

Compulsory Voting: Enforced Democracy or Full Participation?

Abstract

Democracy is a delicate ideal; it requires interest, attention and – above all – participation. For these reasons, several countries have applied the model of compulsory voting, imposing penalties on citizens who do not present themselves at the polls. On the one hand, compulsory voting has been criticized by those who consider the compulsion to vote a distortion of the democratic method – constituting a sort of enforced democracy. On the other hand, this model has been supported and understood as a path toward a more equal and inclusive suffrage – the approach to full electoral participation. The term “electoral participation” refers to four possible actions of the elector: voting for a candidate, casting a blank ballot, casting a spoiled ballot, refusing the ballot at the polls.

The aim of the paper is to clarify whether the electoral participation of citizens has been compromised by compulsory voting. Indeed, the obligation to participate complicates the expression of specific moral and political points of view, which tend to be stated through non-participation. The analysis focuses on four positions and tries to understand if compulsory voting allows or not citizens to express such opinions.

- (i) Inability to take a position
- (ii) Refusal to partisanship
- (iii) Indifference
- (iv) Protest

The argumentation will highlight the full compatibility of compulsory voting with all the positions identified, stressing the possibility of expressing these points of view by participating in the elections. It will be thus shown that compulsory voting is an inclusive way of regulating suffrage, able to gather and valorize citizens’ moral and political ideas, of which democracy is the guarantor.

1. Compulsory voting: exceptions, penalties, abstention.

Compulsory voting (or mandatory voting) is widespread in dozens of countries on different continents (The electoral commission 2006; Birch 2009): Belgium, Australia, Brazil, Argentina and many others. It can be defined as the imposition of penalties on those who abstain without a justified reason – such as illness or professional commitments (Keaney, Rogers 2006: 34).

The role and nature of penalties are crucial factors. There are two categories of penalties related to compulsory voting. The first consist of financial penalties, the latter have the form of "civic restrictions" (Maldonado 2015: 14), which would only take over in response to a repeated refusal to pay the fines. These restrictions may include the impediment to access the public school or the passport seizure (The Electoral Commission 2006; Brennan, Hill 2014: 7-8).

The reduced size of fines is a qualifying element in the structure of compulsory voting, identifiable also from a comparative point of view. Fines ranges from 20 Australian dollars (Commonwealth Electoral Act 1918; Criminal Code Act 1995, section 245), to 50 Argentine pesos (Código Electoral, Decreto N° 2.135, del 18.08.83, con las modificaciones introducidas por las leyes N. 23.247, 23.476, 24.012, 24.444 y 24.904, Artículo 125 - No emisión del voto) and 500 Uruguayan pesos (Ley N° 13.882, art. 10); passing through the penalty calculated as a percentage of the minimum wage in Brazil (3-10%) (Lei n. 4.737, de 15 de julho de 1965, Institui o Código Eleitoral, art. 7) and Ecuador (10%) (Ley organica electoral y de organizaciones politicas de la Republica del Ecuador, art. 292); up to that derived from the tax unit in Peru (5% of Unidad Impositiva Tributaria) (Ley Orgánica de Elecciones, Ley N° 26859, Art. 251).

The obligation to vote in no way implies the need to support a certain political force or, even, to cast a valid ballot. The citizen can decide to cast a blank ballot, spoilt ballot, to choose – in some jurisdictions – the “none of the above” option (Damore, Waters, Bowler 2012: 895-897), even to refuse the ballot after the registration at the polling station (possible in Italy, but also in Belgium: for the Italian case, articles 66, first paragraph, and 87, first paragraph, TU n. 361/1957).

The obligation to vote therefore remains separated from the political choice: the obligation, rather than voting, is to participate in the voting process. For this reason, some scholars proposed to redefine compulsory voting as “compulsory turnout” (Keaney, Rogers 2006: 6-7; Engelen 2007: 25), avoiding the ambiguity of the first concept (Lijphart 1998: 10). Anyway, in this paper we continue to use the term “compulsory voting”, which monopolized the bibliography.

2. Hushing up citizens?

The threat of fines and “civic restrictions” raise an ethical and political problem. Under the menace to be punished for not turning out to vote, electors are put in the position of not being able to express their own personal point of view. In fact, they may find in abstention the way to express their beliefs about governments, candidates and – more broadly – democratic politics.

According to the proposed definition, defenders of compulsory voting might argue that eligible citizens maintain the right to express their opinions at the polls. If anything, voters are only requested to participate and discover the opportunity not only to express but also to highlight their point of view, making their convictions known and recognizable to the State.

This argumentation could suffer from a flaw: can all the elector’s point of view be expressed with compulsory voting? The duty to be present at the polls in the election day force these citizens to give up expressing their beliefs? If the answers to these questions outline compulsory voting as a limitation for elector’s freedom to express, suspects of who accuses compulsory voting of depriving moral and political right to citizens are well-founded.

3. Inability to take a position

A first perspective represents a problem of competence. Voters may realize not to be able to express a cogent and informed preference and therefore delegate this important task to others. Abstention would thus appear as a mature and even altruistic deliberation, as the choice not to be influent in a decision that concerns the community, and on which one is not enough informed to take a farsighted position (Brennan, Hill 2014: 143). Out of politics, it is distinctly moral the choice to refrain from debating and deciding about specific situation (e.g. medical aspects): not for indifference, but for trust laid in others, more able to take the right decision. Abstention would thus represent a reasonable practice, "deciding not to choose", "a way to vote indirectly" (Brennan 2011: 96).

However, the choice not to affect the outcome of the elections seems to be possible without abstaining. Furthermore, abstention would represent a sort of disinterest, whereas the presence at polls would mark the resolute intention to be part of the electoral process, without "corrupting" it with one's own incompetence. In this respect, elector might decide to cast a spoilt ballot or to sign without voting.

Compulsory voting – or compulsory turnout – would therefore not deprive citizens of the possibility to express their inability to take a position; if anything, it provides an additional opportunity for this position to be included and valorized by electoral procedures.

4. Refusal to partisanship

Other interpretation characterizes abstention as a structural element for social and political stability. Through abstention citizens could avoid electoral competition and political contrasts, facilitating the involvement of motivated persons (Mayo 1959: 321). Without abstention it would be delineated the demand of an ideological form of participation and activism, exacerbating partisanship and implementing a scenario which Gladstone defined "feverish heat" (Goodwin 1951: 227). Individuals would be supposed to support their political view, to engage debates and to be always receptive to the frenetic succession of political news (Mayo 1959: 322) or – even worst – to compromise with a despicable and corrupt political class (Margalit 2009: 89-119).

Once again, if electors are intent not to be involved and not to feed partisanship, compulsory voting does not represent an obstacle. As clarified, compulsion is only finalized in fighting absence at the polls, but in no way acts to increase the political and party involvement of the people. In fact, both in voluntary suffrage and in compulsory voting, exists the faculty to express an a-political preference. The choice can fall on the spoilt ballot, the none of the above voting (if possible) and the refusal of the ballot after the registration (with the connected possibility to see the motivation of its decision recorded). In all these cases voters continue denying support to candidate or proposals. Mandatory suffrage is therefore in continuity with voluntary suffrage, intervening on the need for turnout, without transforming it into a political stance.

The obligation of affluence reproduces the need for clear and tangible attention to the life of the society, leaving the citizen the choice whether and how to vote in order to express their position.

5. Disinterest

The difficulties related to the third position are more complex: that of disinterest. The threat of sanctions would induce voters to adopt a different attitude towards voting. It is no longer a question of acting in the same way under different conditions (such as the inability to take a position or the refusal of the candidates), but to make a different choice because of different conditions. In fact, the total disregard of the elections would become impracticable, because it would expose electors to sanction. The voter would at least be forced to know electoral procedures to fulfil this obligation. Furthermore, State seems to label the disinterests of many voters as inadmissible and punishable, instead of fostering their abstention as the spontaneous consequence of their indifference (Sheehy 2002: 50-5).

First, compulsory suffrage does not imply the duty to assume a political perspective on the elections in progress: obligation of turnout can be fulfilled in many ways, which keep elector away from partisanship – as already highlighted. The option that fully reflects the indifference seems to be the simple registration at the polling station, with the consequent rejection of the ballot.

A more detailed consideration of this position reveals the real change imposed by the obligation of affluence to the disinterested: the transformation of their indifference from passive to active. They would be forced, to avoid sanctions, to manage their activities differently, including some time to vote. Voter's indifference would end up clashing with the imposition – by the State – of investing time to participate in elections. However, this opposition does not represent a valid argument to delegitimize compulsory voting. In general, the impossibility of a perfect adherence between the reasons of the public authority and those of the private citizen is quite predictable. This opposition tends to be resolved by the prevailing of the State – even if such a dialectic entails a complex series of issues, from the citizen's viewpoint as much as from governor's perspective (Fuller 1958, Parrish 2007). In the case of compulsory voting, this dissonance is reduced to the time for voting, without implying for electorate any sort of political apostasy or indoctrination. Furthermore, the State's power to influence the way in which citizens manage their own time derives from the comprehensiveness proper to its authority (Klosko 2005: 11-2, Huemer 2012: 12). States regulate a wide range of human activities, conditioning the lives of people primarily in quantitative terms. To refuse this implication would mean rejecting the entire political authority (this position will be considered later) or accepting it based on an equivocal understanding of its nature.

Finally, the claim for participation implied by compulsory voting could be made less demanding for voters through the adoption of some measures: public systems of voter's registration (The PEW Center on the States 2012), elimination of voter purge statute (Blomberg 1995: 1016), election day on weekend (Lijphart 1997: 8), electronic voting – efficient and feasible is the Estonian (Gometz 2017: 176-7).

6. Protest

It remains to consider the last position expressed by the electorate through the abstention: the protest. Abstention would characterise a way to distance electors from an unfair and oppressive government. There are two possible scenarios of protest: a liberal democracy or a dictatorial and illiberal regime. This taxonomy could also be further enriched. However, the distinction between democracy and dictatorship is enough for our considerations and represents the basic couple for further variants (Cheibub, Gandhi, Vreeland 2010: 68).

Let's start with the first case. Abstention as a protest in a democratic and liberal scenario is addressed – mostly – against representatives and candidates. Disapproval does not concern the system itself and represents the simple refusal to candidates. However, the shadow of disagreement may get longer, investing the system itself. Consider, for example, the case of anarchist citizens, who abstain to disown the State as a necessary institution for society. How could the anarchist express this protest through compulsory voting?

Even in this situation, as in the case of disinterest, the explicit condemnation of the anarchist creed does not take place on the part of the State. Any citizen remains free to talk about it, write about it, form associations, make proselytes. Anarchism is not made illegal by compulsory voting. Anarchists could even choose to attend the polling station, rejecting the ballot and attaching a personal declaration, reaffirming anarchical convictions even at the polls. They could thus exploit the freedom granted to spread the anarchist ideal. Otherwise, they could disobey, continue to abstain and accepting the consequences of that decision.

Let's turn to the second case, compulsory voting under illiberal and non-democratic regimes. In this scenario, persisting in the desire to abstain would mean choosing the path of civil disobedience (Rawls 1972: 363-372; Bobbio 1975: 32-3), challenging regime by violating compulsory voting. In this scenario, it is pivotal to consider the sanctions trigger by compulsory voting.

As already clarified, there are two possible sanctions connected to compulsory voting: fines and “civic restrictions”. The latter sanction would only take over in response to a repeated refusal to pay the first fine. The modest amount of such financial penalties thus represents an essential aspect of compulsory suffrage, in which its *ratio legis* comes to light: not supporting a party or faction but defending electoral participation as a tool for self-determination and control by the people over rulers (Dahl 1998: 52-3). Otherwise, a form of compulsory voting aimed at creating consensus would imply much harsher sanctions, such as the menace to deprive of a series of social benefits those who refuse to possess the party card under the Mussolini's regime (Gentile 2005: 176). It would not be possible for the dictatorship to arrange such blackmail through sanctions which compulsory voting provides for. Furthermore, compulsory voting would represent a significant instrument in the hands of people to express their dissent over the ruling regime. Dissidents could accept sustainable sanctions as the price to trigger an explicit and thunderous sign of protest, challenging government's authority and obliging it to an embarrassing mass punishment action. Stated otherwise, compulsory voting would enrich – more than the simple suffrage – expressive force of the people, guaranteeing

especially in the dramatic context of dictatorship a sort of democratic strength, a way of displaying a will of self-determination and a desire of freedom.

7. Conclusion

The paper has tried to show the continuity between voluntary and mandatory suffrage in guaranteeing citizens the possibility of freely expressing their moral and political point of view through the vote. Taking into consideration four positions typically expressed by abstention, the capacity of the compulsory voting to convey such critical perspectives has been highlighted.

Compulsory voting does not simply include and tolerate ideas tendentially expressed by the abstention – rather, it values them, including all these points of view in the voting process. In no way voters would see their moral or political prejudice censored by the State but; on the contrary, they would recognize in this specific obligation the opportunity for a personal and peculiar contribution, the path to full participation.

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