

## Only in America? Executive partisan interest and the politics of election administration in Ireland, the UK and the USA

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What role does executive partisan interest play in the reform of election administration? The forces for reform and continuity in the USA, the UK and Ireland from 1980 to 2007 are compared. Partisan involvement is found to be present in the USA and the UK but less so in Ireland. This is explained by conceiving partisan interest as a context-specific causal mechanism which varies according to three factors. First, an issue trigger may be required to bring election administration on to executive policy agenda. Five such triggers are identified in the cases. Second, the systemic institutional features of political systems shape and refract the (non-)politics of election administration by altering the incentives, opportunities for and constraints upon elite action. Executive interest in and action on election administration are influenced by the electoral system, party system and constitutional control over procedures. Finally, executive strategy on election administration is influenced by the reform process of other electoral institutions.

**Keywords:** election administration; election reform; election law; electoral system; constitutional reform; statecraft; policy change; political elites

### Introduction

Free and fair elections are the key institutional feature of the liberal democratic state (Katz 1997, p. 3). They give sovereignty to the citizens rather than to the ruler and, in theory, ensure that they ultimately determine the policies and personnel of government. Electoral laws and institutions, however, are not neutral and will advantage some individuals, groups or interests and disadvantage others (Rae 1967, Groffman and Lijphart 2003). If elites are proactive in picking and choosing the rules which govern elections for partisan gain, then it follows that there are consequences for the legitimacy of democracies. How and why electoral laws change is, therefore, central to who has power in the state and Dahl's (1961) question of 'Who Governs?'

Inspired by the major changes in electoral systems in Italy, Japan, New Zealand and Israel in the 1990s, research has proliferated on why electoral reform occurs and the role that elites play (Benoit 2004, Blais 2008, Rahat 2008, Lundell 2009, Renwick *et al.* 2009, Renwick 2010). Electoral systems were previously thought to only change in established democracies during moments of great exogenous shock such as after the Second World War or during the Algerian crisis (Katz 1980, p. 123). However, the literature has primarily focused on explaining electoral *system* reform and overlooked other electoral rules. In their review of the literature on 'electoral reform', Leyenaar and Hazan suggest that adopting a more comprehensive definition of electoral reform is necessary to 'advance the study of electoral change' (2011, p. 448). According to them,

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there is no reason, nor has there ever been, why changes in legislation regarding the (financing of) campaigns, pre-voting and smart voting systems, ballot access or polling, etc. should not be defined as electoral reform and included within the scope of research on this topic. (2011, p. 447)

Election administration is one of these overlooked aspects of elections in the debate on electoral reform. It is important because it is known to affect levels of participation, voter fraud and potentially electoral outcomes. By making it harder to vote, fewer people may attend the polls and this lower turnout can undermine the legitimacy of democracies. Changes in election administration can also affect the fortunes of political parties disproportionately. As a result of this, it is frequently claimed that political elites in the USA regularly seek to amend election administration for partisan interest (Piven and Cloward 1988, 2000, Keyssar 2009, Piven *et al.* 2009).

Do political elites seek to reform election administration for partisan interest? If so, is it a uniquely American phenomenon? Have governments in other countries been just as active in trying to reform election administration for partisan reasons? If not, why not? This article assesses how purposeful partisan-driven activity has caused change and continuity in three established democracies: the UK, Ireland and the USA during the period 1980–2007.

The contribution of the article is as follows. First, it provides new empirical evidence about the extent to which partisan strategies inform positions on election administration by using original primary evidence in each case. Second, it is the first comparative study of the causes of reform and continuity in election administration. Third, it offers a new layered framework for understanding change from an elite perspective. This can be revised with future research. Fourth, it presents new challenges to the literature on electoral reform by highlighting important interactions between the reform processes on different electoral laws. Last, by identifying when and where partisan strategies are more likely to be found it draws attention to some previously unnoticed features of constitutional systems. This has implications for constitutional designers.

This article begins by explaining the importance of election administration, before mapping out the existing literature which has sought to explain why election administration has changed. The changes made and presence (or otherwise) of partisan strategies in the three case studies are identified before an explanatory framework for the variations is put forward. The conclusion considers some of the consequences of the findings for our understanding of electoral systems, the policy process and democracy.

### **Election administration: consequences and causes**

Election administration refers to *the administrative processes through which citizens' names are compiled on to the electoral register and votes are cast and counted*. It can be usefully distinguished from other aspects of elections such as suffrage legislation, electoral boundaries, electoral finance, electoral systems and electoral governance. Election administration determines the times during which a citizen can vote; whether votes are to be cast in person or via the mail, an electronic machine, the internet or a mobile phone; whether citizens can register online; whether they require photographic identification to do so; and a number of other administrative procedures.

An extensive literature asserts that election administration can affect confidence in elections and democracy (Elklit and Reynolds 2001, 2002, 2005, Alvarez *et al.* 2008b, Cain *et al.* 2008) but also voter participation and electoral outcomes. Election administration is often thought to affect participation levels by determining the costs of voting (Rosenstone and Wolfinger 1978). Studies on the effects of election administration have a surprisingly long genealogy which can be traced back at least as far as Harris' (1934) study of procedures in the USA. However, it was the pioneering work of Wolfinger and Rosenstone (1980) that established that election

administration was an important variable in voter participation. Many studies have since reaffirmed this, but some have suggested that the effects of election administration, particularly on turnout, have been overestimated (Hanmer 2009). Nonetheless, the majority of research still identifies it as an important variable in the study of elections. James (2010a) categorised forms of election administration on to a continuum according to whether the international literature found them to have an *expansive* or *restrictive* effect on participation. The positioning of these procedures is provisional because of some deficiencies in the literature. Yet, the continuum provides a *heuristic* tool for identifying the likely effects of different procedures on participation (Tables 1 and 2).

Election administration can affect electoral outcomes by shaping *who* votes. Raising or lowering turnout at the aggregate level may disproportionately affect different socio-economic status (SES) groups and party fortunes. Some elections may have had different outcomes under different forms of election administration (Wattenberg and Briens 2002, Brunell and DeNardo 2004).<sup>1</sup> Political parties have developed tactics involving election administration to encourage/discourage voting in particular segments of the electorate (Piven and Cloward 1988, 2000, Keyssar 2009, Piven *et al.* 2009).

There have been only a few attempts to explain *why different forms of election administration are adopted or change*. There are some 'old institutionalist' 'thick descriptions' that provide snapshots of procedures from moments in history or detail the events leading to the reform of election administration in specific countries (Evans 1917, Harris 1934, O'Leary 1962, Butler 1963, Fredman 1968, Blackburn 1995). There is some behaviouralist work which undertakes quantitative analysis of reforms within the USA and identifies cultural and demographic factors to be important (Fitzgerald 2001). New technology is often implied to have brought about change. For example, Fernando Mendez and Trechsel (2004) and Alvarez and Hall (2008) and Hall and Alvarez (2004) examined the risks, opportunities and conceptual challenges that new technology opens up for voting.

A final literature focuses on party partisan interest. This work began with Piven and Cloward's (1988, 2000) pioneering study of American election administration. In their seminal text *Why Americans Don't Vote*, they argued that political parties, both past and present, had deliberately sought to use particular forms of election administration in order to minimise turnout from minority and lower economic and educational groups to eliminate a potential electoral threat to the status quo. Their work inspired a number of studies such as those by Groarke (2000), Hayduk (2005), Minnite (2000, 2010) and Piven *et al.* (2009).

In combination, these literatures have advanced our knowledge of election administration. However, three problems remain. First, explanations of change are rarely the purpose of such works since the focus has been on the description or prescription of policies. Second, there has been little interest in the role of government executives. The principal actor has been very vague but is often 'party interest'. Political parties are complex entities with divergent interests. Last, most research remains parochial since it is based almost exclusively on the USA (James 2010c). We, therefore, know little about the triggers for reform and continuity in a comparative context. Do political elites seek to reform election administration for political advantage outside of the USA?

### Theory and methods

Rather than adopting a quantitative approach based upon formal modelling, a qualitative case study approach is used. The three case studies (the USA, the UK and Ireland) were chosen on the basis of a most different research design. They are all English-speaking established democracies with developed capitalist economies, but with different constitutional structures.



Table 2. A continuum of voting procedures based on their effects on electoral turnout, adapted from James (2010a, pp. 381–382).

Restrictive	Major restrictive effect	Minor restrictive effect	Marginal restrictive effect	Neutral	Marginal expansive effect	Minor expansive effect	Expansive
	Major restrictive effect	Minor restrictive effect	Marginal restrictive effect	Neutral	Marginal expansive effect	Minor expansive effect	Expansive
			Limited voting hours (< 10) Photographic ID Non-photographic ID Signature matching Long distance to polling station	In person voting (either paper ballots, punch-cards or electronic kiosks) Assisted voting Proxy voting Weekday voting Average voting hours (10–14) No identification requirements Overseas voters vote at Embassy	Universal absentee voting Voting Centers Universal advance voting Rest day voting Extended voting hours (> 14) Compulsory voting without sanctions Time off work for public sector staff Sample ballots sent Polling place information sent to voters Additional polling stations, proxy voting and/or postal voting for overseas voters	Internet voting All-postal elections	Compulsory voting with sanctions

The USA has a federal system with significant checks and balances in the national government and powers devolved to its states. In comparison, power in the UK remains centralised into a unitary sovereign power in Westminster, despite some recent devolution to the Scottish Parliament and Welsh Assembly (Flinders 2005, 2009). Election administration is, therefore, determined by central government in the UK. This is also the case in Ireland. However, the Irish system departs from the other cases by having a different electoral system. Ireland operates as a system of STV with relatively low thresholds. It, therefore, represents a case of more proportional electoral system but not a pure list proportional system. The main focus of the cases was the period of 1980–2007.

The reforms made to election administration were identified in each case, along with those occasions in which reforms, nearly, but did not quite occur. Cases were researched using searches of legislation, legislative debates, newspaper archives and cabinet meeting minutes. Semi-structured interviews were undertaken with key actors in each country, between 2005 and 2008. These included politicians, civil servants, members of independent Electoral Commission (UK) and Electoral Assistance Commissions (USA), election administrators and campaigners.<sup>2</sup>

In each case study, the policy triggers which brought election administration to the attention of political elites were identified. As scholars of agenda control teach us, some issues will reach the policy agenda and some will not (Downs 1972, Kingdon 1997). An *issue trigger* may be required to put election administration on to the agenda because it is often considered a low-salience issue.

This article makes a distinction between the *public policy agenda*, as conceived by the broader public policy literature, and what is considered in this article as the *elite policy agenda*. The public policy agenda refers to those problems and ideas which are discussed publicly by politicians, campaigners and the press. This is readily observable. Cobb and Elder usefully introduced the concepts of systemic, institutional and decision agenda. The systemic agenda consists of any possible issue which could become part of an agenda. The institutional agenda is 'that list of items explicitly up for the active and serious consideration of authoritative decision makers' (Cobb and Elder 1983, pp. 85–86). This is a much more limited range of items than the systemic agenda because of constraints of time and resources. A smaller proportion of items reach the decision agenda. These are those items that a government body is due to make a decision upon.

The literature on agendas usually conceives of a public policy agenda as those issues which are in the public sphere because they have been publicly discussed. In contrast, the elite policy agenda refers to those policy problems and possible solutions that the executive is aware of at any given moment in time. This may also have three levels: systematic, institutional and decision. However, unlike the public policy agenda, this will be heavily influenced by the electoral interests of executive as well as by national interest. Also, unlike the public policy agenda, it is not always observable. Proposed or enacted policy changes provide direct evidence that election administration is on the agenda of the executive. However, if the executive discusses an issue in private but does not act, there may not be any observable evidence of such a decision.

The public policy agenda and the elite policy agenda are clearly related, but not the same. Not all items in the public policy agenda will enter the elite agenda either because they are not sufficiently aware of the issue or because they do not consider it important. Not all issues on the elite agenda will reach the public agenda because the 'outside world' does not have access to elite discussions.

## Change in three democracies

### *The United States of America*

What changes were made to election administration in each case? National political struggle over election administration in the USA crystallised on the passage of two pieces of federal legislation: the National Voter Registration Act of 1993 (NVRA) and the Help America Vote Act (HAVA) of 2002. NVRA was a mildly expansive piece of legislation. It required a voter registration application form to be made available when citizens applied for a motor vehicle licence. Provisions were also included to prevent states from removing a voter's name from the register for failing to vote. NVRA had a considerable impact on the practices of many states (Joint Legislative and Audit Review Commission 1999, p. 27).<sup>3</sup>

There had been many legislative proposals on election administration put to the US Congress since the 1970s. NVRA was, therefore, the end of a long political struggle which had begun with state-level innovations. Michigan was the first state to experiment by introducing 'motor voting' in 1975. It quickly led to calls for it to be introduced at the national level (DiClerico 2004, p. 32). The organisation Human Service Employees Registration and Voter Education (Human SERVE) assumed a leading campaigning role for legislative reform. This was established in 1982 to promote the registration of voters at various public offices such as welfare offices and daycare centres, with the aim of promoting participation among groups where it was traditionally low – namely lower income groups. The organisation campaigned aggressively and worked with state and local government agencies to encourage them to allow registration at their public offices. By the late 1980s, more expansive legislative proposals such as the Universal Registration Act 1988 had reached Congress, but such proposals could not navigate past Republican congressmen or presidents who claimed that it would be expensive or opened opportunities for electoral fraud.

HAVA 2002 was the next key milestone in federal legislation. The Carter–Ford Commission was set up after the 2000 presidential election to make recommendations for reform in the wake of the 'Florida crisis'. The Commission's proposals became the basis for initial legislative debate (National Commission on Federal Election Reform 2001). The final Act provided funding to states to remove punch card systems, provided 'second chance' voting facilities and established the Electoral Assistance Commission. The Act, however, was the result of lengthy negotiations. Republicans had pushed hard for restrictive measures and Democrats had pushed hard for expansive measures. At many stages, an agreement looked unlikely (Executive Director, Electoral Assistance Commission, private interview, 3 October 2007). As a result, it was watered down and largely disappointed many more radical reformists who cited 'Florida' as evidence of the need for more federal control of election administration. Liberal Democrats, therefore, condemned the legislation for not insisting on 'direct 1960s-model federal controls' (Broder 2001).

After HAVA was passed, debate continued to rage in the USA. A number of pieces of legislation were introduced to Congress. Notably, Senators John Kerry (D-MA), Hilary Clinton (D-NY) and Barbara Rover (D-CA) and Representative Stefanie Tubbs Jones (D-OH) backed a Count Every Vote Act which sought to introduce expansive provisions such as election-day registration. Senate Majority Whip Mitch McConnell (R-KY) and Senator Christopher S. Bond (R-MO) introduced the Voter Protection Act in February 2005 to require photographic identification at polling stations. Neither bill passed Congress as voting was divided on party lines.

### *Partisan interest in the USA*

What evidence is there of partisan strategies being deployed by the executive in the USA? The potential advantage of manipulating election administration for party advantage seems to be

most widely recognised among politicians. As one senior official involved in the negotiation process for NVRA and HAVA suggested,

any time that you have election legislation, regardless of whether it is state legislation or federal legislation, the members of Congress or members of state take an extra special look at that. Because lets face it, they were elected based on the laws on the books. They are very comfortable with those laws. (Private interview, 3 October 2007)

A common perception held by politicians has been that parties of the 'left' (i.e. liberal Democrats) have stood to gain from expansive procedures because they reduce the SES difference between voters and non-voters. Conversely, it was often felt that parties of the 'right' (Republicans, but also conservative Democrats) might gain from restrictive practices since they exaggerate the SES gap. Since the 1970s, thinking that they could strengthen their party base, many from the left of the Democratic Party gave congressional support to Human SERVE's and ACORN's campaign to make voting easier. Support was also given by the administration. The Carter Presidency took a lead role in attempting to enforce election-day registration universally across all states in the form of national standards as part of his 1977 legislative package. Such attempts invariably met with Republican opposition. Exasperated, after his voter registration bill was defeated, in 1977, President Jimmy Carter blasted 'The more senior and more influential members of Congress have very safe districts. To have a 25% or 30% increase in unpredictable new voters is something they don't relish' (Piven and Cloward 1988). Critics of Jimmy Carter's election-day registration proposal claimed, however, that

The thinly disguised ulterior motive [for Carter's proposal], freely, if privately conceded on Capitol Hill, is to benefit the Democratic Party. This is a political power play, as brazen as any stunt ever pulled in the bad old days of Tammany Hall. (Kilpatrick 1977)

The next Democratic President, President Bill Clinton, was more successful at introducing reform. NVRA was a significantly expansive piece of legislation which was signed into law on 20 May 1993 (P.L. 103–131, 107 Stat. 77). Upon entering office, President Obama was a long-term supporter of attempts to make voting easier (Craig 2008).

Elites from political parties on the 'right' in the USA have remained opposed to expansive procedures. President Bush vetoed the Democratic-sponsored Universal Voter Registration Act in 1988 which sought to establish a range of expansive measures for electoral participation and a role for federal government to benchmark these as national standards. Key provisions had included registration by mail, registration at public agencies, motor registration programmes and election-day registration in all 50 states.

President George W. Bush's ability to support legislation in Congress directly was substantially restrained by his partisan involvement in the legal debates on election administration after the 2000 election. He deployed different tactics. It was widely reported that the Bush Administration used the Justice Department to curb voter registration drives by sacking 'difficult' State Attorneys and replacing them with sympathetic ones. The administration was concerned about voter registration drives organised by the umbrella group 'America Votes' which undertook extensive door-to-door voter registration drives to identify potential Democratic voters. President Bush's first attorney general, John Ashcroft, therefore, launched a 'Ballot Access and Voter Integrity Initiative' to 'spearhead the Department's expanded efforts to address election fraud and voting rights violations' (US Department of Justice 2005). By prioritising fraud over enfranchisement, the department encouraged states to clamp down on voter registration drives. To facilitate this bias further, the administration also helped to replace existing staff within the Department of Justice and the states with those more 'sympathetic' to their priorities. Ashcroft, it was claimed, had appointed three Republican 'operatives' to work in a 'secret new

unit in the division's Voting Rights Section', which, according to a former employee, were there to hamper progress made with the HAVA (Gordon 2007).

Moreover, from 2007, strong evidence began to gather that the White House had, via the Justice Department, been involved in the firing of State Attorneys for partisan reasons. The Attorney General Alberto Gonzalez was claimed to be using a measure in the Patriot Act to allow him to appoint 'interim' US attorneys indefinitely – in other words, without Senate approval. This soon became an instrument for the administration to remove existing attorneys and replace them with more sympathetic appointments (Taylor 2007).<sup>4</sup> Subsequent investigations showed that Monica Gooding and other officials had used politics to guide the hiring decisions, deliberately picking less-qualified applicants for important non-political positions and slowing the hiring process at critical times. Officials employed by Gonzales were shown to have used internet search engines including key terms such as 'Florida recount' to assess their views on key issues as part of the recruitment process (US Justice Department 2008). In short, the government used the Justice Department to promote restrictive forms of election administration across the country.

Meanwhile, Republican congressmen remained adamantly opposed to more expansive forms of election administration in the negotiations over HAVA (and subsequently legislative proposals) instead supporting more restrictive voter ID requirements. HAVA, for example, only passed as a result of a centrist coalition. According to one source,

There were periods of time when we almost gave up. We really did not think that it was going to pass. The real clincher, when it got to the end, the last piece was the voter id piece, where there was a great deal of compromise on the part of both sides, to come up, the way they came up with that. . . . They compromised on a number of issues, but that was the big one. That was almost the deal breaker. (Private interview, 3 October 2007)

### *The United Kingdom*

Unlike the USA, the UK had seen very little reform or interest in election administration since the nineteenth century until very recently. The foundations of the system largely, therefore, date back to the Secret Ballot Act of 1872.<sup>5</sup> After coming to power in 1997, New Labour launched the Howarth Committee to evaluate whether election administration was fit for purpose in the twenty-first century. Many of the proposals were accepted by the government in the Representation of the People Act 2000. Some of the changes were temporary experiments such as a series of innovative pilot schemes held in local elections from 2000 to 2007 which included all-postal voting, electronic voting (e-voting) schemes, changed voting hours and weekend rather than weekday voting. Permanent changes included the introduction of continuous registration and postal voting on demand. Like in the USA, the issue was divided on party lines with the Conservatives opposing every proposal from the Labour government.<sup>6</sup>

The pilots that took place suggested that all-postal voting, in particular, could cause a considerable increase in electoral participation (James 2011). One early Electoral Commission evaluation, therefore, concluded that it could increase turnout

to an extent that was largely underestimated when the pilot process first began, and which appears to be sustainable . . . There should be a statutory presumption that all local elections be run as all-postal ballots. (Electoral Commission 2003, pp. 5–6)

Labour ministers heralded the pilots as a success and moved to allow the piloting schemes to be applied to European Parliamentary Elections by passing the European, Parliamentary and Local Elections Pilot Act 2004. All-postal voting was thereby made available in four European regions in 2004, allowing 16.5 million people to vote by post.

The innovations were heavily criticised after cases of alleged fraud from the 2004 election received widespread media coverage. The government, therefore, inserted measures to increase security in the Electoral Administration Act 2006. Postal vote applicants would be required to provide a signature when registering to vote. Returning Officers would compare this against a second signature on their ballot paper on the election day to eliminate fraudulent votes. However, the Act did not introduce any of the more restrictive provisions such as individual registration, which was demanded by the Conservatives and centre-right media.<sup>7</sup> Only later did Labour ministers agree to individual registration in the Political Parties and Election Act 2009, and even then, it was on a voluntary basis to begin with and to be introduced after the next general election.

### *Partisan interest in the UK*

There is evidence of politicians taking a partisan position on election administration under the Thatcher and New Labour administrations in the UK, but very little before then. As in the USA, there is evidence that recent politicians have thought that expansive procedures might favour the 'left' and restrictive procedures the 'right'. Margaret Thatcher only made minor *direct* reforms to election administration, in the form of an extension of the right to a postal ballot to certain groups. Her main impact was indirect: the introduction of the 'poll tax'. The Home Office issued circulars to returning officers asking for an 'annual comparison of electoral and community charges registers to identify differences' (Home Office, undated). The Office of Population Census Surveys noted a drop in registration levels between 1990 and 1991 of around 100,000, although not all of this could be attributed to the poll tax (Blackburn 1995, p. 86). It was commonly thought that many individuals from lower income group might not be registering to vote to avoid the poll tax. These were perceived to be more likely to be Labour supporters. Smith and McLean (1994, p. 241) demonstrated that Labour could have won 'as many as seven more seats in the 1992 general election' had the poll tax-related fall in the electoral register not occurred.

There is more evidence that the New Labour reforms were inspired by party political motivations. Interview evidence revealed that governing elites thought that the party would benefit from increased turnout. According to one advisor to the government,

... there was a theory amongst the Labour Party that ... and it goes way back ... before your study ... Harold Wilson always wanted longer hours for voting because he said that most of his supporters were working in factories and if you made it 8 til 9 then they could not get there before their shifts started or finished. (Government advisor, private interview, 24 July 2007)

The party, therefore, promoted expansive measures such as all-postal voting which could increase participation in 'Labour areas'. Conversely, it resisted some restrictive procedures which it was under political pressure to introduce. According to interviews, the government had prepared individual registration as part of the Electoral Administration Bill which would have been introduced after the general election as a response to claims that fraud was widespread in the 2004 elections. However, it subsequently changed its position to being more concerned about the importance of 'maintaining a simple and clear system, and comprehensive registers' (Department of Constitutional Affairs 2004, p. 16) after reforms in Northern Ireland suggested that introducing individual registration, among other reforms, could cause the register to drop by around 10%. Some Labour backbenchers, therefore, revolted against the idea of individual registration. The stated reason by Labour politicians was that it was more important to try to expand the register to those who were not on it, than retract it. However, according to one senior source,

... the subtext of that I think was the calculus that said there were a lot of Labour members of parliament whose constituency majorities having been safe in 2001 became unsafe in the aftermath of 2005 and went and told a rather crude bit of maths, you know, if we have individual registration the register

in your constituency is going to go down by 10 per cent, like in Northern Ireland, and most of those will be Labour voters, and in the next general election your majority will disappear. So there was the sort of self interested and self preservatory element to it as well. (Private interview, 30 May 2007)

According to one government advisor such debates took place at a considerably higher level within the cabinet,

when election work went to the Lord Chancellor's Office, DC area, ... people like Prescott and Reid ... said ... He [Charlie Falconer] was coming at it like a lawyer and saying if you get everyone to sign their names you know, it sounds good. Reid and Prescott were saying you don't know how it works. These form go into people's houses who are our traditional voters ... they can't be bothered to fill these forms because they are too busy. (Government advisor, private interview, 24 July 2007)

### *The Republic of Ireland*

Election administration saw very little change or political attention until recently in Ireland. The Electoral Act of 1923 set out the broad contours of election administration, and this was rarely revisited during the twentieth century. The Electoral Act 1992 re-consolidated law and extended the hours of poll slightly. The Electoral Act 1997 extended the categories of voters eligible for a postal vote. Election administration was largely seen as a technocratic issue not worthy of political concern.

From 2000 to 2007, this changed. Two significant proposals to change election administration entered the policy agenda. The first of these was the Ahern government's attempts to introduce e-voting. This was piloted in the 2002 general election in three constituencies, but was soon heavily criticised by a number of computer scientists because of concerns about security. A report by Computer Scientists J. Paul Gibson and Margaret McGaley from the National University of Ireland at Maynooth was widely publicised by the media. According to them, the system used by the government did 'not reach a satisfactory standard' (Coleman 2003). It was later reported that nobody outside of the Department of Environment was responsible for checking the system (Mage 2003). Margaret McGaley continued to campaign against the e-voting system and played a key role in the setting up of the Irish Citizens for Trustworthy E-voting (ICTE). She and computer scientist Joe Murphy subsequently gave evidence, criticising the security systems built into the voting equipment, to a specially convened government committee (Joint Committee on Environment and Local Government 2003). They demanded a paper trail of all votes, the facility to spoil votes as part of the constitutional right of protest, the establishment of an independent panel to oversee the introduction of e-voting and an Electoral Commission to oversee its use (Doyle 2004). These claims were seized upon by opposition parties. Fine Gael, the Labour Party and the Green Party jointly proposed a Dáil motion to ensure that it was not introduced until an independent body had been set up to evaluate the new system and reduce public concern (O'Brien 2005). Eventually, the leader of the Progressive Democrats (who were in coalition with Fianna Fáil) suggested to the media that she might be willing to meet some of the demands of the opposition. This forced the hand of the government to set up an independent commission to evaluate the e-voting systems. This was very critical of the technology used (Commission on Electronic Voting 2004) and Ahern was unable to successfully re-introduce it before leaving office in 2007.

A second aspect of election administration where change did occur was the electoral register. A number of media stories were circulated, suggesting that the register was inaccurate. For example, it was widely reported in the national media that an independent councillor in Kerry County Council claimed that 'a number of people who had been dead for years' were still on the electoral register at the last election. Moreover, a review from the local authority claimed that there was 'some difficulty' in deleting the names of all those who had deceased from the

electoral register as fathers and sons with similar names often lived in the same house ‘and the wrong person could be deleted’ (Lucey 2004). The issue was put under further limelight after a political analyst, writing for the *Sunday Tribune* in June 2005, claimed that there was extensive over-registration across Ireland. By comparing the electoral register against the census, he claimed that the electoral register in 2002 overstated registration by between 675,000 and 800,000 voters (Coleman 2005). The government was, therefore, heavily criticised by the Labour Party, which initiated a bill to set up an independent commissioner to overhaul election registration. This legislation was not successful but drew attention to the issue. In response, the government introduced measures to tighten up the accuracy of the register by issuing advice on ‘best practice’ to local authorities. It also organised public awareness campaigns about electoral registration and launched a website ([www.checktheregister.ie](http://www.checktheregister.ie)) in November 2006 to allow members of the public to check if their name was on the electoral register.

### *Partisan interest in Ireland*

Compared with the USA and the UK, there is less evidence that rival politicians in Ireland have reformed election administration to try for partisan advantage. Ahern’s two reforms of e-voting and efforts to improve the accuracy of the electoral register are relatively neutral procedures in terms of participation and would have little anticipated effect on turnout. E-voting, for example, stood to have three effects. First, it would reduce the number of spoilt ballots, but there is no certain evidence that this would benefit any particular party. Second, the use of electronic counting would also allow the use of the Gregory system in the counting. Under the paper ballot system, not all votes are included in the transfer – only a selection – meaning that the system is quasi-random, not entirely random. The use of an electronic counting system could theoretically alter who wins by allowing all votes to be transferred. However, this would not necessarily systematically benefit any particular candidate or party. Last, it would more quickly count and calculate the results of Ireland’s complicated STV-PR elections. Ahern suggested that this would promote Ireland’s image as a high-technology economy especially when advanced e-government systems had been produced across other areas of Irish government.

That said, interview evidence revealed that politicians, in all of the main parties, were concerned about the rise of Sinn Fein. Sinn Fein had taken their first seat in the Dáil only in 1997 but then took five seats in 2002 and have seen their share of the first preference vote rise from 1.9% in 1987 to 6.5% in 2002 (Coakley and Gallagher 2005, pp. 466–467). According to one source,

The growth of Sinn Fein in the last few years ... [led to] ... a number of political parties [to be] concerned at the level of influence that they were having in working class areas and constituencies and were a bit apprehensive that they might actually get to the point of gaining the balance of power. Now there was a belief, widely held, that Sinn Fein, engaged a lot in electoral personation as a result of the inaccuracies of the electoral register. And the attack in trying to update the electoral register was as much an effort to defeat that as anything else. That won’t be spoken about too much, but that is the truth, and that was quite successful at the General Election. They had been expected to make quite considerable breakthrough but in fact they didn’t. (Government advisor, private interview, 1 November 2007)

It, therefore, appears that the government (and other major parties) was happy to respond to opposition concerns about the electoral register since it would help to eliminate the electoral threat of Sinn Fein in the 2007 and subsequent elections.

### **What brings election administration on to the executive policy agenda?**

The cases suggest that a number of factors or events may bring election administration to the attention of elites by being or bringing about ‘focussing events’ (Birkland 1998) which resulted from wider structural processes or political agency.

### ***Technological innovation***

The availability of new technology put election administration on the agenda offering alternative mechanisms for administering elections. The availability of new e-voting machines in the USA, after punch card systems were seen to be discredited in the Florida 2000 presidential election, strengthened the case for reform and their merits were widely cited in discussions or policy reports.<sup>8</sup> In the UK, reform of election administration was linked to the modernisation of other public services through the use of technology with an E-envoy Office taking a lead role (civil servant, private interview, 2 February 2008). In Ireland, a desire to achieve administrative efficiency and reduce costs from officials within the Department of Environment, Heritage and Local Government appears to have been an initial trigger for reform, but technology offered an alternative way of delivering elections (former civil servant, private interviews, 5 September 2007).

### ***Declining turnout***

Suggestions that election administration should be reformed were inextricably linked with declining electoral turnout. Declines in turnout often fuelled debate about the mechanisms through which public participation could be increased. When New Labour won the 1997 and 2001 general elections by landslides, there was much comment about turnout. This had declined from 77.7% in 1992 to 71.3% in 1997. In 2001, this fell again to 59.4%, which was the lowest recorded since 1918. There was also a general trend of declining turnout in local and European elections in the 1990s, which continued into the early years of the New Labour administration. Low turnout was one of the stated reasons for the Howarth Committee being established. Reforms were later legitimised as remedies to ‘democracy deserts’ where the government thought that pockets of low turnout around the country existed (Harman 2005).

US states began to innovate with election administration in the 1960s because of concerns about low and declining levels of electoral participation (Commission on Registration and Voting Participation 1963). Low turnout has been a perennial problem in federal elections too and this was often cited by politicians and policy-makers as a reason for action (National Commission on Federal Election Reform 2001).

The launch of independent think tanks such as the Democracy Commission (2005) and the Taskforce for Active Citizenship (2007) to investigate low turnout is indicative of similar concerns in Ireland. In the 2002 general election, turnout had declined to the lowest in the Republic’s history at 63% compared with an average of 76% in the period between 1969 and 1981. Election administration reform was frequently proposed as a partial solution. The reports of both the Democracy Commission and the Taskforce for Active Citizenship discussed the merits of reforming election administration. The Minister of the Environment and Local Government (1997–2002), Noel Dempsey, often suggested that the paper ballot system did not encourage citizens to vote and that the e-voting system would remedy this (Collins 2002).

### ***Administrative failure***

A sense of ‘administrative failure’ may act as a trigger for putting election administration on the agenda. In the USA, the 2000 presidential election put election administration reform high on the agenda across the country. In Ireland, the *Sunday Tribune* newspaper reports on inaccuracies in the electoral register was important for triggering debate about election administration. In the UK, cases of alleged fraud after the 2004 election illustrated the need for reform, according to *The Times* and the Conservative Party.

This trigger is strongly driven by the agency of other actors. What constitutes ‘administrative failure’ is discursively constructed by political agents including elites within parties. The ‘problem’ may exist for some time but may not be reported upon and, therefore, will have no consequence for the policy process. In Ireland, for example, inaccuracies in the electoral register may have existed for a long period of time; however, it required agency for the issue to be brought to the limelight. Likewise, under-registration was a well-reported issue in the UK in the 1980s and 1990s before New Labour took any action in 2000. Also, in many cases, limited information is known about the extent or nature of ‘failure’. For example, in each case, many accusations were made about fraud existing in the system with an attached claim that the electoral system would benefit from more restrictive practices. However, very limited objective information is known about the extent of fraud (Allen and Allen 1981, Alvarez *et al.* 2008a, Minnite 2010), and while there is more information about the effects of restrictive practices on registration and turnout rates, what constitutes ‘failure’ is highly contested. For some, ‘failure’ is the disenfranchisement of a given number of voters from the roll; for others it is the casting of fraudulent votes (Minnite and Callahan 2003). In short, the politics of problem definition (Kingdon 1997) and the role of political agents in this are vital for understanding change.

### *Changes in external policy streams*

Change in external parallel policy streams may act as an issue trigger. In an age of globalisation – no country is entirely isolated and the experiences of one country are reported to communities around the world. For example, concerns voiced in the USA about e-voting machines were reported in the Irish media, and these encouraged members of the IT community to question Ireland’s facilities. According to one source, increased public focus on the security of the systems being installed in the USA

basically permeated into Ireland and the IT community got quite mobilized with the possibility that e-voting might not be secure or accurate. And that gathered quite a political momentum here in Ireland. (Joe Murphy, Independent Commentator and Associate of the Irish Citizens for Trustworthy e-voting, private interview, 14 August 2007)

In the UK, civil servants were part of an EU network of officials sharing interests in developments on election administration. One official suggested, however, that although representatives were keen on sharing and listening to overseas practices, once returning to their own institution, the local political dynamics would dictate what change was possible (civil servant, private interview, 2 February 2008). In the USA, change permeated less from other nation-states and more between states at the subnational government level and from states upwards to the federal level too. For example, state-led reforms in the 1960s and 1970s led to demands in Washington for federal reform. A number of other countries sent their own parliamentary subcommittees to act as observers in the UK to witness good practice. IDEA and IFES produced a number of reports on different aspects of election administration used around the world. While there is no direct evidence from the case studies, it is likely that these were consulted by officials. To some extent, there is, therefore, an element of international policy transfer (Evans 2004). However, meetings between officials from different governments were very irregular and national trajectories remained paramount.

### *Judicial and citizen challenge*

Other actors may advocate change and thereby bring election administration on to the agenda. Political parties and party elites are not the only key actors involved in advocating reform. In

Ireland, the ICTE were particularly effective at putting pressure on the government since their claims about the poor security in the system generated newspaper headlines and the evidence that they gave to public hearings was seized upon by opposition politicians. In the UK, the Association of Electoral Administrators was pro-active in advising the newly elected Labour government that a review of election administration was long overdue in 1997 (government advisor, private interview, 3 July 2007). In the USA, Human SERVE was particularly important in putting reform on the agenda in the 1980s. But as a whole, election administration has traditionally seen relatively little public interest because it was conceived as a technocratic issue.

Legal cases raised by individuals can also raise awareness of election administration. In Ireland, a court ruled in 1990 that double registration was possible. In *Quinn v City of Waterford*, a group of students in Ireland argued that they were ordinarily registered in Waterford during the academic year and at their home address out of term time. The court agreed with them and held that Article 16.1.4 of the Constitution prohibits double voting but not necessarily double registration. This was subsequently upheld by the Supreme Court (Whelan 2000, p. 7). In the USA, one prominent case was raised by the Republican Governor of Virginia George Allen, who challenged the constitutionality of NVRA (White 1995). Such challenges may or may not directly alter procedures. They are likely to raise awareness of the importance of election administration to the executive.

### **Legal and political institutions and variation in elite strategies**

Issue triggers may cause election administration to enter the elite policy agenda via the public policy agenda, but executives are much more likely to adopt partisan strategies in some contexts than others. The systemic legal and political institutional features of political systems help to shape and refract the (non-)politics of election administration. They do so by shaping the interests of political actors and offering opportunities and constraints for strategic action.

Election administration is more likely to enter the policy *and* elite agenda in the USA because the constitutional system determines who has power over election administration. Article I, Section 4 of the US Constitution gives the states considerable power to set their own rules:

Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature there of, Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators. (US Constitution: Article 2, Section 1)

However, the federal government can pass legislation which significantly affects how congressional and presidential elections are run. While this theoretically leaves state administrators control over their own elections, many showed that they would not want to run dual systems because of the administrative costs of doing so. The result of this is that there are considerable variations in election administration across the USA. One consequence of state-by-state variation has been that there is a much greater propensity for states to compare procedures with one another. Moreover, with so many elections in the USA, there is a much greater propensity for election administration to influence election outcomes, or at least be perceived as doing so. This generates controversy over procedures which 'spills up' to national level and influences demands for national reform.

Most of the federal proposals have 'spilled up' from state-level innovations or politics. Attempts to introduce legislation in Congress in the 1970s–1990s such as election-day registration and motor voting registration had their origin in state-level reforms. The 2000 presidential election in Florida caused a prolonged national debate about which procedures should be used. The introduction of ID requirements in some states also produced a national debate.

Such local innovations were not legally possible in Ireland or the UK, and this partially explains why election administration has been a less prominent issue there.

The electoral system in each case appears to play an important role in refracting elite interest. The plurality electoral system in the USA and the UK incentivises elites to manipulate the election administration among the party leadership. Kohler and Rose (2010) argued that increases in turnout are much more likely to affect electoral outcomes in plurality systems rather than in proportional voting systems. Under such plurality systems, electoral outcomes are more frequently decided by a handful of votes in a handful of marginal seats. The potential for election administration to decide these contests becomes much greater. In contrast, several UK MPs expressed private concerns about the likely effects that individual registration might have on their majorities. In contrast, under proportional systems, the chances that election administration would make a difference are much smaller. The 2000 presidential election in Florida demonstrated to politicians that election administration could decide the Presidency. Such incentives were less strong in Ireland because a more proportional voting system was in place. During the legislative debates, few, if any, Irish politicians suggested that election administration could decide who would become the Taoiseach or the party composition of the Oireachtas.

Yet, the electoral system also has another importance. As Carey and Shugart (1995) have noted, the electoral system may also affect the interests, reputation and behaviour of individual legislators differently to the national party. The presence of a plurality system means that changes to election administration may have very different effects on some members of the party and not on others. There could be situations in FPTP cases where electoral reform could potentially advantage some members of the party while simultaneously disadvantaging other colleagues. Plurality systems might increase the likelihood that the governing party pursues partisan election administration reform, but the very same institutions might also prevent the reform from being successful by undermining the party discipline often necessary to carry the reforms to fruition. This is best illustrated by the US case. Conservative Democrats have often opposed more expansive forms of election administration proposed by Jesse Jackson and other liberal Democrats, fearful for the consequences for their own seats.

The nature of the party system appears to alter elite strategies and this may explain the relative absence of elite partisan strategy in Ireland. The dominance of the nationalist question throughout the history of Ireland meant that political support was not mobilised on socio-economic grounds. This meant that 'signals' for who would benefit from election administration reform were not clear. This distinguishes Irish politics from the other case studies where left-right distinctions have been part of the historical basis of division between the parties. In this sense, Ireland also differs from some other European systems where multi-party politics are in place, such as France or Germany, but left-right divisions are present. A further factor which might explain why Ireland has rarely seen partisan activity over election administration is the *number* of political parties in the party system. Kohler and Rose (2010, p. 125) suggest that higher turnout is more likely to affect electoral outcomes where there are fewer parties. The larger effective number of parties in Ireland would have, therefore, meant that election administration reform would have been less likely to affect electoral outcomes than in the UK or the USA. This suggests that election administration may not be a partisan issue in other multi-party political systems – something that could be tested with further research.

### **Electoral administration and the reform of other electoral institutions**

Variation in elite strategies can also be better understood by noting the relationship between the *reform processes for different electoral institutions*. Elites may believe that their interests could be better suited by reforming other electoral institutions. Given finite time and resource, they

may consider election administration reform less important. Fianna Fáil has historically sought to change the electoral system because of greater potential partisan advantages. Conversely, executives may be more likely to reform election administration when other electoral institutions are stacked in their favour. In the UK, New Labour came to power in 1997 with the electoral system giving them a disproportionate number of seats compared with votes and the boundaries in force made their vote distribution more efficient. The Democrats and Republicans have always been very happy with the Electoral College.

Hirschl's (2000) hegemonic preservation thesis suggested that self-interested, risk-averse political power-holders may seek to enact minor constitutional changes in order to maintain overall control of the political system. Election administration may, therefore, be a useful alternative to more radical change. Some interview evidence suggested that one reason for political parties being interested in election administration was that it offered an alternative to other more radical reforms to the political system. In the UK, there was evidence that the Labour Party saw reforming election administration as an alternative to electoral reform for Westminster. A 1997 manifesto pledge for a referendum was abandoned on electoral reform once the Party elite had decided that they wished to govern alone rather than with the Liberal Democrats (Evans 2003, Flinders 2009). However, the government still needed to introduce some reforms to increase turnout at elections. By being innovative with election administration, they perhaps sought to disarm one argument for the introduction of PR: that it would increase turnout by making votes 'count'. The author understands from private interviews that when realising the increase in turnout that all-postal voting brought, ministers saw this as 'the answer' (private interview, 2 August 2007). Broader constitutional change could thus be avoided (James 2010b). This logic could also apply to the USA in the aftermath of the 2000 presidential election. George W. Bush was declared the winner of the election, despite the fact that Al Gore won the popular vote. Such plurality reversals can often contribute towards pressures for change (Shugart 2008) and the election unsurprisingly brought out further calls for the Electoral College system to be reformed. While Republican politicians, in particular, were, therefore, reluctant to enact any reform of election administration after the presidential election of Florida for fear that it would be expansive, passing some reform was necessary to prevent more radical change to electoral institutions.

## Conclusion

This article has been the first analysis of the forces for reform and continuity of election administration in a comparative perspective. It has identified the role of the partisan executive interest in three states. It has shown that there is strong evidence of political elites seeking to reform election administration in the USA and the UK for partisan reasons, but much less in Ireland. The variation partisan strategy can be explained by examining three factors. First, for partisan involvement to take place, election administration must come to the attention of elites by entering the political agenda. Second, legal and political features of the political systems in each case shape and refract the (non-)politics of election administration. The cases suggest that election administration is much more likely to become a partisan issue where there are plurality voting systems, party divisions on socio-economic lines and greater local variation in procedures. Last, the executive strategy on election administration is influenced by the reform process of other electoral institutions (Table 3).

This article should not be seen as the last word on how political elites interact with election administration changes since the conclusions open the door for much further research. It would be useful to see how historical-institutional legacies refract and help to shape conflict over election administration in different settings such as new and emerging democracies. The Irish case

Table 3. Findings and factors from three case studies.

	USA	UK	Ireland
Presence of partisan strategies	Strong	Mild	Weak
Policy triggers			
Technology	Yes	Yes	Yes
Declining turnout	Yes	Yes	Yes
Administrative ‘failure’	Yes	Yes	Yes
External policy streams	Yes	Yes	Yes
Judicial/citizen challenge	Yes	Yes	Yes
Constitutional			
Decentralised constitutional system	Yes	No	No
Electoral system	Plurality	Plurality	STV
SES-based party system	Yes	Yes	No
Change sought to electoral system by elite	No	No	Yes

study is a system with a non-plurality voting system and suggests that this is significant. However, it is not a pure proportional system such as those found in Belgium, the Netherlands and Scandinavia. These cases may yield further insights which might bring about theoretical refinement.

The lessons from this article are threefold. First, the findings are significant for the study of electoral reform. Adopting a more holistic definition of electoral reform might be advantageous because other electoral laws are important too. Moreover, this article has suggested that the reform processes for different types of electoral laws may interact. Rather than researching how and when electoral systems or administration change in isolation from one another, all laws should be researched together to identify broader strategies of actors and any displacement of causes and effects.

Second, it builds knowledge about different electoral systems. Gerrymandering is often associated with non-proportional electoral systems because they permit a high level of wasted votes, even though it does occur in some proportional systems such as those that use STV (Mair 2003, Farrell 2011, p. 205). However, this article implies that rule-bending for partisan interest with election administration may also be associated with non-proportional electoral systems.

Last, there may be lessons for constitutional designers. Excessively partisan statecraft strategies from political elites may undermine confidence and faith in democracy. If variation in procedures across a political territory encourages greater use of partisan strategies, then there is a stronger case for uniformity in procedures. This finding is most relevant in highly federalised countries such as the USA or Switzerland. It also strengthens the cases for powerful independent Electoral Management Boards. These have often been put forward as a way of improving confidence in the democracy by taking decisions out of the hands of politicians with vested interests. The need for them would be stronger in states with non-proportional systems. Ironically, such boards were established in the UK and the USA during the life of the case studies, but only with power to advise government.

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## Notes

1. Although this is disputed (see e.g. Bernhagen and Marsh 2007, Fisher 2007, van der Eijk and van Egmond 2007).
2. All legislative debates and committee hearings on electoral legislation were surveyed in each case during the life of the case studies. Newspaper articles were accessed electronically through keyword searches through Lexisnexis. In Ireland, this was supplemented by searches through the archives of *Sunday Tribune* and *Sunday Herald* in Ireland. Archival material was researched using keywords from the Law Library at the Library of Congress, the National Archives of Ireland, Trinity College Dublin, the Cabinet minutes of the British National Archives and British Library. Extensive web searches were undertaken to locate other policy reports and documents issued by campaigners and other organisations.
3. North Dakota, Wyoming, Wisconsin and Minnesota were exempt from the Act on the grounds that they already provided for election-day registration or did not require registration at all.
4. Among those who were claimed to be pushed out were Ed Cummins in Arkansas, Carol Lam in San Diego, Kevin Ryan in San Francisco, John McKay in Seattle, Geoffrey Fieger in Michigan, David Iglesias in New Mexico, Daniel Bogden in Nevada and Paul Charlton in Arizona.
5. The nineteenth-century legislation was consolidated in the Representation of the People Acts of 1949 and 1983. Changes made during the twentieth century before New Labour was elected included the Representation of People Act 1918, which extended the franchise and led to registers being compiled by local government rather than by those overseeing the poor law; the Representation of the People Act 1948, which allowed postal voting for the armed forces and certain categories of civilians such as those physically incapacitated; the Representation of the People Act 1969, which extended polling hours from 9 pm to 10 pm; and the Representation of the People Act 1985, which extended those categories of civilians able to apply for a postal vote to people on holiday (see Rallings and Thrasher 2006, pp. 104–105).
6. The Conservatives consistently voted against Labour proposals for more expansive procedures. There is also some evidence that they thought that they might lose electorally. Lord Parkinson, representing the Conservative Party at a 1998 Home Affairs Select Committee warned against actions that focussed on enfranchising certain groups: ‘because you would be open to the charge, for example, that in socially deprived areas it might occur to the Labour Party that they are likely to get a bigger vote than the Conservatives are. I think we must not underestimate the role of the political parties in trying to encourage their likely supporters to turn out and vote’ (Home Affairs Committee 1998, p. 389). A Liberal Democrat agreed: ‘I think for a government to be spending government money trying to encourage particular groups ... they could be open to accusations of partisan advantage’ (Home Affairs Committee 1998, p. 394).
7. Also see James (2010b).
8. See, for example, National Commission on Federal Election Reform (2001).

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