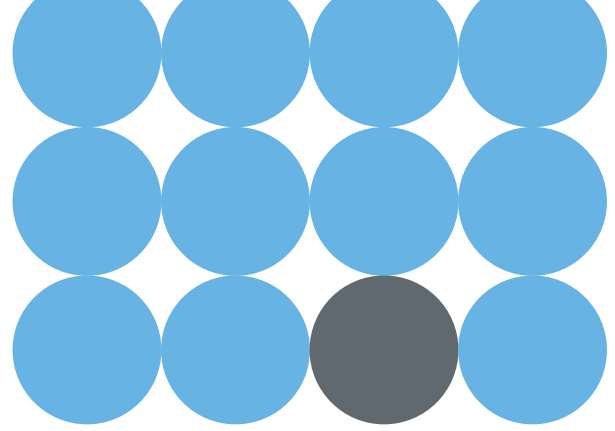


Social Justice Brief

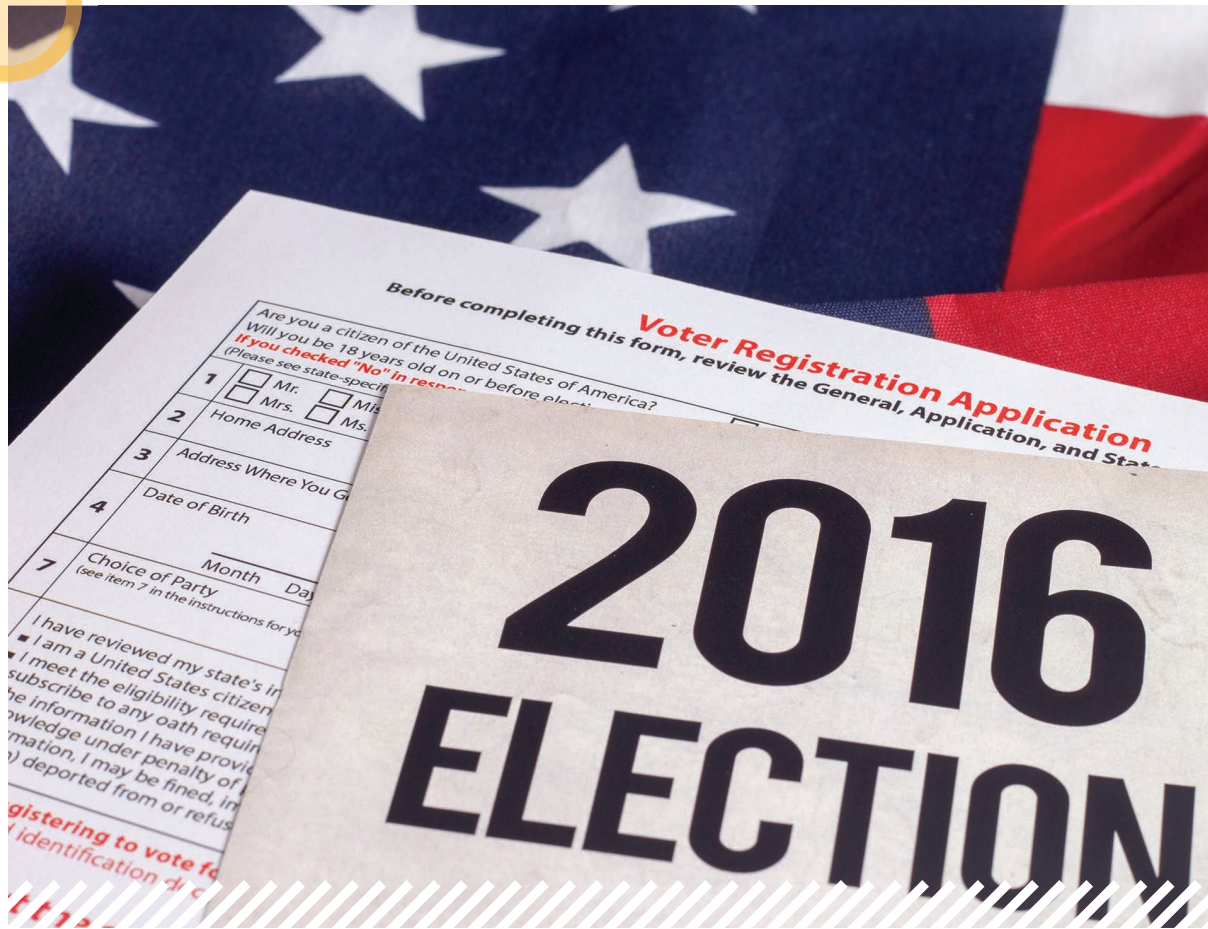
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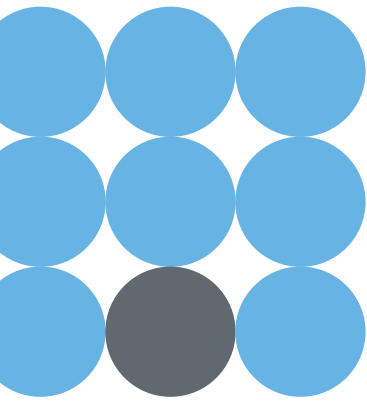
Voting Rights Update

The primary mission of the social work profession is to enhance human well-being and help meet the basic human needs of all people, with particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty.



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The National Association of Social Workers (NASW) is the largest membership organization of professional social workers in the world, with nearly 130,000 members. NASW works to enhance the professional growth and development of its members, to create and maintain professional standards, and to advance sound social policies.



Voting Rights Update

The general election campaigns have now moved into full swing. Meanwhile, in the past month the Federal District and Circuit Courts have issued several highly significant voting rights decisions that could affect the outcomes of some key races, including the presidency. The decisions involved challenges to voter ID (and voting suppression) laws in the states of Wisconsin, Texas, and North Carolina (as well as similar rulings in Kansas and Ohio). These decisions highlighted what could be a positive trend toward curbing the attempts to suppress the votes of many Americans. Before discussing these cases in more detail, it is useful to provide an overview of a variety of state laws and policies that, if unchallenged, can affect national and local elections.

Voter Photo ID Laws

Since 2008, states across the country have passed measures to make it harder for Americans—particularly black people, the elderly, students, and people with disabilities—to exercise their fundamental right to cast a ballot. These voter suppression measures include elimination of or limiting early voting, voter ID laws, and purges of voter rolls.

That the increase in attempts at voter suppression gained momentum in 2008 is not coincidental—that was the year that President Obama was first elected to the presidency. In most post-election analyses of Obama's victory, it was concluded that the increase in the rolls of voters in the so-called Obama Coalition was the single most important factor that led to his victory. The Obama Coalition was largely made up of African American, Hispanic, Asian American, progressive white, and young voters.

This fact was not lost on the opposition party. It became clear to them that they needed a strategy to neutralize the power of an organized coalition of minority and progressive white voters to have any chance at reclaiming the White House. One such strategy was to search for mechanisms that could suppress or otherwise dampen voter participation of key segments of the Obama Coalition, namely African American and Latino voters and the young people. Requiring voter ID cards for all voters would significantly reduce voter participation in the black community and among other minorities.

The prospects of achieving this objective were greatly improved when the Republican Party gained control of 68 out of 98 state legislative bodies. The party also holds governorship and both houses in 24 states.

For example, the Texas voter ID law, which passed in 2011, determined that the acceptable forms of photo IDs included:

- » Texas state-issued driver license
- » Texas Election Identification Certificate
- » Texas state-issued personal ID card
- » Texas state-issued license to carry a handgun
- » U.S. military ID card containing the person's photograph
- » U.S. citizenship certificate containing the person's photograph
- » U.S. passport

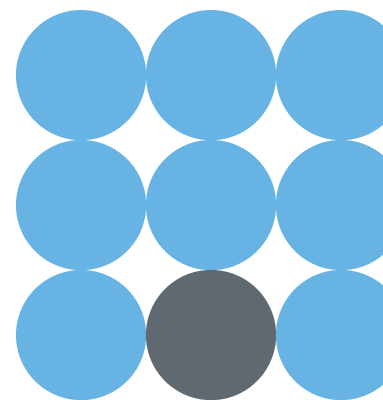
The problem with this list is that many African American, Hispanic, and elderly voters either do not have one or more of these forms of ID. For instance, the rate of licensed gun owners is higher among white Texans than among Hispanic or black Texans. It is ironic that the state accepts gun licenses whereas college photo IDs are not acceptable. This, of course, meant that Texas college students over age 18, who are otherwise eligible to vote, could not use their photo IDs to cast a ballot. A trial judge had found that more than 600,000 Texans, including a disproportionate number of black and Hispanic citizens, lacked forms of ID required under the law.

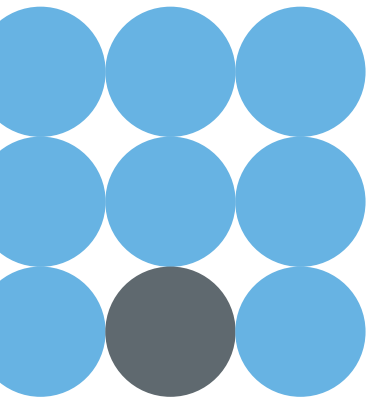
There are those who feel that asking the voter to present an approved photo ID to vote is a minor inconvenience. However, the fact remains that there is a racial and socioeconomic disparity between the numbers of voting-age people who possess a driver's license, for example. Minority citizens are less likely to possess government-issued photo ID. African American citizens also

disproportionately lack photo ID. Twenty-five percent of African American voting-age citizens have no current government-issued photo ID, compared with 8 percent of white voting-age citizens. Using 2000 census figures, this amounts to more than 5.5 million adult African American citizens without photo ID. The survey also suggested that 16 percent of Hispanic voting-age citizens have no current government issued photo ID.

Approximately 11 percent of eligible voters who lack the required photo ID have to travel to a government office to obtain one. But many of them are likely to have trouble making the trip to that office. The following statistics reflect similar barriers in 10 states with restrictive voter ID laws.

- » In these 10 states, more than 10 million eligible voters live more than 10 miles from their nearest state ID issuing office.
- » Of that number, nearly 500,000 eligible voters do not have access to a vehicle. Many live in rural areas with dwindling public transportation options.
- » The 1.2 million eligible black voters and 500,000 eligible Hispanic voters live more than 10 miles from their nearest ID issuing office. People of color are more likely to be disenfranchised by these laws because they are less likely to have photo ID than the general population.
- » In many states with restrictive voter ID laws, the ID issuing offices maintain limited business hours. For example, in states such as Alabama, Georgia, Mississippi, and Texas many of the part-time ID issuing offices are located in the rural regions that have the highest concentrations of people of color and people in poverty.





More than 1 million eligible voters in these states fall below the federal poverty line. These voters may be particularly affected by the significant costs of the documentation required to obtain a photo ID. Birth certificates can cost between \$8 and \$25. Marriage licenses, required for married women whose birth certificates include a maiden name, can cost between \$8 and \$20.

It is also important to discuss the correlation between voter suppression legislation and policies and voter ID requirements. The distinction between the two can be subtle, but important. All states with restrictive voter ID laws argue that they are necessary safeguards against voter/election fraud. However, cases of voter fraud in the United States during the last national election were so low as to be statistically insignificant, one out of about every 15 million prospective voters. Therefore, for all intents and purposes, restrictive voter ID laws serve as tools for suppressing the vote of those we recognize as members of the Obama Coalition, especially black and Hispanic voters.

Voter Suppression

Voter suppression is the act of government officials implementing policies, practices, and procedures that overtly place barriers that impede black and other minority citizens from their ability to exercise their right to vote. Restrictive photo ID laws are the current approach to suppressing votes, and there is a historic legacy of overt voter suppression in the United States, including:

- » purging voter rolls;
- » the old Jim Crow laws that included poll taxes;

- » disenfranchisement of those previously convicted of felonies;
- » disinformation about voting procedures, administration of elections with a partisan bent and inequality in election day resources; and
- » disinformation about voting procedures.

Gerrymandering (Redistricting) as a Tool of Voter Suppression

Though voter ID laws get most of the attention when discussing voter suppression, redistricting, also known as gerrymandering, is another effective tool for diluting African American and Hispanic voting power. The practice of partisan gerrymandering has been allowed to continue unchecked nationwide and has created an unrepresentative and unfair democracy and undermines the power of voters.

Some legal scholars place the blame for the distorted district boundaries on the absence of a Supreme Court-set standard for partisan gerrymandering. Since the Supreme Court does not have a judicial standard for partisan gerrymandering, those filing suits often try to raise unfair partisan gerrymandering grievances using categories such as one-person, one-vote doctrine, the Voting Rights Act, and racial gerrymandering. According to legal scholars, trying to apply partisan challenges simply does not work, even though we know that partisanism is just as detrimental to fair voting practices as discrimination strictly based on race. In the absence of such standards, states seeking to dilute the minority vote will continue to redistrict along racial lines, thereby guaranteeing continued unfair and distorted representation in the U.S. House of Representatives.

As a specific example of race-based redistricting, in August 2016 a three-judge court in the Middle District of North Carolina unanimously held that the North Carolina General Assembly *unconstitutionally used race* when it drew legislative districts in 2011. The legislature unnecessarily and arbitrarily increased the percentage of black voters in districts where black voters had been successfully elected primarily black candidates, moving these voters from areas where they could determine the fate of white candidates. The court noted, “After careful consideration of the evidence presented, we conclude that race was the predominant factor motivating the drawing of all challenged districts.”

The court instructed the state’s General Assembly to redraw the district boundaries for 2017. The plaintiff (the Lawyers’ Committee for Civil Rights under Law) suggested that North Carolina opinion is good precedent for the proposition that one can challenge racial gerrymandering in redistricting without jeopardizing the Voting Rights Act’s protections.

Voter Intimidation Often Used as a Voter Suppression Device

Voter intimidation involves pressuring or attempting to coerce an individual or a targeted group with the primary purpose of suppressing their vote or getting them to vote a certain way. Historically, voter intimidation has targeted low-income and minority voters. The actual act of coercion or pressuring is by individuals identifying themselves as “poll monitors” who challenge the authenticity of the person’s registration to vote or strongly suggesting that the potential voter is from another voting precinct.

Closely related to voter intimidation are deceptive election practices, derivatives of widespread Jim Crow practices often taking the form of literacy tests and poll taxes. More recently, deceptive election practices have included the dissemination of false election information sent out through flyers, with robocalls, by posting false and misleading information on the Internet, and through social media. Again, indigent and low-income people of color are regularly the targets.

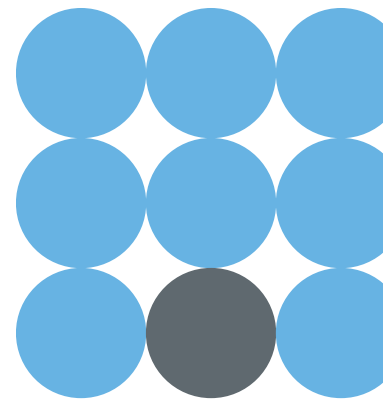
Recent Highly Significant Voting Rights Court Decisions

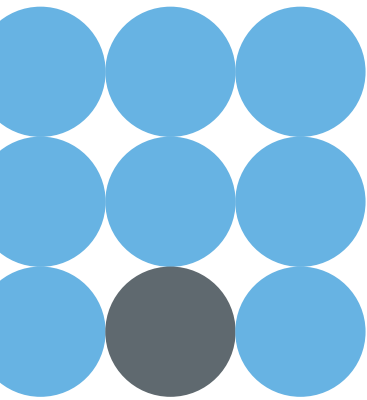
It is certainly possible to overstate the significance of the three major voting rights court decisions. However, taken together with the Ohio and Kansas court outcomes, there is little doubt that they add strength to the ant-voter suppression movement. We have already discussed the Texas ruling; the following is a quick synopsis of the other four.

The Wisconsin Decision

In May 2014, a federal district court judge found Wisconsin’s state photo ID law unconstitutional because it essentially created a barrier to voting for those “who cannot obtain qualifying ID with reasonable effort.” In his ruling, the judge sanctioned the option of having individuals sign an affidavit attesting to their identity, in lieu of a voter ID card. The affidavit was seen as “a sensible approach that will both prevent the disenfranchisement of some voters” but also “preserve Wisconsin’s interests in protecting the integrity of its elections.”

In a related more recent decision on the Wisconsin case, in August of 2016, a federal appeals court refused to force Wisconsin to





implement an alternative less restrictive option that would allow voters without a state-accepted voter ID to vote in the upcoming general elections. This decision probably means that voting will be more difficult, especially for racial minorities and students.

The appeals court could have let stand the use of a signed affidavit in lieu of a photo ID. However, because the state already arranged to make obtaining IDs easier by issuing free temporary IDs at Department of Motor Vehicle offices, the appeals court ruled that the affidavit option was unnecessary. Some voting rights advocates were skeptical that Wisconsin officials will be conscientious about making IDs easier to obtain. On a more positive note, the same appeals court upheld a lower court's order that prevented Wisconsin from cutting the number of days for early voting.

North Carolina

Three years after the Supreme Court deemed a key anti-discrimination provision of the Voting Rights Act, a federal court on Friday ruled that a subsequently imposed North Carolina law requiring photo IDs at polling places was aimed at discouraging minority turnout. The three-judge Fourth Circuit panel wrote an opinion that condemned the state legislature for acting with discriminatory intent. The majority opinion stated that "after years of preclearance and expansion of voting access, by 2013 African American registration and turnout rates had finally reached near-parity with white registration and turnout rates." The opinion written for the panel made a strong point by saying, "We can only conclude that the North

Carolina General Assembly enacted the challenged provisions of the law with discriminatory intent."

Kansas

A state court has ordered an immediate halt to Kansas's dual voter registration system, so that thousands of Kansans will have their votes counted for federal, state, and local elections in the August 2016 primary and November 2016 general elections. The American Civil Liberties Union (ACLU) has challenged the dual system, which allows some Kansans to vote for federal offices but not state and local offices, due solely to their method of registration. The Kansas Secretary of State tried to have this system formalized, thereby ending its temporary status. The ACLU challenged the Secretary of State's legal maneuver and sought to have it blocked. The trial judge agreed with the ACLU. At least 17,500 Kansans are affected by the ruling.

Ohio

The voter suppression challenge in Ohio was led by the NAACP Legal Defense Fund (LDF). In response to LDF's legal challenge, the U.S. District Court in Columbus ruled that the Ohio legislature violated the federal constitution and Voting Rights Act in 2014 when it reduced the state's early voting period from 35 to 28 days. The move also eliminated the so-called Golden Week, during which eligible residents could register to vote and cast an absentee ballot at the same time. The District Court judge based his opinion (in part) on the fact that the reduction in the early voting period disproportionately affected African American voters.

Finally, in recent related court actions, the U.S. Court of Appeals for the District of Columbia Circuit disallowed the use of proof of citizenship requirement from a mail-in voter registration forms for the November 2017 elections in Kansas, Alabama, and Georgia. The court said the provision could disenfranchise tens of thousands of U.S. citizens applying to vote without proof of citizenship.

Summary

NASW is greatly encouraged about what could be a national trend in the courts looking at voter ID and redistricting with a great deal of scrutiny, alert to the actual intent of such laws and their potential impact on voter participation. We believe many federal court judges are well aware of the continued relevance of the Voting Rights Act. Therefore, they are sensitive to the nation's history of voter suppression in some sections of the country, especially toward African American voters. It is our hope that protection of free and unencumbered access to voting far outweighs the minuscule possibility of voter fraud.

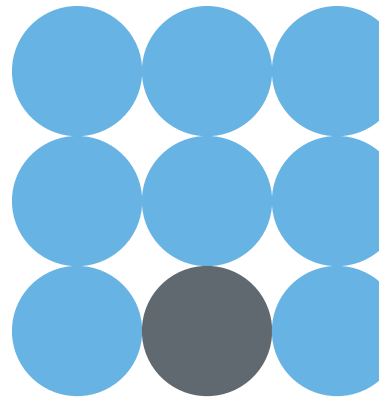
Although NASW is hopeful, we know we cannot lose sight of the fact that a total of 34 states have laws requesting or requiring voters to show some form of identification at the polls (West Virginia's law will go into effect in 2018). In addition, we are aware that there must be vigilance about monitoring states that have initiated redistricting plans that are racially discriminatory in their design.

With another critically important national election on the horizon, high voter participation by all Americans is a top priority. We are reminded that it has often been said that in a democracy, every effort should be made to make voting easy, not difficult. This is especially true when we are reminded that the United States ranks among the lowest of the world's democracies in voter participation.

NASW supports the admirable legal work that civil rights organizations have done to eliminate attempts at voter suppression. We also commit to doing our part by supporting and joining voter registration and "get out the vote" drives to boost voter participation.

For more information on this topic, please visit the following:

The Brennan Center for Justice
The NAACP Legal Defense Fund
Lawyers Committee for Civil Rights Under Law





NASW Resources

NASW » SocialWorkers.org

NASW Foundation » NASWFoundation.org

NASW Press » NASWPress.org

NASW Assurance Services, Inc. » NASWAssurance.org

NASW Center for Workforce Studies » Workforce.SocialWorkers.org

Help Starts Here » HelpStartsHere.org

Social Work Reinvestment Initiative » SocialWorkReinvestment.org

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