

# Reforming the Voter Registration System



By Tova Andrea Wang

## *The Problem*

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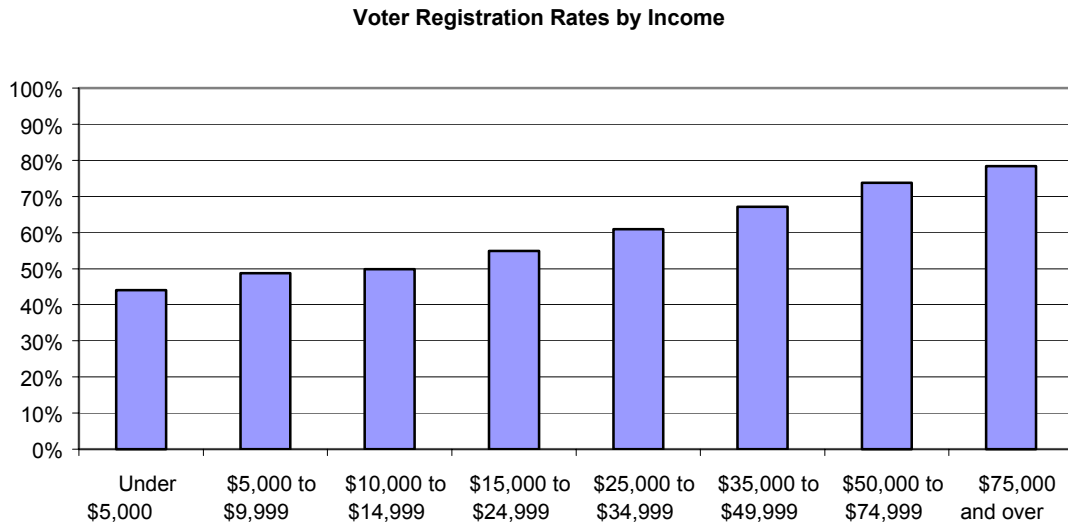
Relative to other democracies, voter turnout in the United States has been among the lowest around the globe. Averaging just under 50 percent in recent presidential elections, U.S. turnout compares poorly with such countries as Italy (which leads the world at over 90 percent), Australia (84 percent), Germany (80 percent), the United Kingdom (75 percent), and Japan (69 percent). Indeed, one analysis of national elections worldwide since 1945 ranked the United States in 139th place in voter turnout, just behind Switzerland and ahead of Mexico.

Because democracy depends on an informed and engaged electorate, low turnout is cause for concern. It is especially worrisome if particular segments of the population are becoming unconnected to the political process because then their concerns will be neglected by the government, creating a vicious cycle that will increasingly marginalize those groups from the rest of society.

Many factors contribute to the low turnout levels here, including the lack of interest in politics, skepticism about the importance of government, complacency about the state of the country, and the decline of political parties. One other significant deterrent to voting is the requirement that citizens register in advance of casting their ballot. Initiated in the early 1900s to prevent voting fraud, registration reduces the number of citizens eligible to participate in elections. In 2000, only 65 percent of the voting-age population was registered to vote.<sup>1</sup> In contrast, many of the countries with much higher turnout rates do not require registration at all because their federal governments keep lists of all their citizens.

Because many of the forces contributing to low turnout are require long term solutions, proposals aimed at trying to raise voting levels focus on the factor that can be most readily changed: the registration process. In its report on voter registration, the United States Census Bureau stated, "The key to voter turnout is registration, an important factor in the willingness and ability of citizens to vote."<sup>2</sup> Numerous studies over many years show that voter registration procedures present a barrier to voting and serve to diminish voter turnout in elections. Moreover, registration and hence turnout is disproportionately depressed among certain groups -- the poor, the less educated, the young, minorities, and people who move a great deal -- raising concerns that the democratic process will fail to adequately represent all citizens.

## Voter Registration Rates by Income: November 2000



*Source:* Reported Voting and Registration of Family Members, by Age and Family Income, US Census Bureau, February 27, 2002

But reforming the registration process is controversial, because some sort of mechanisms are needed to ensure that only eligible voters vote and that they vote where they are supposed to. Election administrators believe requiring registration in advance of a deadline well before the election itself is necessary in order to allow time to process information to make sure voter rolls are accurate. The challenge is to balance the need for upholding the one-person, one-vote principle while minimizing barriers that may discourage participation.

### **A Brief History of Voter Registration Legislation**

Congress passed the National Voting Rights Act (the “motor voter” bill) in 1993 to improve voter registration rates, primarily by requiring that state departments of motor vehicles and other public agencies distribute voter registration applications, and mandating that states allow voters to register by mail. The Federal Election Commission reports that motor voter has been successful in getting more people to register.<sup>3</sup> The Committee for the Study of the American Electorate reports the following registration rates:

#### Percentage of Voting Age Public Registered to Vote

<b>1994:</b>	61.8% <sup>4</sup>
<b>1996:</b>	67% <sup>5</sup>
<b>1998:</b>	64.6% <sup>6</sup>
<b>2000:</b>	65% <sup>7</sup>

In 1999-2000, 31 percent of registration applications were submitted by mail (over 14 million) and 38.1 percent (17.4 million) were through departments of motor vehicles.<sup>8</sup>

At the same time, the Federal Election Commission found that state agencies often violate provisions of motor voter. The commission found that state agencies failed to offer applications, provided faulty instructions, and delayed transferring the forms to elections administrators. In 2000, 23 of 44 states subject to the new voter registration law had “significant problems” with their motor vehicle registration programs. In 18 states, motor vehicle departments got registration information to election officials late, leading to voters being turned away at the polls.<sup>9</sup> The Department of Justice is suing a jurisdiction in Tennessee for creating excessively burdensome procedural requirements for driver's license applicants who also wanted to register to vote.<sup>10</sup> In Connecticut, the Spanish language form was not provided to motor vehicles customers.<sup>11</sup> A Harris poll showed that only 25 percent of people with disabilities were asked by a state service provider to fill out a registration application as the law requires.<sup>12</sup>

The U.S. Department of Justice has the authority to file suit against states whose public agencies and departments of motor vehicles do not carry out the provisions of the law. The Department has filed such cases in the past in California, Mississippi, Michigan, New York and Pennsylvania. Given the widespread reports of continuing failure of these agencies to perform the tasks required by the law, the Department must pursue more of these types of cases and enforce these laws more vigorously.

Some states have also taken their own measures to improve performance in this area, and some of these steps can be replicated in other jurisdictions. For example, as the Federal Election Commission reports,

Virginia has added a prompt to their system, which reminds DMV employees to ask a person if the person would like to apply to register to vote or to change their address for voter registration purposes. DMV has also begun to give each customer who registers to vote an acknowledgment that lets the customer know that they have applied to register to vote and that if they do not receive a voter card within 30 days to contact their local registrar or the State Board of Elections. In addition, DMV has begun retaining all unsigned applications for at least four years. This allows the DMV to verify whether or not an application was completed when an individual appears at a polling place believing they had registered to vote at a DMV office.<sup>13</sup>

Some opponents of motor voter blame the law itself for the enforcement problems because it puts the registration process beyond the control of localities and allows people to vote without having to show any proof of eligibility, identification, or place of residence. More of their objections relate to the list maintenance requirements of the Act. The registration law set stricter standards for purging voter registration rolls. It allowed registrars to remove registrants only for a narrow list of reasons; prohibited registrars from deleting registrations on the sole basis of extended nonparticipation in elections or on the basis of relocation within the jurisdiction; and required registrars to retain registrants who did not vote and did not respond to mailings on the list as inactive registrants for two general elections.<sup>14</sup> Administrators contend these requirements cause the rolls to include ineligible voters, leading to potential vote fraud.<sup>15</sup>

Yet even with the motor voter law in place, a third of the population is still not registered. So additional reforms have been proposed.

## ***Reform Proposals***

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### **Election Day Registration**

One plan for increasing voter participation is to allow eligible citizens to register and vote simultaneously on Election Day. The six states that allow people to register and vote at the same time on election day, and the state that has no voter registration at all, North Dakota, consistently have among the highest turnout rates in the country.<sup>16</sup> Four of the six states with voter turnouts at least 10% higher than the national average in the 2000 election had election day registration.<sup>17</sup> After implementing election day registration, those states experienced had a 3 percent to 6 percent increase in voter participation.<sup>18</sup> One other benefit of election day registration is to make participation easier for people who move to a new jurisdiction, especially those who do so after the cut-off date for registration.

Registration and Turnout in the 2000 General Election:<sup>19</sup>

	<b><u>Registration</u></b>	<b><u>Turnout</u></b> <sup>1</sup>
Election Day Registration States	88.8%	65.6%
Non-Election Day Registration States	77.3%	50.5%

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<sup>1</sup>Registration and turnout data are from the Federal Election Commission, "Voter Registration and Turnout 2000," and therefore reflect registration rates different than those reported from the U.S. Census and Committee for the Study of the American Electorate reports. For a more detailed explanation of these variations see the statement from the Federal Election Commission on this topic at <http://www.fec.gov/pages/vapwords.htm>

Opponents of Election Day registration argue it increases the opportunity for fraud. For example, voters can go from precinct to precinct registering to vote and voting. However, election administrators from the six Election Day registration states report they have not experienced much fraud. Moreover, measures can be taken to prevent it. For example, such fraud can be made a felony with stiff penalties and the criminal law vigorously enforced. Moreover, administrators can check for duplicate registrations. Election Day registration might actually reduce fraud by putting the registration process back into the hands of local administrators, as they have expressed the desire for. Finally, with the increased use of statewide computerized voter registration systems and reasonable in-person identification requirements, catching duplications will become simple, and fraud largely avoided.<sup>20</sup>

Implementing Election Day registration requires a greater investment of resources in poll site operations because of the extra work required to verify eligibility while enabling voters to cast their ballots at the same time.<sup>21</sup> On the other hand, the system greatly reduces the number of situations where voters are turned away because their registration applications were not been properly processed – one of the most prevalent problems in the 2000 presidential election.

### **Moving Registration Deadlines Closer to the Date of the Election**

As an alternative to Election Day registration, states can reduce the time between the registration deadline and Election Day. Indeed, the closing date of registration is one of the few voter registration provisions statistically shown to have a “consistent and significant relationship to turnout.”<sup>22</sup>

The level of public interest grows significantly as Election Day comes closer. For example, in 2000, while 62 percent of voters reported paying attention to the election in early October – when most deadlines are triggered – interest grew to between 70 percent and 75 percent thereafter.<sup>23</sup> Thus, it is likely that more people would vote if they could make themselves eligible to do so on the day of the election. Indeed, an analysis of the relationship between voter registration deadlines and turnout in the 1996 and 2000 elections demonstrated that states with deadlines closer to Election Day had higher turnouts.<sup>24</sup>

As is the case with Election Day registration, some election administrators are wary of reducing the amount of time they have to process registration materials. Handling new registrations, checking validity, and adding or deleting names from the voter lists are all time consuming and complex tasks for administrators. They are concerned they will not be able to complete their duties in time for the election if that time is reduced, and will particularly experience difficulty if there is a last minute rush of applications at the end of the registration period. Other administrators, however, doubt that there will be any late surge, and that with sufficient funding and personnel, a deadline closer to the election will be manageable.

### **Shifting the Financial Burden**

Whether the election is federal, state or local, it is administered at the local level. This means local jurisdictions are responsible for voter registration financially. They also determine how much effort should be made to promote registration. This leads to disparities in the efficiency of carrying out registration duties and levels of government involvement in attempting to improve the voter registration rate.

As a result, some proposals make more federal funds available for these efforts. The election reform bills passed by the House and the Senate (H.R. 3295 and S.565) provide grants for a number of activities, one of which is voter registration. Others have suggested creating a special postal rate for registration related materials. Intelligent use of these new resources by local election administrators for voter registration purposes would help reduce geographic divergences in the amount of emphasis placed on the need to register to vote.

### **Putting the Onus on the Government**

A more extensive reform proposal would completely shifting the burden for getting citizens to register to vote from citizens to the government. In the United States, citizens are entirely responsible to register to vote – he or she must actively seek out the application and submit it in time for the election, and often go through the process again each time the voter moves residences. Some suggest this burden should be shifted

to the government -- for example, by mailing voter registration forms to all eligible voters. A proponent of this approach, Burt Neuborne of NYU School of Law, says, "Every other democracy acknowledges an obligation on the part of the state to assemble the list of registered voters, either by imposing a duty to register to vote or by taking responsibility for assembling the lists. If Great Britain, Canada, France, and Germany assume the task of assembling lists of eligible voters, why shouldn't the United States adopt similar policies?"<sup>25</sup>

Election administrators will almost certainly object to such a move, citing accurately the administrative and financial costs of such an undertaking. Many also offer a philosophical argument against such measures, arguing that citizens who shirk the responsibility of making sure they are registered to vote do so by choice. Further, if they are not motivated enough to register, they are probably not motivated enough to reach informed judgments about who should serve in public office and perhaps ought not vote. That view assumes, though, that existing barriers to registration are minimal. Moreover, some might rebut that view as being counterproductive to the idea that we want as many people to participate as possible, regardless of their background, and that our democratic system is only weakened by a system in which only those who have the requisite ability and/or awareness to go through a complex administrative process participate. If registration were easier, they contend, increased interest in voting and public life in general might follow.

### **Use of the Internet**

Finally, some have proposed making greater use of the Internet by posting voter registration application forms prominently on government web sites. Surprisingly, not all states make the application available on-line, and in some jurisdictions, it is very difficult to find on web sites.

Michael Alvarez of the MIT/Caltech Voting Technology Project has offered California's system as a model. He testified before a senate committee,

California's "on-line" voter registration process allows for easy distribution of the voter registration forms. The system does not allow for truly "on-line" voter registration, as a paper-based signature is still required. When an eligible voter goes to the California "on-line" voter registration page... they are presented with a form that can be filled out and submitted to a central server. After filling in the form and a secondary on-line affidavit, the information submitted by the voter is printed and mailed to them on a return postage-paid card; the voter signs the card and sends the card to their county elections office. From July 2, 2000 through October 2, 2000, 38,331 forms were submitted through this system.<sup>26</sup>

### **Conclusion**

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The future for easing voter registration procedures is difficult to decipher. The bills in Congress do not order specific action in this regard -- in fact, the Senate bill arguably makes voter registration more difficult by making people who register to vote for the first time by mail present identification. Grant money can be used for voter registration activities. Meanwhile, at the state level, which is where control over the registration process really lies, most reform has been aimed at improving list maintenance and implementing statewide voter registration systems. Reform of voter registration requirements is therefore only likely to come when the voting public realizes how many are being effectively disenfranchised by burdensome administrative obstacles.

### **ENDNOTES**

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1. Committee for the Study of the American Electorate, "Mobilization Propels Modest Turnout Increase, GOP Out organizes Democrats, Registration Lower, Parties in Trouble, Reforms Fail to Boost Turnout," press release, August 30, 2000

2. Ibid., p.4

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3. Federal Election Commission, *The Impact of the National Voter Registration Act on Federal Elections 1995-1996*, June 1997; Federal Election Commission, *The Impact of the National Voter Registration Act on Federal Elections 1999-2000*
  4. Committee for the Study of the American Electorate, "Final Post Election Report," February 9, 1999, p. 8
  5. Committee for the Study of the American Electorate, "Voter Registration Flat, Primary Turnout Low, Low Turnout Held Likely," press release, November 2, 2000
  6. Committee for the Study of the American Electorate, "Final Post Election Report," February 9, 1999, p. 8
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  8. Federal Election Commission, "The Impact of the National Voter Registration Act on Federal Election 1999-2000," A Report to the 107<sup>th</sup> Congress, June 2001, p. 16
  9. *Ibid.*, p. 20
  10. Thomas B. Edsall, "Justice Department Urged to Widen Probe," *Washington Post*, May 24, 2002, p. A3
  11. Sharon Theimer, "Big problems with 'motor voter' registration, states report," *Associated Press*, June 23, 2001
  12. Federal Election Commission, "The Impact of the National Voter Registration Act on Federal Election 1999-2000," A Report to the 107<sup>th</sup> Congress, June 2001, p.24
  13. Federal Election Commission, "The Impact of the National Voter Registration Act on Federal Election 1999-2000," A Report to the 107<sup>th</sup> Congress, June 2001, p.22
  14. Mark Hansen, "To Assure Pride and Confidence in the Electoral Process," Task Force on the Federal Election System, National Commission on Federal Election Reform, p. 11
  15. Testimony of Deborah M. Phillips, Chair, The Voting Integrity Project, before the United States Senate Committee on Governmental Affairs, May 3, 2001
  16. Sarah Tobias and David Callahan, "Expanding the Vote: The Practice and Promise of Election Day Registration," Demos, January 2002, p. 10
  17. *Ibid.*, p. 10
  18. Michael Alvarez and Stephen Ansolabehere, "California Votes: The Promise of Election Day Registration," Demos, 2002, p. 5
  19. *Ibid.*, p. 12
  20. *Ibid.*, pp. 14-15
  21. Sarah Tobias and David Callahan, "Expanding the Vote: The Practice and Promise of Election Day Registration," Demos, January 2002, pp. 14-16
  22. Ruy A. Teixeira, "The Disappearing American Voter," The Brookings Institution, 1992, p. 110
  23. Sarah Tobias and David Callahan, "Expanding the Vote: The Practice and Promise of Election Day Registration," Demos, January 2002, p. 7
  24. *Ibid.*
  25. Burt Neuborne, "Reclaiming Democracy," *The American Prospect*. March 12, 2001-March 26, 2001
  26. Testimony of R. Michael Alvarez, CalTech/MIT Voting Technology Project, before the United States Senate Committee on Governmental Affairs, May 3, 2001