

The case for universal voting: Why making voting a duty would enhance our elections and improve our government

By William A. Galston and E. J. Dionne, Jr.

INTRODUCTION



William A. Galston is a senior fellow and the Ezra K. Zilkha Chair in Governance Studies at the Brookings Institution.

When we receive a summons for jury duty, we are required to present ourselves at the court. Should we treat showing up at the polls in elections the same way? Although the idea seems vaguely un-American, it is neither unusual, nor undemocratic, nor unconstitutional. And it would ease the intense partisan polarization that weakens both our capacity for self-government and public trust in our governing institutions.

It is easy to dismiss this idea as rooted in a form of coercion that is incompatible with our individualistic and often libertarian political culture. But consider Australia, whose political culture may be as similar to that of the United States as the culture of any other democracy in the world.

THE AUSTRALIAN SOLUTION

Alarmed by a decline in voter turnout to less than 60 percent in the early 1920s,¹ Australia adopted a law in 1924 requiring all citizens to present themselves at the polling place on Election Day.² (This is often referred to as mandatory voting, although Australian voters are not required to cast marked ballots.)³ Enforcing the law were small fines (roughly the same as for routine traffic tickets), which increased with repeated acts of nonparticipation. The law established permissible reasons for not voting, such as illness and foreign travel, and procedures allowing citizens facing fines for not voting



E.J. Dionne Jr. is a senior fellow and the W. Averell Harriman Chair in Governance Studies at the Brookings Institution.

¹ Tim Evans, "Compulsory Voting in Australia," *Australian Electoral Commission*, Jan. 16, 2006, updated Feb. 14, 2006, http://www.aec.gov.au/about_aec/Publications/voting/files/compulsory-voting.pdf, p.5.

² Scott Bennett, "Compulsory Voting is Australian National Elections," *Department of Parliamentary Services*, Nov. 31, 2005, <http://apo.org.au/files/Resource/06rb06.pdf>, p. 6.

³ Under the *Commonwealth Electoral Act* of 1918, the actual duty of the elector is to attend a polling place, have their name marked off a certified list, receive a ballot paper and take it to an individual voting booth, where they must mark ballot paper, fold it, and place it in the ballot box. Due to the secrecy of the ballot, however, it is not possible to determine whether a person has completed their ballot prior to placing it in the ballot box (Evans, 4).

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to defend themselves in court.⁴ It also required citizens to register to vote (much as the United States has draft registration) and the Australian authorities have created systems to make registration easy.⁵

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It is hard to doubt that there is a causal connection between the law and the large change in Australians' voting behavior. And there is additional evidence from the Netherlands, which operated under similar legislation from 1946 to 1967. During that time, turnout averaged 95 percent. After the Netherlands repealed this law, turnout has fallen to an average of 80 percent.⁸

The impact of such laws can extend well beyond the act of voting. In Australia, citizens are more likely than they were before the law was passed to view voting as a civic obligation.⁹ This norm helps explain why the negative side effects that many feared did not materialize. For example, the percentage of ballots intentionally spoiled, left blank, or randomly completed as acts of resistance has remained quite low.¹⁰ The Australian experience suggests that when citizens know that they are required to vote, they take this obligation seriously. Their sense of civic duty makes them reluctant to cast uninformed ballots and inclines them to learn at least the basics about issues, parties and candidates.

WHY THE AUSTRALIAN MODEL MAKES SENSE FOR DEMOCRACIES—INCLUDING OURS

The most straightforward argument for near-universal voting is democratic. Ideally, a democracy will take into account the interests and views of all citizens so that its decisions represent the will of the entire people. If some regularly vote while others do not, elected officials are likely to give less weight to the interests and views of non-participants.

In practice, this might not matter much if non-voters were evenly distributed through the population, so that voters were a microcosm of the people. But that is not the case: in the United States, citizens with lower levels of income and education are less likely to vote, as are young adults¹¹ and recent immigrants.¹²

⁴ Bennett, p. 7.

⁵ Katie Beck, "Australia election: Why is voting compulsory," *BBC News*, Aug. 27, 2013, <http://www.bbc.com/news/world-asia-23810381>.

⁶ Evans, p. 5

⁷ "Voter Turnout Data for Australia (Parliamentary)," *International Institute for Democracy and Electoral Assistance*, Oct. 5, 2013, <http://www.idea.int/vt/countryview.cfm?id=15>.

⁸ "Voter Turnout Data for Netherlands (Parliamentary)," *International Institute for Democracy and Electoral Assistance*, Jan. 21, 2013, <http://www.idea.int/vt/countryview.cfm?id=164>.

⁹ Bennett, p. 1.

¹⁰ *Ibid.*, pp. 19-20.

¹¹ "Nonvoters: Who They Are, What They Think," *Pew Research Center for the People and the Press*, Nov. 1, 2012, <http://www.people-press.org/2012/11/01/nonvoters-who-they-are-what-they-think/>, p. 2.

¹² Tova Andrea Wang, "Expanding Citizenship: Immigrants and the vote," *Journal of Democracy* (Spring 2013): <http://www.democracyjournal.org/28/expanding-citizenship-immigrants-and-the-vote.php?page=all>.

Changes in our political system have magnified these disparities. The decline of formal political organizations, including political machines, has reduced mobilizing efforts that were often year-round propositions and frequently gave life to political clubs that served as centers of sociability as well as electoral action. The sharp drop in union membership since the 1950s¹³ has further eroded connections between citizens of modest means and lower levels of formal education to electoral politics. In their heyday, national civic institutions organized along federal lines performed these functions as well, but they too have undergone a relentless decline.¹⁴

These factors were partly offset by a democratization of the electorate through the Voting Rights Act of 1965 that empowered African Americans, particularly in the South, and by the 26th Amendment to the Constitution that lowered the voting age to 18 throughout the country in 1971. But with the exception of a few states that provided for registration on Election Day itself, the inclusion of younger voters into the electorate was not matched by changes in voter registration laws to make it easier for younger Americans, who tend to change residencies more frequently than their elders, to be included on the voter rolls.¹⁵ As it is, registration rules are biased in favor of those with relatively stable residential patterns.

The combination of the decline in political mobilization and the rise of a younger electorate mean that turnout in presidential elections has fallen off since the 1950s. As measured against the voting age population, turnout in 1952 hit 63.3 percent, fell slightly to 60.6 percent in 1956 and rebounded to 62.77 percent in the Kennedy-Nixon election of 1960. The last time turnout topped 60 percent was 1968. The drop between 1968 and 1972, after the enfranchisement of all 18 year olds, was especially sharp—from 60.84 percent to 55.21 percent. The highest turnout since then (58.23 percent) came with the Obama mobilization efforts in 2008, but even this number was lower than the turnout figures between 1952 and 1964. And turnout fell off again in 2012, to 54.87 percent.¹⁶

Universal voting would help fill the vacuum in participation by evening out disparities stemming from income, education, and age. It would enhance our system's ability to represent all our citizens and give states and localities incentives to lower, not raise, procedural barriers to the full and equal participation of each citizen in the electoral process. If citizens had a legal obligation to vote, managers of our electoral process would in turn have an obligation to make it as simple as possible for voters to discharge this duty. The weakening of the Voting Rights Act by the Supreme Court has allowed many states to impose new requirements on voters and to cut back on early and

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¹³ Steven Greenhouse, "Union Membership in U.S. Fell to a 70-Year Low Last Year," *New York Times*, Jan. 21, 2011, http://www.nytimes.com/2011/01/22/business/22union.html?_r=0.

¹⁴ Martin P. Wattenberg, *Where Have all the Voters Gone?* (Harvard University Press, 2002), pp. 55-56.

¹⁵ Erin Ferns Lee, "Enfranchising America's Youth," *Project Vote*, May 2014, <http://www.projectvote.org/images/publications/Youth%20Voting/POLICY-PAPER-Enfranchising-Americas-Youth-May-9-2014.pdf>, p.3.

¹⁶ "Voter Turnout in Presidential Elections: 1828-2012," *The American Presidency Project*, <http://www.presidency.ucsb.edu/data/turnout.php>.

Sunday voting. Universal voting would change the presumptions in favor of broad democratic participation and put states on the side of promoting that goal.

It would also improve electoral competition. Campaigns could devote far less money to costly, labor-intensive get-out-the-vote efforts. Media consultants would not have an incentive to drive down turnout with negative advertising (even though such advertising would no doubt remain part of their repertoire).¹⁷ Candidates would know that they had to do more than appeal to their respective bases with harshly divisive rhetoric and an emphasis on hot-button issues.

This brings us to a benefit of universal voting that goes to the heart of our current ills. Along with many other factors, our low turnout rate pushes American politics toward hyper-polarization. Intense partisans are more likely to participate in lower-turnout elections while those who are less ideologically committed and less fervent about specific issues are more likely to stay home.¹⁸ Although responding to strong sentiments is an important feature of sustainable democratic institutions, our elections tilt much too far in that direction.

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A structural feature of our system—elections that are quadrennial for president but biennial for the House of Representatives—magnifies these ills. It is bad enough less than three-fifths of the electorate turns out to determine the next president, much worse that roughly two-fifths participate in midterm elections two years later.¹⁹ As Republicans found in 2006 and Democrats in 2010 and 2014, when intervening events energize one part of the political spectrum while disheartening the other, a relatively small portion of the electorate can shift the

balance of power out of proportion to its numbers. And with the rise of the Obama Coalition, the midterm electorate is decidedly older and less diverse than the electorate in Presidential years.²⁰ The vast difference between these two electorates has enshrined new forms of conflict in an already polarized political system.

Bringing less partisan voters into the electorate would reduce this instability, and it would offer parties and candidates new challenges and opportunities. The balance of electoral activities would shift from the mobilization of highly committed voters toward the persuasion of the less committed. Candidates unwilling or unable to engage in persuasion would be more likely to lose. If political rhetoric cooled a bit, the intensity of polarization would diminish, improving the prospects for post-election compromise. Rather than focusing on symbolic gestures whose principal purpose is to agitate partisans, Congress might have much stronger incentives to take on serious issues and solve problems. To pick up a term of the moment, universal voting might combat the “Trumpification” of politics.

The electorate that turns out is not representative of the country as a whole. After the election of 2014, the Public Religion Research Institute (PRRI) re-interviewed 1,339 respondents who had been contacted in a pre-election

¹⁷ Jonathan W. Moody, “Nature vs. Nurture in Negative Campaigning: Examining the Role of Candidate Traits and the Campaign Environment in Negative Advertising,” *American Political Science Association*, 2012, <http://search.ebscohost.com/login.aspx?direct=true&db=poh&AN=94796745&site=ehost-live>. pp. 1-25.

¹⁸ “The Party of Nonvoters,” *Pew Research Center*, Oct. 31, 2014, <http://www.people-press.org/2014/10/31/the-party-of-nonvoters-2/>.

¹⁹ “Voter Turnout,” *Fairvote*, <http://www.fairvote.org/research-and-analysis/voter-turnout/>.

²⁰ Ronald Brownstein, “The Great Midterm Divide,” *The Atlantic*. Oct. 14, 2014. <http://www.theatlantic.com/magazine/archive/2014/11/the-great-midterm-divide/380784/>.

survey. The post-election poll found that Hispanic voters comprised 8 percent of midterm voters but 22 percent of non-voters.²¹ Millennials, those of ages 18-to-34, made up 17 percent of voters – and 47 percent of non-voters. Those earning less than \$30,000 a year accounted for 26 percent of voters and 44 percent of non-voters.²²

And the underrepresentation of middle-of-the-road voters was brought home by both the PRRI survey and a Pew Research Center study of the 2012 electorate. In the PRRI study, independents accounted for 33 percent of voters but 42 percent of non-voters. Moderates accounted for 31 percent of voters but 38 percent of non-voters.²³ Based on the turnout model of the 2012 Pew pre-election study, independents made up 27 percent of likely voters but 44 percent of non-voters; moderates accounted for 34 percent of likely voters but 38 percent of non-voters.²⁴ A republic governed under a Constitution that begins with the words “We the people” should want an electorate as broadly representative of the people as possible.

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There is a final reason for the country to embrace universal voting, and it may be the most compelling: democracy cannot be strong if citizenship is weak. And right now, citizenship in America is radically unbalanced: it is strong on rights but weak on responsibilities. With the abolition of the universal draft, citizens are asked to pay their taxes and obey the law— and show up for jury duty when summoned. That’s about it. Making voting universal would begin to right the balance. And it would send an important message: we all have the duty to help shape the country that has given us so much.

William F. Buckley Jr., who can fairly be thought of as the founder of contemporary American conservatism, wrote a book in 1990 called *Gratitude: Reflections on What We Owe to Our Country*. Gratitude is personal, but as Buckley made clear, it is also civic, and it is a disposition that transcends ideology. Participation in self-rule is an expression of gratitude for the freedom we have to govern ourselves.²⁵

A NOTE ON “UNIVERSAL” VERSUS “COMPULSORY”

We use the phrase “universal voting” rather than “compulsory voting” not as a verbal dodge but as an expression of the purpose of our proposal. The standard word used for the Australian voting requirement and others like it is “compulsory” and we certainly do not deny the fact that enshrining the obligation to vote into law and levying a modest fine against those who do not is a form of compulsion. But it is much closer to a nudge than to rank coercion. Voters can accept the fine without disrupting their lives.

²¹ Daniel Cox, Robert P. Jones, and Juhem Navarro-Rivera, “What Motivated Voters during the Midterm Elections? 2014 Post-election American Values Survey,” *Public Religion Research Institute*, Nov. 12, 2014, <http://publicreligion.org/site/wp-content/uploads/2014/11/Post-Election-AVS-FINAL-no-bleeds.pdf>. p. 3.

²² E.J. Dionne, Jr. and Elizabeth Thom, “What the Non-Voters Decided,” *The Brookings Institution*, <http://www.brookings.edu/blogs/fixgov/posts/2014/12/01-non-voters-decide-midterm-elections-dionne-thom>.

²³ Ibid.

²⁴ “Nonvoters: Who They Are, What They Think,” p. 1.

²⁵ William F. Buckley Jr., *Gratitude: Reflections on What We Owe to Our Country* (New York: Random House, 1990).

We use the phrase “universal voting” rather than “compulsory voting” not as a verbal dodge but as an expression of the purpose of our proposal.

We would also note the flaw in the phrase “compulsory voting.” If the word “compulsory” is to be used, the Australian system is more properly described as “compulsory attendance at the polls.” Voters do not have to pick

any of the candidates on the ballot. They can cast a blank ballot, or draw Mickey Mouse on their ballot paper. The vast majority of Australian voters do none of these things because they want to participate in the selection of their government. But their freedom to abstain from selecting a candidate is not abridged.

“Compulsory voting” is *the means to the end of universal voting, not the end itself*. We are well aware that few jurisdictions in the United States are likely to adopt our proposal, so we describe later in this paper steps short of a voting requirement that could lead to much broader participation. Whether states and the Congress adopt a system modeled after Australia’s, or enact more modest reforms to facilitate participation, universal voting should become a national goal.

WHY UNIVERSAL VOTING IS NOT UNCONSTITUTIONAL

After President Obama recently praised the idea of universal voting,²⁶ critics immediately raised constitutional objections. Said the Heritage Foundation’s Hans von Spakovsky, “The president apparently does not believe that the right to speak, which is protected under the First Amendment, includes the right not to speak.”²⁷ We agree that the First Amendment prohibits most compelled speech, but we do not agree that universal voting falls into this category.

The reason is simple: as we have noted, in Australia as well as other countries (including at least seven members of the OECD) that have adopted versions of this voting system, the law requires citizens to present themselves at the polling booths.²⁸ It does not compel them to fill out their ballot. We do not believe that the courts would regard this as an instance of compulsory speech; nor should they. We can consistently advocate universal voting while holding fast—as we do—to *West Virginia v. Barnette*, which shielded the children of Jehovah’s Witnesses parents from the mandatory recitation of the Pledge of Allegiance.²⁹

THE POLITICAL STATE OF PLAY: PUBLIC OPINION AND POLICY OPTIONS

We are well aware that the American people are far from ready to endorse our proposal. On the one hand, according to a recent YouGov survey, 75 percent of Americans—including 87 percent of Democrats and 84 percent of

²⁶ “Remarks by the President to the City Club of Cleveland,” *The White House: Office of the Press Secretary*, Mar. 3, 2015, <https://www.whitehouse.gov/the-press-office/2015/03/18/remarks-president-city-club-cleveland>.

²⁷ Hans A. Von Spakovsky, “Compulsory Voting Is Unconstitutional,” *The Heritage Foundation*, Apr. 1, 2015. <http://www.heritage.org/research/commentary/2015/4/compulsory-voting-is-unconstitutional>.

²⁸ Given constant changes to voting law at the national and precinct level, it is surprisingly difficult to determine the number of countries with compulsory voting. This number was determined using “Compulsory Voting,” *International Institute for Democracy and Electoral Assistance*, May 13, 2015, http://www.idea.int/vt/compulsory_voting.cfm.

²⁹ *West Virginia State Bd. of Educ. v. Barnette* 319 U.S. 624 (1943).

Republicans—regard the failure of eligible voters to participate in elections as a problem.³⁰ On the other hand, more than 70 percent of Americans regard the decision whether or not to vote as an individual responsibility, and only 26 percent favor mandatory voting.³¹

Neither our traditions nor the Constitution inclines toward a single national approach to this issue (although, as the Voting Rights Act itself shows, insisting on federal standards for federal elections is a principle at the heart of the post-Civil War Constitution). In the absence of broad national support for this concept, we suggest that a few states whose civic culture might welcome universal voting should take the lead and conduct an electoral experiment in full view of the American people. If the negative consequences critics predict do in fact come to pass, that would be the end of the matter. If not, and if the advantages we have posited predominate, other states may follow. In any event, the Constitution will have been respected, and federalism will have been enlisted in the service of evidence-based reform.

It may be some time before even one brave state steps forward. In the interim, we favor many long-discussed policies that would lower barriers to participation and make voting easier. These would include automatic voter registration when a citizen turns 18. The task of election officials should be to enable Americans to carry out their civic responsibilities, not to place burdens on what is both a right and a duty. The nation should update its cumbersome registration procedures, making online registration standard throughout the country. Voters who move should have their registrations transfer automatically to their new addresses. These reforms could build on existing systems to provide for automatic registration when citizens obtain drivers licenses and other licenses, permits, and government benefits. Restoring voting rights to felons who have paid their debt to society would end a longstanding discriminatory practice. Allowing eligible citizens to register on Election Day would expand participation substantially (as the experience of states that do so shows) and reduce the burdens our registration system places on our more mobile citizens, particularly the young.³² Making Election Day a national holiday would ease the burdens of participation on millions of Americans whose work schedules make voting difficult. In the absence of such a holiday, states should consider building on the successes of early voting systems.

Election administration in the United States is not only a patchwork, but also typically ranks very low in the list of funding priorities for local officials.³³ The Australian system works well not only because it requires citizens to

It should go without saying, but needs to be said: Congress should also pass an updated Voting Rights Act that gives the federal government the 21st century authority needed to vindicate the right of all Americans to participate in elections—a right guaranteed by the Fourteenth Amendment.

³⁰ The breakdown of 75% of Americans is as follows: 34% of total voters regard the failure of eligible voters as a big problem, 27% think this is a moderate problem, and 14% think this is a little bit of a problem. For 87% of Democrats, the breakdown is 46%, 26%, and 15%; for Republicans it is 31%, 39%, and 14%.

³¹ “YouGov March 24-25 2015,” *YouGov*, Mar. 2015, http://cdn.yougov.com/cumulus_uploads/document/q9bn5kxe80/tabs_HP_voting_20150325.pdf.

³² Emmanuel Caicedo and Estelle H. Rogers, “What is Same Day Registration? Where is it available?” *Demos* and *Project Vote.org*, <http://www.demos.org/publication/what-same-day-registration-where-it-available>.

³³ Robert F. Bauer and Benjamin F. Ginsberg, “The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration,” *The Presidential Commission on Election Administration*, January 2014, http://www.nased.org/PCEA_FINAL_REPORT_JAN_2014.pdf, pp. 9-10.

register, but also because a national system of election administration provides for a professional election officer in each constituency to make registration easy and convenient for citizens.³⁴

The United States, with its long tradition of decentralized voting administration, will not move any time soon toward a national system in this area. But Congress should provide funding and national impetus for states, counties and localities to act on the recommendations of the Presidential Commission on Election Administration. Headed by Benjamin L. Ginsberg and Robert F. Bauer—respectively the top lawyers of the 2012 Romney and Obama campaigns—the Commission provided a long list of highly practical recommendations with the purpose of improving how elections are run and enhancing participation.³⁵ Its core principle, that no voter in the United States should have to wait more than a half hour before casting a ballot, is fundamental to creating a system of fair and widespread participation.

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CONCLUSION

As the ills of our political system have intensified in recent decades, we have lost the habit of thinking institutionally about potential remedies. We acknowledge that civic culture and public opinion help define the realm of the possible—and that political divisions often restrict it. But as a nation, we have far more room for creativity and maneuver than is usually recognized.

In this spirit, we have advanced a proposal that stands outside the perimeter of what is now likely. We hope that doing so will enrich the public debate—in the short term, by advancing the cause of more modest reforms that would increase participation; in the long term, by expanding our understanding of what is worth trying. For as recent events have demonstrated, ideas can sometimes move from the impossible to the inevitable at a pace that once seemed unimaginable. Universal voting could do so as well, for it is as deeply American an idea as Lincoln’s promise of a government “of the people, by the people, for the people.”

³⁴ “AEC Organisational Structure,” *Australian Electoral Commission*, Aug. 18, 2015, http://www.aec.gov.au/about_aec/structure.htm.

³⁵ Bauer and Ginsberg, “The American Voting Experience.”

GOVERNANCE STUDIES

The Brookings Institution
1775 Massachusetts Ave., NW
Washington, DC 20036
Tel: 202.797.6090
Fax: 202.797.6144
brookings.edu/governance

EDITING

Beth Stone

PRODUCTION & LAYOUT

Nick McClellan

EMAIL YOUR COMMENTS TO GSCOMMENTS@BROOKINGS.EDU

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