Perspectives: Are Voter Photo Identification Laws a Good Idea?

Tiffany Middleton


As the 2012 presidential election approaches, controversy grows over recent statewide legislative initiatives that impose stricter identification requirements on voters. These new voter identification laws—especially those that require voters to produce a government-issued photo ID—are the subject of intense debates. During 2011, seven states signed laws requiring voters to show government-issued photo identification at polling locations: Alabama, Kansas, Rhode Island, South Carolina, Tennessee, Texas, and Wisconsin. In all, 31 states now require identification to vote; 15 require photo identification.

Voter identification requirements are not new. In fact, federal law requires every new voter who registers by mail to show an ID before voting in person for the first time. What is new, however, is the number of state laws introduced and passed during the recent legislative sessions, and the restrictive nature of several states’ requirements. Some laws exclude many common forms of identification such as state university-issued student IDs and Social Security cards.

Prior to 2006, no state required its voters to show a government-issued photo ID in order to vote. In 2006, Indiana became the first state to do so. Georgia followed soon after. In 2008, the U.S. Supreme Court, in Crawford v. Marion County Board of Elections, upheld the Indiana law following challenges to its constitutionality. The Court ruled that the state maintained a “valid interest” in improving election procedures and deterring fraud.

Proponents of voter photo identification laws maintain that they are reasonable measures to protect against voter and election fraud. Opponents suggest that such laws exclude large portions of the electorate—up to 11% of Americans—mostly low-income, minority, young, and elderly citizens who might not possess requisite state-issued photo IDs. They compare the requirements to a poll tax, prohibited by the 24th Amendment to the Constitution, as the IDs and the documents necessary to obtain them often cost money.

To stimulate discussion and debate, we present perspectives on this issue from six different experts, along with discussion suggestions for use with students.

Voter Photo ID
Laws are a Good Idea
Kris Kobach

During the 2011 legislative session, Kansas and six other states passed bills requiring photographic identification for voting. Critics have argued that voter fraud isn’t significant enough to warrant such steps, that large numbers of Americans don’t possess photo IDs, and that such laws are a Republican scheme to suppress turnout among the poor and minorities. They are wrong on all three counts.

Voter fraud is a well-documented reality in American elections. In Kansas, 234 incidents of voter fraud were reported between 1997 and 2011. The crimes included absentee-ballot fraud, impersonation of another voter, and a host of other violations. Because voter fraud is extremely difficult to detect and is usually not reported, the cases that we know about likely represent a small fraction of the total. Evidence of voter fraud is present in all 50 states, and public confidence in the integrity of elections is at an all-time low. In a 2008 study, 62% of American voters thought that voter fraud was very common or
America. By 1940, however, more than 130 million lived in 48 states and territories. At the time of the first census, the United States was primarily an agricultural nation, but in the 1940 Census, the largest group of people in the labor force was involved in manufacturing.

The 1940 Census also reflected the impact of the Great Depression on migration patterns—Americans were on the move. The states of California, Arizona, Florida, New Mexico, North Carolina, Oregon, and Tennessee all gained representatives in Congress, while many states that had been hit hard by the Dust Bowl—Illinois, Indiana, Iowa, Kansas, Nebraska, Ohio, and Oklahoma—lost representatives, as did Massachusetts and Pennsylvania.

**Note about the featured document and included photographs**

"Know Your U.S.A," comes from the series entitled Moving Images Relating to the Taking of the Census, 1937–1980, Records of the Bureau of the Census, Record Group 29, at the National Archives in College Park, Maryland. Its National Archives Identifier number is 7011, and it is available online from the National Archives at research.archives.gov/description/7011. Its transcription is also available online at archives.gov/social-media/transcripts/transcript-1940-census-introduction.pdf. The photograph of the census enumerator talking to a family on the steps of a boxcar also comes from the Records of the Bureau of the Census; its identifying number is 620076.

Lee Ann Potter is the Acting Director of Education and Public Programs at the National Archives and Records Administration in Washington, D.C. Christopher Zarr is an Education Specialist at the National Archives in New York. Potter serves as the "Teaching with Documents" feature editor. The recording featured in this article is in the public domain and can be reproduced in any quantity. For additional information about the education programs of the National Archives, please visit www.archives.gov/ste and www.archives.gov/education.

The authors would like to thank archivist Connie Potter for her help with this article.
somewhat common. Fear that elections are being stolen erodes the legitimacy of our government. That’s why the vast majority of Americans, 82% according to a 2010 Rasmussen poll, support photo ID laws.

Carrying a photo ID has become a part of American life. You can’t cash a check, board a plane, or receive most government benefits without one. If anyone lacks a photo ID, however, [voter identification] laws include provisions that provide a free state ID to anyone who needs one. In Kansas, state records indicate that virtually every voting-age citizen in the state already has a photo ID.

Finally, if election security laws really were part of a Republican scheme to suppress Democratic votes, one would expect Democrats to fight such laws. In Kansas, two-thirds of the Democrats in the House of Representatives and three-fourths of the Democrats in the Senate voted in favor of Kansas’s voter ID law. In Rhode Island, a Democrat-controlled legislature enacted a photo ID law in 2011. Fair elections protect every voter and every party equally.

Kris Kobach is Secretary of State for Kansas, sworn into office in January 2011. Voters elected him on a platform focused on stopping voter fraud. Prior to his election, Secretary Kobach was a law professor at University of Missouri-Kansas City and a nationally recognized litigator.

Voter ID Laws Pose More Challenges than Solutions
Tova Andrea Wang

The research demonstrating that African Americans, Latinos, young people, low income Americans, the elderly and persons with disabilities are more likely to be blocked from voting as a result of strict voter ID requirements has only been building over the last several years. A disproportionate number of Americans in these demographic groups do not have the type of ID these laws require, and the procedures for getting such identification, in some cases, are next to impossible to overcome without paying what amounts to a poll tax.

For example, 18 percent of Americans over the age of 65 do not have a photo ID. Fully a quarter of African Americans and 15 percent of low-income voters don’t have a photo ID. One in five young voters does not have a driver’s license, the most commonly accepted form of photo ID.

Wisconsin presents a vivid illustration of the problem. In Wisconsin, the Legislative Fiscal Bureau has estimated that 20% of Wisconsinites do not have the necessary ID. Research shows that among the Wisconsinites without the necessary identification to vote include 177,000 elderly persons; 55 percent of African American men and 49 percent of
Discussion Questions

1. What do you think is a greater threat to electoral democracy: low voter turnout or voter fraud? Why?

2. Do you consider voter photo identification laws the best solution to voter fraud?

3. How might governments ensure that all eligible voters have a photo ID and that it be provided free, if necessary?

4. What argument(s) did you find most persuasive? Why?

5. Do you think it is fair for some states to have identification requirements and not others? Why or why not?

Strict Photo (8 states): Voters must show a photo ID in order to vote. Voters who are unable to show photo ID at the polls are permitted to vote a provisional ballot, which is counted only if the voter returns to election officials within several days after the election to show a photo ID.

Photo ID (7 states) Voters are asked to show a photo ID in order to vote. Voters who are unable to show photo ID are still allowed to vote if they can meet certain other criteria. In some states, a voter without ID can vouch for a voter without. Other states ask a voter without ID to provide personal information such as a birth date, or sign an affidavit swearing to his or her identity. Voters without ID are not required to return to election officials after the election and show a photo ID in order to have their ballots counted in the manner that voters without ID in the strict photo ID states are.

Non-Photo ID (16 states): All voters must show ID at the polls. The list of acceptable IDs is varied and includes options that do not have a photo, such as a utility bill or bank statement with the voter’s name and address.

African American women; 46 percent of Hispanic men and 59 percent of Hispanic women; 78 percent of African American men aged 18–24 and 66 percent of African American women aged 18–24.

Proponents of voter ID laws claim there is no problem because voters can get a “free” ID. The catch is that in order to get the “free” ID, the voter must have other documentation and identification, which they are unlikely to have, such as a birth certificate. Such documents cost money to obtain copies. There is also the enormous hardship a visit to the DMV can often entail.

At the same time, research has also repeatedly shown pro-identification advocates dramatically misstate the purported rationale for these laws. Studies over the last several years have consistently shown that impersonation of another voter at the polls is not to cast an illegal ballot virtually never happens. This is the only kind of fraud a voter ID law would address.

Tova Andrea Wang is Senior Democracy Fellow at Demo, and a nationally known expert on election reform and political participation.

A Deceptively Complex Question
Luis Fuentes-Rohwer

The question of whether voter identification laws are a good idea is deceptively complex. In the abstract, the answer seems obvious: of course they are, since their stated purpose is to deter voter fraud. What could possibly be bad about trying to ensure that our elections are free of fraud?

There are at least two problems with this view. First, to say that states can ensure against voter fraud is not to say that states can take any measures they want. There are clearly limits. More importantly, it is well known that electoral regulations will have an effect on voter turnout. So the question becomes: is the cost of these new identification laws worth the benefit in terms of deterring voter fraud? This question is further complicated by the fact that these laws now form part of a partisan strategy to try to win elections. In other words, Republicans generally think that these laws are a great idea, while Democrats complain that these laws disproportionately disenfranchise poor voters, minority voters, and the elderly, the kinds of voters who are more likely to vote Democratic.

Second, it stands to reason that we should inquire, first and foremost, whether any such fraud exists before taking measures to combat it. And yet, curiously, the courts have not bothered to press terribly hard on this question, choosing instead to defer to the assertions by state officials that any such fraud exists, or might exist in the future.

To the question, then, whether voter identification laws are a good idea, it is hard not to be cynical about their implementation. There is no question that the case has not been made that these laws are needed. But if the partisan divide is any indication, these laws are part of a larger electoral strategy.

Luis Fuentes-Rohwer is a professor at the Indiana University Maurer School of Law. His research interests include the way that institutions, especially courts, are asked to craft and implement the ground rules of American politics.

A Common-Sense Voting Reform
Hans A. von Spakovsky

Voter identification laws are supported by an overwhelming majority of Americans of all racial, ethnic, and political backgrounds. All Americans who are eligible to vote should have the opportunity to do so. But it’s also important that their ballots not be diluted by fraudulent votes. Voter ID can prevent impersonation fraud, voting under fictitious names, double voting by individuals registered in more than one state, and voting by non-citizens. The Supreme Court itself pointed out, when it upheld Indiana’s photo ID law, that “flagrant examples” of voter fraud had “been documented throughout this nation’s history” and
could “affect the outcome of a close election.”

Academic studies and the actual results of elections show that, contrary to the hysterical claims of critics, voter identification requirements do not depress the turnout of minority voters. Georgia and Indiana, whose photo ID laws have been in effect for five years, have had no decrease in the turnout of minority voters. The lawsuits filed against those states by organizations such as the NAACP were thrown out because they couldn’t produce a single person who would be unable to vote because of the voter ID requirements.

Hans A. von Spakovsky is a Senior Fellow at the Heritage Foundation, a former FPC Commissioner, and the former Counsel to the Assistant Attorney General for Civil Rights at the Justice Department.

Voter ID: Commonsense Reform to Protect an American Institution

Scott Martin

On Election Day, Americans exercise one of the most fundamental activities in our democracy. Only with the trust of the citizenry do our elected officials serve in government. This is the very principle that serves as the foundation for our nation’s government. However, when someone commits voter fraud, they are trampling on our collective rights.

I wish that voter fraud was only a nightmare, but unfortunately, in Pennsylvania it has become a harsh reality. In 2004, the Republican Party of Pennsylvania uncovered hundreds of thousands of fraudulent voter registrations, which—had they not been found—could have led to illegitimate votes on Election Day. That same year, voting machines were found to have been pre-loaded with nearly 2,000 votes, triggering an investigation into voter impersonation. In 2008, two members of the New Black Panther Party were found wielding nightsticks outside of a Philadelphia polling place, a clear sign of voter intimidation. That same year, we found numerous cases of voters who were registered at multiple addresses and casting ballots at those polling places. One gentleman was even registered at “Apartment 711,” which happened to be a 7-11 convenience store. In 2004, there was an individual who was caught on tape first voting in Lancaster County, then driving to his hometown county in Maryland to cast his second vote.

As county commissioner, one of my fundamental obligations to the constituents I serve is to ensure the integrity of the election process. Twice a year, election workers tally their local vote counts and forward them to my office. As we certify the winners, we witness our great American democracy first hand.

Fraud doesn’t have to happen on a
large scale to create an impact, and it’s possible that even a few fraudulent votes could change the outcome of an election. What if one fraudulent vote was counted in each of Pennsylvania’s 9,284 voting precincts? A 10,000-vote margin could easily change the outcome of an election. But margins don’t have to be that wide. In 2007, Susan Gantman won her bid for statewide Superior Court by just 28 votes. In the 2012 Iowa Caucuses, 8 votes separated the winner.

Scott Martin is Chairman of the Board of Commissioners for Lancaster County, Pennsylvania.

Photo – Voter ID Requirements Are a Cure Far Worse than the Disease They Are Meant to Prevent

Andrew Grant-Thomas

Future President?

“If a nation expects to be ignorant and free, it expects what never was and never will be.”

- Thomas Jefferson

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Voter fraud is not a problem in the United States. In 2002, the Bush administration decided to crack down on voter fraud. After five years they had convicted 26 individual voters, most of whom had been confused about voter eligibility rules.

Investigations into the 2004 Ohio elections found one bad vote out of every 2.5 million cast. That’s less than the odds of dying after being struck by lightning or eating badly prepared blowfish in Japan. Moreover, photo ID laws do very little to prevent whatever negligible fraud we have. They do nothing to prevent absentee voter fraud or ballot box stuffing, for example.

It is also likely that a photo identification requirement would disenfranchise some eligible voters. At least 20 million American citizens do not have government-issued photo identification such as a driver’s license or passport. That number does not include recently married or divorced women who have photo IDs in their previous names, rather than their current names, for whom voting would become a hassle.

Finally, states looking to implement voter identification laws would probably have to jump through costly hoops, including guaranteeing free IDs, which increase the costs and workloads for those government offices or mobile units. States would also have to invest in public education to make sure everyone understood the new procedures.

Instead of passing more voter identification laws, how about making Election Day a national holiday, holding it on the weekend, or creating an entire Election Week? Even with the record turnout of 2008, two in five eligible voters stayed home. How great would it be to see our elected officials pushing legislation that would boost turnout rather than suppress it? 

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