

STEALING DEMOCRACY

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THE NEW POLITICS
OF VOTER SUPPRESSION

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FRAUD OR SUPPRESSION?

Supporters of the photo ID requirement insisted that the law was necessary to prevent voter fraud, and alleged that fraudulent registrations came from American Indian areas in the 2002 contest. “The tradition in South Dakota is that we carefully protect the right to vote,” claimed Republican State Representative Stan Adelstein, chairman of the State-Tribal Relations Committee. Pennington County Auditor Julie Pearson explained the law this way: “People wanted to be assured they would be allowed to vote their vote. If someone votes your name prior to you getting there, you are the one who doesn’t get to vote. Without an ID law, there is nothing auditors can do to assure that to voters or to the courts.”

But opponents discounted the threat of fraud and asserted that

According to Oliver Semans, an activist and an enrolled member of the Rosebud Sioux, "The people of the Rosebud Sioux Indian Reservation, 99 percent of them, know that this law was put in place to suppress their vote and punish them for 2002." Many American Indians in South Dakota do not drive cars and lack driver's licenses. Several tribes do not issue photo-identification cards. Semans said that the new law "is basically telling [American Indians] that we don't trust you. That's the message."

Defenders of the photo-ID requirement claimed that the law was not intended to discriminate against American Indians, and they emphasized that the law provided that even those without a photo ID could vote if they simply signed an affidavit confirming their identity. Indeed, data from the first election covered by the new law in June 2004 confirmed suspicions that a disproportionately large number of American Indian voters did not bring photo IDs to the polls, and that if the affidavit option had not been available, they would not have been allowed to vote. Affidavits were signed by under 2 percent of voters statewide, but in each of the predominantly American Indian counties (Shannon, Todd, Corson, Dewey, and Ziebach), 5.3 to 16 percent of voters signed affidavits.

But not everyone who arrived at the polls without a photo ID during the June 2004 election was given the opportunity to sign an affidavit. Yankton Sioux tribal elder Edna Weddell went to vote without a photo ID. When Ms. Weddell's granddaughter asked that

Ms. Weddell be allowed to sign an affidavit, the poll worker refused. Ms. Weddell, who uses a walker, eventually did vote, but only after returning home to retrieve her ID. Written poll worker instructions in Corson County even stated: "Some voters are reporting that ID is not required. Please inform the voters that ID is in fact required." There was no mention of providing affidavits.

South Dakota Secretary of State Chris Nelson, a Republican, acknowledged that some poll workers did not offer voters who arrived without IDs the opportunity to fill out an affidavit, and he promised better compliance in the future by the state's 3,500 poll workers. But he stood by the ID provision, noting that many who were not offered affidavits returned to their cars or homes to get a photo ID. "The ultimate question is, is it too much to ask that each person placing a ballot in our ballot box is who they say they are?" he said.

"That's not the question," responded Jennifer Ring, executive director of the American Civil Liberties Union of the Dakotas. "The question is, is this a reasonable and fair way for the state to address that?" Rosebud Sioux member Oliver Semans elaborated: "The law you put into effect to stop one person from doing something wrong in turn affects hundreds or thousands who have done nothing wrong. You are punishing thousands for what you think might happen."¹

FRAUD OR ACCESS

The conflicting values of voter integrity and voter access increasingly frame today's debates about democracy. Often, measures that prevent fraud in elections—such as photo-ID requirements—make voting more difficult and reduce access for legitimate voters. Republicans often claim that voter fraud represents a primary threat to democracy. They call for measures that enhance integrity

in the electoral process, such as photo-ID requirements, partisan challenges to the qualifications of particular voters, purges of voter rolls, and rigorous requirements for registering to vote. Drawing on historical images of Democratic big-city political machines stuffing ballot boxes with votes of dead people, integrity advocates claim voting has become too easy. They warn that legitimate votes are diluted by fraudulent ballots cast by felons, migrant farmworkers, terrorists, and homeless people who vote multiple times in exchange for cigarettes and cash.

Democrats, on the other hand, often prioritize widespread access to voting. They claim that the call for increased voter integrity serves as a pretext to create barriers that disproportionately exclude people of color and less-affluent voters.

In October 2002, U.S. Attorney General John Ashcroft launched a "Voter Access and Integrity Project," which emphasized the role of the Justice Department's Civil Rights Division in eradicating discriminatory barriers and the Public Integrity Section's role in preventing voter fraud. In 2002, Congress passed the Help America Vote Act, which enhances access by providing provisional ballots to registered voters whose names do not appear on the rolls. But the law also appeased the integrity hawks by requiring all first-time voters who registered by mail to provide identification when they arrive at the polls.

In his book *Stealing Elections: How Voter Fraud Threatens Our Democracy*, Wall Street Journal editor John Fund offers perhaps the most comprehensive statement of the emerging integrity movement. According to Fund, in 2001 the voter rolls of many American cities contained more names than the U.S. Census listed as the total number of voting-age residents. He writes of fictitious people and pets being registered and cites examples of political operatives giving homeless people cigarettes and cash to cast a vote. Fund asserts that the National Voter Registration Act ("Motor Voter Act"):

... imposed fraud-friendly rules on the states by requiring driver's license bureaus to register anyone applying for licenses, to offer mail-in registration with no identification needed, and to forbid government workers to challenge new registrants, while making it difficult to purge "deadwood" voters (those who have died or moved away).

According to Fund, prosecutions for voter fraud are rare because prosecutors fear "charges of racism or of a return to Jim Crow voter suppression tactics if they pursue touchy fraud cases." Fund proposes that a photo-ID requirement at the polls and more vigorous prosecutions would prevent fraud. Other voting-integrity advocates, such as Hans A. von Spakovsky, a member of the Federal Election Commission, add that the presence of partisan challengers at the polls also prevents voter fraud.

But antifraud proponents make their claims without answering vital questions. For example, what is the evidence of massive, widespread fraud? Do voter-integrity proposals disproportionately burden less-affluent voters or voters of color? Since conservatives are generally skeptical of regulation due to their distrust of big government, how do they ensure that politicians don't manipulate political outcomes by adopting antifraud regulations that suppress participation by legitimate voters? Have voter-integrity proponents established that their proposals, when enacted, will exclude fewer legitimate voters than fraudulent voters?

WHO TAKES THE HIT?

Proponents of antifraud measures such as photo-ID requirements fail to undertake a serious cost-benefit analysis. While more research is needed, the existing evidence suggests that the harm of a photo-ID requirement would seriously outweigh any speculative

benefit. Indeed, antifraud activists cannot establish that a photo-ID requirement would exclude even one fraudulent vote for every thousand eligible voters excluded.

According to the 2001 Carter-Ford Commission, an estimated 6 percent to 10 percent of voting-age Americans (up to 19 million potential voters) do not possess a driver's license or a state-issued nondriver's photo ID. A photo-ID requirement would exclude Americans of all backgrounds, but the poor, the disabled, the elderly, students, and people of color would bear the greatest burden. According to the Georgia chapter of AARP, 36 percent of Georgians over age seventy-five do not have a driver's license. In the United States, more than 3 million people with disabilities do not have identification issued by the government. A June 2005 study in Wisconsin found that the rate of driver's license possession among African Americans was half of that for whites. Among men ages eighteen to twenty-four, 36 percent of whites, 57 percent of Latinos, and 78 percent of African Americans lacked a valid driver's license. A series of factors may explain these disparities, including that fewer people of color and fewer poor Americans own automobiles or are willing to pay the fee required to obtain a state ID card.²

Even if cash-strapped governments agreed to issue photo IDs to those without driver's licenses free of charge, there would still be the financial burden of providing the underlying documentation to obtain that "free" ID. A certified copy of a birth certificate costs from \$10 to \$45 depending on the state, a passport costs \$85, and certified naturalization papers cost \$19.95. Even aside from the cost and the paperwork, limited business hours, long lines, and other factors prevent many state DMV offices from being easily accessible models of efficiency. For example, in 2005 only one of the ten Georgia counties with the highest percentage of blacks had an office that issued state IDs, and no such office existed in Atlanta. When faced with the prospect of spending hours away from work, family, and other obligations to secure a photo ID used a couple of

times a year to vote, many citizens will unfortunately choose to forgo their vote.

The exclusionary effects of a photo-ID requirement are best illustrated by some of the people it is most likely to disenfranchise—the victims of Hurricane Katrina. Many who were left behind in hurricane-torn New Orleans were poor, did not own a car, and were less likely to have a driver's license. These forgotten Americans—and many like them across our nation—are the ones a photo-ID requirement would most likely leave out of our democracy.

While a photo-ID requirement would exclude millions of voters, antifraud activists have failed to prove that it would prevent more than a few fraudulent votes. Instead, photo-ID proponents try to bolster their claims by citing fraud that would not be prevented by a photo-ID. For example, rather than grappling with the extent to which antifraud measures suppress voter participation, John Fund suggests that fraud hurts not only white candidates but also candidates of color. He reports that Latino Congressman Ciro Rodriguez lost a Democratic primary when a "missing ballot box appeared in south Texas with enough votes to make his opponent the Democratic nominee by 58 votes." But Fund creates a straw man. If we assume that the missing ballot box was filled with illegitimate votes, then Congressman Rodriguez seems to have been defeated by fraud committed by election administrators rather than fraudulent voters. Antifraud measures designed to monitor election workers would have been more effective in protecting the Rodriguez election than photo-ID requirements or regular purges of voting rolls that could dampen the political influence of legitimate Latino voters.

Other proponents of photo ID generally invoke anecdotes of fraud to support their claims, but generally their examples do not justify a photo-ID requirement. For example, a photo-ID requirement at the polls does nothing to prevent fraud by absentee voting. Nor does it prevent voting by ineligible persons with felony con-

victions who are misinformed of their voting rights. Rather, a photo-ID requirement guards against only one type of fraud: individuals arriving at the polls to vote using false information, such as the name of another registered voter or a recent but not current address. These are extraordinarily inefficient means to influence the results of an election. Since the costs of this form of fraud are extremely high (federal law provides for up to five years' imprisonment), and the benefits to any individual voter are extremely low, it is highly unlikely that this will ever occur with any frequency.

In the most comprehensive survey of alleged election fraud to date, Professor Lorraine Minnite and David Callahan have shown that the incidence of individual voter fraud at the polls is negligible. A few prominent examples support their findings. In Ohio, a statewide survey found four instances of ineligible persons voting or attempting to vote in 2002 and 2004, out of 9,078,728 votes cast—a rate of 0.00004%. In 2005, Georgia Secretary of State Cathy Cox stated that she could not recall one documented case of voter fraud relating to the impersonation of a registered voter at the polls during her ten-year tenure as secretary of state or assistant secretary of state. An extensive investigation in Washington state following the 2004 election uncovered less than one case of double voting or voting in the name of another for every 100,000 ballots cast.

John Fund points to the potential for fraud from dead or otherwise inactive or ineligible voters left on voter registration lists. While such fraud is rare, it is addressed by the Help America Vote Act's provisions that require regular cleaning of the registration lists to remove persons rendered ineligible by felony conviction or death. Once HAVA's provisions are implemented, persons who have been rendered ineligible by a felony conviction or death will simply not be listed on the voter rolls as eligible voters. Thus, if such persons—or others purporting to be them—show up at the polls, they will not be able to cast a regular ballot.

While existing facts suggest that individual election fraud that

would be deterred by photo ID is extremely rare, there is hard evidence that a photo-ID requirement would unduly burden millions of eligible voters who lack ID. Photo-ID advocates argue that in a close election a small amount of fraud could make the margin of difference. It is equally true, however, that the rejection of a much larger number of eligible voters could make a much bigger difference in the outcome. Based on the existing evidence, the exclusion of legitimate voters through restrictive photo-ID requirements are likely to erroneously determine the outcome of thousands of more elections than any speculative fraud by individual voters at the polls.³

THE BENEFITS OF EXCLUDING VOTERS

Antifraud advocates argue that responsible individuals who properly register and bring a photo ID to the polls have nothing to fear from their proposed regulations. They assert that those who want to vote will take the steps required to meet eligibility standards. Indeed, the argument goes, isn't it paternalistic to assume that people of color and the poor are too irresponsible to obtain a photo ID?

Many Americans accept these justifications at face value. Why shouldn't they? I always carry my driver's license in my wallet when I leave home. This isn't a big deal, one might think.

But politicians see things differently. They focus much of their time and mental energy on activities that will get them reelected or will increase their political influence—activities such as raising money and attracting media attention. With similar intensity, politicians fixate on understanding who goes to the polls and how to ensure a political mix that provides them with a safe margin of victory and maximizes their party's influence. Politicians know that a slight reduction in the ballots cast by minority or poorer voters can determine who controls the governor's mansion, the U.S. Senate, or even the White House.

Voter-integrity advocates emphasize the steps a person can take to protect the *individual* right to vote, but they fail to address the *structural* impact of self-interested politicians who champion such rules in order to manipulate political outcomes. By making it more difficult to register and vote, voter-integrity rules allow politicians to modulate and control the electorate. And it is not just poor and minority voters who are harmed. Antifraud regulations that hinder voter access allow politicians to pander to a narrowly defined group of experienced likely voters, with less fear that discontented new voters will enter the electorate and support a candidate who challenges the status quo. In 1998, Minnesota's same-day registration—which is opposed by many voter-integrity proponents—allowed 250,000 new voters to mobilize around and elect as governor political newcomer Jesse Ventura, who won by under 57,000 votes. Supporters of a variety of candidates who challenge the establishment—such as Democrats Howard Dean and Al Sharpton, as well as Republicans Gary Bauer and Pat Robertson—face disadvantages when they confront heightened hurdles. Voter-integrity regulations are framed as necessary to protect the votes of regular Americans, but they can actually exclude many Americans from the political process and entrench incumbents.

Voter-integrity advocates claim that photo-ID requirements for voting are reasonable because individuals now must produce photo identification to board airplanes, use a credit card, or buy liquor and cigarettes. But voting differs from air travel, check cashing, and entering federal buildings. Airlines, for example, have no incentives to exclude legitimate travelers, while some politicians have incentives to exclude legitimate voters who are likely to cast ballots for their opponents (as we see in the redistricting context). An individual air traveler or credit-card user is inconvenienced by having forgotten to carry on ID; with voting, however, the harm extends past an absentminded voter and impinges upon political allies and a democracy that fails to reflect the will of the people.

Supporters of voter IDs argue that several other nations in the world use voter IDs. But most of the established democracies with which we usually compare the United States—such as the United Kingdom, Australia, Canada, Ireland, New Zealand, Sweden, and Denmark—do not require identification as a condition of voting. A few established democracies that require identification for voting do so only in special circumstances. Germany, for instance, requires identification only of those voters who do not furnish their “notice of polling” or who appear to vote in a polling place other than that in which they are registered. “[E]stablished democracies are less likely to require voters to identify themselves other than verbally,” write Professors Louis Massicotte, André Blais, and Antoine Yoshinaka in their book *Establishing the Rules of the Game: Election Laws in Democracies*. “Non-established democracies probably worry more about electoral fraud.”

Further, many other nations do not have the same embarrassingly low voter-participation rate as the United States, and a photo-ID requirement threatens to further depress American turnout. In many elections in the United States, less than half of the eligible population participates, ensuring that our nation trails many others in voter turnout by twenty to thirty points (the United States ranks 139th out of 172 democracies in voter participation). This is in part because many other nations do not place the burden to register on individual citizens; they place the burden of universal registration for all citizens on the government. As a result, whereas an estimated 70 percent of eligible American citizens are registered, the number is as high as 94 percent in Mexico. In the United States, a photo-ID requirement would further depress participation and ensure that our government does not reflect the will of all Americans.

Finally, most other nations do not have the extensive local control that characterizes U.S. elections. Such local administration allows for nonuniform and sometimes biased application of a

photo-ID requirement by poll workers—some voters may be asked while others may not.

Some might claim that election outcomes should not be shaped by the votes of those “too irresponsible” to take a photo ID to the polls or flawlessly complete a detailed voter-registration form. But what are the limits on such logic? Can a relatively secular blue state bar voting by born-again Evangelicals because faith “clouds” their reasoning in the voting booth? Can a majority-Christian red state block voting by gays? Even when voter-integrity advocates do not explicitly acknowledge their desire to silence some Americans, many of their regulations are not content-neutral. Both Republicans and Democrats suspect that people of color and poorer Americans disproportionately lack photo IDs and that these groups vote predominantly Democratic. Even politicians with good-faith concerns about voter integrity often discount the costs of their proposed antifraud rules because of the political ideology of legitimate voters most likely to be excluded.

Restrictions purporting to prevent voters from cheating also give significant discretion to partisan election administrators who often have greater incentives and opportunities to rig elections than voters. In anticipation of the 2004 election, Florida Republican Secretary of State Glenda Hood—who was appointed by governor Jeb Bush and campaigned in 2000 for George W. Bush—implemented an aggressive campaign to purge the election rolls of felons. (As discussed in chapter 2, Florida and two other states prohibit people who have committed any felony from voting for life, even after they have completed their sentences.) Hood’s office compiled a list of “felons” to be omitted from voting rolls and refused to disclose her list to the public. After a court ordered its release, journalists discovered that the list improperly included 2,100 former prisoners who had successfully applied for a restoration of their voting rights. Due to another “computer error,” the list included about 22,000 African Americans but only an estimated 61 Latinos—who are

fraud and speculation about how easy it would have been to commit fraud if one were inclined to do so, antifraud activists fail to produce tangible data establishing that the costs of systemic fraud outweigh the costs of their proposals. The U.S. Senate Republican Policy Committee, for example, warned in a February 2005 report: "[V]oter fraud continues to plague our nation's federal elections, diluting and canceling out the votes of the vast majority of Americans." But the report itself fails to establish that more than .001 percent of votes cast are fraudulent, or that more than .001 percent of elections are determined by the ballots of fraudulent voters. Without better data, voter-integrity advocates can easily inflate the threat of fraud, while access advocates can easily discount it.

Perhaps the pervasiveness of voter fraud has not been established because it is evasive. Unlike shoplifting, no missing inventory allows us to measure the precise magnitude of the problem. Nevertheless, random sampling could give us a rough idea of the percentage of votes cast fraudulently. If the antifraud advocates are serious, they should fund unbiased, reliable research. For example, political scientists could contact a statistically representative sampling of 1,000 people who purportedly voted in the last election, ask them if they actually voted, and confirm what percentage of the 1,000 are valid voters. Similarly, researchers could review the closest elections in the country, engage in a random sampling of voters in those elections to estimate the pervasiveness of fraud, and predict how often voter fraud determined the outcome. Researchers could also scour county records for voter fraud allegations and convictions, and the federal government could collect data on voter fraud (just as it collects data on other crimes). No method is perfect, but a serious effort at compiling the extent and types of actual voter fraud will provide more reliable data than a couple of unsubstantiated anecdotes and speculation about the potential for voter fraud.

Further, voter-integrity proponents don't detail or weigh how many legitimate voters are turned away or discouraged from casting a ballot due to erroneous voter purges, photo-ID requirements, or mistakes by overzealous challengers. The erroneous Florida purge in the 2004 election and the numerous errors in lists of challenged voters submitted by partisans suggest that the number is significant.

Once voter-integrity advocates provide these facts, we can try to address the issue fairly. *At the very least, antifraud advocates must show that their regulations prevent more fraudulent votes from being cast than legitimate votes.* If the facts show that a particular antifraud requirement prevents 100 fraudulent votes for every five legitimate voters excluded, we might want to support the provision. If the facts show that the numbers are reversed, however (the law excludes 100 legitimate voters for every five fraudulent voters), the antifraud provision must be rejected.

To avoid the prospect of unnecessarily excluding legitimate voters, antifraud proposals must be tailored narrowly so as to exclude as few legitimate voters as possible. Thus, any photo-ID requirement needs to provide a safety net for those to vote who do not have their photo IDs with them—such as South Dakota's affidavit provision—and these accommodations must be exercised at the polls. To minimize the chance of poll-worker error or foul play, signs should be posted in a prominent place at every poll to announce that those who aren't carrying a photo ID but who sign an affidavit can vote.

The need for an affidavit exception is highlighted by the double standard that many photo-ID advocates apply to absentee ballots. For example, the 2005 Commission on Federal Election Reform, cochaired by former Democratic President Jimmy Carter and former Republican U.S. Secretary of State James Baker, proposed a photo-ID requirement at the polls. At the same time, however, the commission recommended combating fraud by absentee voters by

matching the signature on the voter's absentee ballot against the signature used to register. (I was a member of the commission and dissented. At our last meeting a rule was announced limiting dissent to 250 words, and thus I bought a Web site and posted my full 600-word dissent at www.carterbakerdissent.com). Similarly, in 2005 Georgia reduced its list of acceptable identification from seventeen (including nonphoto ID such as a bank statement, utility bill, or government paycheck) to six forms of state-issued photo ID in an attempt to prevent "fraud." With regard to absentee voting, however, Georgia scrapped its old law that limited absentee voting to people who met narrow requirements such as being age seventy-five and older or disabled, and expanded absentee voting to anyone who applies (absentee voters in Georgia are exempt from photo-ID requirements). The double standard employed by the Carter-Baker Commission and the State of Georgia is particularly disturbing because absentee ballots are widely acknowledged to be more susceptible to fraud than ballots cast at the polls. Further, whites are much more likely than African Americans to vote absentee. Photo-ID advocates fail to explain why Americans who travel to the polls to vote should be denied the same opportunity as absentee voters to establish their identity through signature verification.

In addition to affidavits, there are other safety nets to ensure that those who come to the polls without a photo ID can cast a ballot. Loyola professor Richard Hasen has proposed that counties use biometric systems that contain data on each voter, so that voters who do not bring photo ID to the polls will still be able to vote (although this could raise civil liberties concerns). In *Dirty Little Secrets: The Persistence of Corruption in American Politics*, political scientist Larry J. Sabato and *Wall Street Journal* reporter Glenn R. Simpson recommended that voters provide a thumbprint at the time of registration, which would be digitized and transferred to each precinct so that registered voters could be scanned and cleared to vote when they visit the polls on election day. Ohio State

University professor Edward Foley proposed that government obtain a photo when a person registers, and thus poll workers would simply "pull up" the person's photo from an electronic poll book with a click of a computer mouse when the voter goes to the polls to cast a ballot. For precincts without technology, election administrators could print a voter's photo next to her name and address on a precinct's registered voters' list.

Further, antifraud measures targeted at voters—such as a photo-ID requirement—should be adopted only as a last resort. Lawmakers should first adopt antifraud proposals that are more likely to prevent fraud without discouraging participation by legitimate voters. For example, antifraud measures designed to police election officials pose little risk of discouraging legitimate voter participation and are less likely to improperly skew election outcomes. Election officials also have much greater opportunity than individual voters to determine the outcome of an election through fraud, and partisan election officials often have greater incentives to commit fraud. Antifraud regulation targeted at election officials is also much better tailored to deal with some problems.

We should employ a program of regular and unannounced independent audits of polling places, county election boards, secretary of state offices, and private vendors that provide voting machines and computer software and contract to perform such services as voter-roll purges. Such audits would examine voter-registration and polling-place procedures, voting machines, vote-tabulation systems, software, purge processes, and other procedures. Regular audits of large corporations protect shareholders, and voters deserve no less.

Additionally, we need to carefully craft regulations to address suspected fraud by voter-registration and voter-mobilization groups. Complex restrictions on these groups can be used as political weapons to decrease grassroots activity and ultimately dampen voter participation. Such regulation can also produce expensive

legal bills that drain limited voter-mobilization resources. Thus, antifraud regulations on these organizations should be based on solid data and crafted to be no broader than necessary. We need comprehensive research rather than anecdotes to determine how often voter-mobilization groups actually fill out fake absentee ballots or pay homeless individuals to enter polling locations and vote under assumed names. We should also be open to the possibility that not all fraud by voter-registration groups skews election outcomes. For example, voter-registration workers might earn \$2 for every registration collected, and a few bad apples might pad their wallets by inventing registrations for "Mary Poppins" and other fictional persons (this issue also arises when campaigns pay workers to gather signatures for petitions). Studies might find, however, that few of these false registrations result in people who show up at the polls posing as "Mary Poppins" to cast a fraudulent vote, and that the fraud primarily hurts voter-registration organizations and local governments that waste money to register fake people.

The best way to curb fraud by voter-registration and voter-mobilization groups is for the United States to follow many other democracies and adopt universal voter registration. Rather than trying to distinguish fraudulent voter-registration groups from legitimate ones with excessive regulation, states should assume responsibility for registering all eligible individuals to vote. Politicians might be reluctant—because it would diminish their ability to target their registration efforts to doctor the composition of the electorate, and it would mean that any disgruntled group of voters would face fewer hurdles in expressing their frustration at the polls. But universal registration would eliminate concerns about fraud by voter registration groups, and it would have the impact of increasing voter participation. Universal registration is also practical—every high school student who is a U.S. citizen could be automatically registered when he or she turns eighteen, and the government could register the remainder of Americans

who are not on the voting rolls during the U.S. census count every ten years.

In analyzing antifraud measures, we must demand answers to important questions. How many legitimate voters will be excluded relative to fraudulent voters? Will the antifraud proposals likely be applied in a uniform way, or will partisans enjoy broad discretion to enforce the proposals selectively? Do the antifraud measures disproportionately exclude legitimate voters who are racial minorities, poor, or members of particular political groups? Can we tailor the proposals so that they remain effective but exclude few legitimate voters? Because some antifraud regulations exclude legitimate voters and skew election outcomes, we should target our antifraud efforts primarily to monitor election administrators, and consider regulating voter-registration and voter-mobilization groups only if studies show high levels of fraud. We should burden voters with antifraud regulations only as a last resort, and even these rules must be narrowly tailored so as not to hinder legitimate voters from casting their ballots.