

Secession and Intelligibility of a Referendum Question (RQ) – from Québec to Scotland (1980–2014)

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Abstract

This article explores the evaluation of norms and principles of an intelligible referendum question (RQ) from Québec's biased formula in 1980 until the clearly constructed wording of the question for independence referendum held in Scotland in 2014.

In this text, for the purpose of evaluation of whether a formula was biased or intelligible, the criteria introduced recently by the Electoral Commission in the UK were employed. Specifically, it means that the RQ shall be clear and simple, to the point, unambiguous, neutral and avoid misleading voters.

Apart from biased RQs in 1980 and 1995 in Québec referendums, the following six referendums on independence were carefully selected for the investigation. Secessions and attempted secessions in the European context are represented by the cases of Montenegro, Catalonia, and Scotland, while the post-colonial secessionist units from larger states apply for Eritrea, East Timor and South Sudan.

The findings were surprising in several aspects. First, liberal-democracies in the West totally failed to formulate intelligible RQs when they were constructed unilaterally by secessionists. On the contrary, if the RQ was formulated under international supervision, the formula submitted to voters was far more intelligible, also in most post-colonial cases. There is no evidence of a strong impact of principles linked to a clear and intelligible RQ evaluated in Canada and in the UK on the formulation of a concrete RQ on independence.

Key words

ethics, secession, independence, referendum, referendum question, question formula, question wording, clear question, biased question, Québec, Scotland.

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Introduction

The article is primarily focussed on progress – if any – related to the evolution of referendum question (RQ) formulas submitted to voters starting with Québec referendums and up until the referendum on independence held recently in Scotland (i.e. from 1980–2014). There are three major reasons for framing the research into this particular timeline. First, in that period, a wave of referendums on independence were initiated by peripheries in the world. Second, at the same time, the wording of the RQs on independence started to be seriously reflected in the international arena and among relevant institutions of some countries directly involved in secessionist projects of their parts. Third, the wording of the RQs on independence until recently was – and still is – a highly underestimated issue in the sphere of politics and scholarly investigation.

The text will proceed as follows: In the first part, as a consequence of strongly biased RQs in Québec’s sovereignty referendums, the normative criteria for an intelligibility of a RQ will be defined. In the following part of the text, relevant and representative secessionist units will be carefully selected. Next, within the political and legal context, the wording of the RQ on independence will be investigated closely in liberal-democratic states and for referendums in the post-colonial context. Consequently, an evaluation of investigated RQs will be made.

Last but not least, many related aspects of RQ’s were left out as they exceed far beyond the scope of this text. Other underestimated issues also would deserve a full, proper scholarly investigation (e.g. ballot design, multiple choice ballots, symbols on the ballots and response options).

I. Quest for a clear RQ

Biased RQ in Québec

The Canadian context of understanding the clear and unambiguous RQ was influenced by the strongly biased and misused sovereignty referendums organised unilaterally by Québec in 1980 and 1995.

1980

Prior to the 1980 referendum, the Parti Québécois promised a referendum on sovereignty-association (Yale, Durand, 2011, 243). Later, being fully aware of public opinion preferences, the secessionists modified its “sovereignty-association” project and shifted it towards a “*mandate to negotiate*” (ibid.) which was more acceptable for the public. Under these circumstances, the RQ submitted to voters in 1980 reads (Radio Canada, 2008):

“The Government of Québec has made public its proposal to negotiate a new agreement with the rest of Canada, based on the equality of nations; this agreement would enable Québec to acquire the exclusive power to make its laws, levy its taxes and establish relations abroad – in other words, sovereignty – and at the same time to maintain with Canada an economic association including a common currency; no change in political status resulting from these negotiations will be effected without approval by the

people through another referendum; on these terms, do you give the Government of Québec the mandate to negotiate the proposed agreement between Québec and Canada.” Yes/No.

1995

In 1995, a second sovereignty referendum was held in Québec. Originally, it was triggered by separatists after the failure of the Meech Lake Accord process (1987–1990), which should have guaranteed the province status of a distinct society, and after the failure of the Charlottetown Accord in 1992 proposing a “*minimal*” federalism (Lluch, 2010, 348). The Party Québécois, together with Action Démocratique du Québec and a new separatist party in the Federal Parliament, Bloc Québécois, decided to hold another referendum on sovereignty-partnership in 1995. The Québec RQ in 1995 read (The Canadian Encyclopedia, 1995):

“Do you agree that Québec 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 Québec and of the agreement signed on 12 June 1995?” Yes/No.

Canadian response: “clear question” principle

Strongly manipulated and biased referendums on independence in 1980 and in 1995 Québec turned the attention of scholars, law experts and politicians to the issue of a RQ on independence.

After the second referendum in which the secessionists lost only by a narrow margin, the Supreme Court of Canada released its findings on the initiative of the federal government which concerned other attempts by Quebecers to secede unilaterally. As for the clear RQ, the Supreme Court of Canada mentioned it six times in the document. However, the court completely avoided suggesting any definition of a clear question; nor did it suggest any criteria how to achieve that goal. The court declared only that it “*must be free of ambiguity both in terms of the question asked and in terms of the support it achieves*” (Supreme Court Judgments, 1998, 88).

After the ruling of the Supreme Court of Canada, political scientist and minister of Intergovernmental Affairs of the Canadian federal government in Canada, Stéphane Dion, influenced debate on the issue of a clear question in his third open letter to the Premier of Québec, Lucien Bouchard, as follow (Dion, 1998):

“The Government of Canada could never undertake negotiations on secession based on a question addressing such vague concepts as ‘sovereignty-association’ or ‘sovereignty within offer of political and economic partnership’. The risk of misinterpreting the vote would be too great, as many polls demonstrate. (...) A clear question is an essential condition of a valid referendum in a democracy, in Québec as elsewhere.”

Consequently, the Canadian Clarity Act passed in 2000 by both chambers of the federal parliament authorised the House of Commons as the only arbitrary body with the right to determine by resolution “*what constitutes a clear question*” (Clarity Act, 2000, 2). The Clarity Act recommended how the

wording of the RQ should be constructed. The emphasis was put on it being “*free of ambiguity*” (Clarity Act, 2000, 3). Further, a RQ could not be merely focussed “*on a mandate to negotiate without soliciting a direct expression of the will of the population of that province on whether the province should cease to be part of Canada,*” and, a RQ “*envisages other possibilities in addition to the secession of the province from Canada, such as economic or political arrangements with Canada, that obscure a direct expression of the will of the population of that province on whether the province should cease to be part of Canada*” (Clarity Act, 2000, 3).

Great Britain and “intelligibility” of a question

Contemporary procedure on elections and referendums was established by the UK Parliament in the framework of the Act of the Parliament titled Political Parties, Elections and Referendums Act in 2000 (The PPERA, 2000; The Secretary of State for Scotland, 2012, 13). The major role here belongs to the Electoral Commission, which possesses the right to publish “*assessments of the intelligibility on any question included in a Bill for a UK-wide referendum*” (The Electoral Commission, 2015a). The wording of the RQ is also mentioned in this electoral and referendum law, but the text is explicitly focussed only on instructions regarding the institutional duties of bodies concerned. As such, it does not contain any instructions or guidance on how to achieve an intelligible RQ (the PPERA, 2000, 80–81).

In 2002, the Electoral Commission of the UK issued “*question assessment guidelines*”, later updated by Referendum Question Assessment Guidelines in 2009 (The Electoral Commission, 2009) and criteria defined here defined more precisely in 2013 as follows (The Electoral Commission, 2013, 29):

(1) Clear and simple (easy to understand), which enables voters to understand easily the language of the RQ; (2) To the point, which means that the RQ shall be aimed at the issue of independence only; (3) Unambiguousness, which means that the RQ cannot create another RQ for voters but also that the wording of the RQ must be properly understood by the voters (ibid., 28–29); (4) Neutrality, which means that the RQ must not suggest an answer, specifically, the formula must avoid “*encouraging voters to consider one response more favourably than another*” (ibid., 9, 20, 33); (5) Not to mislead voters, which means that voters shall “*understood both the meaning of those words in particular, and the question as a whole*” (ibid., 32).

Moreover, in regard to Scottish (and Brexit) referendum, the Electoral Commission introduced some innovative elements. As for the RQ in Scotland, the Electoral Commission rejected that wording of the RQ could start by the phrase “*Do you agree*” pointing at its disbalanced character, lack of neutrality, for being too personal and for its tendency to instruct voters to side with the “*Yes*” option (The Electoral Commission, 2013, 1)²

² As for the Brexit RQ, the Electoral Commission further shifted from previous habitus. It recommended amending “*Yes*” and “*No*” response options on the RQ for more extensive formulation in order to reach more neutral wording: “*Remain a member of the European Union*” or “*Leave the European Union*” (The Electoral Commission, 2015, 40).

Summary: towards intelligible RQs

After the Québec referendums, the Canadian institutional framework set up the agenda of a “*clear question*”; however, it failed to clarify it. The Canadian context was mostly focussed on not repeating the Québec scenario of seriously biased RQs in the future. I assume that the Electoral Commission worked most precisely on general principles for the RQ. For the purpose of analysis of the legitimate RQ, the major achievements of the Electoral Commission in the UK on the wording of a RQ in the Scottish referendum would be applied for the cases of all referendums examined in the text. It means that the RQ must be (1) clear and simple; (2) to the point; (3) unambiguous; (4) neutral; and (5) avoid misleading voters (The Electoral Commission, 2013, 29)³

Evolution of norms & RQs on independence

<i>subject</i>	<i>item</i>	<i>principles</i>
Canada		
1998	Supreme Court of Canada	Reference Re Secession of Quebec
	Stéphane Dion, minister of federal gov't of Canada	Letter to Premier of Quebec Lucien Bouchard
2000	Parliament of Canada	Clarity Act
		<p>clear RQ</p> <p>clear RQ, against RQ biased on vague concepts (e. g. “sovereignty”); risk of misinterpreting a RQ</p> <ul style="list-style-type: none"> • clear RQ • free of ambiguity • no focus on other possibilities in addition to secession as e. g. “<i>mandate to negotiate</i>” or “<i>economic and political arrangements with Canada</i>”
The UK		
	Parliament of the UK	The PPERA (est. of the Electoral Commission)
2009	The Electoral Commission (UK)	Referendum question assessment guidelines
2013		Referendum on
		<p>intelligibility of the RQ</p> <ul style="list-style-type: none"> • clear and simple • easy to understand • to the point • not ambiguous • neutral • “<i>Do you agree...</i>” in a

³ These criteria were later confirmed also for the purpose of the RQ for the “Brexit” referendum in the UK (The Electoral Commission, 2013a, 29).

independence for
Scotland Advice
Advice of the
Electoral
Commission on the
“Brexit” RQ

RQ is too personal

- “Yes/No” response options in a RQ are not neutral, not balanced

In the first decade of the new millennium, there were other bodies which focussed on the issue of intelligible RQs, as for example the Venice Commission of Council of Europe and the non-governmental organisation IDEA, but their achievements were primarily focussed on sovereignty referendums and, specifically, on an advisory role at constitutional referendums in Europe. Nevertheless, both organisations partly contributed to general knowledge on the issue of a clear and unambiguous question, but reflection of their ideas would go far beyond the scope of investigation in this text.

II. Selection of secessionist units

Between 1980 and 2011, there were around 40 secessionist referendums in the world (Qvortrup, 2014a, 58–59). However, not all of these referendums were primarily focussed on independence. The majority of these referendums were held in communist and early post-communist federations and states. However, they can be hardly included in any serious investigation regardless of the fact that a long, painful and irreversible process of the breaking-up of these states was accompanied by around 25 secessionist referendums. Political elites of secessionist units in Yugoslavia and the USSR were launched not to seriously consult public opinion but to legitimise the charismatic leadership of ruling nationalists’ elites (He, 2002, 84).

Secession referendums 1980-2014⁴

parent country	seceding unit	year	Negotiated	Seceded
Canada	Québec	1980	No	No
Ethiopia	Eritrea	1993	Yes	Yes
USA	Palau	1983– 1993*	Yes	Yes
Canada	Québec	1995	No	No
St. Kitts and Nevis	Nevis	1998	No**	No
USA	Puerto Rico	1998	Non-binding	No
Indonesia	East Timor	1999	yes	Yes
Somalia	Somaliland	2001	No	Yes***
New Zealand	Tokelau	2006, 2007	Yes	No

⁴ A series of referendums on independence on the territories of USSR and Yugoslavia and shortly after break-up of these states are not counted here.

Serbia-Montenegro	Montenegro	2006	Yes	Yes
Sudan	South Sudan	2011	Yes	Yes
USA	Puerto Rico	2012	Non-binding	No****
UK	Scotland	2014	Yes	No
Spain	Catalonia	2014	No	No

* In Palau, altogether seven referendums were held to ratify negotiated Compact of Free Association.

** In Nevis, unlike other cases, the unilateral secession is constitutionally guaranteed and therefore legal.

*** In Somaliland, voting was ratificatory as the unit seceded de facto in 1991.

**** In Puerto Rico, for the first time a majority opted for incorporation into the US as the 51st state.

Source: Qvortrup (2014a: 58–59), modified.

After that preselection, there are less than half of secessionist referendums left for investigation. Finally, omitting recent highly controversial (Somaliland) or significantly manipulated referendums (Crimea, Luhansk, Donbas) in non-democratic territories, non-binding and analogously multiplied voting (Puerto Rico), secessionist referendums in distanced microstates (Nevis, Palau, Tokelau), there are only eight referendums remaining (if counting the two RQs in Québec).

For purpose of this text, I argue that apart from two Québec RQs, another six secessionist samples will be sufficiently representative samples for investigation and comparison. Three referendums were held in “European” countries with democratic standards while another three referendums were internationally supervised and organised in the post-colonial context. In Europe, a negotiated referendum on independent Scotland, unilaterally held referendum in Catalonia and internationally supervised referendum in Montenegro will be investigated. In the post-colonial world, referendums on independence accompanied by international organisations in Eritrea, East Timor and South Sudan will be scrutinized. The biased RQ’s formulated unilaterally in democratic Québec serve as a reference points to that survey.

III. Investigation of the RQ

The European context

Liberal democratic countries are far less prone to experience dangerous conflicts and secessionist attempts compared to the post-colonial world. Until recently, secession in the Western world seemed to be quite unlikely, and scholars suggested persuasive reasoning favouring the status quo (Hechter, 1992; Dion, 1996). Nevertheless, it has become quite clear that even Western Europe and Northern America are not immune to serious autonomist or even secessionist movements, which emerged on their peripheries. As a consequence, established liberal-democratic states were more willing to accommodate ethno-linguistic diversity by the means of federalism (Belgium), devolution (the UK) or regionalisation (Spain). Analogously, they

strongly defend their territorial integrity, principle of indivisibility and disagree with secessionist demands within their state borders and condemn them as illegal (Spain), or prescribe difficult legal and political hurdles for prospective secessionists (Canada).

In the early 1990s, unlike in Eastern and Central European states, secessionist movements in Western Europe were rare and weak. However, the historic victory of the Scottish National Party in regional elections in 2007 and deep economic crisis in Spain encouraged regional secessionist movements in Scotland and Catalonia, respectively. Despite similarities, there were two significant differences in these cases.

In the UK, the British government clearly declared that the secession of Scotland was possible though it could happen only under certain conditions. On the contrary, central political and judicial authorities in Spain repeatedly pointed to the “indissoluble unity” of the country and laid emphasis on the prohibition of unilateral secessionist attempts.

Not to be forgotten, in 2006 and prior to the Scottish and Catalanian votes, internationally negotiated referendum on independence applied to the last remaining republican unit of the former Yugoslavia (Montenegro) represents only one fully legitimate referendum in the area influenced by the chaotic demise of the post-communist Yugoslav federation and subsequent warfare. The referendum in Montenegro proceeded in congruence with the constitution and was internationally supervised.

In the following part, within the wider political and legal framework there will be reflected the process of the wording of a RQ on the ballot text prior to independence referendums in Montenegro, Scotland and Catalonia.

(a) Montenegro

Montenegro has been a part of Yugoslavia from its foundation in 1918 but only under J. B. Tito after the Second World War did it become a constitutive unit of the socialist federation. During the process of state dissolution in the 1990s, unlike in Slovenia, Croatia, Macedonia and Bosnia and Herzegovina, the smallest federative unit of Montenegro became the last republic which remained loyal to Milosevic’s Yugoslavia. However, in the late 1990s the new Montenegrin political elites set an opposite course as they started moving towards independence.

In 2003, the State Union of Serbia and Montenegro was established as “*an EU-sponsored compromise*” (Vidmar, 2007, 95). The constitution of the *de facto* confederative state contained a provision on a possible referendum on secession of a member-state “*after the end of the period of three years*” in article 60/1-3 (ibid.). Moreover, during the foundation of Serbia-Montenegro, it was declared that any potential act of secession in the future must be preceded by adopting a law on referendum by a member-state “*bearing in mind internationally-recognized democratic standards*” (ibid., 97). Hereby, the act of potential secession was legally frozen at least until 2006. Just after the term expired, the secession took place.

The referendum on independence in Montenegro represented the first legally binding case outside the post-colonial context and the first of such

referendum supervised solely by the EU. The EU actively participated in this referendum, having helped to establish the Law on Referendum on the State-Legal Status of the Republic of Montenegro prescribed in the constitution (ibid., 97–98). In the law, the entire procedure regarding the referendum was delineated. In Montenegro, the wording of the RQ “*was drafted with the help of the EU*” (Qvortrup, 2014a, 62).

The final wording of the RQ reads (RTCG, no date; OSCE, 2006, 7):

“*Do you want the Republic of Montenegro to be an independent state with full international and legal personality?*” Yes/No.

(b) Scotland

Scotland became part of England in 1707 on the basis of the Acts of Union passed separately by the English and Scottish legislatures. The first article of the document stated that the union would last “forever” (Pittock, 2012, 13). In the Union, the Scottish kingdom retained its political institutions and sovereign rights, namely Presbyterianism and private law (ibid., 14). Since that time, the most important event in Scottish constitutional history has been the process of devolution in late of the 20th century. The first devolutionary referendum in 1979 was successful, except that it failed to muster the required turnout. However, the next referendum on devolution held in 1997 was fully successful and, consequently, the Scottish Parliament endorsed with some tax varying powers was established (Tierney, 2013, 360). In 2007 and 2011, the success of the Scottish National Party (SNP) in two consecutive elections to the Scottish Parliament enabled the SNP to influence public discourse in Scotland on the idea of independence. After the SNP was able to form a government based on minority support in 2007, it launched a national debate on independence and simultaneously rejected to make that move unilaterally when it agreed to negotiate with the government of the UK (The Scottish Executive, 2007, 33). In return, the British government later clearly agreed that a referendum on independence should be held in Scotland only (The Secretary of State for Scotland, 2012, 5, 6) by stressing that its procedure must be not only legal but also fair and decisive (The Secretary of State for Scotland, 2012, 5).

After 2007, Scotland suggested a series of possible RQs. Originally, the Scottish executive considered phrasing the RQ in a similar way to the ballot formulated in the 1980 Québec referendum, where voters voted about giving “*the Government of Québec the mandate to negotiate the proposed agreement.*” Analogously, the government in Scotland suggested an RQ in which voters should agree or disagree to “*negotiate a settlement with the Government of the United Kingdom.*” Nevertheless, contrary to the vague formula of the Québec referendum, the Scottish government formulated a ballot text in which the goal was quite clear: “*so that Scotland becomes an independent state*” (ibid., 46). In 2010, the Scottish government suggested the formula of a RQ aimed clearly at independence; however, its wording was long and formulated in a complicated way (The Scottish Government, 2010, 22):

“The Scottish Government proposes that, in addition to the extension of the powers and responsibilities of the Scottish Parliament set out in Proposal 1, the Parliament’s powers should also be extended to enable independence to be achieved.”

“Proposal 1” meant devolution “plus” or “max”. After launching debate on independence in 2007, the Scottish executive did not rule out a multiple-choice referendum *“to give Scottish electors the choice between independence, the status quo, and significant additional devolution”* (The Scottish Executive, 2007), which was called also devolution plus or, later, devolution max. The wording of the RQ on a series of suggested ballots was long and not clear enough to voters. The Scottish government suggested a rather long wording of the RQs on separate ballots. Therefore, voters would have to comprehend long sentences and additional explanations submitted in the two different but mutually interrelated ballots (e.g. The Scottish Government, 2010, 20–22).

The Scottish government dropped the agenda to put on the ballot *“an additional question on further substantial devolution”* (The Scottish Government, 2012, 8) in 2012, when the UK government finally released a very critical document on that issue. Despite that fact, the political elite in Scotland privileged a single RQ for a ballot text and suggested a rather short and direct RQ be discussed: *“Do you agree that Scotland should be an independent country?”* Yes/No (The Scottish Government, 2012, 11).

As already mentioned, at that time the UK executive strongly condemned *“for a number of reasons”* a referendum proposal based on the two RQs submitted to voters (The Secretary of State for Scotland, 2012, 19). The British government argued that multiple-choice RQs suggested by the Scottish government *“deal with two entirely separate constitutional issues”* (ibid.) and two different RQs on the ballot would mean *“four different campaigns [which] would not help to generate clarity”* and voters in Scotland could have barely made an informed decision on the issue (ibid.). Accordingly, London stated that *“the proposed questions are unnecessarily long and complex”* (The Secretary of State for Scotland, 2012, 19) and conditioned the referendum in Scotland by emphasizing that, first, the Scottish Government should construct a RQ *“in consultation with the Electoral Commission”* (ibid.) which is simple (ibid.), single, straightforward (ibid., 7) and *“fair to those on each side of the debate and to all Scottish voters”* (ibid., 5).

Later in 2012, the Prime Minister of the UK, David Cameron, and the First Prime Minister of Scotland, Alex Salmond, agreed on the Edinburgh agreement, which became a firm basis for the entire referendum procedure (HM Government, The Scottish Government, 2012). As for the RQ, both governments agreed, first, the *“Scottish Parliament to legislate for a referendum with one question on independence”*, second, that the wording of a RQ would be reviewed by the Electoral Commission, and third, that the *“referendum question must be fair, easy to understand and capable of producing a result that is accepted and commands confidence”* (ibid.).

The Electoral Commission critically commented on wording of the RQ proposed by the Scottish government (“*Do you agree that Scotland should be an independent country?*” Yes/No); it claimed that submitted formula was more favourable to supporters of independence and that the RQ could lead voters to prefer the “*Yes*” response option. The commission disagreed with the RQ proposed by the Scots because it disregarded the principle of neutrality. In particular, the phrase “*Do you agree...?*” (The Electoral Commission, 2013, 1) should have been amended into a more neutral RQ also in order not to “*ask for a judgment of someone else’s view or decision*” (ibid., 33). The commission suggested more neutral wording of the RQ (ibid., 1) which was also direct and “*short and simple*” (ibid., 33). The Scottish government accepted critical remarks formulated by the Electoral Commission and provided a ballot text with the RQ that the commission recommended: Its final version reads (ibid., 33; Tierney, 2013, 365):

“*Should Scotland be an independent country?*” Yes/No.

(c) Catalonia

A post-Franco Spanish model of the State of Autonomies based on the 1978 Constitution was designed as almost a federal or quasi-federal state (Rius-Ulldemolins, Zamorano, 2015, 168), but complete federalism was not implemented in order to preserve Spanish unity and protect the state from potential separatist tendencies of historical regions (ibid., 173). The Constitution of Spain does not allow for secession and legal authority for holding referendums on sovereignty is conferred only on the central government. That competence was not only confirmed but also strengthened by the decision of the Spanish Constitutional Court in 2008 declaring it illegal to hold a sovereignty referendum in the Basque autonomous community (Muñoz, Guinjoan, 2013, 44). Furthermore, the constitutional principle of indivisibility of Spain, which explicitly rules out secession, could be observed also behind the Constitutional Court decision in 2010, which found illegal several provisions of the Catalanian autonomy approved by the Catalanian parliament several years earlier (ibid., 49). The Court’s ruling only reshaped related competencies of the central power (Rius-Ulldemolins, Zamorano, 2015, 181).

Strong opposition by the central political authorities in Madrid to the scope of autonomy required by Barcelona sometimes called the “*recentralization policy*” (ibid., 178) and the long waiting period for the Spanish Constitutional Court’s ruling on that issue kept the agenda well alive in Catalonia (Muñoz, Guinjoan, 2013, 49). In the following years, it became a top political issue (Bourne, 2014, 95). Consequently, starting in the small town of Arenys de Munt, local municipalities across Catalonia held unofficial referendums on independence. At that time, mainstream Catalanian nationalism shifted, after over a century, from a moderate and autonomist tendency in favour of secession (Lluch, 2010, 344; Muñoz, Guinjoan, 2013, 48).

Despite the systematic pressure exerted by the Spanish executive, legislature and the supreme judicial body on regional government not to hold

any referendums on secession, Barcelona insisted on voting on the issue of independence. Nevertheless, it decided to hold only a non-binding “*popular consultation*” (DW, 2014). Wording of the RQ for the referendum on an independent Catalonia was conducted jointly by the leaders of five pro-Catalonian parties. Irrespective of demands put forth by the Catalonian civic organisations requiring that a clear and unequivocal RQ focussed straightforward on independence be submitted to voters, divergent political elites in Catalonia prioritized to demonstrate their united position on the issue of independent Catalonia at the expense of a clear RQ. Compromise reached by five nationalist political parties resulted in two RQs submitted to voters in consultative referendum on independence (Jot Down Magazine, 2014):

“*Do you want Catalonia to be a State?*” Yes/No.

In case of the voters’ positive response, written on the ballot as “*if so*”, they could have continued to answer the other RQ:

“*Do you want this State to be Independent?*” Yes/No.

The post-colonial context

The international community has been aware of the great potential of conflicts and secessionist movements throughout the decolonized world. Therefore, after the Second World War, self-determination was associated with secession only on a very limited scale. There have been few exceptions from the general rule, but the declarations of independence of former colonies in Africa and Asia were nevertheless legalised by the United Nations only under the condition of compliance with the *uti possidetis* principle (Raić, 2002, 219). The preservation of territorial integrity of existing states was protected – if necessary – by all imaginable means (Biafra in Nigeria). Moreover, the central political authorities could have relied on the fact that a principle of indivisibility of states was emphasized by international organisations such as the UN (Weller, 2008, 23) and the OAU (Munya, 1999, 539, 542).

In the post-Cold War era, apart from a few exemptions linked to republics of the post-communist federations in the state of breaking-up, the international community did not depart significantly from its previous rather reserved stance towards secessionist attempts. However, the international community was more willing to accept and even participate in forming new born states if their secessions were negotiated with central political authorities. All such events were special cases related either to unimplemented autonomy in the past (Eritrea), previous annexations (East Timor) or to previous mistreatment (South Sudan).

In the following part of this text, the above mentioned cases will be analysed, and as with the European cases, this will be done within the wider political and legal framework.

(a) Eritrea

After decades under Italian colonial rule (1890–1941), Eritrea became a part of the British protectorate during the Second World War. As a consequence of the failure of the Big Four to find a solution on the Italian ex-

colonial territories after the Second World War, the Eritrean case was committed to the General Assembly of the UN (UNGA). Subsequently, the UNGA decided that “*Eritrea shall constitute an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown*” and that the “*Eritrean Government shall possess legislative, executive and judicial powers in the field of domestic affairs*” (UNGA, 1950).

Established in 1952, the Federation of Ethiopia and Eritrea was, however, unilaterally abrogated by Ethiopia in 1962 and, as a result, Eritrea launched a complicated and on some occasions armed and bloody struggle for its independence (Bereketeab, 2007, 401–406).

After significant gains of the Eritrean People’s Liberation Front in Eritrea and in conjunction with the fall of the Mengistu Haile Mariam regime in 1991, a provisional government in Eritrea was formed and, with the approval of the Ethiopian political elites, the US and the UN supported an independence referendum in Eritrea. The UN Observer Mission to Verify the Referendum in Eritrea (UNOVER) (UNGA, 1992) participated in holding a legally binding referendum there alongside with the Organization for African Unity (OAU), the Arab League and the Non-Alignment Movement (Villicana, Venkataraman, 2006, 551). The wording of the RQ was also formulated by the international community (Qvortrup, 2014a, 62). In Eritrea, the RQ on the ballot was submitted to the voters in three official languages – Tigrinya, Arabic and English – complemented by symbols in colour due to some degree of illiteracy in the region. The RQ reads (New World Encyclopedia, no date):

“*Do you approve of Eritrea becoming an independent, sovereign state?*”
Yes/No.

(b) East Timor

Timor was a Portuguese colony from the 16th century until East Timor’s Fretilin party declared independence in 1975. Shortly afterwards, Indonesia invaded Timor and incorporated its territory. When President Suharto resigned in 1998, his successor in the post, Bacharuddin Jusuf Habibie, agreed to hold a referendum on East Timor’s independence. Subsequently, three legal documents negotiated and signed by the UN Mission in East Timor (UNAMET), Portuguese and East Timor governments, set political and security guidelines for the referendum procedure (Stephens, 2015, 149). The Agreement between the Republic of Indonesia and the Portuguese Republic on the question of East Timor, abbreviated as the East Timor Peace Agreement, established political agenda, a legally binding referendum on independence and the wording of the RQ (UN, 1999). In this case, UNAMET strongly influenced the RQ (UN, 2005, 10) and the symbols on the ballot, which were consulted with local political parties (UN, 2005, 7). Voters on the territory of East Timor were offered two options in four languages – English, Bahasa Indonesian, Tetun and Portuguese. Due to a certain degree of illiteracy, voters had also a choice between flags of Indonesia and of East Timor (Qvortrup, 2014, 132). The two parts of the RQ read (UN, 2005, 10):

“Do you accept the proposed special autonomy for East Timor within the Unitary State of the Republic of Indonesia?” and “Do you reject the proposed special autonomy for East Timor, leading to East Timor’s separation from Indonesia?” Reject/Accept.

(c) South Sudan

Sudan gained independence in 1956. The country has previously been a part of an Anglo-Egyptian condominium and became the most extensive state territory in Africa which, moreover, incorporated diverse groups of people of varied ethnicity, language and religion. In the south, which was rather distinct from rest of the country although also not ethnically unified, the English language was introduced for educational purposes, combined with Christianisation, while the central political authorities in Khartoum attempted to construct a unified Sudanese nation through the policy of “Arabisation” and “Islamification” (Christopher, 2011, 127). As a result, two consecutive civil wars paralysed the country, while the imposition of the Shari’a law throughout the whole country led to further alienation of the southern part from the Islamic north and the central government which guarded the northern interests.

The end of warfare came after a long mediation of regional and international players between the northern National Congress Party (NCP) and the southern Sudan People’s Liberation Movement and Army (Carney, 2007). In 2002, the right to exercise self-determination through a referendum *“to determine their future status”* (UNMIS, 2005, 20) was granted to the people of South Sudan already in the Machakos protocol (ibid., 17–26). This agreement envisaged and outlined an *“internationally monitored referendum”* to be held six years after the interim period, organised jointly by the Government of Sudan and southern Sudan People’s Liberation Movement. Simultaneously, the accord contains a provision on the choice which should be submitted to people of South Sudan: to *“confirm the unity of the Sudan by voting to adopt the system of government established under the Peace Agreement; or to vote for secession”* (ibid., 22).

In 2005, the Comprehensive Peace Agreement in 2005 uncovered a perspective of self-determination through secession for the southern part of the country. In the Comprehensive Peace Agreement, the referendum schedule and procedural aspects were outlined.

The key document that was mutually agreed was the Interim National Constitution (2005), which guaranteed the provisions mentioned above and provided a more detailed schedule of specific steps to be taken before the referendum on independence. The formula considered for the ballot was not significantly reformulated. The original formula of the RQ was only slightly amended and incorporated in the 222(2) section of the constitution. In particular, the notion of *“voting to adopt”* was amended to *“voting to sustain”*. Therefore, the sentence linked to the option of preserving unity remained formulated in a rather complicated way: *“to confirm unity of the Sudan by voting to sustain the system of government established under the*

Comprehensive Peace Agreement and this Constitution” (Republic of the Sudan Gazette, 2005, 97).

In 2009, the first clear recommendation on the design of the ballot came with the Southern Sudan Referendum Act in three of its sections. Definition of the ballot was described as a means for “*the ballot paper issued by the Southern Sudan Referendum Commission to enable the voter to choose either to confirm the unity of Sudan or secession*” (Southern Sudan Referendum Act, 2009, 2). Further in the act, it was explicitly stated that the referendum shall be organised “*to choose between two options*” in the following way (ibid., 5):

“While exercising the right to self-determination through voting in the referendum, the people in Southern Sudan shall cast vote for either: i. Confirmation of the unity of the Sudan by sustaining the form of government established by the Comprehensive Peace Agreement and the Constitution, or ii. secession.”

Moreover, the commission was obliged to “*prepare, design and print the ballots for the referendum so they are clear and easy to understand*” (Southern Sudan Referendum Act, 2009, 9). Finally, the commission changed the RQ originally implied in the Comprehensive Peace Agreement and later slightly adjusted in the Interim National Constitution. The ultimate version of the referendum ballot was formulated to be as short as possible. It offered no options based on a question-response model, but rather the formula was reduced to two short options (Vidmar, 2012, 552):

“Unity” or “Secession.”

In South Sudan, a legally binding referendum on independence was co-organised by the International Organization for Migration (IOM). However, the IOM did not directly participate in constructing the RQ. The submitted RQ accompanied by the symbols for illiterate voters was completely within the competence of the Southern Sudan Referendum Commission. Members of the commission were Sudanese by birth (Sudan Tribune, 2011).

IV. Evaluation

The clearest and least ambiguous RQ was submitted to voters before the Scottish referendum on independence. It comes as no surprise that both RQs submitted for referendums in Québec are considered as the most biased and least intelligible. However, on the scale between the highly intelligible Scottish RQ and completely biased RQs in Quebec, evaluation suggests some unexpected findings.

After investigation, I place the surveyed RQs between – though not perfect – the normative and most “intelligible” Scottish model and the entirely biased RQ formulated particularly in the first Québec referendum, into two remaining groups: slightly biased and biased RQs.

Normative case – an intelligible RQ Scotland (2014)

In the Scottish case, it was obviously the matter of tradition and high democratic standards in the UK which was behind the deliberative way of

formulating a clear and unambiguous RQ. The British government and Electoral Commission rectified the original move of the Scottish government which suggested quite puzzling RQs and kept in play for a long time a multi-optional ballot text with three response options. Prior to referendum, the Scottish government suggested several interrelated ballots for one voting, and rather long and unclear sentences and personal formulas. The strong corrective role of the central and independent bodies, the executive of the UK and the Electoral Commission respectively, significantly improved the RQ into an ideal model: clear, simple, unambiguous, to the point and not misleading voters.

Despite the positive evaluation revealed above, there may be two critical comments to the Scottish RQ which, however, exceeds the scope of this article. First, the “*Yes*” and “*No*” response options on the final ballot text may be also considered as misleading. Interestingly, prior to the 2014 referendum, the Electoral Commission rejected advisory opinions of several academicians consulted on the issue, who recommended that “*Yes*” and “*No*” response options on the ballot should have been replaced by less neutrally formulated response options “*I agree*” and “*I do not agree*” (The Electoral Commission, 2013, 21). Irrespective of the intelligibility of the RQ formulated for referendum in Scotland, voters did not know that voting “*No*” did not guarantee that the UK would stay in the EU. Shortly afterwards, British voters overwhelmingly opted for “*exiting*” the EU. The timing of the vote is also important, even in connection to meaning of a RQ formula.

Slightly biased RQs

(a) Eritrea (1993)

There is no doubt that the Eritrean RQ was clear and among the shortest. It was lacking impersonal formula when its formula started as “*Do you approve...*”. Unlike the Scottish case, the Eritrean RQ contained the term “*become*” as the Québec RQ in 1995 did. Further, the stress is on “*independent*”; perhaps the term “*sovereign*” before the “*state*” was unnecessary.

Once more, and again beyond the scope of this text, the intelligibility of the Eritrean RQ could have been influenced by the fact that it was formulated in three official languages, and due to the high level of illiteracy in Eritrea, that there were symbols on the ballot with strong political connotations – the ballot papers were coloured red for “*No*”. Red might have symbolized blood. For example, one local radio reported that the referendum was a choice between freedom and slavery, asking people if they want to be free (Immigration and Refugee Board of Canada, 2001).

(b) Montenegro (2006)

The RQ in Montenegro 2006 accomplished the criteria of a rather clear and unambiguous RQ. Only a few critical comments can be pointed at the formula. Firstly, the initial part of the RQ, “*Do you want...*”, is not impersonal. Apart from the Scottish case, only two other cases examined in this text – that of Montenegro and Catalonia – employed the term “*be*” in

their RQs for describing the intended political shift towards independent statehood. The major goal of the RQ, “*independent state*”, keeps the wording factual. However, at its end, the RQ contains unnecessary the formulation “*with full international and legal personality*”. Nevertheless, it only slightly increases ambiguity for the voters and keeps the RQ still clear enough.

(c) South Sudan (2010)

In South Sudan, the ballot text was clear and simple. It was also the shortest RQ; more precisely, consisting of two one-word options appearing on the ballot. Most likely the shortest referendum formula ever submitted in a referendum on independence gave the voters a choice between “*Unity*” and “*Secession*”. Apart from the Scottish RQ, there is only one case examined in this text where wording of the RQ avoided being too personal – formula introduced in South Sudan. Less positively, instead of the clear term “*independence*”, the term “*secession*” appeared in the referendum ballot. There is a very disbalanced relationship between “*Unity*” and “*Secession*” options. Contrary to secession, unity is associated with positive images such as collective membership, family and strength. By definition, secession is about separation from an existing state, and the proclamation of independence does not necessary mean that the seceded entity could enjoy international recognition after secession (Wood, 1981, 111). Western political theory and the very core principles of constitutionalism in liberal-democratic world were strongly influenced by Abraham Lincoln’s anti-secessionist reasoning during the American Civil War (Lindsay, Wellman, 2003, 115–119). Analogously, contemporary scholars often associate the term secession with negative connotations. For Daniel Philpott, secession would most likely “*incite Balkan fury and should be a last resort*” (Philpott, 1995, 354). The most influential theorist of self-determination, Allen Buchanan, called secession the most radical form of self-determination (Buchanan, 1997, 306) and condemned unilaterally executed secession for its potential to lead to endless fragmentation (Buchanan, 1991, 338).

In sum, contrasting to “*Unity*” on the ballot in South Sudan, the more suitable term would be the positive notion “*independence*” rather than negative word “*secession*”.

Biased RQ

East Timor (1999)

In the case of East Timor, the RQ – *de facto* two questions – were biased (Qvortrup, 2014, 143). Apart from the personal formula “*Do you accept...*”, the main pillar of the RQ was to stress a “*special autonomy*” within Indonesia in the phrase which could encourage voters to opt for this outcome instead of voting for “*separation from Indonesia*”, in which the term separation evokes insecurity and instability. The pro-independence option was formulated in a negative sense – the voters had to reject special autonomy if they wished for “*separation*”, which had negative connotations in comparison to the more proper term “*independence*”, which was not on the ballot. Separatism is associated with negative connotations. It is synonymous to the terms

Kleinstaaterei and balkanization. In Europe, the first one belonged to the vocabulary of political offences (Hobsbawm, 2000, 34) while the latter one is linked to “*tribalism, backwardness, primitivism and barbarism*” (Todorova, 2009, 3).

Seriously biased RQ

Catalonia (2014)

In Catalonia, the referendum was organised in 2014, but secessionists did not take any inspiration from the development of an intelligibility of the RQ by international bodies and within the Canadian and British contexts. The RQ was constructed unilaterally by five secessionist political parties with a major goal of demonstrating unity of these political subjects without taking into account any recommendations elaborated already by international organisations and without any respect for opinion of civic society organisations and scholars. Apart from unclear formulations, the two mutually conditioned questions reduced voters’ ability to understand the language of the question. Another factor which could have jeopardized straightforwardness of the RQ could be linked to its length, even more so if combined with more issues. In this respect, the RQ in Catalonia embodied similarities to both the 1980 and 1995 Québec RQs. Naturally, if a clear-cut referendum ballot shall be designed by one question only, which makes the issue more straightforward, the Catalonia cannot qualify as a good example of such a ballot.

In concrete terms, the RQ in Catalonia would not meet the criteria of a clear and unambiguous RQ for lacking impersonal formula as the wording starts with “*Do you want...*” As the first step, voters had to figure out what it means on the ballot “*to be a State*”, which would be simultaneously not an independent state. Only after overcoming ambiguity of the first RQ, voters would have moved to the second and more lucid RQ: “*Do you want this State to be Independent?*” Perhaps, although not explicitly mentioned, the first RQ was aimed at federalization of the entire country; but, legally, does it make any sense for Catalanian secessionists to ask for it unilaterally, without an all-Union debate? The verb “*be*” and noun “*independence*” make it far clearer than the RQs in Québec.

Entirely biased RQ

Québec – 1980, 1995

As in Catalonia, both referendums were organised only by secessionists. The failure to have clear and simple criteria applies most notably for both RQs in Québec. Similarly, the RQs were not to the point. In 1980 and 1995, instead of the word “*independence*”, the RQs were aimed at “*sovereignty*” [mandate to negotiate] and “*sovereign*” [a new partnership] respectively. That means that both RQs were ambiguous as there are many options on the scale of the term “*sovereignty*” apart from the straightforwardness of the word “*independence*”. In 1980, a common currency issue unbounded with the question of independence could have been a very puzzling proposition for the voters. Of course, the length of the RQ makes its reading difficult. In the 1995

Québec referendum, the RQ is shorter, however not sufficiently short enough to be unequivocal. Voters were not giving a mandate to the government as in 1980, but they had to have a proper knowledge on the content of the Bill offered to Canada, which proposed “*a new economic and political partnership*”. Finally, both RQs are embodying a personal formula – “*Do you agree...*” in 1995 voting and “*Do you give...*” in the 1980 referendum.

In sum, the Québec RQs in 1980 are completely misleading as voters did not know what they were voting on. In 1995, the RQ was less biased but still far less intelligible than any other RQ surveyed in this text.

Conclusion

As for the intelligibility of a RQ in cases investigated in the text, rather surprisingly, the most intelligible RQs were formulated in countries without a liberal-democratic tradition, and when the referendum procedure was negotiated between central authorities, secessionists and supervised by international organisations. It applied for the cases of Eritrea, Montenegro and South Sudan. In this area, the only biased RQ was evidenced in East Timor. On the contrary, the most biased RQs were formulated in liberal democracies if they – irrespective of timeline – attempted to secede unilaterally. After referendums in Québec, it was the recent case of Catalonia. That factor applies irrespective of timing; therefore, the know-how on an intelligibility of a RQ elaborated in Canada and the UK had a limited or zero impact on secessionist groups in Catalonia. On the other hand, the South Sudan, the most recent post-colonial case surveyed, had the shortest and most straightforward RQ, which would almost pass all principles of intelligibility. It can be also easily concluded that general tendency is to depart from such unbearably long and puzzling formulas as were submitted unilaterally by secessionists in Québec, and which were far more biased in all reflected aspects than any other RQ under survey in this text.

As far as norms, it will be interesting to observe in the future whether there is any impact of recent opinion of the Electoral Commission in the UK arguing that the formula “*Do you agree...*” is not satisfactorily neutral. Such a formula was part of RQs in many referendums on independence of which some were internationally supervised and confirmed as not biased. (The same applies to the opinion of the Electoral Commission regarding the original ballot text for the Brexit referendum in which the response options “*Yes*” and “*No*” lacked neutrality). Further referendums on independence can bring more light on that issue in the near future.

References

- Bereketeab, Redie. 2007. “When Success Becomes a Liability: Challenges of State Building in Eritrea (1991–2005).” *African and Asian Studies* 6: 395–430.
- Bourne, Angela K. 2014. “Europeanization and Secession: The Cases of Catalonia and Scotland.” *JEMIE* 13 (3): 94–120.

Buchanan, Allen. 1991. "Toward a Theory of Secession." *Ethics* 101 (2): 322–342.

Buchanan, Allen. 1997. Self-Determination, Secession, and the Rule of Law. In: McKim, Robert. McMahan, Jeff. (eds.). *The Morality of Nationalism*. New York – Oxford: Oxford University Press.

Carney, Timothy. 2007. Some Assembly required. Sudan's Comprehensive Peace Agreement. Special Report 194. USIP: Washington. Available at: <http://www.usip.org/sites/default/files/sr194.pdf>.

Clarity Act. 2000. S.C. 2000, c. 26. [cit. 25.11.2015]. Available at: <http://laws.justice.gc.ca/PDF/C-31.8.pdf>.

Currie, John H. Provost, René. (2015). *The Canadian Yearbook of International Law*. 51. Vancouver: UBC Press.

Dion, Stéphane. 1998. Letter to Premier Lucien Bouchard on the need to respect the Supreme court's decision in its entirety (translation). [cit. 18.12.2015]. Available at: <http://www.solon.org/Constitutions/Canada/English/Arguments/dion-3.html>.

Dion, Stéphane. 1996. "Why is Secession difficult in Well-Established Democracies? Lessons from Quebec." *British Journal of Political Science* 26 (2): 269–283.

DRI (Democracy Reporting International). 2010. Report Assessment of The Southern Sudan Referendum Act Democracy Reporting International. [cit. 7.12.2015]. Available at: http://aceproject.org/ero-en/regions/africa/SS/south-sudan-report-assessment-of-the-southern/at_download/file.

DW (Deutsche Welle). 2014. Rebuking Madrid, Catalans vote to secede from Spain. 10.11.2014. [cit. 12.11.2015]. Available at: <http://www.dw.com/en/rebuking-madrid-catalans-vote-to-secede-from-spain/a-18050684>.

He, Baogang. 2002. "Referenda as a solution to the National-Identity/Boundary Question: An Empirical Critique of the Theoretical Literature." *Alternatives* 27 (1): 67–97.

Hechter, Michael. 1992. "The Dynamics of Secession." *Acta Sociologica* 35 (4): 267–283.

HM Government. The Scottish Government. 2012. Edinburgh Agreement. HM Government – The Scottish Government: Edinburgh. [cit. 9.11.2015]. Available at: <http://www.gov.scot/Resource/0040/00404789.pdf>.

Hobsbawm, Eric J. 2000. *Národy a nacionalismus od roku 1780. Program, mýtus, realita*. Brno: CDK.

Christopher, Anthony J. 2011. "Secession and South Sudan: an African precedent for the future?" *South African Geographical Journal* 93 (2): 125–132.

Immigration and Refugee Board of Canada. 2001. Ethiopia: Exact wording of question for referendum of April 1993 regarding Eritrean independence; whether or not the question made reference to a choice between slavery and

freedom. Refworld. 19.6.2001. Available at: <http://www.refworld.org/docid/3df4be300.html>.

Jot Down Magazine. 2014. ¿Quiere que Cataluña sea un Estado? ¿Y que este sea un Estado independiente? 11. [cit. 12.11.2015]. Available at: <http://www.jotdown.es/2014/11/quiere-que-cataluna-sea-un-estado-y-que-este-sea-un-estado-independiente/>.

Lindsay, Peter. Wellman, Christopher H. 2003. “Lincoln on Secession.” *Social Theory and Practice* 29 (1): 113–135.

Lluch, Jaime. 2010. “How nationalism evolves: explaining the establishment of new varieties of nationalism within the national movements of Quebec and Catalonia (1976–2005).” *Nationalities Papers* 38 (3): 337–359.

Muñoz, Jordi. Guinjoan, Marc. 2013. “Accounting for internal variation in nationalist mobilization: unofficial referendums for independence in Catalonia (2009–11).” *Nations and Nationalism* 19 (1): 44–67.

Munya, Mweti P. 1999. “The Organization of African Unity and its Role in Regional Conflict Resolution and Dispute Settlement: A Critical Evaluation.” *Boston College Third World Law Journal* 19 (2): 537–592.

New World Encyclopedia. no date. Eritrean War of Independence. [cit. 19.11.2015]. Available at: http://www.newworldencyclopedia.org/entry/Eritrean_War_of_Independence.

OSCE. 2006. Kancelarija za demokratske institucije i ljudska prava. Republika Crna Gora. Referendum o Državnom statusu. Posmatračka misija za referendum OSCE/ODIHR-a. Konačni izvješta. Warszsawa, 21.5. 2006. [cit. 19.11.2015]. Available at: <http://www.osce.org/sr/odihr/elections/montenegro/20099?download=true>.

Philpott, Daniel. 1995. “In Defense of Self-Determination.” *Ethics* 105 (2): 352–385.

Pittock, Murray. 2012. “National Identities, Scottish sovereignty and the union of 1707: Then and now.” *National Identities*, 14 (1): 11–21.

Qvortrup, Matt. 2014. *National and Ethnic Conflict in the 21st Century: Referendums and Ethnic Conflict*. Philadelphia: University of Pennsylvania Press.

Qvortrup, Matt. 2014a. “Referendums on Independence, 1860–2011.” *Political Quarterly* 85 (1): 57–64.

Radio Canada. 2008. Référendum 1980: l'avenir du Québec en question. Archives de Radio-Canada. [cit. 2.11.2015]. Available at: http://archives.radio-canada.ca/politique/provincial_territorial/dossiers/1294/.

Raić, David. 2002. *Statehood and the Law of Self-Determination*. The Hague – London – New York: Kluwer Law International.

Republic of the Sudan Gazette. 2005. Special Supplement. No. 1722. Interim National Constitution of the Republic of the Sudan. Ministry of Justice. [cit. 1.12.2015]. Available at: <https://unmis.unmissions.org/Portals/UNMIS/>

CPA%20Monitor/Annexes/Annex%201-%20Interim%20National%20Constitution%20of%20Sudan%20-%20FIXED.pdf.

Rius-Ulldemolins, Joaquim. Zamorano, Mariono M. 2015. “Federalism, Cultural Policies, and Identity Pluralism: Cooperation and Conflict in the Spanish Quasi-Federal System,” *Publius: The Journal of Federalism* 45 (2): 167–188.

RTCG. no date. Law on the referendum on state-legal status of the Republic of Montenegro. [cit. 7.12.2015]. Available at: http://www.rtcg.org/referendum/regulativa/zakon_o_referendumu.pdf#search=%22zakon%20o%20referendumu%20o%20dr%C5%BEavno-pravnom%20statusu%22.

Southern Sudan Referendum Act. 2009. Available at: <https://unmis.unmissions.org/Portals/UNMIS/Referendum/SS%20Referendum%20MOJ-Englis.pdf>.

Stephens, Cody. 2015. “Operationalising Reciprocity in Secessionist Referenda.” *University of Queensland Law Journal* 34 (1): 139–165.

Sudan Tribune. 2011. South Sudan referendum voting process. 9.1.2011. [cit. 1.12.2015]. Available at: <http://www.sudantribune.com/spip.php?article37536>.

Supreme Court Judgments. 1998. Reference re Secession of Quebec. [1998] 2 SCR 217. SCC Case Information 25506. [cit. 8.11.2015]. Available at: <http://scc-csc.lexum.com/scc-csc/scc-csc/en/1643/1/document.do>.

The Canadian Encyclopedia. 1995. Québec Referendum 1995. [cit. 7.11.2015]. Available at: <http://www.thecanadianencyclopedia.ca/en/article/quebec-referendum-1995/>.

The Electoral Commission. 2009. Referendum question and assessment guidelines. [cit. 16.10.2015]. Available at: http://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/82626/Referendum-Question-guidelines-final.pdf.

The Electoral Commission. 2013. Referendum on Independence for Scotland Advice of the Electoral Commission on the proposed referendum question. Electoral Commission: Edinburgh – London. [cit. 9.11.2015]. Available at: http://www.electoralcommission.org.uk/_data/assets/pdf_file/0007/153691/Referendum-on-independence-for-Scotland-our-advice-on-referendum-question.pdf.

The Electoral Commission. 2013a. Referendum on the United Kingdom’s membership of the European Union. Advice of the Electoral Commission on the referendum question included in the European Union (Referendum) Bill. [cit. 16.10.2015]. Available at: http://www.electoralcommission.org.uk/_data/assets/pdf_file/0004/163282/EU-referendum-question-assessment-report.pdf.

The Electoral Commission. 2015. Referendum on membership of the European Union. Assessment of the Electoral Commission on the proposed referendum question. [cit. 16.10.2015]. Available at:

http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/192075/EU-referendum-question-assessment-report.pdf.

The Electoral Commission. 2015a. The European Union Referendum Bill 2015. The Electoral Commission's statutory assessment of the referendum question. [cit. 14.10.2015]. Available at: http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/192128/EU-Referendum-Bill-Question-Assessment-Report-2015-09-01.pdf.

The PPERA (Political Parties, Elections and Referendums Act). 2000. [cit. 12.10.2015]. Available at: http://www.legislation.gov.uk/ukpga/2000/41/pdfs/ukpga_20000041_en.pdf.

The Scottish Executive. 2007. Choosing Scotland's Future. A National Conversation. Independence and responsibility in the modern world. The Scottish Executive: Edinburgh. [cit. 2.11.2015]. Available at: <http://www.gov.scot/Resource/Doc/194791/0052321.pdf>.

The Scottish Government. 2007. Your Scotland, Your Voice: A National Conversation. The Scottish Government: Edinburgh. [cit. 2.11.2015]. Available at: <http://www.gov.scot/Resource/Doc/293639/0090721.pdf>.

The Scottish Government. 2010. Scotland's Future: Draft Referendum (Scotland) Bill Consultation Paper Choosing Scotland's Future. The Scottish Government: Edinburgh. [cit. 2.11.2015]. Available at: <http://www.gov.scot/resource/doc/303348/0095138.pdf>.

The Scottish Government. 2012. Your Scotland, Your Referendum. The Scottish Government: Edinburgh. [cit. 9.11.2015]. Available at: <http://www.gov.scot/Resource/0038/00386122.pdf>.

The Secretary of State for Scotland. 2012. Scotland's constitutional future. A consultation on facilitating a legal, fair and decisive referendum on whether Scotland should leave the United Kingdom [cit. 9.11.2015]. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/39248/Scotlands_Constitutional_Future.pdf.

Tierney, Stephen. 2013. "Legal Issues Surrounding the Referendum on Independence for Scotland." *European Constitutional Law Review* 9 (3): 359–390.

Todorova, Maria. 2009. *Imagining the Balkans*. Oxford – New York. Oxford University Press.

UN. 1999. Agreement between the Republic of Indonesia and the Portuguese Republic on the question of East Timor. [cit. 4.12.2015]. Available at: http://peacemaker.un.org/sites/peacemaker.un.org/files/ID%20TL_990505_AgreementOnEastTimor.pdf.

UN [OSN]. 2005. Fakta a čísla OSN. Základní údaje o Organizaci Spojených národů. UN: Praha.

UNGA (General Assembly of the UN). 1950. Report of the United Nations Commission for Eritrea; Report of the Interim Committee of the General

Assembly on the Report of the United Nations Commission for Eritrea. [cit. 1.12.2015]. Available at: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/059/88/IMG/NR005988.pdf?OpenElement>.

UNGA (General Assembly of the UN). 1992. A/RES/47/114. 89th plenary meeting 16 December 1992. [cit. 1.12.2015]. Available at: <http://www.un.org/documents/ga/res/47/a47r114.htm>.

UNMIS. 2005. Sudan Comprehensive Peace Agreement. [cit. 2.12.2015]. Available at: <https://unmis.unmissions.org/Portals/UNMIS/Documents/General/cpa-en.pdf>.

Vidmar, Jure. 2007. "Montenegro's Path to Independence: A Study of Self-Determination, Statehood and Recognition." *Hanse Law Review* 3(1): 73–101.

Vidmar, Jure. 2012. "South Sudan and the International Legal Framework Governing the Emergence and Delimitation of New States." *Texas International Law Journal* 47 (3): 541–559.

Villicana, Román, López. Venkataraman, Manickam. 2006. Public Policy Failure or Historical Debacle? A Study of Eritrea's Relation with Ethiopia Since 1991. *Review of Policy Research* 23 (2): 549–571.

Weller, Mark. 2008. Why the Legal Rules on Self-determination. Do Not Resolve Self-determination Disputes. In: Weller, Mark – Metzger, Barbara (eds.). *Settling Self-Determination Disputes. Complex Power-Sharing in Theory and Practice*. Leiden – Boston: Martinus Nijhoff Publishers, 17–45.

Wood, John, R. 1981. "Secession: A Comparative Analytical Framework." *Canadian Journal of Political Science/Revue canadienne de science politique* 14 (1): 107–134.

Yale, François. Durand, Claire. 2011. "What did Quebeckers Want? Impact of Question Wording, Constitutional Proposal and Context on Support for Sovereignty, 1976–2008." *American Review of Canadian Studies* 41 (3): 242–258.