

Episode_2__Voter_Fraud_or_Voter_Suppression_.mp3

Avi Green: [00:00:05] Hi, I'm Avi Green. Welcome to the Scholars Strategy Network's No Jargon. Each week, we bring you a top researcher looking at another important issue from around the country. This week, I am so glad to be joined by Erin O'Brien. Erin is a professor of political science at the University of Massachusetts Boston and the reason she's here is that she's the author of *Jim Crow 2.0: Why States Consider and Adopt Restrictive Voter Access Policies*. It's a topic that's much in the news this year so I'm really excited about hearing from her. I'm also excited that she's here with us today because she is a commentator for WGBH News and a contributor to the Mass Politics Profs blog. She's also the co-leader of the Scholars Strategy Network's Boston chapter. So glad you're with us today Erin.

Erin O'Brien: [00:00:53] Thrilled to be here.

Avi Green: [00:00:54] So let's start right off by defining terms. Why did you use the phrase restrictive voter access policies? What does that mean?

Erin O'Brien: [00:01:03] I think we used it because it's so sexy.

Avi Green: [00:01:06] Right, exactly.

Erin O'Brien: [00:01:08] But we wanted to make sure that restrictive voter access policies. There's been a lot of discussion about voter I.D. and that's certainly one of them. But we wanted to call attention to the fact that this is really a suite of policies and things like requiring an ID is one of them but this also includes these moves to have in -- sorry, increased regulation of voter registration drives. You know, really regulating those folks, shortening early voting, repealing same-day registration, increased restrictions on early voting for those with a felony conviction. So we used restricted voter access legislation to signal that voter ID is a part of it but it's certainly not all of it.

Avi Green: [00:01:53] So Democrats and progressives often refer to what what has been happening in terms of these voter restriction policies as voter suppression and of course on the right, they're often referred to as necessary controls to prevent voter fraud or to clean up the election system. Can you weigh in on that?

Erin O'Brien: [00:02:15] Sure. I mean part of what my co-author and I in the study wanted to do is weigh in what we as professors do. You're a hundred percent right. On the left, I call it -- turn on MSNBC and people are screaming and upset about these policies as voter suppression. You know, they're thinly veiled attempts by Republicans to depress turnout amongst constituencies favorable to Democrats: minorities, new immigrants, disabled etc. And on the right, flip over to Fox, it's like "No, if we don't have voter ID, if we don't do some of these things, we're going to have fraudulent elections and that's especially likely in this era of you know, high partisanship. And so the left and the right are screaming about this and if either of them are correct it would be really bothersome. So what we wanted to do was say, let's actually run the data. Let's actually see what's going on here as opposed to just you know, enter into the noise.

Avi Green: [00:03:18] So you took -- you took a deep look at what each party thinks is going on and I guess compared it to what's actually going on? Explain to me a little bit about what you actually did and then what you found.

Erin O'Brien: [00:03:30] Sure. What we did is we put on our social scientist hat basically, and said --.

Avi Green: [00:03:35] I'm sure that's an excellent hat.

Erin O'Brien: [00:03:37] Oh, it's stunning. Derby Day sort of stuff. But we put on our social science hat and said "Let's empirically test what the left is saying, what the right is saying and what we know from social science drives state to propose and pass legislation in general." So we did a series of multivariate models that has the advantage of truly testing what the left is saying. Is this happening where more minorities live or where more minorities are starting to turn out in the presidential election? And then we took seriously what the right was saying. Where there are reported cases of fraud and they didn't have to be found guilty. We just had reported cases of fraud. Are those the states that are passing this legislation? And then we -- we know things like Republican governors have more of a taste for this than Democratic governors. So we know a lot of other explanations and we put them all in these multivariate models, empirically tested them and saw what would rise to the top.

Avi Green: [00:04:42] So drum roll please. What rose to the top?

Erin O'Brien: [00:04:47] Well, MSNBC is actually correct on this one. What we found -- we did proposal and passing legislation and the proposal of legislation is not a sexy but it's really important because this is what states copycat each other. It's softening up period. So what's driving states to propose restrictive voter access legislation was in five parts: states with higher percentages of African-Americans, states that saw higher minority voter turnout between 2004 and 2008 where lower income voters started to turn out more, higher percentage of noncitizens, and unsurprisingly where voter IDs were already in place it impacted again, if you will. Totally missing from that is voter fraud. We tested for voter fraud and it didn't come close to statistical significance. So that's why we're different when we say proposal is driven by racial, anti-immigrant and classist considerations. That's from the data. This is the most hifalutin math you can do and I always say to folks, you know, what did we do wrong in the model? And the answer is nothing. And so these aren't opinions on what happened. This is what the data is saying and that was proposal.

Avi Green: [00:06:05] So what you're saying is that the data shows you that the states where the proposals for these these voter restrictions were put forward were states where there were large numbers of African-Americans, increased numbers of people of color actually turning up and voting but not necessarily -- this wasn't necessarily a hotspot map of the country in terms of where there were these allegations of voter fraud.

Erin O'Brien: [00:06:32] Precisely. And that's what's so, you know, telling and this is why the study's gotten so much attention because we take the left and the right quite seriously and say you know if their claims are true, they're bothersome. If I'm a political scientist, you know, fraud is what if -- if this stuff passes where fraud is going on then that doesn't strike me as particularly bothersome. But guess what? The per proposal tried has no relevance to when or where I should say these and this legislation is being proposed. And so that's very striking. We -- you know you don't make claims to say racial, anti-immigrant and classist considerations lightly but the data says we have to because that's what we found.

Avi Green: [00:07:21] Take me to the next step. Course it might be worrisome if there are lots and lots of these proposed bills coming up but obviously a lot of things don't become law. So what about which of these bills actually do become law?

Erin O'Brien: [00:07:35] Right, so when we turn to passes because we think proposal matters for that softening up area and making the idea more palatable. But you're right. Most bills don't pass. So then we looked at what's driving states that pass the restrictive voter legislation. And again, that's shortening early voting, voter I.D. etc. And here, it's really a story of partisanship and race where

Republicans control the governorship and both chambers of the legislative body, this stuff passes in those states. And interestingly where forecasters use the state as a potential swing state in the 2012 election and the state is controlled by Republicans, this stuff is less likely to pass. So those are highly partisan explanations. Then the racial ones, and this is striking. Where there are larger proportions of African-Americans residents, this stuff passes but a huge surge, a big uptick in minority turnout reduces the likelihood. So we call this sort of a backlash of the mobilized. Larger proportions of African-American residents, more likely to pass. But when we saw real upticks like dramatic upticks in turnout, that was preventative.

Avi Green: [00:08:53] Let me interject here and sort of ask you to try to explain it as simply as you can. You call this article Jim Crow 2.0. Why do you do that?

Erin O'Brien: [00:09:05] Because this is -- the U.S. has obviously a long -- Race is defining in U.S. American politics. And old school or old school I call it Jim Crow racism was straight up poll taxes, not allowing people to register to vote. You know it's just more blunt practices if you will to prevent people of color from voting. This legislation is more insidious because on the surface many people say "Hey, voter I.D. I've got a --" You know, you've heard the arguments. When I buy booze I have to show an ID. When I get on a plane, I have to show an ID. Why is this such a big deal, right? So it's more insidious in the sense that once we actually dig into the data, it's not being passed everywhere. It's being passed to target a particular group and it's almost always African-Americans. So we call it Jim Crow 2.0 because it's an update on an existing practice that is softer and not softer in impact per se but softer in that it's more palatable because you can wrap it up in concerns about voter fraud etc.

Avi Green: [00:10:17] So these are states that are passing these laws. These states are states where there is Republican control of the legislature, a Republican governor most of the time, and this large and growing African-American electorate that is obviously -- I should draw out the last component of this which tends to vote democratically in big numbers.

Erin O'Brien: [00:10:43] And I do want to make one other point because again as social scientists we ran these models over and over again and in one model, voter fraud did come up as statistically significant and had a much smaller substantive impact relative to the partisan and racial factors. But again we're social scientists so we have to report the whole of the story a much smaller substantive impact only in a particular set of models, but it does come up a little bit but what the numbers show us, what the data shows us is it's primarily where Republicans are in control as you said and where there are large percentages of African-Americans or proportions I should say. But there is some good news in the sense that where where African-Americans really turn out where turnout really increases then politicians are a little bit more afraid if you will to, you know, quite frankly to piss people off, to piss African-Americans out who have shown themselves to be willing to vote and increase in turnout. So that's where we come down on it. We're able to make big claims because rigorous analysis shows us that that's what's driving this.

Avi Green: [00:11:56] Bring me up to the present. A lot of these laws were obviously passed in 2011 right after the big Republican wave year of 2010 and you looked at them then. Then what happened in 2012 and what does that say about voter turnout and about the effect of these laws? And in some ways if voter turnout actually was reasonably high and President Obama was reelected in large part with votes from many different constituencies but especially African-American voters and other voters of color, does that mean these events had no effect?

Erin O'Brien: [00:12:33] No. Part of the issue is a lot of these laws were passed but not yet implemented in the last presidential election. So we haven't had a presidential cycle where these are fully up and running and in 2013 of course the Supreme Court decided in the Shelby v. Holder

decision that localities -- states and localities that used to have to get what we call preclearance. Basically they had to get permission to make changes to their voting laws that those states had to do that first because they had shown a history of racial bias and things like that in voting practices. Well the court said they no longer have to get preclearance. And so we're now operating in a landscape where more of this legislation is passed. It's definitely more. Implementation is real for the next cycle, for the 2016 cycle and states and localities that have shown themselves in the past to have real racial bias in how they conduct their election practices can now make changes to their election law without getting sort of the checkoff from the Justice Department. So we've never really -- 2016 is going to be incredibly telling because this is going to be the first time we actually see a presidential cycle where all this is in effect.

Avi Green: [00:13:58] So what is your -- to be blunt, what is your fear about that? What's -- what's the worst thing that that that could happen?

Erin O'Brien: [00:14:07] Well it's my fear and I'm deeply deeply depressed about it. But right now and you know I'm talking to you here in October of 2015. Yeah, right now there isn't a candidate on the Democratic side and top of the ticket that has mobilized and excited minority voters the same way Barack Obama has. Ben Carson is running second or third on the Republican side right now. So my concern especially amongst democratic constituencies is the Obama effect is in some ways mobilized by communities of color to get out and vote. And so whatever bars were put in front of them -- somebody like Barack Obama at the top demographic representation that you could search right to still turn out for Barack Obama and get over some of these hurdles.

Avi Green: [00:15:04] In other words if it was a pain to get a voter ID or you had to travel further to vote or something like that, if you were really psyched about Barack Obama --

Erin O'Brien: [00:15:13] Precisely.

Avi Green: [00:15:13] You were going to do it.

Erin O'Brien: [00:15:14] You're pumped to vote for Obama and on the Democratic side there's people that -- communities of color especially African-Americans -- vote you know upwards of 90 percent for Democrats. But there are going to be less jacked, less excited about the current crop of Democratic candidates. So I think these laws have much more of a chance there, that the sharpness that these laws can have much more of an effect because that the excitement isn't there. So it's not only that more of them are in place but the political context has made it so that they're more likely to have an effect.

Avi Green: [00:15:57] Erin, if policymakers around the country, if any of them wanted to increase the vote what do you think they should do?

Erin O'Brien: [00:16:05] I think twofold. One is something that Oregon has just done. You don't have to register to vote.

Avi Green: [00:16:12] What?

Erin O'Brien: [00:16:12] I love it. You don't have to register to vote at all. Right? You just, you know, can go and they can figure it out. And you know, I would say you don't have to register to pay your taxes. So you know, things that eliminate that hurdle of registration are what we find most exciting. Now there are reforms that make it easier to vote: mail-in registration, online registration, moving the registration deadline closer to the deadline. But same day registration and no registration are the things that have been proven to be most effective for tackling inequality in

turnout and getting more people to the polls. There is some good news here. It's mostly bad news. But there is some good news that 18 states plus the District of Columbia have done things to expand access to the ballot since 2012. If you look at a map of these states very -- nothing really emerges. They're battleground states. They're not battleground states. They're in the Midwest. They're in the Pacific Northwest. There's nothing that obviously jumps out about that.

Avi Green: [00:17:17] They're not just red or blue for example.

Erin O'Brien: [00:17:20] Precisely and that to me is pretty exciting in a lot of ways.

Avi Green: [00:17:24] When you look around -- when you look around the nation at the state of voting what is it that gives you hope?

Erin O'Brien: [00:17:32] Oh gosh, are you my psychologist? You know, I'm -- I've got to be honest. I'm not particularly hopeful and sometimes I don't think the best strategy is to try to find hope where there isn't simply because this is a perennial attack on the right to vote. Like we thought we were done with this. And there's plenty of scholars who will tell you that the right to expanding the franchise and the right to vote is best read as an EKG not this steady march forward. So it's not that different that we're having you know a pushback but this pushback is so insidious and it is targeted towards communities of color and to a lesser extent low income folks. Why are we fighting this battle? It's so partisan. Why are we refighting this battle means that -- and plenty of awesome good scholars are fighting this and activists. But think of how their energies could be used elsewhere. In some ways, you know, there's only -- it is a zero sum game at a certain point. And all these energies are going to be fighting this battle to get people to be able to exercise their right in a democracy. And all this is operating on top of things like felony disenfranchisement. One in nine African-American men in this country can't vote because of a felony conviction. So it -- we're operating on top of already very racialized restrictions to voting and now we're doing more of it. It's a pile-on effect. It is exciting that 18 states have expanded since 2012 but the weight of the evidence -- the weight of the evidence is that there's a steady attack and that is the right word, on the right to vote for communities of color in the United States. And you know that should be a headline every day.

Avi Green: [00:19:34] Erin O'Brien thank you so much for being with us and talking about these important issues.

Erin O'Brien: [00:19:40] Thanks. It's a real pleasure. I love that you guys are doing this.

Avi Green: [00:19:44] Again, I was joined today by Erin O'Brien, a scholar at the University of Massachusetts Boston. You can learn more about her work at www.scholarsstrategynetwork.org/nojargon. The Scholars Strategy Network is a nonpartisan organization that helps university researchers improve public policy and strengthen democracy. If you liked what you heard today please review us on iTunes. It helps us spread the word and get more people to listen. If you didn't, well please send us an e-mail to nojargon@scholarsstrategynetwork.org. You can subscribe to the No Jargon podcast on iTunes and find us on Twitter @nojargonpodcast.