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VOTING REFORM- ADDRESSING DEMOCRACY'S BASICS

Although the model for democracies around the world, the United States is infamous for its low voter participation – 58% of eligible voters in 2016. Turnout has only exceeded 60% three times in the twentieth century – so this is not a new problem.¹ Australia and Belgium have compulsory voting and a 95% turnout rate. But many other democracies, such as Germany, have turnout in the 80+ percent range without compulsory voting.

Cultural vs. Structural Obstacles

As with any collective human action, culture unquestionably plays a big part in voter participation. Voting is both a privilege and a duty. Age, income and education have a pronounced correlation with voting in the US. Voters tend to be older, whiter, wealthier and more educated. Notably, this isn't true worldwide.

To vote, citizens have to believe their vote has an effect – and a positive effect. There are some structural discouragements in our system. The US is somewhat unique in its extensive use of negative campaigning with resulting voter fatigue. The US Electoral College system and the two senators per state make it more meaningful to vote in Wyoming than California. Lack of input on nominees, ideological extremism, money in politics and gerrymandering further corrode faith in the US electoral system.

Equally significantly, after the 2010 election, Republican state lawmakers, after asserting their new power, started introducing hundreds of harsh measures making it harder to vote. The new laws range from strict photo ID requirements to early voting cutbacks to registration restrictions.

Overall, 25 states have put in place new restrictions since then - 14 states have more restrictive voter ID laws in place (and six states have strict photo ID requirements), 12 have laws making it harder for citizens to register, seven cut back on early voting opportunities, and three made it harder to restore voting rights for people with past criminal convictions.

In 2016, 14 states had new voting restrictions in place for the first time in a presidential election. Those 14 states were: Alabama, Arizona, Indiana, Kansas, Mississippi, Nebraska, New Hampshire, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

In 2017, Arkansas and North Dakota passed voter ID bills. In North Dakota, this law basically disenfranchised Native Americans, because it required a street address for all voters, and Native Americans on reservations by and large do not have street addresses. Missouri, Texas, Georgia,

¹ Bipartisan Policy Center, U.S. Elections Project, Wikipedia

Iowa, Indiana and New Hampshire also enacted restrictions in 2016. In 2018, Arkansas, Indiana, Montana, New Hampshire, North Carolina, and Wisconsin enacted new restrictions.

The intent and result of all of these restrictions is to make it more difficult for large numbers of Americans to vote.

Habit, family traditions and faith in government also play a role and can't be legislated or reformed into existence. However, there are a number of reforms that could both remove current obstacles to voting and – hopefully – over time deepen participation in democracy in the US.

These include:

- Equalizing access to voting across all demographic groups
- Streamlining registration and voting
- Assuring the security of each vote

Of course, all the pieces of potential political reform build on each other and the system will never be perfect. Here we focus on removing obstacles to completing a vote – a basic building block. These include three areas of attention which are detailed in the following paragraphs.

Who Doesn't Want More Voting?

Voting restriction has a bipartisan history. Prior to the 1965 Voting Rights Act, southern Democrats led efforts to restrict African American access to the ballot. In recent years voting restriction in the name of eliminating voter fraud has been led by Republican-controlled statehouses and the infamous, short-lived voter fraud commission (President Trump). Most fraud claims are baseless² but any well-constructed voting reform has to account for the need to prove eligibility to vote in a non-discriminatory fashion.

Equalizing Access to Voting Across All Voting Groups

African American, Latino, lower income and younger citizens vote at lower rates than older white voters. Cultural? To some degree yes but some citizens have more access to voting than others. Here are recommendations to improve access by all:

1. Restore full effect of the 1965 Voting Rights Act

- The Act was passed to prevent state and local governments from taking actions that would deny equal access based on race (Section 5).
- The Act included a critical provision that required states with a history of racial discrimination to obtain pre-approval of any changes in voting processes.
- In 2013 the Supreme Court (*Shelby County v. Holder*) overturned this provision and since that time, the states covered by Section 5 and others (25 in total) have put new voting restrictions in place – requiring ID, limiting registration, and closing or eliminating polling places in certain neighborhoods.
- Multiple bills have been introduced in Congress to restore “teeth” to the Voting Rights Act.

² <https://www.brennancenter.org/issues/voter-fraud>

- As noted above, a number of states have taken advantage of the withdrawal of Justice Department oversight to restrict access. However, 12 other states have taken steps to improve access.³ (For example, New York State just passed laws that enable both early voting, preregistration of 16- and 17-year olds, and consolidation of state and federal primaries.)

2. Provide Voting Rights for Felons

- In 2016, an estimated 6.1 million citizens (2.5% of the voting age population) could not vote due to a previous felony conviction.
- Black Americans of voting age are more than four times as likely to lose their voting rights as the rest of the adult population, with one of every 13 black adults disenfranchised nationally, according to The Sentencing Project.
- An estimated 2.2 million black citizens are barred from voting in total.⁴

3. Eliminate Inaccurate Voter Purges

- Voting in two places or when not registered are legitimate concerns of the voter fraud watchdogs.
- However, most of the 12 million voters purged from the voter rolls between 2006 and 2008⁵ were purged through a highly flawed system – Crosscheck, managed by Trump voter fraud commissioner Kris Koback of Kansas. The Electronic Registration Information Center, or ERIC, was created in 2012 by Pew Charitable Trust and IBM. It uses more data points to compare voter information, producing far more reliable results than Crosscheck. But, just as important, it is also far more secure than Crosscheck.⁶
- National Automatic Voter Registration also could improve accuracy.
- Inaccurate purges likely have the greatest impact on infrequent voters and voters more likely to have changed residence (young people and renters)

Streamline Registration and Voting

The US has a two-part voting system (primaries and general elections) with different provisions in each state. In every state except North Dakota, voters have to be registered to vote. Neither registration nor voting is mandatory, national or protected by the Constitution – as it is in some other countries. Historically – although this is evolving - the US has had voting on one mid-week day. There are many opportunities to improve the structural obstacles to registration and voting without incurring greater risk of fraud. Some of these opportunities are detailed below.

1. Automatic Voter Registration and Same Day Registration

- Automatic Voter Registration (AVR) registers voters in any state interaction (such as interacting with the Department of Motor Vehicles) in which they show ID unless they specifically ask not to be registered (opt out).

³ <https://www.brennancenter.org/analysis/voting-laws-roundup-2018>

⁴ Business Insider – Jan. 3, 2018

⁵ <https://www.brennancenter.org/blog/how-purges-threaten-disenfranchise-voters-under-radar>

⁶ The Nation, Russ Feingold, February 2, 2018

- As voters move within the state, their registration moves with them.
- AVR not only increases access but is cheaper and more accurate.
- Seventeen states will have AVR by 2020 and national AVR has been considered.
- Same day registration allows voters to register at the same time they vote. Their vote is provisional until their registration is checked.
- Making registration invisible (AVR) or bringing it more in line with voting, reduces one major obstacle to voting.
- Many countries have mandatory registration at 18.

2. National Pre-Registration

- Citizens have to be 18 to vote, but in some states they can pre-register at as young as 16.
- Then they are automatically registered as of their 18th birthday.
- Given the current low participation of younger voters, this is recommended.

3. Early Voting

- Fairly self-explanatory but, proponents argue, early voting relieves pressure to get to a potentially crowded polling place on a single election day.
- Critics argue that early voting adds to the cost of elections and locks in voter decisions with potentially incomplete information.
- Thirty-eight states (including three that mail ballots to all voters) and the District of Columbia allow early voting.

4. Access to Polling Places

- This is largely a local decision but in the most recent mid-term election, the trend of closing polling places in poorer neighborhoods continued.
- If the Voting Rights Act, Section 5 were re-vitalized, this could be more closely monitored and policed.

5. Making Election Day a National Holiday or Weekend Voting

- By making Election Day a national holiday or by staging weekend voting, as is practiced in most countries, voters would find it much easier to get to the polls and the conflict between working and voting would be resolved.

Assuring the Security of Each Vote

Foreign hacking of US elections made headlines in the 2016 elections. Much of the US election machinery is vulnerable to hacking. In addition (see Florida and Georgia in 2018), vote counting inconsistencies in some states leave voters skeptical that their vote will count. The United States is the leader in technology, but we have a voting system that relies on outdated and inefficient technology that leaves our country subject to attack and undermines the confidence of votes cast.

After the controversy surrounding the Bush v. Gore Presidential election, Congress passed the Help America Vote Act (HAVA). The Act included funding for more secure voting machines, establishment of a continuing Elections Assistance Commission (EAC) and other measures to upgrade standards.

There was a burst of voting machine replacement at the time of the Act, but many polling places continue to use unsecure voting equipment and processes for protecting registration information and counting votes remain inadequate in many states. Also the EAC has stagnated with little enforcement of the Act or election best practices.

The steps to make elections secure are fairly straightforward and should be a bipartisan layup.

1. Fund the Purchase of Appropriate Machines

- A number of states are using machines that are more than 10 years old.
- The Diebold machines still in use in many states are notoriously unreliable and subject to hacking.
- Additionally, they don't produce a paper ballot – needed for auditing vote counts.
- In theory it should be federally funded (as new machines were in the original HAVA), but some states are satisfied with current machines so it will take some horse trading.

2. HAVA states now have statewide registration systems but many are out of date and susceptible to hacking

- Some states have registration lists on personal computers running out-of-date software.

3. Reinvigorate the “Zombie” EAC

- The EAC is rated 27th out of 28 small federal government committees.
- Commissioners have over-stayed terms and/or not been replaced.⁷
- States need guidance, training and best practices for poll worker training, ballot design and vote counting processes

Conclusion

We believe voting reform is essential to the improvement of our election systems. Obstacles to voting need to be removed. People have the right to vote. All citizens should have equal access to voting. Registration should be made easier and preferably automatic. Early voting is essential for people who travel or have work restrictions. Election day should either be a national holiday or moved to a weekend. The security of our voting systems needs to be improved, so that voters do not have to worry about fraud or hacking.

The United States is the largest democracy and the richest country in the world, but our government makes voting extremely difficult and does not spend the money needed to ensure the security of the process. We believe our country deserves better than the current system.

⁷ <https://publicintegrity.org/federal-politics/a-dubious-anniversary-for-the-federal-election-commission/>