

Review of Stephen Tierney, *Constitutional Referendums. The Theory and Practice of Republican Deliberation* (Oxford: Oxford University Press, 2012)

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This book provides the most exhaustive normative account of constitutional referendums (CRs) to date. Given that CRs are an ever-growing global phenomenon, the book is timely. It is also well-informed and persuasive. It tests the democratic pedigree of CRs against the principles of neo-republicanism and deliberative democratic theory. It is often claimed that CRs are undemocratic, for they are controlled by elites. Yet Tierney shows that the contrary is often the case. The democratic success of CRs is very dependent on the legal and political context, both internal to the polity that holds the referendum and external to it. Further, when properly designed, CRs can score higher than representative decision-making devices in terms of participation and deliberation, thus complementing them. While the central chapters of the book address the mentioned and some further criticisms, the design issue is addressed in the remainder. The stages, settings and modes of deliberation that can be incorporated to CRs are carefully analysed in this latter block.

This is empirically-informed constitutional and political theory at its best. It masterfully brings a rich range of case studies and evidence from the social sciences to the assessment of the operations of CRs. Yet it also makes a compelling case for referendums as a deliberative and participatory constitutional tool that complements traditional representative channels. Given the current discredit of some of such channels (notably, political parties), Tierney's book is a much-needed contribution.

Let me briefly flag two concerns though. Firstly, Tierney's use of neo-republican theory is certainly very sophisticated. He correctly distinguishes between elitist and popular strands within the republicanism, and embraces the latter. Yet he fails to clearly separate civic republicanism from civic humanism. When his argument falls into the latter, it becomes perfectionist and loses force. Secondly, Tierney claims that, when properly designed, CRs can improve citizen engagement and deliberation. Stakes are high in CRs, for their upshot is a piece of constitutional law that is typically very cumbersome to change and which legal and political influence is pervasive. Greater citizen engagement is to be expected as a result. However, deliberation also requires a disposition to act impartially and to change one's mind, as Tierney rightly notes. Now, precisely because the stakes are so high in CRs, citizens are also less likely to be open-minded and more prone to rent seeking. Tough bargaining among polarised parties rather than genuine deliberation is to be expected.