

Schäfer, Armin

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Republican liberty and compulsory voting

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MPIfG Discussion Paper 11/17

Republican Liberty and Compulsory Voting

Armin Schäfer



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Max-Planck-Institut für Gesellschaftsforschung, Köln
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Armin Schäfer is a research fellow at the Max Planck Institute for the Study of Societies, Cologne.

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Max-Planck-Institut für Gesellschaftsforschung
Max Planck Institute for the Study of Societies
Paulstr. 3 | 50676 Cologne | Germany

Tel. +49 221 2767-0
Fax +49 221 2767-555

www.mpifg.de
info@mpifg.de

Abstract

This paper starts from four observations: (1) voter turnout is declining in established democracies; (2) low turnout means socio-economically unequal turnout; (3) compulsory voting is an effective means to increase turnout; (4) even low-turnout countries, however, have neither introduced nor even contemplated a legal obligation to vote. A closer look at the arguments against compulsory voting shows that these draw on assumptions from liberal political theory, which defines freedom negatively as non-interference. This concept of freedom has been challenged by “neo-republican” writers who, in the neo-Athenian tradition, understand freedom as “sharing in self-government” and, in the neo-Roman, as “non-domination.” Both strands of republicanism attach importance to political participation and, it will be argued, offer reasons to support compulsory voting. The purpose of this paper is to show that opponents to mandatory voting have to rely on liberal assumptions that have not remained uncontested and to outline a republican defense of equal participation.

Zusammenfassung

Aufgrund von vier Beobachtungen diskutiert das Papier, ob sich eine Wahlpflicht rechtfertigen lässt: (1) In vielen etablierten Demokratien sinkt die Wahlbeteiligung; (2) eine niedrige Wahlbeteiligung ist immer sozial ungleich; (3) eine Wahlpflicht ist ein effektives Mittel, die Wahlbeteiligung anzuheben, aber dennoch (4) gibt es selbst in Ländern mit niedriger Wahlbeteiligung kaum Bestrebungen, Bürger zur Wahlteilnahme zu verpflichten. Argumente gegen die Wahlpflicht stützen sich überwiegend auf Annahmen der liberalen politischen Theorie, in der Freiheit negativ als Abwesenheit von Einmischung verstanden wird. Gegen dieses Freiheitsverständnis wenden sich „neo-republikanische“ Autoren, die in der neo-athenischen Spielart Freiheit als Selbstregierung und in der neo-römischen als Nichtdominierung verstehen. Beide Varianten betonen die Bedeutung politischer Partizipation für die Demokratie und bieten Rechtfertigungsgründe für die Einführung einer Wahlpflicht. Das Papier führt den Nachweis, dass die Gegner einer Wahlpflicht sich auf Annahmen stützen, die nicht unumstritten sind, und entwickelt eine republikanische Verteidigung gleicher politischer Partizipation.

Contents

1	Introduction	1
2	Turnout decline and compulsory voting	2
3	Arguments against compulsory voting	10
	Empirical objections to compulsory voting	10
	Normative arguments against mandatory voting	13
4	Neo-republicanism and compulsory voting	16
	Freedom as self-government	16
	Freedom as non-domination	19
5	Conclusion	21
	References	22

Republican Liberty and Compulsory Voting

1 Introduction

Compulsory voting is an effective means not only to increase turnout but also to equalize electoral participation across social groups.¹ But although turnout has been declining in many established democracies, mandatory voting does not seem to be an answer that is frequently taken into consideration. In fact, a number of countries have abandoned compulsory voting of late, while only Thailand has recently introduced it. For many observers, forcing people to attend the ballot box seems to violate the idea that voting is a right which citizens may or may not choose to exercise. From this perspective, staying at home on Election Day appears to be primarily an individual choice. Whether one is interested in politics or not is regarded as a matter of taste: some like to play chess, others listen to heavy metal, and some may even get thrills from following politics. Individuals choose their leisure activities as they deem fit, and – as long as these do not interfere with other people's rights – none of these activities are inherently more valuable or virtuous. If individuals have the right to vote but voluntarily decide not to use it, there is little to worry about.

Arguments against compulsory voting frequently draw, although not always explicitly, on assumptions from liberal political theory. They cling to an individualistic, rights-based understanding of politics and a negative concept of liberty. If one accepts the underlying assumptions, voluntary abstention must appear largely unproblematic. However, rival approaches are more discomforted with low turnout, since they prize political participation. One such approach runs under the heading of “neo-republicanism.” It rejects some of liberalism's premises and offers an alternative concept of freedom. The “republican revival” has been launched in two variants: a neo-Athenian and a neo-Roman one. While these differ in emphasis, they nonetheless share certain ingredients, and both potentially offer arguments in favor of compulsory voting. Whereas neo-Athenian republicans consider political participation as intrinsically important and sometimes even as a precondition for human flourishing, neo-Roman republicans see it as mainly instrumentally important to protect the chief goal of freedom, defined as the absence of domination.

I would like to thank Jens Beckett, Timur Ergen, Thomas Paster, and Fritz W. Scharpf for their extremely useful comments.

1 Throughout the paper I will use the terms “compulsory voting” and “mandatory voting” interchangeably. Both terms refer to an obligation to attend the polling booth rather than to an obligation to actually vote. Even under compulsory voting laws, citizens remain free to cast blank or invalid votes.

This paper seeks to demonstrate, first, that compulsory voting is an effective remedy to declining and biased turnout and, second, that it can be normatively justified from a neo-republican perspective. The paper proceeds as follows. Section 2 provides empirical evidence for the declining turnout, the socio-economic bias of low participation rates, and the effect of compulsory voting. Section 3 presents the most common objections to compulsory voting, some of which are empirical, others normative. It will be argued that these counterarguments draw on a liberal understanding of the individual, of democracy, and of freedom, all of which neo-republican writers challenge. Therefore, section 4 outlines two versions of republican liberty, both of which depart from freedom as non-interference. In this section I seek to defend the claim that both variants of republicanism offer a justification for compulsory voting because they promote equal participation rather than just the equal right to participate. However, neo-republicans of either school could only accept compulsory voting as part of a larger reform strategy that would make democracy inclusive (neo-Roman republicanism) and participatory (neo-Athenian republicanism). Section 5 summarizes the findings.

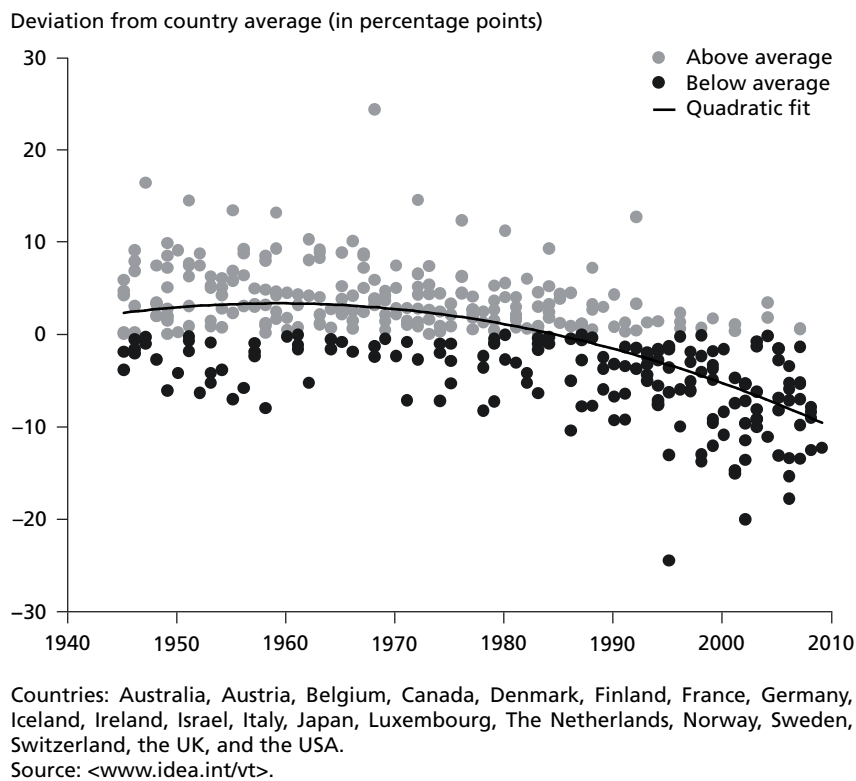
2 Turnout decline and compulsory voting

In many established democracies, turnout is declining – albeit to different degrees. If we look at 20 countries that have continuously held democratic elections since World War II, we see that turnout in parliamentary elections has declined.² Figure 1 shows how election results deviate from long-term country averages, as turnout rates either exceed or fall below this average. Light gray dots indicate above-average turnout, black ones below average electoral participation. As we move toward the more recent past, below-average turnout clearly outnumbers above-average rates, which indicates a decline in electoral participation. Despite this common trend, large differences persist. Whereas turnout today is comparatively low in Switzerland or the United States, it still surpasses 80 percent in Denmark, Iceland, and Sweden. In countries with mandatory voting, turnout is even higher. More than 90 percent of eligible voters regularly show up at the polls in Australia, Belgium, and Luxembourg.

Empirical studies have consistently found that compulsory voting is an effective means to push turnout to comparably high levels (see already Gosnell 1930: 184–185; Tingsten [1937]1975: 205). Reviewing the empirical literature, Blais (2006: 113) and Geys (2006: 652) report that studies almost unequivocally find a significant effect of compulsory voting on turnout rates – although the scale of the effect differs. Analyzing elections in twenty-five countries, Franklin (1999) finds that mandatory voting increases turnout by 7 points, controlling for other institutional variables. Jackman and Miller

2 Throughout this paper I only look at parliamentary elections, and turnout figures refer to the ratio of actual voters and registered voters.

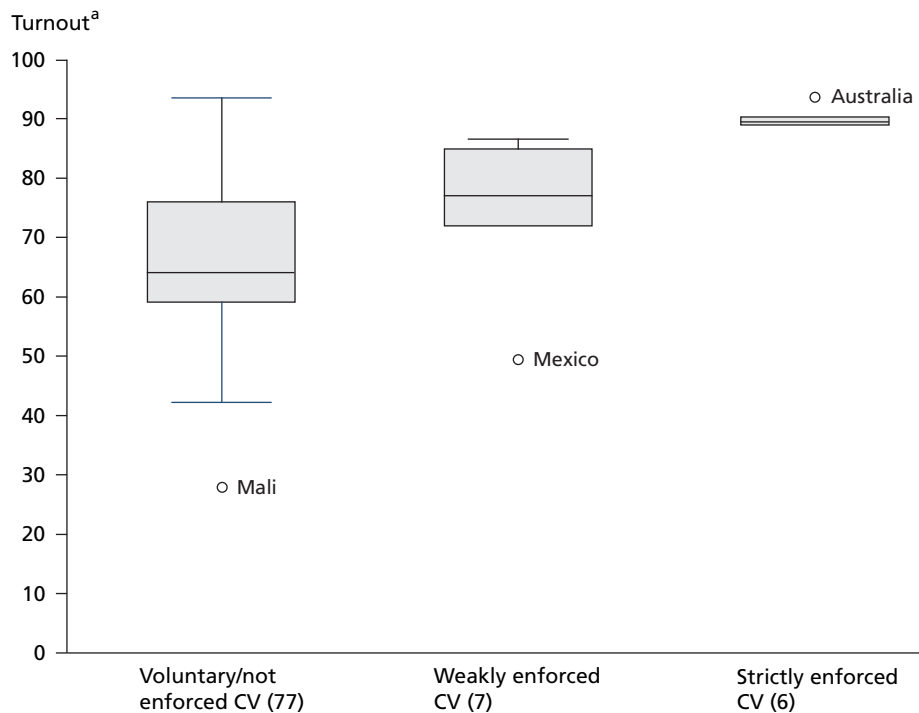
Figure 1 Turnout change in twenty democracies, 1946–2009



(1995), in an analysis of elections in twenty-two countries during the 1970s and 1980s, estimate that, all else being equal, turnout is 12 to 13 percent higher in countries with compulsory voting. Finally, studying ninety countries and more than 300 democratic elections between 1972 and 1995, Blais and Dobrzynska (1998) estimate that compulsory voting boosts turnout by around 11 points.

Recent studies have moved beyond treating compulsory voting as a dichotomous variable and emphasized that its effect depends on sanctions and enforcement. Countries which only formally cling to compulsory voting but fail to sanction non-voters do not substantially differ from countries without mandatory voting. If, by contrast, sanctions for abstention are strictly enforced, turnout is considerably higher (Fornos/Power/Garand 2004; Panagopoulos 2008; Birch 2009: 94; Singh 2011). Using data from ninety democratic countries, Figure 2 shows the average turnout in parliamentary elections between 2001 and 2010 for three groups of countries (see Gratschew 2002: 108). Countries in the first group either rely on voluntary voting or do not enforce mandatory voting. The second group is comprised of countries that weakly enforce compulsory voting, while countries in the third group strictly enforce mandatory voting. Even in the second group, average (median) turnout is higher than in voluntary systems, though

Figure 2 Average turnout between 2001–2010 in ninety democratic countries



a Percentage of registered voters.

CV=compulsory voting. The sample comprises all countries that Freedom House rated at least as “free” and not worse than “partially free” for half of the years between 2001 and 2010, see <www.freedomhouse.org/template.cfm?page=439>.

Source: <www.idea.int/vt>.

considerable differences exist within the group.³ In contrast, countries with strict enforcement show consistently high turnout rates.⁴ Average turnout in these six countries is 24 percent points higher than in countries with voluntary voting.

Differences in turnout between these three groups of countries still hold if we include additional explanatory variables in a multivariate analysis (Table 1). Average turnout is around 10 points higher in countries with weak enforcement than in countries with non-enforced or voluntary voting. If countries strictly enforce compulsory voting, the difference amounts to about 18 points. Hence, for the present, most recent time period, the effect of compulsory voting seems to be higher than in earlier periods. This is not surprising, as turnout decline affects countries with compulsory voting significantly less.

3 Whether Mexico belongs to this group is controversial. Non-voters only have to fear possible informal sanctions if they abstain but no legal sanctions whatsoever (Gratschew 2002: 108). Hence, in Mexico, compulsory voting only seems to exist on paper.

4 It is noteworthy that this group is made up of countries that otherwise have little in common. For example, the group includes one of the richest countries in the world (Luxembourg) as well as relatively poor ones (Nauru and Peru), but also a majoritarian democracy (Australia) as well as a consensus democracy (Belgium).

Table 1 The effect of compulsory voting on turnout in ninety countries

DV: average turnout 2001–2010	Model 1	Model 2	Model 3
Compulsory voting (reference: voluntary voting)			
Weakly enforced	10.154* (4.665)	8.400+ (4.726)	10.518* (4.651)
Strictly enforced	20.665*** (5.376)	17.688** (5.286)	17.995*** (5.224)
Proportional representation	2.355 (2.639)	2.627 (2.735)	0.978 (2.543)
Parliamentary democracy	5.307+ (2.929)	3.526 (2.961)	3.474 (2.642)
Population (log)	−0.926+ (0.534)	−0.614 (0.541)	−0.449 (0.486)
Population density (log)	−1.517+ (0.839)	−1.558+ (0.845)	−1.791* (0.768)
GDP per capita (log) (average 2001–2010)	2.170* (1.005)	2.735+ (1.591)	2.056 (1.464)
Region (reference: Western Europe)			
Africa		0.733 (6.292)	−0.538 (5.721)
Central and Eastern Europe		2.082 (5.959)	−1.702 (5.600)
North America		−0.730* (4.216)	−11.647** (3.880)
South America		0.125 (4.730)	−3.249 (4.339)
Outliers (see Figure 2)			
Mali			−31.750*** (7.078)
Mexico			−15.886 (11.184)
Australia			−1.830 (12.014)
Constant	63.273*** (11.927)	56.352** (19.835)	64.587*** (18.177)
R ²	0.355	0.436	0.571
N	85	85	85

Standard errors in parentheses; + $p < 0.10$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$.

Countries and turnout: See Figure 2.

Sources: Enforcement: Gratschew (2002: 108); population, population density, and GDP per capita: World Bank <<http://data.worldbank.org>>; proportional representation, parliamentary democracy: Democracy Cross-national Data, Release 3.0, Spring 2009 <www.pippanorris.com>.

If we run a regression with the data on turnout change used for Figure 1, we see not only that the decline increases as we move toward the present but also that the effect of compulsory voting becomes substantially more important over time and statistically significant in the last two decades (Table 2). That means, as turnout begins to decline after the 1970s, differences between voluntary and compulsory voting become more pronounced.

Table 2 The changing impact of compulsory voting over time

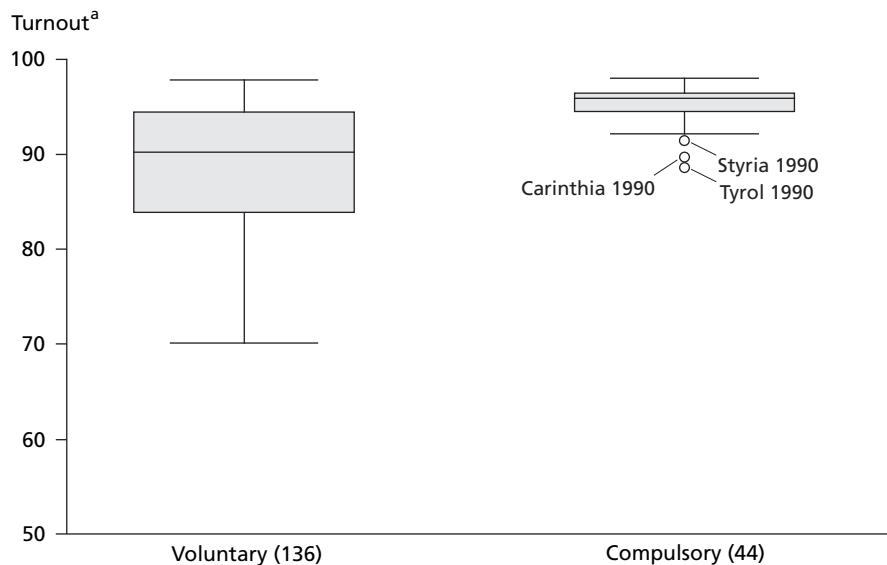
DV: turnout deviation from country average	Model 1	Model 2	Model 3
Decade (reference 1946–1959)			
1960s	0.403 (0.786)	0.416 (0.786)	0.606 (0.878)
1970s	–1.255+ (0.752)	–1.230 (0.754)	–1.342 (0.832)
1980s	–2.391** (0.770)	–2.359** (0.772)	–2.489** (0.846)
1990s	–6.731*** (0.770)	–6.685*** (0.773)	–7.524*** (0.837)
2000s	–10.078*** (0.803)	–10.019*** (0.809)	–11.201*** (0.861)
Compulsory voting (CV)		0.410 (0.605)	–0.875 (1.087)
1960s*CV			–1.024 (1.810)
1970s*CV			0.169 (1.788)
1980s*CV			0.169 (1.875)
1990s*CV			4.802* (1.981)
2000s*CV			8.973*** (2.267)
Constant	2.948*** (0.485)	2.844*** (0.510)	3.172*** (0.549)
R ²	0.380	0.381	0.418
N	397	397	397

Standard errors in parentheses; +p<0.10, *p<0.05, **p<0.01, ***p<0.001.
Data and countries: See Figure 1.

As a next step, we can compare turnout in general elections with and without compulsory voting within a single country (see Hirczy 1994). In Austria, some of the federal states (*Länder*) used mandatory voting rules in the past, while others have never done so. Figure 3 compares the turnout record of nine Austrian states in nineteen general elections (*Nationalratswahlen*) between 1945 and 2008. As we can see, turnout is consistently higher when citizens are forced to vote. However, even under voluntary voting, maximum turnout exceeds 90 percent. All the same, pooling all elections in one graph hides trends over time. Before 1990, turnout averaged above 90 percent even in those Austrian states without compulsory voting. After 1990, average voter turnout declined to 82 percent, dropping even further in the most recent election to 78.8 percent. Hence, it seems that compulsory voting is not a necessary condition for achieving high turnout, but a sufficient one.⁵

5 Malta regularly registers more than 90 percent turnout without compulsory voting due to an unusual combination of factors (Hirczy 1995): (1) pervasive partisanship and a polarized electorate;

Figure 3 Turnout in twenty general elections in Austrian federal states (N=171)



a Percentage of registered voters.

Austrian states with compulsory voting: Styria, Tyrol, Vorarlberg (all until 1992), Carinthia (1986–1992).

Source: <www2.land-oberoesterreich.gv.at/statwahlen/

StartWahlen_OE_Bundesland.jsp?SessionID=SID-FA9E3E31-40F8E163&xmlid=37294_DEU_HTML.htm>.

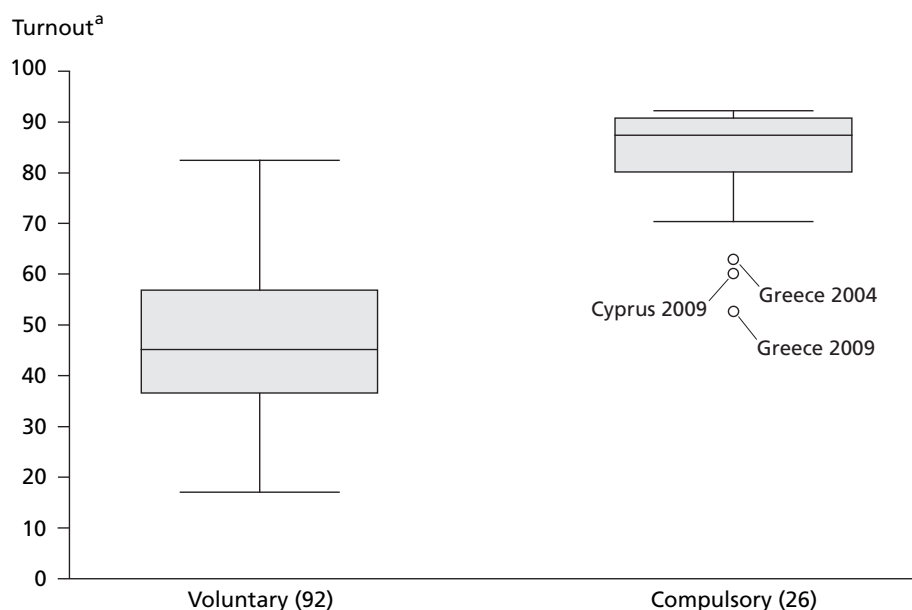
The discussion so far and, in fact, most discussions of turnout focus on “first-order” elections, that is, on national elections. Turnout in these elections is generally much higher than in “second-order” regional, local, or European elections. Therefore, Figure 4 compares electoral turnout in all European Parliament elections since 1979, with or without compulsory voting, in order to assess the turnout gap in low-salience polls. Clearly, the impact of mandatory voting is considerable. On average, turnout is 36 percent higher under mandatory voting than under voluntary voting. The gap might widen even further, as turnout has been declining steeply over time. In the 2009 EP elections, for example, more than 90 percent of the eligible population voted in Belgium and Luxembourg, while in six countries less than 30 percent did.

Finally, looking at the development of turnout in countries that have abandoned compulsory voting can be particularly instructive (Birch 2009: 80–89).⁶ The Netherlands, for example, abandoned compulsory voting in 1970. In the previous general election, 95 percent of the eligible voters had participated. In fact, turnout had never been below 90 percent from 1946 until 1967. After the repeal of mandatory voting, turnout dropped to 79 percent in 1971. It recovered somewhat in later elections, yet earlier turnout rates were never reached again, and the average turnout for all Dutch elections without

(2) concentration of political power in a single elective institution; (3) highly competitive elections resulting in one-party governments despite proportional representation; (4) small country size; (5) single transferable votes; (6) unusually intense campaigning by candidates and parties.

6 See also the discussion in Louth/Hill (2005).

Figure 4 Turnout in European Parliament elections (N=118)



a Percentage of registered voters.

Countries with compulsory voting: Belgium, Luxembourg, Cyprus, Italy (until 1992), Greece (since 2001: not enforced).

Source: <www.europarl.europa.eu/parliament/archive/elections2009/en/turnout_en_txt.html>.

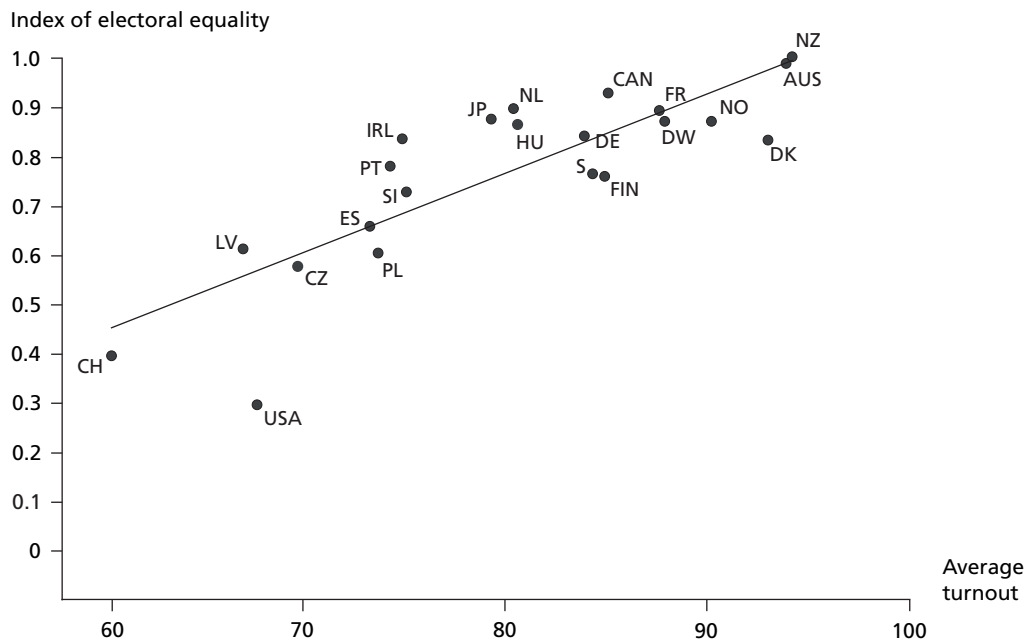
compulsion was 13 percent lower than with mandatory voting.⁷ More importantly, the repeal of compulsory voting in the Netherlands made electoral participation markedly more unequal:

When the compulsion of legislation was removed, small cracks became gaping crevasses. Where differences among [social] groups rarely exceeded five percent under compulsory voting, in 1970 differences of ten to twenty percent become the pattern. The direction of the relationship is little different from those under the compulsory system, but the magnitude is much more similar to that found in other voluntary systems. (Irwin 1974: 298)

The main reason for a concern with falling turnout is that lower participation rates mean more unequal participation, since voters and non-voters are not evenly distributed in society. People with lower incomes or education generally have a lower propensity to vote than the better-off – and with a lower average turnout this gap widens (Lijphart 1997). This empirical regularity prompted Tingsten ([1937]1975: 230) to formulate the “law of dispersion,” which postulates that the differences in electoral participation among social groups are smaller if the overall participation rate is higher. Figure 5 clearly corroborates this pattern. For each of twenty-two countries I have calculated an “index of electoral equality,” which indicates how much people with low education and low

⁷ Similarly, Italy abandoned compulsory voting in 1993. In the five elections preceding the repeal, turnout averaged 90 percent, whereas it dropped to 82 percent in the five subsequent elections.

Figure 5 Turnout and electoral equality between social classes



$r=0.84$, $p=0.000$, $N=22$.

The "index of electoral equality" measures how much people with low income and low education differ in their likelihood to vote from people with high income and high education. High values mean that the probabilities are almost the same, low values indicate large differences. Technically, it is the ratio of the predicted probabilities of both groups, which are calculated from logistic regressions run separately for each country, controlling for age, gender, and employment status.

Source: ISSP (2006).

income differ in their likelihood to vote from people with a higher level of education and income. Greater numbers indicate that electoral participation is more equal among these social groups. The figure shows that the gap is particularly large in countries with low turnout rates and that it almost disappears in high-turnout countries.⁸

To sum up: Because in many established democracies a declining number of eligible citizens are attending the polls, participation is growing more unequal since the most disadvantaged groups in particular are failing to vote. If certain groups abstain from voting, politicians may ignore their interests and instead appease those who are likely to vote. Since democracy is based on the principle of political equality and on the promise that each interest must have the same chance of being considered, socially uneven electoral participation calls into question a central component of democracy (Dahl 1989: 114–115; Weale 1999: 54). Hence, it seems justified to ask what remedies for low turnout exist. Empirical research leaves little doubt that compulsory voting is an effective means to raise and therefore equalize turnout. Despite these well-established facts, mandatory

⁸ Albeit using a different way to calculate turnout bias, Mahler (2008) also confirms the law of dispersion.

voting is not a popular instrument, as Wertheimer was quick to observe 35 years ago: “Compulsory voting is a good idea. It is a good idea whose time is either past or has not yet come. It is certainly not a good idea whose time is at hand” (Wertheimer 1975: 293).

3 Arguments against compulsory voting

So far we have seen that turnout is declining in many established democracies, that low turnout means unequal participation, and that compulsory voting is an effective way to increase turnout. Nonetheless, forcing people to vote remains a highly controversial measure. Opposition to compulsory voting comes in two variants. The first one compares voters and non-voters to assess whether the level of turnout influences electoral outcomes. Since surveys suggest that voters and non-voters do not differ very much in their policy and partisan preferences, these studies conclude that there is no need for compulsory voting. The second, normative, objection insists that, even if the outcomes differed, a legal obligation to vote would be inappropriate since it constitutes an unjustified interference in what ought to be individual choice. From this perspective, the right to vote entails the right not to vote. In this section, we will look at both positions in more detail.

Empirical objections to compulsory voting

The main empirical objection to compulsory voting is that the level of turnout does not seem to matter. While there is a broad consensus that people with more socio-economic resources are more likely to participate in politics, similar differences do not exist in terms of attitudes or political preferences. Many studies conclude that voters and non-voters are not that far apart in their policy and party preferences. If this is the case, voters do represent the entire population and turnout is of minor importance. And if turnout does not matter for election outcomes, there is no need to boost participation through mandatory voting.

Studies that compare voters and non-voters are usually based on survey analysis.⁹ For example, Heighton and Wolfinger (2001) use survey data from US presidential elections in 1992 and 1996 to see how voters and non-voters differ. While they find that

9 Although surveys are frequently the best and sometimes only empirical basis on which to study non-voters, using them is, nonetheless, not without pitfalls since it is not clear whether those who identify themselves as non-voters represent actual abstainers. In surveys, fewer people admit to not voting than there are non-voters. There are two possible explanations for this mismatch. First, there is the problem of over-reporting. Interviewees might be prone to give socially acceptable answers. If voting is generally considered a citizen's duty, some actual non-voters

non-voters are slightly more favorable toward liberal (social democratic) policies and, in 1996, expressed greater support for Bill Clinton, the differences in relation to most other items are rather small. They conclude that non-voters do not form a homogeneous group and that an increase in turnout would hardly make much of a difference. Simulating how Senate election results would have changed had everyone voted, Citrin et al. (2003) also conclude that those who abstain are more likely to favor the Democratic Party, but that few results would have been different with higher turnout rates.¹⁰ In simulating which party non-voters would have chosen had they voted in the European Parliament election of 2009, van der Eijk et al. (2010) also conclude that the effects would have been negligible for the vast majority of parties. Finally, Kohler (2011) shows that higher turnout would only have affected government formation in one German general election (2005) with a reasonably high level of probability.

Selb and Lachat (2010) take the opposite approach to most studies. Rather than calculating how non-voters would behave as voters, they look at survey data from Belgium to understand how those voted who would have been the most likely abstainers without compulsory voting. Rejecting the assumption that forcing people to vote induces political interest and creates an incentive to become informed, these authors find that potential non-voters in Belgium basically voted unsystematically, if not randomly. Had these voters abstained, the results would essentially have been the same. Lower turnout could thus be an efficient way to arrive at broadly representative results. As one author put it in 1954:

All that is imperative for the health of parliamentary democracy is that the right to vote should be exercised to the extent necessary to ensure that the play of ideas and clash of interests can take place. If a symphony is scored for fifty instruments, there is little to be gained by trebling the number; massed bands are neither here nor there so far as the quality of music is concerned. In a similar way, heavy polls are largely irrelevant to the healthy conduct of political business. (Jones 1954: 35)

might hesitate to admit to violating this norm. Hence, they say they have voted. Since the social norm of voting is most prevalent among the better educated, they are more likely to over-report. This would imply that a comparison of voters and non-voters from survey data overestimates real differences. However, there is a second, less comforting view that assumes that those who are least likely to engage with politics are also the least likely to respond to surveys. Political interest might be closely related to the readiness to participate in politics and in surveys. In this case, those who do take part in surveys and identify themselves as non-voters might not represent the overall group of abstainers.

- 10 Recently, Hansford and Gomez (2010) have argued, however, that most studies on the effects of turnout fail to take endogeneity between turnout and party choice into account. They use rainfall to instrument turnout and, in fact, find that low turnout harms the Democratic Party in US elections. Moreover, Hajnal and Trounstein (2005) insist that turnout matters most at the local rather than the national level. Since ethnic groups in particular are concentrated in some areas, stratified turnout of these groups makes a difference in local elections.

Low rates of participation, however, might not just be irrelevant for the quality of democracy but actually be a way to improve it. Since non-voters tend to be less well-informed and less interested in politics, it might be a “blessing in disguise” if they stayed at home on Election Day (Rosema 2007). Voluntary voting separates the truly interested from the ill-informed and confused, who hold “misguided” opinions about politics (McClosky 1964: 376). Taking this argument one step further, Brennan (2009) argues that people who are likely to vote “badly” because they are uninformed or ignorant have a *moral duty not to vote* since they would “pollute” the polls. Caplan (2007: 198) lends support to this idea, as he finds that many citizens hold “irrational” beliefs about the economy, i.e., their opinions deviate from those of PhD students in economics. Since economic literacy, so constructed, rises with formal education, low and uneven turnout is advantageous because in this case the median voter will be more economically competent than the median citizen. Efforts to increase voter turnout would harm the epistemic quality of democracy.¹¹

To sum up, survey analyses find that voters and non-voters do not differ a great deal in their policy and party preferences. Low rates of electoral participation do not impinge on the quality of democracy, and efforts to increase turnout, such as compulsory voting, seem unfounded. Reviewing the literature, Lutz and Marsh (2007: 544) therefore conclude “that turnout does not matter a great deal, no matter what method, dataset or period of time the authors apply.” However, as these authors also note, there is competing empirical evidence that raises doubts about the assertion that turnout does not matter. Counter to a demand-side focus, these studies examine the supply side of politics – parties and policies – and argue that decision-makers appeal to those citizens who actually turn out to vote. For example, Pontusson and Rueda (2010) find that center-left parties adopt more leftist platforms in countries with a higher turnout since they need to take up the concerns of voters who in low-turnout countries would not vote. In contrast, if left parties expect the disadvantaged to abstain from voting, they do not feel obliged to address their demands. A number of studies suggest that this could be the causal mechanism that translates differences in turnout into different policy outcomes. For example, Hill and Leighley (1992) find for the US that the more underrepresented the poor are among the voters of a state, the less generous is welfare spending there. Similarly, Martin (2003) shows that members of the US Congress do not allocate resources simply according to need but rather tend to direct them strategically to high turnout areas within a district – since this is where the electoral “beef” is.

Cross-national studies also show that turnout influences policy outcomes. Hicks and Swank (1992) report that higher turnout leads to higher welfare spending, and Mahler (2008) demonstrates that high-turnout countries redistribute more. Similarly, Mueller and Stratmann (2003) present evidence for a large set of countries that higher rates of

11 The argument that ordinary people are too incompetent to understand politics is, of course, a classical elitist or even anti-democratic view, as Walzer (1983: 285) notes: “All arguments for exclusive rule, all anti-democratic arguments, if they are serious, are arguments from special knowledge.”

electoral participation tend to equalize incomes while at the same time decelerating growth. Looking more specifically at the effects of compulsory voting, Chong and Olivera (2008) are able to show that countries that legally oblige citizens to vote distribute incomes less unequally. In contrast to empirical studies that look at the opinions of voters and non-voters, these studies suggest that the level of turnout matters and the introduction of compulsory voting would not remain inconsequential. Voters and non-voters might diverge only slightly in their preferences, but if parties consistently seek to address the median voter rather than the median citizen, these differences could accumulate over time and translate into different policy outcomes.

What is more, the causal arrow between turnout rates and income inequality seems to run in both directions. Lower turnout leads to more inequality, as just discussed, while rising inequality in turn depresses electoral turnout (Anderson/Beramendi 2008; Solt 2008, 2010). Under these circumstances, a vicious circle might arise, in which decision-makers direct policies at a median voter who less and less resembles the average citizen (Hill 2006: 216). As a result, egalitarian policies – higher taxes for the rich, urban development in deprived areas, universal health care, or public investment in early childhood education – become less likely, while larger sections of the lower classes might feel alienated from politics and “conclude that politics is simply not a game worth playing” (Solt 2008: 58), which will make voters even less representative. Under voluntary voting, it is hard to see how this circle can be broken.

Normative arguments against mandatory voting

Normative arguments against compulsory voting revolve around four themes: the value of political participation, the reasons for abstention, the right not to vote, and the justifiability of sanctions. The first and most common argument against legally forcing people to vote is that interest in politics is unevenly distributed across society. Citizens are not primarily “political animals” but cherish a wide variety of activities. Even if we thought that everyone would benefit from listening to classical music, we would not *force* anyone to do so. The same should hold true for political participation:

Instead, therefore, of preaching the duty to act as a political animal to those who have no inclination that way and would do it badly if compelled, it may well be wiser to leave them to cultivate their private gardens, and to rely merely upon the experience of democracies that there is always in fact a wide enough interest in politics and voting to work the political machinery. (Mayo 1959: 321)

If democracy is, above all, about the selection of competent leaders, then the level of turnout is of secondary importance. And if voting and political participation in general are no more valuable activities than other leisure time pursuits, there is no point in

forcing people to become involved in politics (Lomasky/Brennan 2000: 63). Citizens are free to spend time as they deem fit and the state should not interfere with their choices as long as they are not harmful to others.

The second normative argument against compulsory voting sees abstention as a valuable political act in itself. If one dislikes the party platforms or the political personnel on offer, there might be political reasons to abstain. In fact, if participation in an election perpetuated injustice – unfair electoral rules or a corrupt regime – it would be morally appropriate to abstain (Hanna 2009). Not to vote under these circumstances can convey a stronger political message than voting for the lesser evil does. Stripping citizens of the possibility to send this message impoverishes democracy. Creating an artificially high turnout rate could cover up a lack of interest and the level of political dissatisfaction among the citizens (Franklin 1999: 206). If, in particular, the marginalized do not vote because they feel generally sidelined from society, unable to obtain access to education, decent housing, or jobs, it seems difficult to see

how compulsory voting will address, rather than exacerbate, the alienation of these non-voters, who are typically the objects, not the subjects, of political debate and policy, and who typically constitute the ‘problems’ that politicians are competing to solve. (Lever 2008: 62)

From this perspective, making people vote appears to be a palliative move rather than an appropriate cure for the disease.

Third, while some authors accept that mandatory voting is an effective way to increase turnout and equalize participation, they nonetheless insist that these benefits do not carry enough weight to justify coercion. Even if abstention meant that non-voters acted against their interest, it would still not be legitimate to force them to behave differently. In a liberal democracy, citizens have guaranteed political rights, and the right to vote is a crucial one. However, if someone who holds this right chooses under no duress not to make use of it, there is little to worry about. The right to vote entails the inverse *right not to vote* (Katz 1997: 244). Just as the right of free speech does not mean that everyone has to queue at Speaker’s Corner in Hyde Park to debate an issue and just as religious liberty entails the right not to believe, the right to vote leaves it up to the holder of this right what to do with it.¹² Rights do not come as duties, and it is paternalistic to judge on behalf of others the type of behavior that would promote their own interests best.

Finally, even if one accepts that voting is valuable to the political community, that most of the time a choice between different platforms is meaningful, and that individual abstention should not be allowed to become the general norm, it does not follow that coercion is justified against those who do not vote, especially, since it is not sufficient to make voting legally obligatory on paper, as recent empirical work has demonstrated. To

12 Lardy (2004: 308–309) insists, however, that the right to vote is not just a protective right but also a “constitutive right” that ascribes democratic authority to the electors and declares their equal standing as qualified participants.

be effective, punishment for non-voters cannot be trivial or merely symbolic.¹³ And, in fact, Lever (2009: 66) points out that an Australian woman was sent to jail (for one day) because she refused to pay the fine for not voting. Severe sanctions are rare but they do exist. Now, if democracy was about to break down due to low turnout, such measures might be justified. Yet countries with low electoral participation such as Switzerland or the United States are not on the verge of collapse. Democracy has never been a casualty of too little participation. To the contrary, opponents of mandatory voting argue, intense politicization with high rates of turnout contributed to the fall of the Weimar Republic (Mayo 1959: 321, fn. 4).

These arguments against compulsory voting cannot be dismissed lightly, in particular if we accept the underlying assumptions. Rather than attempting to refute the empirical and normative arguments against compulsory voting one by one, I will spell out their common premises, drawn from liberal political theory, to set the stage for republican counterarguments. Firstly, opponents of mandatory voting adopt an individualistic perspective on political participation. They assume that individuals reason about the pros and cons of political participation and choose to abstain from voting if negative arguments prevail or the opportunity costs of going to the polling station outweigh the possible advantages.¹⁴ Secondly, in line with the first argument, it is postulated that political opinions are formed prior to and regardless of political engagement. Therefore, surveys are able to correctly represent citizens' preferences. Thirdly, voting is seen as a right that does not obligate anyone to make use of it. For some, politics might be their favorite pastime, but not for others. Political participation is not inherently more valuable than other activities. Fourthly, it follows that democracy does not depend on civic virtue – except the minimal requirement that citizens obey the laws and refrain from actions that impinge on the freedom of fellow citizens.

Opponents to compulsory voting insist that what matters for democracy is equal rights rather than equal participation. If citizens hold the right to vote, they are at liberty (temporarily) not to exercise it. Restricting this choice violates their liberty. Underlying these arguments is a liberal reading of liberty, which defines it negatively as the absence of interference:

13 To avoid coercion, Saunders (2009) proposes to incentivize citizens to attend to polls by paying voters. However, all else being equal, this would necessitate higher taxes to fund the scheme, and taxes are collected on a non-voluntary basis. Rather than removing coercion, then, this proposal would shift it to a different, but perhaps more acceptable, terrain.

14 Difficulties to explain voting from these premises arise in particular for rational choice theory. Without additional assumptions, one cannot explain why people care about politics or vote if their impact on election results is infinitesimally small. To remedy the theory, Downs (1957: 245), for example, argued that people derive “entertainment value” or “social prestige” from being informed about politics. Still, many have seen these attempts to save rational choice theory from the paradox of voting as unconvincing (for a discussion, see Hasen 1996).

I am normally said to be free to the degree to which no man or body of men interferes with my activity. Political liberty in this sense is simply the area within which a man can act unobstructed by others. ... By being free in this sense I mean not being interfered with by others. The wider the area of non-interference the wider my freedom. (Berlin 1969: 122–123)

The negative notion of liberty strives to minimize coercion and to restrain governmental authority (Lardy 2004: 308). Compulsory voting conflicts with both of these goals and on this account diminishes freedom.

4 Neo-republicanism and compulsory voting

Over the last 30 years, republican thought has been rediscovered as an alternative to contemporary liberalism. First in the history of political ideas (Pocock 1975), then in constitutional legal theory (Sunstein 1988; Michelman 1988), and finally in normative political theory (Sandel 1996; Pettit 1999), a number of authors have advanced a republican account of democracy that stresses participation, deliberation, and civic virtue. At the heart of neo-republicanism are concepts of freedom that oppose “liberty as non-interference,” to which many liberals adhere and which informs, as we have seen, arguments against compulsory voting. Although the two strands of neo-republicanism do not agree on a single alternative concept of liberty, they commonly oppose the liberal concept of freedom as non-interference. While the neo-Athenian school of republicanism defines *freedom as self-government*, the neo-Roman school heralds *freedom as non-domination*.¹⁵ Despite many differences, political participation is the key to preserving the respective notion of liberty on either reading. Hence, both approaches are compatible with a demand for compulsory voting as part of a more encompassing reform strategy. They will be outlined in more detail below.

Freedom as self-government

The neo-Athenian school of republicanism rejects the liberal ideal of negative liberty and sometimes comes close to a positive conception of freedom that entails not only collective self-government but also individual self-realization. Negative freedom, Taylor (1991) argues, is often (though not invariably) understood as an *opportunity concept* of liberty. To be free means to hold certain rights that shield against outside interference and endow individuals with the opportunity to act as they see fit within this realm of freedom. Whether they actually realize this opportunity or not is up to them and does

15 Various labels have been used to contrast the two strands of republicanism. Held (2006: 35) distinguishes “protective republicanism” and “developmental,” whereas Honohan (2002: 8–9) speaks in terms of “instrumental” and “strong republicanism.”

not have any impact on whether or not they can be considered free.¹⁶ Taylor rejects this view and insists on an *exercise concept* of freedom: “On this view, one is free only to the extent that one has effectively determined oneself and the shape of one’s life” (Taylor 1991: 143). What makes Taylor a neo-republican is that he thinks that individual self-realization is inescapably linked to, if not constituted by, collective self-determination. Individuals can only exercise freedom if they live in a society that allows for this:

If realising our freedom partly depends on the society and culture in which we live, then we exercise a fuller freedom if we can help determine the shape of this society and culture. ... In fact men’s deliberating together about what will be binding on all of them is an essential part of the exercise of freedom. ... A society in which such deliberation was public and involved everyone would realise a freedom not available anywhere else or in any other mode. (Taylor 1985: 208)

The neo-Athenian approach to republicanism has been articulated most forcefully by Sandel (1996). In *Democracy’s Discontent*, he seeks to re-establish a republican tradition of political thought that once figured prominently but has since fallen into oblivion. Sandel (1996: 5) argues that the republican understanding of liberty as “sharing in self-government” used to coexist in the United States with liberalism but that, over time, it has been hidden from view. Liberalism’s victory, he contends, has ill-served US politics, since it has proven unable to address some of the nation’s most pressing problems (e.g., Sandel 1996: 201). In seeking to rehabilitate the republican tradition, Sandel wants to reinvigorate democracy.

The starting point of Sandel’s republicanism is his critique of Kantian liberalism, which has become politically embodied in what he calls the “procedural republic” (Sandel 1984). The core of liberalism is the claim that a just society has to remain neutral toward the diverse ends its members pursue, as long as individual aims are consistent with a similar liberty for all. Given the pluralism of modern societies, it is unjust at best and oppressive at worst to promote any particular concept of a good life. To guard against this danger, the right must take priority over the good (Sandel 1984: 82, 1996: 11). To safeguard individual freedom, the possibility of political intrusion into personal choice has to be curbed. Liberty in the procedural republic is accordingly defined negatively and in opposition to democracy – freedom begins where politics ends (Sandel 1996: 25–26).¹⁷

In contradiction of the liberal concept of freedom, republicans see liberty as inescapably bound up with sharing in self-government: “I am free insofar as I am a member of a political community that controls its own fate, and a participant in the decisions that

16 The argument, discussed above, that the right to vote logically entails the right not to vote is exactly in line with an opportunity concept of freedom.

17 In his discussion of Mill’s notion of liberty, Berlin (1969: 129–130) argues that “[f]reedom in this sense is not, at any rate logically, connected with democracy or self-government. Self-government may, on the whole, provide a better guarantee of the preservation of civil liberty than other régimes, and has been defended as such by libertarians. But there is no necessary connexion between individual liberty and democratic rule.”

govern its affairs” (Sandel 1996: 26). Since active participation in public affairs is seen as a precondition for individual freedom, the state is justified in promoting a particular conception of the good society and in seeking to cultivate norms of citizenship (Sandel 1996: 117). While Sandel vacillates between an instrumental and a strong version of republicanism in his book, he later speaks out in favor of the developmental, Aristotelian version, which links self-government to human excellence. Participating in politics is not like just any other activity but is one that helps to bring about valuable character traits in human beings:

The strong version of republicanism, going back to Aristotle, finds the intrinsic value of political participation in a certain vision of human flourishing. Sharing in the governance of a political community that controls its own fate calls forth distinctive human capacities – for judgment, deliberation, and action – that would otherwise lie dormant. (Sandel 1998a: 325)

Political participation is not just instrumentally important to secure non-domination but is constitutive of individual freedom.¹⁸ The emphasis on promoting a certain idea of the good life and the link between self-government and human flourishing sets Sandel apart not only from liberals but also from republicans who reject the “communitarian” approach (Lovett/Pettit 2009: 12).

Neo-Athenian republicans believe that democracy cannot work properly without public-spirited citizens. They attach overriding importance to political participation and support “a formative politics, a politics that cultivates in citizens the qualities of character self-government requires” (Sandel 1996: 6). Elements of such a formative politics are, *inter alia*, neighborhood assemblies, national initiatives and referendums, office allocation by lottery, workplace democracy, and universal citizen service (Barber 2003: ch. 10). Some of these elements clearly interfere with individual choice and necessitate coercion. Neo-Athenian republicans are ready to impose more far-reaching duties on citizens than liberals would accept to defend freedom as self-government:

The republican conception of citizenship ... seeks to cultivate a fuller range of virtues, including a moral bond with the community whose fate is at stake, a sense of obligation for one’s fellow citizens, a willingness to sacrifice individual interests for the sake of the common good, and the ability to deliberate well about common purposes and ends. (Sandel 1998b: 108)

And yet none of the authors cited in this section has to my knowledge spoken out in favor of compulsory voting. Neo-Athenian republicans usually champion more demanding ways to engage citizens than casting a ballot. However, I think there are three reasons why they could still subscribe to compulsory voting as one element in a more encompassing reform process: First, participation in elections might induce political interest and increase the probability of engaging in other forms of participation. Second, higher turnout could make decision-makers more attentive to the needs of disadvantaged groups. In this way, it could reduce political alienation that stands in the way

18 See also Barber (2003: 145–146).

of political engagement. Third, compulsory voting would broaden the public agenda and, over time, help to reverse the tide of rising inequality that undermines the sense of commonality and solidarity among citizens (Sandel 1996: 330). Thus, although I think the case for compulsory voting can be made from this perspective, neo-Athenian republicans are not the most likely supporters of compulsory voting. In contrast, neo-Roman republicans, who depart less radically from the negative concept of liberty, have spoken out in favor of compulsory voting, as the following section shows.

Freedom as non-domination

Republicans who take their inspiration from the experiences of the Roman Republic and, in particular, the writings of the Renaissance historian and philosopher Machiavelli insist that there is a distinct republican understanding of liberty that Berlin's juxtaposition of "positive" and "negative liberty" fails to capture. The absence of interference with individual choice on the one hand and the acquisition of self-mastery on the other are not the only possible ways to conceptualize freedom. Instead, there is a third notion of liberty, which rejects freedom as non-interference without subscribing to a positive concept of liberty (Skinner 1991). This republican notion of freedom predates the liberal understanding of liberty, which has come to dominate contemporary political thought. Republicans seek to rescue and reinstate this older concept of liberty (Skinner 1998). Defining freedom as the absence of interference fails to acknowledge that one's freedom can be constrained even without actual interference or the threat of it. Republicans insist that "the mere knowledge that we are living in dependence on the goodwill of others" (Skinner 2002: 247) restricts liberty. A slave can never be free no matter how benevolent or non-interfering his master is, since he will always be subjected to the latter's will (Skinner 2008: 96–97). Non-interference is unable to capture the fact that the dependence on the arbitrary will of others makes one unfree.

In line with Skinner's account, Pettit (1999) has sought to spell out a third concept of freedom, central to which is the idea that to be free means not to be dominated.¹⁹ He takes pains to argue that we can be unfree even in the absence of interference if someone else has the potential to arbitrarily interfere with our decisions. In such a situation we are being dominated even without being interfered with because we depend on a power beyond our own control. It is not interference as such that violates liberty, but only arbitrary interference. Restrictions on individual liberty are justified if they emerge from legitimate procedures that track "the common, recognizable interests of the citizens" (Pettit 1999: 288). Skinner has captured the difference between a liberal and the republican understanding of liberty well in a passage worth quoting at length:

19 Someone dominates another "to the extent that 1. they have the capacity to interfere 2. on an arbitrary basis 3. in certain choices that the other is in a position to make" (Pettit 1999: 52).

The nerve of the republican theory can thus be expressed by saying that it disconnects the presence of unfreedom from the imposition of interference. ... Slaves whose choices happen never to fall out of conformity with the will of their masters may be able to act without the least interference. They may therefore appear, paradoxically, to be in full possession of their freedom, since none of their actions will ever be prevented or penalized. Such slaves nevertheless remain wholly bereft of liberty. They remain subject to the will of their masters, unable to act according to their own independent will at any time. (Skinner 2008: 89–90)

Given their concern with freedom as the absence of domination or alien control, republicans argue that individuals will only be free if certain preconditions are met (Skinner 1991: 303–304). First, individual liberty can only flourish in a “free state,” that is, in a self-governing republic capable of acting according to the will of its own citizens. Second, in such a republic, citizens need to cultivate civic virtues – they must be willing not only to defend the republic against external threats but also to actively participate in self-government. Rejecting concepts of democracy that draw on market analogies, republicans deny that if everyone acted in his or her self-interest the outcome would be best for the community as a whole. Acting self-interestedly and without regard for the common good will inevitably give rise to “corruption.” To be corrupt in this sense means to forget “that if we wish to enjoy as much freedom as we can hope to attain within political society, there is good reason for us to act in the first instance as virtuous citizens, placing the common good above the pursuit of any individual or factional ends” (Skinner 1991: 304).

Since neo-Roman republicans accept that citizens might nonetheless be tempted to put their private interests above public concerns, they insist on institutional safeguards against corruption. These safeguards are concerned with the elected leaders who, once in office, might disregard their duty to act for the common good and with the citizens in general who may withdraw from public life to pursue their private interests. To guard against politicians’ corruption, neo-republicans insist on transparency, the rule of law, and the dispersion of power. Political choices need to be justified by public reasons (Sunstein 1988: 1544; Pettit 2000: 129) and citizens “from every quarter of society” (Pettit 1999: 185) must have the opportunity to contest the decision of government. This can only be achieved, however, if democracy is inclusive and every group in society can voice its concerns. Accordingly, electoral and decision-making rules must guarantee broad participation. In the light of these arguments, Pettit (2000: 135) speaks out in favor of compulsory voting:

Once it is accepted that the point of elections, at least in good part, is to generate policies that are candidates for being matters of common interest, it becomes obvious that if any section of the population is systematically excluded, then this point is less likely to be achieved. ... And so the line taken here would argue in favor of compulsory registration and compulsory attendance at the voting booth. Only such a measure would guarantee that politicians will put forward policies and personnel designed to appeal to all sections of the community, not just to those who are more likely to vote under a voluntary system.

It is important to note that this is not a paternalistic argument that seeks to force likely abstainers to act in their self-interest. Instead, broad participation is meant to push government decisions toward common interests. Only fair and inclusive procedures guard against decisions that only serve the particularistic interests of some groups.²⁰ Inclusiveness makes decisions non-arbitrary. Hence, republicans of the Roman school derive the value of political participation and compulsory voting *instrumentally* from the aim to avoid domination. If the poor and poorly educated stay away from the polls, their voice may no longer be heard. To ensure that decision-makers seek policies in the common interest, it thus seems justified to compel citizens to vote as one way of realizing an inclusive democracy.²¹

5 Conclusion

In this article, I have shown that arguments against compulsory voting, implicitly or explicitly, draw on premises from liberal political theory. Opponents to mandatory voting conceive of the decision to abstain from voting as a purely individual choice. They see the right to vote as a protective right that does not entail a duty to vote. Legally obliging citizens to vote infringes on their liberty and is unjustified. In launching these objections, critics of compulsory voting allude to a liberal notion of liberty which defines it in terms of non-interference. To maximize freedom, interference and governmental authority have to be minimized. If we accept these premises, compulsory voting seems hard to justify (but see Lacroix 2007). However, the republican revival has rediscovered a different political tradition that builds on alternative concepts of freedom. Neo-Roman republicans define *freedom as non-domination* while, from a neo-Athenian point of view, individual liberty consists of *sharing in self-government*. Despite many differences, both strands of neo-republicanism can offer normative justifications for introducing compulsory voting.

The main effect of compulsory voting is to equalize turnout across social groups. Quite likely, higher voter turnout over time would also lead to more egalitarian policies. Yet, the justification of compulsory voting does not depend on its potential effects on policy outcomes but rather on its capacity to realize the democratic ideal of political equality. The aim is to level the playing field – if this subsequently leads to changes in income distribution, it is the result of a legitimate democratic procedure. In contrast, policies that result from unequal participation of social groups seem much more difficult to justify. Clearly, voting rules are not purely technical matters, but this would seem to be a greater problem for those who defend voluntary voting than for those who favor compulsion.

20 See also the discussion in Dagger (1997: 145–151).

21 See Pettit (2000: 134–137) for a more encompassing political reform agenda and Dagger (2006) for moves toward a “civic economy.”

To say that mandatory voting can in principle be justified does not mean that it is politically the most desirable option. Empirical research suggests that strong trade unions and egalitarian income distribution also lead to higher turnout. However, it seems even more ambitious to make a country like Portugal as egalitarian as Denmark than to introduce compulsory voting – in particular, if egalitarian policies are less likely to be adopted because turnout is already low. For many countries with falling turnout it seems hard to see how conditions that might reverse this trend could be created with less coercion than forcing people to vote. In a country like the United States, proportional representation, automatic registration, or weekend and postal voting would probably increase turnout. However, most European states already use electoral rules that make it relatively easy to vote. It is not clear which further steps could be taken in these countries to improve electoral participation. If one accepts that low turnout is undesirable, one cannot avoid considering compulsory voting.

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