Is Mandatory Voting Right for Canada?

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The Term Mandatory Voting (MV)

• Mandatory Voting refers to a legal requirement that eligible voters register and cast a ballot in an election.
• The term MV is somewhat misleading because only registration and attendance at the polls are mandatory; voters are not obliged to cast a valid ballot for a candidate or a party.
• To protest the choices offered, they can cast empty or spoiled ballots. In some political systems there are provisions for casting a “Declined Ballot” (three provinces) and in other countries there is a ballot choice of “None of the Above”.
Where is Voting Mandatory?

- There are MV laws in 22 to 30 countries (the reported numbers vary depending upon the source). Most of the MV countries are in Latin America and Western Europe.
- Belgium was the first country to adopt MV in 1893. Today Belgians are required to appear at polls, but not required to cast a ballot.
- Australia is the most popularly cited example of a strongly democratic country that since 1924 has legally required its citizens to both register and to vote.
- Egypt, North Korea and the Democratic Republic of the Congo have MV, but no one regards them as healthy democracies.
- Chili, Italy and The Netherlands are among countries that tried and dropped MV.
- In New Zealand registration is compulsory, but voting is not.
- Neither the UK, nor the USA have MV.
- In Canada both registration and voting are voluntary.
The Complications of MV

• MV is often described as the simplest and most cost effective way to increase voter turnout. It is the only institutional mechanism that on its own can achieve turnout rates in the 90% and above range.

• Increased turnout is often cited as the primary reason for adopting MV, but there are always other official and unofficial aims involved.

• There are philosophical, legal, political and administrative issues involved with MV that need to be recognized and resolved.
Philosophical Claims for MV

MV is seen to promote and enhance a number of fundamental democratic principles/values:

- by causing higher turnouts, MV encourages over time the habit of voting and increases the subjective sense of political efficacy of more citizens;
- by bringing previously politically marginal groups to the polls MV supports the principle of political equality because voting populations are more representative of society at large;
- more universal voting under MV encourages more responsive, effective and legitimate governments;
- MV reinforces the principle of popular sovereignty, serves as a constraint on elite power and promotes ultimate accountability to the electorate.
The Constitutionality of MV

• Opponents of MV for Canada argue that Section 3 of the Charter of Rights and Freedoms guaranteeing eligible citizens the right to vote implies the inverse right to abstain. This is similar to how the freedom of speech clause does not require individuals to make speeches and how the freedom of religion clause does not require them to practice a religion.

• Proponents argue that MV is like other infringements on individual liberty (e.g., jury duty and paying taxes) that are justified because they serve a societal purpose. MV serves the purpose of improving the democratic process and legitimizing government.

• Opponents of MV argue that non-voting is a political statement that falls under protection of free speech, but defenders of MV reply that the expressive function of elections is secondary to their primary function of selecting government leaders.

• A Canadian law on MV would probably be subject to a constitutional challenge and the government would have to make a case that the compulsion involved “was demonstrably justified in a free and democratic society.”
The “Politics” of MV 1

• There are several kinds of politics involved with adoption of MV.

• Political parties will make self-interested calculations about how higher turnouts will affect their electoral success. In Australia back in 1924 both of the two main parties calculated MV would benefit them.

• It is usually assumed that MV will favour left-of-center parties because it will bring more a higher percentage of lower socio-economic voters to the polls. There is some evidence this happens, but it depends on such factors as the dynamics of party competition and on how parties adapt their behaviour under MV.
The “Politics” of MV 2

• Opponents argue that MV will bring poorly educated and inattentive voters to the polls. Such voters are allegedly more susceptible to sensational advertising like attack ads. MV will lead to “random voting” in which ill-informed votes cancel out those cast by conscientious voters who take the time to inform themselves.

• Proponents counter that voters lack information, but are not stupid. MV will encourage parties to reach to to all voters, not just their core supporters. Most voters reject mindless partisanship so hopefully MV would encourage parties to be more constructive and less negative in their appeals.
The “Politics “ of MV 3

• To make MV acceptable constitutionally and politically, Parliament might have to offset the compulsion involved by such measures as:
  - make it clear that only registration/attendance are required;
  - exempt certain categories of voters (elderly, disabled) and those with a valid reason for not voting;
  - design a ballot with more options, such as “none of the above” and a declined ballot
  - allow for conscientious objectors who provide written reasons.
The Administrative Issues involved with MV

• There are a series of practical administrative matters associated with MV:
  - what sorts of sanctions or incentives should be used to promote compliance—fines, publicizing names of non-voters, tax credits for voting, etc.?
  - if fines are involved, should they be modest and seldom collected? Less than 1% of non-voters pay a fine in Australia so MV becomes more of a “nudge” than outright coercion.
  - should Elections Canada and/or the Commissioner of Elections be responsible for enforcement?
  - what additional activities would Elections Canada be required to undertake and what would be the resource requirements—additional authority, more staff, more money?
  - should revenues from fines be used to defray some of the expenses of elections?
  - should other mechanisms to facilitate voting be tried before MV is adopted—automation at polls, pre-registration of young people approaching voting age, weekend voting, on-line voting?
Does Canada Need MV?

• Increasing turnout and encouraging a more representative voting population have been the primary aims of MV.

• Turnout in Canadian elections has been declining slowly and steadily for four decades with some exceptions. In the October 2015 election 68.3% of registered votes cast a ballot, which was the highest turnout since 1993. Prior to 1993 turnout was typically in the 70-80% range.

• However, when turnout is calculated on the basis of eligible voters, not just those who bothered to register, the turnout rate was lower, only in the mid-sixties range.
In 2015 Barak Obama called for consideration of MV when turnout in the mid-term elections for Congress was 38%. Is the whole governing process compromised when this low a percentage of people take the time to vote?

Should we expect political parties to do more to engage and motivate citizens, rather than offer an institutional quick fix of a MV law?

Is turnout the best measure of the health of a democracy?

In established democracies with MV the levels of public disillusionment with the political process are comparable to Canada. Is MV a panacea that cures one symptom but not underlying ailment?