Introduction

On November 4, 2008, my drive to day care with my four-year-old son and two-year-old daughter started off as it generally does. We saw the usual set of things that capture their attention – cars, trucks, buses, and dogs being walked. These sightings sparked the typical set of questions they ask, such as: "Can I buy that car someday?" and "Can I buy a dog when I'm bigger?" But outside a Metro station,[1] while stopped at a red light just before our last turn, we witnessed something we had not seen before. Three young women were chanting and waving Obama/Biden signs. Not surprisingly, this generated a new question: "What are they doing, Daddy?" In answering, I said that it was election day and the women were expressing their support for Barack Obama. Then, as a man and a woman who were walking together approached the three Obama supporters, the man joined in. His partner jumped a few steps into the street and snapped a photo of the group. This activity inspired a fresh line of questioning, first from my son, who asked: "What is the man doing? Why did they take a picture? Is it a party?" Upon hearing the word "party," my daughter asked hopefully: "Is it my birthday party?" Some confusion from my two-year-old notwithstanding, the excitement on election day was palpable.

If turnout in the United States was ever going to reach new heights, the conventional wisdom was that 2008 was the year for it to happen. For example, Bob Herbert began his *New York Times* op-ed by asserting: "All

[1] Metro refers to the rapid transit system used in the Washington, DC, area. Metro stations, such as the station one block away from the day care center, are often characterized by being in heavily populated areas with a variety of businesses and entertainment venues.

the signs are pointing to an enormous turnout."[2] Regardless of the outcome, the election was set to be historic, resulting in either an African-American president or a female vice-president. The two tickets differentiated themselves on the issues and their message; they also brought with them varying levels of experience. An unprecedented fifty-state voter registration effort on the Democratic side was also part of a campaign that saw record levels of spending. In addition to the mobilization efforts, it had become increasingly easy for eligible citizens to register and for those who were registered to vote. In nine states, eligible citizens could register to vote as late as election day (known as election day registration), up from seven states in 2004.[3] An additional state (North Carolina) allowed citizens to register during the early voting period (starting nineteen days prior to election day and ending three days prior to election day) and vote on the spot. The number of states that allow registrants to vote early, either in person or by mail, without any excuse had also increased from 2004. All but sixteen states and the District of Columbia allowed some form of no-excuse early voting.

Despite the high expectations, further relaxation of election laws, mobilization efforts, and excitement in the streets, turnout in the 2008 presidential election did not live up to the hype, inching up a mere percentage point from 2004. For proponents of participatory democracy, a turnout rate in the neighborhood of 60 percent is not particularly impressive. As we move forward, policies aimed at making it easier to vote will surely garner attention. Evidence of this appeared as soon as one day after the 2008 election, with calls from activists and scholars for further changes in election laws, such as universal voter registration and registering all high school seniors.[4]

But further reforms that make it easier to register and/or vote will not do much to increase turnout.[5] The root of the problem runs deep;

[2] Bob Herbert, "The Known Unknowns" *New York Times*, November 1, 2008 (http://www.nytimes.com/2008/11/01/opinion/01herbert.html). See also *Election Preview 2008: What if We Had an Election and Everyone Came?* From the Pew Center on the States (http://www.pewcenteronthestates.org/uploadedFiles/Election%20Preview%20FINAL.pdf).

[3] This includes North Dakota, where registration has not been necessary since 1951.

[4] Press release entitled "A Better Election Next Time?" issued on 11/05/08 from the Institute for Public Accuracy (http://www.accuracy.org/newsrelease.php?articleId=1857), last visited 3/19/09. An article in the *L.A. Times* from 11/10/08 reveals similar sentiments from the Brennan Center for Justice at New York University (see http://articles.latimes.com/2008/nov/10/nation/na-voting10, last visited 3/19/09.

[5] It is important to note that my focus here is on reforms aimed at increasing turnout. There are a variety of electoral reforms aimed at other aspects of the voting system that have been wildly successful. Most recently, the changes in voting technology as a result

increasing turnout will require a new approach and the patience to implement it.

In this book, I argue that the previous approaches to understanding the effects of electoral reform are incomplete, and I offer a new approach. The most important problem with our present understanding of the effects of structural reforms on voter turnout is that the theory purporting to explain these effects is deficient – citizens will not flood the polling places just because a state or federal law makes it easier to vote.[6] The existing theoretical approach is especially problematic with respect to the lack of consideration given to the influence of the social and political contexts that led to the adoption of the reforms and the contexts into which the reforms are put into action.[7] Put another way, I contend that in order to understand how institutional arrangements affect outcomes, one must account for the interactions between social and political contexts and these institutional arrangements. Previous research on election reform has failed to do so. Because of the limitations of the existing theoretical accounts, one finds in the field of political science assumptions that do not withstand scrutiny and statistical methods that fail to account for the fit between the policy and the environment into which it is planted. As a result, what we think we know about the effect of registration reforms is faulty in a number of regards.

I develop a theoretical framework that captures the linkages between the behavior, in varying social and political settings, of the strategic politicians who establish the institutional arrangements that govern what is required to vote and the behavior of individuals whose actions are constrained by the electoral environment. The central component of my argument is that social and political contexts are important determinants of state-level voter registration laws and that the effects of these laws, in turn, are conditioned by these contexts. I test the theory on what are, arguably, the two reforms with the greatest promise for higher turnout and a reduction of the gulf between the turnout rates of the resource rich, who vote at high rates, and the resource poor, who vote at low rates. These

of the Help America Vote Act of 2002 are a good example (see, e.g., Hanmer et al. forthcoming). And for coverage of a wide range of reforms, some of which have been a success, see the work contained in *Democracy in the States: Experiments in Election Reform*, edited by Cain, Donovan, and Tolbert (2008).

[6] I refer to reforms that are enacted through legislation, such as election day registration and motor voter, as structural reforms. This is a broader definition than used by Tolbert, Donovan, and Cain (2008).

[7] Though not given sufficient weight in the study of election reform in the United States, social and political contexts have been recognized as important for understanding political behavior (see, e.g., Key 1949; Huckfeldt and Sprague 1995; Hero 1998; Franklin 2004).

are election day registration (EDR), a policy that allows eligible citizens to register on the day of the election, and "motor voter" registration, a policy that allows eligible citizens to register to vote through interactions with the state department of motor vehicles, such as obtaining a driver's license. Because motor voter is already national policy, enacted through the National Voter Registration Act of 1993 (NVRA), I focus most of my attention on EDR, which has gained momentum, evidenced by its recent adoption in Montana (passed in 2005) and Iowa (passed in 2007) as well as its consideration in a number of states (see www.electionline.org).[8] Moreover, some of the foremost scholars of political behavior in the United States have also expressed support for the expansion of EDR (see Alvarez and Ansolabehere 2002; Caltech/MIT Voting Technology Project 2003; Patterson 2003; and Alvarez, Nagler, and Wilson 2004; but also see Ansolabehere and Konisky 2006).

THE PITFALLS OF STUDYING REGISTRATION IN THE UNITED STATES

Although Raymond Wolfinger and Steven Rosenstone's (1980) seminal book, *Who Votes?*,[9] spawned the recent work on the effects of institutional factors on turnout, this research tradition can be traced as far back as 1927, and Harold Gosnell's groundbreaking work, *Getting Out the Vote: An Experiment in the Stimulation of Voting*. *The American Voter* (Campbell, Converse, Miller, and Stokes 1960), is most widely known for its contribution to the understanding of the relationships between attitudinal forces and voting, but it also discusses the effects of legal factors on turnout. In brief, the scholarship that developed out of Wolfinger and Rosenstone's (1980) classic study holds that the effects of lowering the costs of voting through relaxed registration laws are uniform across contexts and, thus, the sizable effects that researchers have estimated in the states that were first to adopt EDR can be extrapolated across contexts.

[8] Montana's law was effective as of July 1, 2006, and Iowa's went into effect on January 1, 2008. Unfortunately, the data necessary to evaluate properly EDR in these states will not be available for several more years. As noted earlier, North Carolina has what has been called same day registration, whereby citizens can register during the early voting period and vote at that time. Perhaps a better name for this policy is early voting same day registration.

[9] Prior to the publication of *Who Votes?*, these two authors published "The Effect of Registration Laws on Voter Turnout" in the *American Political Science Review* (see Rosenstone and Wolfinger 1978). Because this work was largely incorporated into the book, all references will be to the book rather than the article.

This leads to the conclusion that if registration laws were relaxed everywhere, turnout across the nation would rise substantially. But is the assumption of uniform effects reasonable? The following thought experiment reveals the problems that emerge when the complexities of democratic practice in the contemporary United States are overlooked.

The states are often described as laboratories of democracy. Yet scholars cannot proceed as if the same level of control that exists in a laboratory prevails in the real world of electoral politics in America. To illustrate the point, begin by imagining that we could study the effect of registration laws on turnout by running an experiment. In a simple experimental design aimed at understanding the effect of registration laws on turnout, some citizens would be randomly assigned to places where registration is easy and others to where registration is more difficult, and their electoral behavior would be observed. This would reveal how behavior differs across the context defined by legal requirements. Of course, ethical and practical considerations prevent the implementation of this sort of research design.

A thought experiment that provides a closer approximation to the realities of American politics would take the simple experimental design as a base and add to it another set of conditions based on the tradition of support for participation. We know that turning out to vote has been encouraged in some places and discouraged – and even prevented for certain segments of the citizenry – in others. For the present purposes, then, this condition could be defined by the extent to which the citizenry is supportive of electoral participation. That is, localities would be separated based on their citizens' attitudes toward electoral participation. With this additional component, individuals would be randomly assigned into at least four conditions: 1) easy registration and strong participatory tradition, 2) easy registration and weak participatory tradition, 3) difficult registration and strong participatory tradition, and 4) difficult registration and weak participatory tradition. With this design, we could discover the ways in which the legal context interacts with the participatory context.

In actuality, however, states self-select their system of registration laws; as Walter Dean Burnham (1980) put it, "registration requirements did not descend from the skies" (p. 68). Moreover, the states with already strong participatory traditions have tended toward the most lenient registration requirements. Thus, without being able to construct or even observe all four conditions just set out, assumptions have to be made about the way registration laws will work across participatory contexts. The dominant assumption in the literature is that the effects from one context can be

extrapolated straightforwardly to other contexts. This means that the effect of EDR in, say, South Carolina (which I would place in condition 4) would match the effect of EDR in Minnesota (condition 1). Simply put, this commonly imposed assumption is untenable. Importing a law from Minnesota will not erase the scars of South Carolina's history, nor will it bring South Carolinians' taste for participation in line with Minnesotans', let alone re-create the products of Minnesota's participatory tradition.

Understanding how citizens ultimately respond to changes in election laws requires paying attention to the intentions of the elected representatives who put the laws into place and the demand for greater participation among the citizenry. Studies that fail to account for the strategic nature of the selection of election laws miss a fundamental part of the process – the role of politics – and proceed as if these laws were assigned randomly.[10] For example, in Minnesota, EDR is part of the fabric of electoral politics. Making voting as easy as possible is an important state goal; in addition to EDR, Minnesota has allowed motor voter registration since 1987. When assessing EDR in Minnesota, an election official there told me that "it is absolutely great . . . I'd like everybody to have the opportunity to vote if they are eligible, and election day registration permits that." Another official summed up, saying: "Uniformly, you would find all of us supportive of the concept [of EDR], we feel that it fulfills important needs [for] citizen participation."[11] Officials in Wisconsin hold similar views. Kevin Kennedy, the Executive Director of the Wisconsin State Elections Board, presented the following argument to those interested in EDR:

> As the chief election official of the state of Wisconsin, I believe we need to reduce barriers to voter participation in order to encourage voter turnout. A larger voter participation strengthens the legitimacy of our elected representative government . . . Election day registration facilitates voter participation by making the voting process more accessible to persons when it counts the most, on election day. (State of Wisconsin/Elections Board, Memorandum, June 19, 1995)

EDR is also available in New Hampshire, but a different view prevails in that state. There, Secretary of State William Gardner, a Democrat who was elected to office by the New Hampshire General Court in 1976 and has remained in office since, campaigned forcefully against the NVRA. During an interview with me on January 16, 2003, he explained that motor voter would cheapen the value of the vote and that those who

[10] This assumption is referred to as the exogenous selection assumption.

[11] Interview with representatives from the Minnesota Office of the Secretary of State: Michael McCarthy, Michele McNulty, and Lisa Kramer Rodacker, 2/26/03.

are interested in voting should not pay for a system that registers people who do not care about voting. These remarks echo his earlier argument to Congress that his office felt "strongly that the rights of all eligible persons to vote should be guaranteed, [but] it also assumes that these same persons will take some responsibility as citizens" (*Congressional Record*, Senate, March 11, 1993). Although New Hampshire ultimately adopted EDR, as I show in Chapter 2, it was put into action to avoid the "unnecessary confusion and excessive expense necessitated by federal legislation" (New Hampshire Session Laws 1994, c. 154, § 1). Whereas New Hampshire implemented EDR for political expediency, Minnesota and Wisconsin implemented EDR with intentions more squarely focused on making voting easier (see Chapter 2).

I do not offer these examples to pass judgment on either of these ways of thinking; sensible people will be distributed across this spectrum. However, they demonstrate that the variations do not emerge haphazardly. The same logic applies to laws intended to prevent certain types of individuals from gaining access to the political process. One need only think of the Jim Crow South for numerous examples. As I explain in detail later, ignoring the reasons why some states are inventive and interested in encouraging participation – and others are not – has serious implications for the ability to draw conclusions regarding the effect of the policy being studied.

Another problem has plagued popular as well as scholarly attempts to estimate the effect of relaxed registration laws. A brief introduction will illuminate a common mistake that led to the belief that relaxing registration laws would lead to substantially higher rates of turnout (the details can be found in Chapter 1).

Consider Figure I.1, showing turnout in 1976 for two groups of states: those that allowed EDR (Maine, Minnesota, and Wisconsin) and all other states (excluding North Dakota).[12] The graph shows clearly that turnout in the states with EDR far surpassed turnout in the rest of the states. Under the belief that lowering the costs of voting should increase turnout, one would be tempted to attribute the 15-percentage-point gap in turnout rates to the effect of EDR. But doing so is imprudent, as it fails to account for initial conditions in the two sets of states. As noted earlier, states self-select their laws, and the states that adopted EDR for the 1976 election

[12] I am leading to a comparison of states before and after adoption of EDR to all other states that do not have EDR. Because North Dakota did not require registration in both of the years considered, it is eliminated from the analysis.

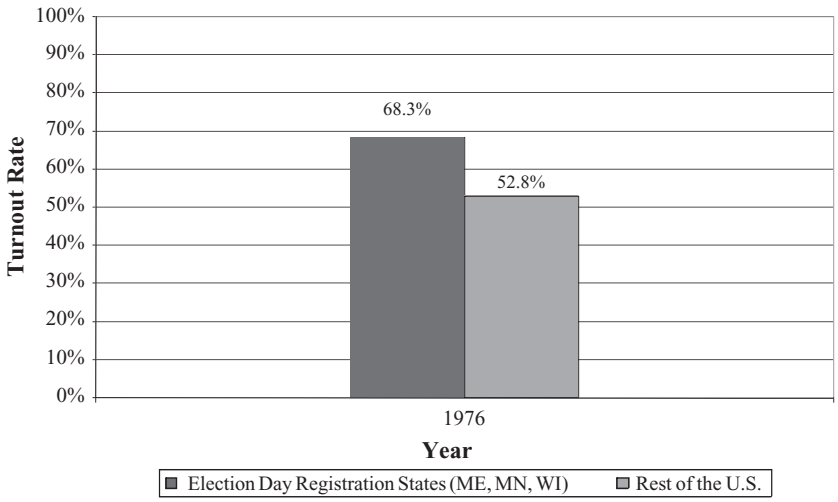

FIGURE I.1. Turnout rate in 1976 comparing states with election day registration to the rest of the United States (excluding North Dakota) (Source: FEC).

(Maine, Minnesota, and Wisconsin) were already high turnout states with histories of encouraging participation. This has consequences for the conclusions one should draw regarding the effect of EDR.

Consider now Figure I.2, which adds turnout for the two sets of comparison states in 1972, prior to the adoption of EDR in Maine, Minnesota, and Wisconsin. The bars on the left-hand side of the graph reveal that even prior to the adoption of EDR, Maine, Minnesota, and Wisconsin had an average turnout rate that was 10 percentage points higher than the rest of the states. That was a considerable advantage even *before* the cost of registering was largely eliminated. Thus, much of the 15-point gap that occurs in 1976 was already accounted for by other factors that differentiate the states that adopted EDR from the rest of the pack.

The methodological approach I use takes into account the issues just discussed. Through the use of individual-level data, careful selection of cases appropriate for comparison, and analysis of the differences in turnout before and after the change in registration laws, I provide new and improved estimates of the effects of the reforms.

What I find will be disturbing to those who are optimistic that further structural reforms will lead the United States to higher turnout and greater equality between the so-called haves and have nots. The effects of relaxed registration laws are not as high as reformers would hope or as previous studies led us to believe, especially when reform is handed down by the

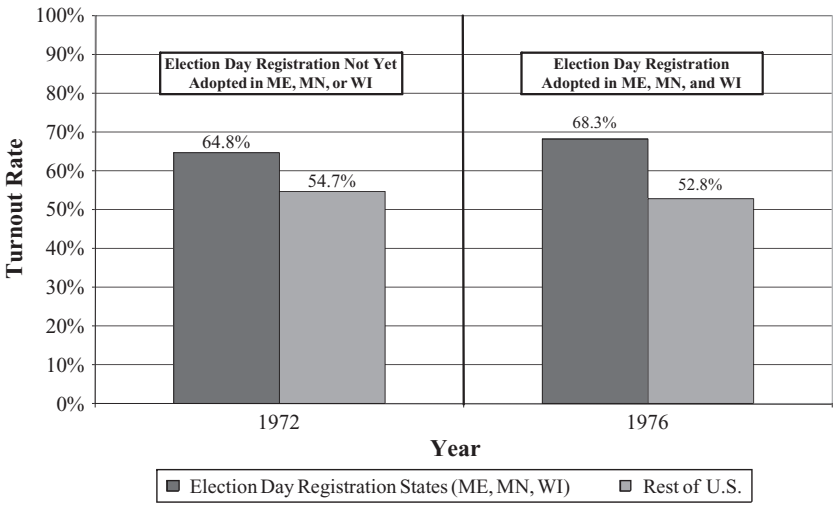

FIGURE 1.2. Turnout rate in states adopting election day registration for the 1976 election (Maine, Minnesota, and Wisconsin) before and after adoption compared to the rest of the United States (excluding North Dakota) (Source: FEC).

federal government. Although the effects tend to be the largest for the least well-off, the gains barely put a dent in the wide turnout gap that exists between the best- and worst-off. Moreover, the parties have not jumped at the expanded opportunity to mobilize eligible unregistered citizens. My findings make the case for a new direction for the study of voter turnout and ways to increase it and inform debates regarding the responsibility of the citizenry, political parties, and government.

Researchers' and reformers' concentration on structural reforms has shifted the focus away from dealing with the root causes of abstention, which cannot be fixed overnight. To improve turnout in the United States, long-term strategies aimed at increasing motivation through socialization processes are necessary. It is time to face up to the fact that tinkering with registration methods, holding elections on Saturday, making election day a holiday, reducing the number of elections that are held, or other structural changes that do not inspire the desire to vote will not generate substantially higher levels of turnout.[13] Some of the more clever attempts

[13] The removal of the barriers erected by Jim Crow laws certainly led to substantial increases in turnout among blacks (Rosenstone and Hansen 1993). My argument applies to the post–Voting Rights Act (1965) era, when one can reasonably argue that barriers to registration exist but they pale in comparison to the restrictiveness of the Jim Crow laws. Although some of the policies listed earlier, such as changing election day to a

to raise turnout rates, such as providing heat in apartment buildings so that "people will come out and perform their civic duty,"[14] as was done for the March 2004 elections in Russia, or "branding voting" with "Democracy Is Sexy" t-shirts,[15] a tactic aimed at improving youth turnout in Canada, are not effective strategies either. Although some of these proposals – certainly not those involving the manipulation of heating and cooling systems – might be worth implementing, our expectations must be more realistic and our reasons for enacting the reforms must be altered. That is, those who argue in favor of structural reforms, rather than anticipating an immediate and significant boost in turnout, must make a normative appeal regarding the responsibility of the government to facilitate voting. The government at various levels might still play a role, perhaps by providing research and guidance on civic education plans that build attachments to democratic practices and capacity to learn about the issues, candidates, and parties. But citizens bear some responsibility too; the only way the parties will expand the scope of their efforts is if those currently on the outside demonstrate some commitment to participate. It does not take much reflection to realize the difficulty of these tasks.

HOW WE GOT HERE

Voting, at a minimum, serves as a check on the government, allowing citizens the opportunity to hire and fire their representatives. Yet many believe voting takes on a larger meaning. A variety of scholars express the view that voting is more than just a check on government, perhaps none so succinctly and powerfully as Riker (1982), who said "voting . . . is at the heart of both the method and the ideal of democracy" (p. 8). That

Saturday, have not been tested in the United States, because they fit into the larger group of policies that reduce costs but do not generate the motivation to vote, my theoretical framework (see Chapter 1) predicts that they will not boost turnout. Proportional representation systems do hold promise for modest increases in turnout (Bowler, Donovan, and Brockington 2003), but it is doubtful that there is sufficient support to implement such a fundamental change in the voting system across the country. Although there is also a growing literature on ways to increase turnout by fostering more competitive elections, McDonald and Samples (2006) conclude that these approaches have produced disappointing results.

[14] This statement was attributed to the head of the Volga Interregional Energy Management Company in Ulyanovsk. Other efforts to "assure a sufficiently high turnout" included ordering hospitals not to admit those who did not have absentee ballots and threatening the jobs of local officials (Radio Free Europe/Radio Liberty, March 8, 2004: http://www.rferl.org/content/Article/1143112.html).

[15] The National, CBC Television 5/25/04. Rush the Vote, Canada's version of Rock the Vote, was responsible for this approach.