

FULL PARTICIPATION

A comparative
study of
compulsory
voting

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Introduction

Why compulsory voting?

Why write a book on compulsory voting? A total of 29 countries in the contemporary world legally oblige their citizens to participate in elections, including about a quarter of all democracies. Yet in many voluntary voting states, the common view of this institution is of an outdated and largely disused relic from the past that will eventually disappear altogether as voters flex their liberal muscles and struggle to free themselves from all forms of compulsion. In fact, this view is distinctly at odds with much contemporary political thought, which is increasingly coming to see rights and duties as going hand in hand. Moreover, in many states where participation in elections remains voluntary, falling turnout has led a growing number of voices to call for making it a legal requirement. In 2006 alone, three major reports were issued on the subject in the UK – by the Electoral Commission, the Hansard Society and the Institute for Public Policy Research (Ballinger, 2006; Electoral Commission, 2006; Keaney and Rogers, 2006). The situation is similar in countries such as France and Canada, where prominent members of the political élite have recently called for electoral participation to be made mandatory.¹ The fact that compulsory voting has recently received so much attention from practicing politicians suggests that the time is ripe for a scholarly review of the institution.

Oddly, there has not been a single English-language monograph on compulsory voting in over 50 years.² This is not to say that the topic is not studied; it has been the subject of a range of scholarly journal articles (as detailed in subsequent chapters), and it is touched on in literatures as diverse as those on wealth inequality and support for the far right. Yet compulsory voting tends to be studied mainly in the context of analyses that have other principal objects of investigation.

This volume aims to fill this gap in the scholarly literature by providing a detailed overview of the history, practice, causes and effects of the legal obligation to vote, as well as an analysis of the normative arguments surrounding it. Recent debates about the possibility of introducing mandatory voting in those states where going to the polls remains voluntary call for a detailed discussion

of the normative advantages and disadvantages of this institution. If compulsory voting is ever to be introduced in any of these polities, the normative debate will have to be won; it is thus useful to have a clear understanding of the various arguments for and against compulsory voting. One of the main functions of this study is thus evaluative.

A second main function of the book is explanatory. Compulsory voting has been introduced in a variety of contexts to address a range of problems, from low turnout in Belgium in 1893 to electoral corruption in Thailand over a century later in 1997. Yet the focus of most academic literature on the subject has been on the question of turnout alone. This volume seeks to broaden the study of compulsory voting by elaborating the effects it is frequently held to have, and by systematically examining each of these effects against comparative evidence from around the world. Compulsory electoral participation significantly alters the incentive structures faced by all the actors in the electoral arena, from parties and candidates, to voters, to electoral administrators. Its proponents and detractors alike have pointed to a range of likely impacts on the way elections are carried out, on the choices that are made at election time by key actors, and the effects of electoral results on wider political outcomes. At the same time, there has been scant effort systematically to examine these conjectures in the light of empirical evidence. The investigation to be undertaken in this volume will thus seek to elucidate the impact of the institution on phenomena such as political engagement, party strategies, electoral integrity, electoral outcomes, and policy outcomes.

Before moving on to these tasks, however, it is necessary to specify what exactly is meant by the term ‘compulsory voting’. That will be the role of this opening chapter, which will seek to conceptualise and construct a typology of electoral obligation, before examining variations in the way the institution of compulsory voting has been implemented in different states. The chapter will conclude with an overview of the structure of the book.

What is in a term?

Compulsory voting can be defined very simply as the legal obligation to attend the polls at election time³ and perform whatever duties are required there of electors. As is often recognised, the inherent constraints of the secret ballot mean that in most modern democracies (and even in many less-than-democratic settings) compulsory *voting* is, strictly-speaking, impossible. The state cannot typically monitor the behaviour of the elector in the privacy of the polling booth and can therefore do nothing to prevent him or her from casting an invalid or blank ballot; in very few states is any legal effort made to do so.⁴ The Dutch language recognises this distinction by employing a term – *opkomstplicht* – which can be translated as compulsory (or obligatory) attendance at

the polls,⁵ as does a recent Institute for Public Policy Research Report, which refers to ‘compulsory turnout’ (Keaney and Rogers, 2006). Most European languages fail to make this distinction, however, and use terms that translate roughly as ‘obligatory voting’. The French speak of *le vote obligatoire*, the Italians of *il voto obbligatorio*, the Spanish of *el voto obligatorio* and the Portuguese of *o voto obrigatório*. In German the terms employed are (*gesetzliche*) *Wahlpflicht* and *Stimmpflicht*, while most Slavic languages use variations on the Polish term *głosowanie obowiązkowe*.⁶

The terms ‘obligatory voting’ and ‘mandatory voting’ do make their appearances in the English-language literature, yet the most commonly used term to designate this practice is ‘compulsory voting’. This is somewhat unfortunate, given the pejorative connotations of the term ‘compulsion’ in English; certainly ‘obligation’ has a rather different sound. Use of the term ‘compulsion’ thus casts the institution in a negative light in many English-language debates on the subject (despite the fact that the Australians have been happily using this term to describe their electoral system for over 80 years). This usage has the further consequence of precluding an automatic semantic link between the institution and the broader notion of political obligation. A more appropriate term might be ‘the legal obligation to participate in elections’, but this being cumbersome, the present study will employ the terms ‘compulsory voting’, ‘mandatory voting’, ‘compulsory electoral participation’ and ‘mandatory electoral participation’, which will be used interchangeably.

Conceptualising compulsory voting

As has long been recognised by electoral behaviouralists, there are a wide variety of factors that bring people to the polls. We can conceptualise the incentive to vote as falling into two broad categories; pull and push and factors. ‘Pull’ factors include the standard range of motivations for voting, including the desire to influence electoral outcomes, expressive aims, identification with political contestants, and perceptions of civic duty (e.g. Campbell *et al.*, 1960; Riker and Ordeshook, 1968; Verba *et al.*, 1978; Powell, 1980; 1982; 1986; Crewe, 1981; Rosenstone and Hansen, 1993; Dalton, 1996; Franklin, 1996; 2002; 2004; Gray and Caul, 2000; Blais, 2000; Norris 2002; 2004). The legal obligation to vote is a principal ‘push’ factor; voters are urged to the polls by the law, with the threat of sanctions if they do not comply. Yet there are also other types of pressure that can be exerted to encourage people to vote, including social and political influence which, operating outside the ambit of formal political institutions, can nevertheless be remarkably effective. Indeed it is through this type of pressure, rather than legal compulsion, that the highest known turnout rates have been achieved in the world – the USSR’s regularly reported 99.99% levels of electoral participation (Bruner, 1990).⁷ Coercive mobilisation may also take

Table 1.1 A Typology of compulsory voting

		Sanctions	
		Sanctioned	Unsanctioned
Form of obligation	Formal	Sanctioned electoral compulsion (e.g. Australia)	Unsanctioned electoral compulsion (e.g. Venezuela)
	Informal	Sanctions, benefits in the absence of formal compulsion (USSR)	No compulsion, little pressure to vote (USA)

the form of undue influence by political parties (see Cox and Kousser, 1981; Hasen, 2000; Lehoucq 2003). Finally, ‘ordinary’ social pressure can prove a powerful force in encouraging people to attend the polls (Campbell *et al.*, 1960; Rosenstone and Hansen, 1993; Blais, 2000; Franklin, 2004).

In considering compulsory electoral participation, we are mainly interested in cases where electors have a legal obligation to attend the polls, but legal and informal socio-political forces interact in complex ways. The legal obligation to participate in elections can be congruent with social and political norms, or it can be at odds with one or both of these. There may also be considerable variations within a state – along geographical, sub-cultural, or other lines – in patterns of congruence. In schematic terms, we can understand there to be two types of obligation to vote: informal (social, political) and formal (legal). It should be noted that the enforcement of formal compulsory electoral participation requirements is often linked to a political and/or cultural environment that helps reinforce voting (i.e. congruence between legal and socio-political forces).

The interactions between these two dimensions of obligation yield a four-fold typology (see table 1.1). In the upper left-hand quadrant, we find the case of a formal obligation to vote combined with effective sanctions. The archetypal case of this is Australia where voting is compulsory, sanctions – though small – are effectively imposed, and there is considerable popular support for the institution. The upper right-hand quadrant represents a situation found in many Latin American countries, where compulsory electoral participation is a legal norm, but sanctions are either non-existent or are not applied. In the lower left-hand quadrant, we find cases where the formal obligation to vote is absent, but informal social and/or political pressures are so strong that a large proportion of the citizenry nevertheless exercise their franchise. The USSR was a good example of this type of system; on election day Communist Party activists would repeatedly knock on the doors of non-voters and urge them to the polls. Though there is little evidence that non-voting had nefarious consequences for

Soviet citizens, there was a widespread perception that it might be harmful to one's career or one's chances of obtaining scarce goods (Mote, 1965: 76–83). There is a similar situation in contemporary North Korea; Mark Suh reports that 'although voting is not compulsory by law, the political prescriptions laid down in the party catechism prescribe it as the correct behaviour of every citizen. A simple negligence, let alone denial [sic] to take part in the polls, would be followed by harsh discrimination in the living and working sphere of the person concerned' (Suh, 2001: 399–400). Finally, in the lower right-hand quadrant, we find the situation in the vast majority of established democracies, but perhaps best represented by the United States, where voting is voluntary and there is little social pressure to vote.

It should be noted that the categories in this typology are not mutually exclusive, in as much as the formal obligation to vote is often reinforced by informal sanctions. Legal obligation and sanction may therefore be viewed as two overlapping but not coextensive spheres. On the one hand, there may be a legal obligation to vote in the absence of any formal sanction for non-voting. Such an obligation does potentially have importance, as it often represents a touchstone in political debates, and it reflects an act of collective self-binding – it can therefore be seen as an indication of, and mechanism for perpetuating, a certain cultural attitude toward voting. On the other hand, a state can impose formal sanctions for non-participation in the absence of any formal requirement to vote. This is the case, for example, in Iran where 'though voting is not compulsory, citizens may have to show the stamp impressed on voters' identity cards in polling stations when applying for passports' (Kauz *et al.*, 2001: 64). Until recently, Italy provided a democratic example of this practice. Electoral participation is not obligatory, yet voting is described as a duty in the Italian constitution (Art. 48). This prescription was reflected in Italian electoral law between 1946 and 1992 (Caramani, 2000: 64f), when light sanctions were applied to non-voters (lists of non-voters were posted at polling stations).⁸ Another example is the US state of Illinois, which for a time put non-voters at the top of the list of those chosen for jury service, though voting was not technically compulsory (Abraham, 1955: 15–16).

Alternatively, the state can provide positive incentives for participation, either in the form of 'vote facilitation' mechanisms such as automatic registration, the availability of proxy voting, holding voting on a rest day, holding elections over more than one day, allowing absent and/or early voting, covering the travel expenses of voters who are temporarily away from their places of residence (see Franklin, 1996; 2002; Norris, 2004: 171–74), or by offering selective incentives to voters (see below).

Where voting is legally mandatory, a distinction is sometimes made between states that enforce the legal obligation to participate in elections strictly or weakly (e.g. Gratschew, 2004). The problem with this approach is that there

are virtually no instances in the contemporary world of truly 'strict' enforcement. Commonly cited examples of 'strictly' enforced compulsory electoral participation are Belgium and Australia, but closer examination of these two cases reveals that in fact enforcement mechanisms take a light touch.

Stengers (1990: 105) writes that once compulsory electoral participation was introduced in Belgium it became a way of life, and compliance was due more to social norms than to actual sanctions, which were in any case only sparingly applied; he notes that 'it is more a matter of habit than of obligation'⁹ (1990: 105). Belgians simply got used to voting and took it for granted that if an election were held, they would be expected to turn up at the polls. This view is confirmed by Pilet, who reports that in Belgium in 1985, only 62 of 450,000 non-voters were punished (Pilet, 2005: 20). Similarly, Lieven de Winter and colleagues point out that in 1999 the chances of being subject to a fine were only 1 in 10,000, and they note that 'Given its scarcely civic behaviour in many domains, and given the tradition of impunity before the law, the massive electoral participation of Belgians is surprising to say the least',¹⁰ (de Winter *et al.*, 2003: 58). The fact that turnout in Belgian elections remains well over 90 per cent must therefore be accounted for by other factors and should not be taken as an indication that the law is strictly enforced.

Likewise, in Australia those who study the supposedly efficient mechanisms for the enforcement of 'compulsory voting' often point out that relatively few people are penalised for non-participation, because a wide variety of potential excuses for non-voting are admitted, and no documentary evidence is required to support a justification. In the 2004 elections 685,937 citizens were recorded as not having voted; of these, 458,952 were issued with notices preliminary to penalties. A total of 234,552 of those issued with notices sought to avoid paying the \$20 (£8) fine by supplying 'valid and sufficient' reasons for not voting, and only 52,796 paid the fine when it was first imposed; a further 847 paid the fine plus a penalty for late payment. Seven citizens appeared in court to contest their fines (Bennett, 2005: Appendix). Thus while enforcement would appear to be very 'strict' in Australia, the penalty for non-participation is modest, and the vast majority of non-voters avoid paying even this small amount by offering undocumented excuses for their behaviour.¹¹

Descriptions of enforcement as 'strict' or 'weak' risk conflating administrative effort with success (compliance rates). In states with weak state capacity and low levels of rule of law (as is the case in many Latin American countries), efforts at enforcement are likely to yield a lower payoff than is the case in established democracies such as Australia and Belgium. The key factor is whether a state has any functioning administrative apparatus in place to enforce the legal requirement to vote. If it does have such a mechanism, we can speak of mandatory electoral participation with sanctions, whereas if it does not, we can speak of non-sanctioned mandatory electoral participation. Such an approach to

categorisation makes it possible to measure the impact of various other institutions and social factors on the effectiveness of enforcement (i.e. turnout), which is not possible if rates of turnout are themselves taken as an indicator of how much effort the state puts into enforcing the legal obligation to vote.

This volume will define compulsory electoral participation in terms of a legal obligation to participate in elections, with or without sanctions. In other words, we will mainly be concerned with the upper row in table 1.1 – states that have formal institutional mechanisms that legally oblige citizens to attend the polls (with or without the application of sanctions). Informal pressures are outside the scope of this study, for they fall either in the category of social structural determinants of electoral participation, or, if they take the form of coercion, in the category of electoral malpractice. States that penalise non-participation or reward participation through formal means will not be considered either, as these represent a somewhat heterogeneous category that cannot truly be said to institute electoral participation as a legal requirement.

Modes of enforcement and sanctions for non-participation

Compulsory voting is necessarily embedded in a complex set of regulations governing the conduct of elections, and these regulations shape each other. States where there is a legal obligation to attend the polls have reason to make voting as easy as possible for the citizenry, as this will lessen the costs of enforcement, and it will enhance the popular acceptability and legitimacy of the institution. It is therefore not surprising that mandatory voting is typically linked to an array of institutional mechanisms that facilitate electoral participation (though, as noted above, such mechanisms are not exclusive to states where electoral participation is required by law).

But even when voting is made as easy as possible, there will still be those who refuse to comply with the legal obligation to participate, whether out of objection to the institution itself or for some other reason. In somewhat more than half the states where voting is compulsory, sanctions are imposed (the exceptions include Greece (since 2001), Argentina, Brazil, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras (since 2004), Mexico, Panama, Paraguay, and Venezuela). For the purposes of this analysis it is useful to group sanctions into broad categories in order of increasing severity (bearing in mind that many states impose combinations of sanctions or different types of sanction in different circumstances).

Demand for an explanation

In practice, the demand for an explanation forms part of contemporary enforcement procedures in virtually all systems, in as much as this is a necessary adjunct to the imposition of a penalty. How this is handled varies

from state to state; in Australia, non-voters are first asked to justify their non-participation before a decision is made whether or not to impose a fine, whereas in other cases (Belgium, Luxembourg, and most Latin American states), it is up to electors to take the initiative to explain their absence from the polls to the relevant authorities in order to avoid measures being taken to penalise them.

Reprimand

Slightly more severe than a simple demand for justification is the issuing of a formal reprimand to non-participants. When electoral participation was first made mandatory in Belgium, a formal reprimand was a widely-used alternative to a fine for first-time non-voters.¹²

Name-and-shame systems

One step up from a formal reprimand issued personally to the voter is a public notification that an individual has failed to carry out his or her civic duty. Such 'name-and-shame' systems are commonly referred to by the French term *affichage*, and they typically involve the posting of a list of non-voters in a public place such as the polling station or a municipal building.¹³ *Affichage* was common in the nineteenth century, and it survived in Italy until 1993.¹⁴

Fines

Fines are the most common form of sanction for non-participation in elections; these range from three Swiss francs (£1.30) in the canton of Schaffhausen to €100 or more in Luxembourg. Some polities have blanket fines for all instances of violation; in other cases fines are graduated, increasing from the first to the second violation, and so on. In Belgium, for example, a fine of €25 to €50 is imposed for the first instance of non-voting, and €50 to €125 for the second instance; in Luxembourg the fine for repeated violations can rise to as much as €1,000. Until relatively recently, some Swiss cantons went to the extreme of sending district officers (*Waechter*) house to house to collect fines from dilatory electors (Funk, 2004: 24), while in inter-war Hungary the fine took the form of an additional tax (Abraham, 1952: 89).

Use-it-or-lose-it systems: removal of rights of civic participation

If voting is considered to be a civic duty, it would seem logical that non-voters should have their civic rights restricted. The most obvious right to restrict is the right to vote itself. In Belgium, if a voter has not voted in four elections over the course of 15 years, he or she is removed from the electoral rolls for ten years.¹⁵

Singapore operates an unusual system that combines the removal of voting rights with a fine. Non-voters have their names automatically removed from the electoral register and must pay a fee to have them reinstated unless they can produce a 'valid and sufficient' reason for not having participated. Not long

after the 2006 elections, the Elections Department of Singapore posted the following message on their website: 'Names of persons who failed to vote in the General Election held on 6 May 2006 have been expunged from the registers of electors. The lists of these persons are now available for inspection. Persons whose names are expunged from the registers may apply for their names to be restored using Elections Department's E-services. Click for more information.'¹⁶

The other relevant civic right is of course participation in elections as a candidate; prohibition on this activity is a form of sanction in some states with mandatory electoral participation, including Argentina, Bolivia, Brazil, Singapore and Thailand.

Prohibition of public employment for non-voters

Another civic right that is sometimes restricted for failure to attend the polls is the right to hold a post in the state administration. This is practiced in Belgium (those who have been removed from the electoral roll for failure to participate in successive elections cannot be hired to or promoted in public office, nor can they be awarded state honours).¹⁷ In Argentina, non-voters are in theory ineligible for public office for three years following the election. In Bolivia, citizens who have not either participated in the election or paid a fine for non-voting cannot obtain a 'suffrage certificate' and without such a certificate they are not able to be employed in the public sector, to be paid in public sector jobs, to carry out banking transactions, or to obtain a passport for 90 days following the election. Similar regulations are stipulated in Brazil, with the additional provision that non-voters can receive neither state education nor exemptions from military service or the payment of income tax. Though application of this sanction is no longer widespread in Brazil, a study of poor neighbourhoods in São Paulo in 1978 indicated the importance of this provision at that time: 'The majority of those interviewed "saw" the *título eleitoral* as a necessary document, given that it is necessary in order to obtain employment' (cit. Power and Roberts, 1995: 800f).

Loss of services

As noted above, Bolivians without a 'suffrage certificate' are forbidden from carrying out banking transactions or obtaining passports for 90 days following the election, and in Brazil such electors are in addition deprived by law of the right to state education. Until recently, non-voters in Greece were in theory unable to obtain driver's licenses or passports (Gratschew, 2002: 108).¹⁸

Imprisonment

Imprisonment for non-voting is rare in practice, though it has been formally incorporated into the sanctions regimes of a number of polities that have made electoral participation mandatory. In Australia, for example, non-voters who

refuse to pay the fine face prison sentences; following the 1993 election, 43 non-voters received prison sentences of one to two days (Bennett, 2005).¹⁹

Exemptions

No polity has full compulsory electoral participation, strictly speaking, because all make exceptions for people in certain circumstances. Exemptions fall into two categories: exclusions from the right to participate and exclusions from the legal obligation to participate.

Exclusions from the right to participate in elections

All states restrict the right to vote to certain categories of people. In older times, restrictions commonly included property ownership, male gender, and literacy. Though such exclusions have largely fallen into disuse, there is nevertheless variation in the extent to which the suffrage is in practice 'universal' in the modern world; exclusions are generally based on two principles: political community membership and political competence. The concept of 'universal suffrage' implies that the franchise is granted to all members of the political community, with the proviso that the practice must be based on some notion of minimum competence, given that 'the set of the ethically desirable is bounded by the set of the feasible' (Weale, 1999: 9). But while Goodwin-Gill notes that franchise requirements have become increasingly relaxed among democracies (1994: 43), different polities still define political community membership and political competence variously, resulting in differing franchise qualifications.

Age

Children are in all modern states excluded from the franchise on grounds of lack of sufficient competence to participate in political decision-making. The age of electoral majority varies from 16 to 21 in the contemporary world (Massicotte *et al.*, 2004: 17).

Mental incompetence

Competence-based restrictions also commonly include mental disability or insanity, variously defined. Massicotte *et al.* note that only four states – Canada, Ireland, Italy and Sweden – do *not* disenfranchise citizens on grounds of mental instability or deficiency, and they conclude that 'only where democracy is strongly established does it seem to be possible to envisage ignoring serious mental deficiency as a cause for denying people the vote' (2004: 27).

Citizenship

The most restrictive of the political-community based franchise exclusions is that of citizenship, which in certain states serves to deprive sizeable sectors of

the population of the right to vote. In some cases, however, non-citizens are allowed to vote, if only in certain types of elections (for example, local elections, elections to the European Union parliament in EU member states).

Imprisonment

Many states impose additional franchise restrictions on the basis of criminal conviction; among those where electoral participation is obligatory are Australia, Brazil, Belgium and Venezuela (Goodwin-Gill, 1994: 42–46; Katz, 1997: 218–29; Massicotte *et al.*, 2004: 18–26).

Military service

Some states also exclude from the political community – and therefore the franchise – those in active military service; this practice is particularly common in Latin America. (Goodwin-Gill, 1994: 44–45; Katz, 1997: 218–29; Massicotte *et al.*, 2004: 18–26).

Residence

Another common category of persons excluded from the franchise are those not resident in the country at the time of an election. Though more and more states have made provision for voting by overseas residents in recent years, this is still a fairly common ground for disenfranchisement. In some cases only those living abroad for longer than a certain period lose their right to vote, while in other cases overseas residents can vote in some elections only; for example, overseas Bolivian and Brazilian citizens can vote in presidential but not other elections. Certain states also impose a length-of-residence requirement, with respect either to the country as a whole, as in Chile and Costa Rica, or to a particular constituency, as in Australia (Massicotte *et al.*, 2004: 18–26).

Finally, we must consider what is sometimes referred to as ‘administrative disenfranchisement’. Compulsory electoral participation in theory requires compulsory registration (though since 1988 Chile has operated an unusual system whereby electoral registration is voluntary but once registered, electors are legally required to vote; see Lapp, 2006 for details). In other cases, the two go hand-in-hand. There are three main types of registration – periodic list, continuous list, and civil registry systems;²⁰ of these, civil registry systems (which involve automatic registration by the state on the basis of the records it holds) are the most effective means of maximising inclusion. It is therefore not surprising that this method is the most common among democracies (Massicotte *et al.*, 2004: 67; Powell, 1986). By contrast, registration procedures that make demands on voters’ time tend to reduce the effectiveness of those procedures (Katz, 1997: 239). But whatever method is employed, there will always be some eligible voters who are left off the register and are therefore unable to vote.

Exemptions from the obligation to participate in elections

The obligation to vote can only be applied to those who have a right to vote, but in states where electoral participation is in theory mandatory, there are a number of categories of persons who commonly have the right but not an obligation to take part in the electoral process. In some cases people in these categories are formally exempted from the duty of electoral participation, while in other cases sanctions are not applied for failure to participate.

Gender

When compulsory electoral participation was first introduced in many states, women had not yet been given the right to vote. But the subsequent enfranchisement of women did not in all cases entail a legal obligation to vote, especially in the Latin American context. In Ecuador electoral participation was made mandatory for registered men in 1929 but only in 1967 for women (Nohlen and Pachano, 2005: 374). Similarly, in Guatemala, electoral participation has been compulsory for men since the universal franchise was introduced in 1894, but women have only been obliged to attend the polls since 1981 (though they had gained the right to vote in 1954) (Somoza, 2005: 402). In Peru, electoral participation became compulsory in 1931 for all literate men over the age of 21, but only in 1955 for women (Tuesta Soldevilla, 2005: 450). However, the gender differences in Latin America have all been removed, and Egypt is the only state in the modern world where electoral participation remains mandatory for men only.²¹

Age

Several Latin American and European countries, including Argentina, Bolivia, Brazil, Cyprus and Peru, make electoral participation voluntary for those over 70 years of age; in Ecuador and Schaffhausen (Switzerland) the relevant cut-off is 65, and in Luxembourg 75. In addition, sanctions in Brazil are not applied to non-voters aged 16 and 17.

Infirmity

Virtually all states with mandatory electoral participation exempt the ill or infirm from participating in elections or exempt them from sanctions for non-participation.

Citizenship

In Belgium, non-citizens have a choice as to whether they register, but once registered they are obliged to vote in those elections for which they are eligible (European Parliament elections for EU member state citizens, or local elections for all foreign nationals). Luxembourg operates a similar system for citizens of other EU member states.

Residence or location on election day

Many states exempt from electoral participation those travelling out of the country (or away from their place of registration) on polling day (Australia, Bolivia, Brazil, Chile, Ecuador, Luxembourg, Singapore). In Argentina people who find themselves more than 500 kilometres from their place of registration on election day with a reasonable justification are exempt from voting. In Chile the same applies to those more than 200 kilometres from their place of registration, and in Cyprus to those residing 50 miles or more from their polling station. In Australia, those stationed in the Antarctic benefit from a similar exemption, as do itinerants. In Peru, only those out of the country for medical treatment or study are exempt from sanctions.

Varying regulations apply to citizens living abroad. States that make provisions for foreign residents to vote do not always make it compulsory. In Belgium, citizens residing abroad have, since 1999, had the right to vote, but they are not obliged to do so. If they choose to register, they are then subject to the same requirements as other Belgians (i.e. they are obliged to vote), but they have a choice as to whether they register.

Literacy

Brazil and Ecuador make voting voluntary for illiterates.

Public duty

In Argentina election staff as well as judges and their deputies are exempt from participating in elections if they are carrying out official duties on election day. Similarly, Austro-Hungarian provinces that made electoral participation mandatory exempted those carrying out imperial professional duties (Jenks, 1950: 139). In Peru and Schaffhausen military conscripts are also exempt.

Inability to reach the polls due to unforeseen circumstances

Retroactive exemptions are commonly granted to those who were unable to reach the polling station on election day due to unforeseen circumstances such as lack of means of transport (Austro-Hungarian provinces), bereavement and 'domestic calamities' (Ecuador, Schaffhausen), or 'fortuitous causes or circumstances beyond their control' (Bolivia).

Discretion of judge or court

A number of states, including Australia, Belgium, Chile and Luxembourg grant exemption from sanctions retroactively if grounds are provided to the satisfaction of a judge or court. In such cases the relevant authority can exercise some discretion in determining cases, especially when they involve exceptional circumstances.

Religious belief or practice

Eligible Australian citizens who object to electoral participation on the grounds of religious belief may apply to be ‘conscientious objectors’ and be exempted from voting on those grounds (Mackerras and McAllister, 1999: 224; Hill, 2002b: 443–8). Likewise, under the Spanish electoral law of 1907 clergymen were exempt from participation (Abraham, 1952: 86).

Other options for institutional reform

There are three principal institutional reform options that can be considered instead of compulsory voting: the constitutionalisation of electoral obligation, collective sanctions, and the provision of positive incentives to voters. These three institutions have distinctly different patterns of historical usage. Designation of voting as a duty in a country’s constitution has been employed both alongside compulsory electoral participation and as an alternative throughout the institution’s history. Collective sanctions constitute a historical device that has gradually been phased out in all but a handful of cases. The provision of positive incentives to participate in elections is, by contrast, a mechanism that is increasingly gaining in popularity. Each of these institutional mechanisms will be discussed in turn.

Constitutionalisation

The first alternative to formally requiring citizens to participate in elections is to embed in the constitution a provision that voting is a legal duty. This may seem like a small measure, but by formally recognising the obligation to participate, a state binds itself to a certain normative attitude toward elections. This formal binding can then provide a basis for civic education curricula in schools and voter education programmes by electoral management bodies. It is perhaps for this reason that the constitutions of a number of states describe voting as a civic duty without making it compulsory in law. These include the Central African Republic, Colombia, Cuba, East Timor, Haiti, Italy, Mozambique and Portugal. In Colombia, Article 258 of the constitution states that ‘Voting is a right and a civic duty’. Article 49 of the Portuguese constitution states that ‘The right to vote shall be exercised personally and shall constitute a civic duty’. Former Portuguese colonies Mozambique and East Timor have very similarly worded provisions.²² Article 48 of the Italian constitution describes voting as a civic duty, as does the law governing the conduct of the 2006 elections, while Liechtenstein defines electoral participation as a civic duty in the electoral law (Article 3) but not in the constitution.

Collective sanctions

Another institutional device bearing conceptual affinities with mandatory participation in elections is that of the turnout threshold. The requirement that

electoral participation should reach a certain level for the election to be valid was not uncommon in the nineteenth century.²³ At that time Bavaria and the Grand Duchy of Baden operated an unusual combination of collective and individual sanctions: if an election did not meet the turnout requirement, the costs of the re-held election would have to be borne directly by non-voters as a form of a special tax (Moreau, 1896: 27; cf Caramani, 2000: 64).²⁴ More commonly, elections are simply declared invalid if they fail to meet the threshold set in law, and they are re-held at the expense of all.

Though turnout requirements are common in contemporary referendums, they are now rare in elections outside Eastern Europe and the former Soviet Union. The modern practice of turnout thresholds in this region is a hang-over from the Soviet requirement that at least 50 per cent of eligible citizens were obliged to vote for the election to be valid (and, in addition, at least 50 per cent of the eligible electorate was required to vote for a candidate for that person to be declared elected (Carson, 1955: 76)). This practice was adopted also in Central Europe when most of the countries in the region introduced communist systems (or had such systems imposed on them). Interestingly, this provision has been retained in some form in the electoral legislation of a number of states in the region, despite the fact that most other aspects of Soviet-era electoral law have been abandoned. Until recently Russia imposed a turnout requirement of 50 per cent in presidential elections and 25 per cent for parliamentary polls. In Serbia and Montenegro, similar 50 per cent turnout requirements led some elections to be re-held in their entirety, while the 25 per cent requirement in Hungary has resulted in elections being re-held in individual constituencies. Elsewhere in the region, a 25 per cent turnout requirement applies in Lithuania, the threshold is 33 per cent for parliamentary elections in Uzbekistan, and the Soviet-era 50 per cent requirement has been retained in Moldova, Belarus, Kazakhstan, Kyrgyzstan and Tajikistan.²⁵ Given this 'collectivist' approach to electoral participation in the former communist region, it should come as no surprise that this is the only part of the world where compulsory electoral participation is not practiced at all.²⁶

Incentives for voting

The third main alternative to making electoral participation a legal requirement is to provide incentives that encourage citizens to go to the polls. Such incentives may take the form of sanctions or selective benefits (in as much as these can be distinguished). The application of sanctions without compulsion may seem odd, yet as noted above, both Iran and North Korea have such a system, and sanctions for non-voting were in place in Italy until the 1990s.

The provision of selective benefits to voters is a rather newer idea that has recently begun to take hold in a variety of settings where increasing rates of electoral participation is deemed desirable but there is general reluctance to

make voting a legal obligation. This has often taken the form of the entry of voters into a lottery, as was done at the national level in Bulgaria in 2005 and at the local level in Norway (IDEA, 2006). This practice has also been employed in some US states (see Hasen, 1996; 2000). In Colombia – one of the only states in Latin America where voting is voluntary – voters have since 1997 been given preferential access to some educational and state employment opportunities, reduced military service, and reductions in fees for some state services (Lapp, 2004; Jaramillo and Franco-Cuervo, 2005: 302; www.votebien.com). Finally, in the UK the idea of exploring so-called ‘incentive voting’ has won support from a number of quarters, including Ken Ritchie of the Electoral Reform Society (Baston and Ritchie, 2004). There are arguments for and against the use of selective incentives as an alternative to legal compulsion, which will be discussed in the concluding chapter to this volume.

Structure of the book

Following the basic overview of the institution of mandatory electoral participation provided here, Chapter 2 details the history of the institution, tracing the idea back to medieval times and showing how it has developed in the modern state. The chapter goes on to examine common reasons why compulsory electoral participation has been introduced and it closes with an overview of the contemporary use of this institution for elections to lower or only houses of parliament.

Chapter 3 outlines and assesses the principal normative arguments that have been made for and against compulsory electoral participation. These claims fall into three principal categories: arguments relating to rights and duties, legitimacy and collective rationality arguments, and evaluations of the practical consequences of making electoral participation mandatory. After reviewing these arguments, the chapter then summarises the empirical claims made by normative theorists in order to prepare the ground for subsequent chapters, whose main objective is to test these claims.

Chapters 4 to 7 are structured around the key elements of the electoral cycle: campaigning, voting, conducting an election, and acting on electoral mandates. Chapter 4 is devoted to considering how compulsory electoral participation affects electoral campaigns and related attitudes. This chapter seeks to determine the impact of this institution on campaign-related behaviour and dispositions relevant to campaigns. Compulsory electoral participation can be expected to alter the incentive structure voters face when considering elections. It will thus invariably alter the way in which those seeking to win their votes appeal to the electorate, and, in turn, the way voters react to electoral campaigns. From the perspective of electoral contestants, the main difference between an election held under voluntary voting and one held under

compulsory turnout is that in the former it is necessary to place emphasis on mobilisation to get one's supporters to the polls, whereas in the latter this is taken care of (to a greater or a lesser extent) by the legal framework. The impact of this important difference is evaluated and its likely consequences are assessed against empirical evidence.

In Chapter 5, attention turns to the topic that has received the greatest amount of attention from those who have studied the institution of compulsory voting: aggregate turnout. The question of concern in this chapter is how efficient compulsory voting really is in improving turnout levels. The overall aim of the chapter is to review previous analyses of the impact of mandatory voting laws on rates of participation, and to assess the conditions under which such laws are most likely to be associated with substantial change in rates of voting.

Chapter 6 considers the influence of compulsory voting on electoral integrity and the overall legitimacy of the political system. As will have been demonstrated in Chapter 2, reducing electoral abuse and improving electoral integrity were among the most important reasons for the introduction of compulsory attendance at the polls in many states. It is therefore worth considering whether making electoral participation mandatory improves the conduct of elections and thereby improves confidence in the political process. This hypothesis is tested on the basis of case studies as well as aggregate data. A related question to be considered is whether mandatory voting enhances the legitimacy of the democratic process overall.

Chapter 7 explores the impact of compulsory electoral participation on those political outcomes viewed as most significant, as well as those that can most intuitively be expected to result directly from the institution. Three such impacts are analysed: the impact of compulsory electoral participation on (1) rates of female participation (2) the distribution of partisan support (the balance between small and large parties, moderate and extremist parties, and left-right forces); (3) the fairness of policy outputs, understood in terms of redistributive policy and quality of governance.

A final chapter concludes the volume, summarising the findings of the study and providing an overall evaluation of compulsory electoral participation on the basis of these results. It speculates as to the likelihood that electoral compulsion will be adopted in democracies where going to the polls is voluntary. The chapter also considers alternatives to making electoral participation a legal obligation, as well as possible modifications to the institution.

Notes

- 1 These cases are considered in greater detail in Chapter 8.
- 2 An extended review of the English-language literature has revealed only one other published volume on the subject, a short tract of 38 pages published in 1955 by

Henry Abraham. This text is a summary of an unpublished doctoral dissertation (Abraham, 1952).

- 3 'Attend the polls' is used as a convenient short-hand to designate participation in person or in absentia, to the extent that the latter practice is allowed. It would therefore also include proxy, postal and other forms of remote voting.
- 4 Tingsten makes the distinction between the obligation to vote (which involves simply attending the polling station) and the obligation to elect (which requires a positive choice to be made) (Tingsten, 1963 [1937]: 182).
- 5 I am grateful to Joop van Holsteyn for providing this translation.
- 6 The website of the Latvian parliament provides a useful list of translations of this term into the languages of all European Union member states at http://www.saeima.lv/pet/pls/DD?p_LN=mt&p_INTERFACE_LN=en&p_DESCRIPTEUR_ID=4758.
- 7 Official Soviet turnout figures are slightly misleading, in that voters could apply to have themselves removed from the register in their constituency on the grounds that they would be away on election day. Estimates of the number of people who avoided their electoral obligations in this way range from 2.5 to 10 per cent (Friedgut, 1979; Karklins, 1986; Roeder, 1989).
- 8 The law governing the 2006 elections re-introduced voting as a civic duty, but did not prescribe sanctions for non-voting.
- 9 'On peut parler d'automatisme plus que d'obligation' [author's translation from the French].
- 10 'Eu égard à son comportement peu civique dans nombreux domaines, et compte tenu de cette tradition de grande impunité du délit, la participation massive des Belges aux élections reste pour le moins surprenante' [author's translation from the French].
- 11 Another case of the supposed 'strict' enforcement of mandatory electoral participation is the Netherlands, where there was a legal obligation to vote between 1917 and 1970. Yet Irwin reports that in 1966 only 577 of 400,000 non-voters were brought to court (Irwin, 1974: 294).
- 12 See Robson, 1923: 574 for relevant data.
- 13 *Affichage* was proposed in France in 1889 and 1893, though it was never passed (Quiri, 1908: 78).
- 14 Law Art 3, D.Lgs. 20 December 1993, n. 534 removed the requirement that names of not-voters should be posted at local municipal offices.
- 15 The mandatory participation law employed in Hungary during the interwar period stipulated that a citizen should be removed from the electoral register after the first instance of non-voting (Abraham, 1952: 89; 1955: 19). In Cuba, non-voters were removed from the register under the 1919 electoral law, though electoral participation was not made formally compulsory until 1940 (Suter and Nohlen, 2005: 200).
- 16 This message was posted on the website of the Singapore Elections Department at <http://www.elections.gov.sg/>; accessed on 23 November 2006.
- 17 When compulsory electoral participation was initially introduced in Belgium, the restrictions on public service were more extensive, including a ban on bearing

- witness in court, serving on a jury, serving as legal counsel, serving on public commissions or being a teacher (Moreau, 1896: 28).
- 18 Though not considered here under the rubric of mandatory electoral participation, Italy had until recently a similar system; before the removal of sanctions for non-voting in the mid 1990s, the fact of not having voted was noted on official documents, and there are reports that this may have made it difficult to obtain services such as childcare (Jackman, 2001: 16315; Gratschew, 2002: 108).
 - 19 When electoral participation was made compulsory in the Philippines in 1973, the penalty for non-voting included a prison sentence of up to six-months; Hartmann *et al.* report that had this penalty been rigorously applied, over seven million citizens would have gone to jail following the 1981 elections. The measure was not systematically enforced, however, and electoral participation was made voluntary again in 1987 (Hartmann *et al.*, 2001: 189).
 - 20 On varieties of registration procedures, see Massicotte *et al.*, 2004: 66–76; ACE Project at <http://www.aceproject.org/main/english/vr/vr.htm>.
 - 21 Lebanon's brief experiment with compulsory voting between 1952 and 1957 was likewise applied to men only (Scheffler, 2001: 174).
 - 22 In East Timor, section 47 of the constitution reads 'The exercise of the right to vote is personal and constitutes a civic duty', while Article 73(3) of the Mozambiquan constitution states that 'The Right to vote shall be personal and shall constitute a civic duty'.
 - 23 Crampton (1983: 43) claimed that such a rule was applied in Bulgaria following 1879, and Moreau (1896: 22) cites turnout requirements in nineteenth century Russian local elections.
 - 24 Quiri (1908: 82) reports that bills to introduce turnout requirements were proposed (all unsuccessfully) in the French National Assembly in 1872, 1889, 1893, 1894 and 1900.
 - 25 For details of the regulations in the individual states discussed in this paragraph, see the Inter-Parliamentary Union Parline database at www.ipu.org.
 - 26 Indeed, the constitutions of some of the post-communist states actually emphasise the voluntary nature of voting. For example, article 65 of the Belarusian constitution states that 'A voter shall decide personally whether to take part in elections and for whom to vote'.

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Full Participation: A Comparative Study of Compulsory Voting

Sarah Birch

Full Participation is the first book-length study of compulsory voting to be published in the English language. About a quarter of all democracies in the contemporary world legally oblige their citizens to vote, making this an important aspect of electoral systems in many settings. Moreover, numerous commentators and policy-makers in voluntary voting states are coming to see mandatory attendance at the polls as an attractive option in the context of declining turnout. Yet we know relatively little about this practice beyond its effects on rates of electoral participation.

There has been a dearth of systematic examination of the way in which compulsory voting shapes attitudes, behaviour and outcomes of the political process. This book seeks to fill that gap by providing a comprehensive description, analysis and evaluation of compulsory voting as it is practiced throughout the world. Specifically, the study systematically examines the history of the institution, the normative arguments for and against it, and the influence it has on a range of political phenomena. These include electoral campaigns, political attitudes, electoral integrity and legitimacy, policy outcomes, and turnout. The book also considers the feasibility of introducing compulsory voting in a contemporary democracy, as well as variations on the institution designed to broaden its appeal.

Full Participation will be of interest to a wide range of readers, from ordinary citizens who take an interest in public affairs to political commentators, policy-makers and academic researchers.

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