

Protecting Poor People’s Right to Vote: Fully Implementing Public Assistance Provisions of the National Voter Registration Act

BY ANDREW M. FLEISCHMANN

Imagine a country with a separate voter registration system for poor people. A country that neglects this registration system for the poor so severely that in most areas fewer than one out of ten unregistered citizens actually use it. A country that so disregards the plight of its low-income citizens that their disenfranchisement—and the attendant political disregard for the needs of the poor—is rarely, if ever, reported.

If you are an American citizen, look around—it’s your country.

It wasn’t supposed to be this way. When Congress passed the National Voter Registration Act of 1993 (NVRA, P.L. 103–31), its goals were to “increase the number of eligible citizens who register to vote in elections for Federal office” and “protect the integrity of the electoral process.”¹

The most familiar section of the NVRA required states to establish a simple mechanism for voter reg-

istration at the motor vehicle department—which is how the statute acquired its “motor voter” moniker. Under the law, states had to establish a system to allow information submitted for a driver’s license application to serve simultaneously as voter registration information if an applicant indicated a desire to register. The law also mandated that states create new mail-in voter registration forms.

Less widely known is Section 7 of the act, which required states to designate all offices that provide public assistance—such as Food Stamps, Medicaid, Temporary Aid to Needy Families (TANF), and Women Infant and Children’s (WIC) benefits—as voter registration agencies. With each application for assistance, states must offer a form that includes the question, “If you are not registered to vote where you live now, would you like to apply to register to vote here today?” States must also include a voter registration

form with each application, so that if a person answers yes to the registration question he or she can immediately register. Finally, state workers are required to give each applicant who decides to register “the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to completion of its own forms.”²

Congress included these requirements for a simple reason: the poor are less likely to have a driver’s license and would therefore be automatically underrepresented in a system that focused exclusively on motor vehicle departments. Minority, female, urban, and low-income citizens are among those least likely to own cars and most likely to frequently change addresses. Indeed, Census Bureau data from 2000 shows that African Americans were 14 percent less likely to have registered at a DMV than whites; Hispanics were 25 percent less likely, and Asian and

Pacific Islanders 37 percent less likely.³

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A number of states initially resisted implementing a variety of the NVRA mandates, citing undue costs and challenging the federal government's authority to impose such registration requirements. The courts struck down these state challenges, citing the constitutional authority of Congress to regulate elections and voter registration.⁴

With the courts striking down challenges, many states appear to have made some initial, good-faith efforts to effect the agency registration provisions. But such efforts soon dwindled. The NVRA required the Federal Election Commission (FEC) to report biennially to Congress on the impact of the act, and these reports show a striking trend. In 1995–96, registration applications received at agency sites represented 11.07 percent of

total applications submitted during the period. By 1997–98, the figure had dropped to 8.22 percent; in 1999–2000 it was 7.58 percent; and in 2001–02 5.83 percent.⁵

These numbers look far worse when viewed in the context of how many people apply for public assistance benefits. In 2001–02, for example, those who registered to vote at a public assistance agency represented fewer than 6 percent of those applying for Food Stamps nationwide. Several factors indicate that even this low number overstates the percentage of applicants who register: NVRA covers all those who seek to renew benefits or change address as well as those who first apply; many people who do not apply for Food Stamps do apply for other benefits; and if the six states that have exceeded the 15 percent level are removed from the mix, the remaining states average fewer than 4 percent of Food Stamp applicants registered.⁶

The implication of these figures for our democracy is deeply troubling. Today, more than three-quarters of all citizens in households earning over \$75,000 are registered to vote, but less than half of citizens in households earning under \$15,000 are regis-

tered. Registration rates are also greatly imbalanced along racial lines; though 72 percent of whites are registered, only 68 percent of African Americans, 57 percent of Latinos, and 52 percent of Asian and Pacific Islanders are currently registered.⁷

These numbers are even more disturbing when one considers that, once registered, an overwhelming majority of Americans do vote—more than 80 percent overall.⁸ Failure to register is the single greatest impediment to voting, and failure of states to implement fully the NVRA's agency-based mandates makes low-income people far less likely to register.

Why have states done such an inadequate job of implementing the public assistance requirements of the law? A number of factors appear to have come into play:

- Many state welfare agencies endured major cuts over the past decade, worsening the ratio between state workers and clients. In trying to handle the growing caseload, many caseworkers may have ceased making sure that applicants responded to the NVRA-required voter registration question.
- Federal and state welfare reforms—which included both

stricter application guidelines and new time limits—further increased the workload for busy caseworkers.

- Prior to 1993, voter registration was not a part of the mission of social service agencies. Many state agencies appear not to have accepted registration as a mandate that is as serious or urgent as those relating to welfare benefits.
- Although voter registration is not difficult, workers who are properly trained handle it best. Few states, however, have set up a system for ongoing education and training on voter registration for their welfare department employees.

A coalition of nonpartisan, non-profit organizations have come together this summer in an effort to address these issues. Led by Demos and Project Vote, the NVRA Implementation Coalition is working to craft both short-term and long-term solutions to states' difficulties in implementing agency registration provisions.⁹

In the short run, the coalition is undertaking simple, straightforward steps. We are bringing the NVRA mandates to the attention of state officials (governors and secretaries of state). We are producing a manual that has a clear set of steps

toward quick implementation, starting with creation of an NVRA team with leadership from gubernatorial staff. We are encouraging teams to target large cities and counties where improvements will have the most significant, immediate impact. We are offering free consulting and support services to the states to help achieve real results prior to this year's registration deadlines.

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In the long run, the coalition is seeking to have all states move toward the best practices of successful states such as Nevada and South Dakota. These practices include:

- Making voter registration part of the core mission of public assistance agencies
- Clear designation of responsibility for implementation and monitoring of voter registration activities
- Comprehensive, ongoing training of personnel in voter registration

- Clear public notice of agency-based registration work
- Streamlined voter registration application procedures
- Timely transmission of applications to registration officials

When states first established voter registration systems more than a century ago, it was largely in response to a massive new influx of immigrants. Publicly, elected officials and nativist groups cited concern that the newcomers would be susceptible to corrupt election practices. Privately, the fear that populous, poor immigrant neighborhoods would be hard to control politically—and might somehow undermine the nation's Anglo-Saxon traditions—drove the new effort to restrict access to the polls.¹⁰

Today, one would be challenged to find any American who publicly admits to favoring a system that makes it difficult for poor people to register and vote. Yet we live in an era that has witnessed federal tax and budget policies that consistently give more to the “have-a-lots,” while reducing assistance to the have-nots. We still have a voter registration system that, as currently administered, creates a vast disparity between the political influence of the rich and the poor.

This parallelism is not coincidental. For any American concerned about social justice, ensuring that low-income citizens have the opportunity to register and vote must be a priority. Promoting full implementation of the NVRA's public assistance provisions is the right place to start.

NOTES

1. National Voter Registration Act of 1993 (NVRA), Public Law 103-31, May 20, 1993, 103rd Congress, Section 2(b).
2. NVRA, Section 7(a).
3. "Voting and Registration in the Election of November 2000." U.S. Census Bureau Current Population Report P20-542. This report and other detailed data on Americans' voting behavior are available at <http://www.census.gov/population/www/socdemo/voting.html>.
4. In *Acorn v. Miller*, 129 F.3d 833 (6th Circuit 1997, Michigan); *Voting Rights Coalition v. Wilson*, 60 F.3d 1411 (9th Circuit 1995, California); and *Acorn v. Edgar*, 56 F.3d 791 (7th Cir. 1995, Illinois), appellate courts interpreted congressional authority over voter registration as paramount, citing the Constitution's Elections Clause (Article I, Section 4, Clause 1) as the source of such authority. For a clear, concise explication of these and related decisions, see "Elections: The Scope of Congressional Authority in Election Administration." (GAO Report to the Congress.) Washington, D.C.: U.S. General Accounting Office, Mar. 2001.
5. Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1995-1996, 1997-1998, 1999-2000, 2001-2002. Reports to the 105th, 106th, 107th, and 108th Congresses, published 1997, 1999, 2001, and 2003, respectively, by the Federal Election Commission, Washington, D.C.
6. Data are derived using voter registration data from Federal Election Commission NVRA reports (see note 5) for the numerators and state-by-state USDA Food Stamp data (<http://www.fns.usda.gov/pd/fsfypart.htm>) as the denominators.
7. As in note 3. "Voting and Registration in the Election of November, 2000." U.S. Census Bureau Current Population Report P20-542, n.d. (<http://www.census.gov/population/www/socdemo/voting.html>).
8. "Voting and Registration . . ." (n.d.).
9. Demos is a nonpartisan, nonprofit organization dedicated to building an inclusive democracy with a high level of electoral participation and civic engagement. Project Vote is also a nonpartisan nonprofit that, through fieldwork and advocacy, seeks to lower the barriers to civic participation. Other coalition partners are ACORN, the Center for Law and Social Policy (CLASP), the Food Research and Action Center, the Lawyers' Committee for Civil Rights Under Law, the League of Women Voters, People for the American Way, and Working Assets.
10. Keyssar, A. *The Right to Vote: The Contested History of Democracy in the United States*. New York: Basic Books, 2000; see especially chapter 5, pp. 128-141. See also Higham, J. *Strangers in the Land: Patterns of American Nativism 1860-1925*. New York: Atheneum, 1963, especially pp. 87-97.

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