



The Case for Compulsory Voting

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The right to vote is under relentless assault in the United States today. In 2013, the Supreme Court nullified a pivotal provision of the Voting Rights Act in *Shelby County v. Holder*, which required states to secure approval from the government before changing their election laws. The consequences of the ruling were swift. North Carolina immediately proposed a voter suppression bill that eliminated same-day voter registration. In 2016, 14 states implemented new voting restrictions for the first time in a presidential election. Five years since the ruling, the number of polling closures has doubled.

During a town hall event in Cleveland, Ohio, in 2015, Barack Obama commented on America's disappointing culture of voter suppression: "We shouldn't be making it harder to vote, we should be making it easier to vote." He also considered the radical potential of a mandatory voting law. "It would be transformative if everybody voted—that would counteract money [in politics] more than anything."

The former president's comments were immediately met with heavy conservative criticism. "Forcing people to vote violates their freedom of speech, because freedom to speak includes the right not to speak," wrote Hans von Spakovsky of the Heritage Foundation, a conservative think-tank. "Why should the rest of us have to suffer the possible consequences of [voter] ignorance?" wrote Trevor Burrus of the Cato Institute. "Just let the dart throwers stay home."

For decades, conservatives and libertarians have colonized the political space of liberty, arguing that any compulsion by law—whether relinquishing one's assault weapons or being moderated on speech platforms—is both morally and constitutionally indefensible from the perspective of freedom. Meanwhile, civil rights advocates have largely conceded this territory, clinging to the hard-won legal battles of the Civil Rights Movement, rather than producing new and compelling political arguments in favor of meaningful electoral reform. Now, as the conservative majority in the Supreme Court threatens to chip away at the last substantive provision of the Voting Rights Act, they cannot afford to be complacent any longer. Civil rights advocates must usher in a new vision of political freedom: one that combines the value of full participation with the equal protection of the law.

A compulsory voting law—practiced in a number of democracies around the world, including Australia and Belgium—makes voting a civic requirement for all citizens. It would incentivize state and local legislatures to lower, not raise, the procedural hurdles to full participation for every citizen over the age of 18, no matter their race or class. This new American democracy would finally represent *all* the people, rather than the most radical, the wealthiest, and the most well-connected.

Practically, such a reform would also curb the culture of voter suppression that has historically barred less powerful groups from the political system. In the US, citizens with lower levels of income and education are less likely to vote. This story is often perceived as one of individual choice: non-voters are simply uninterested in the vote as an instrument of political influence. In reality, there are a host of formal and informal disenfranchisement mechanisms that bar citizens from associating the vote with an instrument of political influence at all. Apart from formal constraints on voting—such as voter ID laws—many citizens do not vote because they do not perceive the government as responsive to their needs even if they did vote. Public officials reinforce this perception by prioritizing the concerns of likely voters over non-voters. Political scientists Martin Gilens and Ben Page have demonstrated that the government is highly responsive to the attitudes of economic elites, but less so to the views of average voters. In addition to real or perceived government unresponsiveness, communities without strong norms of voting also face a problem of collective action. By creating the expectation that everyone will vote, compulsory voting remedies the collective action problem that plagues disadvantaged communities. A near-universal turnout would then reorient the political system to be responsive to the most vulnerable groups in society—it would, in the most meaningful sense, secure the “equal protection of the laws” under the Fourteenth Amendment.

Compulsory voting is not a novel idea. In Australia, it has existed since 1924, after voter turnout fell to 60 per cent. The law also established permissible reasons for not voting, such as illness and foreign travel, and procedures allowing citizens facing fines to challenge them in court. The year after the new law, voter turnout skyrocketed to 91 per cent. In subsequent years, voter turnout in Australia has averaged 95 per cent. The Australia case provides an example of how a compulsory voting law might affect voter turnout. It also suggests how laws can transform a political culture for the better. In a 1996 survey, for example, 87 per cent of Australians (significantly higher than in 1924) said they would “probably” or “definitely” still vote even if it wasn’t mandatory. This suggests that a significant portion of Australian voters found genuine reasons to vote thanks to a new culture of voting made possible by the law.

The political culture of the United States is desperately in need of change. Voter turnout in the 2016 elections was a meager 55 per cent and turnout hasn’t climbed above 60 per cent since 1968. When citizens have an obligation to vote, state and local legislatures have an obligation to make voting as easy as possible. The erosion of the Voting Rights Act under the Supreme Court has allowed states to impose new requirements on voters, reinforcing a culture of indifference. Making voting a civic duty would change the presumptions in favor of broad access to voting, encouraging many states to reverse a decades long trend.

American politics has also never been more divisive. A Pew Research Study found that the overall share of Americans who express ideological views has doubled over the past two decades. The state of polarization in the United States has increasingly incentivized politicians to choose party over country—most notably today through gerrymandering and soliciting interference from foreign countries. By affecting the fairness of our elections, these actions threaten the health of our democracy. “If one thing is clear from studying breakdowns throughout history,” write political scientists Steven Levittsky and Daniel Ziblatt in *How Democracies Die*, “it’s that extreme polarization can kill democracies.”

There is ample evidence that compulsory voting could reverse the polarization trend. In a 2017 poll, approximately six out of 10 Americans believe that both the Democratic and Republican

parties are out of touch with the concerns of most people. According to political scientist Morris Fiorina, this is because most of the current non-voting electorate in the US is more moderate than present-day voters. Compulsory voting could add more than a quarter of the American population to the voting electorate, permanently depolarizing American politics.

The main objection to compulsory voting is that it is in violation of our individual liberty. Although this is never decisive (taxation is also a kind of compulsory policy), the principle places a heavy burden of justification on the proponents of compulsory laws. Yet compulsory voting may be more conducive to individual liberty. Because elections in a democracy are the means by which laws are passed, electoral arrangements have deep and pervasive consequences on the freedoms granted to different groups. In the case of something as fundamental as electoral reform, coercion of a vote must be balanced with the potential freedoms enjoyed by different individuals and groups from a newly responsive government. This means that a society with more government coercion on its face may very well respect individual liberty more than a minimalist government. If the burden of proof should be on those who want to curtail individual liberty, then it falls on both sides in this debate, not just on the proponents of compulsory voting.

Another objection to compulsory voting is the concern, ancient in origin, that it cedes too much power to the uneducated. Plato was skeptical of the ‘demos’ precisely for this reason. In any large society, there will inevitably be those who tune out from politics altogether. Forcing those individuals to vote, one might say, threatens the long-standing faith in the “wisdom of the multitude.”

But even if citizens are currently not informed enough to make intelligent voting decisions, there are still reasons to encourage universal voting. According to Thomas Jefferson, “If we think [voters] not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.” There is evidence that compulsory voting could spur the education of the public. The Australian case suggests that the law can bring out a genuine desire to participate in politics, suggesting that it could also encourage new voters to get informed. Mandatory voting could also incentivize the media to produce a more rich, moderate, and informative media environment, one that could improve voter expertise in the long term.

By flooding Washington with the will of *all* voters, compulsory voting can bring the parties closer in line with the majority of the American electorate, check the corruption of Congress by special interests, restore legitimacy to democratic institutions, and curb the vicious cycle of political disengagement in under-represented communities. The state of America’s deep political tribalism and culture of voter suppression calls for bold, actionable political reform. Compulsory voting is a well-timed and well-researched solution to our current political crisis.