One nation, unequal voting
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Los Angeles Times
10-20-2015

We already know that Americans’ access to abortion services, healthcare and firearms varies according to where they live. In California, it’s relatively simple for women to obtain an abortion, and in Texas, it’s quite hard; the reverse is true for guns. Some states accepted Medicaid expansion as part of the Affordable Care Act, helping the poor obtain health coverage, and others did not.

Increasingly, location also affects how difficult it is to cast a vote. When it comes to election law, red America and blue America are not at all alike. Since 2000, and especially in the last few years, states dominated by Democrats have tended to pass laws that make it easier to register and vote, while states dominated by Republicans have done the opposite.

This month, Gov. Jerry Brown signed a bill making voter registration automatic for eligible Californians who request a driver’s license or state ID from the Department of Motor Vehicles. California joins liberal Oregon in this endeavor. A number of other blue states are also looking to remove barriers to registration.

Meanwhile, North Carolina has abolished same-day voter registration and pre-registration of 16- and 17-year-olds, and cut back on early voting. (It is awaiting a decision in a federal lawsuit contesting these and other changes.) Alabama recently closed a number of motor vehicle offices in counties dominated by African Americans, making it even harder to obtain the type of photo identification necessary to cast a valid vote in that state. And Kansas required documentary proof of citizenship to register, apparently leaving lots of eligible voters in the lurch.

It is easy to praise Democrats for taking the high road, but let’s not lose sight of partisan motivations on both sides: Conservatives and liberals alike believe that making registration and voting easier helps Democrats because constituencies that lean blue -- including the poor and racial minorities -- tend to have lower participation rates. One study found that unregistered voters would have favored President Obama over Mitt Romney by 73% to 27% in the 2012 election.

That said, where you live should not affect your ability to register and vote in a federal election. Why should a Californian have a much easier time voting for president than a North Carolinian?

The best solution would be to nationalize our election process. We should have uniform standards for elections, automatic registration with anti-fraud checks and national voter identification provided by the federal government.

But I am not naive, and I do not expect a national overhaul of the election system any time soon. The same partisan forces that have led to the emergence of red-state election law and blue-state election law have blocked room for partisan compromise in Congress. Many Republicans abhor automatic registration and other means to
make it easier to vote, and many Democrats are wary of anti-fraud checks. Further, state election officials don’t want to give up their grip on power.

A more practical avenue for guaranteeing access to the ballot is through the federal courts. Courts could read the Constitution’s equal protection clause to require that when a state passes a law that makes it harder for voters to register and vote, it has to prove that such a law is really necessary to meet its goals of preventing fraud or complying with otherwise sound election administration principles.

So far, courts have not read the equal protection clause so expansively. There have, however, been some attempts to aid voters who need help the most. For instance, when laws requiring voter ID have been shown to burden identifiable groups, some courts have created exemptions for them, and the litigation itself has spurred states to ease their strict rules. We have seen this happen in cases involving South Carolina, North Carolina, Wisconsin and Texas, though the Texas case is still in litigation.

Finally, and most realistically, a focus on technical standards could lead some states to move beyond the voting wars. The Pew Charitable Trust and its partners have worked in red and blue states alike to foster online voter registration. They have also encouraged cross-checks of state registration databases to make sure that voters are not registered to vote, and are not voting, in more than one place.

Perhaps surprisingly, some red states, seeing cost efficiencies and little risk of fraud, are moving quickly to adopt online registration. When rational discussion can overtake partisan bickering, improvements for voters are possible.

On certain issues, some variance in state laws makes sense given significant cultural and demographic differences among our 50 states: What works in Wyoming might not work in California. But diversity is a vice, not a virtue, when the right to vote is at issue. All eligible voters, and only eligible voters, should have the right to easily register and cast a ballot that will be accurately counted. Our democracy demands no less.

Keywords: SEQN: 218QL3T1

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