

Race, class, and voting

Folks: One of the questions that you must ask as you read this *two-part* reading is why, in the first place, would a Democrat vote for a Republican knowing full well that a Republican government on almost every issue, including the right to vote, would stand on the side of the rich and the powerful.



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A War On Voting?

Democracy means get out the vote. But a new wave of state legislation across the country is making it harder to vote. Tightening up in many ways. Making voter registration more difficult. Reducing early voting days. Demanding voter ID. Proof of citizenship.

Backers say it's all to clean up American voting. Critics say that's a ruse. That voter fraud problems in this country are miniscule. That it's really a Republican drive to push away voters they don't want at the polls. A "war on voting."

This hour *On Point*: the wave of new restrictions on American voting.

-Tom Ashbrook

Guests

Ari Berman, a contributing writer for *The Nation* and author of *Herding Donkeys: The Fight to Rebuild the Democratic Party and Reshape American Politics*. His article, for the September 15th issue of *Rolling Stone*, was *The GOP War on Voting*.

Jason Torchinsky, Partner at the private lawfirm Holtzman Vogel. Former Counsel to the Civil Rights Division at the U.S. Department of Justice; Deputy general counsel to the 2004 Bush-Cheney campaign and Inaugural Committee.

Elisabeth MacNamara, National president of the League of Women Voters.

Jamin Raskin, Democratic State Senator from Maryland, he's author of "Overruling Democracy: The Supreme Court versus the American People."

Highlights

A series of laws passed by Republican-controlled state houses nationwide has critics warning of a "war on voting" waged by the GOP to disenfranchise poor and minority voters who skew Democratic. Supporters of the new laws say that it is about preserving the integrity of the process and rooting out voter fraud.

One of the most high-profile changes to voting laws have been passed in six states recently, requiring a photo ID to vote. Nationwide, ten percent of Americans don't have a photo ID, including 25 percent of African Americans.

"We definitely view it as voter suppression, whatever the motivation," said Elisabeth MacNamara, national president of the non-partisan League of Women Voters. She said that the new laws are not only expensive to implement, but also amount to new and onerous government regulations with "almost no benefit from an integrity standpoint."

"It is sweeping, it amounts to the most wholesale rewriting of the nation's election laws since the passage of the Voting Rights Act," Ari Berman, a contributing writer for *The Nation*, whose recent article in *Rolling Stone* dealt with the new voting laws.

"There's no problem in American elections that justifies these types of laws."

Not so, supporters of the laws contend. "What you're seeing is an effort to help ensure the integrity of elections nationwide," said Jason Torchinsky, a partner at the private law firm Holtzman Vogel. He's the former Counsel to the Civil Rights Division at the U.S. Department of Justice; during the Bush administration. "I don't think these efforts at the state level are designed to stop Democrats from voting."

Critics say concerns about voters' identities are unfounded. "There are a miniscule number of cases where people have impersonated someone to go and vote – you have a better chance of being struck by lightning," argued Jamin Raskin, Democratic State Senator from Maryland and author of "Overruling Democracy: The Supreme Court versus the American People."

From Tom's Reading List

Rolling Stone "As the nation gears up for the 2012 presidential election, Republican officials have launched an unprecedented, centrally coordinated campaign to suppress the elements of the Democratic vote that elected Barack Obama in 2008. Just as Dixiecrats once used poll taxes and literacy tests to bar black Southerners from voting, a new crop of GOP governors and state legislators has passed a series of seemingly disconnected measures that could prevent millions of students, minorities, immigrants, ex-convicts and the elderly from casting ballots. "What has happened this year is the most significant setback to voting rights in this country in a century," says Judith Browne-Dianis, who monitors barriers to voting as co-director of the Advancement Project, a civil rights organization based in Washington, D.C."



The GOP War on Voting

In a campaign supported by the Koch brothers, Republicans are working to prevent millions of Democrats from voting next year

by: Ari Berman

Folks/Guys/People: The struggle to allow every citizen of this country the right to participate in U.S. elections is a never ending one given the forces of reaction arraigned against this most fundamental of fundamental rights in any democracy.

As the nation gears up for the 2012 presidential election, Republican officials have launched an unprecedented, centrally coordinated campaign to suppress the elements of the Democratic vote that elected Barack Obama in 2008. Just as Dixiecrats once used poll taxes and literacy tests to bar black Southerners from voting, a new crop of GOP governors and state legislators has passed a series of seemingly disconnected measures that could prevent millions of students, minorities, immigrants, ex-convicts and the elderly from casting ballots. "What has happened this year is the most significant setback to voting rights in this country in a century," says Judith Brown-Dianis, who monitors barriers to voting as co-director of the Advancement Project, a civil rights organization based in Washington, D.C.

Republicans have long tried to drive Democratic voters away from the polls. "I don't want everybody to vote," the influential conservative activist Paul Weyrich told a gathering of evangelical leaders in 1980. "As a matter of fact, our leverage in the elections quite candidly goes up as the voting populace goes down." But since the 2010 election, thanks to a conservative advocacy group founded by Weyrich, the GOP's effort to disrupt voting rights has been more widespread and effective than ever. In a systematic campaign orchestrated by the American Legislative Exchange Council – and funded in part by David and Charles Koch, the billionaire brothers who bankrolled the Tea Party – 38 states introduced legislation this year designed to impede voters at every step of the electoral process.

All told, a dozen states have approved new obstacles to voting. Kansas and Alabama now require would-be voters to provide proof of citizenship before registering. Florida and Texas made it harder for groups like the League of Women Voters to register new voters. Maine repealed Election Day voter registration, which had been on the books since 1973. Five states – Florida, Georgia, Ohio, Tennessee and West Virginia – cut short their early voting periods. Florida and Iowa barred all ex-felons from the polls, disenfranchising thousands of previously eligible voters. And six states controlled by Republican governors and legislatures – Alabama, Kansas, South Carolina, Tennessee, Texas and Wisconsin – will require voters to produce a government-issued ID before casting ballots. More than 10 percent of U.S. citizens lack such identification, and the numbers are even higher among constituencies that traditionally lean Democratic – including 18 percent of young voters and 25 percent of African-Americans.

Taken together, such measures could significantly dampen the Democratic turnout next year – perhaps enough to shift the outcome in favor of the GOP. "One of the most pervasive political movements going on outside Washington today is the disciplined, passionate, determined effort of Republican governors and legislators to keep most of you from voting next time," Bill Clinton told a group of student activists in July. "Why is all of this going on? This is not rocket science. They are trying to make the 2012 electorate look more like the 2010 electorate than the 2008 electorate" – a reference to the dominance of the Tea Party last year, compared to the millions of students and minorities who turned out for Obama. "There has never been in my lifetime, since we got rid of the poll tax and all the Jim Crow

burdens on voting, the determined effort to limit the franchise that we see today."

To hear Republicans tell it, they are waging a virtuous campaign to crack down on rampant voter fraud – a curious position for a party that managed to seize control of the White House in 2000 despite having lost the popular vote. After taking power, the Bush administration declared war on voter fraud, making it a "top priority" for federal prosecutors. In 2006, the Justice Department fired two U.S. attorneys who refused to pursue trumped-up cases of voter fraud in New Mexico and Washington, and Karl Rove called illegal voting "an enormous and growing problem." In parts of America, he told the Republican National Lawyers Association, "we are beginning to look like we have elections like those run in countries where the guys in charge are colonels in mirrored sunglasses." According to the GOP, community organizers like ACORN were actively recruiting armies of fake voters to misrepresent themselves at the polls and cast illegal ballots for the Democrats.

Even at the time, there was no evidence to back up such outlandish claims. A major probe by the Justice Department between 2002 and 2007 failed to prosecute a single person for going to the polls and impersonating an eligible voter, which the anti-fraud laws are supposedly designed to stop. Out of the 300 million votes cast in that period, federal prosecutors convicted only 86 people for voter fraud – and many of the cases involved immigrants and former felons who were simply unaware of their ineligibility. A much-hyped investigation in Wisconsin, meanwhile, led to the prosecution of only .0007 percent of the local electorate for alleged voter fraud. "Our democracy is under siege from an enemy so small it could be hiding anywhere," joked Stephen Colbert. A 2007 report by the Brennan Center for Justice, a leading advocate for voting rights at the New York University School of Law, quantified the problem in stark terms. "It is more likely that an individual will be struck by lightning," the report calculated, "than that he will impersonate another voter at the polls."

GOP outcries over the phantom menace of voter fraud escalated after 2008, when Obama's candidacy attracted historic numbers of first-time voters. In the 29 states that record party affiliation, roughly two-thirds of new voters registered as Democrats in 2007 and 2008 – and Obama won nearly 70 percent of their votes. In Florida alone, Democrats added more than 600,000 new voters in the run-up to the 2008 election, and those who went to the polls favored Obama over John McCain by 19 points. "This latest flood of attacks on voting rights is a direct shot at the communities that came out in historic numbers for the first time in 2008 and put Obama over the top," says Tova Wang, an elections-reform expert at Demos, a progressive think tank.

No one has done more to stir up fears about the manufactured threat of voter fraud than Kansas Secretary of State Kris Kobach, a top adviser in the Bush Justice Department who has become a rising star in the GOP. "We need a Kris Kobach in every state," declared Michelle Malkin, the conservative pundit. This year, Kobach successfully fought for a law requiring every Kansan to show proof of citizenship in order to vote – even though the state prosecuted only one case of voter fraud in the past five years. The new restriction fused anti-immigrant hysteria with voter-fraud

paranoia. "In Kansas, the illegal registration of alien voters has become pervasive," Kobach claimed, offering no substantiating evidence.

Kobach also asserted that dead people were casting ballots, singling out a deceased Kansan named Alfred K. Brewer as one such zombie voter. There was only one problem: Brewer was still very much alive. The Wichita Eagle found him working in his front yard. "I don't think this is heaven," Brewer told the paper. "Not when I'm raking leaves."

Kobach might be the gop's most outspoken crusader working to prevent citizens from voting, but he's far from the only one. "Voting rights are under attack in America," Rep. John Lewis, who was brutally beaten in Alabama while marching during the civil rights movement in the 1960s, observed during an impassioned speech on the House floor in July. "There's a deliberate and systematic attempt to prevent millions of elderly voters, young voters, students, minority and low-income voters from exercising their constitutional right to engage in the democratic process."

The Republican effort, coordinated and funded at the national level, has focused on disenfranchising voters in four key areas:

Barriers to Registration Since January, six states have introduced legislation to impose new restrictions on voter registration drives run by groups like Rock the Vote and the League of Women Voters. In May, the GOP-controlled legislature in Florida passed a law requiring anyone who signs up new voters to hand in registration forms to the state board of elections within 48 hours of collecting them, and to comply with a barrage of onerous, bureaucratic requirements. Those found to have submitted late forms would face a \$1,000 fine, as well as possible felony prosecution.

As a result, the law threatens to turn civic-minded volunteers into inadvertent criminals. Denouncing the legislation as "good old-fashioned voter suppression," the League of Women Voters announced that it was ending its registration efforts in Florida, where it has been signing up new voters for the past 70 years. Rock the Vote, which helped 2.5 million voters to register in 2008, could soon follow suit. "We're hoping not to shut down," says Heather Smith, president of Rock the Vote, "but I can't say with any certainty that we'll be able to continue the work we're doing."

The registration law took effect one day after it passed, under an emergency statute designed for "an immediate danger to the public health, safety or welfare." In reality, though, there's no evidence that registering fake voters is a significant problem in the state. Over the past three years, the Florida Department of Law Enforcement has received just 31 cases of suspected voter fraud, resulting in only three arrests statewide. "No one could give me an example of all this fraud they speak about," said Mike Fasano, a Republican state senator who bucked his party and voted against the registration law. What's more, the law serves no useful purpose: Under the Help America Vote Act passed by Congress in 2002, all new voters must show identity before registering to vote.

Cuts to Early Voting After the recount debacle in Florida in 2000, allowing voters to cast their ballots early emerged as a popular bipartisan reform. Early voting not only meant shorter lines on Election Day, it has helped boost turnout in a number of states – the true measure of a successful democracy. "I think it's great," Jeb Bush said in 2004. "It's another reform we added that has helped provide access to the polls and provide a convenience. And we're going to have a high voter turnout here, and I think that's wonderful."

But Republican support for early voting vanished after Obama utilized it as a key part of his strategy in 2008. Nearly 30 percent of the electorate voted early that year, and they favored Obama over McCain by 10 points. The strategy proved especially effective in Florida, where blacks outnumbered whites by two to one among early voters, and in Ohio, where Obama received fewer votes than McCain on Election Day but ended up winning by 263,000 ballots, thanks to his advantage among early voters in urban areas like Cleveland and Columbus.

That may explain why both Florida and Ohio – which now have conservative Republican governors – have dramatically curtailed early voting for 2012. Next year, early voting will be cut from 14 to eight days in Florida and from 35 to 11 days in Ohio, with limited hours on weekends. In addition, both states banned voting on the Sunday before the election – a day when black churches historically mobilize their constituents. Once again, there appears to be nothing to justify the changes other than pure politics. "There is no evidence that any form of convenience voting has led to higher levels of fraud," reports the Early Voting Information Center at Reed College.

Photo IDs By far the biggest change in election rules for 2012 is the number of states requiring a government-issued photo ID, the most important tactic in the Republican war on voting. In April 2008, the Supreme Court upheld a photo-ID law in Indiana, even though state GOP officials couldn't provide a single instance of a voter committing the type of fraud the new ID law was supposed to stop. Emboldened by the ruling, Republicans launched a nationwide effort to implement similar barriers to voting in dozens of states.

The campaign was coordinated by the American Legislative Exchange Council, which provided GOP legislators with draft legislation based on Indiana's ID requirement. In five states that passed such laws in the past year – Kansas, South Carolina, Tennessee, Texas and Wisconsin – the measures were sponsored by legislators who are members of ALEC. "We're seeing the same legislation being proposed state by state," says Smith of Rock the Vote. "And they're not being shy in any of these places about clearly and blatantly targeting specific demographic groups, including students."

In Texas, under "emergency" legislation passed by the GOP-dominated legislature and signed by Gov. Rick Perry, a concealed-weapon permit is considered an acceptable ID but a student ID is not. Republicans in Wisconsin, meanwhile, mandated that students can only vote if their IDs include a current address, birth date, signature and two-year expiration date – requirements that no college or university ID in the state currently meets. As a result, 242,000 students in Wisconsin may lack the documentation required to vote next year. "It's like creating a second class of citizens in terms of who gets to vote," says Analiese Eicher, a Dane County board supervisor.

The barriers erected in Texas and Wisconsin go beyond what the Supreme Court upheld in Indiana, where 99 percent of state voters possess the requisite IDs and can turn to full-time DMVs in every county to obtain the proper documentation. By contrast, roughly half of all black and Hispanic residents in Wisconsin do not have a driver's license, and the state staffs barely half as many DMVs as Indiana – a quarter of which are open less than one day a month. To make matters worse, Gov. Scott Walker tried to shut down 16 more DMVs – many of them located in Democratic-leaning areas. In one case, Walker planned to close a DMV in Fort Atkinson, a liberal stronghold, while opening a new office 30 minutes away in the conservative district of Watertown.

Although new ID laws have been approved in seven states, the battle over such barriers to voting has been far more widespread. Since January, Democratic governors in Minnesota, Missouri, Montana, New Hampshire and North Carolina have all vetoed ID laws. Voters in Mississippi and Missouri are slated to consider ballot initiatives requiring voter IDs, and legislation is currently pending in Pennsylvania.

One of the most restrictive laws requiring voter IDs was passed in South Carolina. To obtain the free state ID now required to vote, the 178,000 South Carolinians who currently lack one must pay for a passport or a birth certificate. "It's the stepsister of the poll tax," says Browne-Dianis of the Advancement Project. Under the new law, many elderly black residents – who were born at home in the segregated South and never had a birth certificate – must now go to family court to prove their identity. Given that obtaining fake birth certificates is one of the country's biggest sources of fraud, the new law may actually prompt some voters to illegally procure a birth certificate in order to legally

For those voters who manage to get a legitimate birth certificate, obtaining a voter ID from the DMV is likely to be hellishly time-consuming. A reporter for the Tri-State Defender in Memphis, Tennessee – another state now mandating voter IDs – recently waited for four hours on a sweltering July day just to see a DMV clerk. The paper found that the longest lines occur in urban precincts, a clear violation of the Voting Rights Act, which bars states from erecting hurdles to voting in minority jurisdictions.

Disenfranchising Ex-Felons The most sweeping tactic in the GOP campaign against voting is simply to make it illegal for certain voters to cast ballots in any election. As the Republican governor of Florida, Charlie Crist restored the voting rights of 154,000 former prisoners who had been convicted of nonviolent crimes. But in March, after only 30 minutes of public debate, Gov. Rick Scott overturned his predecessor's decision, instantly disenfranchising 97,491 ex-felons and prohibiting another 1.1 million prisoners from being allowed to vote after serving their time.

"Why should we disenfranchise people forever once they've paid their price?" Bill Clinton asked during his speech in July. "Because most of them in Florida were African-Americans and Hispanics and would tend to vote for Democrats – that's why."

A similar reversal by a Republican governor recently took place in Iowa, where Gov. Terry Branstad overturned his predecessor's decision to restore voting rights to 100,000 ex-felons. The move threatens to return Iowa to the recent past, when more than five percent of all residents were denied the right to vote – including a third of the state's black residents. In addition, Florida and Iowa join Kentucky and Virginia as the only states that require all former felons to apply for the right to vote after finishing their prison sentences.

In response to the GOP campaign, voting-rights advocates are scrambling to blunt the impact of the new barriers to voting. The ACLU and other groups are challenging the new laws in court, and congressional Democrats have asked the Justice Department to use its authority to block or modify any of the measures that discriminate against minority voters. "The Justice Department should be much more aggressive in areas covered by the Voting Rights Act," says Rep. Lewis.

But beyond waging battles at the state and federal level, voting-rights advocates must figure out how to reframe the broader debate. The real problem in American elections is not the myth of voter fraud, but how few people actually participate. Even in 2008, which saw the highest voter turnout in four decades, fewer than two-thirds of eligible voters went to the polls. And according to a study by MIT, 9 million voters were denied an opportunity to cast ballots that year because of problems with their voter registration (13 percent), long lines at the polls (11 percent), uncertainty about the location of their polling place (nine percent) or lack of proper ID (seven percent).

Come Election Day 2012, such problems will only be exacerbated by the flood of new laws implemented by Republicans. Instead of a single fiasco in Florida, experts warn, there could be chaos in a dozen states as voters find themselves barred from the polls. "Our democracy is supposed to be a government by, of and for the people," says Browne-Dianis. "It doesn't matter how much money you have, what race you are or where you live in the country – we all get to have the same amount of power by going into the voting booth on Election Day. But those who passed these laws believe that only some people should participate. The restrictions undermine democracy by cutting off the voices of the people."

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Featured interview on Tom Ashbrook's *On Point* radio show: <http://onpoint.wbur.org/2011/10/17/voting>