



Voter Suppression Laws Cost Americans Their Voices at the Polls

By Liz Kennedy November 11, 2016

The integrity of U.S. elections depends on every eligible American being able to cast a vote that is counted. Yet this year, the first presidential election in 50 years without the full protection of the Voting Rights Act, many Americans across the country were blocked from having their voices heard in the democratic process.

States have gone on a spree restricting voting rights and voter access since 2010, when Republican-controlled state legislatures began passing voter ID laws and other provisions making it more difficult to vote.¹ Once the Supreme Court gutted the Voting Rights Act in *Shelby County v. Holder* in 2013, even more states made it harder to vote in ways that were targeted at and fell disproportionately on people of color, young people, and low-income people. Even after major legal victories for voting rights this year—rulings that showed voter suppression tactics presented a grave danger and would prevent eligible Americans from casting their ballots—14 states had new voting restrictions in place for the first time in a presidential election. These included cutting back early voting, restricting voter registration, and imposing strict voter ID requirements. It is difficult to say definitively how voter suppression laws affect voter participation and exactly how many citizens were prevented from voting. But one analysis in 2014 found a decline in voter participation of 2 percentage points to 3 percentage points that was attributable to changes in voter ID requirements.²

While final totals are to come, approximately 43 percent of eligible Americans and 47 percent of adults over 18 years old did not participate in this election.³ Some of them chose not to participate, while others were prevented from participating because of state voter suppression laws. A review of some of the challenges voters faced during early voting periods and when casting their ballots on Election Day reveals the impact of voter suppression laws.

Restrictive photo ID requirements

In 2014, Wisconsin passed a strict photo ID law requiring voters to show specific, restrictive forms of identification at the polls.⁴ It is significant that only 27,000 votes currently separate President-elect Donald Trump and Secretary Hillary Clinton when 300,000 registered voters in the state lacked the strict forms of voter ID required.⁵ Wisconsin's voter turnout was at its lowest level in two decades.⁶ Voter turnout in Milwaukee, where 70 percent of the state's African American population lives, decreased by 13 percent;⁷ this meant 41,000 fewer votes. Milwaukee Election Commission Executive Director Neil Albrecht reports that the voter ID restrictions depressed turnout, saying "We saw some of the greatest declines in districts we projected would have most trouble with voter ID requirements."⁸

Wisconsin's photo ID law was initially struck down by a lower court,⁹ but it was upheld by the 7th U.S. Circuit Court of Appeals based on the state's assurances that free IDs would be provided.¹⁰ The Wisconsin government failed to live up to its promise, and the court intervened and ordered the state to take steps to ensure that no one would be prevented from voting on account of the voter ID law.¹¹ Despite these efforts, the law prevented several identified people, as well as an untold number of other registered citizens, from casting their ballots.¹²

Virginia experienced its first presidential election with the state's new voter ID requirement. Experts expressed concern that voters would be confused by the new ID requirements or would not be willing to go through the hassle of getting a temporary ID offered by the state.¹³ Some voters reportedly made the trek to the election registrar's office on Election Day to get temporary IDs so they could return to their polling place and vote. However, there is no way to determine how many citizens were unprepared for the newly required forms of ID and were unable to spend the time to get it and return to the polls that day. The state's budget for implementation was a fraction of what was provided in 2012 to educate voters during the implementation of previous, less restrictive voter ID law.¹⁴

Poll workers in Michigan incorrectly told voters that they needed to show identification to vote. While Michigan does have a voter ID law, it does not require an ID to vote; instead, voters have the option of filling out an affidavit swearing to their identity. There are no hard data on how many Michigan voters were improperly turned away for lacking an ID.¹⁵ There were also reports in Pennsylvania of people trying to vote but being told incorrectly that they needed to show identification.¹⁶ Alabama also had its first presidential election with a new voter ID law;¹⁷ at the same time, the state made it much more difficult for some people to obtain a state-issued ID when it closed 31 of its state driver's license offices last year.¹⁸ Many of those offices were located in low-income neighborhoods of color.¹⁹

Texas' voter ID law and its administration have been deeply problematic, and a federal judge found them to be intentionally racially discriminatory. In July, a federal appeals court struck down the state's 2011 voter ID law, largely regarded as the most restrictive in the country,²⁰ and ordered officials to relax the ID requirements for the November election.²¹ At the time, more than 600,000 registered voters lacked an acceptable ID under the law. Despite the federal judge's order, confusion among voters and poll workers continued up until and during Election Day. There were reports during early voting, for example, of at least seven counties displaying outdated posters for the old voter ID law and poll workers requiring voters to present a valid ID in order to vote.²²

Problems with early voting, polling places, and voter registration

In addition to problems with strict voter ID laws, the closure of polling places and reduction of voting hours across the country this year led to fewer people being able to cast their ballots in targeted areas. Overall, in states with histories of voting discrimination—those that had formerly been covered by the Voting Rights Act—there were 868 fewer polling places operating on Election Day.

North Carolina was one of the states most affected by these closures. There were 158 fewer early polling places in 40 counties with large black communities, and African American voter participation was down 16 percent.²³ One study conducted by *The Atlantic* found that in counties with polling place closures and reductions in voting hours, black voter turnout during the first week of early voting reached only 60 percent of the cumulative turnout at the same point in 2012.²⁴ And while black voter turnout increased in the weeks leading up to the election, turnout never reached beyond 90 percent of the cumulative turnout at the same time in 2012. White voter turnout, on the other hand, surpassed white turnout in the affected counties at the same time in 2012.²⁵ The North Carolina GOP sent out a press release celebrating the fact that “African American Early Voting is down 8.5% from this time in 2012” and cheered the rise in white voters compared to 2012.²⁶ It is difficult to ascribe causation for lower black voter turnout in these communities, which could reflect less enthusiasm for Hillary Clinton compared to Barack Obama in 2012. But it is well-documented that poll closures and limited voting hours disproportionately affect black voters, particularly when targeted at black communities.²⁷

Long lines also kept people from voting. Black voters across the country are, on average, forced to wait in line for twice as long as white voters.²⁸ In just one example, voters in Durham County, North Carolina, had to stand in line for two hours after technical difficulties required election officials to check in voters using paper poll books.²⁹ Durham County is one of the state's Democratic strongholds.³⁰ Long lines are problematic, most

notably for low-income people and people of color who are less likely to have flexible employment and child care options that allow them to wait in line for hours at a time. A Joint Center for Political and Economic Studies report estimated that “long lines deterred at least 730,000 Americans from voting in November 2012.”³¹

This was also the first general election in Ohio without the so-called golden week, when the registration period overlaps with early voting, enabling people to register or update their voter registrations and vote at the same time.³² Golden week had been crucial to facilitating high turnout in Ohio. In the 2012 presidential election, 80,000 people took advantage of Ohio’s golden week, making up 1.4 percent of total ballots cast.³³ Compared with white voters, black voters were 3.5 times more likely to vote during Ohio’s golden week in 2008 and five times more likely to vote during that week in 2012.³⁴ A federal appeals court upheld the cuts to early voting and new rules that made it harder to count provisional ballots, which prompted a fiery dissent from 94-year-old African American Judge Damon Keith. He warned that Ohio and other states “are audaciously nullifying a right for which our ancestors relentlessly fought and—in some instances—even tragically died.”³⁵ The number of voters who were unable to vote this year because of the elimination of golden week is unknown.

Ohio was also removing hundreds of thousands of voters from the registration rolls in an illegal purge that disproportionately affected people who are low-income, African American, and registered as Democrats. An investigation found that in Cleveland, Columbus, and Cincinnati, voters were removed from the rolls in areas that lean Democratic at twice the rate they were in Republican-leaning areas.³⁶ While a court ordered the state to allow many of the illegally purged citizens to vote using provisional ballots, the court order came as early voting was underway, and experts expressed serious concerns about whether poll workers were adequately trained to implement the new process.³⁷ Some reports estimated the number of purged voters as high as 2 million.³⁸ It is not known, however, how many Ohio citizens went to the polls but were prevented from voting because their name was no longer on the voter rolls through no fault of their own.

Voters in Georgia faced major hurdles to registration since the state was automatically rejecting registration applications that did not exactly match all the information in the state’s database. For example, a single misplaced hyphen, apostrophe, or space would cause the application to be regarded as a mismatch. The state denied almost 35,000 citizens who had submitted registrations from 2013 to 2016. Black citizens were eight times more likely to fail the verification process, and Latinos and Asian Americans were six times more likely to be rejected by the state than white residents.³⁹ Georgia was also sued for improperly removing registered voters from the voter rolls who had not voted in three years and who did not respond to mailings.⁴⁰

Ex-offender disenfranchisement

The impact of felon disenfranchisement laws must also be considered when assessing voter suppression laws and their impact on elections. More than 6 million American citizens are barred from voting because of a felony conviction.⁴¹ One in every 13 African Americans has lost their right to vote on account of these laws.⁴² In four states, more than one-fifth of the African American population is disenfranchised: Florida (21 percent), Tennessee (21 percent), Virginia (22 percent), and Kentucky (26 percent).⁴³

Earlier this year, Virginia Gov. Terry McAuliffe (D) attempted to issue a blanket restoration of voting rights to the state's felons. The order would have restored 206,000 ex-offenders' right to vote.⁴⁴ Unfortunately, the Virginia Supreme Court prohibited Gov. McAuliffe for doing so, saying that he lacked constitutional authority.⁴⁵ Gov. McAuliffe has instead restored rights to 60,000 of the state's ex-offenders through individual rights restoration orders,⁴⁶ but many more citizens remain disenfranchised. The confusion over who was or was not eligible to vote may have kept away from the polls many people who were newly eligible to vote but unaware of the change in their status.

Conclusion

The voters who cast ballots in this election elected their candidates of choice, though at the top of the ticket, the victor failed to earn the plurality of the votes cast. But many Americans were unable to exercise their right to vote because of voter suppression laws. Those people's voices were not heard on November 8. They could not exercise their power in choosing their own government—a tragedy for American democracy.

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Endnotes

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