

## HOW THE NEW VOTER ID LAWS IMPEDE DISADVANTAGED CITIZENS

*by Marcus Anthony Hunter, Yale University*

On March 14, 2012, Pennsylvania’s Republican Governor Tom Corbett signed into law his state’s version of strict voter ID rules that require voters to present a dated, government-issued form of photo identification before they enter the voting booth. Tens of thousands of Pennsylvanians who believe they have the right to vote – many of whom have voted regularly – found themselves checking to see if they have correct documentation. If not, they would need to make time to get to government offices, often inconveniently located and open at limited hours.

Every American citizen has the right to vote – or so most of us assume, thinking the issue was finally settled by the Civil Rights struggles of the 1960s. But a fresh struggle has erupted, as states impose new rules in the name of fighting “voter fraud” and civil rights advocates point to “voter suppression” threatening hard-won democratic rights. What are the new rules at issue – and are critics correct to suggest that they have a discriminatory impact?

### **The Spread of State Legislation**

The tumultuous 2000 presidential election, which came down to just a few dozen votes in Florida, kicked off the current era’s rage for voter-identification laws. Since 2000, almost all U.S. states have considered roughly a thousand bills on the matter. Major revisions in rules for voters have been passed by many state legislatures – and the pace of enactments has picked up in the past two years, as the pivotal 2012 election looms. During 2011, every state except Vermont, Wyoming, and Oregon considered some sort of legislation about voter IDs.

Bills do not always make it into law. In some cases – such as in Minnesota, New Hampshire, North Carolina, and Michigan – governors vetoed strict new voter ID bills. And some states have adjusted or loosened strict rules. New Mexico, for example, acted in 2008 to modify ID requirements so that voters can simply provide their year of birth, full name, and address as it appears in the registration rolls. Nevertheless, so far, 33 states have passed voter identification laws, and thirty have implemented them.

Heading into November 2012, very strict ID laws requiring voters to show government-approved forms of photo ID before they can enter the voting booth are on the books in Georgia, Indiana, Kansas, Pennsylvania, South Carolina, Tennessee, and Texas. Other states request a photo ID but do not require it; and the states of Arizona, Ohio, and Virginia have strict identification requirements that do not center on photo IDs as such.

### **The Disparate Impact of the New Rules**

Public opinion surveys show broad majority support for voter ID laws, perhaps because loud claims of rampant “voter fraud” have convinced most Americans that there is a serious problem to be handled. The claims are not true, however. Actual problems of voter misconduct center on

absentee ballots. In-person fraud – where someone comes to the election place to vote under a false name – almost never happens. Researchers recently looked at data since 2000 and found only ten alleged cases out of 146 million registered U.S. voters – less than one per 15 million!

Even if in-person voter fraud almost never happens, many Americans may think voter ID requirements are no big deal. Middle-class and privileged people have drivers' licenses and are accustomed to showing photo identification at the airport. So what harm does it do to ask every voter to do the same on Election Day?

Actually, millions of previously legal U.S. voters do not possess one of the typical forms of photo ID designated in the new laws – such as a current driver's license or passport, military member or official government ID, or a dated student ID (a form sometimes but not always allowed). Overall, only about 11% of all registered U.S. voters lack such IDs, but the percentages are much greater for blacks, Latinos, and other racial minorities, and also for young people, city dwellers, the very old, and the poor. In Indiana, for example, research reveals that 81% of white eligible voters possess IDs that meet the new strict requirements, compared to only 55.2% of blacks – a huge racial disparity in a state that tipped just barely toward the Democrats in 2008.

Glaring racial, socioeconomic, and age gaps in ID possession raise suspicions among voting rights advocates. As does the fact that many of the states championing strict voter ID rules are newly governed by conservative Republicans – and either have very large minority populations or, like Ohio and Pennsylvania, are swing states up for grabs in the 2012 presidential contest. Is it mere coincidence that the otherwise eligible voters most likely to lack photo IDs are the minorities, younger Americans, and poor elderly people who have in the past disproportionately voted for Democrats? If it walks like a duck and quacks like a duck, perhaps it is a duck. Some GOP lawmakers have come right out and said what one in Pennsylvania declared – that the purpose of new requirements is to swing vote totals in November 2012 toward Republicans.

### Signs of Pushback

Quite a few restrictive voter ID laws are being challenged in federal and state courts. The U.S. Department of Justice has invoked the Voting Rights Act to challenge laws in states such as Florida, Texas, and South Carolina, and federal judges threw out Florida and Texas laws in August 2012. In other places, voting rights advocates are pursuing cases in state courts. Because state legislatures have so much authority to govern election procedures, these are difficult cases to win. In Pennsylvania, for example, a court upheld ID regulations even though the government was not able to show *any* previous instances of in-person voter fraud. In that district ruling, the judge said that disparate impact would have to be documented after November 2012. Indeed, there may be many such cases after the election, if it proves close and obstacles to voter participation appear to have been decisive in key states.

Shifts in public opinion could prove more important. In its regular “Democracy in America” section on September 11, 2012, the middle-of-the-road *Economist* summed up growing concern. “Of course, both parties play the turnout game...But when tactics turn from encouraging one's own voters to vote” to “setting up legal barriers to prevent the other side from doing so, that is something much nastier – particularly when those most directly impacted by these legal barriers were similarly barred from voting... for most of the country's history.” To the degree that many Americans come to share this assessment, the drive to reduce voting with bothersome ID rules may run out of steam and prove ripe for legislative reversal.