

HOW HARD CAN IT BE: DO CITIZENS THINK IT IS DIFFICULT TO REGISTER TO VOTE?

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INTRODUCTION

A basic tenet of normative democratic theory is political equality. The wants and desires of all citizens in a democratic society should be considered equally in the development of public policy; no citizen's preferences or needs should have greater weight than the preferences or needs of another citizen.¹ When it comes to the act of voting, Robert Dahl noted two precepts: that all qualified individuals express their preferences and that these preferences all have equal weight when it comes to their tabulation.² However, here in the United States the requirement of voter registration presents a clear obstacle to

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1. The basic assumption of political equality is fundamental to writings in political philosophy, ranging from ROBERT A. DAHL, *A PREFACE TO DEMOCRATIC THEORY* (1956), to CHARLES BEITZ, *POLITICAL EQUALITY: AN ESSAY IN DEMOCRATIC THEORY* (1990). Similar assumptions of equality are built into related theories of social justice. JOHN RAWLS, *A THEORY OF JUSTICE* (rev. ed. 1999).

2. Dahl assumed these as preconditions of "polyarchy." First, "[e]very member of the organization performs the acts we assume to constitute an expression of preference among the scheduled alternatives, e.g., voting"; and second, "[i]n tabulating these expressions [votes], the weight assigned to the choice of each individual is identical." See DAHL, *supra* note 1, at 84.

the realization of Dahl's precepts. Historically, registration was used as a tool to disenfranchise minority voters. Today, registration is commonly justified as a means to prevent electoral fraud; however, events surrounding the 2004 election raise questions of whether we have truly escaped the more nefarious motive for voter registration.

According to estimates from the U.S. Census Bureau, the situation in the United States may be far from this normative notion of all people's desires being considered equally: in the 2004 presidential election, the Census Bureau estimated that there were nearly 55 million eligible American citizens who were not registered to vote, or close to 28% of the eligible electorate.³ Registration—unless the eligible citizen resides in North Dakota, the only state in the Union that does not require voter registration—is an essential precondition for participation in the American electoral process. Thus, as the procedures of American democracy require voters engage in a two-step process in order to cast their ballot in forty-nine of the fifty states, the first step being requiring eligible citizens register to vote, there is concern that these procedures themselves (and not just a lack of interest in the electoral process) may be an important factor blocking or making more difficult the expression of preference by these 55 million American adult citizens. Even with the implementation of "Motor Voter," which allows for voter registration at the DMV, access to voter registration information and forms remains unequal since "Motor Voter" disproportionately benefits owners of automobiles and thus may overlook a particularly vulnerable segment of the unregistered population.

Indeed, conventional wisdom—and academic research—suggest that the voter registration process in the United States can be a barrier that keeps some citizens from participating in elections. Piven and Cloward state, "People vote if they are registered. Nonvoting is almost entirely classified among those who are not registered. This is *prima facie* evidence of the deterrent impact of registration procedures on voting."⁴ The bias inherent in the process of voter registration, as illustrated in the census data noted above, has been identified as a fundamental problem in the United States because the electoral system does not "express equal respect for all voters."⁵ This principle is worthwhile to consider in detail because the theoretical construct of "equal respect" has an expressive component that may influence the perception of some individuals in

3. See KELLY HOLDER, U.S. CENSUS BUREAU, VOTING AND REGISTRATION IN THE ELECTION OF NOVEMBER 2004, 2 tbl.A (2006), available at <http://www.census.gov/prod/2006pubs/p20-556.pdf>. The Census Bureau estimated that there were 142,070,000 American citizens eighteen and older who were registered to vote, of a total of 197,005,000 American citizens eighteen years of age or older. The Census Bureau estimated as well that 125,736,000 voted in this election. *Id.*

4. FRANCES FOX PIVEN & RICHARD A. CLOWARD, WHY AMERICANS DON'T VOTE 260 (1st ed. 1988).

5. DENNIS THOMPSON, JUST ELECTIONS: CREATING A FAIR ELECTORAL PROCESS IN THE UNITED STATES 28 (2002).

the society. As one theorist noted:

[T]he burdens that [voter registration laws] create fall disproportionately on citizens who are poorer, less educated, and in other respects less well-off—the same people who are already less likely to vote.

If the rules of the electoral system themselves are partly responsible for these unequal patterns of voting, then the system cannot be said to express equal respect for all voters. The disrespect is not explicit, as it is when the system formally excludes some citizens. But implicit messages are no less a significant part of institutional meanings. . . . The unequal voting is the product of rules that could be changed . . . [and which] send the message that their fellow citizens are indifferent to the persistence of this inequality, and do not care enough to try to remove the barriers that sustain it. . . . [T]he institution expresses disrespect toward disadvantaged citizens even when they manage to overcome the barriers and cast a vote.⁶

This argument is very straightforward: societal knowledge of the impact of barriers communicates to all citizens that the exclusion of some individuals is in some way appropriate. It also suggests that individuals within these implicitly excluded groups are likely to view voter registration differently than do those who are “privileged” by the institutional rules. The survey data presented in this paper is an attempt to discern whether there are differences in attitudes about the ease of the voter registration process between the disadvantaged populations and those who are more socioeconomically advantaged.

Despite a possible change in the strength of this relationship brought on by the implementations of the Voting Rights Act (VRA) and National Voting Rights Act (NVRA),⁷ in the not-so-distant past, stringent registration requirements disenfranchised certain segments of the American population, or made it extremely difficult and costly for them to register and vote.⁸ More recently, despite the elimination of many explicit barriers to participation, research has concluded that policy and procedural problems like lengthy pre-election deadlines for registration, inconvenient locations for registration, or confusing and complex forms and requirements, have made the registration

6. *Id.* at 28 (emphasis added).

7. Steven Earl Bennett, *The Uses and Abuses of Registration and Turnout Data: An Analysis of Piven and Cloward's Studies of Nonvoting in America*, 23 POL. SCI. & POL. 166 (1990); Robert D. Brown & Justin Wedeking, *People Who Have Their Tickets But Do Not Use Them: "Motor Voter," Registration, and Turnout Revisited*, 34 AM. POL. RES. 479 (2006).

8. The research literature on the history of suffrage restrictions in the United States and their effect on voter participation demonstrate this conclusion. *See, e.g.*, ALEXANDER KEYSAR, *THE RIGHT TO VOTE: THE CONTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES* (2000); J. MORGAN KOUSSER, *THE SHAPING OF SOUTHERN POLITICS: SUFFRAGE RESTRICTION AND THE ESTABLISHMENT OF THE ONE-PARTY SOUTH, 1890-1910* (1974); RAYMOND E. WOLFINGER & STEVEN J. ROSENSTONE, *WHO VOTES?* (1980).

process difficult for some eligible citizens.⁹ In the face of popular opinion, some recent research questions whether continued easing of registration procedures will necessarily lead to substantial gains in voter turnout.¹⁰

In the aftermath of the 2000 presidential election, the apparent failure of voting technology was the primary focus of media and public attention. However, careful analysis showed that voter registration problems were also the cause of many failures in the electoral process in many states. A litany of problems have been identified, including lost or incorrect registration records, registration lists that include people who have moved or passed away, lists including dogs, and lists that have been manipulated so that eligible votes have been incorrectly removed.¹¹ Such problems led to an estimate from the Caltech/MIT Voting Technology Project that of the four to six million votes lost in the 2000 presidential election, at least half (1.5 to 3 million) were lost due to voter registration problems.¹² Problems surrounding voter registration appeared again in the 2004 Presidential election; the best known example being allegations of Democratic registration forms being shredded in Nevada and Oregon.¹³

In recent decades, voter registration has been the focus of many state and federal reform efforts, some predating the 2000 presidential election. The most prominent of these efforts before the 2000 presidential election was the National Voter Registration Act (NVRA), which pushed states to implement a number of procedural changes to make the process of voter registration easier.¹⁴ After 2000, the federal Help America Vote Act (HAVA) sought to push states

9. See WOLFINGER & ROSENSTONE, *supra* note 8, for an early example of this line of research. For a review of the literature in this area, see R. Michael Alvarez, Stephen Ansolabehere, and Catherine H. Wilson, *Election Day Voter Registration in the United States: How One-Step Voting Can Change the Composition of the American Electorate* (Cal. Inst. of Tech., Caltech/MIT Voting Tech. Project, Working Paper No. 5, 2002), available at http://votingtechnologyproject.org/media/documents/wps/vtp_wp5.pdf.

10. Craig L. Brians & Bernard Grofman, *Election Day Registration's Effect on US Voter Turnout*, 82 SOC. SCI. Q. 170 (2001); Brown and Wedeking, *supra* note 7, at 479-504; Benjamin Highton, *Easy Registration and Voter Turnout*, 59 J. POL. 565 (1997).

11. See ELECTIONLINE.ORG & THE CONSTITUTION PROJECT, ELECTION REFORM BRIEFING: STATEWISDE VOTER REGISTRATION DATABASES ((2002), available at <http://www.electionline.org/Portals/1/Publications/Statewide%20Voter%20Registraion%20DB.pdf>.

12. CALTECH/MIT VOTING TECHNOLOGY PROJECT, VOTING—WHAT IS, WHAT COULD BE 86 (2001), available at http://vote.caltech.edu/media/documents/july01/July01_VTP_Voting_Report_Entire.pdf.

13. See Dan Lothian & Phil Hirschhorn, *Nevada Investigates Voter Registration: Probe Also Under Way in Oregon on Fraud Allegations*, CNN.COM, Oct. 14, 2004, <http://www.cnn.com/2004/ALLPOLITICS/10/14/nevada.registration>; David Paul Kuhn, *Voter Fraud Charges Out West*, CBSNEWS.COM, Oct. 14, 2004, <http://www.cbsnews.com/stories/2004/10/14/politics/main649380.shtml>.

14. See National Voter Registration (Motor Voter) Act of 1993, Pub. L. No. 103-31, 107 Stat. 77(codified at 42 U.S.C. §§ 1937gg to 1937gg-10 (2007)).

in different directions, building on the NVRA reforms.¹⁵ The two most significant changes to voter registration in HAVA were (1) the requirement that states implement, by 2006, a statewide voter registry¹⁶, and (2) that all states allow for provisional (or “fail-safe”) voting on election day¹⁷. Many states have implemented other changes to their voter registration procedures as well.

Both the NVRA and HAVA reforms were intended to make the registration process easier for voters to navigate and to make it easier for them to remain registered to vote. Concerns do persist, however, that some states have not adequately implemented NVRA and that states have not been working rapidly enough to implement HAVA’s voter registration requirements.¹⁸ Even with full implementation of the NVRA and HAVA reforms there is evidence in the research literature that registration reforms may have limited impact on increasing voter participation.¹⁹ While acknowledging the NVRA reforms may increase voter registration among members of the lower socioeconomic strata, this research predicts that turnout among this group will continue to lag behind that of the upper classes.²⁰ The legislative history for the NVRA specifically focuses on increasing turnout among ethnic minorities and individuals with disabilities.²¹

Thus, whether registration is the sole—or primary—barrier to voting is a subject of debate in the research literature. This Article does not examine the evidence regarding whether further procedural reforms will increase turnout. Rather, we examine public perceptions of registration requirements. We find that a small but significant number of Americans perceive that the registration process is difficult; however, for a supermajority of the U.S. population, registering to vote is not perceived as a difficult process. This suggests that even if further procedural reforms can lead to increased voter participation, substantial public education may be required to obtain significant public support for reform efforts.

Our analysis starts with a review of the legal issues that have surrounded voter registration historically and how voter registration has been used as a tool for disenfranchising specific populations of voters. We then consider the

15. See Help America Vote Act of 2002, Pub. L. No. 107-252, 116 Stat. 1666 (codified at 42 U.S.C. §§ 15301 to 15545 (2007)).

16. *Id.* §303.

17. *Id.* §302.

18. On concerns regarding NVRA implementation, see BRIAN KAVANAGH ET AL., DEMOS, TEN YEARS LATER A PROMISE UNFULFILLED: THE NATIONAL VOTER REGISTRATION ACT IN PUBLIC ASSISTANCE AGENCIES, 1995-2005, at 4-8 (2005), available at <http://www.demos.org/pubs/NVRA91305.pdf>. On HAVA implementation, see ELECTIONONLINE.ORG, ELECTION REFORM: WHAT’S CHANGED, WHAT HASN’T AND WHY, 2000-2006(2006), available at <http://www.electionline.org/Portals/1/Publications/2006.annual.report.Final.pdf>.

19. Bennett, *supra* note 7, at 166-71; Brown & Wedeking, *supra* note 7, at 479-504.

20. See Brians & Grofman, *supra* note 10; Highton, *supra* note 10.

21. H.R. Rep. No. 103-9 at 3 (1993).

reforms contained in the NVRA and the HAVA designed to improve and to simplify the voter registration process. With this legal framework in place, we turn to the results of a national random sample survey of voters and non-voters that considers whether individuals perceive the existing voter registration framework to be easy or difficult to navigate. Given recent findings that young and minority voters are less likely to participate,²² we provide extensive analysis on the views these two groups possess regarding the registration process. We close by returning to the normative issues raised by our study, and by reviewing a series of policy recommendations regarding how the current voter registration system could be improved.

I. HISTORY OF VOTER REGISTRATION AND DISENFRANCHISEMENT

It is often forgotten that the process of requiring voter registration occurred well into the nation's political development. In early elections, the decision regarding whether a voter was eligible to vote was made by party challengers who worked at the polls.²³ If a dispute arose, the decision about residency and eligibility was often made by the local wash woman; the location of where one had his clothes washed was *prima facie* evidence of residency in an area.²⁴ Distinctive voter registration processes and procedures began to be developed in earnest after the Civil War and into the early twentieth century. These efforts were clearly designed to restrict the franchise from specific classes of voters. As one commentator noted:

Justified as measures to eliminate corruption or produce a more competent electorate, such efforts [to tighten voting requirements] included the introduction of literacy tests, lengthening residency periods . . . and the creation of complex, cumbersome registration procedures. Stripping voters of the franchise was a politically delicate operation that generally had to be performed obliquely and without arousing the ire of large and concentrated groups of voters.²⁵

In the South, voter registration requirements were part of a web of laws and procedures that disenfranchised minority and poor voters alike. Poll taxes, all-

22. See R. MICHAEL ALVAREZ & STEPHEN ANSOLABEHRE, CALIFORNIA VOTES: THE PROMISE OF ELECTION DAY REGISTRATION (2002), available at http://www.demos.org/pubs/california_votes.pdf; R. MICHAEL ALVAREZ, JONATHAN NAGLER & CATHERINE H. WILSON, MAKING VOTING EASIER: ELECTION DAY REGISTRATION IN NEW YORK (2004), <http://www.demos.org/pubs/EDR%20-%20NY%20report%20b&w%20-%20Aug%202004.pdf>. See also Alvarez, Ansolabehere and Wilson, *supra* note 9. Recent analysis by the U.S. Census Bureau of the 2004 Current Population Survey Voter Supplement data also shows that younger voters and non-white voters were less likely to have participated in the 2004 presidential election. HOLDER, *supra* note 3.

23. RICHARD FRANKLIN BENDEL, THE AMERICAN BALLOT BOX IN THE MID-NINETEENTH CENTURY 18-19 (2004).

24. *Id.* at 22-30, 90.

25. KEYSSAR, *supra* note 8, at 128-29.

white primaries, literacy tests, coupled with traditional restrictive voter registration rules that were common at the time (e.g., annual or recurring in-person registration at the county office conducted Monday through Friday during office hours) restricted voting in much of the United States.²⁶ Another commentator has argued that “the key disenfranchising features of the southern registration laws were the amount of discretion granted to the registrars, the specificity of the information required of the registrant, the times and places set for registration, and the requirement that the voter bring his registration certificate to the polling place.”²⁷

The civil rights movement and changes in attitudes about the franchise led to a national movement toward liberalization of voter registration and the franchise generally. The Voting Rights Act of 1965 (VRA)²⁸ was the linchpin of this effort. Many of the restrictions that had been used to systematically disenfranchise minority and poor voters—including literacy tests and “good character” requirements—were literal barriers to registering to vote and the VRA removed them.²⁹ In addition, the VRA included pre-clearance requirements and strong enforcement mechanisms that allowed the U.S. Justice Department to investigate and monitor election administration activities in jurisdictions with a history of low turnout and discrimination.³⁰

The VRA created a bifurcated system of voter registration in the American states. One set of states maintained rather conservative and constrained voter registration processes and requirements and another set of states continued the process of liberalizing their voter registration processes and systems. The movement in many states toward liberalized voter registration and the removal of traditional barriers led to significant increases in the number of voters who were registered.³¹ Scholars identified four specific reforms that were most likely to increase turnout: (1) elimination of the deadline for registering to vote (i.e., election day registration); (2) evening and weekend registration; (3) allowing absentee registration for the sick, disabled, and absent; and (4) having regular, forty-hour-per-week registration times.³² In total, these reforms were thought to improve voter turnout by 9.1%.³³

26. *Id.* at 227-50.

27. KOUSSER, *supra* note 8, at 48.

28. Voting Rights Act, Pub. L. No. 88-352, 78 Stat. 241 (codified at 42 U.S.C. §§ 1973 to 1973-aa-6 (2007)).

29. STEVEN F. LAWSON, *BLACK BALLOTS: VOTING RIGHTS IN THE SOUTH, 1944-1969*, at 339-40 (1976) [hereinafter LAWSON, *VOTING RIGHTS*]; STEVEN F. LAWSON, *IN PURSUIT OF POWER: SOUTHERN BLACKS AND ELECTORAL POLITICS, 1965-1982*, at 14 (1985); Mark Thomas Quinlivan, *One Person, One Vote Revisited: The Impending Necessity of Judicial Intervention in the Realm of Voter Registration*, 137 U. PA. L. REV. 2361, 2370 (1989).

30. LAWSON, *VOTING RIGHTS*, *supra* note 29, at 15.

31. ROSENSTONE & WOLFINGER, *supra* note 8, at 73.

32. *Id.*

33. *Id.*

Even with these reforms in some states, commentators were arguing in the 1980s that the elections process was broken and “that the Court soon will be forced to take affirmative action to rectify the infirmities that characterize the system of personal registration in the United States.”³⁴ Various impediments to the registration process included restrictive deadlines for registering, requiring re-registration when a voter moved from one residence to another, and requirements for in-person registration at the office of the registrar. These complexities led to comments that “registration is usually more difficult than voting,”³⁵ and “[r]egistration requirements thus create a “two-tiered election system . . . one in which the first hurdle, registering to vote, is ‘shrouded in obscurity’ and often difficult to overcome.”³⁶

Finally, states historically have delegated registration responsibilities to local election officials, and thus have largely ceded in practice their control of the registration process to local election officials.³⁷ This discretion on the part of the local election officials created conditions whereby one election official in one jurisdiction in a state might make voting easy by creating satellite sites but another jurisdiction could have very strict registration rules. As was the case before the passage of the VRA, the discretion of election officials remained a critical part of the puzzle that left voters unable to register.³⁸

II. SIMPLIFICATION OF REGISTRATION: NVRA AND HAVA

In 1993, Congress enacted the National Voter Registration Act (NVRA).³⁹ This legislation was designed to balance the conflicting goals that have long been a part of the registration debate: enfranchisement and election integrity. The balance in the NVRA was between “increas[ing] the number of eligible citizens who register to vote in elections for Federal office” and “protect[ing] the integrity of the electoral process by ensuring that accurate and current voter registration rolls are maintained.”⁴⁰ In short, registration should be easy, but there should remain in place mechanisms for ensuring that easier registration requirements did not translate into election fraud.

34. Quinlivan, *supra* note 29, at 2361, 2365.

35. ROSENSTONE & WOLFINGER, *supra* note 8, at 61.

36. Quinlivan, *supra* note 29, at 2375 (citing William J. Cotty, *The Franchise: Registration Changes and Voter Representation*, in *PATHS TO POLITICAL REFORM* 67 (William J. Crotty, ed., 1980)); Peverill Squire, Raymond E. Wolfinger & David P. Glass, *Residential Mobility and Voter Turnout*, 81 *AM. POL. SCI. REV.* 45, 45 (1987).

37. Quinlivan, *supra* note 29, at 2368-75 (summarizing these views).

38. *Id.* at 2374-75.

39. National Voter Registration (Motor Voter) Act of 1993, Pub. L. No. 103-31, 107 Stat. 77 (codified at 42 U.S.C. §§ 1937gg to 1937gg-10 (2007)).

40. NAT'L CLEARINGHOUSE ON ELECTION ADMIN., IMPLEMENTING THE NATIONAL VOTER REGISTRATION ACT OF 1993: REQUIREMENTS, ISSUES, APPROACHES, AND EXAMPLES I-1 (1994).

The access to voter registration was eased greatly through an expansion in the number of ways in which a voter could register. The key to this was using existing governmental entities to facilitate the registration of voters and thus lower the registration cost to voters. The most dramatic change was to allow voters to register to vote through state departments of motor vehicles.⁴¹ In addition, states were required to “designate as voter registration agencies—(A) all offices in the State that provide public assistance; and (B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.”⁴² States were also required to allow voters to register using the Federal Election Commission’s mail voter registration application form.⁴³ States were also explicitly required to make these forms available for distribution by third-parties, “with particular emphasis on making them available for voter registration programs.”⁴⁴ NVRA also created what is commonly known as “fail-safe” voting procedures for voters who moved from their residence of registration, although states were given a relatively broad level of discretion in interpreting this provision.⁴⁵ This fail-safe procedure was designed to allow a voter to “be permitted to correct the voting records and vote at a registrant’s former polling place, upon oral or written affirmation by the registrant of the new address before an election official at the polling place”⁴⁶ or “permitted to correct the voting records and vote at a central location within the same registrar’s jurisdiction”⁴⁷ or “be permitted to correct the voting records for the purpose of voting in future elections at the appropriate polling place for the current address.”⁴⁸

In addition to the provisions allowing increased access to registration that were contained in NVRA, there were also new rules for the removal of voters from the rolls.⁴⁹ State and local election officials retained the ability to remove specific voters from the rolls, including those who are dead, commit crimes, fail to vote over several federal elections, and who move out of the jurisdiction.⁵⁰ The purge process is quite detailed and limited. It allows for voters to be removed from the rolls using the Postal Service change-of-address information but only if the local election official re-registers voters who have moved within the same election jurisdiction and notifies the voter of the change

41. National Voter Registration (Motor Voter) Act of 1993, Pub. L. No. 103-31, § 5, 107 Stat. 77, 78 (1993).

42. *Id.* § 7.

43. *Id.* § 6.

44. *Id.*

45. *Id.* § 8(e)(2)(A) (subsection generally).

46. *Id.* § 8(e)(2)(A)(i).

47. *Id.* § 8(e)(2)(A)(ii)(I).

48. *Id.* § 8(e)(2)(A)(ii)(II).

49. Thomas M. Palisi, *Implementing the National Voter Registration Act of 1993: A Guide to the New Jersey Provisions*, 20 SETON HALL LEGIS. J. 41, 48-51 (1996).

50. NATIONAL VOTER REGISTRATION ACT OF 1993, § 8(d)(1)(A).

that was made.⁵¹ It also allows for removal of voters if they inform the registrar in writing that they have moved outside the jurisdiction.⁵² Finally, a voter can be removed if the voter fails to respond to a confirmation of residency notice and then does not vote in two general elections for federal office.⁵³

What has been the impact of NVRA on voter registration? Estimations of the impact of NVRA on turnout have generally found modest improvements in voter registration.⁵⁴ The research on NVRA has often focused on the linkage of registration with an initial attainment or renewal of a driver's license ("motor voter") but as we noted previously, there are actually four key components to NVRA: (1) motor voter, (2) public agency registration, (3) mail registration, and (4) regulation of removing voters from the registration rolls.⁵⁵ One key study examining the motor voter provision of NVRA estimated that the motor voter provision would increase turnout by approximately 4.7% and the elimination of voters from the rolls for non-voting would increase turnout by approximately 2%.⁵⁶ The other two factors—mail registration and public agency registration efforts—were estimated respectively to have no impact and an unknown impact on turnout.⁵⁷

This study also estimated that the primary beneficiary of NVRA would be young voters who are under thirty and individuals who moved within two years of an election.⁵⁸ Interestingly, neither group is mentioned explicitly in the legislative history findings for NVRA,⁵⁹ although the legislative history for NVRA does discuss the fact that "same day" registration—which we more typically refer to as "election day registration"—would be quite desirable were it more administratively feasible.⁶⁰ Election day registration would benefit highly mobile, transient voters and numerous studies have estimated that this would boost turnout for all segments of the population, but especially among those aged eighteen to twenty-nine and individuals who moved in the last two years.⁶¹

After NVRA, the next congressional legislative action in election

51. *Id.* § 8(c)(1).

52. *Id.* § 8(d)(1)(A).

53. *Id.* § 8(d)(1)(B).

54. Brown & Wedeking, *supra* note 7; Benjamin Highton & Raymond Wolfinger, *Estimating the Effects of the National Voter Registration Act of 1993*, 20 POL. BEHAV. 79 (1998); Stephen Knack, *Does 'Motor Voter' Work? Evidence from State-Level Data*, 57 J. OF POL. 796 (1995).

55. Highton & Wolfinger, *supra* note 54, at 79.

56. *Id.*

57. *Id.*

58. *Id.*

59. See H.R. REP. NO. 103-9 5 (1993).

60. *Id.*

61. Alvarez, Ansolabehere, & Wilson, *supra* note 9; Highton & Wolfinger, *supra* note 54.

administration was the passage of the Help America Vote Act (HAVA)⁶². Although most of the commentary regarding HAVA has centered on the change in voting technology, the legislation also includes requirements for the creation of a state voter registration database.⁶³ Specifically, HAVA requires that the chief state election official in each state create a “centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level.”⁶⁴ The goal of having a centralized database is to facilitate keeping people registered as they move within a state. Census data show that most moves are intra-state, intra-county moves and a statewide database can more readily keep these people registered through links with the state department of motor vehicles and other databases.

HAVA requires that the statewide databases have the following functionalities. First, the database must be “the single system for storing and managing” voter registration data in the state.⁶⁵ Second, it must include all registered voters in the state.⁶⁶ Third, the system must assign every voter with a unique identifier.⁶⁷ Fourth, the state voter registration database must link with other state databases, such as vital records and the DMV.⁶⁸ Fifth, the system must be immediately electronically accessible by any local or state election official.⁶⁹ Sixth, the system must be kept up to date. “All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official,”⁷⁰ and the state must provide support to local election officials to fulfill this requirement.⁷¹

Although many reformers had hopes that HAVA would build upon NVRA and make the voter registration process even easier for eligible citizens to navigate, there are still many potential issues that remain. The early implementation of HAVA voter registration reform shows that voter registration and voter registration systems remain highly heterogeneous across states.⁷² In particular, even after the passage of HAVA, voter registration will remain a decentralized administrative process. Each state can still have different procedures for voter registration, and local election officials in

62. Help America Vote Act of 2002, Pub. L. No. 107-252, 116 Stat. 1666 (codified at 42 U.S.C. §§ 15301 to 15545 (2007)).

63. *Id.* § 303.

64. *Id.* § 303(a)(1)(A).

65. *Id.* § 303(a)(1)(A)(i).

66. *Id.* § 303(a)(1)(A)(ii).

67. *Id.* § 303(a)(1)(A)(iii).

68. *Id.* § 303(a)(1)(A)(iv).

69. *Id.* § 303(a)(1)(A)(v).

70. *Id.* § 303(a)(1)(A)(vi).

71. *Id.* § 303(a)(1)(A)(vii).

72. See ELECTIONLINE.ORG, ELECTION REFORM: WHAT’S CHANGED, WHAT HASN’T AND WHY 2000-2006, *supra* note 18.

counties and municipalities within each state will still play a substantial role in registering voters. This situation creates both across state and within state variation, which is likely to add another layer of procedural complexity to the voter registration process in some states. Furthermore, exactly how the statewide voter registries will fare in practice is still an open question, as most states have not had their statewide files tested in the fires of a close and hotly contested election.⁷³ In addition, there are no uniform standards for making state voter registration systems interoperable.⁷⁴

The reforms in NVRA and HAVA were both designed to make the voter registration process easy and simple for Americans to navigate. However, both the NVRA and HAVA rest upon the fundamental notion that voter registration is an individual, not state, responsibility. This normative approach to voter registration has direct effects on the ability of individuals to participate in the electoral process.⁷⁵ In the next section we use data from a national survey to determine if these reforms have been effective or whether there are differences among subpopulations of American adults regarding the ease of registering to vote.

III. PUBLIC ATTITUDES REGARDING VOTER REGISTRATION REQUIREMENTS

A. OVERVIEW

Our analysis focuses on the perceptions of those individuals who are potentially most affected by the difficulties in registering to vote: American adults and American voters. We examine perceptions on the difficulty of registering through a survey question fielded in a recent national telephone survey. Our research question is designed to determine whether American adults and voters see the voter registration process as easy or difficult in their own states. We also focus on whether specific subpopulations see the voter registration process in their states as easy or difficult. Based on the history of voter registration and the literature reviewed above, we are especially interested in the perceptions of those who are minorities and the younger cadre of voters. These groups have historically had the most difficulty navigating the voter registration process and have also historically been the least likely to vote in elections. We are also quite interested in any partisan differences that may exist in the data. Critiques of the NVRA at the time of its passage suggested that the legislation was intended to boost turnout among Democrats at the expense of

73. *Id.*

74. R. MICHAEL ALVAREZ & THAD E. HALL, IBM CTR. FOR THE BUS. OF GOV'T, THE NEXT BIG ELECTION CHALLENGE: DEVELOPING ELECTRONIC DATA TRANSACTION STANDARDS FOR ELECTION ADMINISTRATION, 9 (2005), <http://www.businessofgovernment.org/pdfs/AlvarezReport.pdf>.

75. THOMPSON, *supra* note 5, at 31-33.

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Republicans. Using the survey data, we explore whether there is a partisan gap in the perception that the voter registration process is easy or difficult. We examine whether individuals in states that have Election day registration have different views regarding the ease of registration. Finally, we focus upon the perceptions and characteristics of unregistered adults in an effort to determine how additional progressive alterations to voter registration laws may impact the political landscape.

This simple area of inquiry is, surprisingly, a new one in the survey research literature. We are not aware of any existing academic research on the perceptions of adults or voters regarding the difficulty navigating voter registration procedures. To examine this relatively simple yet important question we devised the following question for our national survey:

“On a 1 to 7 scale, with 1 being very hard and 7 being very easy, how hard to you think it is to register to vote in your state?”

This question was posed to 2025 survey respondents during interviews conducted from January 18 to January 24, 2006. Interviewing was undertaken by International Communications Research (ICR), using their EXCEL omnibus survey methodology.⁷⁶

We begin our analysis of the survey findings in Table 1, where we provide the aggregate results for this question. We found that 65.4% of our respondents stated that voter registration in their state was very easy (choice 7), and that 86.5% of respondents indicated that they thought voter registration in their state was very or somewhat easy (providing an answer of 5, 6 or 7). The flip side of this, of course, is that relatively few respondents thought the voter registration process was very hard, only 2.1% of the sample. In total, we found that 10.0% of the sample thought that the voter registration process was very or somewhat hard (providing an answer of 1, 2, 3, or 4 to this question).⁷⁷

76. The ICR EXCEL omnibus methodology consists of a random-digit dialing sample of telephone households. Further information about their methodology is given at Adult omnibus research solutions from ICR, <http://www.icrsurvey.com/ICRExcel.aspx>. For a sample of approximately 2000 respondents, a typical survey proportion (50%-50%) will have a 95% confidence interval of plus or minus 2.2%. In the Appendix below we provide a table that gives important demographic characteristics of our sample, both unweighted and weighted. For a description of the weighting process, see *infra* note 81.

77. Item non-response here was quite low; only 3.4% did not have an opinion and only 4 of the 2025 respondents refused to answer this question.

TABLE 1: How hard do you think it is to register in your state?⁷⁸

Response	Number of Respondents	Percent
Very Hard (1)	43	2.1
2	20	1.0
3	70	3.5
4	69	3.4
5	185	9.2
6	241	11.9
Very Easy (7)	1325	65.4
Don't Know	68	3.4
Refused	4	0.2
<i>Total</i>	2025	100

To some, the 10% who thought that the registration process was difficult in their state might seem insignificant. However, when we consider these findings in the context of the size of the United States electorate, the numbers are quite large. The U.S. Census Bureau's study of voter participation in the 2004 presidential election estimated that there were 215,694,000 voting-aged adults in the United States.⁷⁹ This suggests that there may be as many as 21.5 million American adults who think that voter registration is difficult in their state.⁸⁰

In Table 2 we examine differences between respondents who answered that registration was easy in their state (answers 5, 6 or 7) and those who answered that registration is hard in their state (answers 1, 2, 3 or 4). Specifically, we consider differences across a range of respondent attributes, including: gender, education, age, region of residence, if they are a registered voter, and if they voted in 2004.⁸¹ Other key groups of voters, such as minority respondents and young voters, are considered separately below.

78. These responses are weighted responses, see *infra* note 80 for a description of the weighting process.

79. See Holder, *supra* note 3 at 2 tbl.A.

80. This figure is 10% of the population of American adults cited in the Holder 2006 report.

81. All of the estimates in Tables 1 and 2 were weighted using the population weights provided by ICR. The weights are intended to yield estimates of the American adult population eighteen and older. ICR describes the weighting process in materials provided to the authors along with the survey data: "The weighting process takes into account the disproportionate probabilities of household selection due to the number of separate telephone lines and the probability associated with the random selection of an individual household member. Following application of the above weights, the sample is post-stratified and balanced by key demographics such as age, sex, region and education."

TABLE 2: The Difficulty of Registering to Vote (1)

	Not Difficult	Difficult	N
Gender:			
Male	88.0	12.0	942
Female	91.1	8.9	1021
Education			
HS or less	89.4	10.6	927
Some College	91.7	8.3	452
College Grad	88.5	11.5	567
Registered Voter:			
Yes	91.1	8.9	1570
No	82.9	17.1	365
Voted in 2004:			
Yes	92.1	7.9	1515
No	81.9	18.1	173

Beginning with gender, men are slightly more likely than women to say that voter registration is difficult in their state (12% of men see it as difficult, relative to almost 9% of women). When we compare responses across levels of educational attainment, there are slight differences in perceptions of the difficulty of voter registration. Respondents with some college education are the least likely to see voter registration as difficult in their state. Both college graduates and those with a high school education or lower found registration to be more difficult.

Not too surprisingly, those who have already successfully navigated the voter registration process in their states see the registration process as easier than those who either are not registered to vote, or those who are registered but did not participate in the 2004 presidential election. In Table 2 we show that 8.9% of registered voters felt that voter registration was difficult in their state compared to the 17.1% of non-registered respondents who perceived the process as difficult. This difference between the proportions of registered and non-registered voters who find the registration process difficult is approaching

a conventional level of statistical significance⁸² ($t=1.88$).⁸³ We also show that opinions on the difficulty of registration significantly differ among voters and nonvoters: 92.1% of voters describe the registration process as not difficult compared to 81.9% of nonvoters ($t=3.4$).

We now turn our attention to the perceptions of four key populations of Americans: racial minorities, voters not in election day registration states, the young, and partisans. Those in the first three populations express opinions that the voter registration process is difficult and have voter registration rates lower than members of other similar population segments. The third, partisan differences, are of political and substantive interest, thus meriting additional attention in our study.

B. PERCEPTIONS OF THE REGISTRATION PROCESS AMONG KEY POPULATIONS

The first of the four populations of interest are racial minorities. When we examined white and racial minority adults, we find very distinct differences in attitudes. As Table 3 shows, nearly 10% of whites in our sample felt that the voter registration process is difficult compared to 16% of blacks and almost 19% of those expressing some other racial identity who see voter registration as difficult in their state. These difference in perceptions among the other racial groups and whites is approaching statistical significance, at conventional levels of significance used in academic research.⁸⁴

82. Unless otherwise stated, we always determine statistical significance using a two-tailed test at the 95% significance level ($p < .05$).

83. The t-statistic for the difference in the proportion of registered voters and registered non-voters who perceived voter registration to be difficult in their state was 1.88 ($p = 0.061$), which is close to conventional levels of statistical significance (t-statistic of 1.96, $p < 0.050$).

84. In this report, we test whether pairs of specific survey proportions are statistically distinct using a standard t-test for differences in proportions. For example, here we tested whether the difference between black and white respondents was statistically significant (it was not, t-statistic 1.42, $p = 0.155$) and whether the difference between other racial identities and whites were significant (it was approaching significance, t-statistic 1.70, $p = 0.090$) between proportions. However, the difference between blacks and other minorities is not significant (t-statistic 1.2, $p = 0.236$).

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TABLE 3: The Difficulty of Registering to Vote (2): Populations of Interest

	Not Difficult	Difficult	N
Race:			
White	90.4	9.6	1495
Black	83.9	16.1	209
Other	81.2	18.8	111
	Not Difficult	Difficult	N
Partisanship:			
Republican	94.9	5.1	541
Democrat	88.4	11.6	642
Independent	86.5	13.5	633
Other	84.6	15.4	35
EDR or No-Registration State:			
EDR	97.5	2.5	56
Not EDR	89.4	10.6	1907
Age:			
18-34	86.0	14.0	600
35-44	89.3	10.7	387
45-54	90.4	9.6	372
55-64	93.0	7.0	259
65 or older	94.5	5.5	274

Second, we examined differences among political participants, and we see some important differences regarding the voter registration process across voters with different political attitudes. Among Republicans, only 5.1% felt that voter registration was difficult in their state. By contrast, 11.6% of Democrats said that the voter registration process was difficult in their state. Independents and other party identifiers were also more likely than Republicans to perceive voter registration as difficult in their state, with 13.5% of Independents and 15.4% of other party identifiers expressing that the voter registration process was difficult. The differences between Republican and Democratic ($t=3.1$) perceptions on the difficulties of voter registration, and between Republicans

and Independents ($t=3.7$), are statistically significant.⁸⁵ These results might be worthy of further analysis because our data was collected during a period when the Republicans controlled both Congress and the White House. Additional analysis may reveal Republicans (Democrats) viewing the registration process as more (less) difficult given the 2006 mid-term election.

Third, we examine the differences in perceptions of the difficulty of registering to vote between voters who live in states with Election day registration (EDR) and those in states that have cut-off dates for registering to vote prior to election day. There are relatively few respondents in our dataset from states that have EDR. However, the EDR state respondents do not view the voter registration process as difficult in their states; only 2.5% of EDR state residents responded that the voter registration process is difficult. In the remaining states we find that 10.6% of respondents felt that the voter registration process was difficult. This difference of roughly eight percentage points is statistically significant and illustrates the burden that voter registration plays in the voting process ($t=4.4$).

C. A FOCUS ON YOUNG ADULTS

The fourth population we examine in depth are younger Americans. Younger individuals are in many ways the most likely to incur the costs associated with registering to vote. These increased costs is due to several factors: (1) a higher level of mobility among the younger population, (2) a lower general level of experience dealing with government bureaucracy, and (3) the necessity of registering to vote after one's eighteenth birthday, which is one to two years after most young people first obtain a driver's license.

In our initial examination of attitudes across age categories, we see a distinctly linear pattern in the responses regarding the difficulty of registering to vote. The older the respondent, the less likely they were to think that voter registration was difficult. In fact, those at each extreme of the age distribution (the eighteen- to thirty-four-year olds, compared to those sixty five or older) had quite different perceptions: 14% of the eighteen- to thirty-four-year olds said they felt that voter registration was difficult in their state. By contrast, only 5.5% of those sixty five or older felt that voter registration was difficult in their state, a statistically significant difference ($t=3.4$). Given that young voters tend to observe registering as a more difficult process, in Tables 4 and 5 we provide additional information that focuses upon the responses of younger individuals. Table 4 provides additional information by showing comparisons between those aged thirty four and younger (young adults) versus those over the age of thirty five (mature adults).⁸⁶

85. Unless otherwise stated, we always determine statistical significance using a two-tailed test at the 95% significance level ($p < .05$).

86. Note that the number of observations contained within Table 4 has been reduced

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TABLE 4: Individuals Aged Thirty Four and Under Response to, “How hard do you think it is to register in your state?”

Response	Number	Percent
Very Hard (1)	7	1.1
2	10	1.6
Response	Number	Percent
3	22	3.6
4	44	7.2
5	85	13.6
6	81	13.1
Very Easy (7)	348	56.2
Don't Know	22	3.6
Refused	0	0.0
<i>Total</i>	619	100

Table 4 shows the responses of young adults regarding the difficulty of voter registration: 56.2% felt the voter registration process in their state was very easy (response 7). Only 1.1% of young adult respondents thought the registration process to be very hard (1). As above, we collapse responses into those who see the registration process as very or somewhat easy (responses 5-7) and into those who see the process as very or somewhat hard (responses 1-4).⁸⁷ When testing the significance of the difference between these two groups, we find that young adults are significantly more likely to believe the registration process is difficult than mature adults ($t=2.2$), as nearly 14% of young adults see the registration process in their state as difficult, relative to the 8.5% of older adults as reported in Table 5.

by approximately sixty respondents. This reduction is due to dropping observations where respondents declined to answer the question regarding their age.

87. Item non-response here was quite low; only 3.6% did not have an opinion and no respondents under the age of thirty five refused to answer this question.

TABLE 5: The Difficulty of Registering to Vote: Younger vs. Older

	Age 34 & Younger			Age 35 & Older		
	Not Difficult	Difficult	N	Not Difficult	Difficult	N
Gender:						
Male	84.4	15.6	295	89.7	10.3	619
Female	87.9	12.1	305	93.1	6.9	675
Race:						
White	87.5	12.5	366	91.3	8.7	1077
Black	73.8	26.2	85	91.6	8.4	119
Other	78.6	21.4	44	82.3	17.7	62
Education						
HS or less	84.3	15.7	266	91.5	8.5	634
Some College	92.1	7.9	194	91.5	8.5	244
College Grad	76.0	19.4	139	91.2	8.8	401
Age:						
Ages 18-34	86.0	14.0	600	-	-	-
Age 35 +	-	-	-	91.5	8.5	1292
Region:						
Northeast	78.6	21.4	110	92.8	7.2	234
North Central	87.1	12.9	121	89.4	10.6	308
South	83.5	16.5	202	91.4	8.6	488
West	93.0	7.0	167	93.0	7.0	261
Registered Voter:						
Yes	88.4	11.6	400	92.1	7.9	1113
No	80.4	19.4	195	85.9	14.1	160
Voted in 2004:						
Yes	90.7	9.3	353	92.8	7.2	1121
No	79.2	20.8	82	85.7	14.3	94

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	Age 34 & Younger			Age 35 & Older		
	Not Difficult	Difficult	N	Not Difficult	Difficult	N
Partisanship:						
Republican	96.1	3.9	140	94.3	5.7	382
Democrat	85.4	14.6	204	90.1	9.9	414
Independent	82.4	17.6	212	88.9	11.1	402

The results presented in Table 5 show the differences between young adults (under age thirty five) and older adults (those thirty five and older) based on race, education, region, and partisanship. Considering the impact of race first, the difference between the percentage of young black adults who find registration difficult and mature black adults who find registration difficult is approaching statistical significance. ($t=1.8$).⁸⁸ While the white and other racial categories have a higher percentage of young adults who find registration difficult compared to mature adults of their racial group, these differences are not statistically significant ($t=1.3$ and $t=0.8$, respectively). The implications of these findings are important given the devices historically used against black voters to discourage turnout. Further research is needed to determine the source of the differences in the perceived registration difficulty between young and mature blacks. Two possible explanations for this large gap are: (1) specific events surrounding the 2000 and 2004 elections may have produced a larger effect upon those not familiar with the voting process, (2) older voters may have benefited from the increased voter education and mobilization effort that followed the passage of the Voting Rights Act.

In Table 2, we found differences in the perceived difficulty of registration when controlling for educational attainment. The results in Table 5 imply that these differences are largely the result of differences in the perceptions of young adults. There is little variation by educational attainment for respondents over the age of thirty four in the perceived difficulty of the process for registering to vote. However, there is more variation by educational attainment for young adults. This variation may be the result of other social and economic factors prevalent among the young, including high rates of mobility and low levels of socialization to political participation. These effects may become neutralized for mature adults because these older individuals move less often, which eliminates the need to re-register and disarms the income effect. Additionally, mature adults have most likely registered once before which may eliminate most of the learning effect.

Differences between young adults and respondents over the age of thirty

88. This difference is significant at the 90% significance level, and was achieved through a difference of means test.

four are also evident across regions. Specifically, 21.4% of young adults living in the Northeast find registration difficult as compared to 7.2% of mature respondents living in the Northeast; this difference is statistically significant ($t=2.1$). The other geographic region where there are large differences between young and mature adults is the South, where the difference is 7.9%. When testing the significance of the difference between young and mature Southerners, the t statistic is 1.6 and thus is on the cusp of significance. The regional differences in the perceived difficulty of registration imply that in the South and Northeast one would expect, *ceteris paribus*, to see young adults underrepresented when compared to the West and North Central regions.

Although the differences between young and mature adults in the perceived difficulty of the voter registration process—when controlling for party identification—are not significant, it is interesting to note the size of the difference between young and mature adults. There is a smaller percentage, 3.9%, of young Republicans who view registration as difficult, as compared to 5.7% of mature Republicans ($t=0.5$). However, a greater percentage of both young Democrats and young Independents view the voter registration process as being difficult when compared to mature respondents within the same party ($t=1.1$ and $t=1.3$). Furthermore, the percentage of young Republicans who find registration difficult is significantly less than either young Democrats or young Independents ($t=2.3$ and $t=2.6$).⁸⁹ Given the time period in which our data was collected, and the differences between Republicans (and Democrats) under the age of thirty five and those thirty five years and older, we see this as support for the hypothesis that the current political environment may affect opinions about registration difficulty, particularly among newer voters.

D. A FOCUS ON UNREGISTERED ADULTS

Our final analysis focuses on the characteristics and attitudes of unregistered voters. The consideration of the characteristics and attitudes among this specific group is especially important since any further legislation which seeks to extend voter registration can only do so by targeting unregistered individuals. Therefore, an analysis of unregistered voters and their opinions regarding the ease of voter registration may provide valuable clues into how progressive changes in the voter registration process might impact the pool of eligible American voters. While the sample of non-registered voters in our data is limited, we compare 2004 registration data collected from the U.S. Census Bureau with our data concerning unregistered voters to determine the reasonableness of our results. Such a comparison reveals that as a general rule, the groups in our survey that say the registration process is difficult in their

89. One explanation for the relatively high percentage of young Democrats and young Independents finding registration difficult is the high correlation between young blacks and these party affiliations.

state are those with lower national rates of registration.⁹⁰

Beginning with differences between the genders, the U.S. Census Bureau reported in 2004 that women had a greater registration rate than men (73.6% relative to 70.5%).⁹¹ While there does appear to be the typical over reporting of participation associated with survey data, our data finds 90% of the women report being registered to vote as opposed to 84% of men.⁹² We hypothesize that adult perceptions about the ease of voter registration may be the underlying reason for higher registration rates among females. Table 2 shows that men thought the voter registration process in their state was more difficult than women (12.0% to 8.9% and $t=1.6$). Thus, women are already more likely to be registered to vote and may be more likely to become registered since in general they view the registration process as easier than men.

Data collected at the national level finds blacks and other non-whites are registered at lower rates than whites, which is reasonable given our findings on the perceived difficulty of registration for minority groups as presented in Table 6.⁹³ Mirroring the relationship we found between registration and gender, we find that regardless of registration status minorities are more likely to view the registration process as difficult as compared to whites. We see the differences between the races exaggerated for unregistered adults with 25.1% of minority respondents reporting the registration process as difficult as compared to 13.3% of unregistered white adults ($t=1.4$). Thus, there appears to be a pattern that when comparing national registration rates among groups based on descriptive characteristics lower registration rates are associated with a higher response rate of registration difficulty.

The final attribute we consider, with perhaps the clearest consequence for American politics, is the political affiliation of unregistered adults. Analyzing the political identification of unregistered adults is interesting since it provides the best estimate of how these individuals may vote if changes, which seek to bring in unregistered voters, are made to the current registration laws. Table 6 produces two interesting observations. First, the number of unregistered Republicans is nearly half that of unregistered Democrats and 40% of that of unregistered Independents. Recalling that random digit dialing was used to contact respondents, this observation implies that the composition of the unregistered adult population may be largely comprised of Democrats and Independents. Second, regardless of registration status Democrats and Independents are more likely to view the registration process as difficult when compared to Republicans; note that among the unregistered population these

90. See Holder, *supra* note 3, at 4 tbl.B.

91. See *id.*

92. See *id.* at 14-16.

93. The Census estimated registration rates for Whites alone at 73.6%, for non-Hispanic Whites alone at 75.1%, for Blacks alone at 68.7%, Asians alone at 51.8% and for Hispanics of any race at 57.9%. See *id.* at 4 tbl.B.

differences are much larger.⁹⁴ Despite being based on a limited sample size, these results imply two important conclusions regarding the population of unregistered adults: (1) unregistered adults who identify themselves as Democrat or Independent are more likely to view the registration process as difficult and thus these groups may be in greater need of information or help regarding the registration process and (2) despite unregistered Independents appearing to outnumber unregistered Democrats and Republicans, the number of unregistered adults reporting Republican affiliation lags behind that of unregistered adults reporting Democratic affiliation. Despite our data implying increasing registration may increase the proportion of registered Democrats, there is evidence in the research literature that further liberalization of registration requirements will not result in more liberal election results.⁹⁵

TABLE 6: The Difficulty of Registering to Vote: Registered vs. Non-registered Voters

	Not Registered To Vote			Registered To Vote		
	Not Difficult	Difficult	N	Not Difficult	Difficult	N
Gender:						
Male	80.0	20.0	143	90.2	9.8	767
Female	87.1	12.9	102	91.8	8.2	923
Race:						
White	86.7	13.3	155	91.1	8.9	1349
Minority	74.9	25.1	62	86.1	13.9	242
Partisanship:						
Republican	93.6	6.4	40	95.1	4.9	515
Democrat	82.8	17.2	72	89.5	10.5	575
Independent	82.1	17.9	100	88.0	12.0	518

IV. CONCLUSIONS AND IMPLICATIONS

There is an old saying that accomplishing 90% of a task is easy;

94. The difference in the proportion of unregistered adults identifying with the Republican Party is significantly different than that of Independent identifiers, $t=2.0$, and nearly significantly from Democrat identifiers, $t=1.6$.

95. WOLFINGER & ROSENSTONE, *supra* note 8; Glenn E. Mitchell & Christopher Wlezien, *The Impact of Legal Constraints on Voter Registration, Turnout, and the Composition of the American Electorate*, 2 POL. BEHAV. 179 (1995).

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completing the final 10% is the difficult part. These survey results strongly suggest this is the case for procedural and legal changes that have been aimed at making the voter registration process easier. Almost 90% of respondents stated that they found it easy to register to vote. If we slightly change the old saying from 90% being easy to 80%, we find that the rule fits all categories of voters in our study. In no case did fewer than 81.2% of any category of respondent find it hard to vote.

This finding suggests that NVRA has resulted in most Americans thinking that it is easy to navigate the voter registration process. The motor voter provisions, as well as the elimination of the purging requirement, likely have done much to reduce the procedural difficulties associated with registering to vote. Moreover, given that the new HAVA voter registration requirements have not fully gone into effect in most states, it is too soon to know what impact this new law will have on public perceptions regarding the ease of voter registration.

Although the survey data do suggest that most voters find it relatively easy to register to vote, there are important differences among subpopulations of voters that are of concern. Specifically, the perception among young voters and racial minorities that the registration process is difficult suggests that the legacy of disenfranchising minority voters and the procedural difficulties long encountered by both groups continue to exist. These findings also suggest that certain voters are not only encountering barriers to registering to vote, but are also sensitive to the implicit message that these barriers send. Importantly, just because the barriers seem low to policy makers, the barriers may be a relative problem, with certain voters still finding the barriers to be quite high, oppressive, and disheartening.

In addition, the gap in perceptions among voters associated with various political parties—with Republicans being much more likely to view the registration process as easy compared to either Democrats or Independents—raises concerns about bias in the voting process. Because registration is the first step in a two-part voting process—in most states a voter must register before election day, and only after registering may they then vote—it is critical that registration be easy so that voters can participate in the voting process.

Clearly, further reforms may need to be more closely focused on registering eligible citizens from populations who perceive the process to be difficult, especially young voters and individuals from minority communities. These are populations that are also less likely to be registered to vote, as we discussed earlier in this article, but a push by reformers to further extend voter registration is likely to encounter two difficulties. First, roughly 90% of the population thinks that the current process for registering to vote is relatively easy; reformers who might seek to achieve further procedural changes to the voter registration process that aim to increase voter participation may have their work cut out for them. How this dilemma can be resolved, and how those who

see the process as easy to use can be persuaded to implement additional reforms to make it easier for some to register, is a central problem for election reform. Second, the issue of implementing progressive changes to existing voter registration laws is politically charged since there is preliminary evidence that further efforts to increase voter registration may tend to disproportionately benefit registration rates for the Democratic Party. However, the extent of the benefit to Democrats may be greater in form than substance since the registration of historically politically uninvolved citizens may simply lead to lower turnout rates among registered voters.

For example, one promising reform that we have identified in our research here, and that has been identified in other research on improving voter registration, is election day registration. The voters in EDR states were almost 8% more likely to view the voter registration process as being easy compared to non-EDR residents. However, in 2002, ballot measures in both California and Colorado that sought to implement election day voter registration provisions in each state were soundly defeated.⁹⁶ Our results indicate that similar reforms may be difficult to accomplish unless there is a major commitment to altering perceptions that the voter registration process is difficult. With the development of effective real-time precinct-based electronic voter registration databases, EDR is likely to become much more feasible in the near future and something that legislatures nationally may want to consider.

Given the strong movement nationally at present to strengthen identification laws to thwart illegal immigration and terrorism—as well as ongoing efforts to increase the identification requirements that voters must meet at the polls in order to vote—one simple solution to the voter registration process might be to begin a process of automatically registering all Americans to vote, “universal voter registration.”⁹⁷ As the statewide voter registration databases required under HAVA improve and become interoperable, the ability of states to keep the database up-to-date and free of duplicate registrations

96. In the 2002 election, California’s Proposition 52 was defeated after receiving only 41% of the vote in favor of the measure’s passage. CAL. SEC’Y OF STATE, 2002 STATE BALLOT MEASURES 74-78 (2002), http://www.ss.ca.gov/elections/sov/2002_general/measures.pdf. Colorado’s Amendment 30 also failed, only receiving 39% of votes in favor of the measure’s passage. DONETTA DAVIDSON, COLO. SEC’Y OF STATE, OFFICIAL PUBLICATION OF THE ABSTRACT OF VOTES CAST FOR THE 2001 COORDINATED, 2002 PRIMARY, 2002 GENERAL, 147-48 (2002), available at http://www.elections.colorado.gov/WWW/default/Prior%20Years%20Election%20Information/2002/2002_abstract.pdf.

97. This reform idea was recently discussed at length in an article by Richard L. Hasen. He proposed: “The federal government—perhaps the Department of the Census—should undertake the universal registration of eligible voters, and issue each voter a voter identification card that contains a name, signature, photograph, and biometric identification (such as a fingerprint).” Richard L. Hasen, *Beyond the Margin of Litigation: Reforming U.S. Election Administration to Avoid Electoral Meltdown*, 62 WASH. & LEE L. REV., 937, 969 (2005).

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should improve markedly. Although this process would require doing a check for citizenship, such checks are likely to become easier as well given the ongoing immigration reform efforts that are currently being proposed, and universal voter registration could well level the playing field for those who now find it difficult to register to vote and those who do not. Such a change would be an important move to lower barriers and remove what many may view as an implicit expressive policy that supports disenfranchising voters through the voter registration process.

Finally, we should emphasize that our research here focuses on the perceptions of how easy or difficult the process of voter registration is for American adults and voters. Although 90% of respondents may view the process of registering to vote to be easy, this is not to say that these voters will not encounter problems at the polls with their voter registration. Although many individuals may perceive that the voter registration process is easy to navigate, it may also be true that, due to procedural or technological issues, those who think they have easily registered to vote may not find their names on the rolls at the correct precinct when they go to cast their ballot. Future research may consider exploring more detailed analysis of the possible differences between perception and reality and how these differences may vary across states and across sub-populations of Americans.

APPENDIX

TABLE A-1: Demographics Characteristics of Survey Sample

Demographic Characteristic	Unweighted Percentage	Weighted Percentage
Age		
18-34	15	31
35-44	17	20
45-54	21	19
55-64	18	13
65+	26	15
Household Income		
Under \$25K	20	22
\$25K-\$49.9K	25	27
\$50K-\$74.9K	15	13
\$75K+	23	21
Region		
Northeast	20	19
North Central	23	23
South	35	36
West	21	23
Education		
HS or less	35	48
Some College	25	26
College Grad	39	25
Race		
White	85	80
Black	8	11
Metro Status		
Metro	75	81
Non-metro	25	19
Gender		
Male	50	48
Female	50	52