

# *Is There a Liberal Justification for Compulsory Voting?*

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MSc Philosophy and Public Policy, 2008

For Justine Lacroix, the principal objection to compulsory voting is based on the view that liberty should take priority over equality and participation. Here, I sketch two arguments in response to this claim. The first is that, regardless of whether or not Lacroix is right to assume that this is the main argument against compulsory voting, it is one to which she fails to provide a satisfactory answer due to a flaw in her own defence. Secondly, I propose that issues of practical efficacy and punishment present an equally serious challenge to compulsory voting which, certainly from a liberal perspective, look to be problematic.

Many liberals, among them John Rawls, regard political participation as both intrinsically and instrumentally desirable. The right to vote has enormous symbolic significance to the liberal, and frequently helps citizens to secure other fundamental liberties in life. But it should be noted from the outset that the mere fact that liberals have historically championed the right to vote in no way commits them to an endorsement of compulsory voting. For clearly it is one thing to fight for the right of all to be allowed to vote, and quite another to uphold a principle whereby all are made to do so. Universal suffrage is the liberal requirement that voting be made *accessible* to all, not that it be made *compulsory*. The liberal may or may not believe that there exists such a thing as a moral duty to vote, and he may or may not decide to lead his own life in accordance with that principle. But it would be decidedly illiberal for him to attempt to impose such a view upon others, which is precisely what compulsory voting entails.

Lacroix's main thesis is that, contrary to this assertion, "the liberal paradigm can be reconciled with the *obligation* to participate" (Lacroix, 2007, p. 190, original emphasis). Unlike Arendt Lijphart, who justifies compulsory voting on the grounds that being forced to vote constitutes only a "minor"

sacrifice of individual liberty which is justified by more substantial gains in liberty elsewhere (Lijphart, 1997, p. 11), Lacroix's is an emphatically non-utilitarian vindication. Rather than attempting to illustrate that the benefits of compulsory voting outweigh the costs, she is more ambitious, insisting that compulsory voting is not only permissible by liberal standards, but *actively required by them*. I believe that this view is fundamentally mistaken, and that Lacroix's supposedly liberal defence of compulsory voting is self-defeating.

Part of Lacroix's defence of compulsory voting rests on the claim that it both raises and equalises voting turnout; both goals which she believes ought to be highly valued by the liberal. Unlike the libertarian, Lacroix argues, the liberal is committed not just to ensuring liberty for all, but to ensuring *equal* liberty for all (Lacroix, 2007, p. 194). Plainly, the liberal commitment to preserving individual liberty can hardly be refuted simply by asserting that it is subsumed by the latter argument. However, it is not my intention to challenge this suggestion here. Rather, I will focus on whether or not Lacroix is successful in defending compulsory voting against the accusation that it constitutes an unacceptable breach of individual liberty.

Lacroix offers two reasons why liberals should support compulsory voting on their own terms: firstly, because it is the best means of increasing voting equality, and, secondly, because it embodies autonomy. I shall refer to these arguments as the *equality argument* and the *autonomy argument* respectively. Lacroix's autonomy argument is a Rousseauian one, which states that "liberty does not mean the absence of law but rather the respect of the laws that men have made and accepted for themselves" (Lacroix, 2007, p. 193). On this view, compulsory voting is not detrimental to personal autonomy, but becomes its concrete embodiment. If Lacroix can prove that compulsory voting does not merely preserve autonomy but is constitutive of it, then she will have constructed a strong case against the liberal concerns outlined above. However, it is my belief that in fact the autonomy argument achieves precisely the opposite, and precludes Lacroix's employment of the equality argument. She is therefore unable to answer the accusation which she herself singles out as the most important argument against compulsory voting.

As part of her autonomy argument, Lacroix argues – I think correctly – that, strictly speaking, it is not possible to force citizens to cast a valid vote without removing the right to vote in secret. One can make it compulsory for a person to attend the polling station on a given date, but provided that

voting remains a secret procedure, there is nothing to prevent him from spoiling the ballot once inside the booth. Since removing the right to voting anonymity is perhaps even more problematic from a liberal perspective than compulsory voting, I shall discount it as a possibility for the purposes of the current discussion.

The autonomy argument exposes a serious shortcoming of Lacroix's defence of compulsory voting. For if it is the case that compulsory voting cannot forcibly extract a valid vote from anyone, there is surely no guarantee that it will have any effect on participation at all, still less an equalising one. The autonomy argument invalidates any instrumental defence of compulsory voting, as it amounts to a claim that compulsory voting does not infringe the liberal right not to vote *because it is ineffective*. Lacroix cannot consistently defend compulsory voting on liberal grounds by saying that strictly speaking "no one is compelled to vote" (Lacroix, 2007, p. 193), and yet maintain that the great merit of compulsory voting is its profound and positive impact on voting turnout. Therefore I argue that on Lacroix's view, compulsory voting can be respectful of individual autonomy only at the expense of practical efficacy.

Lacroix assumes that the liberal will be primarily concerned with the thought that compulsory voting constitutes an unacceptable breach of personal liberty, a violation of the right not to vote. However, given the traditional liberal view of voting as instrumentally valuable, I believe that it is safe to assume that contemporary liberals would be equally preoccupied with the practical efficacy of compulsory voting. Indeed, if – as seems to be the case – there are serious reasons for doubting that liberals would support compulsory voting even if it were proven effective, then it is still less likely that they would accept it if it were as yet unproven, or very possibly ineffective.

I would argue that the main argument against compulsory voting is not a specifically liberal one, as Lacroix supposes, but quite simply the very real possibility that it does not work. Or at the very least, we could say that the supporting evidence is unconvincing, as Lever points out (Lever, 2007, p. 3). Although Lacroix highlights isolated cases in Canada and France where compulsory voting does appear to have raised and equalised voting turnout to some extent, it is far from obvious that such a result would consistently be obtained in other countries.

I do not believe that introducing a legal compulsion to attend the ballot would be sufficient to raise or to equalise voting turnout. In reality, the only

reliable way to raise turnout would be to make not voting so unattractive as an option that existing or potential non-voters are not tempted to pursue it. But this begs two important questions. Firstly, would the liberal not find Lacroix's suggestion that non-attendance be made a crime unpalatable? I venture that he would, for if he denies the existence of a moral duty to vote, it is extremely unlikely that he will be amenable to the idea of its enforcement by law. And secondly, how should the "crime" of non-attendance at polling stations be punished? Clearly it would not be the law itself which acted as a deterrent, but the penalty for its transgression. Yet unless the punishment imposed were sufficiently severe, one could not presume that large numbers of voters would not simply stay at home just as they did before, and accept the penalty for doing so. A major consideration here, which Lacroix ignores, is that most existing non-voters are already either politically apathetic or actively hostile to the idea of voting. It is unlikely, I think, that the prospect of a small punishment will disturb such deeply engrained patterns of behaviour or belief.

Yet the thought of harsh sanctions for such a minor offence would surely be troubling for many liberals. It is not only doubtful that liberals would agree to non-voting being made a crime in the first instance, but also that any punishment could be agreed upon that was both effective and respectful of liberal principles. Fines might initially seem an attractive possibility, but once made sufficiently heavy to impel people to comply, they would effectively become financial incentives for voting. Perhaps still more worryingly from a liberal perspective, only those of superior socio-economic status would then be able to afford the "luxury" of not voting. Lacroix recognises that such voting inequalities are precisely the type which liberals wish to avoid at all costs, and indeed, her equality argument is premised on this very assumption. Yet to augment the freedom of choice of the rich whilst fining the poor hardly amounts to a compelling liberal argument in favour of compulsory voting. As such, I conclude that such an argument remains to be found.

## **References**

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