

“A Liberal Defence of Compulsory Voting”: Some Reasons for Scepticism.

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Justine Lacroix contends that liberals can support legal compulsion to vote on the grounds that no rights or liberties are violated by such compulsion, and because compulsion can help to minimise inequalities in political participation amongst social groups. (Lacroix, 2007) I agree with Lacroix that the most plausible forms of liberalism treat the political liberties as fundamental, and value political participation. Indeed, I would supplement her references to Constant, Tocqueville and Mill with reference to more contemporary figures such as Rawls and Dworkin. Nonetheless, there are reasons to doubt that liberals can support legal compulsion, both because it is unclear that people have a moral duty to vote in most cases and because the existence of such a duty is insufficient to justify legal compulsion.

Lacroix is right to insist that liberalism is consistent with the belief that political participation is a fundamental right, and that a life of political participation can have great value. Rather surprisingly, though, her examples neglect contemporary liberals, such as Rawls or Dworkin, although both make it plain that political participation can be valuable in its own right, and not merely as a means to other ends.¹ Rawls is notable, too, for insisting on “the fair value” of the political liberties, given their competitive character. Thus, while inequalities of income and

¹ Rawls notes the typical liberal view that the political liberties are only of instrumental value, but notes that different people will have different views about this. (p.230). Moreover, at pp.233-4, he explains why equal political liberty is not solely a means to other ends, but something of value in and of itself. For Dworkin, see *Sovereign Virtue: The Theory and Practice of Equality*, ch. 4 and the striking, rather moving, endorsement of a form of civic republicanism in ch. 5, and its last sentence claiming that there is a way in which political community can have ethical primacy over our lives as individuals.

wealth may, in his view, justifiably affect the value that our other liberties have for us – as they would if, say, I found it hard to make the pilgrimage to Mecca for financial reasons – Rawls is very concerned to insulate democratic politics from the distorting effects of economic inequality, so far as is consistent with protecting the basic liberties in the first place. So, he claims that

“the constitution must take steps to enhance the value of the equal rights of participation for all members of society. It must underwrite a fair opportunity to take part in and to influence the political process....The liberties protected by the principle of participation lose much of their value whenever those who have greater private means are permitted to use their advantages to control the course of public debate....Compensating steps must, then, be taken to preserve the fair value for all of the equal political liberties. For example, in a society allowing private ownership of the means of production, property and wealth must be kept widely distributed and government monies provided on a regular basis to encourage free public discussion.....” (para. 36 pp. 224-225)

However, it is one thing to think that the political liberties are valuable in and of themselves, and another to suppose that people have a moral duty to vote. For example, Rawls clearly supposes that, where the political liberties indeed have fair value, citizens can generally be expected to vote willingly. (para. 37, pp. 223). Still, Rawls’ distinction between what he calls “natural duties” and “obligations” provides one reason for doubting that there is a general duty to vote, applicable to most people in most elections, even on a self-consciously egalitarian and democratic form of liberalism.

According to Rawls, “it seems appropriate to distinguish between those institutions...which must inevitably apply to us since we are born into them, and they regulate the full scope of our activity, and those that apply to us because we have freely done certain things as a rational way of advancing our ends. Thus, we have a natural duty to comply with the constitution, say, or with the basic laws regulating property (assuming them to be just), whereas we have an obligation to carry out the

duties of an office that we have succeeded in winning, or to follow the rules of associations or activities that we have joined...” (para. 52, pp. 343-4) Part of the point of ensuring the fair value of the political liberties, therefore, is that

“the effect of self-government where equal political rights have their fair value is to enhance the self-esteem and the sense of political competence of the average citizen. His awareness of his own worth developed in the smaller associations of his community is confirmed in the constitution of the whole society...this education to public spirit is necessary if citizens are to acquire an affirmative sense of political duty and obligation, that is, one that goes beyond the mere willingness to submit to law and government”. (para. 37, p.234)

I am no Rawls expert. However, it looks as though Rawls, here, supposes that affirmative political obligations depend for their acquisition and, perhaps, for their justification on our willing participation in the governance of our society. Such affirmative political obligations, therefore, cannot be used to justify compulsory voting, or compulsory political participation more generally.

But there are deeper reasons to doubt that liberals can support compulsion, or can easily affirm that citizens generally have a moral duty to vote. The problem, essentially, is this: that liberals suppose that people can reasonably disagree about the value of political participation, compared to other activities and forms of life and, by extension, people can also disagree about the relative importance of different forms of participation, even if political participation is treated as of ultimate importance. If voting is to be a duty, we must assume that we are concerned with informed and conscientious voting – so voting out of ignorance, on a whim and so on, would not count as fulfilling the duty. But it is not clear that people must acquire well informed political opinions on pain of behaving immorally. The engagement with the world which this presupposes would seem incompatible with various forms of spiritual quest

and with attitudes to the world that value spontaneity, living in the moment, or even a certain scepticism towards organised activities of various sorts.²

True, there are circumstances where we may all have a duty to stand up and be counted – and electoral participation apparently increases in areas contested by the far right, or by racist political parties, as those who oppose such positions generally – and rightly – feel the need to make their opposition known. However, while “reasonable pluralism”- as it has been called-³ seems consistent with the idea that people do, sometimes, have a duty to vote, and to vote one way rather than another, it is hard to square a commitment to respect people’s conscientious convictions about what makes life valuable and worth living with the idea that there is a general duty to vote.

Finally, I would just emphasise the gap between the idea that there is a moral duty to vote and justification of a legal requirement to vote, even if one allows for various forms of conscientious objection and would allow – as current Australian law apparently does not – that the legal duty involves turning out, but no obligation to complete a legally valid ballot.⁴ Of course, legal obligations do not presuppose moral obligations, so one might think that there is a case for legal compulsion even in the absence of a moral duty to vote. In either case, however, the problem of justification

² Emersonian individualism - at least as presented by George Kateb – would seem to be a prime example of this position. See Kateb, 1984 and 1992.

³ Joshua Cohen, coined the phrase in his “Moral Pluralism and Political Consensus”, in *The Idea of Democracy*, ed. Copp, Hampton and Roemer, (Cambridge, 1993), especially pp. 281-5.

⁴ According to Lisa Hill, a recent test case suggests that “marking a ballot informally does not meet the requirements in the Act on how to vote, and is therefore an offence”. Lisa Hill, (2007), p.9 Lacroix, like Hill, endorse the ECHR view that there is no violation of conscience when people are forced to vote, because they can always cast a blank vote. (Lacroix, 2007, 193). On those grounds, being forced to attend Church would not violate my conscience, as long as I do not have to pray. This is clearly not a satisfactory interpretation of freedom of conscience. Fortunately, Australian law appears to allow religious objections to voting though not, it should be noted, conscientious objections based on secular, rather than religious, grounds. Hill discusses the case of *Judd v. McKeon*, which involved an Australian socialist who was jailed for not voting, and notes that his claims for exemption “are morally compelling in terms of the types of democratic values compulsory voting is supposed to serve”. (18)

is this: that legal compulsion to vote will likely require sanctions for failure to vote and this raises the possibility that otherwise law-abiding citizens may be sent to prison for the failure to pay fines for not voting. So before we agree that voting should be compulsory – whether on liberal or on democratic grounds – we need to know why legal means should be preferred to other ways of encouraging political turnout and participation, especially by politically underrepresented social groups; and we need to know what sanctions, if any, are supported by the reasons to favour compulsion.

I am sceptical that this hurdle can generally be met. Low turnout, and political alienation by the young, the poor and the uneducated are of genuine concern. But being forced to turnout is unlikely to cure alienation, nor is it much of a cure for political inequality, as voters only get to choose from a range of candidates and platforms that have already been decided. Moreover, if the papers presented at the ECPR workshop on compulsory voting - held in Helsinki this May - are anything to go by, it seems that compulsory voting has no noticeable effect on political knowledge or interest (Ballinger, 2007; Engelen and Hooghe, 2007) nor, more surprisingly, any evident effect on electoral outcomes (Czesnik, 2007 and Selb and Lachat, 2007). Compulsory voting is clearly no guarantee of egalitarian social policies; and the Australian case – where compulsory voting is extremely popular and is long established – shows that increasing turnout does not force parties to compete for the votes of the poor, the weak and the marginalised, as Lijphart had hoped. (Lijphart, 1997) Conversely, compulsory voting is, apparently, anathema in Sweden and other Scandinavian countries, although these are regularly held up by political and social scientists as beacons of social democracy, and as examples of how to combat the persistent under-representation of women in positions of political power.

In short, if you value political participation there are good reasons to treat compulsory voting with scepticism, and to look elsewhere for remedies to low and unequal electoral turnout or – more fundamentally – to the problems of political powerlessness and inequality that mar many contemporary democracies.

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