

Compulsory Voting: The Pros and Cons

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The country is engaged in a debate over the process and the eventual choice of a new electoral system as the Trudeau government seeks to fulfill the Liberal election promise to replace the current First –Past-The- Post system before the 2019 federal election. Somewhat neglected in the debate so far has been the other Liberal promise to consider the adoption of compulsory voting (CV) for future elections. The question of whether or not to adopt CV raises interesting philosophical, legal, political and practical administrative issues.

The main reason for considering CV is to increase the turnout rate in elections. There was an increased turnout in the October 2015 election, but in general turnout had been declining slowly but steadily over several decades, with some rare exceptions. There is also the related concern that the voting population is not representative of society at large. Young adults, aboriginals, less well-educated and lower income citizens (these categories overlap) typically turnout in fewer numbers compared to other socio-economic groups. Low turnout is deemed to be unhealthy in a democracy because it leads to less legitimate, less responsive and less effective government.

The simplest and least costly way of increasing turnout would be to adopt a law requiring everyone to vote. Enforcement in different countries varies from being strict to weak. A modest fine for non-voting, with an exemption based on a valid reason, is used in Australia to encourage attendance at the polls. Some countries use “shaming”, by posting names of non-voters. There is some research evidence that suggests compulsion contributes to a habit or cultural norm of voting within some

societies. CV laws require voters to show up at the polls, but nothing prevents them from casting empty or spoiled ballots, perhaps as a protest against the compulsion involved or against the choices offered.

Over 20 countries have CV laws. Australia is the established democracy with the longest history of CV that dates back to 1924. It is generally seen to have a sound democracy in which turnouts in national elections are routinely in the low 90% range (calculated on the basis of enrolled voters, not the total eligible voting population) compared to Canadian turnouts in the mid- 60% range. However, higher turnouts do not automatically lead to vibrant democracy and good government. Egypt and the Congo also have CV and no one regards them as paragons of democratic virtue and good governance.

On a philosophical and legal level, CV raises the question of whether requiring citizens to vote is an appropriate infringement on individual liberty, the right to choose, in order to achieve certain collective benefits for society. If the Canadian Charter of Rights and Freedoms guarantees eligible citizens the right to vote, is there not an inverse right not to vote?

Proponents of CV argue against such an inverse right because there are presumed to be collective benefits such as increasing the representativeness of the voting population, increasing the responsiveness of governments to previously disengaged voters and over time building increased public support for the political system and for government actions. Just as citizens are required to pay taxes and serve on juries, the proponents argue, requiring them to vote in support of a healthy democracy represents an appropriate obligation associated with citizenship.

Some critics of CV argue that non-voting is a form of political speech that sends a message about dissatisfaction with the political system or with the actors involved. In contrast, others suggest that non-voting may reflect a reasonable level of satisfaction or a rational calculation that the casting of one vote will make no difference on election outcomes and/or the direction of government policies.

A proponent of CV might respond that non-voting is not an effective form of protest because the message being sent is so unclear. He or she might suggest that dissatisfaction should not be confused with indifference on the part of apathetic citizens who have little sense of civic duty and make lame excuses like they are too busy to vote. For such people who are truly indifferent, advocates of CV would argue that voting might involve a minor inconvenience but there would be no great philosophical case for abstaining since they supposedly do not care one way or the other.

Another critical perspective is that CV will bring politically ignorant voters to the polls in greater numbers. Poorly educated and inattentive voters, it is argued, are more susceptible to sensational advertising, including negative attack ads. Bringing apathetic and ill informed voters to the polls may lead to “random” voting that counters the votes cast by conscientious voters who make the effort to inform themselves about the issues and party stances.

There are several counter arguments to this claim. First, voters may be ill informed but they are not dumb. . Regardless of educational background and socio-economic status, all of us have trouble understanding the complexities of modern government. Second, under CV, parties would have to appeal beyond their narrow bases of support and this may cause them

to make more serious efforts to engage all voters. Many people claim to be disgusted by the negativity of modern campaigns and the need to broaden their base of support may lead parties to become less mindlessly adversarial in their appeals to voters. Third, with guaranteed higher turnouts, parties would have to spend less on get-out-the-vote activities. This might lead them to focus less on fund raising and spend more time on policy development.

Any debate on electoral reform involves partisan calculations. In the case of adopting CV there will be more or less informed speculation about which political parties would benefit most. Specifying the impacts of CV on the fortunes of different parties is hampered by the lack of adequate data. Intuitively one might assume that, by bringing a higher percentage of lower socio-economic voters to the polls, CV would favour more left of center parties that present progressive policies of economic and social reform. There is indeed some evidence that this can happen but a lot will depend on the dynamics of party competition in a particular country, including the number of parties that compete for public office. Also, parties would behave differently under CV, such as seeking to broaden their appeal, so it is difficult to make unequivocal predictions from past experience that moving to CV would benefit one party more than others.

There are also many practical legal and administrative questions related to the adoption of CV. Would CV be introduced through amendment of the constitution or in the Canada Elections Act? What sorts of circumstances would qualify as a valid reason for non-voting? What types of sanction would be used to encourage compliance? If fines are used, would a court or some other public body adjudicate appeals of those fines? If there is fines, what would be the amount? Would

some groups (e.g., citizens who are disabled, ill or infirm) be exempt? What should be done when people cannot afford or refuse to pay a fine? Should Elections Canada, or perhaps the Commissioner of Elections, be responsible for collection? Should revenues from fines be used to defray some of the expenses involved with administering elections? These are some of the practical questions that need to be asked and answered.

Experience in countries with CV indicates that there will be a higher percentage of invalid votes. Whether this is a result of protest voting or lack of understanding is not entirely clear. If the electoral system and the related ballot format were new and complicated, the number of invalid votes would probably rise significantly. If Canada adopted CV there would have to be an extensive educational campaign conducted by Elections Canada (whose mandate would have to recognize this duty) to prepare its staff, political parties and candidates and, most importantly, voters.

Increasing turnout has been the primary aim of CV laws. From the experience of other countries we know that turnout increases when CV is adopted. However, it is impossible to generalize with certainty about the percentage increase in turnout that will result from the adoption of CV. The two main factors that will affect the size of the increase are the effectiveness of the compulsory voting model and the prevailing rate of turnout prior to the adoption of CV. A country with an existing low level of turnout will experience a higher percentage increase than a country where the turnout rate is already relatively high.

In Canada the turnout (calculated as a percentage of eligible, registered voters, not the total eligible voting population) in the October 2015 election increased to 68.3%, the highest

since 1993 when the turnout was 69.6%. Since Confederation the median turnout in national elections has been in the 70% range. These percentages provoke the question: How low must the turnout be, over what period of time, to justify the use of compulsion to cause most people to vote. In 2015 President Obama gave a speech calling for consideration of CV when the turnout in mid-term elections for Congress was only 38%. Is the legitimacy of the whole governing process fatally compromised when more people fail to vote than actually vote? There has been a superiority complex in Canada that our turnout rates have always exceeded those in the USA. However, we need to recognize that the Canadian percentages would be less flattering if the calculations were made on the basis of all eligible voters, not just those who took the trouble to register.

In my judgment there is no compelling reason to adopt CV in Canada at this time. The simultaneous introduction of a new electoral system and CV would have both foreseen and unforeseen consequences. It would lead to voter confusion, which goes against public preference for an easily understood voting system that has a simple ballot format. If electoral happens, almost any replacement for FPTP will to a greater or lesser degree reduce the perception of citizens that their votes are “wasted” because they do not contribute to the election of MPs. This could bring up turnout slightly. Elections Canada could take further steps to encourage and facilitate voting, such as pre-registration of young people approaching voting age, voting at any location in the country, automated voting at the polls, and eventually on-line voting.

As the above discussion makes clear, the aims (both official and unofficial) and the impacts of CV go beyond increased turnout. As with other types of electoral reform, political parties and

their members will make self-interested calculations about whether CV will work to their advantage or disadvantage. If the choice of a new electoral system and the adoption of CV were seen to overwhelmingly favour one party, most likely the governing party, public support for the changes would be compromised. Moreover, the legitimacy of the election outcomes under a new system that is seen by a significant number of Canadians to be rigged in favour of any party would deepen the cynicism that already exists towards politics and politicians.

Parties and politicians would undoubtedly change some of their behaviours based on the introduction of CV. An optimist would predict that introducing CV would cause politicians to reach out to all segments of society and drop the reliance on negativity and blaming as the main basis of their appeals to voters. A pessimist would predict that CV would cause politicians to change their strategies, especially their communications strategies, but it would not change their main motivation of reinforcing the identification with their brand and ensuring their supporters are motivated to vote.

CV is not a panacea for what ails democracy and reasonable people can disagree over just how healthy or unhealthy Canadian democracy is compared to most countries in the world. Even in established democracies that operate under CV there are levels of public disillusionment with the political process comparable to what exists in Canada today. Political parties and their candidates need to give Canadians more reasons to pay attention to public affairs and to vote.

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