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Compulsory Voting as the Solution to Low Electoral Turnout – the Treatment Worse than the Disease?

Abstract: The objective of the paper is to analyse the issue of compulsory voting, i.e. the electoral system in which voters are obliged by law to participate in elections. The first section provides the landscape of compulsory voting in Europe and sanctions for non-participation. The second part discusses the arguments for and against compulsory voting which are based on different constructions of the same categories as democracy, freedom, equality, representation, civil rights and obligations. The final section examines the impact of compulsory voting on electoral turnout.

Keywords: obligatory voting, compulsory voting, electoral turnout

Słowa kluczowe: obowiązkowe głosowanie, przymus wyborczy, frekwencja wyborcza

1. Introduction

Mandatory voting is the legal obligation to take part in elections which is currently in place in 29 countries in the world. It enjoys the greatest popularity in South and Central America, where countries in which voting is not mandatory are in the minority. In Europe obligatory participation in elections currently exists in seven countries, and in all of these it has been rooted in election procedures for at least several decades, or even, as in Lichtenstein and Belgium, for over a century.

The fact that mandatory voting is not a political novelty does not mean that the debate over it has been closed. This article presents the key arguments of both the supporters and the opponents of this solution, specifically in the context of the growing voter abstention. The hypothesis over the impact of mandatory voting on elections turnout in European countries will also be verified.

Although Polish academic literature alternatively uses: “przymus wyborczy” (compulsory participation in elections), “przymus głosowania” (compulsory

voting), “obowiązek wyborczy” (mandatory participation in elections), “obowiązek głosowania” (mandatory voting) which, according to some researcher¹ – have the same range of meanings this text intentionally deploys the term mandatory voting (“obowiązkowe głosowanie”) as the most normatively neutral. Terms containing the word ‘compulsory’ have strong negative language and cultural connotations in Poland, dictating, consciously or not, a certain narrative for the subject under analysis which should be avoided in academic papers.

2. The institution of mandatory voting in Europe

Mandatory voting in modern Europe is a legal rather than a political obligation. Political coercion was, and in some regions of the world still is, a characteristic of undemocratic political regimes where high election turnout was achieved through the means of propaganda persuasion and threats, for example, of losing one’s job. The institution of mandatory voting currently exists in just seven European countries (in Switzerland in only one canton); in five of those, mandatory voting is part of the constitution. Formally, only in Greece does the legislator foresee no sanctions for failing to fulfil the legal obligation to participate in a vote (Table 1). Some European countries which used to have compulsory participation as part of their legal system have since abandoned mandatory voting: The Netherlands in 1970, Italy in 1993, the Austrian *Länder* of Styria, Tyrol and Vorarlberg in 1992, all Swiss cantons with the exception of Schaffhausen at the end of the 19th and the beginning of the 20th century.

Table 1. Mandatory voting in modern Europe

Country	Date of introduction	Sanction	Constitutionalisation
Belgium	1893	yes	yes
Cyprus	1960	yes	no
Greece	1926	no	yes
Lichtenstein	1878	yes	yes
Luxemburg	1919	yes	no

1 Ł. Żołądek, Przymus wyborczy. Geneza, praktyka funkcjonowania, argumenty za i przeciw, „Studia Biura Analiz Sejmowych” 2011, No 3(27). The author quotes terminology deployed in other languages: *compulsory voting* (less common: *mandatory voting* lub *obligatory voting*) in English, *le vote obligatoire* in French, *Wahlpflicht* in German, *il voto obbligatorio* in Italian, *el voto obligatorio* in Spanish, the Dutch *stemplicht* (compulsory voting) and *opkomstplicht* (compulsory turnout at a polling station).

Switzerland (ex. Schaffhausen canton)	1903	yes	yes
Turkey	1982	yes	yes

Source: S. Birch, *Full Participation. A Comparative Study of Compulsory Voting*, New York 2009, p. 36.

The countries which have mandatory elections do exempt older and disabled people from participating in elections; Schaffhausen canton exempts citizens over 65, Cyprus those over 70 and Luxemburg over 75. Non-participation can also be excused on the basis of natural or unforeseen events, such as a proof of travel, illness or 'a higher force'. Otherwise citizens failing to fulfil their duty to vote are subject to financial penalties.

In the Swiss canton of Schaffhausen the fine is merely symbolic – 3 Swiss Francs, in Belgium the fine for failing to participate for the first time is €25-55, and €137.50 thereafter, in Luxemburg citizens would pay upwards of €100 for the first absence and up to €1000 for persistent avoidance of the mandatory voting. Generally the financial fines are used less and less often as the costs of their recovery exceed the income from the fines. In Belgium, absence from elections may result in limiting citizens' rights through removal from the electoral register as well as a fine (if a citizen failed to participate in elections more than four times in 15 years), and in being unable to receive a nomination, promotion or award from public authorities for the following decade. It is interesting to note that in South American countries the sanctions for failing to participate are much more severe: in Brazil you may be refused a loan or credit by a national bank, in Peru you may be refused access to public services, and in Bolivia you may have difficulties in obtaining a passport or a driving licence, in Argentina your access to public service posts or promotions will be limited and it may be impossible to enrol a child at a state nursery².

3. Contested issues in the debate over mandatory voting

Introducing or maintaining mandatory voting is not the principal subject for public debate in modern European democracies; it does, however, have a long history especially in those countries where this mechanism was introduced as part of legislation governing elections. The issue was also taken up in countries without mandatory voting, where this is being considered as a remedial measure to counteract a failing turnout.

Both the supporters and opponents of mandatory voting invoke in their arguments such terms as freedom, democracy, equality, representation, legitimising, responsibility and citizen's rights and responsibilities. It would seem that the most

2 Ł. Żołądek, *Przymus...*, *op. cit.*, p. 19.

heated debate centres around the understanding of the concept of freedom. The supporters of a mandatory vote maintain that absolute freedom is an illusion and that reducing it to the choice between going to a polling station or exercising the right not to vote is a form of absolutism of individual's rights. Elections legislation, argue the supporters of mandatory voting, is not solely the matter of individual's rights, it has a social function. Emmanuel-Joseph Sieyès, a French priest from the period of the French revolution, wrote that the vote belongs to the nation, not to individual citizens³. This meant, for him, that the nation can entrust election law only to the most active among citizens – at the time this meant men paying appropriately high taxes.

According to some contemporary lawyers this theory justifies the introduction of mandatory voting because the community (the nation) can oblige its own citizens to participate in the vote so that they meet, through participation in elections, their citizen potential. Supporters of mandatory voting add that this is not contrary to the freedom of choice, as the compulsion concerns the act of attending at a polling station, not the decision of who to vote for or whether to cast a valid vote. Free elections that lie at the foundations of a democratic system do not mean elections where voting is not mandatory but elections where the act of voting is free. As argued by Justine La-croix,⁴ the liberal paradigm is not at loggerheads with the principle of obliging citizens to take part in general elections, because it does not constitute a threat to personal liberties, but it is a directive resulting from social and political integration, a step up in spreading democracy to all social groups.

Opponents of mandatory voting find a completely different message in liberal thought and demonstrate that compulsory participation strikes into the very heart of natural human and citizens' rights and is a symptom of authoritarian, not democratic, tendencies. Their arguments are centred on primacy being given the status of liberty and elevate it above other core democratic values, such as equality or justice. In their opinion nothing in democracy justifies limiting the rights of an individual, *ergo* compulsory participation in elections is not democratic.

Another set of arguments of the supporters of mandatory voting relates to equal participation in elections. Because of the large size of contemporary societies in which we are living, we have decided on having a representative form of democracy and the elections are one of very few means through which we can express our viewpoint on political issues. With a falling turnout, non-participation in elections most frequently affects those citizens with lower social, economic and cultural capital, and those of

3 E-J. Sieyès, *Qu'est-ce que le tiers-état?*, Paris 2009.

4 J. Lacroix, *De suffrage universel à la participation universelle. Pour une obligation libérale de se rendre aux urnes*, „Raison publique” 2008, No 8, pp. 95-111.

a lower social standing⁵. The institution of elections becomes therefore an instrument for marginalising a part of the population, despite there being ostensibly equal access to general elections and referenda. The introduction of mandatory voting strengthens the participation of all social groups. The opponents of mandatory voting retort that the introduction of compulsory electoral participation doesn't begin to address the problem of marginalising certain groups. It is rather like implementing the saying of Lech Wałęsa "Break the thermometer, Mister, and you won't have a fever" (*Słucz Pan termometr, a nie będziesz miał gorączki*). It would therefore be better to concentrate on solving real problems where they occur, that means first of all at the economical level, instead of artificially trying to alleviate the symptoms, which include lower election turnout among voters of a lower socio-economic status. The introduction of fines for those failing to attend at a police station would do nothing to improve the situation of those who do not, for economic reasons, participate in elections⁶.

The opponents of mandatory voting point out that compulsory participation in elections deprives non-participation of meaning, dismissing its role in informing the political class. Non participation is not just the result and the symptom of socio-political inequalities but also a rationalised and motivated political act which manifests itself in a refusal to partake in voting. This isn't so much about Anthony Downs' theory of a rational choice, much-criticised in political science⁷, which analyses voters' behaviour using an economic toolkit, and which interprets the participation of the majority of voters in votes as irrational behaviour from the point of view of a cost/benefit analysis. Those citizens not participating in a vote are not just those with no interest in politics but also those who think that the parties and their candidates do not meet their expectations, do not implement objectives that are socially significant and those who, though their refusal to go to the ballot box, and want to express their dissatisfaction, disappointment and disagreement with the political class⁸. Those in support of mandatory voting respond that compulsory participation does not deprive citizens of an opportunity to register their protest

5 A. Lijphart, Unequal Participation: democracy's Unresolved Dilemma, „American Political Science Review” 1997, t. 91, nr 1, s. 1-14; A. Lijphart, The Problem of Low and Unequal Voter Turnout and What we can do about it, „Political Sciences Series” 1998, vol. 54, p. 1-13.

6 See. S. Birch, Full Participation. A Comparative Study of Compulsory Voting, New York 2009.

7 A. Downs, An Economic Theory of Democracy, New York 1957. More on the subject of the characteristics of non-voters in e.g.: K. Skarżyńska, Człowiek a polityka. Zarys psychologii politycznej, Warszawa 2005, pp. 204-220, A. Amjahad, Des abstentionnismes? Révélation typologiques, (in:) Amjahad, J-M. De Waele, M. Hastings (ed.), Le vote obligatoire. Débats, enjeux et défis, Paris 2011, pp. 35-50.

8 More on the subject of the characteristics of non-voters in e.g.: K. Skarżyńska, Człowiek a polityka. Zarys psychologii politycznej, Warszawa 2005, pp. 204-220, A. Amjahad, Des abstentionnismes? Révélation typologiques, (in:) Amjahad, J-M. De Waele, M. Hastings (ed.), Le vote obligatoire. Débats, enjeux et défis, Paris 2011, pp. 35-50.

because they are able to cast a vote which is not valid, or an empty vote⁹ (which in Poland is regarded as invalid). Such a way of voting raises far fewer issues with interpretation as to the voter's intentions than non-participation and puts the political class in a much more difficult situation. In political systems which do not have mandatory voting, politicians frequently interpret low turnout in a way that is convenient to them: that is, as an absence of general dissatisfaction with the general political situation, and as an acceptance of the current political offer on the market. A large number of empty and invalid votes in a mandatory voting system indicates a clear refusal to support the whole current political class.

The support for mandatory voting is also based on the concept of citizenship which stresses not just the rights but also duties. In modern democracies the list of duties is not particularly extensive or onerous. It includes the duty to pay taxes, to attend school, to respect the law and, in some countries, military service. The majority of people do not object to the fact that, in order to be able to enjoy the full rights, citizens should also meet their obligations towards the state and their community. The duty to go to a polling station may therefore be added to the general list of the duties of a modern citizen – a moderate price to be paid for strengthening democracy which would become more representative. The opponents maintain that participation in elections enforced under the threat of sanctions does nothing to help further legitimise a democratic regime and is a missed opportunity to create an active and politically engaged society.

The debate between the supporters and opponents of mandatory voting is sometimes reduced to a division between left and right-wing, where the “leftist” perspective is seen as “naturally” supportive of a compulsory vote and the right wing as diametrically opposed. The “proof” for the leftist tendencies of the supporters of mandatory voting is supposed to lie not so much in the ideology but in political interest of seeing the potential to increase the share of the vote for left wing parties and candidates. None of the statistics or models indicate, however, that mandatory voting increases the support for left-wing parties¹⁰. It is possible that this would have been the case if non participation really affected just citizens from marginalised, overlooked or discriminated groups, where left wing manifestos may appeal more than the right-wing. However, as indicated earlier, the issue of a low turnout is much more

9 Literature in French distinguishes between an invalid vote (*vote nul*) and an empty vote (*vote blanc*). The 2014 EU Parliamentary elections in France for the first time implemented the provisions of the Act of 21 February 2014, where election results include the number of invalid votes (e.g. spoilt ballot papers, those with hand-written annotations) and empty votes, that is, those which do not indicate support for any candidate or party. Before, empty votes were counted as invalid.

10 P. Bernhagen, M. Marsh, The partisan effect of low turnout: Analyzing vote abstention as a missing data problem, “Electoral Studies” 2007 vol. 26, No. 3, p. 558.

complex and often indicates apathy, dissatisfaction or even anger of the electorate. This results in citizens forced to appear at a polling station under the threat of a fine more likely to vote for extreme rather than mainstream parties. However, the debate over whether mandatory voting is more appealing to right or left wing politicians should not overlook the fact that the proposal of introducing a compulsory vote in 2001 in the UK (not implemented) originated in the Labour Party. Commentators interpret this in light of potential electoral gains for Labour. Social research indicates that the greatest participation in elections is from the middle class which is more likely to support the Conservatives and those from lower social classes who are traditional Labour voters do not participate as often in elections. Some see an obvious connection between the introduction of a compulsory participation in elections and an increase in Labour's share of the vote, indirectly confirmed by Labour's proposal of changes to the British election system.

In Poland the public debate over mandatory voting is largely absent, neither NGOs nor any of the political parties seem interested in initiating it. Potential arguments for and against as well as the spread of the support for such initiative can be glimpsed from a discussion thread on the students' forum from the Department of Social Science of the Silesian University (Wydział Nauk Społecznych Uniwersytetu Śląskiego), which took place in October 2005¹¹. The question of "What do you reckon to the idea of mandatory voting" received almost exclusively negative responses coinciding with the arguments of the opponents of mandatory voting cited above, or referring to, not always adhering to politically correct language, to an elitist concept of democracy:

"The highest percentage of non-voters is amongst those with lower level of education and those with higher qualifications are also the most likely to vote therefore I think that it's better when the thickos don't turn out and vote for the likes of themselves".

"Mandatory voting will actually discourage people from participating in elections; instead of thinking who to vote for they will just tick boxes at random or invalidate their votes (better the latter...). If the authorities are legitimised by voters this support must not be random which, I think, is a risk if voting was compulsory"

"If the mob were to vote I see no further opportunity for the development of our country."

"If this were a statutory duty there would be immediately a million ways of bypassing it. I am not convinced I would go to the polling station if I was told to go; I go because I think I ought to (we live in a democracy, after all) not because someone compels me to."

11 <http://forumwns.org/printview.php?t=1175&start=0&sid=5d55ba994f6779365cfd9bf72e11c8ba> (accessed on: 14.12.2014).

“This is about social awareness; if someone is lacking this then perhaps it is better that they don’t vote – less harmful...”

“Such compulsion would be at loggerheads with democratic ideals where liberty is a value (this includes freedom to participate in elections).”

“In Poland there is a right, not a duty, to vote.”

The e-forum included just one voice which could be regarded as moderately in favour of potential introduction of mandatory voting in Poland:

“If voting was now mandatory (...) people would value their own vote more, according to the principle of if I have to vote, at least let this be a vote that is thought through.”

In the discussion thread quoted above no-one referred to the introduction of mandatory voting as a way of improving elections turnout in Poland, which is the worst on average in Europe.

4. Mandatory voting and elections turnout

Diminishing turnout is an issue for most contemporary political systems in our part of the world and voting absenteeism has become, with few exceptions, a structural problem. Demotivated voters are particularly visible amongst lower socio-economic classes. Mikołaj Cześniak writes: “Numerous research projects on participation in voting unanimously indicate that participation on elections is unequal in modern democracies. Those from the upper strata of the society participate in this procedure much more frequently than those from lower social or disadvantaged background, which means that their interests are less well represented in elected bodies and there is less chance that their expectations may be realised. Low turnout, which by its nature is uneven, leads to uneven representation, and therefore to unequal political influence. (...) The danger lies in the fact that a system where one of the principal values of democracy – equality – is compromised may be seen as unjust and corrupt, which in turn may undermine the legitimacy of such a system and lead to attempts to overthrow it.”¹². Sociologists warn that this may lead to a breakdown of political trust which in turn may feed unregulated and uncontrolled social protests. High elections turnout would guarantee to a larger degree that conflicts over diminishing resources, unavoidable in politics, may find their outlet in conventional methods of participation that is in the ballot box.

The comparison of elections turnout in post-war Europe unsurprisingly proves that this is much higher in those systems where voting is compulsory. The difference between those and the countries where voting is not compulsory ranges between 6.2% (in the 1980s) to 12.42% (at the beginning of the 21st century), as shown in Table

12 M. Cześniak, *Partycypacja wyborcza Polaków*, Warszawa 2009, pp. 3-4.

2. What's interesting is that having compulsory voting in the past mostly results in a higher turnout a long time after it has been established, as may be observed in the turnout in the Netherlands, Italy and Austria (Table 3).

Table 2. Average turnout in general elections in 29 European countries (%)

	1940s	1950s	1960s	1970s	1980s.	1990s	2000-2005
Countries where voting is mandatory	93.23	94.26	92.90	90.39	86.10	84.16	80.52
Countries where voting is not mandatory	81.58	83.57	83.68	83.13	79.91	74.71	68.10

Source: P. Delwit, *L'introuvable électeur? La participation électorale en Europe (1945-2005)*, (in: A. Amjahad, J-M. De Waele, M. Hastings (eds.), *Le vote obligatoire. Débats, enjeux et défis*, Paris 2011, p. 28.

Table 3. Average turnout in 29 European countries 1945-2005 (%)

	1940s	1950s	1960s	1970s	1980s	1990s	2000-2005
Austria	95.70	95.32	93.79	92.22	91.51	83.59	80.49
Belgium	93.07	93.15	91.31	92.97	93.83	91.47	91.63
Bulgaria						76.94	61.35
Cyprus				80.65	95.15	91.94	91.75
Czech Republic						82.79	58.00
Denmark	85.78	81.77	87.37	87.51	86.07	84.35	85.84
Estonia						64.39	58.24
Finland	76.61	76.49	85.01	77.84	73.89	67.40	66.67
France	79.92	80.00	76.62	82.35	71.83	68.43	64.42
Greece				81.11	80.79	77.90	75.76
Spain				72.27	73.12	76.92	73.62
Netherlands	93.40	95.36	95.04	84.73	83.45	76.04	79.55
Ireland	70.98	74.34	74.26	76.45	72.88	68.45	62.57
Iceland	88.30	90.75	91.26	90.34	89.40	87.17	87.70
Lithuania						63.97	52.31
Luxemburg	91.63	92.15	89.56	89.49	88.10	87.39	91.68

Latvia						77.90	71.51
Malta	75.44	78.05	90.25	94.07	95.29	96.19	96.95
Germany	78.49	86.81	87.05	90.93	87.07	79.65	78.39
Norway	79.33	78.82	82.83	81.59	83.07	77.10	76.30
Poland						48.40	43.34
Portugal				87.44	77.82	65.69	62.88
Romania						79.55	60.16
Slovakia						79.98	70.07
Slovenia						79.57	65.30
Switzerland	71.69	68.98	64.11	52.3	47.67	43.85	45.23
Sweden	77.56	78.70	86.1	90.42	89.06	84.96	81.75
UK	72.55	80.24	76.56	75.02	74.13	74.60	60.89
Italy	90.68	93.79	92.83	92.25	89.77	85.38	81.44

Source: P. Delwit, *L'introuvable électeur? La participation électorale en Europe (1945-2005)*, (in:) A. Amjahad, J-M. De Waele, M. Hastings (eds.), *Le vote obligatoire. Débats, enjeux et défis*, Paris 2011, p. 27.

Elections statistics to a large degree show that the introduction of mandatory voting does solve the problem of low turnout not only in Europe, but also in South and Central American countries, where the introduction of sanctions for non-participation resulted in the number of non-voters falling fivefold. The effectiveness of this solution leaves no doubt; however, this cannot be said of its compliance with the accepted concept of democracy and political culture prevalent in a given country, understood as the collection of attitudes, values and models of behaviour concerning the relationship between the citizens and the authorities¹³. Introduction of compulsory voting as a way of ensuring a high turnout can be regarded by some as a desperate measure by politicians who lack other means of motivating the citizen to participate in elections; by others it is seen as an effective and simple measure to strengthen the polity, creating an inclusive dynamics, re-integrating marginalised groups, increasing the effectiveness of representation, which may be one of the factors in consolidating a democratic system.

13 See: J.J. Wiatr, *Socjologia polityki*, Warszawa 1999, p. 189.

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