

By focusing on voter turnout, the government fails to understand the democratic process

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Trade union strikes can legally go ahead if more than half the votes are in favour of action, regardless of how many members vote. The [Trade Union Bill](#) seeks to change this process by requiring that at least 50 per cent of all eligible members take part for such ballots to be legitimate. [Christopher Kirkland](#) and [Matthew Wood](#) argue this proposal is an example of how the focus on turnout ignores the fact that democracy is not just the result of a vote, but the process of voting.



Turnout, and particularly low turnout, is increasingly problematic for democracies. Widely noted declines in turnout pose challenges to policy-makers and institutions alike; getting people to vote is a challenge, and one that is becoming increasingly difficult (though the [Scottish referendum](#) of 2014 proves an excellent counterfactual to this theory). However, the government's intention to impose further arbitrary limitations upon ballots fails to overcome these problems and further muddies the democratic waters of decision-making.



There has been much publicity and debate surrounding the number of votes needed to make a ballot 'legitimate'. Using an arbitrary figure (in this case 50 per cent) the government have deemed any trade union ballot which fails to reach this turnout to be illegitimate and unable to support strike action. The [government's rationale](#) for introducing it is to prevent small militant groups of supporters from being able to dictate trade union policy. Yet this conflates the processes of voting and not voting – voting against a proposed strike is markedly different to not voting in the ballot – and fails to accept the limited choices offered by such democratic ballots. Instead, through these changes the government is seeking to exert their influence over a process which has historically been deliberated and decided by trade union members themselves.

Conservative-led governments have tried to delegitimise trade union ballots before, using similar questions of legitimacy. A [recent article](#) compares the narratives surrounding the 2013/14 teaching trade unions strikes (and previous ballots for strike action) and the 2012 Police and Crime Commissioner elections. Despite being conducted using similar processes, the narratives surrounding the two differ markedly. Here, the process of legitimisation as opposed to legitimacy or illegitimacy is important. (De)legitimation implies at some attempts (by those external to the process of voting) of questioning or enhancing the legitimacy credentials of ballots, based not upon the processes but the outcomes they produce.

Distinguishing between the process of balloting and the results of elections is important. In regards to trade union ballots, questions of legitimacy have arisen not due to the processes under which the ballots were conducted, but due to the results (turnout figures) they produce. In a [recent article](#) we argued that turnout figures should be viewed as part of the results of ballots/elections – which can be affected by participants up to the closing of the polls – rather than part of the process of voting. The manner in which ballots are conducted does not change as the levels of turnout increase (different processes may occur due to the expected turnout, but once the process of voting has begun it remains constant).



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The government's recent proposals set out a minimum threshold of 50 per cent of votes for a trade union ballot to be viewed as being binding. Not only does this contravene [trade unions' rights](#), a point being made by trade unionists and left-wing supporters, but it misconceives ideas of legitimacy and illegitimacy. It fails to appreciate that legitimacy has historically been derived from the process of voting, rather than the results the vote produced. The proposal also empowers agents external to the voting process to define ballots as being legitimate or illegitimate without taking part in the ballot itself, and finally it conflates the actions of those opposed to a decision and those who do not vote, through assimilating a vote against a policy (in this case a vote against industrial action) as an abstention (for whatever reasons) from the vote.

By placing an arbitrary figure upon the turnout levels the government, who themselves are unable to partake in the ballot, are able to affect perceptions of its outcome. This means that the legitimacy or qualifications for a ballot to be declared legitimate extend beyond an analysis of the processes under which these ballots occurred to arbitrary figures imposed by external bodies. Actual turnout figures become of secondary importance, distinctions between ballots which obtain turnout figures of say 20 per cent and 60 per cent may be irrelevant if arbitrary acceptance rates are imposed at either a level higher than 60 per cent or one lower than 20 per cent.

Secondly such arbitrary levels of turnout shift the criteria for judging a ballot's legitimacy from the processes of voting to the results the ballot produces. Despite achieving a low-level of turnout the Police and Crime Commissioner elections ([turnout 15 per cent](#)) were deemed, by the government, legitimate whilst simultaneously requiring trade union ballots to achieve 50 per cent of turnout. This [shifting of emphasis](#) from processes to outcomes could in the future lead to ballots which 100 per cent turnout being declared illegitimate whilst those with less than 1 per cent turnouts could be deemed legitimate.

Finally, setting arbitrary turnout levels for ballots to be declared legitimate conflates voters and non-voters. In setting such arbitrary qualifications, along with continual denunciations of strike action, the government assumes that all of those who were eligible to vote but did not cast a vote are opposed to such action. This fails to accept that the choice on any ballot paper is limited: ballot papers do not ask the general public their views on a subject matter but to decide from a pre-selected list of options. Through assimilating those who do not vote and those who vote against strike action the government is massaging the turnout figures in particular elections. This becomes even more problematic given the governments' contradictory defence of low turnout figures in the Police and Crime

Commissioner elections.

Democracy and low levels of turnout are not without their flaws. But one of the key strengths of democracy is the emphasis upon processes, as opposed to outcomes. Current government plans shift this balance, making a fragile system increasingly problematic. Rather than using the weaknesses of democracy as their starting point, they would be better served by committing themselves to defend the strengths of the system.

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