Independence referendums in multinational democracies are high-stakes, emotionally-charged events that feature debates over the desirability, legitimacy, and feasibility of secession (Lecours, forthcoming). These debates involve many different actors along different territorial levels: within the minority national community, where the dominant issue tends to be the desirability of independent statehood; involving the central government; where desirability arguments are also part of the debate but where the legitimacy question is often present; and on the international scene, where the feasibility of establishing a new state, that is, the international recognition of independent statehood, is a central question.

This paper analyzes the strategies of secessionist forces in the context of independence referendum campaigns as they unfold along these three territorial levels using the case of Québec. Québec is exceptional among all cases of nationalist movements in liberal-democracies, as governments formed by the secessionist Parti québécois (PQ) have organized two independence referendums (see Table 1). Thus, the Québec case offers particularly fertile ground for examining how a secessionist party seeks to convince a majority of voters to support independence in a referendum campaign while a host of other actors (within the province, across the country, and around the world) make a case against secession. More specifically, the unique Québec experience

1The author would like to thank the Research Group on Plurinational Societies/Groupe de recherche sur les sociétés plurinational (GRSP) for its support.
with two independence referendums allows for an in-case comparison that can illuminate differences and similarities in campaign dynamics and point towards potential explanatory factors in the event that significant differences are identified between the two referendums.

The paper is divided into three main sections. The first section discusses how secessionist actors typically interact with non-secessionist forces within the minority national community, in the rest of the country and beyond the state’s borders. The second section looks at the two cases of independence referendums in Québec, in 1980 and 1995. The third section examines the consequences of the Clarity Act (2000) on the potential recognition dynamics stemming from any future independence referendum in Québec.

**Independence Referendum Campaigns: Secessionist Politics within the Minority National Community, at the State-Wide Level and Internationally.**

A central aim of secessionist actors during an independence referendum campaign is to convince members of the minority national community of the desirability of secession. In advanced industrialized liberal-democracies, this is not a simple argument to make since there typically does not exist issues of security, systemic oppression, or extreme poverty. Yet, a wide variety of arguments (and counter-arguments) are made in independence referendum campaigns. For the purpose of analytical clarity, I distinguish between four types of arguments.

The first are identity arguments. All independence referendums feature, to some degree, the notion that the community for whom independence is sought is a nation, distinct from the one projected by the state. Additionally, if the minority nation is closely associated with specific cultural markers like language, an identity argument for secession can be that independence will
transform a cultural or linguistic minority into a majority. Overall, pro-secession arguments tend to include the notion that independence will be beneficial to the culture, the identity and indeed the nationhood of a minority national community.

The second are public policy arguments. An argument for secession can be that independence would allow the minority national community to implement public policies in tune with the societal preferences of the minority national community. In other words, the secessionist movement may claim that the minority national community prefers policies other than those implemented by the central government (and over which it has no veto). Of course, such arguments about public policies are often tied to national identity (Béland and Lecours, 2008) so the division between policy and identity considerations in secessionist arguments is somewhat artificial.

The third are societal project arguments. This type of arguments encompasses both identity and policy dimensions but has broader ideological and political meaning. Indeed, secessionist movements often make the argument that independence can allow for the creation of a different type of society, presumably built upon the dominant values and preferences of the minority national community, as well as a different (presumably better) way of doing politics. For example, at the most basic level, secessionist actors can argue independence can lead to a more progressive and egalitarian society, or to one where autonomy and entrepreneurship is fully maximized.

The fourth type of secessionist arguments involves grievances against the state. Such grievances are always present in some way within an argument for secession. These grievances tend to be multifaceted; the central government, or the state, is typically said to have slighted the minority national community in multiple ways. Such perceived slights can include issues of fiscal redistribution, political centralization, marginalization, and the (non) recognition of nationhood or
distinctiveness. Overall, accusations of unfair or discriminatory treatment against the minority national community tend to be powerful discursive tools for promoting secession during a referendum campaign.

Secessionist politics also often involves secessionist actors tackling the question of the legitimacy of an independence referendum. This question sometimes pits secessionists and non-secessionists within the minority national community, but it is most often debated between secessionist leaders and the central government. In some cases, central governments may not question the legitimacy of holding an independence referendum, and it may not even look to establish, or negotiate, some parameters for the consultation exercise. More likely, however, is that the central government will look to specify what a legitimate independence looks like: who gets the right to vote, when does the vote takes place, what question is asked, what majority is required for a secessionist win, etc… Secessionist leaders can then choose to negotiate some kind of an agreement with the central government, or choose to have all the parameters set unilaterally by the political institutions of the minority national community. The latter choice involves a substantial risk since a win of the secessionist option might not be recognized by the central government, which leaves secessionist with the very difficult task of seek recognition of statehood against the wishes of the state. The central state may also choose to reject the legitimacy (and even the legality and constitutionality) of an independence referendum. In such a case, the issue of legitimacy is likely to permeate the whole referendum campaign, and only supporters of secessionists may turn out to vote.

Ultimately, the feasibility of independence hinges strongly on the international recognition of statehood. When there an agreement in place on the parameters of the referendum between secessionist leaders and the central government, presumably including a commitment on the part
of the central government to recognize that a secessionist win will lead to independent statehood, secessionists may not view it as crucial to look to secure international support for their independence project; the eventual recognition of independence by the state whose existence is questioned by the referendum is expected to open the door for a generalized recognition by the international community. In cases where no such agreement exists, however, it becomes crucial for secessionist leaders to seek out potential support internationally for an eventual declaration of independence. Hence, in such circumstances these leaders ‘go abroad’ to explain their project and elicit some sympathy for it. They use the international arena in an attempt to put some pressure on their state to recognize the eventual independence of their minority national community, if not to get outright assurances that some other states will offer such recognition. Of course, this is a tall order. States defend the principle of territorial integrity, and those who have to manage nationalist movements do it particularly strongly. As multinational democracies such as Canada, the United Kingdom, Spain and Belgium offer measures of autonomy (in addition to the protection of basic individual rights) to their minority national communities, states consider that these communities have achieve an acceptable level of self-determination. In this context, the democratic will and self-determination arguments of secessionist leaders tend to fall flat. Sometimes, historical and/or cultural connections between the minority national community and some foreign states can provide an apparent opening for secessionist leaders to persuade these states to support an eventual declaration of independence. As we will see in the next section, it is exactly what Québec’s PQ government sought to do in both 1980 and 1995.
The Québec Independence Referendums

Nationalism in advanced industrialized liberal democracies was considered dead by many scholars in the 1960s. Modernist thinking held that processes of economic, cultural, social and political diffusion from center to periphery would definitively complete the integration of Western states (Deutsch, 1966). Yet, in Canada, the rise of Québécois nationalism led to a referendum on independence in 1980 and yet another one in 1995. Although held only 15 years apart, these referendums featured quite different secessionist strategies but exhibit similar dynamics on legitimacy questions as well as international engagement.


The 1980 Québec referendum came on the heels of a process of modernization in the province known as the Quiet Revolution. Engineered by Québec governments beginning in the 1960s, the Quiet Revolution featured, among other things, measures to improve the socio-economic status of Francophones, rendered difficult by decades of mostly conservative politics and strong Church influence, and legislation to promote the French language and culture at a time when English was the dominant language at the highest echelons of the province’s economy (McRoberts, 1993). The (Liberal) Québec governments of the Quiet Revolution also argued that they shouldered the special burden of looking after the only mainly French-speaking society in North America and that, as a result, Québec should enjoy extensive autonomy within the Canadian federation and be recognized as different within its constitutional framework. The PQ, formed in
1968, went a step further and argued that the full emancipation of Francophones required Québec to be a sovereign state (Fraser, 1984). Its majority government in 1976 gave the secessionist party the opportunity to organise a referendum on independence.

The PQ recognized the radical nature of its project, and sought to re-assure Quebeckers by adopting a so-called gradualist approach (l’étapisme). Indeed, in 1980, the PQ asked Quebeckers for a mandate to negotiate a ‘sovereignty-association’ arrangement with Canada. In the event of a ‘yes’ answer, a second referendum would be held to ratify whatever ‘association’ had been negotiated. In other words, Quebeckers would have a chance to confirm their decision to become independent after they initially granted the Québec government begin secession negotiations with Canada. Also in recognition of the hurdles it faced in convincing Quebeckers to support secession, the PQ opted to use the concept of ‘sovereignty’ (rather than independence, which arguably sounded more like a rupture) coupled with the notion of an association with Canada. Such association remained ill defined but, to the extent it was discussed at all, the focus was on an economic rather than a political association (although the latter was not formally excluded). These two elements (the gradualist, two-referendum approach and the use of the concept of sovereignty-association) made for a ‘softer’ question viewed as more likely to garner a majority of ‘yes’ votes than a short, straightforward question on independence.²

² The question was: “The Government of Quebec 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 Quebec 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; any change in political status resulting from these negotiations will only be implemented with popular approval through another referendum; on these terms, do you give the Government of Quebec the mandate to negotiate the proposed agreement between Quebec and Canada?”
The PQ government never sought to obtain the consent of the federal government for holding a referendum on independence. In the absence of constitutional barriers to secession, the federal nature of Canada, which involves a division of sovereignty, combined with the prominence in the province of political ideas such as the right to self-determination most likely contributed to the PQ taking for granted Québec could become independent. The legitimacy of an independence referendum and, indeed, of the possible secession of Québec, was never challenged by federal government. Perhaps the fact that, as per the gradualist approach, a ‘yes’ vote in the first referendum would need to be followed by another ‘yes’ result in a second referendum made it easier for the federal government to tacitly accept the legitimacy of such a self-determination exercise by fully engaging in the campaign, as did the fact that it was confident the ‘no’ would win rather handily. Moreover, the federal government never seriously objected to the question posed, nor did it question that 50% + 1 would be a sufficient majority to trigger secession negotiations. In sum, even in the absence of a negotiated agreement between the Québec and Canadian governments, there was virtually no debate, or even discussion, on the legitimacy of the referendum.

The PQ deployed two main arguments during the 1980 referendum campaign, both very broad in nature and anchored into the developing Québécois nationalism that was pushing aside notions of French-Canadian solidarity (Balthazar, 2013).

The first argument was that a sovereign Québec could fully emancipate Francophones. For the PQ, independence was a project for the province’s Francophone majority, as it was argued that an independent state could best protect and promote its socio-economic, cultural, and linguistic interests. At that time, there was virtually no effort made to convince Anglophones and new immigrants, who were overwhelmingly in favour of Québec remaining part of Canada, to support
independence. Not only did the PQ judge there was basically no chance to change the views of even a handful of members of these communities, but running a campaign centred on the notion of giving Francophone Quebeckers ‘a country’ was not widely viewed as a problematic idea. Hence, the cultural content of the campaign was very substantial. French, in all its dimensions, was central to the argument for independence, and singers, artists and poets were at the forefront of the ‘Yes’ campaign.

The second broad argument made by the PQ was that independence could be used to create a fairer, more egalitarian society where the state would be used extensively to bridge the gap between rich and poor. The PQ was created as a social-democratic party and, during its government years preceding the referendum (1976-1980), implemented many progressive measures, particularly on the labour market. Trade-unions were close to the PQ and supportive of independence, which they saw as a way to improve the socio-economic status of Francophones and to create a more labour-friendly environment. The PQ argued that Québec independence would be used to create a different type of society, one inspired by the social-democracies of Scandinavia (Béland and Lecours, 2008).

To counter these arguments, the federal government used a two-pronged strategy. First, then Prime Minister Pierre Trudeau articulated a strong defense of Canada, emphasizing that the country belonged to Quebeckers as much as it did to other Canadians. For many Quebeckers, especially older ones whose formative years pre-dated the Quiet Revolution and strongly identified as ‘French-Canadians,’ this was a powerful argument. Second, the federal government predicted that independence would come with dire economic and financial consequences, and that Québec would be a small, isolated, and poor sovereign state. The international context of the time gave
these economic arguments some credibility. Indeed, at a time where economies were still (state) national, Québec’s trading was very much oriented towards the rest of Canada.

In the international politics of Québec independence, there are two significant actors: France, historically and culturally the most meaningful external state for the province, and the superpower neighbour, the United States. In the 1960s, France expressed support for Québec independence, as demonstrated by General de Gaulle’s “Vive le Québec libre!” pronouncement on the balcony of Montreal’s city hall in 1967. General de Gaulle’s strategy was in part motivated by his desire to “break the Anglo-American domination of the North Atlantic Alliance and give France an independent Francophone ally in North America (Nossal, Roussel and Paquin, 2015: 357).

Although such enthusiasm had tempered under Valéry Giscard d’Estaing, in his visit to France in 1977, Premier René Lévesque was welcomed with the diplomatic formalities usually reserved for heads of state and government. In fact, there remained enough sympathy for the PQ’s project in the French government to have France develop a specific formula to designate the country’s position towards secessionist politics in Québec: non-ingérence, non-indifférence (non-meddling, non-indifference) (Bastien, 1999).

This stood in sharp contrast to the United States, which took unambiguously position in favour of a united Canada. The PQ government recognized that the American opposition to Québec independence could deter some Quebeckers from voting ‘yes’ so it launched the so-called Operation America to explain their independence project to Americans (Nossal, Roussel and Paquin, 2015: 362). When Premier René Lévesque and his Minister of Finance Jacques Parizeau went to New York in 1977, where they called the province’s independence ‘inevitable,’ they
encountered mostly negative reactions on the part of the business communities that feared nationalizations and potential debt defaults (Nossal, Roussel and Paquin, 2015: 361) Indeed, the idea of independence was really badly received in the United States where the socio-democratic ideology of the secessionist movement led some to suggest independence would transform the province in a “Cuba North,” an unwelcomed proposition in a United States still in the middle of the Cold War. Moreover, despite Premier René Lévesque’s attempt to compare its project to the American War of Independence when speaking to an American audience, secessionist politics brought up memories of the Civil War instead.

Yet, the federal government was not taking the United States’ position on the issue of Québec independence lightly, fearing that even a few words of sympathy by American diplomats or even commentators could embolden more Quebeckers to vote ‘yes.’ Prime Minister Pierre Trudeau secured an invitation to speak to a joint session of the US Congress where he warned that the secession of Québec would have more serious consequences for the United States than the Cuban missile crisis (Nossal, Roussel and Paquin, 2015: 362). He also said the break-up of Canada would be “a crime against the history of mankind (Nossal, Roussel and Paquin, 2015: 362). The position of the United States’ government during the 1980 referendum remained consistent. President Carter expressed the idea that Canada’s stability was of crucial importance and that, although the question of Québec’s political future was a matter internal to Canada, the United States preferred a united Canada (Nossal, Roussel and Paquin, 2015: 362).

Although the impact of international factors on the 1980 referendum is impossible to assess with any precision, it was most likely marginal. The French and American positions largely conformed to the expectations of the actors involved in the referendum. For the PQ, convincing
post-de Gaulle France to support clearly Québec’s independence was always a long shot while getting any kind of sympathy from the United States was even less likely.

The 1995 Referendum: Grievances against the Federal Government

The second referendum on Québec independence was the product of a very different political dynamic than the first. By the mid-1990s, Francophone Quebeckers by and large no longer felt like they required ‘emancipation’ or ‘liberation.’ Language legislation had helped to both strengthen the position of French and further the socio-economic status of Francophones. Although the PQ still presented itself as social-democratic, the party appeared much more business-friendly than before. The nature of nationalist mobilization in Québec had changed but arguably reached new height in the early 1990s when constitutional negotiations aiming at meeting demands of Québec governments (after a new constitution act was adopted in 1982 without its consent) ultimately failed (Laforest, 1995). These failures were interpreted by Quebeckers as a rejection of the province, and more specifically of its distinctiveness. The PQ capitalized on, and fed, these feelings of rejection, arguing it was now time to make Québec an independent country. The secessionist party competed in the 1994 Québec elections with the promise of holding a second referendum on independence if it won. After winning a majority of seats and forming the government, the PQ announced a referendum would be help on October 20 1995.

The federal government reacted placidly to this announcement. Much like in 1980, and despite polls having shown majority support for independence just a couple of years earlier, the expectation was for a similar result to the first referendum. Moreover, the 1980 referendum served
as an important precedent, one that would have made it difficult for the federal government to challenge the legitimacy of a vote on independence 15 years later. There was an important difference between the 1995 and 1980 referendum process: in 1995, the gradualist approach was abandoned and there was to be only one vote, which presumably gave the PQ government a mandate to negotiate a final secession settlement with Canada. Yet, the federal government made no issue of this change, perhaps believing that asking for a second, post-negotiation confirmation vote in the event of a ‘yes’ result would have made it easier for Quebeckers to support independence in a first vote. Moreover, although some dismay was expressed by opponents of secession at the wording of the question, there was never any attempt on the part of the federal government to argue, before the referendum, that the wording rendered the exercise illegitimate. Of course, the question’s wording was designed to maximize the chances of a ‘yes’ result. Like in 1980, the ‘yes’ side spoke of sovereignty rather than independence, and stated there would be an offer of economic and political partnership (never specifically defined) made to Canada once Quebeckers had voted for secession. All of this was reflected in the question. Moreover, the question referred to an agreement between various parties. Indeed, by the early 1990s (and contrary to 1980), there was also a secessionist party operating at the federal level (the Bloc québécois, BQ) and a small nationalist party in the Québec party system (Action démocratique du Québec, ADQ) that chose to support independence. This multi-party support was referenced in the question, most likely in the hope that independence be seen as more than just the PQ project.

The failed constitutional negotiations of the 1980s and early 1990s constituted the essence of the argument of the ‘yes’ camp in 1995. Independence was best, according to ‘yes’ side leaders,

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3 The question was: “Do you agree that Quebec should become sovereign after having made a formal offer to Canada for a new economic and political partnership within the scope of the bill respecting the future of Quebec and of the agreement signed on June 12, 1995?”
because Québec’s minimal conditions for a constitutional accord (including, most importantly, a recognition of its distinctiveness) had been too much for the rest of Canada to accept. These leaders deployed a narrative of exhaustion, similar to that of present-day Catalonia (Basta, forthcoming), which stated that Québec governments had tried everything to make it work within Canada but to no avail, and that in these circumstances independence was the only option. The constitutional odyssey of the 1980s and early 1990s was presented as a rejection of Québec by Canada. Its main actors were vilified and/or presented as traitors (for example, then Prime Minister Jean Chrétien, himself a Quebecker). The leaders of the ‘yes’ side remained vague about what independence would mean, only arguing that with a ‘yes’ anything would be possible. In other words, secessionist arguments in the 1995 referendum were primarily about grievances held against the federal government; the societal project involved in the first referendum (emancipation of Francophones and establishment of a social democracy) was virtually absent.

For its part, the federal government seemed content to keep a low profile for the longest time, believing that a ‘yes’ vote was impossible. There was virtually no appeal to the Canadian identity of Quebeckers, something which prominent federalists in the province later said had been a major mistake (Hébert and Lapierre, 2014). Arguments about the economic and financial risks of secession were less effective than they had been in 1980. The free-trade agreement with the United States, of which the PQ had been supportive in part for strategic reasons, had made the Québec economy less dependent on the rest of Canada (Martin, 1995).

The PQ government was extremely active internationally in seeking support for a unilateral declaration of independence that would follow a ‘yes’ win (an exercise dubbed ‘le grand jeu’). Unsurprisingly, the main international protagonist of this game was France. Publicly, the French government mostly stuck to its non-meddling, non-indifference formula, stating it would
accompany Québec in whichever path it chose. This seemed to be neutral enough for the Canadian government, but ‘yes’ side leaders took it to mean that France would recognize Québec as an independent state following a declaration of independence. In fact, some time in 1995, the Québec and French governments agreed on the following statement, to be released by the French government in the event of a ‘yes’ victory:

France takes note of the democratic will expressed by the Québec people, on October 30 1995, to become sovereign after having formally offered Canada a new political and economic partnership. When Québec’s National Assembly proclaims the sovereignty of Québec following the process laid out in the referendum question and now approved by the Québec people, France will amicably draw the consequences. Concerned that the process occurs in the best conditions, France wants to reaffirm its friendship for Canada and its government. They can be assured of our willingness to maintain and deepen the excellent relations that bind us (Nossal, Roussel and Paquin, 2015: 366, my translation).

Québec Premier Jacques Parizeau always expressed great confidence that France would recognize Québec as a sovereign state after the province’s National Assembly proclaimed independence following ‘yes’ win and the offer of a partnership to Canada. France’s prospective recognition was

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4 The original French is as follows: “La France prend acte de la volonté démocratiquement exprimée par le peuple du Québec, le 30 octobre 1995, de devenir souverain après avoir formellement offert au Canada un nouveau partenariat politique et économique. Lorsque l’Assemblée Nationale du Québec en viendra à proclamer la souveraineté du Québec selon la démarche prévue par la question réféendaire et maintenant entérinée par le peuple québécois, la France en tirera amicalement les conséquences. Soucieuse que ce processus se déroule dans les meilleures conditions, la France tient à réaffirmer son amitié pour (sic) au Canada et à son gouvernement. Ils peuvent être assurés de notre volonté de maintenir et d’approfondir les excellentes relations qui nous lient” (Nossal, Roussel and Paquin, 2015: 366).
the centerpiece of the PQ’s international strategy, would have become especially important had Canada hesitated to accept secession, for example in the event of a very slim ‘yes’ win. The PQ government was hopeful that France would convince other French-speaking countries as well as other European Union member states to follow suit (Nossal, Roussel and Paquin, 2015: 366). Hence, the idea was that momentum would build towards a broad recognition of Québec as a sovereign state within the international community, including by the United States.

Just like in 1980, the United States clearly preferred that Québec remained within Canada. In his visit to Ottawa in February 1995, President Bill Clinton made a speech to the House of Commons that heralded Canada as a model for the world on how different cultures can live together in peace (Nossal, Roussel and Paquin, 2015: 367). On the North American Free Trade Agreement (NAFTA), the Clinton administration made it a point to say that an independent Québec would not automatically be part of the free-trade area (Nossal, Roussel and Paquin, 2015: 367). In short, all signs pointed to the United States not recognizing Québec’s independence if Canada did not. In this context, the strategy was to place the United States government before a fait accompli by getting France, other French-speaking countries and some other European states to recognize an independent Québec. Ultimately, the hope was that the United States would not want to be too far behind France in recognizing a new country in North America, and that it would follow suit.

Interestingly there was no sense during the campaign that the prospects of recognition was affecting Quebeckers’ choice, most supporters of independence taking it from granted that it would materialize after a referendum win. Moreover, the position of international actors seemed to have had little effect on the campaign, although the new international context might have helped the ‘yes’ side. Although, the United States took position against Québec independence, in the post-
Cold War era characterized by the liberalization of trade, there was no reference to ‘Cuba North’ coming from the American government, and independence did not seem to imply isolation and poverty. In other others, arguments against independence based on economic and financial concerns seemed to have weakened between 1980 and 1995, partly as a result of the liberalization of trade. In the end, the result was very close. The ‘yes’ side picked up steam late in the campaign (after charismatic BQ leader Lucien Bouchard was given a bigger role in the campaign --- evidence of the importance of agency in these events) and ‘no’ camp barely hung on, winning 50.6% of the vote.

**Post 1995 Developments: The Clarity Act.**

A third referendum on independence is extremely unlikely in the short to medium term as support for secession is at its lowest point in decades. Indeed, contrary to expectations secessionists have long had, young Quebeckers (18-34 years old) can not be counted on to support independence today, and even within the generation that carried the project beginning in the 1970s support for secession is below 40% (see Table 2). However, in the years immediately following the second referendum, there was a general expectation, considering the very close results, that the PQ (which formed another majority government after the 1998 Québec elections), would organize a third vote on independence. In this context, the federal government decided to establish a legal framework for independence referendums in the country. It first asked the Supreme Court of Canada if Québec could secede unilaterally from Canada under Constitution. The Court answered this way:

Quebec could not, despite a clear referendum result, purport to invoke a right of self-determination to dictate the terms of a proposed secession to the other parties to the federation. The democratic vote, by however strong a majority, would have no legal effect on its own and could not push aside the principles
of federalism and the rule of law, the rights of individuals and minorities, or
the operation of democracy in the other provinces or in Canada as a whole. Democratic rights under the Constitution cannot be divorced from
constitutional obligations. Nor, however, can the reverse proposition be
accepted: the continued existence and operation of the Canadian constitutional
order could not be indifferent to a clear expression of a clear majority of Quebeckers that they no longer wish to remain in Canada. The other provinces
and the federal government would have no basis to deny the right of the
government of Quebec to pursue secession should a clear majority of the people
of Quebec choose that goal, so long as in doing so, Quebec respects the rights
of others. The negotiations that followed such a vote would address the
potential act of secession as well as its possible terms should in fact secession
proceed. There would be no conclusions predetermined by law on any
issue. Negotiations would need to address the interests of the other provinces,
the federal government and Quebec and indeed the rights of all Canadians both
within and outside Quebec, and specifically the rights of minorities (Supreme
Court of Canada, 1998).

In other words, the Court finds that the secession of Québec from Canada is neither legal nor illegal
from a Canadian constitutional perspective but that if a clear majority of Quebeckers supported
independence all the partners of the federation would have a duty to negotiate in the respect of
specific principles.

The federal government also asked if international law gives Québec the right to
unilaterally secede from Canada. After answering ‘no’ to this question, finding that Québec is
neither a colonized nor an oppressed people, the Court states:

Although there is no right, under the Constitution or at international law, to
unilateral secession, the possibility of an unconstitutional declaration of
secession leading to a de facto secession is not ruled out. The ultimate
success of such a secession would be dependent on recognition by the
international community, which is likely to consider the legality and
legitimacy of secession having regard to, amongst other facts, the conduct
of Quebec and Canada, in determining whether to grant or withhold
recognition. Even if granted, such recognition would not, however, provide
any retroactive justification for the act of secession, either under the
The court thus confirms that secession is a political act whose ultimate success is dependent upon international recognition, and it presumes that recognition would hinge at least in part on the extent to which secession is considered legitimate and legal by international actors.

In 1980 and 1995, the federal government had not questioned the legitimacy or legality of the referendums nor had it spoken on the conditions upon which it would recognize an independent Québec after a ‘yes’ win. In the aftermath of the Supreme Court Reference on the Secession of Québec, the federal government proceeded to lay out such conditions in legislation, the so-called Clarity Act (formally An Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference). The 2000 Clarity Act incorporates some content from the Secession reference while, as some observers have pointed out (Rocher and Verrelli, 2003), adding brand new elements to the question of the secession of a province.

First of all, the Clarity Act acknowledges that “the government of any province of Canada is entitled to consult its population by referendum on any issue and is entitled to formulate the wording of its referendum question (preamble). It also states that “the Supreme Court of Canada has determined that the result of a referendum on the secession of a province from Canada must be free of ambiguity both in terms of the question asked and in terms of the support it achieves if that result is to be taken as an expression of the democratic will that would give rise to an obligation to enter into negotiations that might lead to secession.”
The Clarity Act then states that the House of Commons will judge, within thirty days after the referendum legislation has been tabled by a province, whether the question is clear or not (article 1-1). This judgement serves as one of the bases of the federal government’s response to a ‘yes’ win: “The Government of Canada shall not enter into negotiations on the terms on which a province might cease to be part of Canada if the House of Commons determines, pursuant to this section, that a referendum question is not clear and, for that reason, would not result in a clear expression of the will of the population of that province on whether the province should cease to be part of Canada” (article 1-6).

The second basis for the federal government’s post-‘yes’ vote response is an evaluation of the clarity of a will to secede: “The Government of Canada shall not enter into negotiations on the terms on which a province might cease to be part of Canada unless the House of Commons determines, pursuant to this section, that there has been a clear expression of a will by a clear majority of the population of that province that the province cease to be part of Canada” (article 4). No figure is presented or suggested as to what a ‘clear majority’ is, which means that the House of Commons would have great latitude, after the referendum, to assess if a clear will to secede has been demonstrated. In other words, the Clarity Act seems to make it easier, constitutionally but also politically, for the federal government of Canada to say that a ‘yes’ vote may not lead to secession. The notion that the federal government has any kind of right of oversight on the referendum question and the majority required for a ‘yes’ win to lead to independence is opposed by all Québec political parties.

Of course, if the federal government were to not consider that a ‘yes’ victory in an eventual third referendum on independence not lead to secession, the likelihood is that virtually all other states would do the same. This is especially true because the international context is presently less
conducive to the recognition of an independent Québec, at least in the absence of such recognition by Canada, than in 1995. Perhaps most importantly, French governments have been less supportive of Québec self-determination in the last decade or so than ever before. The PQ used to enjoy strong networks with French politicians, which could be used to elicit sympathy for its project, but these days are largely gone. President Nicolas Sarkozy seemed downright hostile to the notion of Québec independence and the new generation of French politicians, including current President Emmanuel Macron, most likely do not have the sensibilities of their predecessors towards this type of self-determination claims. Indeed, the hostile reaction of France and all other European states towards the Catalan secessionist project constitutes is inauspicious for any future Québec declaration of independence. Moreover, the traditional preference of the United States government for Canadian unity might be exacerbated by the contemporary importance of border control and immigration issues, among other things.

Conclusion

The story of the Québec referendums shows that secessionist and counter-secessionist strategies are contextual: they are inseparable from the political dynamics of the previous decade or so. In other words, the nature of debates over the desirability of secession are time-specific. Each of the Quebec referendums had its own political dynamic, featuring its own set of arguments on independence. Indeed, the political dynamics of the referendums of 1980 and 1995 were shaped by the preceding 15-20 year period. These ‘slices of history’ informed how secessionist actors sought to prevail in each of the referendums as well as how opponent of independence. The question of legitimacy was more stable across the two Quebec referendums, as the position of the federal government in 1980 (accepting that a vote on secession was constitutional and legitimate)
may have establishment a precedent from which it would have been politically difficult to stray. Internationally, the reactions of the two most important foreign states to the question of independence (France and the United States) were fairly similar across the two referendums, although a more developed and aggressive international relations strategy by the PQ government in 1995 seemed to have engaged the French government more substantially than fifteen years earlier. However, the question of the feasibility of Québec independence in terms of international recognition remained to this day an unknown as it most likely hinges on the reaction of the federal government to a ‘yes’ victory.

Of course, there is some agency involved in referendums; they are not strictly the product of their ‘slice of history.’ From this perspective, strategies used in the Québec referendums may present some lessons for both secessionists and their political adversaries elsewhere. For secessionists, the greater support for independence in the second Québec referendum suggests that focusing the argument on the state’s refusal to acknowledge, symbolically and institutionally, the existence of an internal nation maybe a more fruitful strategy (certainly one around which more people can rally) than attaching to independence some grand social project (to which many can find various faults). For counter-secessionists, the Québec referendums recall the importance of actively speaking to the merits of the country and the history of the internal nation in it as a way to counter the narratives of rejection, dysfunction, and exhaustion mobilized by supporters of independence.

The Québec experience does not contain real insight on gaining international recognition for independence against the wishes of the state since both of the referendums failed to produce a majority for the ‘yes’ side. The PQ always felt it had a secret weapon because of Québec’s so-called privileged relationship with France, but the exact response of the French government
following a ‘yes’ win remains unknown. In all likelihood, international recognition of Québec independence would have greatly hinged on the reaction of the federal government. Although the federal government campaigned against independence in both referendums, thereby informally accepting its legitimacy, a short ‘yes’ vote would have posed quite the dilemma. The Clarity Act does not eliminate such dilemma in the event (unlikely in the short term) of a ‘yes’ vote in an eventual third referendum but it seems to provide greater latitude for the federal government in deciding upon its response, from which the international community would most likely take its cue.

Bibliography


Table 1

Results of the Québec Independence Referendums

<table>
<thead>
<tr>
<th></th>
<th>1980 Referendum</th>
<th>1995 Referendum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>40.44%</td>
<td>49.42%</td>
</tr>
<tr>
<td>No</td>
<td>59.56%</td>
<td>40.58%</td>
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<tr>
<td>Turnout</td>
<td>85.61%</td>
<td>93.52%</td>
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</table>

Table 2

Contemporary support for Québec independence

Answer to the question: “If today there was a referendum on the following question: ‘Do you want Québec to be an independent country?’ would you vote yes or no?”

<table>
<thead>
<tr>
<th>Age</th>
<th>Maternal Tongue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>French</td>
</tr>
<tr>
<td>Total</td>
<td>18-34</td>
</tr>
<tr>
<td>Yes</td>
<td>36%</td>
</tr>
<tr>
<td>No</td>
<td>64%</td>
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Source: CROP 2015