

Referendum and Plebiscite

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REFERENDUM AND PLEBISCITE

Like all synonyms, the distinctions between the terms « referendum » and « plebiscite » are not clear-cut ; when no difference in meaning is apparent, there is often a distinction in usage. The varying and incomplete definitions found in many dictionaries and encyclopaedias help only to blur the distinctions even more.

Both « referendum » and « plebiscite » are essentially techniques which refer to an exceptional procedure of a vote of all electors giving their personal opinions without intermediaries, usually by answering « yes » or « no », to a question of general interest. Since the French terms « référendum » and « plébiscite » more or less cover the same reality as their English equivalents, all comments about these two synonyms, their distinctions, etymological background and likeness will apply to both the English and French terms unless expressly stated otherwise.

The word « plebiscite » comes from the Latin *plēbiscitum* which literally means « the people's decree ¹ ». In ancient Roman history, it referred to a resolution by the Plebian Council of Rome on political decisions taken by the Patricians. « Plebiscite » was adopted into the French political jargon in the 1850's ² and by the English near the end of the nineteenth century. « Referendum » comes from the Latin expression *ad referendum* used in the diplomatic field when referring to an agreement subject to ratification by a mandatory (of electors) ³.

It is interesting to note that « referendum » and « plebiscite » have the same meaning when referring to issues in international politics ; they are procedures of popular votes on issues of national self-determination dealing with the approval or disapproval of transferring sovereignty or with the question of independence. These cases are usually referred to as « plebiscites » because of usage. The results of such plebiscites may or may not be binding.

It should be noted that the word « referendum » has an additional meaning in international politics totally removed from a vote of all electors on their future status. This second meaning refers to the communication sent by a diplomatic representative to his home government in regard to matters presented to him which he is unable or unwilling to decide without further instructions ⁴.

The confusion regarding the use of « plebiscite » and « référendum » arises in the area of constitutional law. When both words came into modern usage, they referred to a direct vote of the whole of the electorate to decide a question of public importance, such as the ratification or rejection of a measure approved by the legislature ⁵. Whereas « referendum » has kept this definition, albeit with a few modifications, « plebiscite » has evolved to refer to a vote of the entire people expressing their choice for or against a proposed law or enactment which, if adopted, would work a drastic change in the constitution, or which is beyond the powers of the legislative body. Such a proceeding is extraordinary and generally revolutionary in character ⁶. The contemporary English language attaches this notion to « plebiscite » with minor alterations, whereas this meaning in French is now obsolete. The Swiss, however, have kept this principle of « plebiscite » and it corresponds to their meaning of « referendum ».

« Referendum » has become the generic term ⁷ in both languages for all direct votes of the electorate on issues of public importance. Yet it deals specifically with constitutional matters and is held on a Bill (or constitutional amend-

1. Ernest Kline, *A Comprehensive Etymological Dictionary of the English Language*, Vol. 2, Elsevier Publishing Co., New York, 1967, p. 1199.
2. O. Bloch et W. von Wartburg, *Dictionnaire étymologique de la langue française*, Presses Universitaires de France, Paris, 1964, p. 492.
3. Jean-Marie Denquin, *Référendum et plébiscite*, Librairie générale de droit et de jurisprudence, Paris, 1976, p. 4.
4. Henry C. Black, *Black's Law Dictionary*, West Publishing Company, St. Paul, 1968, p. 1446.
5. *Oxford English Dictionary*, Vol. VII, Clarendon Press, Oxford, 1961, p. 988.
6. Henry C. Black, *op. cit.*, p. 1312.
7. Stanley Alderson, *Yea or Nay? Referenda in the United Kingdom*, Cassell and Collier MacMillan Publishers Ltd., London, 1975, p. 8.

ment) which has been debated in the legislature. A « referendum » is obligatory when certain types of action by a legislature are required, ordinarily by constitutional provision, to be referred to a popular vote for approval or rejection. On legislative affairs, a « referendum » is optional and is held only when a specified number of voters by petition demand that a popular vote be held on a law passed by the legislature⁸. In general, although there are no constitutional laws stating so, constitutional referenda results are binding whilst those of legislative referenda are not.

Depending on the subject matter, a « referendum » may be one of consultation (the issue in question has not yet been submitted to the legislature) ; of ratification (held on a bill which has passed through the legislature) ; or of arbitration (aimed at resolving political crises).

« Plebiscite », on the other hand, is a specific in English and is a residual category, and thus must either be an *ad hoc* referendum, one for which no constitutional provision exists or must be held on something other than a bill which has been debated before parliament, for example, a radical change in the constitution. A national « plebiscite » is likely to be consultative and thus not binding.

It should be noted that for public votes on questions of local interest such as the opening and closing times of pubs and the Sunday opening of cinemas in Britain, « referendum, being the generic, may be used, but it is more precise to refer to such votes as « local opinion⁹ ».

In French, the term « plébiscite », in theory, is a political institution close to that of « référendum » since both allow the electorate to express their opinions on major issues of general interest. In practice, however, contrary to « référendum » which permits the people to act as legislators, the goal of a « plébiscite », in a concealed manner, is to confirm or strengthen the power of the leader by creating (or appearing to create) a personal bond between the people and the leader.

On a subjective level, the distinction between « référendum » and « plébiscite » seems to fade away since an issue brought to a direct public vote may be classed as both a « plébiscite » and a « référendum » depending on the voter's perspective. Some voters may respond affirmatively to the question because they approve of both the issue and the leader who called the vote (« référendum » and « plébiscite ») ; others because they approve of the issue despite their hostility towards the governing power (« référendum ») ; still others because they approve of the leader despite their hostility towards the issue (plébiscite)¹⁰.

It thus follows from this discussion that « referendum » and « plebiscite » cover the same reality in international politics whilst in constitutional politics, « referendum » is a binding vote held on constitutional matters and « plebiscite »

8. *Encyclopaedia Britannica*, Vol. 19, Encyclopaedia Britannica Inc., William Benton, Publisher, London, 1970, p. 36.

9. Stanley Alderson, *op. cit.*, p. 9.

10. Jean-Marie Denquin, *op. cit.*, p. 223.

is a vote on issues which drastically change the constitution. The major distinction in relation to the French equivalents to these terms deals with the pejorative connotation that « plébiscite » is a public vote for the leader in power and *not* for the issue .

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