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Original Article

Against the secret ballot: Toward a new proposal for open voting

Bart Engelen^a and Thomas R.V. Nys^b

^aCentre for Economics and Ethics, KU Leuven, Naamsestraat 69, 3000 Leuven, Belgium.

E-mail: bart.engelen@kuleuven.be

^bFaculty of Humanities, University of Amsterdam, Oude Turfmarkt 143, 1012 GC Amsterdam, the Netherlands.

E-mail: t.r.v.nys@uva.nl

Abstract The secret ballot is considered a central feature of free and fair elections all over the world. While the reasons to uphold it seem to be overwhelming, we argue that the secret ballot is only second-best at best and that a modified version of open voting might prove to be more democratic. Instead of denying the various problems and difficulties that an open system might encounter, we want to offer a genuine proposal that can avoid these numerous pitfalls. After rehearsing the various arguments pro and contra open voting, we draw attention to the role of shame, which has been neglected by both sides in the debate. While shame plays a pivotal role in the democratic argument pro open voting, it also brings out new problems that tell against opening up the vote. This means that, if we want to draw on the democratic potential of open voting, we will have to find a system that minimizes the undesirable effects of shame. In the third and final section, we will formulate a concrete proposal of open voting that we believe is more democratic than the current secret ballot and is able to avoid potential worries. Even if this proves to be highly speculative, it serves as an invitation for further empirical research.

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Introduction

Most, if not all, democracies make use of a secret ballot system in their elections. It is considered a central feature of free and fair elections that is enshrined in constitutions all over the world and is protected as a universal right by Section 3 of Article 21 of the Universal Declaration of Human Rights. As such, it is seldom put in doubt. The reasons to uphold a secret voting system seem to be overwhelming. In this article, however, we want to maintain that, in spite of its status of a sacred cow, the secret ballot is only second-best at best. We believe that, because of this, we should at least



look for a modified version of the open ballot system that might indeed prove to be more democratic than its rival. While we do not wish to deny the various problems and difficulties that an open system might encounter, we will nonetheless offer a genuine proposal for an open voting system that can avoid these numerous pitfalls.

In the first section, we will briefly reconstruct the debate so far and rehearse the various arguments pro and contra open voting. In the next section, we will draw attention to the pivotal role of shame, which has been neglected by both sides in the discussion. While shame plays a crucial role in the democratic argument pro open voting, it also brings out new problems that tell against opening up the vote. This means that, if we want to draw on the democratic potential of open voting, we will have to find a system that minimizes the undesirable effects of shame. In the third and final section, we will formulate a concrete proposal of open voting that is more democratic than the current secret ballot and is able to avoid potential worries.

Arguments for and against Open Voting

Against open voting: Voter manipulation

Anyone who gives the issue only a moment of reflection is bound to come up with some very straightforward, yet powerful arguments against open voting. If votes are public, then this will obviously open the floodgates to practices of bribery, corruption and intimidation. Bribery means ‘paying money for someone’s vote or promising a degree of patronage as payment in kind’ (Brennan and Pettit, 1990, p. 330); corruption refers to someone (for example, an employer) threatening ‘to punish those dependent on him unless they vote his line’ (Brennan and Pettit, 1990, p. 330) and intimidation refers to ‘producing in people a diffuse sense of fear about what may happen to them if they do not vote a particular line’ (Brennan and Pettit, 1990, p. 331). Moreover, although each of these cases of manipulation is wrong as such, they are particularly noxious in the case of voting because they would undermine the democratic role of elections. The voice of the public, the demos, will significantly be distorted if potential voters are being manipulated, that is, bribed, corrupted or intimidated.

In fact, the secret ballot was *introduced* precisely to avoid these malpractices and their entailing democratic distortions. Open voting was abolished in Australia (1856), the United Kingdom (1872), the United States (1888–1892) and France (1914) to put an end to the carnivalesque atmosphere – which included rioting, drinking, cheering, booing, blocking or even kidnapping and molesting voters – that often characterized elections with open voting (Crook and Crook, 2007, p. 452). Protecting voters against such inappropriate and illegitimate influences, secret voting was hailed as a way of safeguarding voter independence. Making it impossible to check how votes were cast, it precluded previously widespread attempts to influence voters through social chastisement or other sanctions (Mitchell, 2008, p. 2). The secret ballot was therefore based on



the ‘fundamental idea of securing to the voter a freedom from that scrutiny which has so often prevented a truthful expression of the people’s choice’ (Hill, 1891, p. 27).

Interestingly, the secret ballot protects voters from these disturbing interferences, not by outlawing or sanctioning the practices themselves but by making them ineffective. Its purpose was ‘not to provide penalties for such corruption (...), but rather to prevent such corruption by rendering it unprofitable because uncertain’ (Hill, 1891, p. 29). The whole point is that attempts to bribery, corruption and intimidation are less likely to work if there can be no proof of compliance. Although citizens can be influenced up to the moment they step into the booth (by parties, peers and so on), they are free to do whatever their conscience tells them to do within the confines of that space. As the booth ensures that nobody can reliably discover their ‘secret’, they can refuse to vote whatever way they are encouraged to do. In contrast, open voting enables the perpetrator to witness whether his ‘incentives’ are successful, to sanction those who vote in ways he deems wrong and to make sure that, in the future, such disobedience will no longer be condoned. As a result, people may want to disguise their genuine political views and vote out of fear of sanctions.

The secret ballot has a double function: it takes away the force of various immoral practices (so that it is no longer ‘profitable’ to engage in such practices) and it restores voter independence (thereby securing the democratic role of elections). Van Hagen (2005, pp. 787–789) clearly distinguishes between both these elements (the evil-as-such and a specific democratic evil) when quoting the American legal scholar John Henry Wigmore:

The purpose of a secret vote is to counteract ‘a great class of evils, including violence and intimidation, improper influence, dictation by employers or organizations, the fear of ridicule and dislike, or of social injury – all coercive influences of every sort depending on a knowledge of the voter’s political action’. In addition, a secret vote ensures that elections represent the ‘free and honest expression of the convictions of every citizen’.

Of course, this instrumental justification for the secret ballot suggests that if practices of voter manipulation could be prevented in some other way, there would be no need for secrecy.

For open voting: The feasibility argument

With the dangers of open voting so clearly in view, one could wonder what could possibly speak in favor of it. Brennan and Pettit (1990), however, have defended its merits. They focus on the ideals or ‘models of what voting ought to be’ (Brennan and Pettit, 1990, p. 313), and argue that the ideal underlying the secret ballot is, in fact, unfeasible. Brennan and Pettit distinguish between the preference and the judgment ideal of voting. According to the former, people’s votes should express their



preferences for a particular candidate whom they believe will serve their interests best. They vote for X simply because they believe X will promote their interests better than any of the other candidates. However, this underlying ideal is unfeasible. A citizen's outcome-oriented preference for X will not necessarily induce him or her to vote for X. As a single vote has only an infinitesimally small effect on the final electoral result, such instrumental reasoning seldom provides the main motivation for voting. In fact, if votes are aimed at satisfying individual preferences, one cannot explain why people vote in the first place: 'rational voters are unlikely to vote according simply to their preference *over electoral outcomes*' (Brennan and Pettit, 1990, p. 322). As people's votes do not help them in getting 'their way' (the impact of one vote is simply too insignificant to do that), Brennan and Pettit argue, the preference ideal is simply unfeasible.

In contrast, Brennan and Pettit (1990, p. 313) argue that the other ideal *is* feasible and can be further promoted by a policy of open voting. The judgment ideal requires people to vote according to their judgment about the public interest and which candidate would be best to promote it. People should cast their vote, not to further their own interests (because one single vote cannot do this) but to express a judgment regarding the common good. Thus, the judgment ideal does not face the same problem as the preference ideal, as one can expect citizens to vote if voting is thought of as expressing themselves and their ideas about society (judgment ideal), but not if voting is thought of as attempting to influence the aggregate outcome (preference ideal). While secret voting already allows citizens to express their judgment, open voting further encourages the discursive and public-spirited behavior that is central to the judgment ideal.

The reason is that if the vote is unveiled the desire for social acceptance will play a larger role in your decision as to how to vote; and in a pluralistic society the surest way of winning social acceptance will be to vote in a way you can discursively support. The desire for social acceptance will ensure that the discursive preference for voting in a defensible manner will be given great prominence. (Brennan and Pettit, 1990, p. 326)

In their view, open voting thus provides citizens with an incentive to vote in a more discursively defensible and public-spirited way. If you can be asked why you vote such-and-such, you will be more likely to refer to reasons that are as relevant to others as they are to yourself. The claim that a candidate serves your private interests will not be accepted as a legitimate argument in public and reasonable discussions. If the vote is unveiled and citizens can be challenged on their voting behavior, they will think twice before voting on the basis of self-interested and antisocial considerations like 'prejudice, xenophobia, malice or caprice' (Brennan and Pettit, 1990, p. 326). As we will show more fully later on, the increased publicity thus launders egoistic and morally reprehensible preferences and encourages voters to express more publicly justifiable views (even though this does not necessarily imply that the resulting votes will be in the best interest of society).



Of course, to complete their defense of open voting, Brennan and Pettit need to address the worries mentioned in the first paragraph. Even though open voting is in line with a feasible ideal, they still have to show that it does not necessarily give rise to the dangers of manipulation. Although they expect an increased possibility of intimidation, Brennan and Pettit believe this can be largely outlawed by strong anti-discrimination measures. In addition, they are convinced that open voting will not bring about widespread voter manipulation, given the fact that current Western democracies are typically characterized by large constituencies (in which a single vote is of almost no value) (Brennan and Pettit, 1990, p. 330) and by ‘an ethos under which bribery, blackmail and intimidation create a great scandal’ (Brennan and Pettit, 1990, p. 332). However, while they are pretty confident that the dangers of open voting can be largely avoided, their argument ultimately remains a hypothetical one: ‘if intimidation is absent or can be eliminated from a society, then the open system of voting is preferable’ (Brennan and Pettit, 1990, p. 331).

For open voting: The desirability argument

Brennan and Pettit’s argument is ingenious. It does not argue that the preference ideal is inferior to the judgment ideal but only that the first is unfeasible. That is, even if you believe that democratic legitimacy should be based on individual preferences regarding particular candidates, you should admit that this ideal is simply impossible to implement. Without going into the details of their argument, we want to strengthen it with an additional, normative argument, namely that a system of open voting is actually more desirable, because it is implied by a superior model of democracy. In our view, the preference ideal is not so much unfeasible as it is undesirable.

Here, we move away from Brennan and Pettit (1990, p. 319) who ‘remain agnostic on the normative appeal of these alternative ideals’ toward a more traditional defense of open voting along the lines of Mill (1862 [1991]). In the tenth chapter of his *Considerations on Representative Government*, Mill expresses his concern that (the introduction of) the secret ballot would motivate citizens to vote without any reason whatsoever and without any reference to others. In contrast, open voting enables people to hold each other accountable, thereby impelling them to provide reasons for their choices, which is more in line with what can be expected of members of a real democracy. In Mill’s words, open voting can ‘compel deliberation, and force everyone to determine, before he acts, what he shall say if called to account for his actions’ (Mill (1862 [1991]), p. 216).

Here, we want to give Mill’s normative argument pro open voting – that it better fits democratic concerns – an update. Reformulating it in Brennan and Pettit’s terms, we want to argue that the judgment ideal, which closely corresponds to the well-known deliberative model of democracy, is more desirable than its alternative, the preference ideal, which closely corresponds to the aggregative model of democracy.



Instead of extensively going into the current debates in democratic theory, in which the deliberative model has quickly gained a lot of attention and support, let us analyze how both models interpret the central democratic principle of popular sovereignty that people should be able to participate in the process that brings about the decisions that affect them. According to the aggregative model, this political process is private in nature: citizens express their private interests and preferences in secret votes and democracy essentially consists of procedures that aggregate these votes (Elster, 1997, pp. 4–5). In contrast, the deliberative model stresses the essentially public nature of the political process and argues that democratic decision making is understood as based on reasonable discussions in which participants publicly justify their beliefs and preferences (Elster, 1997, pp. 11–13). Not only do political decision-making procedures, like voting, have consequences for the public at large (democracy's product), they (should) also take place in a public environment (democracy's process).¹ Now, we can provide two major arguments why the deliberative model is superior to and thus more desirable than the aggregative one.

The first argument is simply that the deliberative model best translates the central democratic principle that citizens should be able to recognize the outcome of the political process as authoritative, that is, as a product of self-legislation. The aggregative model seeks to achieve this by arguing that its outcome represents citizens' preferences. This has serious normative flaws. The simple fact of a numerical majority, for example, should not outweigh any concern about who or what is correct, just or reasonable. This is the well-known problem of the tyranny of the majority.² In our view, the judgment ideal, that is, the deliberative model provides for a much better interpretation of popular sovereignty and political equality: 'citizens treat one another as equals not by giving equal consideration to interests (...) but by offering them justifications for the exercise of collective power' (Cohen, 1998, p. 186). It rightly stresses that it is not sheer numbers, but the views and arguments of citizens that should matter in a democracy. Democratic politics is about justifying the exercise of power by means of reasons that all citizens can reasonably be expected to endorse.

The second argument pro deliberation is that it can make for better-informed and more public-spirited citizens. This argument refers to the beneficial effects of political processes taking place in the deliberative setting, where 'no force except that of the better argument is exercised' (Habermas, 1975, p. 108) and where participants are to keep an open mind and to rationally persuade others. Deliberation can have desirable by-products, educating its participants and upholding or even improving their moral character. Although such public deliberation cannot always make incompatible values compatible, it can increase mutual respect among its participants and help them recognize the moral merit of each other's claims (Gutmann and Thompson, 2004, p. 11).

While these are two well-known and plausible arguments in favor of deliberative democracy, we believe they constitute a good case for open voting as well. Remarkably, however, nobody seems to have noticed the similarity of the arguments in



both of these discussions. Nevertheless, the link should be clear. Take, for example, Bruce Kinzer's argument that the secret ballot was contested upon its introduction in nineteenth century England, because it was thought to be at odds with and detrimental to the virtuous and honorable character of the English.

A system of secret voting might suit a nation whose people were hypocritical, cunning, furtive, and deceitful (...), but it had no place in a country like England, whose people – noted for their independence, manliness, honesty, and frankness – always preferred to conduct their affairs in the open and in the light of day. (Kinzer, 1978, p. 243)

Like deliberation, open voting can thus be said to stimulate and safeguard people's moral qualities. Proponents of open voting were – and proponents of deliberative democracy still are – wary of people who are not willing to defend their political views in the open, as this suggests that they have something to hide. Associating secrecy with deceit and disguise, the secret ballot can be seen as corrupting rather than enhancing democratic citizenship (Crook and Crook, 2007, pp. 449, 457). Crucially, the secret ballot no longer leaves voters the option of being truly transparent about their voting decisions. Although proponents of the secret ballot maintain that people can still choose to reveal their political preferences should they decide to do so (Lever, 2007, p. 367), this is clearly not the case. People may reveal their political preferences before, during or after their time in the voting booth, but as there is no evidence to confirm their statements, they cannot reliably do so. The compulsory secrecy of the ballot can be said to make public statements suspicious and to drag honest voters down to the level of potential impostors (Kinzer, 1978, p. 246). It makes any attempt to reveal one's vote similar to the attempts of the fiancé telling his girlfriend that nothing happened in Vegas. There is no way of knowing he is being sincere.

Publicity and its arguably positive effects on the characters of citizens are crucial to both deliberation and open voting. The deliberative case for open voting can thus be based on the simple observation that it makes citizens more accountable to each other, which is thought to motivate them to inform themselves and to take the general interest into account. Selfish or even malicious preferences may motivate citizens in the voting booth but cannot bear being exposed publicly. Like public deliberation, open voting can be said to 'launder' or filter preferences, inducing people to become more public-spirited through what Elster (1997, p. 12) has called 'the civilizing force of hypocrisy'. As Mill already understood, having to speak out in public forces people to refer to the public good and keep their selfish motives at bay. Next, through a process of cognitive dissonance reduction, an initially hypocritical person who only talks the talk may even come to walk the walk. In short, 'civilizing people's speech will eventually civilize their mind' (Gosseries, 2005).

Interestingly, open voting is already in place – and is widely considered legitimate – in quite a few places, like parliaments and congresses. In both houses of the United



States Congress, for example, representatives typically vote by voice. To the extent that citizens accept this practice, it shows that there is not necessarily ‘something wrong’ with open voting. One could argue, for example, that such ‘openness’ urges these representatives to argue and defend why they vote for or against specific proposals. That way, they can be held accountable both by their fellow representatives and their constituents. Just imagine that they would vote in secrecy and how this would make them less accountable. Our argument for open voting simply suggests bringing this practice from parliaments to polling stations, from politicians to citizens. Opponents might argue that members of representative bodies have been given a mandate by the people and should thus vote openly because the latter should be able to hold them accountable. With Mill, however, we want to argue that people’s right to vote in general elections can be regarded as a mandate directed at the public interest as well. As with politicians, our hope is that open voting enables citizens to hold each other accountable. However, we do not want to claim that open voting will inevitably lead to such beneficial consequences, such as increased deliberation and more public-spirited votes. As we will show later on, it can also give rise to a number of phenomena that are less desirable from a democratic perspective.

For now, however, it is important to see that open voting seems to solve one of the classic problems the deliberative model is faced with. An oft-heard criticism is that this model ignores the time constraints that characterize real-life politics. Even if political decision making should ideally be deliberative in nature, politicians often do not have the time to extensively discuss all the arguments pro and contra when the clock is ticking. As deliberation cannot go on forever, one has no choice but to make room for some decisive decision-making procedure like voting. Now, applying the deliberative logic to the electoral moment itself – rather than restricting it to a Deliberation Day before Election Day – open voting can be said to be a simple and straightforward procedure that is both decisive and deliberative in nature.

Strangely enough, not a single proponent of deliberative democracy has ever criticized the secret ballot for discouraging a deliberative stance inside the voting booth. Nevertheless, the secret ballot has brought about a culture in which public discussions of voting behavior have almost vanished. In the secrecy of the voting booth, a voter may vote any way he/she chooses and may do so for any reason, good or bad. He/she is answerable to no one save his/her own conscience. If the curtains of the booth are lifted, the voter becomes answerable to others (Birch and Watt, 2004, p. 63), which can indeed be legitimate and desirable from a democratic point of view.

Apart from the fact that open voting can reinvigorate deliberation on political issues and thus transform the public sphere³, open voting can also be said to have the desirable side-effect of inducing collective cohesiveness, group identity and loyalty (Barbalet, 2002, pp. 130, 138). In contrast, the secret ballot’s isolating effect can be said to lead to feelings of isolation, electoral impotence and, as a result, political



indifference and alienation. Interestingly, Sartre (1973, p. 100) has emphasized this downside to the secret ballot very clearly.

L'isoloir, planté dans une salle d'école ou de mairie, est le symbole de toutes les trahisons que l'individu peut commettre envers les groupes dont il fait partie. Il dit à chacun: 'Personne ne te voit, tu ne dépends que de toi-même; tu vas décider dans l'isolement et, par la suite, tu pourras cacher ta décision ou mentir.' Il n'en faut pas plus pour transformer tous les électeurs qui entrent dans la salle en traîtres en puissance les uns pour les autres. La méfiance accroît la distance qui les sépare.

In short, Sartre believes that the secret ballot turns votes from publicly discussed judgments on who is to govern into expressions of private preferences and interests. In his analysis of open voting in nineteenth century England, Mitchell (2008, p. 143) confirms Sartre's suspicions: 'The 1872 act introduced the secret ballot and ended the "full information" character of elections, voting became an increasingly private and individual act'. Unveiling the vote reopens the possibility of citizens asking each other about their voting decisions, thereby stimulating a more deliberative attitude inside the most sacred of democratic spaces: the voting booth. Forcing citizens 'to restrict themselves in public to positions that they would be able to justify to other fellow citizens' (Gosseries, 2005), open voting can thus turn elections into a more public event and makes our democracies more deliberative in nature.

The Pivotal Role of Shame

In the previous section, we looked at the historical reasons for introducing the secret ballot (reasons that still seem relevant today), we discussed Brennan and Pettit's feasibility argument in favor of open voting and supplemented it with normative arguments regarding the advantages of the deliberative model of democracy. Before we formulate our own proposal on how to implement open voting, however, we would like to focus on a phenomenon that has been duly neglected in the debate: shame. While both the arguments pro and contra open voting rely heavily on the increased likelihood of some kind of cost arising due to votes being cast in public, the role of shame is almost never scrutinized explicitly. Still, it is interesting to see that shame can have both desirable and undesirable effects in democratic terms. It can lead people to succumb to undue pressure and thus form the basis for voter manipulation, but it can also discourage voting behavior that one *should* be ashamed of. Analyzing the role of shame will thus enable us to see more clearly not only the promises, but also the perils of open voting. It will reveal that people's tendency to avoid shame and humiliation can lead to additional problems that any proposal of open voting has to take into account.



Shame under open voting

Quite apart from the question whether the democratic upshot will be either good or bad, we may start by noticing that open voting can lead to shameful situations in at least three different ways. First, it may be shameful to be exposed as belonging to a specific group of people. If homosexuals may rightfully complain about the social stigma that befalls them when they come out of the closet, the same can be said of communists, conservatives or environmentalists who are forced to come out of the voting booth. Here, stigmatization occurs because my identity is so tied up with my political views that my self-worth is on the line. For example, if homosexuals are deemed sick, unworthy and perverted, and I am gay, then this means that *I* am deemed sick, unworthy and perverted. Similarly, my political views can be so close to me that they need protection from public scrutiny. Second, fear of stigmatization can also be grounded in the opposite worry. Perhaps I do not fear being exposed as ‘who I am’ – in all its uncomfortable truth and nakedness – but as ‘who I am not’. What I dread here is people labeling me in ways that belie my identity. I may vote conservative but detest the fact that people might classify me as a conservative. Whenever my vote does *not* reveal my identity, open voting can be said to stimulate misconceived caricatures. Both these cases center on the social stigma that befalls specific political views (depending on whether or not people see themselves as endorsing them). Third, however, people may also feel ashamed when they are exposed as lacking the intellectual, cognitive, rhetorical or other skills to properly justify their political views. The third kind of shame that open voting can lead to thus arises when people do not want to be ‘put on the spot’, simply because they cannot take the heat. Even proud conservatives may not want to be stigmatized as bad reasoners and poor debaters.

As Velleman (2001, p. 31) observes, ‘the shameful’ is intimately tied up with ‘the private’. As private issues are potentially shameful, we generally want to be able to keep them to ourselves. We value the right to privacy because it gives us some control over the disclosure of such things. A possible objection to open voting therefore holds that it violates people’s right to privacy, which is intended to shield delicate matters from such exposure and thereby prevent shame. Lever (2007, p. 376), for example, raises the objection that open voting ‘necessarily exposes people to the risk of public humiliation and shame’. One can, however, question Lever’s implicit suggestion that shame is invariably a bad thing and that people should always be protected from it. The fact that shame is an ‘ugly’ emotion does not detract from its possibly beneficial social functions. In contrast to Lever, Nussbaum (2004, pp. 206–207), who rejects shame as a device for legal punishment, still acknowledges that it can inspire a person to be ‘a good human being doing fine things’. Furthermore, social psychologists have shown extensively that shame spurs people to exhibit prosocial behavior (Hooge *et al.*, 2008). It can lead somebody to become a better person, because it ‘results in an agent’s disappointment in aspects of



her own moral character about which she has some significant control' (Manion, 2002, p. 77). Shame, in short, can be a strong incentive for helping people to improve their moral character and behavior.

The claim that open voting can induce shaming therefore does not necessarily constitute a counter-argument. After all, proponents of open voting would argue that voters should be ashamed for voting in egoistic, apathetic or even antisocial and racist ways. They believe that it is the potentially shameful consequences of open voting that can bring about a change in attitude that brings citizens more in line with the democratic ideal. Although he detested conformism, Mill himself did not seek to protect people from the public gaze. In fact, what he feared most was people voting 'free from all sense of shame or responsibility' (Mill (1862 [1991]), p. 211).⁴

Therefore, the observation that open voting exposes voters to potential shame does not settle the matter either pro or contra open voting. Opponents simply assume, without much argument, that shame is something bad that people should be protected from, whereas proponents simply believe that shame and the increased social pressure will automatically make voters less selfish and more public-spirited. As such, shame indeed seems to be the crucial but much neglected factor in the debate.

Undesirable effects of shame (in democratic terms)

Having already elaborated on the potentially positive effects of shame, let us now focus on its undesirable effects, which have been largely neglected by advocates of open voting like Brennan and Pettit. Why, and to what extent, can shame be detrimental to democracy? Apart from the aforementioned problems of voter manipulation (bribery, corruption and intimidation), we want to argue that open voting and its possibility of shaming can give rise to three additional worries. After going into each of these problems, we will sum up all the potential effects of open voting in a schematic figure.

First, open voting may lead not so much to deliberation (in which participants yield to the better argument) as to a principled *stand-off* (in which participants refuse to budge). Voters who have to take a public stance may not want to adjust their views, as this may be regarded as a sign of weakness. Although deliberative democrats generally praise the willingness to change one's mind, it is often regarded as something to be ashamed of: 'Political partisanship was public knowledge under open voting. A change in political behavior, such as voting for a candidate or party other than the one to whom support had been promised, could incur social costs' (Mitchell, 2008, p. 142). The strong desire to avoid such costs plays a role in psychological mechanisms like group-think, through which open voting may even lead to polarization and cause interpersonal conflicts to persist and deteriorate. In public deliberations, people can therefore seem to be genuinely discussing political matters but, instead of listening to each other's arguments, they only become



more entrenched in their own beliefs and preferences. As Gambetta (1998, p. 20) convincingly argues, real-life discussions seldom come close to the dispassionate, impartial and power-free dialogue praised by deliberative democrats. People try to win the discussion rather than actually listen and yield to the better argument. As we saw earlier, historical experience shows that such polarization characterized elections before the introduction of the secret ballot. Hence, the publicity that is essential to open voting and that constitutes the possibility of shame may prove to be counter-productive when attempting to stimulate genuine deliberation.

Second, open voting can also lead to *conformism* rather than deliberation. Instead of forming their own judgment, voters may choose to adapt to the judgment of others. While exposure to the public gaze indeed leads them to behave in socially acceptable ways, some will do so in a discursive fashion but others may simply succumb to conformism. The expected shame that can move people toward the public good can also lead them to buckle under the pressure and adapt to the largest common denominator of society in general or of their peers in particular. Brennan and Pettit (1990, p. 332) acknowledge this threat but express their confidence that people can overcome their weakness thanks to the bracing atmosphere induced by open voting.

Where pressures are multiple and manifold, people's best defence is the habit of forming and arguing their own judgment. We think that this is a habit that democracy requires and we rejoice in the prospect of its being promoted.

However, this 'solution' puts the cart before the horse, as it is precisely those people who do not have this deliberative habit that are likely to yield to the pressure. In our view, it is overly optimistic to think that everyone will learn how to discursively defend herself in the wake of defeat. Even though it is not impossible for people to form their autonomous judgment in such circumstances, we should at least acknowledge that some will not succeed in doing so and are likely to do the exact opposite, which would be a democratic loss.

Third, open voting may lead people to simply *withdraw* from the electoral process to avoid the nagging feeling of shame. As mentioned above, open voting may cause some citizens to be exposed as social outcasts or as poor reasoners. In order to avoid the accompanying sense of shame, they may well decide to abstain from elections and not cast their vote at all. A policy of open voting is actually quite demanding as it expects from citizens to come forward at elections, express in public their conception of the good society and defend it in a reasonable way. Citizens are expected to spend time and effort to express and defend their own opinions *en plein public*. Those who lack the required knowledge, competence and confidence to take such a stand are likely to withdraw from the public sphere. To avoid this, citizens should develop a number of capabilities that enable them – in the words of Smith (1776, Volume II, Book V, Chapter 2) – 'to appear in public without shame'. As only well-informed, reasonable and self-confident citizens will be able to vote in public without shame, open voting may lead to less participation. This would further increase current



inequalities in political participation, with even more citizens that are less well-off – in terms of talent, money and education – abstaining in disproportional numbers. Recognizing this potential danger is especially important, as Brennan and Pettit neglect it completely.

The conclusion that open voting may in fact be at odds with democratic values of inclusive participation and political representativeness may come as no surprise, as the deliberative ideal is known to be quite demanding and therefore biased against those who have less resources, skills and degrees. As such, open voting can be said to lay bare the inherent tension between deliberation and participation. Any attempt to make democracies more deliberative sets higher standards for their members, which increases the likelihood of citizens withdrawing from political process altogether. As one empirical study shows (Elklit, 1983, p. 260), electoral turnout in Denmark rose significantly after open voting was abolished. Moreover, the increase was higher amongst the less well-off, suggesting that open voting discouraged a lot of potential voters from going to the polls. In this sense, it can plausibly be said that the secret ballot has helped in realizing the democratic ideal of universal participation.

Our focus on these three additional negative effects of shame complements and, in a way, updates the old arguments concerning voter manipulation. Whereas Brennan and Pettit argue that the old evils of bribery, corruption and intimidation are no longer relevant in modern democracies where electorates are so large that it does not pay to intimidate individual citizens, we believe that these new evils provide equally significant problems for any democracy.

One might be tempted to think that this seals the deal in favor of the secret ballot. Perhaps, Brennan and Pettit are right about feasibility and about the possibility of keeping the ‘old’ problems at bay. Perhaps – in some ideal world where all citizens have the competences required to autonomously form and revise their political judgments and express and defend them in reasonable public discussions – it would be better to open up the vote and make democracies as deliberative as possible. However, all this does not detract from the fact that our world is not an ideal world. In the actual world, where not all citizens have the capacities to make deliberative democracy work, new problems can be expected to emerge and the only way to prevent them from wielding their unfortunate force is to settle for the second-best: the secret ballot. However, we should not give up so easily. Everything depends on whether it is possible to reap the benefits of open voting without allowing its negative effects to pop up. To see what a concrete proposal may look like, let us first summarize the desirable and undesirable effects of open voting that we have analyzed so far (Figure 1).

First, we have seen that the publicity of open voting and the increased social pressure that it brings about can lead to attempts of voter manipulation (bribery, corruption and intimidation) that would distort the democratic nature of elections. Second, we have drawn attention to the pivotal role of the possibility of shame, which can have both desirable effects (increased deliberation) and undesirable effects

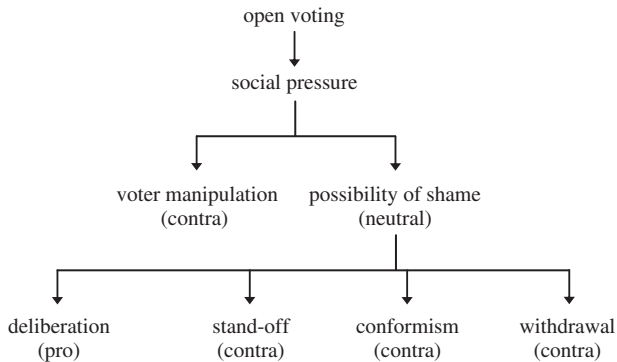


Figure 1: Potential effects of open voting.

(increased chances of voters reaching a stand-off, conforming to each other or withdrawing from the electoral process altogether).

Conclusion: Toward a New Proposal for Open Voting

When thinking about implementing open voting, one has to try and get the beneficial effects of increased publicity and social pressure while avoiding at the same time the potential pitfalls. The whole challenge is to devise a system that is both open enough to avoid the disadvantages of the secret ballot (less deliberation, increased isolation and selfishness) and closed enough to retain its advantages (impossibility of bribery, corruption and intimidation). Surely, we readily admit that many open voting systems are indeed undesirable. Nobody favors a Gestapo system, for example, in which people would be marked with a stamp on their forehead. The main reason why this is wrong, however, is not that political views would enter the public domain – this is exactly what deliberative democrats rightly value – but that both the old problems re-emerge and that it will generate conformism or abstention rather than deliberation. While there is a clear need to address these worries, this does not mean that all open voting systems are horrendous. In fact, we believe that the secret ballot throws the baby out with the bathwater. Other institutional arrangements in between compulsory secrecy and mandatory openness might stimulate deliberation while avoiding unwelcome side-effects. In sum, we are looking for a proposal that combines the best of both worlds.

Brennan and Pettit (1990, p. 321) themselves propose to put voters at the risk of being observed by a small number of their peers.

Voting should be organized in a manner which means simply that no one can be sure that how he votes will be hidden from his friends and associates.

This could be ensured by an arrangement under which a number of voters are allowed at the same time into the polling station and each votes by an act which indicates his intention: if he votes for A he may have to go to one booth, for example, if for B he may have to go to another.

While this surely is a fairly simple and realistic proposal of ‘unveiling the vote’,⁵ we believe it is flawed as well, especially because it does not take heed of the potentially negative influences of shame. It seems so much better if the relevant audience were to consist of randomized, anonymous onlookers rather than ‘friends and associates’. After all, people who think that this particular audience is observing them may be even more inclined to yield to conformist tendencies. Social pressure from people who are ‘close by’ is likely to be greater and less heterogeneous than social pressure from random fellow citizens. It is far more difficult to conform to an audience that one does not know in the slightest, whereas one is often quite sure what the ‘political profile’ of one’s friends is. In short, we believe that Brennan and Pettit’s (1990) proposal does not serve their own judgment ideal, in which voters ought to consider ‘what is best for all, with no special weighting for what is best for the voter or for his immediate associates’ (p. 313). If open voting is to generate more attention to society’s public interest, the public gaze should not come from one’s friends and associates but from a random selection of fellow citizens.

Our own suggestion is therefore that people should cast their vote in complete secrecy (as they do now) but in full knowledge that they may have to defend and argue for it in the future. Instead of organizing a Deliberation Day just before Election Day (Ackerman and Fishkin, 2004), why not have a Justification Day right after? Voters could, for example, expect to have a 1 per cent chance to participate in small assemblies of randomly selected citizens, in which their votes will be truthfully revealed to each other and in which they will be asked to discuss the reasons for and against their votes.⁶

This is an attempt to make voting at least more deliberative than it currently is, while avoiding the various risks that are involved in completely unveiling the vote. On the one hand, we believe that it can stimulate deliberation because of two reasons. First, as psychologists have long known, the impression of being observed can stimulate people to act more in line with what they think is socially desirable.⁷ Second, the mere probability of being exposed is enough to have an impact on people’s behavior. Think of the mere probability of getting a ticket ‘encouraging’ people to conform to traffic rules. To achieve this effect, a campaign about (the rationale behind) Justification Day and a sign or ‘warning’ inside the polling booth that reminds voters of the possibility of having to participate in a justificatory assembly will be needed to trigger more deliberative and public-spirited responses. On the other hand, we believe that our proposal will not lead to undesirable effects. Bribery, corruption and intimidation will not be very effective because each single voter has only a small chance of getting selected for Justification Day (and the



‘perpetrator’ is not likely to be part of the same assembly). This also has the effect of lowering the pressure so that people will not be scared into abstaining or simply conforming to what they believe is ‘common opinion’. In addition, we believe our proposal is better than Brennan and Pettit’s because the potential audience to which one’s vote is disclosed is small and consists of random fellow citizens rather than people close to the voter himself.

One may think that we are being overly naïve in believing that our proposal will increase the deliberative character of votes, while avoiding the problems and dangers mentioned above. Of course, we can only conjecture (and not assert with certainty) what the effects will be. In the end, this is an empirical question, which can only be answered through further research. Here, we simply want to show that there is room for proposals between complete secrecy and complete openness; proposals that deserve careful analysis instead of being simply ignored because they dare to challenge the ‘sanctity’ of the secret ballot. Even if it may prove hard to find an electoral procedure that improves on the current system, there is no reason to simply stick to the *status quo* and stop looking for a better alternative.

About the Authors

Bart Engelen is affiliated with the Centre for Economics and Ethics at the KU Leuven. His research is situated on the borders between ethics, political philosophy (institutional design) and economics (rational choice theory).

Thomas Nys is a Professor in ethics and political philosophy at the University of Amsterdam. His research focuses on issues surrounding autonomy and paternalism, with a specific interest in public health ethics.

Notes

- 1 As Przeworski (1998, p. 140) rightly points out, deliberation can only be called democratic if a ‘discussion intended to change the preferences on the bases of which people decide how to act (...) leads to a decision binding on a community’. If deliberation has no consequences for the public, then it is mere cheap talk or window-dressing.
- 2 This is aptly explained in a quote attributed to Benjamin Franklin: ‘democracy is two wolves and a lamb voting on what to have for lunch’.
- 3 While reinvigorating the public sphere was deliberative democracy’s initial concern, it is nowadays primarily studied and implemented on a much smaller scale, that is, in so-called mini-publics (Niemeyer, 2011, p. 103). We think that doing away with the complete secrecy of the ballot – which was partly responsible for the corruption of the public sphere – fits with deliberative democracy’s initial program and tallies perfectly well with other recent attempts to stimulate deliberation on a larger scale (such as Niemeyer’s own focus on how to communicate the outcomes of mini-publics to the broader public).
- 4 ‘In such a case as that of the repudiating states of North America, is there not some check to the unprincipled voter in the shame of looking an honest man in the face?’ (Mill (1862[1991], p. 219)

- 5 In Sweden, voters can get their ballot papers (with the party name printed on it) from party workers at the polling station. This is close to Brennan and Pettit's proposal. The most important difference, however, is that Swedish voters retain the opportunity to keep their votes secret by picking up blank ballot papers (Valmyndigheten, s.d., p. 9). As we discuss in what follows, we believe – contra the Swedish system – that nobody should escape (potential) 'exposure', and yet – contra Brennan and Pettit – that voters should not be exposed to their peers but to fellow citizens.
- 6 Here, we do not discuss how these groups should be selected and organized, how all this should be funded or what the 'penalty' should be for not participating. With respect to the first question, we think that recent work by deliberative democrats on various forms of mini-publics can be highly useful (Goodin and Dryzek, 2006). In short, it is essential for such groups to have a trained and neutral moderator that guarantees the deliberative nature of the discussions. In addition, people's votes should be revealed only within the seclusion of these groups.
- 7 The so-called 'social desirability bias' refers to the widely documented tendency of respondents to behave in ways that they think will be viewed favorably by the people observing them. If people think the expression of their opinion is public, they can feel under pressure to provide an answer that is deemed more publicly acceptable. As the so-called 'Bradley-effect' shows, this mechanism can have an impact in politics with fewer people expressing racist preferences in polls than in elections.

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