United States’ Compliance with the
International Covenant on Civil and Political Rights

Meiklejohn Civil Liberties Institute
Suggested List of Issues to Country Report Task Force on the United States

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I. Issue Summary
1. Charges of discrimination by federal; state, county, and city officials against voters based on their poverty, race, or national origin are not new issues, but they were not discussed in the U.S. Report to the UN. In paragraphs 451, 452, pr 458 on U.S. complaints with ICCPR Articles 2 and 25.

2. The issues include requiring voter Identification (ID), making it harder to vote before election day, rules on absentee voting, purging of names from voter lists, rules against voter registration drives, and inaccurate information on voting dates in Spanish-language flyers.

Suggestions to the Human Rights Committee for questions to consider in list of issues for the United Stats

3. The UN Committee Members may want to question the U.S. government representatives about all of these issues that were not addressed in the U.S. Report.

II. Basic facts
4. In 2012, nearly 219 million people were registered to vote in the United States. Of that, approximately 126 million participated in the most recent election, equating to a 58% turnout. 93 million people chose not to show up at the polls.¹

5. Stating that they were acting to protect the electorate from voter fraud, 17 states have passed photo identification requirements to vote; another 19 states have passed non-photo ID requirements, and a few states have conducted controversial purges of their voting rolls.2

III. Articles 2 & 25
6. The U.S. Report should have addressed the issue of the constitutionality of recent state voting ID laws that has come into question multiple times throughout the years, mainly over the question of whether their implementation constitutes a poll tax, which the U.S. Supreme Court ruled unconstitutional in *Harper v. Virginia Board of Elections* (1996). The Court’s opinion states3: “Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.” And the Court ruled unconstitutional a law that bars a citizen’s vote on account of his economic status or other such factors. This rule, by analogy, bars a system which excludes those unable to pay a fee to vote or who fails to pay. The Fourteenth Amendment to the U.S. Constitution provides equal protection to all citizens, necessarily barring any state from requiring payment of a tax in order to vote since federal law overrides state law whenever they overlap.4

7. To answer charges that requiring a photo ID at polling places equals a poll tax, some state laws state that free identification cards will be issued to whomever the rule may burden unnecessarily. *Milwaukee Branch of the NAACP v. Walker* lists many examples of African American citizens faced with unwelcome obstacles when they became eligible to vote. In Wisconsin and other states, far too often people are denied the IDs, a requirement to vote, because of a lack of funds, social security cards, or birth certificates.5 Even though states like Missouri and Wisconsin offer free IDs, there are real costs to obtain them. An individual may have to pay $15 for the state’s certified birth certificate, or between $5 and $30 if born out of state. This is in addition to wait times of 6 to 8 weeks. To obtain a passport, another accepted form of identification to vote, someone may need to pay between $97 and $236.6 Burdened by such unnecessary demands, many voters become disillusioned with the whole process and choose not to participate in the fundamental right they possess.

8. A recent survey suggests as many as 21 million voting-age individuals do not possess government-issued photo identification; African American and Latino/Hispanic citizens are less likely to have government-issued photo

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2 Thirty six (36) of the fifty (50) states in the US require some form of identification for in person voting. In states where photo identification is required, provisional ballots are given when the ID cannot be supplied. The voter must then show up within a short period of time with acceptable identification or their vote is not counted. See “Voter Identification Requirements” October 24, 2012, http://www.ncsl.org/legislatures-elections/elections/voter-id.aspx

3 References Yick Wo v. Hopkins 118 U.S. 356 (1886)


5 Milwaukee Branch of NAACP v. Walker, 11 CV 5492, (Dane County 2012)

6 Weinschenk v. State, 203 S.W.3d 201 (Missouri, 2006)
identification. African Americans, for example, have 25% of their voting age population without them, which equates to 5.5 million people. 16% of the Hispanic population has no current ID. Those with an annual income of $35,000 or less are twice as likely to lack government-issued ID as those who earn more; 15% of the voting-age population makes less than $35,000 per year.7

9. To avoid voter fraud, the federal government has enacted very tough penalties, “five years in prison and a $10,000 fine. But this yields at most one incremental vote...no credible evidence suggest a voter fraud epidemic. … (voter fraud) happens approximately 0.0009% of the time.”8

“There is a bipartisan consensus that voting by mail, whatever its impact, is more easily abused than other forms…On the most basic level, absentee voting replaces the oversight that exists at polling places with something akin to an honor system.” A prime concern with absentee voting is the coercion prevalent in nursing homes; there are documented cases of intimidation. For various reasons, absentee ballots have a failure rate of nearly 20 percent.9 One may surmise absentee voting deserves overhaul instead of in-person voting if just the facts are taken into account.

10. After exploring this issue, a New York Times journalist concluded politicians are very much aware of voting fraud statistics. A political scientist “posited a reason that Republican officials in particular have pushed to expand absentee voting. ‘The conventional wisdom is that Republicans use absentee ballots and Democrats vote early.’”10

IV. Voter Purge
11. The U.S. Report should have included a discussion of the purge of voters from the voting rolls.

Purge lists have been a hotly contested issue for decades. In the main, contention has arisen due to the potential suppression voter purges represent. Federal law requires registered voter list be kept accurate and updated;11 the point of contention lies in the execution of this mandate. Ortiz v. City of Philadelphia (1993) produced evidence that Latino and African American voters were purged at higher rates than White voters during a two year time frame.12 Crawford v. Marion County Election Board states: “The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters”.13

8 “Policy Brief on the Truth About ‘Voter Fraud’. Brennan Center for Justice at NYU Law School. Available at: http://www.brennancenter.org/content/resource/policy_brief_on_the_truth_about_voter_fraud/
10 Supra 10.
11 Van Hollen v. Government Accountability Board. 2008CV004085 (Dane County 2008)
13 Crawford v Marion. 128 S.Ct 1610 (2008)

3. Florida has found itself in under heavy scrutiny during the most recent election. With only a few months before election, Florida officials began a voter purge which targeted 180,000 citizens as potentially ineligible or non-citizens. After public outcry and litigation over list’s inaccuracy it was amended to include only 198 voters whose citizenship was in question, but this list has proved to be inaccurate as well. Black and Latino citizens are overwhelmingly affected by legislation that targets non-existent problems.

V. Voter Registration
1. The U.S. Report should have included a description of the many states that have enacted laws restricting voter registration drives, one of the main ways minority voters are registered. By threatening jail time and steep fines for people who either do not submit registration forms within 48 hours or fail to pre-register with the state before signing up their peers, many states have seriously hampered community efforts to register citizens. These restrictive laws are passed, predominantly, by states with Republican dominated legislatures. The Census of 2010 shows 37% and 48% of eligible Black and Latino voter, respectively, are not registered to vote; these are the voters most likely to register through private drives. In addition, “Studies show that voters are more likely to cast a ballot if they have registered through community-based efforts.” Citizens have fought the laws on registration drives since their inception. In Florida, a district judge condemned the laws, stating, “[they] could have no purpose other than to discourage voluntary participation” Laws governing community registration efforts either regulate official volunteer systems, training programs, registration and reporting, or return deadlines and penalties.

VI. Early Voting
1. The U.S. Report should have included a description of voting prior to election-day and recent problems raised by this practice.

It was implemented, primarily, as a precaution against disenfranchisement. The introduction of early in-person voting has been increasingly utilized, In Ohio, for example, a peak of nearly 30% of the total amount of votes cast was submitted early. “Early voters were ‘more likely than election-day voters to be women, older, and of lower income and education attainment’…early voters were disproportionately African-American…” The Ohio’s legislature’s attempt to cut early voting by 3 days was denied by a Federal court due to its discriminatory

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18 Supra 20
nature. In Florida, another state with no clear majority of Republican or Democratic voters, early voting hours have been cut to exclude Sunday, which is historically the day when African-American churches send members to vote in droves as part of “Souls to the Polls” day. Scott Tranter, a GOP consultant, has publicly stated that long lines and voter ID laws “help our side”. “Lengthy waits to vote were reported in Florida, Virginia, and Ohio, all key swing states.” Waiting in line up to 7 hours to vote was sure to discourage some voters from participating in the presidential elections.

VII. Wrong Date on Official Spanish Forms

1. The U.S. Report should have included information on officials in Maricopa County, Arizona being accused of suppressing the votes of Latinos. The voting information passed around the Phoenix area had the correct date of the general election in English, but a date two days afterward written in Spanish. In a county with a reputation for poor race relations, many have questioned the intent behind the mistake. Having made the same mistake twice in as many weeks, questions of intended suppression seem warranted.

VIII. Recommended Question

1. Since investigations by state authorities have tended to find nothing wrong with practices that benefit one political party over another, we urge the Committee to ask the U.S. if they are planning to establish an independent election commission in the United States to investigate the many charges of misconduct at the city, county and state levels. As the civil rights movement in the 1960s led to federal investigations of violations of the constitutional rights of African Americans, a federal investigation of alleged denials of voting rights to people of color throughout the U.S. is required.

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19 Obama for America v Husted. 12-cv-0036 (Columbus 2012) Available at: http://www.ca6.uscourts.gov/opinions.pdf/12a0356p-06.pdf