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Referendums as a means of construction of a European identity: the case of Ireland.

Nora Trench Bowles

Abstract

The hypothesis upon which this paper is based is that referendums can be a means of construction of a European identity. A working understanding of European identity, as based on a European *demos*, will firstly be defended. A four-fold argument suggesting the means through which referendums can offer these means will be centred on the enhancing of European citizenship and narrowing of the democratic deficit, the initiating or development of a Europeanised public sphere, and the sparking of a learning process. The importance and difficulty in the final of those, sparking a learning process, will be highlighted when the hypothesis is partial applied to the case of Ireland.

The case of Ireland was chosen as Ireland has had more national referendums on European integration than any other European Union member-state and is, in fact, unique in that it is legally required to do so. This is due to a Supreme Court ruling (*Crotty v. An Taoiseach*) that applies to decisions that will result in any significant transfer of powers from the national to the EU level. This was most recently applied in the referendum that took place in Ireland on the ratification of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union in May of this year.

Keywords: Referendum, European identity, Ireland, democracy, EU citizenship

Introduction

An addition to the ever-growing attempts to identify and comprehend ‘European identity’, this paper will look at European Union (EU) referendums as a means of its construction. In this case, “EU referendums” refers to national referendums held on EU issues, such as proposed EU treaty changes, whereby a proposal is advanced by the national government and is either accepted or rejected by the national electorate. The case of Ireland will be considered as it is unique within the EU in that it is the only member-state where it is legally required to hold a referendum on the proposed national ratification of EU treaties. As a result, the Irish people have had the opportunity to vote directly on the European integration process more times than the people of any other EU member-state.

This subject is particularly topical and of particular interest in light of the referendum held in Ireland on the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union earlier this year, in May 2012, and the persistent and growing calls in Britain for a referendum to be held on Britain’s relationship with the EU.

Following this introduction, the second chapter will offer a working understanding of European identity, based on a European *demos*, as opposed to a European *ethnos*. It will then ask, to what extent is there already a European *demos* and what steps have been taken to encourage its emergence? *Demos* as support for EU membership will also be briefly discussed. The third chapter is guided by the research question: how can EU referendums be a means of construction of a European identity? What will be suggested is that this can be the case through enhancing EU citizenship and narrowing the democratic deficit, in initiating or developing a Europeanised public sphere, and in sparking a learning process. Holding, therefore, the hypothesis that EU referendums *can* be a means of construction of a European identity, chapter four will partially apply this to the case of Ireland. After contextualising the Irish situation, recent examples of EU referendums held there will be deliberated upon, with special focus on the apparent communication and knowledge problem in the Irish referendum process. Accordingly, and finally, the Referendum Commission in Ireland will then be shortly examined.

I. Defining European identity

In asking how EU referendums can serve as a means of construction of a European identity, it is necessary to put forward a working understanding of ‘European identity’. For the purposes of this paper, in the context of such limited scope, European identity will be centred on the grounds of *demos*.

I.a. Ethnos or demos?

We can say that collective identities, such “imagined communities” as Anderson so famously described in the national sense¹, are based on the existence of a common *demus* or *ethnos*. *Ethnos* refers to a group belonging based on a common ethnicity, with stressed common origins, heritage, history and myths. In the case of a collective European identity, such existence of an *ethnos* will be disregarded. Historically there are few, if any, unique and fully common characteristics that spread across the continent; religious, linguistic, or otherwise. Indeed, the geographical limits within which to consider these characteristics are themselves ambiguous. Furthermore, attempts within the EU to construct a common past, likened by Timothy Garton Ash to the process of 19th century nation-building, becomes even more difficult as enlargement continues and the collection of different national memories that must be incorporated further increases and diversifies².

In contrast, a *demus* originates from the meaning of a populace of an ancient Greek state and refers to a politically defined common people. In the sense of a collective identity, a *demus* denotes an awareness of belonging together in order to allow for a common allegiance to a political culture, acceptance of governance from shared institutions and a sense of attachment to the rights and responsibilities that come with that. A *demus* facilitates democratic governance and legitimises democratic institutions.

I.b. To what extent does a European *demus* exist?

The seminal ‘*no-demus*’ thesis, put forward most notably by Dieter Grimm³ and the Maastricht judgement of Germany’s Federal Constitutional Court⁴, holds that European public power is mediated through states rather than derived from the people and therefore there is no true European *demus*, which means there can be no true European democracy. Grimm also points to the lack of a Europeanised communications system, in his judgement due principally to Europe’s language diversity⁵, and consequently to the lack of a European public or political discourse⁶. What constitutes the lack of a European *demus*, Grimm argues, is a “weakly developed collective identity and low capacity for transnational discourse”⁷. Later noted writers, such as Jürgen Habermas, have criticised this ‘*no-demus*’ thesis for confusing a community of fate with the “voluntaristic nature of a civic nation”⁸. Habermas argues that civic solidarity need not stop at the borders of the classical nation-state, and that the artificial conditions necessary for its European transnational extension are the emergence of a European civil society, the construction of a European-wide public sphere, and the shaping of a shared political culture⁹.

Initiatives have been taken at the EU level to foster the emergence or development a European *demus*. Since 1979, direct elections have been held to elect representatives across

¹ Benedict Anderson, *Imagined communities: reflections on the origin and spread of nationalism*, 2nd ed. (London: Verso, 2006).

² Timothy Garton Ash, “Europe’s true stories,” *Prospect Magazine* issue 131 (2007), http://www.fh-brandenburg.de/~brasche/EU/k7/Ash_Europes_true_stories.pdf (accessed 11 May 2012).

³ Dieter Grimm, “Does Europe need a Constitution?,” *European Law Journal* vol. 1, no. 3 (1995): 282-302.

⁴ *Brunner v. The European Union Treaty* [1994] 1 Common Market Law Reports 57.

⁵ Grimm, “Does Europe need a Constitution?”: 295 -296.

⁶ *Ibid.*, 296.

⁷ *Ibid.*, 297.

⁸ Jürgen Habermas, “Why Europe needs a Constitution,” *New Left Review* 11 (2001).

⁹ *Ibid.*

the EU member-states to the European Parliament, the first international elections in the world. This was coupled with strengthening the institution's competences, which has continued with each successive treaty change. Moreover, a resource for **transnational participatory democracy is now available with the Citizens' Initiative, introduced earlier this year**. The creation of symbols to represent Europe, such as the flag, anthem and harmonized passports, was done in the hope of enhancing European consciousness and as rallying points for all European citizens¹⁰. Citizenship of the EU, established in 1993 with the Maastricht Treaty and later extended in 1999 with the Amsterdam Treaty, constituted another symbol to represent the *demos* of Europe. Supplementary to national citizenship, citizenship of the EU not only affords rights regarding freedom of movement, but also certain political rights including the right to vote in elections to the European Parliament and in municipal elections in any member-state where one is resident¹¹. This formal framework, facilitating a "legally mediated solidarity between strangers"¹², and is being celebrated by the forthcoming 2013 European Year of Citizens, as initiated by the European Commission and **with a budget of €1,750,000**¹³.

I.c. Demos as support for EU membership

The collective identity of a European *demos* could additionally be said to be based on support for the EU. As Reuchamps states, "at the core of a European identity lies the support for European integration" (measured by support for their country's membership of the EU), referencing 2001 studies by Thomas Risse and Sean Carey that reach conclusions linking the two¹⁴. While support and identity cannot be said to be mutually necessary, they can be considered to be complementary.

II. Referendums as a means of construction of a European identity

Having established an understanding of European identity, this chapter will discuss EU referendums as a means of its construction. This will be characterised in four ways: in enhancing EU citizenship and narrowing the democratic deficit, in initiating or developing a European public sphere, and in sparking a learning process. All four can occur regardless of the outcome of the referendum, i.e. whether the proposal is accepted or rejected. Rather it is the process of the campaign and referendum that allows for them.

¹⁰ Cris Shore, *Building Europe: The Cultural Politics of European Integration* (London: Routledge, 2000), 47-50.

¹¹ Treaty on the Functioning of the European Union (Brussels, 2010), Article 20: 2(b).

¹² Habermas, "Why Europe needs a Constitution."

¹³ European Commission website, "Citizenship, European Year of Citizens 2013," http://ec.europa.eu/citizenship/european-year-of-citizens-2013/index_en.htm (accessed 12 May 2012).

¹⁴ Min Reuchamps, "Cahier n°6 - Referendum as a Tool for Building European Identity. The Case of Belgium, Luxembourg, and The Netherlands," *Cahiers de Sciences politiques de l'ULg* (2011), <http://popups.ulg.ac.be/csp/document.php?id=91> (accessed 6 May 2012).

II.a. Enhancing citizenship of the EU and narrowing the democratic deficit

EU referendums can be considered to enhance citizenship of the EU by building on citizens' voting rights. Not only do citizens get more frequent and varied opportunities to vote, but those votes are fundamentally more direct and important. EU referendums allow voters to explicitly express their support or opposition to a stage of European integration. Moreover, voting to ratify amendments of EU treaties concerns transfer of sovereignty and setting the framework of the EU's power, therefore arguably carrying more weight than electing representatives. In this way, EU referendums could also serve to reduce the democratic weakness of the EU in providing a vital element of democratic legitimacy, particularly when confirming a major treaty change or a country's initial accession to the EU¹⁵. By narrowing the gap between the political elites and the citizens, and moving away from the model of permissive consensus of the European project, the stage is being set for governance with the people¹⁶.

Such a fuller democratic model is particularly significant considering the limitations of democratic representation now granted to EU citizens. European Parliament elections are considered to be of a second-order nature, as first suggested and explained by Karlheinz Reif and Hermann Schmitt in 1980¹⁷, in that they are considered to be less important than first-order elections, i.e. national elections. Consequently turnout is lower, voters are more prone to vote for parties in the periphery of the political system, they are often used by voters to send a message to the current national governing parties, and seats are still fought for on national issues. The EU also derives its democratic legitimacy from the elected national Ministers on the Councils of the EU. Like the Members of European Parliament (MEPs), however, these Ministers tend to be elected above all on national issues rather than in the context of their European role¹⁸.

II.b. Initiating or developing a European public sphere

EU referendums can contribute to the emergence of a European public sphere as a basis for a European *demos*, both in the sense of a transnational European public sphere and in Europeanising the national public sphere. A public sphere, as defined by Habermas, is a realm in which the public organised itself as the bearer of public opinion¹⁹.

The development of a transnational European public sphere has been largely unsuccessful. Organisation of public opinion continues to be done within national borders;

¹⁵ Dr. Gavin Barrett, *A Road Less Travelled: Reflections on the Supreme Court Rulings in Crotty, Coughlan and McKenna* (No. 2) (Dublin: The Institute of International and European Affairs, 2011), 11.

¹⁶ Reuchamps, "Referendum as a Tool for Building European Identity."

¹⁷ Karlheinz Reif and Hermann Schmitt, "Nine second-order national elections – A conceptual framework for the analysis of European election results," *European Journal of Political Research* 8 (1980): 3-44.

¹⁸ Reuchamps, "Referendum as a Tool for Building European Identity."

¹⁹ Jürgen Habermas, Sara Lennox and Frank Lennox, "The Public Sphere: An Encyclopedia Article (1964)," *New German Critique*, no. 3 (1974): 49-50.

it would be difficult to argue that there is a real sense of European public opinion. EU initiatives to foster its emergence, such as with Plan D for Democracy, Dialogue and Debate and Euronet, an EU-sponsored, multi-lingual radio station with a pan-European agenda, have failed to take-off. Additional cases of European-wide media sources are few, as citizens continue to get their EU information from national media sources with national interests²⁰.

EU referendums can highlight questions and issues that are of direct interest and importance to all citizens of the EU. Their outcomes can have enormous and lasting consequences across all member-states, including those whose citizens didn't vote. In rejecting an EU referendum, the people of one member-state can bring a halt to the European integration process. In the case of the Dutch and French rejection of the European Constitution in 2005, an EU-wide Constitutional Crisis was provoked²¹. Reuchamps points to the Dutch rejection of the European Constitution as an occasion when a growing European public sphere was made visible with the reactions of the authorities in Brussels to the result being broadcast around Europe and international journalists going to the Netherlands to report on the events²². Reuchamps also notes the effect of the French and Dutch Constitutional Treaty referendum campaign in Belgium, particularly in its media, even though no referendum was to be conducted there²³. In the context of Irish EU referendums, a sense of a transnational European public sphere has developed in that UK national actors, such as organisations and newspapers, were identified as being of key influence in the 'no' campaign of the 2009 second referendum on the Lisbon Treaty²⁴.

EU referendums can undoubtedly contribute to Europeanising the national public sphere, in offering a pronounced opportunity for EU issues to be brought into daily life by opening a space for such debate. Moreover, they offer an opportunity for these EU issues to be discussed more directly, in contrast with the occasions of electing MEPs and national leaders, whose campaigns tend to largely focus on national issues and personalities.

II.c. Sparking a learning process

The heightened awareness of EU issues and the increase in discussions about them that accompanies an EU referendum can have an educating influence, and therefore can be a means of fostering understanding of the EU. The information presented by the media and political elites can increase the level of knowledge of the public in sparking a learning process²⁵. This can be the case not only in the country where the referendum is taking place, but also in others where there is no referendum. Reuchamps, again, uses the example of Belgium in the context of the Dutch and French referendums on the Constitutional Treaty whereby the Belgian media reported daily on the campaign, discussing the content

²⁰ European Commission, *Standard Eurobarometer 76/Autumn 2011, Media Use in the European Union, Report*, http://ec.europa.eu/public_opinion/archives/eb/eb76/eb76_media_en.pdf (accessed 14 May 2012), 27.

²¹ Edward Best, "The European Union's Constitutional Crisis – Causes and Consequences," *Intereconomics* vol. 40, no. 4 (2005): 180-200.

²² Reuchamps, "Referendum as a Tool for Building European Identity."

²³ *Ibid.*

²⁴ Tony Brown, *"Saying No". An Analysis of the Irish Opposition to the Lisbon Treaty* (Dublin: The Institute of International and European Affairs, 2010), 7.

²⁵ Reuchamps, "Referendum as a Tool for Building European Identity."

of the treaty and the arguments for and against it, and afterwards explaining the results and their consequence for the EU²⁶.

Such a learning process is particularly important in the construction of a European identity because it could make the European project and the issues attached to it resonate more with citizens, thus facilitating their identification with it²⁷. Moreover, there is a long-established reported link between knowledge of the EU and positive feelings towards it²⁸. In other words, the more you know about the EU the more likely you are to support it. This is supported by Simon Hix's analysis of European public opinion where he contends that in countries with more vigorous public debate on EU issues, usually in the form of EU referendums such as in Ireland, the people are more informed about the EU and therefore support for the EU declines much less than in other countries²⁹.

III. In the case of Ireland

An offshore island on the western periphery of Europe, Ireland is a small member-state of the EU with a population of less than five million. For centuries it was removed from the main strands of the European experience due to its remote geographical location, subservience under British rule and, following its independence in 1921, the intolerant and dominant role of the Catholic Church and its neutrality that removed it from World War II and the postwar reconstruction. Ireland's applications for membership of the EU in 1961 and 1967 were unequivocally tied with those of the UK due to its crippling dependence on trade with the UK market, and doubts were expressed by European leaders about Ireland's economic capacity³⁰. Geographically, it is the last stop before the Atlantic Ocean and has been described as having "one foot in Europe, the other in America"³¹, due to its close relationship with the USA largely bound by the long and continued history of emigration there. In 2000, the then Tánaiste (Deputy Prime Minister) and Minister for Enterprise, Trade and Employment, Mary Harney, notoriously remarked in a speech that "spiritually we are probably closer to Boston than Berlin"³².

Ireland has benefited substantially from EU membership, particularly as the recipient of over €17 billion in Structural and Cohesion funds during the first three decades

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ronald Inglehart, "Cognitive Mobilization and European Identity," *Comparative Politics* vol. 3, no. 1 (1970): 45-70. Later, Joseph I. H. Janssen, "Postmaterialism, Cognitive Mobilization and Public Support for European Integration," *British Journal of Political Science* vol. 21, no. 4 (1991): 443-468.

²⁹ Simon Hix, *The Political System of the European Union*, 2nd ed. (Hampshire and New York: Palgrave Macmillan, 2005), 156.

³⁰ European Commission Representation in Ireland website, "Ireland in the EU, Joining the European Community," http://ec.europa.eu/ireland/ireland_in_the_eu/index1_en.htm (accessed 7 May 2012).

³¹ Fintan O'Toole, "The Clod and the Continent: Irish Identity in the European Union" (essay commissioned by the Irish Congress of Trade Unions as one in a series that deals with the future of the European Union and Ireland's relationship with it, Dublin, 2002), <http://www.ictu.ie/download/pdf/essay1.pdf> (accessed 12 March 2012), 3.

³² Irish Department of Jobs, Enterprise and Innovation website, *Remarks by Tánaiste, Mary Harney at a Meeting of the American Bar Association in the Law Society of Ireland, Blackhall Place, Dublin on Friday 21st July 2000*, <http://www.djei.ie/press/2000/210700.htm> (accessed 8 May 2012).

of membership and nearly €44 billion from the Common Agricultural Policy as of 2008³³. Related or not, Irish attitudes have been among the most supportive of any of the EU member-states towards European integration, and positive attitudes towards Ireland's membership of the EU continue to outstrip the European average³⁴.

III.a. Referendums in Ireland

In Ireland, a Constitutional referendum (hereafter referred to as referendum) is held on a proposal to amend the Constitution of Ireland (*Bunreacht na hÉireann*) of 1937³⁵. Thirty-three such referendums have, to date, taken place. Every registered elector is entitled to vote, and no turnout requirements are upheld. A voter indicates 'yes' or 'no', in support of or in opposition to the proposal, and thus a simple majority decides whether to remove and/or insert the words in the Constitution or not³⁶.

As was acknowledged in the introduction, Ireland is unique in the EU in that it is the only member-state where it is a legally requirement to hold a referendum on the ratification of EU treaties. In other member-states such ratification can be done by parliamentary majority alone. The circumstances in which it is required to hold such a referendum were established by the Supreme Court in the case of *Crotty v. An Taoiseach* in 1987. The case was brought by Raymond Crotty, an Irish historian and economist, against the government in the context of attempts to ratify the Single European Act by parliamentary vote alone. The Supreme Court held that the 1972 amendment to the Constitution which enabled Ireland to join the European Communities authorised Ireland to join them as they stood in 1973 and to join in amendments of the treaties "so long as such amendments do not alter the essential scope or objectives of the Communities"³⁷. This all but ensured that any future major European treaties would be put to a referendum, as any decision which would result in a substantial transfer of powers to the EU would entail an amendment to the Constitution³⁸.

Accordingly, Ireland has had more EU referendums than any other EU member-state. To date, there have been nine referendums put to the Irish people on EU integration: the 1972 referendum on the accession of Ireland to the European Communities; in 1987 on the Single European Act; in 1992 on the Maastricht Treaty; in 1998 referendum on the Amsterdam Treaty; the two referendums on the Nice Treaty, the first in 2001 and the second in 2002 (hereafter referred to as Nice I and Nice II); the two referendums on the Lisbon Treaty, the first in 2008 and the second in 2009 (hereafter referred to as Lisbon I and Lisbon II); and in 2012 on the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (hereafter referred to as the Fiscal Treaty). The next highest number of EU referendums in another member-state is the six that have been put

³³ European Commission Representation in Ireland website, "Ireland in the EU, Joining the European Community."

³⁴ European Commission, *Standard Eurobarometer 75/ Spring 2011, Public Opinion in the European Union, Report*, http://ec.europa.eu/public_opinion/archives/eb/eb75/eb75_publ_en.pdf (accessed 8 April 2012), 34.

³⁵ Constitution of Ireland (Dublin, 1937).

³⁶ Irish Department of Environment, Community and Local Government, *The Referendum in Ireland* (Dublin, 2012), http://www.referendum.ie/downloads/The_Referendum_in_Ireland_English_2012.pdf (accessed 8 May 2012).

³⁷ *Crotty v. An Taoiseach* [1987] IR 713.

³⁸ Barrett, *A Road Less Travelled*, 4.

to a vote in Denmark. Overall, only 19 of the current 27 EU member-states have had any EU referendums at all, and 12 of them have had only one: on their country's membership of the EU (or its form at the time). In the last decade or so, Ireland was alone in voting on the Nice Treaty, the Lisbon Treaty, and the Fiscal Treaty. In some cases, this fuelled popular discourse in the 'no' campaigns that the Irish people were voting on behalf of the other 500 million Europeans who were being denied a vote³⁹.

Seven of the aforementioned nine EU referendums put to the Irish people were approved. The percentage of the 'yes' vote has been generally convincing but declining over time, ranging from a high of 83.1% in the 1972 referendum on the accession of Ireland to the European Communities to a low of 60.3% in the referendum on the Fiscal Treaty earlier in 2012. In the EU referendums where the proposals were rejected by the Irish people, Nice I and Lisbon I, the 'no' vote won marginally with 53.9% and 53.4% respectively. Across all EU referendums turnout ranged from a high of 70.9% in the 1972 referendum on Ireland's accession to a marked low of 34.8% in Nice I⁴⁰.

III.b. In the examples of Nice and Lisbon

The prevailing hypothesis in the last chapter was that EU referendums do offer an opportunity as a means of construction of a European identity. As suggested before, this is regardless of the result of the referendum. Rather, it is the vote process itself that facilitates enhanced citizenship and narrowing the democratic deficit. Furthermore, it is the campaign and debate surrounding the referendum, whether in support or in opposition, that initiates or develops the public sphere and can spark a learning process. The opportunity that EU referendums offer to inform and educate the electorate, and thereby foster the emergence of a European identity, however, is not always well taken. The two Nice referendums and the two Lisbon referendums can be taken as examples of this. They serve as interesting examples not only because both first referendums are exceptional cases of defeat, but also because both of the first outcomes were reversed in follow-on referendums within a year or so. The follow-on referendums concerned the same treaties as the first, except for a few notable guarantees. Accounting for the results from these double referendums serves to highlight major problems with the Irish EU referendum process.

The key factor in the result of the Nice I referendum was the very high level of abstention. Turnout, at a level of 34.8%, was the lowest of all Irish EU referendums to date by a margin of nearly 10%, and was among the lowest of any Irish referendum, EU or otherwise⁴¹. More specifically, the rejection of Nice I can be principally explained by the abstention of those who had voted 'yes' in the Amsterdam Treaty referendum three years

³⁹ The National Platform EU Research and Information Centre website, "Explanatory document on Lisbon," posted 9 July 2009, <http://nationalplatform.org/2009/07/09/%E2%98%98explanatory-document-on-lisbon/> (accessed 15 May 2012).

⁴⁰ Irish Department of Environment, Community and Local Government, *Referendum Results 1937-2011* (Dublin, 2012), <http://www.environ.ie/en/LocalGovernment/Voting/Referenda/PublicationsDocuments/FileDownload,1894,en.pdf> (accessed 6 May 2012).

⁴¹ Irish Department of Environment, Community and Local Government, *The Referendum in Ireland*.

previously⁴²; 61.7% of those who had voted in the Amsterdam Treaty referendum had voted 'yes', as opposed to 46.1% in Nice I. The major reason attributed to the extraordinarily high level of abstention was the electorate's sense of not understanding the issues involved and the failure of the campaign process to contribute to mobilising participation and enabling electors to clarify their minds on the issues⁴³.

There was a marked improvement in communication in the Nice II referendum campaign process, and there was a substantial increase in the electorate's sense that they could understand the issues involved⁴⁴. Consequently, the main determinants of the increase in participation from Nice I to Nice II were concluded to be improved communication and higher knowledge of the EU. While the 'yes' vote constituted 62.9% of the votes cast for Nice II, it is important to note that turnout was still low at 49.5%.

Analysis finds that the determinants of the rejection of Lisbon I were more diverse, combining overall attitudes to European integration, some specific policy concerns and some domestic political factors, as well as knowledge or lack of knowledge of the EU and correct and incorrect perceptions of what was in the Lisbon Treaty⁴⁵. However, it was specifically found to be the case that low levels of overall knowledge about Europe and about the treaty were found to have had a major influence in, firstly, making people more likely to abstain and, secondly, increasing the likelihood of a 'no' vote from those who did vote⁴⁶. In particular, low levels of overall knowledge of what was in the Lisbon Treaty had a very powerful influence on increasing the 'no' vote⁴⁷, which received 53.2% of the votes at 53.1% turnout.

The turnaround in the result of Lisbon II must be primarily analysed in the context of the change in the Irish political and economic situation between the first vote in 2008 and the second in 2009 when the international banking crisis and subsequent economic recession had already begun to severely affect the Irish economy. Lisbon II was approved largely because of a significant reversal in support for the 'no' side from the Lisbon I referendum⁴⁸, from 53.2% to 32.9%. Diverging from the previous examples, knowledge of the EU did not affect vote choice in the way that it had done before; the Lisbon II referendum was more about the issues than about how much people knew about the issues⁴⁹.

III.c. Referendum Commission

⁴² Richard Sinnott, "Attitudes and Behaviour of the Irish Electorate in the Referendum on the Treaty of Nice" (Results of a survey of public opinion carried out for the European Commission Representation in Ireland, Dublin, 2001), <http://www.ucd.ie/dempart/workingpapers/nice1.pdf> (accessed 6 May 2012), i.

⁴³ *Ibid.*, vi.

⁴⁴ Richard Sinnott, "Attitudes and behaviour of the Irish electorate in the second referendum on the Treaty of Nice" (Results of a survey of public opinion carried out for the European Commission Representation in Ireland, 2003), <http://www.ucd.ie/dempart/workingpapers/nice2.pdf> (accessed 5 May 2012), i.

⁴⁵ Richard Sinnott et al., "Attitudes and Behaviour in the Referendum on the Treaty of Lisbon" (Report prepared for the Department of Foreign Affairs, Dublin, 2009), [http://www.foreignaffairs.gov.ie/uploads/documents/ucd%20geary%20institute%20report\).pdf](http://www.foreignaffairs.gov.ie/uploads/documents/ucd%20geary%20institute%20report).pdf) (accessed 9 May 2012), i.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ Richard Sinnott and Johan A. Elkind, "Attitudes and Behaviour in the Second Referendum on the Treaty of Lisbon" (Report prepared for the Department of Foreign Affairs, Dublin, 2010), <http://www.dfa.ie/uploads/documents/EU%20Division/attitudes%20and%20behaviour%20second%20referendum2010.pdf> (accessed 5 May 2012), 3.

⁴⁹ *Ibid.*, 29.

The problems with communication and with electorate knowledge and understanding that was shown to have had a significant influence in the rejection of Nice I and Lisbon I occurred despite the existence of the national Referendum Commission. An independent body, its role is “to explain the subject matter of referendum proposals, to promote public awareness of the referendum and to encourage the electorate to vote at the poll”⁵⁰. As part of the public information campaign, the Referendum Commission delivers leaflets to every home in the State, and runs advertising on television, radio, in newspapers and online. The information that it produces is obliged by law to be neutral and factual; it must not take sides on the debate. Rather, its role is to help voters with their decision. The government allocated a budget of €2.2 million to the Referendum Commission for the referendum on the Fiscal Treaty earlier in 2012⁵¹, €4.2 million for the Lisbon II referendum campaign and €5 million for Lisbon I referendum campaign⁵².

As far as research has revealed, the Referendum Commission in Ireland is an institution with a unique role, at least in Europe. It was established as a result of the Supreme Court ruling on *McKenna v. An Taoiseach (No.2)*⁵³ in 1995. In the context of the Divorce Referendum that year, Patricia McKenna, a Green Party politician who represented the party in the European Parliament from 1994 to 2004 and self-claimed Eurosceptic, successfully argued that it was unconstitutional for the government to spend taxpayers’ money promoting only one side of the argument in referendum campaigns. While this ruling applies to all Irish referendums, when it is put in combination with the application of the *Crotty* ruling, EU referendums are affected to a unique extent⁵⁴.

Dr. Gavin Barrett argues that the *McKenna* ruling has reduced the ability of the government, whose responsibility it is to conduct Ireland’s relations with the EU, to intervene effectively in EU referendum campaigns⁵⁵. Moreover, weaknesses remain with the Referendum Commission in that its members tend not to be experts in European law or media relations due to appointment requirements⁵⁶. Furthermore, it encounters difficulties in winning public confidence⁵⁷. During its recent information campaign on the Fiscal Treaty, the Referendum Commission was forced to publically deny inaccuracies in its advisory booklet following accusations as such from Paul Murphy MEP, a member of the Socialist Party and prominent ‘no’ campaigner⁵⁸.

Undoubtedly, other actors, in particular the government, play a very important role in this situation, not only at referendum time but on an on-going basis as well. However, in the context of such limited scope, it is interesting to consider this specifically Irish feature.

⁵⁰ Referendum Commission website, “About Us, Role of the Referendum Commission”, <http://www.refcom.ie/en/About-Us/> (accessed 14 May 2012).

⁵¹ Enda Kenny, “Leaders’ Questions” (response in Dáil Éireann Debate, Dublin, Ireland, 25 April 2012), <http://debates.oireachtas.ie/dail/2012/04/25/00003.asp> (accessed 15 May 2012).

⁵² Referendum Commission, “Press Release on the Report on the 2009 Lisbon Treaty Referendum”, 4 March 2012, <http://www.refcom.ie/en/News-Media/Press-Releases/Referendum-Commission-returns-%E2%82%AC1-1m.html> (accessed 15 May 2012).

⁵³ *McKenna v. An Taoiseach (No.2)*[1995] 2 IR 10.

⁵⁴ Barrett, *A Road Less Travelled*, 4.

⁵⁵ *Ibid.*, 3.

⁵⁶ Referendum Commission website, “About Us, Membership of the Referendum Commission”, <http://www.refcom.ie/en/About-Us/> (accessed 14 May 2012).

⁵⁷ Barrett, *A Road Less Travelled*, 19.

⁵⁸ Deaglán de Bréadún, “Commission denies getting its facts wrong,” *The Irish Times*, 5 May 2012, <http://www.irishtimes.com/newspaper/ireland/2012/0505/1224315652729.html> (accessed 15 May 2012).

Conclusion

In summary, this paper defended a working understanding of European identity based on a European *demos*, a politically defined common people, as opposed to an *ethnos*. Following that, a four-fold argument as to how EU referendums can be a means for construction of a European identity was proposed. Namely, EU referendums can serve to enhance EU citizenship by building on citizens' voting rights, and narrow the democratic deficit by providing a vital element of democratic legitimacy. Furthermore, EU referendums can serve to initiate or develop a Europeanised public sphere both in the sense of a transnational European public sphere and in Europeanising the national public sphere, and to spark a learning process by creating a heightened awareness of and an increase in discussions on EU issues. It was the final of those, sparking a learning process, which was partially applied in the case of Ireland. In doing so, weaknesses were highlighted in the Irish referendum process. What conclusion can be drawn from those weaknesses is that EU referendums can offer a great opportunity as a means of construction of a European identity, but one that can be wasted if not properly taken advantage of. To a large extent, as highlighted in the case of Ireland, EU referendums are dependent on a successful communication campaign. In this way, despite its obvious imperfections, the Referendum Commission in Ireland can act as an example of national information distribution for other states.

Despite the opportunity that EU referendums can provide as a means of construction of a European identity, questions must be raised about the appropriateness of referendums as a political decision-making tool in this context. Do they oversimplify very complex issues, for example when voting simply 'yes' or 'no' on such broad issues as covered in proposed new EU treaties? Is it pertinent that citizens vote on such junctures rather than our elected representatives? And if it is, should EU referendums occur on a simultaneous, trans-EU basis; as a way to legitimise Europe's way out of the crisis perhaps? If so, how well could this function in light of the greatly varied referendum cultures and traditions across the member-states of the EU? Might it also be undesirable for pro-EU leaders considering that while a means for construction of a European identity, EU referendums, quite contrarily, also give the opportunity for European citizens to show opposition to and reject the foundations of such a project.

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