with Papua New Guinea. These recent referendums are not unique. In September 2017, both Catalonia and Iraqi Kurdistan asserted their democratic will to become sovereign states. Meanwhile, Puerto Rico held its sixth status referendum this last November, and formally voted to become the 51st US state, having dithered between independence, statehood, and free association for over 50 years.¹

Not all independence referendums in the past have followed constitutional provisions. On occasion, polls of dubious legality have even succeeded in creating new states. In 1944, the people of Iceland voted to sever all ties with their Danish overlords, but did not strictly comply with the applicable legal procedure.² The same was true of a number of Yugoslav constituent republics in the early 1990s. The use of independence referendums has since continued to increase, as illustrated in Appendix 2.

The year 2021 could mark a turning point in the history of the Indian-governed state of Punjab with the prospect of an independence referendum emerging on the horizon. This referendum would not only call the region’s current voters to the polls, but also members of the Sikh diaspora spread across the globe – many of whom still maintain close ties with their homeland. The Indian government does not endorse this grassroots initiative, and since the Constitution does not provide for referendums, it is still premature to speculate on whether this non-government-executed referendum on the independence of Punjab could succeed. Yet, such a vote may be regarded as a peaceful means to addressing the Sikhs’ interest in their own democratic self-governance.

There has already been discussion about this possibility in academic papers. These have mainly pertained to the moral case for such a vote.³ The aim of this report is different. It looks not at the emotive appeal of a referendum but at the hard-nosed reality of law and politics. Is a referendum feasible, legal, and the right instrument to achieving the goals of the Sikhs?

* This report was initially prepared at the request of Sikhs for Justice ahead of a referendum planned for 2020, which was later postponed. The authors of this report take no position on the issue of the referendum as it pertains to the reinstatement of the Indian-governed region of Punjab as an independent state. This report is solely for the purpose of assessing the proposed referendum in light of historical and legal precedents.

¹ See Kossi Biova Placide Lasmothery, “L’obstination indépendantiste en Nouvelle-Calédonie. En route vers la dernière chance?” (2020) 45 *Civitas Europea* 405; Anna-Karina Hermkens, “The Bougainville Referendum. From Holy War to Renewal?” (*Georgetown Journal of International Affairs*, 20 July 2020) <https://gja.georgetown.edu/2020/07/20/the-bougainville-referendum-from-holy-war-to-renewal/> (22 December 2020); Daniel Cetrà, Elisenda Casanas-Adam, and Mariola Tàrrega, “The 2017 Catalan Independence Referendum. A Symposium” (2018) 27 *Scottish Affairs* 126; Bill Park *et al.*, “On the Independence Referendum in the Kurdistan Region of Iraq and Disputed Territories in 2017” (2017) 5 *Kurdish Studies* 199; Rashid Carlos Jamil Marcano Rivera, “Puerto Rico Wants Statehood. But Only Congress Can Make It the 51st State in the United States” (*The Conversation*, 14 December 2020) <https://theconversation.com/puerto-rico-wants-statehood-but-only-congress-can-make-it-the-51st-state-in-the-united-states-150503> (22 December 2020).

² See Anthony Beauséjour, “Cases of Secession Since 1900 and Their Governing Constitutional Frameworks Towards Secession. Empirical Paper Series on Secession and Constitutionalism. Part 2 of 2” (2020) 13 *ICL Journal* 237; Ágúst Þór Árnason, “Colonial Past and Constitutional Momentum. The Case of Iceland” (2013) 8(2) *Icelandic E-Journal of Nordic and Mediterranean Studies* 1.

³ In a conference, Kaur argued: “Thus referendum 2020, an idea of Punjabi diaspora, is being seen as a comeback of Khalistan movement and is surely going to be of certain impact on the lives of Punjabi residents.” See Kiranpreet Kaur, “Referendum 2020. A View From Punjab”, in Pritam Singh, Muhammad Ali Jan, and R. S. Mann (conv.), *Thirty-Fifth International Conference of the Punjab Research Group Theme. Past, Present and Future* (Oxford School of Global and Area Studies, 27 October 2018).

In response to these questions, one might contemplate either a consultative poll or an actual referendum. The former is a more informal, consultative exercise, which may be regarded as an extensive opinion survey. By contrast, this report will focus on the prospect of a referendum, which is a more formal process whereby the people – the eligible voters – cast actual ballots. Unlike a consultative poll, a referendum is regarded as a true test of the will of the people. It can bear upon a number of different issues ranging from a vote on additional autonomy (as in Wales in 2011) to a ballot on independence (as in Scotland in 2014 and New Caledonia in 2020).

This report does not advise on the desirability of a referendum, let alone on independence. It merely outlines the conditions and best practices that must be met for a vote to be recognized by the international community.

In addition, this report briefly touches upon other related issues such as when referendums are won, whether they lead to conflict or to peace, and how referendums can be used to shift the political agenda.

In the following, the major policy issues pertaining to referendums are outlined using comparative legal and political examples and best practice models. After each section follows a short comment in which the international experience is related to Punjab Referendum 2021. The referendum is first looked at as a mechanism for engendering public support and for changing the political agenda. Once this has been done, the report moves on to address legal and practical issues, such as what constitutes a majority, who drafts the question (and if this matters), as well as how votes are to be counted.



1. THE REFERENDUM AS A MECHANISM FOR SHIFTING PUBLIC OPINION

Like most other political and legal phenomena, referendums can be examined through different lenses. On the one hand, a referendum can be part of a legislative process aimed at changing the state of the law on a given issue. On the other hand, a referendum also has a symbolic character. Irrespective of the outcome, a referendum can set the agenda and change perceptions of a particular conflict or political development.

Under ordinary circumstances, both governments and opposition groups take advantage of referendums to raise the profile of certain handpicked issues. By contrast, coalitions sometimes resort to referendums to neutralize an intractable dissension within their own ranks. For example, parties in the British Cameron–Clegg coalition government agreed to disagree on electoral reform by holding a referendum in 2011 – which ended in a status quo ante result.⁴

A referendum can be transformational, and its success can be the impetus for a more disenfranchised community to take action. Yet, the case of a diaspora referendum for a large group in exile is novel and largely unprecedented.⁵ To determine its efficiency as regards putting an issue on the agenda, one has to extrapolate from past experiences.

In a world where only sovereign nation-states seem to matter, referendums are often an effective mechanism to raise international interest, as was the case in the Baltic countries and Yugoslav republics in the early 1990s. The votes alerted the world to their plight and gave legitimacy to their claims to independence. The same is arguably the case for the 2017 referendum in Catalonia, which brought Spain's violent repression into the open. Without these referendums, it is unlikely that the world would have known of these countries' aspiration for nationhood. In this sense, the referendum can be seen as an SOS call to the international community. Needless to say, this Mayday had dire consequences in the cases of Croatia and Bosnia and Herzegovina.

Some referendum campaigns seem predestined to hit the headlines. The referendums in the Baltic countries were efficient because they were combined with a high-profile media campaign and a very engaged civil society. In August 1989, two million people holding hands to form a human chain spanning 676 kilometres across all three Baltic states provided for good television for the then recently established CNN.⁶ On a smaller scale, the vote organized by the East Cree First Nation to oppose the 1995 Quebec referendum was extensively covered in national Canadian media.⁷

⁴ Matt Qvortrup, "Voting on Electoral Reform. A Comparative Perspective on the Alternative Vote Referendum in the United Kingdom" (2012) 83 *The Political Quarterly* 108.

⁵ One of the few instances of a diaspora referendum – if not the only one – is to be found in the 2009–2010 Sri Lankan Tamil independence referendum. See Upasana Unni, "Overseas Ballot. Canadian Tamils Vote From Afar" (2010) 31(4) *Harvard International Review* 7; Tulika Gaur, "Role of the Sri Lankan Tamil Diaspora in Conflict and Peace in Sri Lanka" (2015) 6 *South Asian Journal of Diplomacy* 85.

⁶ The same kind of demonstration was made in 2014 in Catalonia. See Sandrine Morel, "Une chaîne humaine de 400 km pour une Catalogne indépendante" (*Le Monde*, 11 September 2013) https://www.lemonde.fr/international/article/2013/09/11/une-chaine-humaine-de-400-km-pour-une-catalogne-independante_3475443_3210.html (3 October 2020); Nathalie Lacube, "La Catalogne se mobilise pour un référendum d'autodétermination" (*La Croix*, 11 September 2013) <https://www.la-croix.com/Actualite/Monde/La-Catalogne-se-mobilise-pour-un-referendum-d-autodetermination-2013-09-11-1013113> (3 October 2020).

⁷ Though one could even speak of an English-speaking media coverage disproportionate to the weight of the referendum, as there were less than 5 000 East Cree voters. See Ronald Niezen, *Defending the Land. Sovereignty and Forest Life in James Bay Cree Society* (2nd ed., Pearson, 2009) p. 95; Barry Came, "The Other Vote. Natives Wage Their Own Campaigns" (*Maclean's*, 23 October 1995) p. 22.

By contrast, media interest for Tatarstan in 1994 and Somaliland in 2001 hardly registered at all, primarily due to the proponents of these referendums not investing enough resources, time, and energy into a strategic communication plan. Of direct relevance to Punjab, the unofficial referendum held among the Sri Lankan Tamil diaspora in 2009–2010 completely failed to attract media attention.

Even within a movement, referendums on high-profile issues are an excellent way to overcome differences and to create a united sense of purpose. The quarrels over economic policy within the Scottish National Party were bridged when they stood united in fighting for independence. For a long time, the same was true of the *Parti Québécois*, which was the political flagship of all sovereigntists, regardless of their “left-right” positioning. In 2014 the referendum on Scottish independence – although it was lost – helped to create a narrative for the Scottish National Party and propelled it to win over 50 percent of the votes in the 2015 UK general election.

This bolstering effect is not unique to “official” polls. In 1979 the voters on the Shetland Islands held a referendum on

opting out of the proposed plan for a new Scottish Assembly. While the referendum was not binding and had no legal basis, it did strengthen morale and raise domestic and international awareness of the issue. The same was true for the unofficial referendum held among the East Cree First Nation in 1995.

In 2014, civil society groups organized an informal vote on the independence of the Italian region of Veneto. There was considerable support for their demands and the poll – while of no legal force – created a political momentum within society. Authorities were compelled to take notice and, in 2017, organized an official referendum on Venetian autonomy. Although this second referendum was not binding either, 98.1 percent of voters favoured increased autonomy, thus stating their expectations very clearly to both local and national governments.⁸

In light of the foregoing, a referendum among the Sikh diaspora would likely be an effective mechanism. The movement could gain an impulse, build its visibility worldwide, and force the issue onto the political agenda. Before the matter gets to this point, however, a referendum would first require careful planning and consideration.



⁸ Arianna Giovannini and Davide Vampa, “Towards a New Era of Regionalism in Italy? A Comparative Perspective on Autonomy Referendums” (2020) 8 *Territory, Politics, Governance* 579; Erika Arban, “The Referenda for More Autonomy in Veneto and Lombardia. Constitutional and Comparative Perspectives” (2018) 10 *Perspectives on Federalism* 242. In 2019, citizens of the city of Venice had their own local autonomy referendum, which was lost because of a low turnout rate. See Rachel Sanderson, “Venice’s Bid for More Independence Fails After Referendum Flop” (*Financial Times*, 2 December 2019) <https://www.ft.com/content/2c045b78-1514-11ea-9ee4-11f260415385> (3 October 2020).

2. PRACTICAL ISSUES PERTAINING TO REFERENDUMS

A referendum on the future status of Punjab requires to address a number of important questions. These are:

- 2.1. When are referendums legally permitted in domestic law?
- 2.2. Does an independence referendum call for a special majority?
- 2.3. Who should be allowed to vote?
- 2.4. Who should set the wording of the question?

2.1. The Legality of Referendums

Inasmuch as domestic law is concerned, it is important to note that most independence referendums are illegal or *ultra vires*, to use the proper legal terminology.⁹ This section outlines the legal bases for holding the referendum under review. As will be seen, this vote is legally difficult, and the argument that majority ought to decide does not necessarily cut much legal ice.

From an international law standpoint, it has been argued that, “there is no unilateral right to secede based merely on a majority vote of the population of a given sub-division or territory”.¹⁰ Similarly, in his separate opinion in the advisory opinion of the International Court of Justice relating to Kosovo, Justice Yusuf opined that “a racially or ethnically distinct group within a State, even if it qualifies as a people for the purposes of self-determination, does not have the right to unilateral self-determination simply because it wishes to create its own separate State”.¹¹

For a non-governmental organization to hold a proper independence referendum, internationally accepted rules and procedures must be followed. The general rule is that such a vote has to be held in accordance with existing constitutional standards, like those provided by Article 39(3) of the *Constitution of Ethiopia*, or following an agreement settled between the region and the central state, as in the very different cases of Scotland in 2014 and South Sudan in 2011.

Following this logic, it would seem at first glance that the referendum held in Iraqi Kurdistan in 2017 was plainly unconstitutional. Similarly, a referendum in Punjab would be illegal, as

the *Constitution of India* does not provide for independence and an agreement in this respect would require a referendum in the whole of India or a change of *Bhāratīya Saṃvidhāna* – this country’s Constitution.

Yet, matters are rarely that simple. To begin with, international law does not expressly prohibit secession – nor does it provide for it either.¹² Admittedly, all other things being equal, a region and a people only have a right to an independence referendum if the vote follows generally accepted rules and procedures. However, when a self-defined group of people are part of an undemocratic constitutional order, matters are a bit more complex. As Justice Cassese wrote:

When the central authorities of a sovereign state persistently refuse to grant participatory rights to a religious or racial group, grossly and systematically trample upon their fundamental rights, and deny them the possibility of reaching a peaceful settlement within the framework of the state structure [...] a group may secede – thus exercising the most radical form of external self-determination – once it is clear that all attempts to achieve internal self-determination have failed or are destined to fail.¹³

Basically, an oppressed people have a right to hold a referendum on independence from the oppressor state. To use the example of Kurdistan once again, as Iraq was not a well-functioning democratic state, it could be

⁹ See Anthony Beauséjour, “Indivisibility and Secession Clauses in Current Constitutions and the Prevalence of Secessionist Movements. Empirical Paper Series on Secession and Constitutionalism. Part 1 of 2” (2019) 13 *ICL Journal* 147.

¹⁰ James Crawford, *The Creation of States in International Law* (2nd ed., Cambridge University Press, 2006) p. 417.

¹¹ *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo*, Advisory Opinion, 2010 ICJ Rep. 403, p. 622 (Yusuf JICJ).

¹² *Id.*, p. 438.

¹³ Antonio Cassese, *Self-Determination of the Peoples. A Legal Reappraisal* (Cambridge University Press, 1995) p. 119-20.

argued that Kurdistan met these criteria. But, to use another example, given that Spain is a democratic state, this rule hardly covered Catalonia. Was the referendum in the Spanish *Autonomia* consequently illegal? It would be too hasty to conclude so. Some might argue that the fact that Spain is a democratic State does not mean that Catalonia does not have a right to secession: the appropriate criterion is rather that of internal self-determination. The Spanish *Guarda Civil* barging into polling stations, the mass repression, the suspension of Catalonia's autonomy, and the criminal prosecution of most members of the Catalan government could all be raised in favour of the Catalan case.

Again, matters may not be that simple. To be sure, the Spanish courts have been adamant that a referendum was *ultra vires*. Yet other courts in countries with similar disagreements have followed a different logic.

In its famous *Reference Re Secession of Quebec*, the Supreme Court of Canada held that "the rights of other provinces and the federal government cannot deny the right of the government of Quebec to pursue secession, should a clear majority of the people of Quebec choose that goal, so long as in doing so, Quebec respects the rights of others".¹⁴ The Court also opined that:

The clear repudiation by the people of Quebec of the existing constitutional order would confer legitimacy on demands for secession, and place an obligation on the other provinces and the federal government to acknowledge and respect that expression of democratic will by entering into negotiations and conducting them in accordance with the underlying constitutional principles already discussed.¹⁵

While secession could not be accomplished unilaterally, referendums were not deemed unconstitutional. Rather, these were regarded as a mechanism of gauging the will of the people of Quebec. Consequently, a referendum, provided it resulted in a "clear majority", "would

confer legitimacy on the efforts of the Quebec government".¹⁶

Needless to say, this ruling does not apply in India directly. However, the Canadian example suggests that other countries' courts have shown flexibility and appreciation of nuances that is conducive to compromises. Moreover, many other aspiring independent states have used the Quebec case in support of their argument for the right to self-determination.

While governments may confidently cite principles, the practice of independence referendums – especially in terms of recognition – seemingly owes more to national interest than to adherence to principles of jurisprudence. For instance, the states of Western Europe readily recognised the secession of several former Yugoslav republics in the early 1990s, although these new states did not adhere to the aforementioned legal principles.

The demand for a referendum is not just a legal matter but also a political one. Indeed, several aspiring nations have held non-government-executed referendums on independence, which strictly speaking were *ultra vires*, but which nevertheless were recognised by the international community. While recognition is not the norm, it is still noteworthy that twelve out of thirty-six extraconstitutional referendums ended up being recognized.¹⁷ An "illegal", "unofficial", or "non-government-executed" referendum can be successful. What matters is political persuasion.

One of the arguments here is a political one, namely trying to make a moral appeal to the international community. Such arguments have become more common in political theory. Alan Patten argued that "on the simplest version of the plebiscitary theory, victory in a referendum held in the secessionist unit on a clear question about independence is sufficient to generate a right on the part of that unit to secede".¹⁸ One of the authors cited a case for a referendum when:

- (1) The citizens of the secessionist unit collectively have a valid claim to the territory

¹⁴ *Reference Re Secession of Quebec*, [1998] 2 SCR 217, par. 92.

¹⁵ *Id.*, par. 88.

¹⁶ *Id.*, par. 104.

¹⁷ Matt Qvortrup, "Independence Referendums. History, Legal Status and Voting Behaviour", in Carlos Closa, Constanza Margiotta, and Guiseppe Martinico (eds.), *Between Democracy and Law. The Amoralty of Secession* (Routledge, 2020) p. 144.

¹⁸ Alan Patten, "Democratic Secession From a Multinational State" (2002) 112 *Ethics* 558, p. 562.

of that unit; (2) the terms of secession proposed by the secessionists are fair; (3) the creation of the new state is unlikely to generate serious violations of standard liberal rights, or to conflict with the realization of other standard elements of liberal justice; (4) the citizens of the secessionist unit form a group eligible for secession; and (5) the secession will not pose a serious threat to peace and security.¹⁹

Another, more recent scholar has gone further and argued that, on moral grounds, “a community’s right to define itself and its territory is the [...] moral heart of this new rule; the plebiscite is the engine. The plebiscite is the procedural and political expression of the right – the way the community announces its claim and constitutes itself as recognizable, legally relevant unit”.²⁰

Related to Punjab Referendum 2021

It is clear that an independence referendum in Punjab would be ruled inconsistent with India’s current constitutional arrangements. However, given India’s less-than-shining democratic record in recent times, a case could be made that New Delhi does not have a strong case for preventing a vote that simply ascertains the preference of the people. A vote on independence is legally acceptable if the sovereign power “persistently refuses to grant participatory rights to a religious or racial

group, grossly and systematically trample upon their fundamental rights”.²¹ However, it is questionable if these abuses are perceived by the international community to constitute breaches of the severity required. Given that Freedom House ranks India as “free”,²² – and given the uneven adherence to this practice of recognizing only referendums in non-democratic states – this argument is unlikely to be supported by many.

2.2. Special Majority Requirements²³

Given the momentous importance of the vote it seems reasonable that “if the approval rate of a referendum is too low, it ought to be discredited. A nearly simple majority does not provide sufficient legitimacy”.²⁴ Without passing judgement as to the fairness of such a requirement, it is worth outlining a few comparative examples of when such stipulations have been introduced. Turnout and quorum requirements are relatively common in referendums on independence and other referendums on ethnic and national issues.

Of course, this is not just a result of a concern for fairness and democratic legitimacy. In politics, opportunism and ulterior motives are often presented in the guises of, what we might call, democratic appropriateness. Special majority requirements are no exception. This was arguably the case in the late 1970s in

the United Kingdom when James Callaghan’s Labour government’s proposal for Scottish and Welsh devolution was hindered by Labour MP George Cunningham, who introduced an amendment to the effect that devolution had to be supported by a majority of at least 40 percent of the eligible voters. This meant that devolution in Scotland was rejected although a majority of the votes cast in the 1979 referendum were on the “yes” side.

This type of obstructionism, albeit in a different setting, was also the motivation behind Soviet leader Mikhail Gorbachev’s insistence that a two-thirds majority should be required for secession of Soviet republics, a condition that was largely ignored, notably by the Latvians.

An often-cited example is Saint Kitts and Nevis, in the Caribbean. Under the Constitution, Nevis has considerable

¹⁹ *Id.*, p. 562-633.

²⁰ Timothy William Waters, *Boxing Pandora. Rethinking Borders, States, and Secessions in a Democratic World* (Yale University Press, 2020) p. 126.

²¹ Cassese (n. 16).

²² “Freedom in the World 2020. India” (*Freedom House*, 2021) <https://freedomhouse.org/country/india/freedom-world/2020> (28 November 2020).

²³ The terms “super majority”, “qualified majority”, and “special majority” will be used interchangeably.

²⁴ Baogang He, “Referenda as a Solution to the National-Identity/Boundary Question. An Empirical Assessment of the Theoretical Literature” (2002) 27 *Alternatives* 67, p. 77.

autonomy and has an island assembly, a premier, and a deputy governor general. Under certain specified conditions, it may even secede from the federation.

In June 1996, the Nevis Island administration under the Concerned Citizens' Movement led by Premier Vance Amory – a former all-round international cricketer with a modest batting average of 23.2 – announced its intention to become independent. Secession required approval by two-thirds of the Assembly's five elected members and by two-thirds of voters in

a referendum, in accordance with Article 38.1(b) of the Constitution.

After the Nevis Reformation Party blocked the secession bill, Amory called elections for 24 February 1997. Although the elections produced no change in the composition of the Assembly, the Premier pledged to continue his efforts towards independence. A referendum was held in 1998, but only 61 percent voted in favour of the proposition, and hence the referendum failed.²⁵

Related to Punjab Referendum 2021

While special majority requirements are often introduced by those opposed to a particular policy, such requirements can be used to great effect in areas where there is support for independence. It is easy to reject or ignore the outcome of a narrow victory. However,

it is difficult to reject the verdict of a near-unanimous electorate. It would be very unusual – and rather pointless – to have a super majority in an advisory referendum, as the outcome has no direct legal effect.

2.3. Who Should Be Allowed to Vote?

Who is a member of the *demos*? Who is a voter? Are you still a part of the *demos* if you leave the country, or are you then merely a part of the *ethnos*? European case law suggests those living outside a jurisdiction have thereby forfeited their right to vote. However, precedents from areas with displaced populations support the opposite. Some European case law suggests that the diaspora is not entitled to vote. For example, in an *obiter dictum* in *Matthews v. United Kingdom*, the European Court of Human Rights found that “persons who are unable to take part in elections because they live outside the jurisdiction” have “weakened the link between themselves and the jurisdiction”, and can consequently not claim a right to vote.²⁶

This ruling was recently reinforced by *Schindler v. United Kingdom*, where the European Court of Human Rights held that “the margin of appreciation enjoyed by the state in this area still remains a wide one” and, as a consequence, citizen of members states to the *European Convention of Human Rights* do not have a right to vote in national elections and referendums. This might have justified the

exclusion of Montenegrins living in Serbia in the 2006 referendum. As the Court acknowledged, however, “there is a clear trend in favour of allowing voting by non-residents, with forty-four states granting the right to vote to citizens resident abroad”.²⁷ The same is true for non-resident citizens of Australia, Canada, Japan, New Zealand, and the United States, to name a few.

Moreover, these cases differ considerably from areas where civil war displaced large numbers of people, many of whom resettled in the diaspora. As a result, non-resident voters from Eritrea and from East Timor were allowed to vote in the 1993 and 1999 independence referendums. In both cases, the inclusion of expatriates was, arguably, justified on account of the displacement that took place due to violent conflict. The same was true – at least for those born before 1956 – in the case of South Sudan. A very strong case can be made for including those living abroad in referendums held in areas that have experienced conflict.

²⁵ Similarly to Saint Kitts and Nevis, tiny Tokelau also held two self-determination referendums with super-majority requirements, which both failed to reach the required threshold. Given the small size of these countries, however, their practice is unlikely to create a precedent or a binding norm of international law.

²⁶ *Matthews v. United Kingdom*, (1999) 28 ECHR 361, par. 64.

²⁷ *Schindler v. United Kingdom*, (2013) ECHR 423, par. 115.

Related to Punjab Referendum 2021

Punjab is not a monocultural state but a territory with significant minorities. According to the 2011 census of India, the state has a population of around 27.7 million. Of these, 16.0 million (or 58 percent) practice Sikhism, whereas a significant minority of 10.7 million (or 38 percent) practice Hinduism. Therefore, there is a clear case that all expatriate Punjabis should be able to vote – not just members of the Sikh diaspora, especially in this case where religious affiliations mirror ethnic and political preferences.

Those included in the diaspora should at least include first- and second-generation emigrants. One might also follow the precedent of South Sudan and enfranchise all descendants

of those born after 1956, when Sudan became independent from colonial powers. The rationale for this rule was that people displaced by war should be entitled to vote

To depart from this general rationale would be inconsistent with precedents from countries that have experienced violence. The diaspora was allowed to vote in East Timor, Eritrea and South Sudan. Although Punjab is not currently at war, it endured unspeakable repression and violence over the last few decades, and its population still suffer the consequences. It would be difficult not to follow this precedent if a vote were held in Indian-governed Punjab – and this is true for both constitutional and independence referendums.

2.4. Do Biased Questions Affect the Outcome?

There has been a considerable debate about the wording of the question on the ballot in referendums on independence. The Scottish Government's decision to include the word "agree" in the proposed question on the ballot in the 2014 referendum led to criticism that they were trying to influence the result by using positive language that could sway voters.

The argument was – credibly enough – that a biased and one-sided question could prompt the voters to vote yes to a question which they – had they understood it – would have rejected. This has always been a charge against referendums on divisive issues. But is it a real danger in referendums on independence? Will the voters be swayed by rhetorical questions? Or is the question on the ballot of minor importance, as the voters know the question from the debate?

It is difficult to answer this question with any degree of mathematical certainty, but we can, perhaps, draw some conclusions if we compare some of the recent examples of wordings in the referendums on independence held in peacetime in the past 20 years.

Referendum questions have come in many shapes and sizes, from the blatantly biased to the bland. In Northern Ireland, in 1998, the voters were asked to approve (or otherwise) the rather neutral question "Do you support the agreement reached in multi-party talks

on Northern Ireland and set out in Command Paper 3883?"²⁸ In the end, 71.2 percent did.

There are several examples of similar questions, which have not created a bias. For example, in 1999, in East Timor, the voters were asked the question: "Do you *accept* the proposed special autonomy for East Timor within the Unitary State of the Republic of Indonesia?". A majority of the voters – close to 75 percent rejected the proposal with the result that East Timor became independent. In this internationally monitored referendum that value laden word "accept" did not swing the voters.

A similar conclusion could be drawn from the referendum in Quebec in 1995. In this referendum the voters were asked a question that included the word "agree", namely, "Do you *agree* that Quebec should become sovereign after having made a formal offer to Canada for a new economic and political partnership within the scope of the bill respecting the future of Quebec and of the agreement signed on June 12, 1995?". While the result was very close, the proposal was defeated by 50.1 percent, and there was no indication that the wording of the question swayed the voters. The citizens had learned about the pros and cons of the proposed "sovereignty" during the campaign.

In both East Timor and Quebec, it seems that an attempt to hoodwink the voters

²⁸ The Command Paper 3883 was a coded reference to the official document containing the *Belfast Agreement* on power sharing.

to support a proposition by using positive language failed.

So, what questions have been asked? There is no standard format, but a quick look at recent examples may be illustrative. In 2006 the voters in Montenegro voted 55.5–44.5 for independence by supporting the proposition “Do you want the Republic of Montenegro to be an independent state with a full international and legal personality?” The question was drafted with the help of the European Union.

Like in Montenegro, an international committee drafted the question on the ballot on Eritrean independence from Ethiopia in 1993. Having been advised by the United Nations, the parties opted for the question “Do you want Eritrea to be independent?”

Another example of a simple question was provided by the UN-organised referendum in South Sudan in 2011. In this referendum the voters – many of whom were illiterate – were presented with two images and the text in both Arabic and English saying either “separation” or “unity”. During the negotiations between the Sudanese government in Khartoum and the pro-independence SPLM/A movement in South Sudan, the latter expressed reservations about the biased connotations of the words

Related to Punjab Referendum 2021

The international experience suggests that the question posed in a referendum does not affect the outcome. Yet, this is not how the matter is perceived. Many believe instinctively that the

“unity” and “separation”. However, on polling day, any possible bias did not sway the voters. Independence was supported by 99 percent in a fair referendum monitored by the United Nations.

These examples do not conclusively prove that referendum questions have no effect on the outcome, but it is noteworthy that the attempts to use positive language in both Quebec and East Timor – and to a lesser degree in South Sudan – failed to sway the voters in massive numbers. Needless to say, the results do not tell us anything about the motives of the individual voters. But we have no evidence from qualitative or quantitative research that suggests that the question mattered, if anything the result in East Timor and South Sudan show that those who attempted to use value laden words went down to conclusive defeats.

In a forthcoming second edition of Matt Qvortrup's *Referendums and Ethnic Conflict*, it is found that the wording of the question does not make a difference. Using a dummy variable for the presence of “emotive words”, like *agree* or *approve*, there is no indication that phrasing has an impact on ballot results. This was also the conclusion in the first edition of said book.²⁹

wording matters. Given this perception, it is advisable that those initiating the referendum should allow an unbiased international panel to draft the ballot question.

²⁹ Matt Qvortrup, *Referendums and Ethnic Conflict* (University of Pennsylvania Press, 2014) c. 7.

3. POLITICAL ISSUES PERTAINING TO REFERENDUMS

When the referendum is held, two additional questions need to be considered; when they are won and if they are conducive to a peaceful resolution of the issue. We will deal with both issues in turn. Needless to say, these issues

are only touched upon and a further analysis is required. For policy purposes, however, the present analysis presents a starting point based on the available evidence, which can inform policy makers.

3.1. When Are Referendums Won?

Given that most independence referendums were held in territories with less-than-impeccable democratic records, it is difficult to establish what determines the outcome of a referendum. But if we broaden the category to include referendums on autonomy and devolution there seems to be a tendency that voters are more inclined to support propositions if:

1. They are in favour of the proposition; and
2. The government proposing the change or the secession has been in power for a relatively short period of time.³⁰

In other words, it is easier to win a referendum on independence during the honeymoon period immediately after an election – something proved perhaps by the devolution referendums in Britain in 1997 and 1998.

Conversely the longer you have been in office the greater the risk of losing the referendum. Why is this? One possible and credible explanation was advanced by an American political scientist who observed, “to govern is to antagonize”.³¹ All governments break promises, fail to deliver and enact unpopular laws. A referendum can be a proxy for a vote on the record of the government. Hence, a no vote in a referendum is often a positive function of the

years in office, a fact perhaps most clearly shown in the Canadian referendum on an amendment to the Constitution in 1992, in which Prime Minister Brian Mulroney’s personal disapproval rating was one of the determining factors.

However, it should be noted that Milo Đukanović, the prime minister of Montenegro, had served as premier since 1991 when he succeeded in winning the independence referendum in 2006. The main factor behind winning an independence referendum is the voters’ support for the proposition, which was won by a 55–45 margin. Given these factors, it was perhaps not surprising that the Scots rejected independence in 2014 – though it should be stressed that the SNP achieved a considerable feat in almost closing the gap. At the risk of simplifying matters, the nationalist lost the referendum, but they won the campaign.

Those contemplating a referendum need to bear these difficulties of winning a referendum in mind. Losing a referendum is a setback that can all but eliminate aspirations of independence. A referendum is a risky strategy and should only be used when the initiator is certain to win.

³⁰ See Matt Qvortrup (ed.) *Referendums Around the World. The Continued Growth of Direct Democracy* (Palgrave, 2017) p. 34.

³¹ V.O. Key Jr., *The Responsible Electorate. Rationality in Presidential Voting. 1936–1960* (Vintage Books, 1968).

3.2. Do Referendums Lead to Conflict?

This leads us to the other issue, which is of particular importance in India. Given the history of conflict, the question is if a referendum is conducive to peaceful settlement of the political issue.

As was shown in the case of Bosnia, referendums on independence have sometimes resulted in civil war and conflict. Yet, at other times the political split has been amicable. Although many cite the example of the former Yugoslavia, independence referendums have rarely resulted in wars. To give one example, in Aleksandar Pavković and Peter Radan's much cited *Creating New States*, the authors use six case studies to uncover the logic of secession; three violent secessions or session-attempts (Biafra, Bangladesh and Chechnya) and three peaceful ones (Norway, Slovenia and Quebec).³² Interestingly, the former three all have one thing in common: no referendum was held. Conversely referendums were held in the latter peaceful examples.

Needless to say, this does not prove that referendums are conducive to peaceful political divorce settlements. To render this conclusion plausible a larger and more systematic study is required. If we use the cases of secession between 1900 and 2010, we find that 44 of the 60 secessions or secession attempts were preceded by referendums. Of those 44 referendums, war broke out in six cases. In other words, secession was achieved peacefully in 38 (86 percent) of these cases. Examples such as Bosnia and East Timor are exceptions to the rule, and in the case of the latter, conflict predated the referendum

All this is not to say that referendums are unrelated to conflict. The referendum is a blunt instrument and a narrow win can drive the losing side to desperate measures – as was the case in Bosnia in the 1990s and in Northern Ireland in the early 1970s.



³² Aleksandar Pavković and Peter Radan, *Creating New States. Theory and Practice of Secession* (Ashgate, 2007).

CONCLUSION

A referendum is not just a legal mechanism for approving or rejecting legislation. A referendum is also a symbolic tool that can be used to raise the public profile of an issue. While there are no previous examples of referendums held exclusively in a diaspora it is possible to extrapolate from earlier national referendums and, based on this, to draw up a roadmap for holding a referendum among Sikhs living outside India.

Unofficial referendums can be used to highlight an issue, as the cases of the Baltic countries demonstrated in the early 1990s. Not all referendums achieve this. The Baltic votes were successful because they were accompanied with highly publicised events. Conversely, the independence referendums in Somaliland and Tatarstan did not, and attracted virtually no media attention.

Even referendums that do not capture international headlines can have the effect of strengthening morale. This was the case in the unofficial referendum among the East Cree in Quebec in 1995. Despite the result having no legal effect, the vote created a sense of unity of purpose among this particular demographic. A similar effect could be expected among the Sikhs in the diaspora, not least if this vote is billed as “historical”, “path-breaking”, and a novelty.

Having addressed several practical, political and legal issues, the main conclusions are as follows:

- International practice and precedents in comparable countries dictate that those living in the diaspora should be given a vote. To depart from this would be inconsistent with precedents from countries that have experienced violence. The diaspora was allowed to vote in East Timor, Eritrea and South Sudan. It would be difficult not to follow these precedents if a vote were held in India and in Punjab.
- An impartial committee or a committee representing both sides of the argument should decide the wording of the question. However, this might be difficult as the opponents are unlikely to be co-opted into such a committee.

- Independence referendums are generally inconsistent with constitutional and international law except when a government “persistently refuses to grant participatory rights to a religious or racial group, grossly and systematically trample upon their fundamental rights”. If the latter is the case, there is a legal case for an independence referendum in Punjab.
- Most referendums have been held in countries with relatively weak democratic institutions. The huge “yes” majorities often recorded could suggest that the votes are not always free and fair. But in the few independence referendums that have been held in democratic countries, it seems that governments have tended to win the plebiscites if they have taken office recently and only if there is broad popular support for independence before the campaign.
- Referendums have on occasion resulted in the exacerbation of ethnic conflict, such as in Bosnia and Herzegovina and in East Timor. However, referendums are not in most cases correlated with civil war. War resulted in only 14 percent of cases and hence, referendums can often be seen as a peaceful solution to a politically divisive issue.

In summation, given the historical reasons put forward to organize an independence referendum in the Indian-governed region of Punjab, in conjunction with the political realities within India blocking the holding of such a vote, Punjab Referendum 2021 is on strong legal and historical footing to be considered a legitimate (though non-government-sanctioned) referendum.

Following the vote, however, post the election, it is incumbent on the Indian government to respect the outcome of the referendum and act accordingly. Conversely, it is just as important that the proponents of Punjab Referendum 2021 accept the outcome of the referendum as well.

APPENDIX I

THE HISTORY OF INDEPENDENCE REFERENDUMS

The first referendums on independence were held in the Confederate States in America in the early 1860s. At this stage the referendum was already a deep-seated part of political life. The first referendum in America was held in 1788 in Massachusetts, when voters were consulted on whether they wanted to give up their independence and join the newly minted United States. By the mid-1850s it had become commonplace to consult the citizens in major issues of constitutional importance. It was natural, therefore, that Texas, Virginia, and Tennessee submitted the decision to secede from the Union to the voters in 1860. What is perhaps interesting is that the support for secession was not unanimous. In Tennessee, for example, 104,019 voted for secession while 47,238 voted against, and in Texas the figures were 34,794 for and 11,235 against. We do not have figures for Virginia. These were not endorsements of epic proportions. The less-than-unanimous support perhaps suggested the Dixie voters did not endorse the nuclear option favoured by the confederate elites.

After the American Civil War referendums on independence were almost forgotten. To be sure, there were debates about plebiscites to resolve the border dispute between Denmark and Germany, but these came to naught. It took a full 45 years before the next referendum on independence was held, in this case, a vote on whether Norway should secede from Sweden, supported by more than 99 percent in 1905. In the Norwegian case the referendum was the brainchild of Norwegian Prime Minister Christian Michelsen, who wrong-footed the Swedish unionist elite by calling a surprise referendum after the Swedish king had refused

to appoint a government that had a majority in the *Stortinget*, the Norwegian legislature.

But although the principle of self-determination of the people was much espoused in the wake of the First World War – especially by US president Woodrow Wilson who had campaigned for the use of more referendums in America while he was governor of New Jersey – no referendums were held on independence for the newly established countries (e.g. Czechoslovakia or Yugoslavia) or the secession of states from established ones (e.g. Hungary and Finland). To be sure, there were several referendums on the drawing of borders in Europe, e.g. in Schleswig and in Tyrol in 1920. But referendums on outright independence were not held, and the leading scholars of international law were generally sceptical of them. L.F.L. Oppenheim, arguably the most prominent international legal mind at the time, concluded that “it is doubtful whether the law of nations will ever make it a condition of every cession that it must be ratified by a plebiscite”.³³

In the period between the two world wars, only two referendums were held. One in 1933, on whether Western Australia should secede from Australia, another in 1935, on whether the Philippines should become independent from the United States. In the former, a majority voted for independence, but as the National Party, which campaigned for independence, lost the election held on the same day, nothing came of it.³⁴ In the latter case, a successful referendum was held on a new independence Constitution after the Philippine Congress had rejected the US Congress' *Hare-Hawes-Cutting Act*, which granted independence for the erstwhile overseas dependency.

³³ L.F.L. Oppenheim, cited in Johannes Mattern, *The Employment of the Plebiscite in the Determination of Sovereignty* (Johns Hopkins University Press, 1921) p. 195.

³⁴ Thomas Musgrave, “Western Australian Secessionist Movement” (2003) 3 *Macquarie Law Journal* 95.

Of the 57 referendums on independence since 1860, 51 have been held after 1944. But the vast majority of these – 39 in total – were held after 1990. There were only 13 independence referendums in the four decades after the Second World War. One would perhaps have suspected that these referendums would have pertained to decolonisation; that the independence movements would have sought popular approval of their newly gained or espoused freedom. This was not the case. The elites who fought for and won independence were not, in most cases, willing to risk the political victories gained in negotiations or wars by submitting declarations of independence to an unpredictable electorate. Indeed, the only colonies to submit the declarations of independence to referendum were Cambodia, Western Samoa and Guinea. In the first two cases, the votes were held at the instigation of the parent states, which wanted to show that there was popular support for abandoning the territories.

The Guinean referendum was somewhat different. Held on the same day as eleven other referendums in other French colonies, on whether to take part in the newly established *Communauté française*, established by Charles de Gaulle, the Guineans, led by independence leader Ahmed Sékou Touré, defied Paris and voted to become independent. Here, 95 percent voted in support of independence. France retaliated by withdrawing all aid. However, within two years Mali, Niger, Upper Volta (now Burkina Faso), Côte d'Ivoire, Chad, the Central African Republic, The Republic of Congo and Gabon became independent states. All territories that had returned huge majorities for maintaining links with France in the referendum in 1958 but *none* of the new states submitted the decision to become independent to the voters. It was almost as if referendums on independence were anathema to the independence movements.

Generally, the reasons for holding referendums in the aftermath of the Second World War were varied. In the case of Mongolia, the vote was held for geopolitical reasons at

the instigation of Stalin; the vote in Algeria was held after a lengthy war of independence and negotiations. Overall it would be difficult to find a general pattern of when referendums were held after the Second World War.

In the 1970s there was only one referendum on independence: the decision of the Trust Territory of the Pacific Islands to become independent from the USA under the name of the Federated States of Micronesia in 1975. In the 1980s there was a similar paucity of plebiscites. The only one in the latter decade being the 1980 vote in the Francophone Canadian province of Quebec, in which 59 percent, on a 85 percent turnout, rejected the secessionist *Parti Québécois'* proposal for "sovereignty-association" – a veiled description of independence.

It was only after the fall of Communism in 1989 and after the collapse of the Soviet Union in 1991 that the floodgates of independence referendums opened. Again, the reasons seem to have been varied. But, in many cases, referendums were held because the international community – especially the major European powers – insisted upon referendums in order to recognise the new states. Especially, the Badinter Commission – set up by the European Communities, soon to become the EU – stressed that referendums were a *conditio sine qua non* for recognizing new states. There is historical and anecdotal evidence to suggest that it was this requirement that prompted a large number of successor states to hold referendums especially in the former Yugoslavia.³⁵ But the referendum was also in many cases a kind of symbolic national manifestation of a newly found freedom. By voting, often almost unanimously, in an independence referendum, the new state made the plebiscite a symbolic representation of the nation itself: a mirror image of the *demos* and the *ethnos* merged into one indivisible unity. Ernest Renan's often-cited remark that a "nation is a daily plebiscite" is perhaps an accurate description of these referendums.

³⁵ Peter Radan, "Post-Secession International Borders. A Critical Analysis of the Opinions of the Badinter Arbitration Commission" (2000) 24 *Melbourne University Law Review* 50.

But as one of the authors has argued at length elsewhere, the referendums were also held for more prosaic reasons, namely when a new elite was under threat from external and internal powers and wanted to prove that it had popular support and the requisite legitimacy to govern.³⁶ Not all of the states, of course, were recognised, and not all of the referendums were conducted in accordance with the internally recognised standards of free and fair voting. In addition to referendums in former Soviet and Yugoslav entities, a proliferation of plebiscites was held in sub-national territories such as, for example, Abkhazia in Georgia and Krajina in Bosnia, where minorities sought to win approval for independence from recently declared

independent states. None of these sub-national referendums succeeded.

While most referendums were held in former Communist countries, a few polls were held in western democracies. In 1995 the voters in Quebec again rejected independence, this time by a whisker, and so did voters in Puerto Rico in a multi-option referendum in 1993. And in 1998, the voters in Nevis failed to meet the required threshold of 66 percent necessary to secede from the Federation of Saint Kitts and Nevis. Perhaps interestingly, the only unsuccessful referendums on independence have been held in countries with established democratic traditions.



³⁶ Qvortrup, *Referendums and Ethnic Conflict* (n. 33).

APPENDIX II

INDEPENDENCE REFERENDUMS 1991-2020

Central State	Seceding Entity	Year	Turnout	Support for secession
USSR	Lithuania	1991	84.7 %	93.2 %
USSR	Estonia	1991	83.0 %	78.4 %
USSR	Latvia	1991	87.6 %	74.9 %
USSR	Georgia	1991	90.6 %	99.5 %
USSR	Ukraine	1991	84.2 %	90.3 %
USSR	Armenia	1991	95.1 %	99.5 %
USSR	Turkmenistan	1991	97.4 %	94.1 %
USSR	Artsakh	1991	82.2 %	99.9 %
USSR	Uzbekistan	1991	94.1 %	98.3 %
Moldova	Transnistria	1991	78.0 %	98.0 %
Yugoslavia	Macedonia	1991	75.7 %	96.4 %
Yugoslavia	Croatia	1991	83.6 %	93.2 %
Croatia	Serbs (Krajina)	1991	73.0 %	99.8 %
Yugoslavia (Bosnia and Herzegovina)	Serbs	1991	85.0 %	98.0 %
Yugoslavia (Serbia)	Kosovo	1991	87.0 %	99.9 %
Yugoslavia	Bosnia and Herzegovina	1992	63.7 %	99.7 %
Yugoslavia	Montenegro	1992	66.0 %	3.2 %
Georgia	South Ossetia	1992	96.9 %	99.9 %
Bosnia and Herzegovina	Republika Srpska	1993	91.8 %	96.9 %
Netherlands	Curaçao	1993	56.8 %	0.5 %
USA	Puerto Rico	1993	73.5 %	4.5 %
USA	Palau	1993	64.4 %	68.4 %

Central State	Seceding Entity	Year	Turnout	Support for secession
Ethiopia	Eritrea	1993	98.5 %	99.8 %
UK	Bermuda	1995	58.8 %	25.9 %
Canada	East Cree	1995	77.0 %	3.9 %
Canada	Quebec	1995	93.5 %	49.4 %
Comoros	Anjouan	1997	94.8 %	99.7 %
Saint Kitts and Nevis	Nevis	1998	58.0 %	61.8 %
USA	Puerto Rico	1998	71.3 %	2.6 %
Indonesia	East Timor	1999	98.6 %	78.5 %
Somalia	Somaliland	2001	99.9 %	97.1 %
Netherlands	Curaçao	2005	55.0 %	4.8 %
Serbia and Montenegro	Montenegro	2006	86.5 %	55.5 %
New Zealand	Tokelau	2006	94.7 %	60.1 %
New Zealand	Tokelau	2007	87.7 %	64.5 %
Sudan	South Sudan	2011	97.6 %	98.8 %
USA	Puerto Rico	2012	78.2 %	5.5 %
UK	Scotland	2014	84.6 %	44.7 %
Iraq	Iraqi Kurdistan	2017	72.2 %	92.7 %
USA	Puerto Rico	2017	22.9 %	1.5 %
Spain	Catalonia	2017	43.0 %	92.0 %
France	New Caledonia	2018	81.0 %	43.3 %
Papua New Guinea	Bougainville	2019	87.6 %	98.3 %
France	New Caledonia	2020	85.7 %	46.7 %







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