

Commentary



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Prioritizing persuasion, not coercion: The case against mandatory voting

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Introduction

The recent Ontario election that saw the Ford government return to power, and the leaders of the NDP and Liberals resign shortly after the polls closed, was particularly noteworthy for its impressively low turnout of voters – with rather more than half the electorate sitting it out. While to a certain kind of enthusiast every election has low turnout, such an assessment is surely fair when only 43 percent of the electorate decided to go to the polls.

A low-turnout election is certain to trigger renewed calls for making voting mandatory – and the Ontario election was no exception. Predictably, Andrew Coyne, probably Canada’s most outspoken advocate of forcing citizens to the polls, was renewing his appeals (Coyne 2022). Elsewhere, even former US President Barack Obama has mused about the salutary effects of electoral compulsion (Yan 2015). Nonetheless, arguments for mandatory voting are unpersuasive.

In this commentary, I consider a range of such arguments, based both on alleged duties of citizenship and on the outcomes mandatory voting is supposed to promote, and find all wanting. Indeed, rather than improving the current situation, mandatory voting might only make matters worse. If we want to increase voter turnout, a better approach is to focus on persuading voters to go to the polls – and not coercing them to do so.

Civic duties

Voting is often referred to as a civic duty. The idea, simply put, is that one cannot be a good citizen if one does not vote. It is also sometimes said that voting is the expression of belonging in a political community. Let us stipulate that we can have some duties as a result of our membership in society. (Truth be told, I am very skeptical about this.) Let us further stipulate that one such duty is to take public affairs seriously, to concern ourselves with government, and to share this concern with our fellow-citizens. (I am very skeptical about this too.) Assuming that we have a duty to become politically engaged together with our fellow citizens, does it follow that we have a duty to vote?

I do not think so, because voting is not the only way to discharge this obligation. Debating public affairs, whether with friends or in some more public forum, is a form of political engagement. Working for some organization that contributes to the public good, as it sees it, is a way of taking part in the polity's affairs. Indeed, such ways of becoming engaged are likely to be more significant than voting. A tangible good deed, or even an argument that persuades a number of one's fellow citizens, contributes a good deal more to the *res publica* than casting – or, *a fortiori*, spoiling – a ballot. To say that voting as a form of participation in public affairs is uniquely mandatory, one needs further argument.

Perhaps the most serious such argument is that it is necessary for people to vote because the continuing legitimacy of our democratic political arrangements depends on widespread participation. If abstention rates are too high, democracy itself is at risk. At some point, that is probably true: witness the abolition of French-language elected school boards in Quebec after less than 5 percent of the eligible voters bothered to cast a ballot in 2014 (Kelly 2014). But what does that entail for provincial or federal elections?

The level of turnout that provokes alarm about the legitimacy of electoral outcomes is in reality a function of habit. In New Zealand, 75 percent would be seen as worryingly low; in Canadian federal elections it would be exceptionally high. Turnouts around 60 percent a decade ago were seen as a near-calamity in Canada, but would be reasonably high for presidential elections (never mind, say, mid-terms) in the United States. Meanwhile, in Switzerland, turnout has not reached 50 percent this century. If the Swiss Federal Assembly is legitimate, so is Ontario's legislature. Wherever the turnout threshold below which the viability of a democratic system can come into question is situated, it is quite clearly well below the turnout levels actually observed in Canadian legislative elections.

Another reason that is often invoked to justify a civic duty to vote is gratitude to those who have won and defended the right to vote, be they women's suffrage advocates, 19th-century voters who testified to the Catholic hierarchy's campaign of undue electoral influence (Sirota 2013), or the soldiers of the

First and Second World Wars. But our – very real, and sometimes forgotten – debts of gratitude to those who helped obtain or preserve our right to vote no more translates into an obligation to exercise this right than our debt of gratitude to, say, the citizens who challenged the oppression of Jehovah’s Witnesses compels us to attend worship. All our rights are hard-won, but that does not mean that we are duty-bound to actually exercise them.

As for those who worry that the civic instincts of the abstainers will atrophy without a quadrennial exercise in walking to the polling station, a duty to be engaged in public affairs should be enough. Those who follow politics and think about it will surely not fail to vote if or when they conclude that a candidate or party deserves their support. Polling suggests that people who think that voting is a choice are not much less likely to vote as those who think that it is a duty, though it should be taken with a generous helping of salt due to social desirability bias: people routinely lie to pollsters about intending to vote and indeed about having voted, as becomes clear when you compare turnout figures with the number of people who tell pollsters that they have voted (Office of the Chief Electoral Officer of Canada 2016; Statistics Canada, 2016).

The instrumental case for mandatory voting

I turn now to claims that voting ought to be obligatory because some good will come out of everyone voting, enough to outweigh the imposition on reluctant voters. The most interesting such argument rests on the idea that elections serve to gather information about how government ought to be run. If the information collected is incomplete because some people did not vote, or worse, skewed because some groups of people are less likely to vote than others, governance will be defective. Mandatory voting solves this problem.

One difficulty with this view, however, is that most people simply don’t know enough about the way government works and about public policy – indeed, they are often quite ignorant about fairly basic facts such as unemployment rates or the number of immigrants in one’s country. Their views on what policies government ought to pursue are uninformed (Somin 2016) and indeed irrational (Caplan 2008). And the people who do not vote tend to be even more ignorant and irrational than those who do.

Of course, one might think that a duty to vote also entails a duty to become better informed and more rational about politics. But this expectation is unrealistic. There is a lot to learn, both about the world and about what the politicians plan on doing to it. This takes time, energy, and – a non-negligible point – a willingness to confront “inconvenient truths” that make you uncomfortable with your prior beliefs. Unlike the duty to vote, a duty to become a competent citizen is a very onerous one.

But the problems with the idea that voting can serve to tell politicians how to run the country are even deeper than this. When you think about it, voting in an election is actually an incredibly bad way of sending any sort of message to anyone. It is a choice between a handful of options at most, each of which comes with a full panoply of policies (however vague) on all sorts of topics (however trivial), promises (however unrealistic), and attack ads (however unfair). A vote can be based on any of these policies, boasts, or insults, singly or in combination. Or it can be based on whose name came first on the ballot, or some other utterly irrelevant consideration.

So how do we know what message a given set of electoral outcomes conveys? That's a trick question: we just don't. As Hans Noel explains, "[t]hese narratives are created after the fact by people who want you to think one thing or another" (2010). Even if the adage *vox populi vox dei* is true, an electoral outcome is no more than a Pythia's mumbling that must be interpreted by self-interested priests. And that's before we account for the possibility that people who show up at the polling station out of a sense of duty will not vote for anyone at all, but simply spoil their ballot. What message exactly does that send?



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To be clear, I am not dunking on democracy. I share Churchill's opinion that it is an imperfect political system, and indeed the worst one – except for all the others. I appreciate the blessings of political choice, such as they are. I just think that the electoral system's purpose is not to send any deep messages to politicians or anyone else. Rather, it is to provide a mechanism for choosing people who will make decisions and, importantly, to ensure that the people in charge know that they are replaceable on fairly short notice, which tends to keep them somewhat honest. Our political system does that reasonably well. Pointing out that it's useless at something it's not meant to do is not a criticism at all.

Meanwhile, there actually exists a much better mechanism for aggregating people's preferences and putting their knowledge in common. It's the free market. When people decide what soda to drink, what phone to use, and what car to drive, they know their needs and wants in way they will never know the needs and wants of their fellow-citizens. They also they have a strong incentive to become informed about the choices available, because they will bear the consequences. Voters lack this incentive, because the chance of a single vote affecting anything is very small.¹

Moreover, the market allows for much more fine-grained decision-making than do elections. Getting a can of Coke in preference to a Pepsi doesn't com-

mit you to, say, buying an iPhone instead of a Samsung, and leasing a Toyota instead of taking the bus. But because you cannot pick and choose among the different parties' policies on various issues, voting for one is the equivalent of committing to Coke, Apple, and Toyota for the next four years.

Again, that's not to say that we should scrap voting altogether. The market isn't the best mechanism for making every decision. But so far as information-gathering is concerned, it is overwhelmingly superior to voting. If we really cared about having as much information as possible about people's preferences and maximizing the use of their individual knowledge for the public good, our governments would regulate less, and let the markets decide more. Unfortunately, politicians tend to impede rather than support markets, and do their utmost to ignore their lessons even when these are clear.

The main other instrumental argument for mandatory voting is that it will make for better election campaigns, as candidates need to appeal to all voters instead of inflaming their partisans and hoping that everyone else stays home in disgust. This is as unrealistic on close examination as it is attractive at first glance. There is no evidence that the politics of nations with mandatory voting are more high-minded, or less prone to dumbed down rhetoric and use wedge issues than ours. Australia, which has mandatory voting and inspires its advocates in Canada, is on its seventh prime minister in the last 15 years (and one of them had two kicks at the can), which might not be a sign of genteel politics.

Indeed, it is easy enough to see why mandatory voting might be making matters worse rather than better. Because an electorate enlarged by the existence of a duty to vote is even more ignorant and irrational than the already unimpressive current one, it is even more susceptible to simplistic, emotional appeals instead of genuine policy debates. Voters who do not care very much about politics and only show up out of a sense of duty – perhaps especially if this duty is legally enforced – will only respond to such noxious arguments.

Conclusion

Whatever duties citizenship might impose on us, voting is not one of them. Nor is mandatory voting going to improve election campaigns or governance. Forcing people to vote is, in any event, a lazy approach that can no more than hide their lack of interest in what politicians have to offer. If political parties want more votes, they should get them the hard but honest way: by persuading citizens. That, rather than ever more coercion, is what democracy is supposed to be all about.

About the author



Leonid Sirota is a public law scholar, currently an Associate Professor at the Reading Law School, in the UK. Previously he taught at the Auckland University of Technology, in New Zealand. He grew up in Canada and graduated with a BCL/LLB (Hons) from McGill, as well as an LLM (in legal theory) and a JSD from the NYU School of Law. He also clerked for Justice Danièle Tremblay-Lamer at the Federal Court of Canada.

His research concerns a variety of public law topics, with either a Canadian or a comparative focus. He has written on constitutional conventions, on the freedoms of conscience and religion, on the law of democracy, on constitutional reform and interpretation, on judicial review of administrative decisions, the Rule of Law, and sometimes other issues. He is the founder of the *Double Aspect* blog (<https://doubleaspect.blog>).

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Endnotes

1 That is true, by the way, under any voting system – not just first-past-the-post.

constructive *important* *forward-thinking*
high-quality *insightful*
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