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DRAFT PAPER: FOR DISCUSSION ONLY

**Is Voting in Sweden Secret?
An Illustration of the Challenges
in Reaching Electoral Integrity**

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Abstract:

This draft paper presents and discusses a curious phenomenon in the modern world of elections, *viz.* the transparent way in which national, regional, and local ballot papers in Sweden are handled and presented to the voters. The issue is that this – at least as seen through the eyes of some voters and some observers – is done in a way, which is in obvious conflict with international standards aiming at securing the secrecy of the vote as well as electoral integrity more generally. Subsequently, the paper discusses how the procedures for giving voters access to their ballot papers as well as other administrative rules impact on ballot secrecy.

In a secret ballot the voter is entitled to cast a vote independently in such a way that it remains forever unknown which voter supported which candidate or party. Ballot secrecy should also pertain to whether or not a voter voted, especially as non-voting in authoritarian electoral systems can also be an expression of political (oppositional) attitudes. Fair elections and electoral integrity also imply that each (eligible) voter has the opportunity to cast one vote by him/herself. Secrecy of the vote is always important, but especially so in political contexts where citizens would have a reason to fear political or social oppression and therefore vote for some other candidate or party than they would personally have preferred (ACE Project, *Serial numbers on ballots* (accessed 14-03-2018)).

This opening paragraph is an expansion (and to a considerable degree also reuse) of a formulation in the ACE Project (Practitioners' Network Q and A-section). It covers precisely the general perception of what a secret vote is and why one should be concerned about the secrecy of the vote in an election.

Whether the casting of ballots should be secret or not was for many decades both a principled and a practical question. Voting should not be secret, since men who could be entrusted with the vote, should only be men of principle who could consider the issues before them independently; such men would both be willing and able to stand by their vote and defend it in public, if need be. This elitist – Burkeian – view, however, was primarily advocated by those who stood to gain from securing the upholding of the *status quo*, as Przeworski recently has argued convincingly (2018: 30, 39-40). See, in the same vein, Rokkan 1970: 152ff; also Mackie 2000 and Elklit 2000).

The opposite view claimed that open voting was something to get away from, because voters should be free from the social, economic, and political coercion unavoidable under open voting. Norwegian political scientist and sociologist Stein Rokkan repeatedly underlined how the individual voters under systems of open voting were constrained by their roles in the subordinated systems of the household, the neighborhood, work, the church, civil associations and so on when voting. Voters are not cut off from these other roles when acting as citizens in the political system, and they must therefore take responsibility for what they do as voters in their everyday interaction within their regular environment. Rokkan's point about the importance of the social context of electoral behavior under open voting is confirmed by many empirical analyses as well as by the changes in electoral behavior that usually accompanied the eventual transition to secret voting (Rokkan 1970: 152ff; Mitchell 2008; Elklit 1988: 303ff; Elklit 2002).

This discussion is encountered from the late eighteenth to the early twentieth century in all countries where elections became the way political leaders were chosen. Some of the first elections with secret voting were conducted in France during the revolution, but the implementation was inconsistent and weak, and the various French electoral laws had different secrecy requirements – if any – because of different dominating views on the issues. However, during the 19th century the debate about secrecy continued, and some elections and referendums in France were by secret voting, others were not. The rules for casting secret votes were rather fluid. Sometimes it was enough to write the preferred choices on a piece of paper at home, i.e., before coming to the polling station to vote, in other cases a list with names, obtained from a

political agent in the street, would suffice, at least if it was folded, so that the actual names were not visible. It was only in 1913 that the system with a ballot booth and a standard envelope was eventually introduced.

The right to cast one's vote in secrecy – *i.e.*, anonymously – is now enshrined in the 1948 Universal Declaration of Human Rights, where Art. 21 (3) clearly states that “[The will of the people] shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”. Most current constitutions and electoral laws also underline that voting has to be secret, often, however, without specifying more precisely what that means.

It follows from the introductory definition that secrecy in principle is an absolute concept: The ballot is either secret or not! But what if most of the votes cast in an election are secret, but some – e.g. from assisted voters – are known to those electoral staff, who helped blind or illiterate voters cast their vote? Or how to assess the way in which ballot papers are handled in Sweden – is that a violation of the secrecy of the vote, which – of course – is also stipulated in the Swedish constitution?

Ballot Paper Handling in Sweden

Simultaneous parliamentary, regional, and local elections in Sweden are scheduled for the second Sunday in September every four years, the next triple election day being September 9, 2018.

Ballot paper preparation and handling in Sweden differs from what is currently the case in most other jurisdictions, at least the ones I'm aware of. But I'll only be happy to be made aware of similar procedural arrangements elsewhere.

Sweden belongs to the tradition, where separate ballot papers are produced for each party, and where voter must put the chosen ballot paper in an anonymous envelope before it is dropped in the ballot box. This is what Massicotte *et al.* (2004: 127) call the French model or “the ballot and envelope model”. In the sample of countries used by Massicotte and his co-authors 23 per cent of the countries used the French model for parliamentary elections, the rest the Australian ballot model, *i.e.*, a single neutral ballot paper with all parties and/or candidates in the constituency in question.

In Sweden, parties have at least two ballot papers for each of the three simultaneous elections (national, regional, and local) for voters to choose from. One of the two ballot papers only has the party name, while the other has the list of candidate names in the particular multimember district. However, a party can also across the country – *i.e.* for the parliamentary election – have another ballot paper, normally with the party leader as the frontrunner and national politicians making up this list. In the coming elections one party even have two such lists, the party leader on top of each of them. So a particular party can have two, three or even four ballot parliamentary papers in a particular multi-member district, + two for the regional elections and two for the local elections.

The ballot papers with a candidate list allows the voter to cast a preferential vote for one of the candidates, but if the preferential voting option is not used, the ballot nevertheless counts as a

vote for the party as such and is therefore not different from casting a vote using the ballot paper with only the party name. Preferential voting is not used a lot in Sweden, partly because the threshold for being elected on preferential votes is high (eight per cent of the votes in the district in question). The view on preferential voting generally can also be illustrated by the fact that one sometimes comes across ballot papers for preferential voting, where some of the candidate names are only printed on the reverse side of the ballot paper (sic!).

One can also find a blank ballot paper, which is for write-in of a party of your choice (or to be used if for some reason your preferred ballot paper is not available). The idea is (or was) that the electoral system should not make it impossible for a new party to surface on election day, if it had enough support country-wide. It has, however, never happened that such a party has emerged. The number of registered parties is long, but only some of them has also registered candidates within the time frame, and even fewer can hope to win a parliamentary seat. The situation is different in some of the regions and some of the municipalities.

The voters' standard way of obtaining the ballot papers is to pick them from a shared/joint stand (or table) inside the polling station where all the many ballot papers are supposed to be available (and normally are). Voters are thus not handed the relevant ballot paper(s) by the polling station staff; they themselves collect the ballot papers (differently coloured for the three different elections) they want to use. The picking of one's preferred ballot papers thus takes place in the public domain, so that those present can see – if they care to look – what ballot papers the voter has chosen, which is a strong indication that he/she will also vote that way.

A voter can, however, hide his/her voting intentions by collecting ballot papers from several different parties, and then only in private, behind the screen, select the ones to put in the three different envelopes. If envelopes contain more than one ballot paper, they are all deemed invalid, so voters cannot cheat the system by inserting surplus ballot papers in the envelopes.

A voter can also bring the chosen set of ballot papers to the polling station from outside because ballot papers can also be obtained in at least three different ways *outside* of the polling station and *prior* to election day. It is surprising that these options are not discussed in the OSCE/ODIHR NAM report (OSCE/ODIHR 2018).

1. Immediately outside of the parameters of the polling station, party activists will often be present, trying to convince entering voters that they can make the voting process easier by accepting the ballot papers, which the activist is handing the voter. If the voter is not afraid of revealing his/her party preferences, it's easy to accept the ballot papers here and not have to look for them at the ballot paper stand inside the polling station. The party activists may also be a personal acquaintance of the voter, which makes it difficult not to accept the offer (and then maybe find the preferred ones inside the polling station and drop the one received outside of the polling station in the waste paper basket – or take them home).
2. Ballot papers can also in some constituencies be acquired in the (junk-) mail. Swedish parties often distribute their propaganda material by mail to all households in constituencies where they have a strong following in which case they often include at least

six ballot papers in the envelope: one for each of the three elections to the two adult members of a standard household. The ballot papers can then be discussed and filled out quietly and orderly at the breakfast table (or wherever) and brought to the polling station inside a pocket or a bag, so that the partisanship is not revealed – even though it might look suspicious that this voter is apparently hiding something!

3. Ballot papers can also in some constituencies be collected prior to election day at neutral ballot paper stands at libraries and similar public places.

The number of different ballot papers at a ballot paper stand in a polling station is quite high – easily up to 50 – and the waste considerable as a single person in a Stockholm household might get maybe 40 ballot papers from the various parties, even though she'll only need three from her preferred party (or parties)!

In fact, about 685 million ballot papers were printed for the 2014 elections, i.e. about 30 ballot papers per voter per election (Valmyndigheten 2015: 18) – and the only consolation is that the paper quality is rather poor, so the costs are not exorbitant. But the logistics of the printing of so many different ballot papers – and their distribution – is a huge challenge for the Central Election Authority, especially when there is also elections to the European Parliament to prepare for during the election year, as was the case in 2014. With three simultaneous elections and less than eight mill. voters less than 30 mill. Australian type ballot papers would suffice. The number of ballot papers to be printed in 2018 has been estimated at 650 million (OSCE/ODIHR 2018: 5).

The printing and distribution of the ballot papers for the established parties (including parties with more than 1 percent of the vote in either of the two previous elections) is paid for by the state. However, parties who want to have more ballot papers available (for distribution by post or by party activists) can order more, so that they are free to distribute as many as they like. These additional ballot papers are printed at the parties' own expense.

New parties have to bear the printing and distribution costs themselves – and they only get the ballot paper printing costs covered after the election, if they get more than 1 per cent of the vote in the current national election; the requirement at the lower levels is that a party must have obtained representation either in the previous election or in the current one. This appears to be a rather efficient electoral threshold, at least if a new party does not have a wealthy sponsor.

How Shall the Swedish System be Assessed?

Some Swedes – but certainly not all, probably only a clear minority – think that the current system is in violation of the norms of secrecy in elections. However, the majority of Swedish voters apparently find the system and the way it works satisfactory, as it considered to have worked well “forever”. This claim is, however, unsubstantiated, as the Swedish Election Study (or anybody else for that matter) has never put a question about ballot secrecy to the Swedish electorate. It is also well known that Sweden scores in the very top on all available democracy and election quality indices. So many Swedes probably think: What's the problem?

It has, however, become evident that foreigners who suddenly are voting in Sweden (either voters from other member states of the European Union voting in the elections for the European Parliament or people from abroad having the right to vote in local and regional elections) often feel that something is wrong, when they come to the polling station. Such voters react almost automatically, because they feel that elections are not secret – at least not secret in the same way as it is in other countries. The scenery with party activists distributing their ballot papers outside the polling station is also strange, at least to first-time non-Swedish voters.

At the 2014 European Parliamentary elections a German, Christian Dworeck, who as resident in Stockholm went to the polls to vote in the EP elections, got so upset that he complained to the European Commission, because he felt that he was entitled to secrecy during the voting act and that was not provided for by the way the elections were organized in Stockholm.

Very similar views were expressed by a group of election observers from Latvia, Belarus, Ukraine, and Sweden, who had been invited by some of the Swedish democracy and HR support organizations attached to the political parties to observe elections at polling places in Stockholm. Their report mirrors the same picture of concern because of the lack of secrecy, especially as most voters only picked one ballot paper (for each of the three elections). These observers were also surprised to see a considerable amount of family voting, i.e., more than one voter in the polling booth at the same time, which also violates the concept of a secret ballot (<http://silc.se/wp-content/uploads/2016/07/valövervakning-av-de-svenska-riksdagsvalen-2014.pdf>).

Subsequent to the reception of the complaint from Mr Dworeck, The European Commission then formally asked Sweden to explain the voting procedures, and the Swedish Ministry of Justice eventually explained to the EC in so many words that everything was fine, not least because the elections – of course – were conducted according the Swedish legislation (sic!). So there was no need to change anything. A government-initiated study (a kind of white paper) suggested some changes to the procedures, but the government subsequently came to the conclusion that there was no reason to change this part of the electoral arrangements, especially as it was both costly and impractical, as the Justice Minister put it (<http://Sverigesradio.se/sida/artikel.aspx?programid=83&artikel=6729439>).

However, a recent amendment to the electoral law means that in the future some kind of screening or shielding must be provided around the area, where voters pick their ballot papers, to render it impossible for bystanders to see what ballot papers a voter picks up. This is – in the eyes of this author and voter – a step forward, but it also looks as if the Swedish government is thereby reluctantly admitting that the current system is not as perfect and foolproof as previously claimed! The new arrangements obviously requires some planning and adjustment to actual polling stations regulations, so the new law will only be implemented at the 2022 elections (sic!), not in the upcoming September 2018 elections (<https://www.regeringen.se/490474/contentassets/742862f81454445b9823c947d64d0170/starkt-skydd-for-valhemligheten>).

It appears that the general view still is that voters who want to do so can hide their vote choice and, therefore, voting is secret. The authorities, the politicians, and the general public don't

appreciate that this makes the voter who wants to hide his or her vote choice look suspicious – “why is it that you want to hide something from us, your buddies?” – which puts the onus on the individual voter. Secret voting worth the name requires that the system (the state) provides secrecy for all; it is only when all have abide by the same strict secrecy rules and violations of these rules are being penalized that one can talk about a secret ballot.

It is interesting that the secrecy of the ballot (as understood here) has almost been a non-issue in Swedish political discourse, only rarely brought up by individual commentators (often with a political science background).

Secret Ballots: The General Picture

The Swedish case can be considered a rather special case of attempting to provide for secrecy in the voting process.

One might think that the question of secret voting is a simple one, as voting is either secret or non-secret. However, there are many different ways of organizing elections and balloting, so it makes more sense not to see secrecy as a dichotomous concept (or term), but as a continuous variable. The one end of this continuous variable is absolute secrecy (cf the definition at page 2), the other end is full openness as experienced, e.g., in the early British elections or in the viva voce elections in the US (Mitchell 2008; Bourke and DeBats 1978). One can also point to Prussia during the 19th and early 20th century, or even the show of hands used in all Danish elections 1848-1898 (followed by viva voce voting (voting “zum Protokoll”, as it was called in Prussia), if the declaration of the winner in the first round was challenged) (Elklit 1983, 1985, 1988).

The table below represents a first attempt of providing an overview of how different kinds of electoral system (in the broad sense of the concept) have implemented different levels of ballot secrecy (or not). The table does not detail the various country-specific secrecy rules and regulations as that is not possible for space reasons, nor warranted. Obviously, the table only provides information about some countries and some periods, so much more data collection (and verification) is necessary before a fuller picture will be available.

It follows from the table that the number of ballot papers – as one would expect – has no bearing on the level of secrecy obtained; it is equally evident that if ballot papers (or marbles etc.) are not used and voting takes places in the public space, there can be no ballot secrecy.

The interesting column is the one in the middle, with the heading “less high”; one question is, if it makes sense to talk about different levels of ballot paper secrecy here:

1. The use of ballot papers with serial numbers obviously does not ordinarily make ballots less secret, as the serial numbers are only used for administrative purposes (or as a safeguard in case of electoral fraud), not for checking on individual voters’ votes. That is, however, often possible, so there is a *theoretical* possibility of the system being misused, however slight, at least in some countries. Ireland is an example of a country, which dropped the use of serial numbers on ballot papers because of the potential risk of it being misused.

Table 1. Different kinds of balloting system and country's decree of ballot secrecy

# of ballot papers		Degree of secrecy		
		High	Less high	No secrecy
None				Traditional open voting (as previously experienced in US, UK, Denmark, Prussia etc.)
				Queue voting (e.g. Kenya in the 1980's)
1	Voters to enter the preferred candidates' names in a pre-printed form	Finland (use identifying numbers, not names)		Denmark: Elections to the Council of the Realm, 1850's
	Australian ballot type (without serial numbers)	Denmark South Africa Ireland		
	Australian ballot type (with serial numbers)		UK Mauritius Singapore Nigeria etc.	
				Some Canadian provinces (e.g., Saskatchewan) give parties and candidates access to lists of voters who have already voted
2	MMP systems, voters get the ballot papers simultaneously (they are often attached to one another)	Germany New Zealand		
Several (or many)	Ballot papers for all parties handed out uniformly to all voters	Latvia France Spain		
	Voters pick ballot papers from a ballot paper stand in the public area (or obtain ballot papers in other ways)		Sweden (see text for details)	

Note: All kinds of assistance to fill in more cells are much appreciated!

2. If parties and candidates are allowed access to the register of who have already voted (supposedly to be able to get more of their own supporters out to vote), there is not full secrecy of the vote, as that also includes whether or not the voter voted (something the voter might want to conceal from others). This might be considered less secret than the first category.
3. If voters – as in Sweden – at the polling station can see what ballot papers other voters pick up – and they very often only pick one (for each election) – then it is very probably – but, of course, not 100 per cent certain – that they also vote for that party. This is, at least in the opinion of this author, a lower level of ballot secrecy than the two previous categories.

The question is if it possible to distinguish between electoral systems with different levels of ballot secrecy based on the formal rules of distributing ballot papers, the way ballot papers are numbered, and access to the register of who have voted. If not, one can at least summarily claim that a group of countries has electoral systems which overall provide for less ballot secrecy than most other countries, without it being necessary to distinguish sharply between the various theoretical and factual challenges to full electoral secrecy.

Family voting and proxy voting

However, two other forms of ballot secrecy violation should also be considered, i.e. family voting and proxy voting (Massicotte et al. 2004: 135f).

Family voting refers to the situation where the electoral authorities more or less openly allow more than one voter (normally from the same family) to enter the polling booth together, officially to ensure that the more literate family member can assist the less literate ones to fill in the ballot paper correctly. This type of help to disadvantaged voters obviously also puts repressed family members in a complicated situation, if they want to vote differently from their repressors. Family voting was rather common in the former Soviet Union and in Eastern Europe; it is also from elections in that part of the world that election observers still frequently report that family voting takes place.

It was very surprising (almost unbelievable) to read in the SILC election observation report from the 2014 Swedish elections mentioned above that the observers noted a considerable amount of family voting in Stockholm. It would have been interesting if the report had been able to report on the (apparent) background of these voters. There are, however, indications that this phenomenon is primarily seen in polling districts with relatively many voters of non-Swedish background.

The Swedish Election Authority has informed the author that this is probably only examples of voters requesting to get assistance to vote from a person of their own choice (e-mail to the author dated June 18, 2018). This can only be interpreted as an indication of the borderline between family voting and “getting assistance to vote (behind the screen) from a person of the voter’s own choice” being rather blurred.

Proxy voting refers to situations, where voters, who can’t make it to the polling station, are entitled to let another person (normally a registered voter) vote on his or her behalf (Massicotte et al. 2004: 135ff). This procedure – not very widespread, even though used in UK and some other

countries (China, in the village elections) – is according to Massicotte et al. (2004: 138) also used in Sweden, but that is apparently a misunderstanding. The confusion might be caused by the fact that it is possible under certain circumstances to send one's vote to the polling station by a messenger, but that is of course not proxy voting (<https://www.val.se/svenska-valsystemet/satt-att-budrosta/hjalp-vid-rostning.html>).

Both family and proxy voting is obviously incompatible with (full) ballot secrecy.

The same can be said of a phenomenon, which one observes from time to time, namely that voters openly – e.g., in their clothing or the insignia they display – demonstrate to other voters in the polling station what party they support and will therefore vote for. In most countries this kind of propaganda is not allowed within the propaganda-free area of the polling station, but it happens nevertheless, concurrently violating ballot secrecy and rules forbidding political propaganda in the polling station. Polling station staff might think that it is better to accept these incidents than to create a large dispute by disallowing such voters to vote, but it is still an offence against the protection of ballot secrecy, which is the issue here.

Examples observed by the author includes South African voters in red overalls (2014, red overalls or red smocks being the dress of strong EFF, the Economic Freedom Fighters, supporters, in particular MPs) and voters wearing party supporting t-shirts or tangas (different countries, different years). This kind of lax administration of electoral rules and regulations might only happen in some areas or in individual polling stations, but it is still providing for less ballot secrecy than what is to be expected according to a country's constitution.

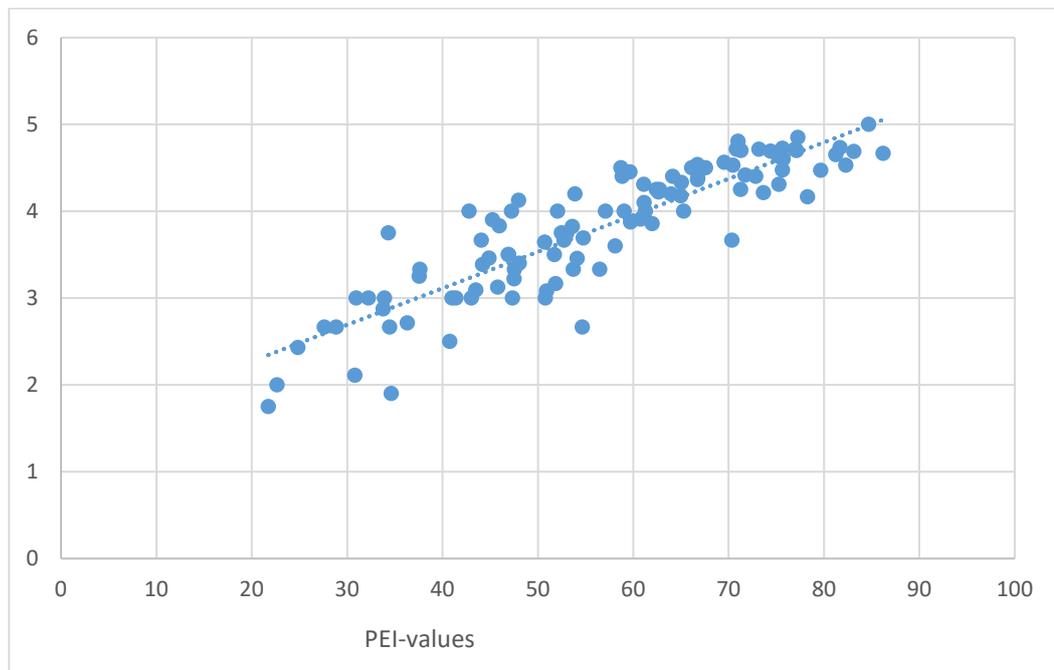
The PEI-project has for all 105 national elections during 2016 and 2017 included an item on ballot secrecy as part of a supplementary rotating battery of items: "The process kept the ballot confidential" (Norris et al. 2018: 45). Answer possibilities are: "strongly agree", "agree", "neither agree nor disagree", "disagree", and "strongly disagree", coded from 5 to 1, respectively. Figure 1 below shows the distribution of experts' average assessments for each election (y-axis) against the overall PEI-score for the particular election (x-axis). It is not surprising that the two measures are strongly correlated ($R^2 = 0.79$) as ballot secrecy is embedded in electoral integrity as such, even though the original overall PEI-measure does not have a specific item on ballot secrecy.

It is interesting, however, that there are some discrepancies between experts assessing the same election, probably reflecting different assessments of the specific election (maybe at different polling stations) as well as individual variations in the use of "strongly agree" and "agree" for the same phenomenon. But the overall picture is nevertheless quite clear: The expert rating of ballot secrecy was rather low (below 3.5) in at least a third of the elections overall, with Africa, Central and Eastern Europe, and the Americas having slightly more or slightly less than half of their 2016 and 2017 elections below this level.

Of the countries mentioned above one should remember that Sweden is not included here as the elections are only this year. Ireland (2016, legislative election) has an average score of 4.8, while the UK elections in 2017 was rated 4.5 on average, meaning that the proxy voting option discussed above was not seen as a major problem by the assessors. Germany was at 4.7, as was New

Zealand, while France at two elections (presidential and legislative) were scored 4.5 and 4.2, respectively.

Figure 1: Average assessment of ballot secrecy against PEI-scores, all national elections 2016-17



Note: Thanks to Pippa Norris and Sarah Cameron for help with data access

Conclusion

Most (all?) countries subscribe – normally in their constitution – to the principle of ballot secrecy, which is also enshrined in the 1948 declaration of human rights.

It is nevertheless still the case that a number of countries accept to have elections with less than full ballot secrecy; however, they continue to claim that their procedures are not in violation of the overall principle.

The various examples of challenges to – or violations of – secret voting are difficult to categorise in some kind of grading system. The reason is that there is no systematic evidence of the number of occurrences across countries or regions – and what is “worst”: To allow proxy voting or to allow voters to see what ballot papers their fellow voters pick up (and in all likelihood use)?

One conclusion appears to be that ballot secrecy is best measured using a simple ordinal scale:

1. Full ballot secrecy (most countries)
2. Less than full ballot secrecy (because of allowing family voting, proxy voting, taking political propaganda into the polling area, letting other voters see what ballot papers a voter picks

up, giving access to lists of voters who have voted or not, etc.). Countries in this group includes UK, Sweden, some Canadian provinces and – arguably – Mauritius, Singapore, South Africa, Nigeria, etc.)

3. No ballot secrecy (the various forms of open voting, mostly known from previous periods)

Another conclusion is that the approval of the principle of secret voting is of so strong symbolic value that countries easily and almost automatically subscribe to it, even if their formal rules and actual procedures at polling places sometimes lead to violations of the constitutional commitment to ballot secrecy.

A third conclusion might be that it is surprising that countries so apparently similar in many respects as Denmark and Sweden nevertheless end up being categorized differently when studied in some detail (see, similarly, the scores for “electoral procedures” in the PEI-index which are 98 and 90, respectively, Norris et al. 2018: 36-39).

So it is not surprising – also as a consequence of the issue being raised by some commentators and academics – that OSCE/ODIHR has decided to send an Election Expert Team to the Swedish elections in September 2018 “to assess the election-related legal framework pertaining to the uniform implementation of election procedures, particularly with regard to ballot management and secrecy of the vote” (OSCE/ODIHR 2018: 9).

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Links

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