**Making Non-Voters Pay: Prices as an Alternative to Compulsory Voting**

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*Compulsory voting involves a legal obligation to vote (or attend the polls), but we might instead require those who do not to pay a charge, without there being any legal obligation for them to do so. This non-punitive price creates an incentive for all citizens to participate and prevents free-riding, but permits non-voting and avoids condemning non-voters. Thus, this proposal delivers what at least some advocates and opponents of compulsory voting want. Moreover, considering this possibility helps to clarify the disagreement over compulsory voting. Those who wish to reject this proposal need further arguments for their respective positions.*

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Compulsory voting has many advocates (Birch 2009; Chapman 2019; Elliott 2017; Engelen 2009; Feeley 1974; Hill 2002, 2006, 2014, 2015; Lacroix 2007; Lijphart 1997; Umbers 2020) and critics (Brennan 2014; Jakee and Sun 2006; Lever 2008, 2009, 2010; Morris Jones 1954; Saunders 2010, 2012, 2018; Swenson 2007; Volacu 2020). I do not offer a new argument for or against it here. Instead, I show that this debate has largely failed to distinguish between two distinct features of compulsory voting, namely an expressive element (an official affirmation of a duty to vote) and an economic element (a cost imposed on non-voters). Most cases of compulsory voting include both, though unenforced compulsory voting involves the expressive element without the economic one.

This article investigates the neglected possibility of imposing a non-punitive cost on non-voters. To be clear, I do not argue that states should do this. Indeed, I do not argue that states should do *anything* to promote turnout. Nonetheless, the possibility is worthy of serious consideration, if not perhaps acceptance, because it addresses certain concerns, such as free-riding, that motivate compulsion but does so without elements of the ‘compulsion’ that some object to. Thus, some on both sides may find something about this option attractive. Even if not the most-favoured option of many, it may at least be many people’s second-best option.[[1]](#footnote-1) Further, those who consider it an unsatisfactory compromise need to show why their ideal is superior not only to the opposing one, but also to this intermediate possibility. At least some existing arguments, for or against compulsory voting, fail to exclude this alternative. Thus, contemplating this possibility may clarify the disagreement between advocates and opponents of compulsory voting. Neither side will be able to portray compulsory voting as if it were merely a matter of imposing economic costs on non-voters; there needs to be further attention to whether this cost is justifiable as a sanction.

**1. Preliminaries**

**1.a. Terminology**

The term ‘compulsory voting’ is misleading (Lijphart 1997: 2; Hill 2002: 82; Lever 2010: 898). First, it is misleading concerning *what* is compulsory. Some jurisdictions, including Australia (Pringle 2012), require voters to record a valid vote, but this is unenforceable where voting is secret (Gray 2012: 592; Swenson 2007: 539). Thus, some advocate compulsory attendance only (e.g. Engelen 2009; Elliott 2017). Those who advocate so-called compulsory ‘voting’ usually do so on the assumption that only turnout can be enforced in practice (e.g. Chapman 2019: 102; Hill 2006: 222; Umbers 2020: 1308). Nonetheless, I follow the common practice of calling this compulsory *voting*.

Second, perhaps less often remarked upon, is whether anything is really compulsory. Pringle (2012: 438) notes that “there is a difference between imposing a penalty for non-performance of an action, and enforcing the performance of a positive duty”. Similarly, Umbers (2020: 1322) notes not only that citizens can still abstain (by casting a blank ballot) but that they can still refuse to attend, though they must pay a fine if they do so. Since specific performance is not required, it might be argued that no one is really *compelled* to vote, or even to turnout, and citizens remain free to do either. Certainly citizens are not literally prevented from staying away from the polls. Nonetheless, the threatened sanction makes the action less eligible (Miller 1983: 76). Indeed, Pringle (2012: 438) concedes that “imposing a penalty for the non-performance of a duty is a form of compulsion”. Citizens lack the *legal* freedom not to vote (Benn and Weinstein 1974: 438). Thus, I refer to voting as *compulsory*.

**1.b. Context**

Advocates of compulsory voting are generally concerned with low and declining turnout, especially where this is unequal. Lijphart (1997) likens unequal participation to weighted voting. Birch (2009) argues that hearing all voices is necessary to realise political fairness. Hill (2002: 82) claims that compulsion serves democratic values, including political equality and legitimacy (cf. Hill 2006: 209), and, more recently, that citizens owe it to their fellow citizens to do their “fair share in the collective tasks of conserving and perpetuating democracy” (Hill 2015: 71). Chapman (2019: 105) argues that “increasing voter turnout through compulsory voting will improve government responsiveness to and representation of the poor and marginalized”. Malkopoulou (2020) argues that universal participation encourages moderate outcomes, thus serving as a protection against hyper-motivated populists.

Critics offer various objections. Some reject the *aim* of promoting higher, or more even, electoral turnout. This category includes Jakee and Sun (2006), who worry that those who forced to vote will merely add ‘random noise’ to the process; Brennan (2009, 2011), who complains that ignorant and uninformed voters ‘pollute’ the polls; and Saunders (2010, 2012), who argues that unequal turnout may be democratically better than equal turnout, for instance if those who are more affected are more likely to vote. Some reject compulsion as a *means* for promoting participation. This camp includes those who advocate incentives as a less coercive means to promote turnout (Saunders 2009; Brennan 2014); those who think that compulsion violates a right not to vote (Saunders 2018); and Lever (2009, 2010), who suggests that low and unequal turnout is cause for concern, but argues that compulsion is inappropriate since political participation should be free and voluntary.

This paper does not address the first line of criticism; I simply accept (for present purposes) concern over low and unequal turnout, and focus on what may be done about it. There are various non-coercive measures, such as easier voter registration or postal voting, that make it easier or less costly for people to vote, which may be endorsed by both advocates and critics of compulsion. However, the effects of such measures, on their own, appears limited (Lijphart 1997: 8; Hill 2006: 210-11; Giammo and Brox 2010). This has led many to conclude that compulsion is, in practice, necessary to secure high and more equal levels of electoral turnout. This may be so but, to my knowledge, no one has considered the alternative proposed here, in which non-voters are required to pay a non-punitive charge.

**2. A Neglected Option**

Paradigmatic cases of compulsory voting comprise two elements:

(i) A legal obligation to vote. It is still possible for citizens not to vote, but this is not a *legal* possibility: they are in violation of the law. Call this the *expressive element*.[[2]](#footnote-2)

(ii) A cost is attached to non-voting. This is often financial (e.g. a fine), though there could be other costs, such as a prison sentence or an ‘inconvenience window’ (Elliott 2017: 658). Call this the *economic element*.

These two elements are usually combined, so the cost becomes a sanction for the legal violation. However, some jurisdictions have compulsory voting laws with no formal sanctions. Thus, it is possible to have (i) without (ii). But, less obviously, it is also possible to have (ii) without (i). The state could attach a cost to non-voting, without affirming an obligation to vote; this cost would be a mere price, not a sanction. This possibility has been largely overlooked (or conflated with incentive payments).

Sanctions differ from prices in expressing some form of censure, condemnation, or reprobation for wrongdoing (Feinberg 1965: 402-3). As Feinberg observes, it is difficult to specify exactly *what* it is that is expressed. ‘Disapproval’ seems too mild, since some conduct may be disapproved of but not sanctioned. I use the terms ‘condemnation’ or ‘censure’. It might be objected that these are too severe for some minor wrongs, but – even if this is their ordinary connotation – I do not mean them to be severe. The degree of condemnation should be proportionate to the wrong permitted (Feinberg 1965: 423). The important point, here, is that there is *some* expressive difference between a mere price and a sanction. This is evident if we consider, for example, the difference between paying to park in a particular spot and being fined for illegal parking (Hart 2012: 39; Miller 1983: 78-9).[[3]](#footnote-3) A rich person may be prepared to pay the fine, for the convenience of parking where she wants, but this is inappropriate (Gneezy and Rustichini 2000; Sandel 2013: 66-7). A fine is not simply a high price, but condemns her wrongdoing. To be sure, the condemnation appropriate in response to illegal parking is relatively minor compared to that appropriate for more serious wrongs.[[4]](#footnote-4) Nonetheless, both involve breach of a legal requirement, and thus are subject to official censure. This expressive meaning distinguishes a price from a sanction.

This distinction, between prices and sanctions, points to a fourth possibility: we could have an economic cost, such as a charge for non-voters, without the expressive element that transforms this into a punitive sanction.[[5]](#footnote-5) Non-voters would be required to pay, but they would not be condemned (even mildly) or in violation of the law. The cost imposed would function like a toll or congestion charge, which is a mere price. Though the purpose of such a price is to some extent to deter the action in question, or in this case to encourage people to vote, it does not express that non-voters do anything wrong.

Table 1. Possible voting systems.[[6]](#footnote-6)

|  |  |  |
| --- | --- | --- |
|  | A legal obligation to vote | No legal obligation to vote |
| Costs for abstention | (3) Sanctioned compulsory voting, e.g. Australia. There is a penalty/punishment for violating this duty. | (4) Non-voting is permitted (not wrong), but non-voters are required to pay a price. |
| No costs for abstention | (2) Unsanctioned compulsory voting, e.g. some Swiss Cantons. Non-voting is legally wrong, but no sanctions are enforced. | (1) Voluntary voting, e.g. UK or USA. |

This typology is a simplification. Some cases may not fit neatly into any of these four categories. For instance, voting may be compulsory for some citizens or some elections but not for others. Another complexity concerns what is legally required; Australia could be classified as unsanctioned compulsion concerning casting a valid vote, though it sanctions (failure to) turnout. Nonetheless, these are four ideal types, which actual regimes approximate to varying degrees.

Voluntary voting (1) and sanctioned compulsory voting (3) are the ‘extremes’ usually contrasted in the debate; these differ in both respects (i) and (ii). The bottom-left quadrant, (2), is intermediate. It affirms an obligation to vote, but does not attach any costs to non-voting. However, this may be unsatisfactory to both sides. Opponents of compulsory voting dislike the legal obligation, even without sanctions (Saunders 2018: 96), while advocates may fear that it will be ineffective and bring the law into disrepute (Feinberg 1965: 407).

The proposal considered here, (4), effectively reverses (2) on both elements (i) and (ii). It attaches some economic cost to non-voting, but there is no legal obligation to vote, so this is merely a price, not a sanction.[[7]](#footnote-7) There is no assertion that non-voters act wrongly; the charge is merely an inducement to vote. The state thereby encourages voting, or discourages non-voting. This does, indeed, express something about their relative merits, for instance that voting is socially desirable. However, unlike an obligation to vote, it does not make non-voters into lawbreakers or condemn them as wrongdoers.

It might be objected that I am overstating the practical significance of this difference. People sometimes interpret sanctions as mere prices anyway (Gneezy and Rustichini 2000), so perhaps they do not feel condemned, particularly if they reject the obligation in question. Likewise, others may interpret a state-imposed cost as a sanction, even if this was not intended. Thus, people may respond to this price differently, depending in part on whether or not they already accept a duty to vote. Public perceptions are important here, not only in explaining how citizens are likely to respond, but also to the justification of these measures. For instance, someone might accept or reject the proposal to charge non-voters because she assumes that citizens will construe this charge as a sanction.[[8]](#footnote-8) However, my concern is with what the law expresses, rather than how others (mis)understand it.[[9]](#footnote-9) Current Australian law does not merely impose a cost on abstention; it also condemns it.[[10]](#footnote-10) Conversely, in (4), non-voters would not be officially condemned, even if some might (wrongly) feel that they were. There is still the threat of a sanction for those who refuse either to vote or pay the charge, but at least they are legally permitted an alternative to voting. That is, they discharge their legal obligation either by voting or paying the charge. This is in contrast to compulsory voting proper, where the only way to discharge their obligation is to vote and the imposition of a fine is a sanction for noncompliance.

Before a fuller assessment of this proposal, I will discuss another alternative, namely paying people incentives to vote. This is like my proposed charge for non-voters, since it creates an economic incentive to vote without any obligation. It might be thought that this would be easier and less likely to be misconstrued as a sanction (Hasen 1996: 2172). However, it is not obvious that incentives would work as well as charges.

**3. A Carrot, Rather Than a Stick**

Instead of fining non-voters, we could reward voters (Feeley 1974: 241; Barry 1978: 39). Rewards may take various forms, including cash or other benefits. I focus on small cash payments, such as $20, to each voter, since this is most analogous to a charge for non-voters.[[11]](#footnote-11) Nonetheless, the following remarks also apply, *mutatis mutandis*, to other rewards.

Paying people an incentive to vote is *not* simply a minor variation on compulsory voting. Compulsory voting proper does not merely attach a cost to not voting, but affirms an obligation on the part of citizens to vote. This is absent when voting is rewarded. An incentive to vote, without obligation, would (like my proposal) typically belong in quadrant (4) of Table 1.[[12]](#footnote-12) The lack of this expressive element makes the idea of incentive payments less attractive to those who want the state to affirm an obligation to vote, but may make them more attractive to those who reject such an obligation.

It might be suggested that incentives payments more clearly communicate the state’s attitude, encouraging voting without condemning non-voting. Economically, there is no difference between an incentive forgone and a cost. Indeed, these may be difficult to distinguish.[[13]](#footnote-13) However, missing out on an incentive payment (an ‘opportunity cost’), is less likely to be misconstrued as a sanction, whereas a charge might be understood as a sanction, even if this is not the intent. Thus, charges for non-voters (4) may be (mis)interpreted as sanctioned compulsory voting (3), even if the law does not explicitly affirm an obligation to vote. If so, incentive payments may also work to illustrate my broader point; however, while they may have some advantages over imposing costs on non-voters, they are not obviously better all things considered.[[14]](#footnote-14)

Two potential advantages of incentive payments stand out. First, incentive payments (offers) may be thought preferable to threats because less coercive. Though some think that offers can be coercive (e.g. Zimmerman 1981), I will assume that the relatively small payments in question here are not themselves coercive. Even so, a *system* of incentive payments is not obviously less coercive overall. These incentive payments must be funded somehow and that, presumably, involves coercive taxation.[[15]](#footnote-15) In contrast, charging non-voters would contribute revenue to the state (assuming the costs of administration do not exceed the gross revenue raised), reducing the need for coercive taxation elsewhere. The two policies may be equivalent with respect to the overall amounts of money coercively extracted from citizens. In the former case, the average voter may be required to pay $X in tax, plus an additional $20 if they fail to vote. With incentives for voting, they may pay $X+20 in tax, but get $20 back by voting. In both cases, the average voter pays $X and the average non-voter $X+20. It is by no means obvious that there is a morally significant difference in this respect.

Whether these costs are actually equivalent depends on the cost of administering and enforcing these payments. This brings me to a second alleged advantage of incentive payments. Plausibly, they would be cheaper and easier to administer than a cost for non-voters (Saunders 2008: 134). Voters could simply be given their reward, along with their ballot paper (Barry 1978: 39). There would be no need to track down non-voters after the election, to send out notice of charges, to consider exculpatory circumstances, to collect payments, or to sanction non-payers. Thus, it would cost less administratively to pay voters $20 than to charge non-voters $20. However, this does not necessarily mean that incentive payments would be more cost effective for a given effect on turnout.

First, the incentive payments would be easier for people to ignore. Some of those not interested in politics may not even know about them (unless there was an extensive publicity campaign, which would add to administrative costs). In contrast, people would soon learn about the cost attached to non-voting. This would be much harder to ignore (cf. Elliott 2017: 663). Second, most people are loss averse, meaning that they are more motivated by the threat of losing $20 than by the prospect of gaining an extra $20 (Tversky and Kahneman 1991). Third, those who believe they have an obligation to vote may react to the cost as they would a fine (Funk 2007: 155). That is, it may have additional motivation for those individuals, even without the state’s expressive affirmation of a duty to vote. Thus, charges of a given amount ($X) are likely to have more effect on turnout than an incentive payment of the same amount. Hence, to get the same effect on turnout, we may need to offer higher incentives, which would cost correspondingly more. So, there is no reason to assume, *a priori*, that incentive payments will be more cost effective. The increased administrative costs associated with charges might be more than outweighed by the greater effectiveness of a charges in encouraging turnout.

Further, some might argue that paying people to vote is inherently objectionable. Even though there is no attempt to influence *how* people vote (Swenson 2007: 549), and the incentive is equally open to all citizens, it may be unwise to introduce monetary incentives into the voting calculus. It is often felt that rewards are inappropriate when one is only doing one’s duty (Birch 2008: 150). Further, extrinsic rewards may crowd out internal motivation (Frey and Jegen 2000; Holmås *et al* 2010). Thus, even those who may have voted under a voluntary system, without payment, may become less likely to do so if they become accustomed to a reward for voting. It may be thought that this is not a serious problem, since whether voters are intrinsically or extrinsically motivated seems of little importance.[[16]](#footnote-16) Nonetheless, undermining a sense of civic duty is a cost, especially if it also affects how citizens vote. The introduction of financial incentives may lead to more self-interested voting, for instance because it induces more self-interested citizens to vote when they would not otherwise have done so or because the offer of reward primes citizens to focus on their economic self-interest (Vohs *et al* 2006; Vohs 2015).

Similar objections might also apply to a cost, though seeking to avoid a cost may not have the same effect as pursuing a benefit. In any case, I do not claim that these considerations provide decisive reasons to reject incentives for voting. Further empirical work, including modelling of likely effects on turnout, may be needed in order to choose between charges for non-voters and incentive payments for voters. However, imposing a cost on non-voters is interesting, not only because it has not (to my knowledge) been proposed before, but because it is closer to the usual practice compulsory voting. It may therefore be more useful to highlight what it is about compulsory voting that people find (un)attractive.

The important difference here is *not* simply one between offers and threats, or gains and losses, but the expressive element associated with these measures. Incentive payments have often appealed to opponents of compulsion, presumably in part because they avoid the expressive element usually involved in compulsory voting. But this is also true of non-punitive charges. Thus, opposition to the expressive element alone does not commit us to preferring incentives to charges, should there be other reasons to favour charges over incentives. Let us consider what opponents of compulsion might make of prices.

**4. Opponents of Compulsion**

I assume that opponents of compulsory voting (i) prefer voluntary voting (1) to either unsanctioned compulsory voting (2) or sanctioned compulsory voting (3), (ii) prefer (2) to (3), and (iii) consider (4) at least as good as (3). The key question is where (4) figures in their preference ordering. This may depend on their reasons for objecting to compulsory voting.

Some may deny that there is any morally significant difference between (4) and (3), holding that the imposition of a cost amounts to compulsion in all but name. However, there is an expressive difference between someone paying to park in a designated space and someone being fined for parking illegally. The former does nothing wrong, while the latter is censured. Similarly, there is a difference between requiring non-voters to pay a charge, without condemning them, and fining them, which suggests they have done wrong.

The difference between a price and a sanction is further demonstrated by the difference between (2) and (1). If one were only concerned with the imposition of costs, and not with expressive meanings, then one would have no reason to object to unsanctioned compulsory voting. However, expressive meanings matter. A law forbidding homosexuality would be objectionable, even if no sanctions were imposed. Similarly, at least some critics object even to unsanctioned compulsion (e.g. Saunders 2018: 96). While many may also be troubled by imposing an economic cost on non-voters, they may be more concerned by the expressive element, and thus prefer (4) to unsanctioned compulsory voting (2). Whether this is so likely depends on the cost involved (and the force or content of the expressed message).

If one’s conduct is contrary to the law then one is, at least to some extent, stigmatised as deviant (Gusfield 1967). If the law affirms that all citizens have an obligation to vote, then someone who does not vote is labelled as failing to live up to that obligations.[[17]](#footnote-17) This is particularly problematic for some. It has been argued that certain people have a duty *not* to vote, for instance if they are indifferent (Sheehy 2002) or ignorant (Brennan 2009) or if the electoral process is unfair (Hanna 2009) or they can do more good in other ways (Freiman 2021). To these cases, we might add that of someone who has no objection to voting *per se*, but objects to all of the options on offer.[[18]](#footnote-18) In these cases, a legal obligation to vote potentially places people in a dilemma, where they cannot avoid violating some obligation. Placing citizens in such a position seems itself objectionable (Wodak 2019).

Affirming an obligation to vote may be objectionable because reasonable people can disagree about the value of political participation in general and of voting in particular (Lever 2009: 67 and 2010: 910). This may be worse when coercion is involved, since it cannot be justified to all reasonable citizens of a liberal state (Saunders 2018).[[19]](#footnote-19) However, even without coercion, one may think that this law disrespects citizens’ autonomy, suggesting that they cannot be trusted to decide for themselves whether to vote. Opponents of compulsion may object to this, even when not enforced by sanctions.

Imposing a cost on non-voting may be thought to violate the putative ‘right not to vote’ (Lever 2009: 66-67; Saunders 2018). However, whether this is so depends on further specification of the right in question. This right seems best interpreted as a claim against (certain) interference with one’s not voting (Saunders 2018). But ‘interference’ can cover many different things, from physical coercion to attempts at persuasion. It need not be that all interference violates this right. Thus, we must consider whether or not the proposed cost is a right-violating form of interference (cf. Miller 1983: 77-80).

Having a right to do something need not entail that one’s doing that thing should be entirely unencumbered by any associated costs. This should be evident from the case of voting; the attendant costs of voting do not undermine the right. To be sure, there may be a point at which costs are prohibitive, so some citizens are effectively prevented from exercising their right. Suppose that voting could only be done in person, with only a single polling station in the capital city, which was only open between 2pm and 4pm on a weekday. This extreme case surely abridges the right to vote. But having to go slightly out of one’s way, and therefore bear some cost, to vote does not abridge one’s right. The state need not make voting costless. Likewise, a small cost need not abridge the right not to vote. Rather, respecting this right may mean only that not voting should not be subject to *sanctions*.

It might be replied that there is a significant difference between not removing a cost and imposing an additional cost on a particular course of action. Those in the libertarian tradition, such as Brennan (2012), may object to the state imposing any costs whatsoever.[[20]](#footnote-20) However, most states routinely impose costs on particular choices, for instance when setting taxes. Moreover, they frequently use these costs to steer citizens in certain ways, using subsidies to make one option more desirable or taxes to make another less attractive, discouraging conduct that they deem socially undesirable, although not wrong. For instance, they may seek to discourage consumption of unhealthy foods, fuel-inefficient cars, etc. Provided the costs are not prohibitive, this need not abridge people’s rights to consume those things.

Still, the critic may protest that a right to do something must include a right not to have burdens imposed on one for doing that thing. However, this is not a conceptual truth, and perhaps not true at all. Lefkowitz (2007, 2018) argues that democratic societies should recognize a right to civil disobedience. This right, he proposes, requires that those who engage in civil disobedience should not be *punished*, but he allows that they can be required to pay certain costs.[[21]](#footnote-21) This, for Lefkowitz, is enough to respect their right. Nonetheless, the price serves to ration how many people exercise this right. The proposal here is similar. Citizens must either vote or pay. Those who do not vote have to pay a price, but are not condemned. This may be a significant difference for those with principled objections to voting. In a compulsory voting regime, they are legally required to do something they find objectionable, hence they also object to being sanctioned for noncompliance. But if they are given a choice of voting or paying a price then, while they may not like this, they need not find it a violation of their conscience.[[22]](#footnote-22)

Admittedly, it may be difficult to convey the correct message. Introducing a charge, intended to reduce or limit particular behaviour, does suggest that this behaviour is somehow undesirable. However, it may only be undesirable beyond a certain point. A congestion charge, for instance, is designed to reduce excess traffic, but not to deter all traffic. Moreover, even if something is disapproved of, this is qualitatively different from its being condemned as wrong.[[23]](#footnote-23) Nonetheless, there is a danger people may (mis)interpret the charge as a sanction, particularly since it is paid to the state after the fact (Feldman and Teichman 2008: 249) and many are already likely to believe in a duty to vote (Elliott 2017: 660). Moreover, some people’s response to the proposal may be based on how it is likely to be received by citizens, even if misinterpreted, rather than on its intentions.

However, though there is a risk of misunderstanding, policymakers may be able to influence how costs are perceived through framing (Feldman and Teichman 2008: 250). For instance, Lefkowitz (2007: 222) also suggests that officials can reduce the risk of mis-construal through their public announcements. They might, for example, emphasize the right to abstain and refer to the cost as a ‘charge’ or ‘tax’ rather than ‘fine’. People do not generally like paying taxes, but they do not ordinarily consider them sanctions. It might also help if the money somehow did not go to the state (Feldman and Teichman 2008: 234) or perhaps, as an approximation of that, if it was clearly earmarked for a particular purpose, such as election costs. Nonetheless, even if some do mistakenly interpret this as a sanction, this may still be morally better than their actually being sanctioned.[[24]](#footnote-24)

It might still be asked what justifies imposing any cost, even a mere price, on non-voting. As noted above, states commonly impose costs on activities that are not themselves wrongful, in order to discourage them. If low turnout is problematic, then it may be reasonable to attach a cost to non-voting. This encourages citizens to act in socially desirable ways, but without condemning those who do not. It is not my aim to argue for this imposition; perhaps the state should not do anything to promote turnout. That is a wider discussion. However, imposing a mere price on non-voting is not subject to many of the objections to compulsory voting. Thus, this measure may allow us to address the supposed problem of low turnout in a manner more acceptable to opponents of compulsion. If they also wish to rule out such a proposal, they need to show why even a mere price is objectionable.

**5. Proponents of Compulsory Voting**

How might this pricing proposal be viewed by advocates of compulsory voting? I assume that they prefer sanctioned compulsion (3) to unsanctioned compulsion (2), and both of these to voluntary voting (1). The crucial question is how they would assess (4). Again, the answer may depend on their reasons for advocating compulsory voting.

First, though I have argued that (4) is importantly distinct from compulsory voting proper, since it lacks the expressive element, advocates of compulsory voting do not always emphasise this expressive element. Some write as if their proposal is, like that developed here, merely the imposition of a cost on non-voters. This is evident when fines for non-voting and incentives for voting are treated as simply two different ways of providing selective benefits for voters (for instance, Feeley 1974: 241 or Lijphart 1997: 11, fn. 24). In these cases, there are two possibilities. One is that the author in question is not really concerned about the expressive element of compulsory voting or, at least, they are satisfied by the state’s expressing a preference for voting, rather than an obligation. In this case, they should be fully satisfied with the proposal (4). Since the distinction between sanctions and prices has rarely been sufficiently acknowledged, it is difficult to know how many proponents of compulsory voting may actually fall into this category. Nonetheless, perhaps some may consider (4) as good, or almost as good, as sanctioned compulsory voting (3).[[25]](#footnote-25) Doubtless others will consider (4) less satisfactory, but then the onus is on them show why (3) is better than (4), particularly if (3) is less objectionable to opponents.

Some arguments currently in the literature do not give obvious reasons to prefer (3) to (4). For instance, a number of authors have argued that everyone has a duty to support democratic institutions (Birch 2009: 24; Hill 2015: 70). However, it is not clear why this duty must be discharged *by voting* in particular. Even some defenders of compulsory voting concede that citizens may discharge their duty by making other contributions towards supporting the democratic process. As Lachlan Umbers (2020: 1318) puts it, “*appropriate* contributions are not necessarily *identical* contributions…. citizens might discharge such duties by means *other* than voting”. While his examples include alternative forms of political participation, such as membership of a political party, it might be that contributing towards the financial cost of an election is another way of supporting the democratic process.

To be sure, not everyone would accept this. Chapman (2019: 103) argues that “periodic moments of approximately universal participation…. interrupt the ordinary, delegated business of government with extraordinary spectacles of democracy that command the attention of the general public and manifest the equal political authority of all citizens”. However, emphasizing the special importance of elections does not, in itself, show that everyone must vote in every election. One might think (a) that the extraordinary spectacle of democracy is realized, so long as everyone pays attention to events (cf. Elliott 2017: 665), and/or (b) that non-voters do their bit by paying a greater share towards the financial costs of these elections. Chapman denies both claims, arguing that voting “is not interchangeable with other forms of political influence” (Chapman 2019: 102). Perhaps, if she is right, these arguments give reasons to reject the present proposal, but giving them full consideration is beyond the scope of this present paper. My point is not that everyone must accept the present proposal, but only that *some* arguments for compulsory voting do not rule out this alternative. Thus, whether paying a price can be an adequate substitute for participation is precisely what needs further consideration.

To give another example of a compulsory voting advocate who might accept the present proposal, Elliott (2017) argues that compulsion operates as a pre-commitment strategy for citizens who think they have a duty to vote, but may not be sufficiently motivated to do what they think they ought to do.[[26]](#footnote-26) However, such strategies do not require the state to affirm that there is an obligation to vote, nor to impose this on those who do not accept it.[[27]](#footnote-27) People can be motivated to stick to their commitments by threat of a financial forfeit (Giné *et al* 2010; Royer *et al* 2015). A mere price should also serve as a reminder and motivation for citizens who think they have a duty to vote. Indeed, assuming they would construe it as a sanction, it may be just as effective for these people, without condemning those who reject the duty to vote. Thus, even if we accept Elliott’s arguments, they do not require us to endorse compulsory voting (3), since (4) also seems to address these concerns. Again, this illustrates how the mere possibility of (4) helps to clarify the debate; further argument is required to justify the official affirmation of a duty to vote.

It might be thought (3) is preferable to (4) because imposing a cost on non-voters, without the expressive element, would do little to improve turnout. While Hasen (1996: 2168) suggests that a purely expressive law could produce behaviour change even without sanctions, Funk (2007) found that unsanctioned compulsory voting makes little difference to turnout. However, sanctioned compulsory voting *can* produce notable effects, even where the sanctions are very small. Funk’s interpretation is that the cost itself makes little difference to people’s decision-making calculus, but it is necessary to remind citizens of the legal obligation. Where compulsory voting is unsanctioned, some citizens are not even aware of it. The enforcement of sanctions ensures that this obligation is widely known and taken seriously. Thus, in Funk’s view, it is the expressive element that really drives voting, though some token sanction is necessary to get this message across (cf. Chapman 2019: 106).

If Hasen and Funk are right, that the expressive element is more important than the imposition of costs, then the imposition of costs alone would seem unpromising. However, this would be too hasty. Funk’s study only compares unsanctioned compulsory voting (2) and sanctioned compulsory voting (3), so we have no empirical evidence of the effectiveness of costs alone (4). It is difficult to predict what effect a charge, without legal obligation, might have on electoral turnout. If most citizens believe they have a duty to vote (Elliott 2017: 660), then it may not matter whether the law affirms this or not.[[28]](#footnote-28) Moreover, those who are currently less likely to vote include the relatively poor, less educated, and politically disengaged. These groups are presumably some of those who would be least likely to be aware of, or moved by, an unenforced legal obligation. On the other hand, they can hardly be unaware of a charge (at least after the fact). Further, a fixed cost is likely to be a greater deterrent for a poor person than a richer one. If this is right, then the charge effectively targets those currently less likely to vote.[[29]](#footnote-29) While a richer person may accept a charge as a price for not voting (Gneezy and Rustichini 2000), the rich are often more disposed to vote anyway.

However, even if non-punitive charges for non-voters prove less effective than compulsory voting, this does not show that compulsory voting is justified. As shown above, some arguments that purport to justify compulsory voting fail to explain why it should be preferred to a non-punitive charge on non-voters. Advocates of compulsory voting must provide further justification for stigmatising non-voters as wrongdoers. While a number of authors have argued for a moral duty to vote (Maring 2016; Maskivker 2019), the crucial question is whether, and why, this duty should be incorporated into law, especially given that some voters may vote badly. If the real obligation of citizens is not simply to vote but to vote well (Maskivker 2016 and 2018; Saunders 2020), then it may be that some citizens better comply with their moral duties by not voting at all than by voting badly. If so, compelling them to vote may lead them to act wrongly (Saunders 2018: 106-7; Volacu 2020), while sanctioning others who better comply with their duties by not voting.

**6. Conclusion**

I distinguished two elements of compulsory voting; (i) the expressive affirmation of an obligation to vote and (ii) the imposition of an economic cost. The existence of unsanctioned compulsory voting shows that it is possible to have (i) without (ii). One innovation of this article is to argue that it is, in principle, possible to have (ii) without (i). That is, non-voters may be required to pay some cost or charge, without this being a sanction for wrongdoing.

I have not argued that states should impose such costs on non-voters. Nonetheless, this thought experiment helps to clarify disagreements between advocates and opponents of compulsory voting. A non-punitive cost can serve as a pre-commitment device (Elliott 2017) and/or prevent free-riding by requiring everyone to contribute to elections, either by voting or by paying (Umbers 2020). On the other hand, since citizens are legally permitted not to vote, this proposal may pacify objections to forced choice (Gray 2012: 604) and respect the putative right not to vote (Lever 2009: 66-67; Saunders 2018). If authors on either side of the debate wish to rule out merely charging non-voters, they must address the expressive element of compulsory voting.

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1. That is, both advocates and opponents of compulsory voting may prefer this, not only to the opposite ideal, but also to unsanctioned compulsory voting. Thus, this proposal could also be a promising policy compromise. [↑](#footnote-ref-1)
2. An anonymous reviewer notes that calling something ‘expressive’ seems to downplay its importance but, as should be clear, I take these concerns seriously. While perhaps infelicitous, ‘expressive’ is widely used in the literature (e.g. Feinberg 1965; Brettschneider 2010; Chapman 2019; Feldman and Teichman 2008; Wodak 2019), though others (e.g. Gusfield 1967) use the term ‘symbolic’. [↑](#footnote-ref-2)
3. Feinberg (1965) draws a further distinction, within sanctions, between punishment proper (which expresses stronger reprobation) and penalties. This creates a threefold distinction, between prices, penalties, and punishments. Penalties are sometimes portrayed as much like prices (e.g. Feldman and Teichman 2008: 233), but Feinberg (1965: 399) rejects this, noting that parking fines differ from fees. It is the distinction between a sanction (punishment/penalty), which responds to the breach of a rule, and a price that matters here. [↑](#footnote-ref-3)
4. I thank an anonymous referee for pushing me on this. Wrongs differ not only in severity, but also in kind. Some are *mala prohibita* (wrong only because prohibited) while others are *mala in se* (wrong in themselves). Parking offences would be of the former sort, but they still merit censure for violating a legal standard (Duff 2002: 102-6), unlike activities merely subject to a non-punitive charge or tax. [↑](#footnote-ref-4)
5. An anonymous reviewer suggested that we might retain both the cost and the legal obligation, but express only mild disapproval, rather than condemnation. This assumes (as I do not) that condemnation is a particularly severe reaction. However, I focus on whether or not there is a legal obligation to vote, because this distinction seems clearer than possible distinctions concerning what is expressed by such an obligation. [↑](#footnote-ref-5)
6. A similar typology occurs in Birch (2008: 4), but she contrasts a formal (legal) and informal (moral) obligations to vote, leading her to class all costs as sanctions. Further, though she recognizes the possibility of sanctions without (formal) obligations, she only illustrates this with the USSR and North Korea, where non-voters can face informal discrimination. I suggest a formal cost, issued by the state, though not as a sanction. [↑](#footnote-ref-6)
7. Again, my concern is with the expression *of an obligation*, giving people no legal option but to vote, and condemnation of non-voters. I do not argue that the state should be neutral on the value of voting (cf. Brettschneider 2010: 1011). [↑](#footnote-ref-7)
8. I thank an anonymous referee for emphasising this. [↑](#footnote-ref-8)
9. ‘What is expressed’ can also refer to the audience’s understanding, rather than the speaker’s intent. I do not mean that the former is unimportant, but only that the latter matters independently. [↑](#footnote-ref-9)
10. Opponents of compulsory voting seem more likely to refer to fines as ‘punishment’ (e.g. Swenson 2007: 525-6; Lever 2010: 914; Brennan 2014: 18), whereas advocates seem more inclined to speak of ‘penalties’ (e.g. Lijphart 1997: 9, fn. 18; Hill 2002: 95; Elliott 2017: 658). This may be no accident if, as Feinberg (1965) suggests, ‘punishment’ often has harsher connotations. However, all agree that it is a sanction. [↑](#footnote-ref-10)
11. Saunders (2009: 134) suggests a small sum, such as £12, for each voter. Tozer (2016: 22) proposes £30, though this is (a) only offered to those between the ages of 18 and 28 and (b) conditional on attending two hours of education as well as voting. Brennan (2014: 36) envisages a system where only a representative sample of the population (20,000 citizens) are enfranchised, but they are paid a substantial incentive ($1,000 each). [↑](#footnote-ref-11)
12. There may be complex cases; for instance if a state with unsanctioned compulsory voting were then to introduce incentive payments, it is unclear how this might be categorised. But incentives are usually proposed as an alternative to compulsion, so it is something in quadrant (4) that is proposed. [↑](#footnote-ref-12)
13. For instance, if people expect to receive a payment, they may act as if the money is already theirs. Shineman (2018: 194) gave potential voters a gift card that would only be activated if they voted; the idea was that they would think of the money as already theirs, but ‘taken back’ (lost) if they did not vote. However, there is a danger that people react differently to windfall income (Landsberger 1966). Brettschneider (2010: 1014) also discusses the possibility that denial of funds may be regarded as a sanction. [↑](#footnote-ref-13)
14. An anonymous reviewer notes that incentives may be legally problematic, though this depends on the law in question and could presumably be changed. [↑](#footnote-ref-14)
15. It is theoretically possible for the state to raise revenue through non-coercive means, such as selling lottery tickets. However, this strategy seems unlikely to be that profitable (Nozick 1974: 25, fn). [↑](#footnote-ref-15)
16. All the measures considered here supplement the weak intrinsic motivation with extrinsic motivations, though some hope that citizens will internalize the voting norm (e.g. Hasen 1996: 2147-50). [↑](#footnote-ref-16)
17. I assume here that a good citizen obeys the laws. It might be replied that there are many laws, such as speed limits or copyright restrictions, that are widely broken. However, the law still condemns these actions. Parekh (1993: 246) questions whether breaches of such laws should be conceived as violations of *political* obligation, but he accepts that these are legal and civil obligations (Parekh 1993: 240), which is enough for my purposes. [↑](#footnote-ref-17)
18. Of course, the state might accept such objections as justifications or excuses for not voting (cf. Elliott 2017: 658-9). However, such reasons are *not* accepted in Australia (Gray 2012: 592; Swenson 2007: 534). [↑](#footnote-ref-18)
19. Although advocates of compulsion may reply that not every instance of coercion needs to be justified in this manner, provided the ‘basic structure’ can be (Chapman 2019: 109-10). [↑](#footnote-ref-19)
20. Although even Brennan (2018) allows mandatory vaccination. His opposition to compulsory voting stems from his view that voting is often more harmful than not voting (Brennan 2009). [↑](#footnote-ref-20)
21. Following Feinberg (1965), he describes these costs as *penalties*, rather than punishments. However, if penalties are consistent with rights, then so are prices *a fortiori*. [↑](#footnote-ref-21)
22. Those deeply opposed to the state or to democracy might object to paying for it, so this response may not cover everyone. However, those who object only to voting (for instance, because they do not like the options on offer) may welcome the option to pay instead. [↑](#footnote-ref-22)
23. I thank two anonymous referees for prompting me to clarify this. [↑](#footnote-ref-23)
24. I thank an anonymous referee for pressing me on this, though also for noting that the proposal may work as a thought experiment, even if it is not possible in practice to express the right message. [↑](#footnote-ref-24)
25. At least one anonymous reviewer has suggested that the expressive element is unimportant, which would make the fines of compulsory voting simply a price. However, if this is one’s position, I think it better to be clear that there is no obligation to vote, rather than making non-voters lawbreakers. [↑](#footnote-ref-25)
26. Hill (2014: 190-1) suggests a similar argument, labelling it ‘self-paternalism’. Elliott (2017: 659, fn. 2) objects that this label is “unnecessarily paradoxical” but – while I share his reservations – Hill was not the first to use it in connection to Ulysses contracts. See, for example, Dresser (1984). [↑](#footnote-ref-26)
27. Elliott (2017: 665) argues that this will periodically remind those citizens who reject any obligation to vote to attend to politics. Elliott (2018) develops this, arguing that the state has an obligation to cultivate attentive citizens. Again though the prospect of a non-punitive cost might serve this function. [↑](#footnote-ref-27)
28. This belief may be false, but it is not necessarily objectionable. So long as the state does not affirm such a duty, those who do not accept it are not condemned by the law. [↑](#footnote-ref-28)
29. An anonymous referee has objected that the cost imposed on non-voting may adversely affect the poor. This may be the case for those who do not vote (and have no excuse), but a pricing regime would be no worse in this respect than compulsory voting (and better, in so far as they are not also condemned). [↑](#footnote-ref-29)