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P = E² AND OTHER THOUGHTS ON WHAT IS THE VALUE OF PARTICIPATION?

MICHAEL J. PITTS*

Participation in elections has become a sexy topic among legal academics in recent years, and with every election it seems to be the gift that keeps on giving. *Bush v. Gore*¹ with all its mayhem (punch-card ballots, late military votes, errors in ballot design) sparked the fire. Federal intervention via the Help America Vote Act² (money for new voting machines, statewide voter registration databases, the mandate of provisional ballots, identification requirements for certain voters) stoked the flame. The Republican takeover of numerous state governments in 2010³ (more widespread passage of strict voter identification requirements, limitations on early voting) created a conflagration. And the presidential election of 2012 (long lines on Election Day) led to a newly formed bipartisan commission on election reform to try and douse the blaze that has become American election administration.⁴

Professor Chad Flanders deserves commendation for taking a step back from the inferno surrounding participation in elections to identify underlying values of participation and what these values might mean for some recent events in election administration. The four values of participation he posits are: legitimacy, expression, information, and equality.⁵ He then evaluates some of the contentious issues described in Professor Richard Hasen's *The Voting Wars*⁶ in relation to these four participatory values, and speculates as to whether the voting wars can ever be brought to a conclusion in light of the participatory values Professor Flanders has identified.⁷

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1. 531 U.S. 98 (2000).

2. Help America Vote Act of 2002, Pub. L. No. 107-252, 116 Stat. 1666 (codified as amended in scattered sections of 5, 10, 36, 42, 43 U.S.C.).

3. See Michael J. Pitts, *Photo ID, Provisional Balloting, and Indiana's 2012 Primary Election*, 47 U. RICH. L. REV. 939, 939 (2013).

4. See Exec. Order No. 13,639, 78 Fed. Reg. 19,979 (Mar. 28, 2013) (establishing the Presidential Commission on Election Administration).

5. Chad Flanders, *What Is the Value of Participation?*, 66 OKLA. L. REV. 53, 56-62 (2013).

6. RICHARD L. HASEN, *THE VOTING WARS: FROM FLORIDA 2000 TO THE NEXT ELECTION MELTDOWN* (2012).

7. Flanders, *supra* note 5, at 62-78.

After reflecting upon Professor Flanders's well-constructed insights, I make three points. First, Professor Flanders's framework relates almost exclusively to the participatory values of individual voters and to society as a whole. From this perspective, my contention will be that there are really only two values that matter—expression and equality—and that if those two values are satisfied, then all will be well with American democracy. My second move will then be in a totally different direction, contending that if Professor Flanders wants to embrace a more expansive list of values, the list needs to expand to include the values of participation not only as to voters and society as a whole, but also as to political partisans. Put simply, participation is a value for partisan politicians as a political issue they can use to get out the vote. The third point will be an extension of focusing on the political and will present some musings about an exit strategy from the voting wars. Here, I posit that the voting wars will only conclude (or at least simmer down) when political shifts occur to prevent the two major political parties from using electoral laws and practices to target certain easily identified groups of voters.

I. Two Values, Not Four

Professor Flanders identifies four values of participation: legitimacy, expression, information, and equality.⁸ For a moment, allow me to briefly summarize his values with a focus on the aspects necessary to the points I wish to make.

- *Legitimacy.* Professor Flanders sees the ability to participate in elections as having a value of legitimacy.⁹ The fact that citizens participate in elections legitimizes the government's authority over the collective. Importantly, Professor Flanders emphasizes participation as having a legitimacy value from a societal perspective because whether an individual actually participates does not matter much for purposes of legitimacy; what's important is that enough people participate (or have a reasonable opportunity to participate) to achieve the value of legitimacy for the democracy as a whole.¹⁰

8. *Id.* at 56-62.

9. *See id.* at 56-58.

10. *See id.* at 57-58. To be fair, Professor Flanders does recognize at the end of his discussion that if an individual is denied the ability to vote (that is, denied a "reasonable chance" to participate) then the legitimacy of the government's power over that individual is called into question. *Id.* at 57. But this point is minor and relatively tangential to his focus.

- *Expression.* Professor Flanders views the act of casting a ballot as having an expressive value. Casting a ballot shows others “what we think and believe.”¹¹ Going to the polls declares yourself to be a citizen and your selection of a candidate (or, presumably, one side of a referenda question) expresses your political beliefs.¹² Importantly, Professor Flanders’s focus here is on an *individual’s* ability to express himself or herself.
- *Information.* Professor Flanders notes how aggregating the votes of numerous individuals provides information to elected officials about what society desires in terms of substantive policies.¹³ While this is an imperfect, not narrowly tailored, and noisy—at least in contrast to a straight-up opinion poll¹⁴—mechanism for providing information, there is no doubt elections provide informational value to government officials.
- *Equality.* Equality is about the distribution of the franchise among groups.¹⁵ Professor Flanders recognizes that equality is not a participatory value per se but relates to the distribution of participation.¹⁶ Here, similar to his legitimacy value, Professor Flanders’s focus is not on *individual* equality but on participatory equality between societal *groups* (for example, those defined by race, gender, age, or socioeconomic status).¹⁷

These are the four values Professor Flanders recognizes, and they are fine values; but they are not the end of the story. Recognizing values in relation to participation has little relevance unless we use these values to structure democracy. Put differently, values of participation should serve as guideposts for decision-makers—whether they be legislators, judges, or election administrators—about how the democratic game should be organized. Of course, Professor Flanders readily recognizes the necessity of

11. *Id.* at 58.

12. *See id.*

13. *Id.* at 59-60.

14. *See id.* at 60.

15. *Id.*

16. *Id.* at 60-61 (“[I]f equal participation is a value, it is neither intrinsic to *democracy*, nor even intrinsic to the individual’s right to participate. One’s right to participate is not necessarily diminished by the fact that others cannot participate.”).

17. *See id.*

applying his participatory values by assessing various aspects of the “voting wars” in relation to these values.¹⁸

Yet in terms of thinking about participation and how participation should be structured in American democracy, the two “Es”—expression and equality—are probably the only values that matter in Professor Flanders’s taxonomy. In other words, if a democracy properly adheres to the values of expression and equality, the values of legitimacy and information naturally follow.

Let us look at legitimacy first. Professor Flanders says that legitimacy flows primarily from some amount—perhaps a critical mass—of the citizenry having the chance to participate and secondarily from an individual having a “reasonable chance” to cast a ballot.¹⁹ Professor Flanders also notes that it is consistent with having a “democracy” to not allow all groups of persons to participate—noting that America was still a democracy even before women and African Americans (and, presumably, other historically excluded groups—Native Americans, non-property owners, etc.) fully gained the franchise.²⁰

But, notably, at this point in his article, Professor Flanders does not refer to America as being a *legitimate* democracy,²¹ and rightly so. Professor Flanders is a savvy scholar, so, presumably, omission of the word “legitimate” is intentional. I would submit that while America was technically a democracy when it excluded large swaths of the population from participation, it was not a truly or fully legitimate democracy. And I have a sneaking suspicion Professor Flanders would agree.²²

My point here is that legitimacy will flow naturally from allowing groups and individuals equally reasonable chances to express themselves at the ballot box. Any democratic structure that allows all individuals a reasonable opportunity to vote and does not exclude (or unreasonably hinder) a particular segment of persons will be legitimate. Put simply, if we adhere to the values of expression and equality, we ipso facto will have legitimacy; if we do not adhere to the values of expression and equality, we will still have a democracy, but it will not be a truly or fully legitimate democracy.

18. *See id.* at 62-73.

19. *Id.* at 56-58.

20. *See id.* at 57.

21. *See id.*

22. *See id.* at 63 (describing how the denial of the vote to women and African Americans “made the United States less of a democracy” and “was a less-legitimate government than it might have otherwise been”).

However, I would add one potential caveat to the notion of the value of legitimacy automatically flowing naturally from the values of expression and equality and, in doing so, perhaps suggest another value that could explicitly be added to Professor Flanders's taxonomy—the value of integrity.²³ Here, what I am talking about is the prevention of fraud. It seems to me that one could have a democratic structure that allows all individuals a reasonable opportunity to vote and does not distribute the franchise unequally among groups, but that unreasonably²⁴ allows for elections to be stolen.

Professor Flanders implicitly subsumes the value of integrity within his value of legitimacy but, in my view, the value of integrity could also be subsumed within the value of equality. Professor Flanders implies that stolen elections violate the value of legitimacy when he writes: “[T]he results of the election might (again, if fraud is truly widespread), at the limit, mean that American politics is only quasi-legitimate.”²⁵ But it is possible also to view a stolen election as violating the value of equality because the group that voted for the candidate (or ballot measure) against whom the fraud was perpetrated would have its equality violated.

Having considered whether the legitimacy value flows from adhering to the values of expression and equality, let us shift to whether the information value identified by Professor Flanders flows from adhering to expression and equality as well. Professor Flanders points out that participation is a means to the end of information—letting elected officials know what the public wants.²⁶ Again, though, so long as everyone has a reasonable opportunity to express their views at the ballot box and so long as no inequality exists among groups of voters, the value of information will concomitantly follow. Put differently, if we want to get proper information

23. Professor Flanders implies that integrity is folded into his participatory values. *See id.* at 67 (“But it is important to note . . . that the value of participation seems to be on both sides of the debate. Those who worry about fraud . . .” (footnote omitted)).

24. I use the word “unreasonably” here to create a parallel with the participatory values already delimited by Professor Flanders. His position is that there is no violation of legitimacy if someone is unable to vote so long as there is a *reasonable* opportunity to vote. *Id.* at 57, 70. Similarly, it seems to me that there is no violation of an integrity value if fraud occurs so long as reasonable steps were taken to maintain integrity.

25. *Id.* at 68. It is not entirely clear to me whether widespread fraud that leads to incorrect results would violate Professor Flanders's value of legitimacy. Professor Flanders implies that legitimacy can be achieved even when a group of voters is systematically excluded. *See id.* at 57-58, 68-69. If this is the case, then stolen elections might not violate Professor Flanders's legitimacy value.

26. *Id.* at 59.

to elected officials, we need to get a representative sample to vote. And so long as everyone has a reasonable individual opportunity to cast a ballot and no inequality exists among groups, we should get that representative sample. Or, at the very least, it will be the best representative sample we can generate. In short, the information value is achieved by ensuring the values of expression and equality are followed.

At this point, you might ask, so what? Professor Flanders has four values, and I see only two from which Professor Flanders's other two values will naturally flow. Big deal. Moreover (and in fairness), Professor Flanders hints that equality might be the most important value to uphold.²⁷

Yet I think there is merit in keeping things simple—in keeping one's eyes squarely focused on the *most important* values. The values that above all else need to be maintained. To make an analogy, businesses often flounder when they forget about their core mission. Take, for instance, J.C. Penney's attempt to eliminate coupons for its customers²⁸ or the New Orleans *Times-Picayune's* decision to forego printing a newspaper seven days a week.²⁹ In both instances, businesses abandoned their core missions only to flounder and then return to their bread and butter—in J.C. Penney's case by returning to coupons³⁰ and in the *Times-Picayune's* case by

27. See, e.g., *id.* at 72 (“The voting wars get serious when they implicate not only participation, but *equal* participation.”); *id.* at 73 (“[W]e should be especially attentive to violations of the value of equal participation.”); *id.* at 75 (“At the end of the day equal participation probably ends up as the main issue in the voting wars.”). Interestingly, Professor Josh Douglas criticizes Professor Flanders for focusing too much on the value of equality. Joshua A. Douglas, *The Foundational Importance of Participation: A Response to Professor Flanders*, 66 OKLA. L. REV. 81, 83-89 (2013). Professor Douglas notes that not allowing anyone to vote at all would be consistent with equality but would not be consistent with democracy. See *id.* at 85. Professor Douglas believes that this sort of analysis would let the government off the hook for long lines at an election, so long as the long lines impacted voters equally. *Id.* at 90-93. However, I think Professor Flanders's embrace of the value of expression serves as a reasonable counter to Professor Douglas's critique. Long lines can make it difficult for an individual to express himself or herself by the act of voting and, therefore, it would violate Professor Flanders's values to have unreasonably long lines even if no group inequality was created.

28. Meghan Casserly, *How J.C. Penney's Coupon Problem Discounts Women*, FORBES (May 17, 2012, 4:53 PM), <http://www.forbes.com/sites/meghancasserly/2012/05/17/how-jcpenneys-coupon-problem-discounts-women/>.

29. David Carr, *Newspaper Monopoly That Lost Its Grip*, N.Y. TIMES (May 12, 2013), http://www.nytimes.com/2013/05/13/business/media/in-new-orleans-times-picayunes-mono-poly-crumbles.html?pagewanted=all&_r=0.

30. Abram Brown, *Why Is J.C. Penney Rallying Around Another Massive Quarterly Loss?*, FORBES (Aug. 20, 2013, 8:18 AM), <http://www.forbes.com/sites/abrambrown/2013/08/20/why-is-j-c-penney-rallying-around-another-massive-quarterly-loss/>.

resuming a print version.³¹ Similarly, when we want decision-makers—legislators, judges, or election administrators—to make decisions about structuring democracy in relation to participatory values (which is the ultimate end of identifying values), we want them to focus on the *core* values. The core values are expression and equality.

II. Another Value?

Having just critiqued Professor Flanders for being over-expansive in his list of participatory values, I will now use my law professor's license to critique him in a diametrically opposed manner. It is possible to argue that Professor Flanders does not adequately recognize the value of participation as a *political issue*.

To begin this vein of my critique, it is important to assess the frame from which Professor Flanders analyzes the value of participation. When Professor Flanders discusses the value of participation, he generally discusses it from the vantage point of an individual voter or from that of society as a whole. For instance, from the perspective of the individual voter, participation provides the ability to express himself or herself, legitimizes the government's power over that individual, and allows that particular voter to provide information to government officials.³² From the perspective of society, participation provides a government that has legitimate authority to regulate behavior and provides government officials with information that tells them how to structure their regulation of society.³³

Yet it might be helpful to think of participation not just as a value to individual voters or to society as whole, but also as a value to partisan politicians. To be sure, Professor Flanders's identification of participatory values could be interpreted to account for partisan politicians to some extent. The information that partisan politicians receive from participation helps them shape their legislative agendas and craft future campaigns.

But there would seem to be another value of participation to partisan politicians—the value of using participation as a political strategy. Here, I am not talking about partisans structuring the participation process in an effort to make victory more likely for their own candidates—for instance, by Republicans passing a strict voter identification law for the purpose of

31. Carr, *supra* note 29.

32. See Flanders, *supra* note 5, at 56-60.

33. See *id.*

reducing the number of Democratic voters³⁴ or Democrats expanding voter registration opportunities to boost the number of Democratic voters.³⁵ Instead, what I am talking about is participation as a political football—as a campaign issue to get out the vote.

The value of participation as a political strategy seemed to take hold for the Democratic Party in the 2012 presidential election. The data suggests that while overall participation rates were lower in 2012 than they were in 2008 and 2004,³⁶ the turnout rate for African American voters increased.³⁷ What is interesting here is that the increase in the turnout rate for African Americans may have been fueled by anger over what were perceived as voter suppression tactics (passage of strict voter identification laws, reductions in the days for early voting, etc.) by Republicans.³⁸ Indeed,

34. See, e.g., Timothy Noah, *Art of War*, NEW REPUBLIC (Aug. 2, 2012), <http://www.newrepublic.com/article/magazine/politics/105740/republican-voter-suppression-pennsylvania-id> (quoting the Republican majority leader of the Pennsylvania House as saying, “Voter ID, which is going to allow Governor [Mitt] Romney to win the state of Pennsylvania? Done.” (alteration in original)).

35. For example, Democrats passed the National Voter Registration Act of 1993, Pub. L. No. 103-31, 107 Stat. 77 (the so-called “Motor Voter” law), with majorities in both the House and Senate, and President Clinton in the White House. See *Final Vote Results for Roll Call 154*, OFFICE OF THE CLERK, U.S. HOUSE OF REPRESENTATIVES, <http://clerk.house.gov/evs/1993/roll154.xml> (last visited Sept. 2, 2013) (House of Representatives vote); *U.S. Senate Roll Call Votes 103rd Congress—1st Session*, U.S. SENATE, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=103&session=1&vote=00118 (last visited Sept. 2, 2013) (Senate vote).

36. See *Voter Turnout*, U.S. ELECTIONS PROJECT, http://elections.gmu.edu/voter_turnout.htm (last visited Sept. 4, 2013).

37. See William H. Frey, *Minority Turnout Determined the 2012 Election*, BROOKINGS INST. (May 10, 2013), <http://www.brookings.edu/research/papers/2013/05/10-election-2012-minority-voter-turnout-frey>.

38. John Nichols, *How Voter Backlash Against Voter Suppression Is Changing Our Politics*, NATION (Apr. 29, 2013, 4:16 PM), <http://www.thenation.com/blog/174095/how-voter-backlash-against-voter-suppression-changing-our-politics#> (“But the Reverend Al Sharpton, the president of the National Action Network . . . says anger over voter suppression did much to alter the [voter turnout] dynamic. ‘From the tours we did in 22 states, it became clear to us that many blacks that were apathetic and indifferent became outraged and energized when they realized that [Republicans] were changing the rules in the middle of the game, in terms of voter ID laws, ending “souls to the polls.”’” (third alteration in original)); see also Roland Martin, *GOP Voter Suppression Fueled Black Turnout*, CNN (updated Nov. 10, 2012, 10:33 AM), <http://www.cnn.com/2012/11/09/opinion/martin-black-vote>.

participation was *tested as a political message* during the 2012 campaign by Democrats and found to be an effective one.³⁹

And I suspect that Republicans use participation as a political strategy as well—just from a different angle. Republicans use participation as a political strategy to get out their voters by raising the specter of voter fraud. The “meme” goes something along the lines of “The Democrats are going to steal the election with fraudulent votes; get out there and vote so they can’t steal it.” This drives up turnout amongst the Republican base concerned about the integrity of the electoral process.

It is undoubtedly true that one could see political strategy as a participatory value outside of the ability to participate *per se*, but that does not matter. For instance, other values (legitimacy, expression, and information) identified by Professor Flanders directly flow from the casting of a ballot at an election. Participation as a political message, though, does not similarly flow from exercising the right to the franchise. But the fact that the value of participation as a political message does not directly flow from the act of participating should not be a barrier for Professor Flanders because he already recognizes a value—equality—that he himself admits is outside of the ability to participate *per se*.⁴⁰

All that said, while I think political strategy *can* be placed alongside the participation values Professor Flanders has identified, let me emphasize that I am not certain it *should* be placed alongside those values. Again, my initial point is that the only two values we need to focus on in relation to participation are the two “Es”—expression and equality—and that if we get them right, every other value we want out of participation will follow. However, if we are going to expand the list of participatory values in the manner in which Professor Flanders has, then we should include participation as a political strategy within that list.

39. Ari Berman, *The GOP's Voter Suppression Strategy*, NATION (Nov. 20, 2012), <http://www.thenation.com/article/171404/gops-voter-suppression-strategy#axzz2dyOnJ7tw> (“In late September, Project New America, a Denver center-left research group, tested more than thirty messages on ‘sporadic, less likely voters who lean Democratic’ (which included young, black and Hispanic voters) to see what would motivate them to vote. ‘One of the most powerful messages across many different demographics was reminding people that their votes were important to counter the extremists who are kicking people off of voter rolls,’ the group wrote in a post-election memo.”).

40. See Flanders, *supra* note 5, at 60.

III. Ending the Voting Wars

Discussion of politics and equality also leads to my final point in relation to Professor Flanders's article, and that final point involves finding a way to call a truce to the "voting wars." Professor Flanders notes that Professor Hasen—who coined the phrase "voting wars"—is "less sanguine about solving them."⁴¹ And Professor Flanders seems equally skeptical that "quick fixes or immediate solutions" will present themselves.⁴² Instead, Professor Flanders wants to focus on how to approach the problems of the voting wars by: (1) "consider[ing] participation mostly as a value and less so as a right"; (2) "be[ing] especially attentive to violations of the value of equal participation"; and (3) "be[ing] humble in attempting to fix the problem of political polarization by fixing our electoral machinery."⁴³

While there is nothing necessarily wrong with any of these suggestions, my own view is that the way to put a significant dent in the voting wars would involve some combination of more integrated political parties and less racially polarized voting, therefore leading to a reduced ability to target groups through manipulation of electoral structures and information.

Take an example of a problem from the voting wars that Professor Flanders discusses—the problem of deliberate attempts to deceive or intimidate.⁴⁴ Typically, these stories involve attempts to dissuade voters of racial and ethnic minority groups (for example, African Americans, Latinos, or Native Americans) from casting ballots, sometimes by providing these voters with misinformation. For example, during the 2010 election in Maryland, more than 100,000 homes in the predominantly African American jurisdictions in the state were targeted with a robocall telling them to "relax" because Democratic Governor Martin O'Malley had won—even though the polls had not closed!⁴⁵ Put simply, African American Democrats were targeted with misinformation to keep them away from the voting booth.

Or take what is perhaps the quintessential battle of the voting wars—strict voter identification laws that require prospective voters to present

41. *Id.* at 73 (internal quotation marks omitted); *see also* HASEN, *supra* note 6.

42. Flanders, *supra* note 5, at 73.

43. *Id.*

44. *Id.* at 69-70.

45. Luke Broadwater, *Schurick Guilty of Election Fraud in Robocall Case*, BALT. SUN (Dec. 6, 2011), http://articles.baltimoresun.com/2011-12-06/news/bs-md-schurick-robocalls-verdict-20111206_1_prosecutor-emmet-c-davitt-robocall-election-fraud; Sherrilyn A. Ifill, *Black Voters Told, 'Relax, Don't Vote'*, ROOT (Dec. 7, 2011, 12:41 AM), <http://www.the.root.com/views/black-voters-told-relax-don-t-vote>.

government-issued photo identification as a condition of casting a countable ballot. These laws appear aimed at suppressing the vote of reliably Democratic voters, such as African American citizens, because African American citizens may be less likely to have government-issued photo identification.

To me, these two areas demonstrate the underlying root causes of the voting wars. First, we have a group of persons—African American voters—who overwhelmingly side with one particular party—the Democratic Party.⁴⁶ Second, we have a group of voters who are easily identified by geographic segregation. In Maryland, you could suppress the vote by choosing the right zip code to target for voter suppression. Thus, due to patterns of political support and residential segregation, it is easy to target a particular group of voters for, say, misinformation.

If groups of voters less predictably vote for one party and are not easily targeted because of residential segregation, then there will be a sharp curtailment of the voting wars. Perhaps it is useful to consider gender to make this point. One rarely hears about voter suppression through manipulation of election administration rules or misinformation aimed at women. I would submit that this is because those voters are not easily identified as overwhelmingly voting for one political party over another and also because women are not easily targeted due to the fact that they are not residentially segregated. If the group is overwhelmingly in favor of one political party and easily identified, voter suppression is cheap, easy, and likely to pay off. If the group is more mixed in its partisan affiliation and more dispersed, voter suppression is costly, difficult, and not as likely to pay off because you may end up targeting some of your supporters.

My point is that to end the voting wars, we will probably have to curb the underlying root causes. And the same can be said for other problems related to election law. Take the issue of representation (or lack thereof) for racial and ethnic minority voters and the creation of majority-minority districts to provide fair representation for those voters.⁴⁷ The root cause of the issue is racially polarized voting, as no voting rights claim against an

46. To be fair, the scenario for suppression, such as occurred in Maryland, does not necessarily need to be one where a Democrat is matched up against a Republican. It could happen in a Democratic primary where an African American candidate and a white candidate are contesting the election and where racially polarized voting occurs.

47. This is a problem that section 2 of the Voting Rights Act attempts to solve. *See* Voting Rights Act of 1965, § 2, Pub. L. No. 89-110, 79 Stat. 437, 437 (codified as amended at 42 U.S.C. § 1973 (2012)).

electoral structure goes forward without proof of racially polarized voting.⁴⁸ Thus, if we found a way to eliminate racially polarized voting, the Voting Rights Act would essentially be rendered obsolete. Same with the voting wars. They can be rendered obsolete when groups of voters more equally disperse between the major political parties and, therefore, cannot be as easily targeted.

To be clear, I am not optimistic that at any time in the near future we will have more integrated political parties and less capability to target groups of persons through changes in electoral laws and practices. For starters, if Latinos, who now comprise the nation's largest minority group,⁴⁹ continue to move toward the Democratic Party in increasingly large numbers, then there will be more voting wars related to the targeting of Latinos.⁵⁰ Moreover, while the Obama campaigns' legendary microtargeting of voters can be used as a tool for "good" to generate turnout, presumably it could also be used as a tool for "evil" to suppress turnout.⁵¹ This is unfortunate, but reality.

Conclusion

To sum up, Professor Flanders makes a useful contribution to the election administration dialogue by delimiting the values of participation. His framework, though, can be critiqued as both overbroad and underbroad. That aside, I am skeptical that identifying these values and applying these values will lead to much movement in the voting wars, for the voting wars will likely only conclude through political change that eliminates the root symptoms that make it possible for these wars to be fought in the first place.

48. See *Thornburg v. Gingles*, 478 U.S. 30 (1986).

49. See Press Release, U.S. Dep't of Commerce, U.S. Census Bureau, *Asians Fastest-Growing Race or Ethnic Group in 2012*, Census Bureau Reports (June 13, 2013), available at <http://www.census.gov/newsroom/releases/archives/population/cb13-112.html>.

50. Chris Cillizza, *The Republican Problem with Hispanic Voters—in 7 Charts*, WASH. POST (Mar. 18, 2013, 11:26 AM), <http://www.washingtonpost.com/blogs/the-fix/wp/2013/03/18/the-republican-problem-with-hispanic-voters-in-7-charts/> (showing that Latino voters are trending toward the Democratic party in ever-increasing numbers).

51. Sasha Issenberg, *Obama Does It Better*, SLATE (Oct. 29, 2012, 12:54 PM), http://www.slate.com/articles/news_and_politics/victory_lab/2012/10/obama_s_secret_weapon_democrats_have_a_massive_advantage_in_targeting_and.html.