

Democracy in America – And Elsewhere

Part III – How the US Stacks Up - A. Qualifying Voters

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September 2004

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Introduction

These are curious times, with President George W. Bush, long an outspoken critic of “nation-building” and the UN, now become a radical Wilsonian, declaring to the General Assembly this week his intention to establish a [“UN Democracy Fund”](#) to propagate democracy around the world.

We certainly wish President Bush much greater success than [President Woodrow Wilson](#), who saw his own favorite proposal to “make the world safe for democracy,” the Versailles Treaty, throttled by [Republican Senators](#) who hated the League of Nations, and suffered a stroke in the ensuing battle.

Knowing President Bush, he will probably not be dissuaded from his mission by this unhappy history, or by the fact that other world leaders, like France’s Chirac and Brazil’s Lula, are now much more concerned about [fighting global poverty](#) and taxing

“global bads” like arms traffic and pollution than they are about neo-Wilsonian evangelism.

But of course any suggestion from the US that “democracy” will be propagated by multilateral consensus rather than by **unilateral military aggression** is always to be welcomed.

Before proceeding any farther with this latest American crusade to sow democracy abroad, however, it may be helpful for us to examine **how the US itself really stacks up as a “democracy,”** relative to **best democratic practices** around the world.

One approach to this subject would be to start off with a comparison with other leading First World democracies, such as the UK or France. After all, at the outset, one might think that only such countries have the well-educated, politically-engaged citizenry, political traditions, affluence, and technical know-how needed to implement truly state-of-the-art democratic processes.

However, following the lead of [former President Jimmy Carter’s](#) brief comparative analysis of Peru in 2001, we find it more interesting to see how the US compares with younger developing democracies that lack all these advantages – much less access to the yet-to-be created UN Democracy Fund.

In our case, we’ve chosen **Brazil**, the world’s sixth most populous country, with [180 million inhabitants](#), two-thirds of South America’s economic activity, a federal system and a long history of slavery (like the US). As we’ll see, our overall finding is that while Brazil’s democracy has plenty of room for improvement, it already boasts ***a much more democratic electoral system than the United States of America.***

Brazil vs. the US – And The Winner Is.....

From 1937 to 1945, and again from April 1964 until early 1985, Brazil was ruled by (US-backed) military dictatorships. Since then, however, Brazilians have freely voted to elect their President three times. They’ve also elected their bicameral

National Congress, 26 state governors and legislatures, and thousands of city mayors and councilmen every two years.

While Brazil's electoral institutions are by no means perfect, and its campaign finance laws and federal structure have many of the same drawbacks as the US, it has recently been working very hard to improve these institutions.

Indeed, it turns out that Brazil is making remarkable progress toward effective representative democracy, especially for a country with enormous social problems, a high degree of economic and social inequality, and a per capita income just one third of the US level.

Brazil's new democracy provides a striking contrast along many dimensions – in particular, the processes and structures by which it (1) qualifies voters, (2) conducts campaigns, (3) administers voting, and (4) provides fair representation of voter preferences. The following essay focuses in on the first of these three elements; the sequel will deal with the others.

QUALIFYING VOTERS

■ Mandatory Voting/Registration

To begin with, Brazil treats voting as a civic duty, like military service (which is obligatory, with alternative service available) and paying taxes. Voting is mandatory for all citizens age 18 to 70, except for illiterates. Actually "mandatory" is a misnomer – people are just required to show up at a polling station or consular office and submit a vote, which can be blank. There are fines for violators who lack valid excuses, like illness.

Brazil adopted mandatory voting in part to overcome the "apathy" induced by more than two decades of military rule. But it is just one of many countries that now require mandatory voting, including Australia, Belgium, Cyprus, Greece, Luxembourg, Liechtenstein, one Swiss canton, Egypt, Fiji, Singapore, Thailand, Argentina, Bolivia, Costa Rica, the Dominican Republic, Ecuador, Uruguay, and Venezuela.

Mandatory voting is facilitated by the fact that, as in [82 other countries](#), all Brazilians age 18 or over are required to obtain a **national identity card** with their photo, fingerprint, signature, place and date of birth, and parents' names. These cards, which are now [becoming digital](#), are needed to qualify for any government services and to conduct financial and legal transactions. They also enable cardholders to vote at polling booths anywhere in the country, eliminating the need for a separate, costly voter registration process.

To encourage voter turnout, Brazil also makes Election Day a national holiday, or holds its elections on Sundays. Any eligible voter may be required to assist for free at the polls.

All this, plus Brazil's proportional representation system (see below), has yielded voter turnouts in recent national elections that exceed 75 percent of the voting-age population (VAP). By comparison, recent US voter turnouts have averaged less than 45 percent.

Brazil's mandatory system has arguably increased turnout the most among social groups that have much less access to education and income, thereby boosting their "voice" in the political system. It has also pressured authorities to implement more efficient voting procedures, and shifted responsibility for registration and turnout away from Brazil's political parties, allowing them to focus on campaigning.

As one might expect, mandatory voting produces slightly more blank votes as a proportion of all votes than in US elections. But the system also seems to have made voting more habitual. Some countries, like Austria and the Netherlands, have recently abandoned the practice, and Brazil is also considering this, now that the population has re-acquired the voting habit. As Brazil matures, especially given its use of proportional representation, it may well be able to follow in the footsteps of these other countries and eliminate mandatory voting without sacrificing the high turnout.

The US. Voting is entirely voluntary in the US, and there are no national identity cards or centralized voter registration systems. Originally, many states viewed voter registration as undemocratic. But in the course of the 19th century, growing concerns over vote fraud, combined with the desire in some states to curb voting by blacks and the lower classes, led to the widespread adoption of stricter voter registration laws. By now, every state but North Dakota requires voters to “register” before they can “vote.” Elections are never held on Sundays, nor is Election Day a national holiday.

None of this has helped to encourage voter turnout. Indeed, one can argue that that was precisely the point – the fact is that participation by ordinary Americans in their political system has always been a trifle unwelcome. For example, just 6 percent of all American citizens – 20 percent of whom were slaves -- participated in George Washington’s election in 1789. This was mainly because most state legislatures at the time had decreed that voters had to be [white, propertied, male, Protestant and at least 21 years old](#). And studies of 19th century voter turnout in the South, for example, reveal that turnout exceeded [60 percent in the 1880s](#), and then plummeted in the next 30 years under the impact of tougher registration laws that targeted black voters. To this day, the Neo-Republican South still boasts the *lowest* turnout rates *and highest* black population share in the country.

Of course, as we’ll examine closer below, the US’ “winner-take-all” electoral system is highly inefficient, with more than **95 percent** of all Congressional incumbents now re-elected, and almost all US House and Senate races are now a foregone conclusion. So US voters are naturally not eager to participate in such “Potemkin” elections.

Not surprisingly, therefore, for the entire period 1948-1998, US voter turnout averaged just 48.3 percent as a share of VAP, and [ranked 114th in the world](#). This was the lowest level among all OECD countries -- forty percent lower than the average turnouts recorded in First World countries like Germany, Italy, Sweden, and New Zealand. Even if we omit the 17 countries like Brazil

with mandatory voting, it is hard to make this track record look like an achievement.

Of course one might argue, as some cynics do, that the low US turnout rates are just a sign of how deeply "satisfied" American voters are with the way things are. However, US turnout rates have also declined sharply over the last three decades. Are the cynics really prepared to say that this is because Americans have become *more and more* satisfied with politics?

In 1968, for example, [73.2 million Americans voted](#), a 61 percent turnout level. Thirty years later, in 1998, the number of Americans who voted was still just 73 million -- despite the fact that US population had increased by 40 percent.

Beyond voting, as of 2002, one US citizen in three (33.6 percent) did not even bother to register to vote. And that proportion was higher than it was in 1993, when Congress passed the [National Voter Registration Act](#), which was intended to facilitate voter registration.

Evidently a majority of American voters have become so "satisfied" with the system that they no longer choose to participate in it. According to the bogus "apathy" theory of non-registration, the most "satisfied" of all must be blacks, other minorities, youth, the poor, and residents of Southern states, whose turnout rates are all miserable.

In 2002, for example, in four states (Texas, West Virginia, Indiana, and Virginia), [less than 40 percent of all eligible citizens](#) of voting age voted. Of 24 million Americans between the ages of 18 and 24, 38 percent registered, and 4.7 million, or 19.3 percent, voted. Just 27 percent of unemployed citizens, 30 percent of Hispanic citizens, 30 percent of Asian American citizens, [30 percent of the 35 million disabled](#) Americans, 35 percent of all women ages 18 to 44, 37 percent of high school graduates, and 42 percent of all black citizens voted. All these groups really just must be pleased as punch.

In fact, as we'll examine later, there are very important structural reasons that help to explain why many of these groups fail to

register or vote. In the case of black males, for example, prisoner and ex-felon disenfranchisement may account for a substantial fraction of their relatively low participation rates. And [70 percent](#) of those who registered and didn't bother to vote in 2002 blamed logistical problems – transportation, schedule conflicts, absence from home, registration problems, homelessness ([2.3-3.5 million](#) adult Americans), the failure to get an absentee ballot on time, inconvenient polling places, or illness (including 44% of non-voting registrants age 65 or older).

All these obstacles naturally affected poorer, less educated, older voters more than others, and all of them might easily be addressed with improved voting technology – if the country's leaders, despite their putative concern for democracy, had any interest in doing so.

Meanwhile, in 1998, some 83 million Brazilians voted – 5 million more than in the entire US, which has about 100 million more citizens. Brazil's voter turnout increased dramatically since the 1960s, from 37 percent of VAP in 1962 to an average of more than 80 percent in 1994-2002. In 2002, while 88 million Americans were proudly exercised their right to vote, so were 91 million Brazilians – for an [81 percent](#) turnout. On the "satisfaction" theory, all these Brazilians must be nostalgic for the dictatorship.

After the 2002 Congressional elections, some US political pundits were impressed because voter turnout had increased slightly, from [41.2 percent in 1998 to 42.3 percent](#) (46.1 percent of all citizens). From an international perspective, that merely put the US on a par with Haiti and Pakistan – and just half of Brazil's level.

The US trends described here are hardly indications of "voter satisfaction." Rather, they are a disturbing sign that there are serious structural impediments to voting in America, and that the **organizing power** that has always been essential for getting out the vote in this country, and our **commitment to democracy at home**, have been wavering.

It will be interesting to see whether this November's heated contest, and the new organizing drives that have been mounted to [increase voter turnout](#) and [registration](#) at [home](#) and [abroad](#), will reverse these disturbing trends. No doubt turnout will be higher than it was in the dismal 2002 off-year election, but that's not saying very much. A more telling indicator will be whether turnout surpasses the relatively modest [59 percent median VAP](#) turnout rate that the US recorded in nine Presidential elections over the whole period 1968-2000.

■ **Voting Rights for Prisoners and Ex-Felons**

Brazil. Disenfranchising prisoners and ex-felons is unfortunately a longstanding, widespread departure from "one person, one vote" -- a legacy of the age-old practice of ex-communicating social outcasts. Worldwide, there is a growing trend toward discarding this medieval practice, with [32 countries](#) now allowing all prisoners to vote and 23 more that allow certain classes of them to do so.

Brazil is one of 54 countries that prohibit prisoners from voting while they are in jail, but it permits them to vote after they are released, or are on parole or probation.

The US. The US approach to prisoner voting is much more backward. All but 2 (Vermont and Maine) of the 50 states disenfranchise [all incarcerated prisoners](#), including those awaiting trial. Thirty-four states disenfranchise all felons on parole, while thirty disenfranchise those on probation.

Furthermore, the US is [one of only 8 countries](#) where ex-felons are temporarily or permanently disenfranchised even after they have completed their sentences, unless they successfully petition the authorities to have their voting rights restored. In 7 US states, felons are [disenfranchised for several years](#) after serving their sentences -- for example, 5 years in Delaware, or 3 years in Maryland. In 3 states -- Arizona, Maryland, and Nevada -- recidivists are permanently disenfranchised. And in 7 other states -- Alabama, Nebraska, Kentucky, Mississippi, and the

“battleground states” of Iowa, Florida, and Virginia – all ex-felons are *permanently* disenfranchised.

Many of these rules date back to the Ante-Bellum period of the 1880s, when they were enacted by Southern and border states to maintain control over the newly-freed blacks -- contrary to the spirit of the 15th Amendment.

The impact of prisoner and ex-felon disenfranchisement on electoral outcomes is much greater in the US than Brazil, because of the electoral college system and the size, composition and location of the US convict population. Indeed, while Brazil’s prison system is *horribly overcrowded*, its entire prison population is just *285,000 inmates* -- *.2%* of Brazil’s voting-age population.

The US, in contrast, now has the *world’s highest proportion* of its population in prisons, jail, on probation or parole, or under

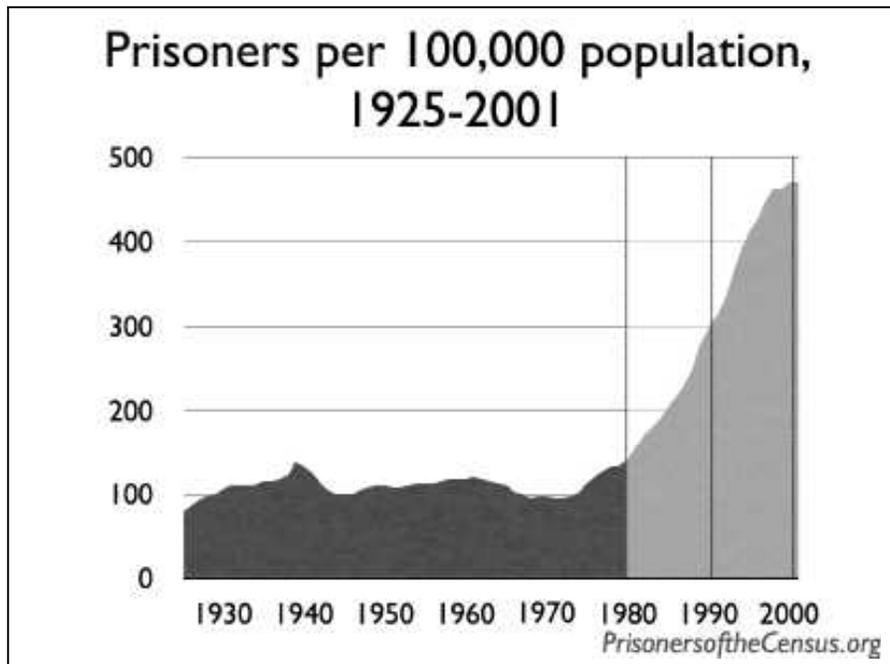


Figure 3A-1.

correctional supervision, outside jail. As of August 2004, this “correctional population” totaled *7.2 million adults*, *3.3%* of the US VAP. Relative to population, as well as in absolute terms,

this is the largest US prison population ever. It is also *by far the largest prison population in the world, well ahead of the US' closest competitors, China and Russia.*

There are also another **3.2 million** American citizens – **1.4% of VAP** -- who have served time in state or federal prison for felonies and are no longer in correctional programs. Depending on their states of residence, they may be subject to the voting restrictions imposed on former felons in the US.

Both these totals have soared since 1980 because of stiffer drug laws and tougher sentencing laws -- the "correctional" population as share of VAP has almost tripled, from 1.17% to 3.3%. (See Figure 3A-1.) Furthermore, compared with 1980, when a majority of state and federal prison inmates were serving time for violent crimes, a majority are now either *awaiting trial* because they cannot afford bail, or are serving time for *non-violent offenses*, more than a **quarter** of which were for relatively minor drug-related offenses.

Drug Offenses and Disenfranchisement. As other analysts have recently noted, such drug offenses rarely involve "victims," and there is a high degree of prosecutorial discretion. This makes them especially vulnerable to racially-discriminatory arrest practices. For example, recent studies of drug arrest rates show that black arrest and conviction rates for drug-related offenses are way out of proportion to drug use in the black community, and that the disparity between black and white arrest rates for drug use has been soaring because of policing practices, not because of greater underlying criminality.

The resulting steep rise in the US prison population since the 1980s provides a strong contrast with European countries and leading developing countries, where per capita prison populations have been stable or even declining. Not surprisingly, the disparity is also consistent with the fact that Europe's drug laws are much less punitive.

Unemployment Measures. The increase in the US correctional population as a share of the population since 1980 has not only reduced the ranks of poorer voters. It has also **reduced the size**

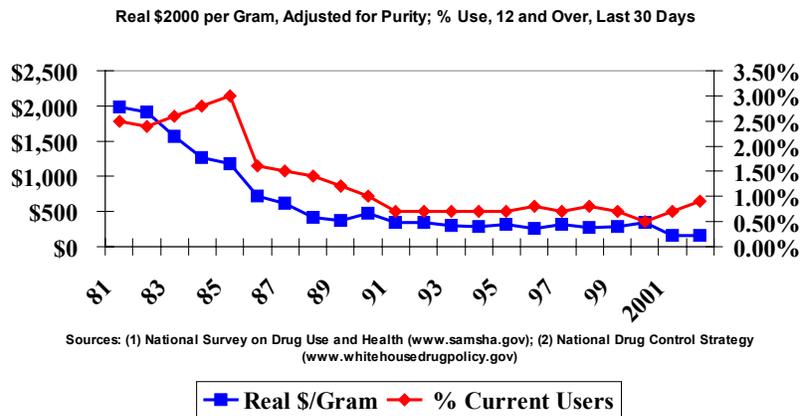
of the “observed” civilian labor force and the official US unemployment rate by 18-20 percent. In other words, the US unemployment rate in July 2004, for example, would have been 6.43 percent, not the official 5.43 percent reported by the Bureau of Labor Statistics. So without this swollen prison population, there would now be more than 10 million unemployed in the US – at least 2.2 million more than the official statistics show, and more than enough to swamp any alleged “job growth” in the last year.

So US penal policies have not only removed a huge number of prisoners from the ranks of potential voters. They have also helped to disguise the seriousness of the US economy’s rather tepid recent recovery.

And some of us may have actually thought that the point of the US’ punitive drug laws was to reduce drug trafficking! (Note to reader: US real retail cocaine prices have plummeted since the 1980s. [See Figure 3A-2.](#))

While it is not easy to measure the impact that US prisoner disenfranchisement has had on recent elections, it may have been substantial, as several analysts have recently noted. For example, one recent study estimated that in 2000, [more than 3.0 million prisoners, parolees, and probationers, plus 1.5- 1.7 million ex-felons](#), were formally disenfranchised – 2.1% of the US voting age population. Another [recent study](#) of prisoner disenfranchisement in the state of Georgia found that 13% of adult black males were disenfranchised by this policy, and that it explained nearly half the voter registration gap between black males and non-black males.

Figure 3A-2. US Average Retail Cocaine Prices Vs. % Current Users, 1981-2002



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There were also another 358,000 who had been jailed awaiting trial, and 218,000 more who had been jailed on misdemeanor charges. All these people were also effectively disenfranchised.

All told, during the 2000 Presidential race, the total number of potential American citizen/voters who were disenfranchised because of the US penal system and its archaic laws was about 5 million. Since the numbers have continued to grow since then, by now they have reached 5.5 – 5.8 million.

As other commentators have noted, this policy is also **practically unique** -- no other self-styled "democracy" comes anywhere close to this kind of systematic vote deprivation.

No doubt there are a few determined ex-felons, parolees, and probationers who manage to slip through and vote even in states that prohibit them from doing so. Many others would not vote even if given the chance. However, even apart from the question of whether such harsh treatment encourages better behavior, this disenfranchisement policy is far from politically neutral:

- About 45 percent of the 4.9 million convicts on probation and parole, and 67 percent of the current US prison population, are **black or Hispanic**, and more than **ninety percent** are from **poor**

families. So the impact of these prisoner voting rules falls disproportionately upon groups whose real "crime" is to be black, Hispanic, or poor. These laws currently disenfranchise at least **13 to 18 percent of all adult black males and 4-6 percent of all adult Hispanic males** in the US.

- These disenfranchisements are the modern equivalent of Jim Crow laws. Their impacts are **concentrated in a handful of mainly Southern states – including half the "battleground states"** -- that have an unusual combination of large black or Hispanic populations, relatively punitive criminal justice and penal systems, a long history of racist practices, and disproportionate influence on the US electoral college.

- While US incarceration rates have increased dramatically in almost all states since the 1980s, the 15 original Southern "slave states," for example, have consistently maintained rates of incarceration at least 25 to 98 percent higher than the US median, and 45 percent higher than those in the original 18 "Union" States.

Texas alone has at least 500,000 ex-felons and more than 200,000 prisoners and other inmates who have been disenfranchised, the overwhelming majority of whom are black or Hispanic.

Of Florida's 13.4 million people of voting age, at least 600,000 to 850,000 prisoners, parolee/probationers, and ex-felons, have been disenfranchised by such voter registration laws, including at least one-fifth of all adult black males who reside there. Other battleground states, including New Mexico, Virginia, Iowa and Washington, have also used such laws to disenfranchise 15-25 of their adult black male populations.

All told, the top 15 battleground states account for at least **1.4 to 1.6 million** excluded potential prison/ ex-felon votes this year. Combined with US' knife-edged "winner take all" electoral system, this is clearly a very important policy choice.

Furthermore, in states like Florida, Texas, Mississippi, and Virginia, the opportunity to purge thousands of minority voter

from the polls in the search for “ex-felons” has opened the doors to many other abuses.

For example, in 2000, there was the notorious purge by Florida’s Republican Secretary of State of [94,000 supposed “felons.”](#) It later turned out that this number included more than 50,000 blacks and Hispanics, but just [3,000](#) actual ex-felons.

One might have hoped that one such flagrant anti-democratic maneuver would have been enough. But that was followed attempts by Florida’s Republican state administration to do the very same thing again [in 2002](#) and [again this year](#), when Florida tried to use [another “bogus felons”](#) list with another 40,000 names.

From this angle, all of the many arguments over Nader’s candidacy, “hanging chads,” and the narrow 537 vote margin by which Bush carried that state in 2000, have been **side-shows.**

We are reminded of the period from 1867 to 1877, when Florida and 8 other Southern states had to be put under [military occupation](#) by the US Government, to prevent the white elites’ systematic attempts to deprive freed slaves of their voting and other civil rights. By the late 1870s, Northern passions toward the South had cooled, the Union troops left, and white-supremacist governments reacquired power. Unfortunately, unlike the 1860s, the “Radical Republicans” in Congress now side with the neo-supremacists.

Counting Prisoners for Apportionment. The punitive US policy toward current and former prisoners appears even more bizarre, once we take into account the fact that for purposes of redistricting, the US Census – unlike Brazil – [counts prison and jail inmates as residents of the counties](#) where prisoners are incarcerated, rather than the inmates' home towns.

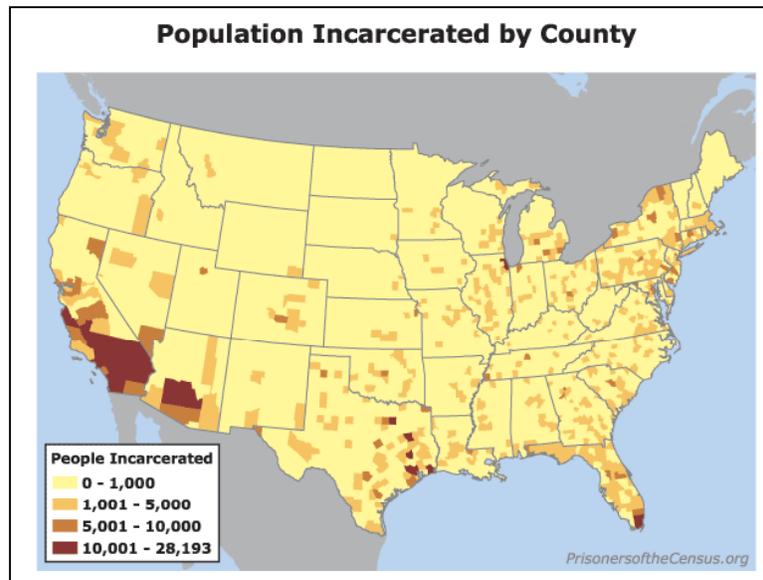


Figure 3A-2.

In general, this approach to counting prisoners for districting purposes tilts strongly in favor of rural Southern and Western states – areas that also now happen to vote Republican. (See [Figure 3A-3](#)). It has an important impact on the apportionment of Congressional seats and seats in state legislatures, the allocation of federal funds to Congressional districts, and the total number of electoral college votes that each state receives. It also creates a huge, influential, coalition of interests -- construction companies, prison administrators and guards, and politicians -- that mounts to a “prison-industrial complex,” with powerful selfish motives to support tough sentencing laws and the construction of new prisons and jails.

The resulting combination of disenfranchisement and mal-apportionment recalls the [“three-fifths compromise”](#) that was

built into the US Constitution in 1787, to accommodate the original six Southern slave states, where slaves constituted more than forty percent of the population. Under this provision, even though slaves could not vote, they were counted as three-fifths of a person, for purposes of determining each state's Congressmen and Presidential electors.

Given this provision, it was no accident that 7 of the first 8 US Presidents were Virginian slave owners. This exaggerated Southern political power, entrenched by the anti-democratic electoral college, had disastrous consequences – it made resolving the problem of slavery without a regional civil war almost impossible. (Contrast Brazil's relatively peaceful abolition of slavery.) From this perspective, the electoral college and prisoner disenfranchisement are both just throwbacks to America's "peculiar institution," slavery. As John Adams [wrote in 1775](#),

All our misfortune arise(s) from a single source, the reluctance of the Southern colonies to republican government....The difficulties lie in forming constitutions for particular colonies and a continental constitution for the whole...This can only be done on popular principles and maxims which are so abhorrent to the inclinations of the barons of the South and the proprietary interests of the middle colonies.....

Of course, in a sense, the modern analog is even worse: prisoners can't vote either, but they count as one whole person in the districts where they are imprisoned, for purposes of redistricting.

Surprisingly, illegal immigrants are also included in the US Census count for redistricting purposes. Depending on where immigrants locate, this may [reinforce the prisoner effect](#) in some key states. The US illegal immigrant population has also been growing rapidly, with a Census-estimated [7.7 - 8.9 million illegals](#) in the US by 2000, compared with about 3.5 million in 1990. According to the INS, two-thirds are concentrated in just five states – California, Texas, New York, Illinois, and Florida.

However, unlike prisoners, estimating where illegal immigrants are located is much more uncertain. So the US policy of including non-voting illegals in the Census for purposes of drawing voting districts is also very peculiar.

■ Teen Voters

Brazil. To encourage young people to get involved in politics, Brazil gives those who are 16 or 17 the right (but not the duty) to vote. This measure increases Brazil's VAP by [6 percent](#). Brazil argues that a relatively low voting age is consistent with the spirit of the UN's Convention on the Rights of the Child. It also argue that this youth vote acknowledges the basic fact that a majority of 16-17 year olds (in both Brazil and the US) pay taxes and can marry, drive, and be tried as adults, so they ought to be able to vote. So far Brazil has only been joined in this experiment by a handful of other countries, including Indonesia (age 17), Cuba (16), Iran (15), and Nicaragua (16). The UK is also now seriously considering teen voting.

The US. The minimum voting age in the US has been 18 since 1971, when the 26th Amendment was adopted. [A few states \(Maine, California\) have recently](#) considered reducing the voting age below 18, but so far voting rights for 16-17 year-olds, much less the more radical proposal to let [children of all ages vote](#), has not taken off. Obviously this cause has not been strengthened by abysmal voter turnout levels by 18-24 year old Americans in recent elections.



(Next: Democracy in American and Elsewhere, Part IIIB: Campaigns, Voting, and Representation)

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