

Janet Kramer LWVBC Essay Contest 2023
First Place, High School Category

“Votes of Doom: How Compulsory Voting Undermines American Ideals”

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Recently, politicians and members of the American media have called attention to the nation’s lack of voter turnout in local, state, and federal elections. In fact, the University of California reported, in 2021, that from 1972 to 2016 the percentage of eligible voters that voted in presidential elections did not exceed 60 percent (UCSB, 2021). Furthermore, not only does voter turnout remain low, but most active voters belong to a much older demographic. As Tufts University representative, Kei Ginsberg, reported, “Young people have a pretty bad reputation when it comes to turning out reliably in high numbers....” (Ember, 2018). A Social Security Administration report corroborates Ginsberg’s claims by stating that the median age of the voting population rested at around 45, which emphasizes that young individuals rarely vote. Thus, politicians have appealed to various demographics to encourage citizens to vote. For example, PBS News reported that former president Barack Obama stated, “...he will take it as a “personal insult” if the African-American community fails to turn out for the presidential election...” (PBS, 2016). Here, Obama targeted the African American demographic to encourage them to increase their voter turnout in the 2016 presidential election. However, voter turnout still did not exceed 60 percent. Thus, many have discussed the idea of making voting mandatory for all eligible citizens under the penalty of law. However, in the case of the United States, mandatory voting should not exist on a national scale because it would violate state sovereignty, stifle individual freedom of speech, and perpetuate the two party system that maintains a monopoly on power.

First, mandatory voting would violate the right of states to regulate their elections. Article I, Section IV of the United States Constitution states, “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof;” (Madison, 1787). Here, the Constitution establishes a precedent in which the states choose how they conduct their own congressional elections. At first glance, it seems that the constitution denies the ability of the federal government to make voting mandatory. However, Article I, Section IV also states, “... the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.” (Madison, 1787). Thus, the federal government can regulate the election of representatives, but not senators. The passage of the 17th amendment, which allowed citizens to vote for senators directly, did not authorize the federal government to regulate the election of senators. After passing the Voting Rights Act of 1965, the Department of Justice (DOJ) used section 4B of the act to require various states to seek preclearance before changing their election laws to ensure they “have neither discriminatory purpose or effect” (DOJ, 2013). States, covered by section 4B, had to seek approval for their election laws until 2013, when the Supreme Court ruled, in *Shelby County v. Holder*, that requiring states to seek preclearance served as a “legally erroneous” (Amar-Dolan & Zemlin, N.D.) practice that violated the Constitution. Furthermore, Justice John Roberts cited in the majority opinion that the states could regulate their own elections under the 10th amendment which states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” (Madison, 1789).

Since the Constitution did not prohibit the states from regulating electoral processes within their borders, they have the right to do so under the Constitution. Therefore, if a federal law passed that made voting mandatory, the law would violate states' rights to regulate their elections.

Additionally, mandatory voting can stifle freedom of speech. The First Amendment states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." (Madison, 1789). Here, the Constitution prohibits Congress from denying the freedom of speech through legislation. Therefore, laws requiring individuals to vote would prevent the freedom of abstention, which would in turn violate the freedom of speech. Many in western society do not see abstention from voting as a form of speech, but societies worldwide use abstention as an expression of discontent with autocratic governments. For example, the Soviet Union had single-candidate elections, but the Soviet government had not made voting mandatory. Thus, when individuals did not approve of a candidate, they simply abstained. As Soviet Historian, Rasma Karklins, wrote, "... nonvoting is correlated with high interest in politics, a critical political outlook, and dissident modes of behavior. Thus, voter abstention in noncompetitive balloting can be hypothesized to constitute a significant political act rather than passivity." (Karklins, 2014). Here, Karklins shows how abstention can become a form of speech. In the US, individuals may abstain from voting as an expression of discontent with the available candidates. Furthermore, the Ninth Amendment of the Constitution states, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." (Madison, 1789). This demonstrates that even though the Constitution does not specifically state that individuals can abstain from elections, they may still have the right to choose abstention. James Madison expressed this sentiment when stating, "...those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard against the admission of a bill of rights into this system." (Madison, 1789). Here, Madison explains that the Bill of Rights enumerates various rights, which may put unenumerated rights in jeopardy. The Ninth Amendment ensures that unenumerated rights remain protected. If voting in elections became compulsory, it could trample the unenumerated right of abstaining, but also it would prevent individuals from expressing political speech through abstention.

Finally, compulsory voting can promote one or more parties monopolizing power. Since the Constitutional Convention of 1787, leaders have recognized the importance of having multiple parties for a healthy democracy. For example, James Madison asks in Federalist 10, "Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest?" (Madison, 1789). Here, Madison implies that a large number factions in a nation would prevent any single faction from becoming too tyrannical. However, the same two parties, Republican and Democratic, have maintained a monopoly on power since 1856 (Library of Congress, N.D.). Tactics such as straight ticket voting, where voters automatically vote for all candidates of the same party, have become prevalent. According to author Niki Kelly, in Indiana's Marion county, 69 percent of ballots cast in the last election opted for straight ticket voting (Kelly, 2022). A report by Austin Community College corroborates Kelly's claims by stating that 67.5 percent of ballots cast in the 2018 midterm elections, nationwide, opted for straight ticket voting (ACC, 2021). This demonstrates

that a majority of voters utilize straight ticket voting, which helps keep major party candidates in power. If voting became mandatory, most voters would likely still use straight ticket voting, which would exacerbate the difficulties of third parties achieving electoral victories. Author Daniel Baracskey wrote, "...stringent access criteria prevent competition and even alienate third-party candidates who are unable to collect the requisite number of signatures to appear on the ballot." (Baracskey, 2009). This demonstrates that third parties have great difficulty in simply putting their candidates on election ballots. By making voting mandatory, which would undoubtedly increase the practice of straight ticket voting, it would become virtually impossible for third parties to achieve electoral success.

In Federalist 68, James Madison writes, "It was desirable that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided. This end will be answered by committing the right of making it, not to any preestablished body, but to men chosen by the people for the special purpose, and at the particular conjuncture." (Madison, 1789). Here, Madison explains that the US government follows a Republican system, meaning that constituents can trust elected individuals to make decisions on their behalf. Thus, voting has become crucial to American society. However, a federal law requiring citizens to vote would violate states' rights, stifle free speech, and promote a two party system. First, Article I and the Tenth Amendment of the Constitution allow states to regulate their own election processes and Supreme Court precedent denies federal interference. Second, First and Ninth Amendment rights listed in the Constitution allow voters to abstain from voting, which could become a form of expressing discontent with the government. Third, the prevalence of straight ticket voting and the barriers to third parties would make it virtually impossible to dislodge the two major parties from their monopoly on power due to the increased voter turnout from mandatory voting.

"Works Cited"

About Section 5 Of The Voting Rights Act. 6 Aug. 2015, <https://www.justice.gov/crt/about-section-5-voting-rights-act>.

ACC Study Reveals Record Levels of Straight-Ticket Voting | Austin Community College District.

<https://www.austincc.edu/news/2019/02/acc-study-reveals-record-levels-straight-ticket-voting>. Accessed 29 Mar. 2023.

Drexler, Ken. *Research Guides: Federalist Papers: Primary Documents in American*

History: Federalist Nos. 1-10. <https://guides.loc.gov/federalist-papers/text-1-10>.

Accessed 29 Mar. 2023.

Ember, Sydney. "Young Voters Could Make a Difference. Will They?" *The New York Times*,

2 Nov. 2018. *NYTimes.com*,

<https://www.nytimes.com/2018/11/02/us/politics/young-voters-midterms.html>. “Federalist Papers No. 10 (1787).” *Bill of Rights Institute*,

<https://billofrightsinstitute.org/primary-sources/federalist-no-10/>. Accessed 29 Mar.

2023.

Karklins, Rasma. “Soviet Elections Revisited: Voter Abstention in Noncompetitive Voting.”

American Political Science Review, vol. 80, no. 2, June 1986, pp. 449–69. *Cambridge*

University Press, <https://doi.org/10.2307/1958268>.

Kelly, Niki, et al. “Time to Move on from Straight Ticket Voting.” *Indiana Capital*

Chronicle, 11 Nov. 2022,

<https://indianacapitalchronicle.com/2022/11/11/time-to-move-on-from-straight-ticket-v>

oting/.

Rigolosi, Vincent P. “Should Voting Be Mandatory?” *The New York Times*, 26 Aug. 1979.

NYTimes.com, <https://www.nytimes.com/1979/08/26/archives/new-jersey-opinion-should-voting-be-mandatory.html>.

“SHELBY COUNTY v. HOLDER.” *LII / Legal Information Institute*,

<https://www.law.cornell.edu/supremecourt/text/12-96>. Accessed 29 Mar. 2023.

Symonds, Alexandria. “Why Don’t Young People Vote, and What Can Be Done About It?” *The New York Times*, 8 Oct. 2020. *NYTimes.com*,

<https://www.nytimes.com/2020/10/08/upshot/youth-voting-2020-election.html>.

The Avalon Project : Federalist No 59. https://avalon.law.yale.edu/18th_century/fed59.asp. Accessed 29 Mar. 2023.

The Avalon Project : Federalist No 62. https://avalon.law.yale.edu/18th_century/fed62.asp. Accessed 29 Mar. 2023.

The Avalon Project : Federalist No 68. https://avalon.law.yale.edu/18th_century/fed68.asp. Accessed 29 Mar. 2023.

“The Constitution of the United States: A Transcription.” *National Archives*, 4 Nov. 2015, <https://www.archives.gov/founding-docs/constitution-transcript>.

Voter Turnout in Presidential Elections | The American Presidency Project.

<https://www.presidency.ucsb.edu/statistics/data/voter-turnout-in-presidential-elections>. Accessed 29 Mar. 2023.