

University of Mississippi

eGrove

Honors Theses

Honors College (Sally McDonnell Barksdale
Honors College)

Spring 4-3-2020

"The Tyranny of the Majority" A Framework Proposal to Assess the Moral Justification of Voter Identification Laws in the United States

Sally Jordan

Follow this and additional works at: https://egrove.olemiss.edu/hon_thesis



Part of the [Civil Rights and Discrimination Commons](#)

Recommended Citation

Jordan, Sally, "'The Tyranny of the Majority" A Framework Proposal to Assess the Moral Justification of Voter Identification Laws in the United States" (2020). *Honors Theses*. 1301.
https://egrove.olemiss.edu/hon_thesis/1301

This Undergraduate Thesis is brought to you for free and open access by the Honors College (Sally McDonnell Barksdale Honors College) at eGrove. It has been accepted for inclusion in Honors Theses by an authorized administrator of eGrove. For more information, please contact egrove@olemiss.edu.

“The Tyranny of the Majority”

**A Framework Proposal to Assess the Moral Justification of Voter Identification
Laws in the United States**

By

Sally Margaret Jordan

A Thesis submitted to the faculty of The University of Mississippi in partial fulfillment of
the requirements of the Sally McDonnell Barksdale Honors College

May 2020

Approved by:

Advisor: Dr. Kyle Fritz

Second Reader: Dr. Marvin King, Jr.

Third Reader: Dr. Jonathan Winburn

© 2020
Sally Margaret Jordan
ALL RIGHTS RESERVED

ABSTRACT

One of the most fundamental rights of democratic citizens is the right to vote. As a result, voters are entitled to equal opportunity to access the polls. Yet recently, states have begun instituting policies that impact individual access to polls, such as voter identification laws.

Since the 2013 dismantling of the Voting Rights Act, 35 states across the United States implemented voter identification laws varying in strictness and the forms of identification they accept. Numerous studies and articles have been written regarding the justification of these voter identification laws in conjunction with their disproportionate effects on certain minorities; however, many of these studies gave way to partisan biases and left significant gaps in the information provided.

This thesis uses the United Nations' Johannesburg Principles as a tool for determining the justification of voter identification laws in the United States. The research in this thesis provides new information regarding voter identification laws and avoids partisan concerns by using an independent principle. I examine whether voter identification laws are justified nationally, but it is also important to look at the justification of these laws on a state-by-state basis. For this reason, I analyze Wisconsin's voter identification law as a case study.

Future studies of the justification of voter identification laws could, and should, use this framework. Furthermore, this is a dynamic framework that has the potential to be applied to various laws in order to test their justification.

TABLE OF CONTENTS

Chapter I: Introduction..... 5

Chapter II: Literature Review 11

 Rights..... 11

 Voter Identification Laws and Their History..... 15

Chapter III: Methodology 23

Chapter IV: Principle 30

Chapter V: Application..... 38

 National Application..... 38

 State 44

 Access..... 51

Chapter VI: Conclusion 58

Appendix I: Citations..... 62

Chapter I: Introduction

In an interview conducted by John Dittmar, an employee of the Library of Congress, Ms. Rosie Head recounted her attempt to register to vote in Mississippi in 1964. Ms. Head was an active member of the Civil Rights Movement in Tchula, Mississippi. In her interview, she talked about how local police officers would use their dogs to intimidate the African Americans attempting to register to vote.

The chancellor clerk had said to me, “Now I know you know better! What are you doing out here anyway?” and so I told him what I wanted. He said, “You go home and do like your mama and grandmamma did. You don’t need to come out here. This ain’t for black folk” (Library of Congress, 2013).

The clerks at the registration office did not approve Ms. Head’s voter registration application until the Voting Rights Act of 1965 was passed the following year.

Mr. Robert Clark, Jr., a teacher in Belzoni, Mississippi, was also interviewed by John Dittmar. Mr. Clark explained how dangerous it was for African Americans at the polls. In his interview, he spoke about a local minister, Reverend Lee, who was killed for helping register African American voters in the 1950s. Mr. Clark also remembered the trials his family faced when his father was fired from his teaching position in Holmes County for helping register voters. “He could not get another job in Mississippi. What they would do, they would give your name to the Sovereignty Commission and they would send that name to all the superintendents of education” (Library of Congress, 2013). These interviews became part of an exhibit in the Smithsonian Institution’s National Museum of African American History and Culture.

Stories like Ms. Head's and Mr. Clark's were not uncommon during this time period. When the Reconstruction Era ended around 1877, southern states began implementing laws that would restrict voting rights of African Americans and other minorities. These laws were known as Jim Crow laws and they included owning land, paying poll taxes, grandfather clauses, and passing literacy exams.

In response to the nearly century-long history of voter discrimination, Congress passed the Voting Rights Act of 1965. Sections 5 and 4(b) were integral parts of this bill. Section 5 prohibited certain states and districts in the United States from enacting changes to their voting laws without the Attorney General or a panel of judges in a Washington, D.C. district court examining the proposed changes. It was designed to ensure that voting changes in covered states and counties could not be implemented until approval was granted. Section 4(b) determined the states and counties covered in Section 5.

The formula used in Section 4(b) included two integral elements. The first element was that the state or county maintained on November 1, 1964, a "test or device" restricting the opportunity to register and vote. The second element of the formula would be satisfied "if the Director of the Census determined that less than 50 percent of persons of voting age were registered to vote on November 1, 1964, or that less than 50 percent of persons of voting age voted in the presidential election of November 1964" (US Department of Justice). The states that became covered jurisdictions based on this formula were: Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, and Virginia. Additionally, some states such as Arizona, Hawaii, Idaho, and North Carolina only had certain counties that became covered jurisdictions. The initial formula included

in the Voting Rights Act was only approved for five years, but could be extended if the courts chose to do so. After being extended for ten years, the definition of “test or device” was updated to include the practice of providing election information only in English in states where members of a single language minority constituted more than five percent of voting age citizens (US Department of Justice). This formula expanded the coverage to Texas, California, Florida, Michigan, New York, North Carolina, and South Dakota. In 1982 and 2006, Congress extended Section 5 for 25 years.

For 48 years, the Voting Rights Act served as a barrier to unlawful and prejudiced voter laws. In 2010, Shelby County, Alabama filed a lawsuit requesting a federal Washington, D.C. court to proclaim Section 5 of the Voting Rights Act unconstitutional. The federal court upheld the constitutionality of Section 5, but Shelby County appealed the ruling to the Supreme Court of the United States. On June 5, 2013, in a 5-4 ruling, the Supreme Court ruled that the preclearance formula in Section 4(b) of the Voting Rights Act was unconstitutional because the formula was outdated. This ruling made Section 5 of the Voting Rights Act inoperative until Congress chooses to pass a new formula. In her dissent, Justice Ruth Bader Ginsburg provided a compelling analogy to illustrate what she saw as faulty reasoning: “Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet”.

Since the dismantling of the Voting Rights Act in 2013, states have made changes to their voting laws. Some of these states were once covered under Section 5 of the Voting Rights Act and some were not. Some states have enacted changes to their voter purging laws. Purging is the process of removing registered voters from formal voting

lists. Between 2016 and 2018, at least 17 million voters were purged nationwide with an estimated 2 million improperly removed from their county's voter list (Morris, 2019). For example, Georgia purged 10.6 percent of voters between 2016 and 2018. In this same time period, North Carolina purged 11.7 percent of its voter rolls (Brater, 2018). These percentages were nearly double the pre-2013 purge percentages in these states. Other states passed laws that increase the difficulty of early and absentee voting. In 2019, Indiana decreased their deadline to submit an application for early voting by four days (Brennan Center, 2019). Since the beginning of 2019 alone, Florida, Tennessee, Arizona, Indiana, and Texas have all passed voting laws that restrict access to voting in some way. Arizona extended their voter identification requirements to include early voting (SB 1072) (Brennan Center, 2019). Arizona's previous voter identification law excluded early voting polling places which benefitted many students and avid movers (Arizona News, 2019). Texas enacted a law that restricts mobile early voting places. The previous law allowed for polling places to move into more rural areas during an early voting period in order to reach as many voters as possible; however, the new law closed over half of the early voting sites (Ura, 2019).

While every restriction placed on voting is important, given space constraints, I will only focus on voter identification laws. Laws within this category seem to be the most prevalent and affect the largest number of minorities. A total of 35 states have laws requesting or demanding voters to provide some form of identification. Voter identification laws can be divided into two broad categories: whether the state accepts photo identification or whether it accepts identification without a photo. Advocates of voter identification laws see these requirements as a solution to prevent or end voter

fraud. According to The Heritage Foundation, there were over 50 cases of voter fraud in the 2016 election. Furthermore, their research has uncovered 1,277 instances of voter fraud across the United States since 1979, a number deemed too high by many of their researchers (The Heritage Foundation, 2018). Opponents of voter identification laws see these requirements as unnecessary and argue that they disproportionately affect minority groups, as exemplified by Ms. Head and Mr. Clark.

Voting is an integral aspect to the functioning of our country's representative government. The discussion of these restrictions is both timely and important with the upcoming 2020 election year. The concern over voter fraud in the upcoming election is shared by many Americans, including President Donald Trump. The President claimed that fraudulent voting in 2016 is what cost him the popular vote (Davis, 2017).

Additionally, minority voters could play a large role in determining the winner of the 2020 election. In a study conducted by the Center for American Progress, the researchers found that even marginal changes in Democratic African American voter turnout in 2020 could give the Democratic nominee a majority in the Electoral College (Kilgore, 2019). Latino voters will make up the largest non-white minority of voters for the first time in the coming election, making their votes vital for a victory (Medina, 2020). In a country where voting is a key aspect of government, it is essential that we understand the possible ramifications of having justified or unjustified voter identification laws in place.

My research for this thesis will work to answer the question of whether voter identification laws in the United States are justified by applying an independent framework to these laws. In order to answer this question, I will first explore when it would be morally acceptable to restrict an individual's right to vote. Then I will analyze

some voter identification laws currently in place to test their justification. While I only apply this framework to a few cases given limited data and time constraints, the framework I propose could and should be used more broadly in future research on this topic.

Chapter II: Literature Review

Before we can examine the justification of voter identification laws, we must first understand the underlying concepts and their nature. In this chapter I will explain what constitutes a right, identify how voting is a right, delve further into the background of voter suppression, and highlight how our right to vote is being restricted by the current voter identification laws in place.

Rights

Before discussing anything else, it is important to understand what constitutes a right. A right is essentially an entitlement for someone to perform, or not perform, certain actions. It is also an entitlement to be, or not to be, in a certain state. It distributes freedoms and responsibilities to people and signifies respect (Rainbolt, 2014). We encounter rights persistently and in great variety. Rights give their possessor a freedom in some sense. Some rights give the holder a freedom to do something, while other rights give the holder a freedom to avoid a certain undesirable outcome (Harel, 2005). We have a right to feel proud of an accomplishment, a right to exist, a right to make a phone call, a right to be left alone, and a right to vote (Edmundson, 2015).

Rights can be placed into different categories such as legal rights and moral rights. Legal rights are rights that are included in rule systems. These rule systems include laws, by-laws, regulations, principles, and company guidelines (Rainbolt, 2014). In any circumstance, legal rights are, for the most part, easily understandable and agreed upon by most parties. Moral rights, however, are not as easy to grasp. According to the Stanford Encyclopedia of Philosophy (SEP) moral rights are rights that every person possesses that do not depend on social or legal recognition (Edmundson, 2015). These

rights can stand alone, or they can be considered a subset of legal and social conventions. In an ideal society, legal rights would protect our moral rights. George Rainbolt explains this relationship through the example of the moral right to criticize the government. In the United States this moral right is also protected under the First Amendment, so this would be considered a moral and legal right. The same right for North Koreans to criticize their government is not protected legally, but it is still a moral right (Rainbolt, 2014).

Many disputes exist as to whether the right to vote is a moral right, legal right, or both. I will be working with the assumption that our right to vote is both a moral and legal right. My reasoning for categorizing the right to vote as a moral right mainly revolves around our representative government. According to Beckman, in order for a right to be justified as a moral right, it must contribute to the preservation of the critical interests of others (Beckman, 2017). In the United States, the participation of registered voters is critical to the success of our government being truly representative. Therefore, being a member of a democratic society gives us the moral right to vote due to the fact that a democracy cannot function without the voice of the people. Our moral right is also protected legally through the 15th Amendment, 19th Amendment, and other state and federal laws (US National Archive Services, 2019). The legal protection gives reason to also consider the right to vote as a legal right.

Rights are not easily taken away or overridden, even if there are positive consequences of doing so. Michael Huemer, a philosophy professor at the University of Colorado, uses the right to own a gun as an example to support this statement. He states that individuals have a right to own firearms and that this right protects important interests of the right holder such as self-protection, therefore this right is not easily

overridden (Huemer, 2003). Rights also give their holder permission to act in a particular way, even if society would be served better by doing otherwise. Another good example of this is the right to free speech. Members of the Westboro Baptist Church have the right to come to The University of Mississippi's campus and speak loudly to students walking to class about controversial topics. Even though the church members' comments may have negative consequences to the students, overriding their right to free speech would be disrespectful to them as individuals and responsible right holders.

Nevertheless, rights can be overridden at times by certain consequences. In his article, Huemer goes on to explain that in any case, the harms of a right would have to be many times greater than the benefits in order for that right to be overridden. For example, in order to restrict one's right to own a gun, the evidence of the harms of private gun ownership would have to greatly outweigh the benefits of self-protection or recreational enjoyment (Huemer, 2003).

Rights may also be overridden by other rights. Ronald Dworkin, an American philosopher and scholar, used a metaphor of rights as "trumps" (Dworkin, 1984). This metaphor suggests that some rights have the ability to trump other rights. For example, your right to turn right at a red light is trumped by the right of way of the driver facing the green light; and the right of way of an ambulance or police car with sirens trumps you both (Dworkin, 1984). It is possible that our right to vote could act as a trump, or even be trumped by another right. Throughout this thesis I will work to determine whether the voter identification laws in place are a justified 'trump' on our right to vote.

An important distinction must be made between completely overriding a right and restricting a right. I will use the example of our right to own a gun to identify the

difference between the two. If our right to own a gun was completely overridden, no one would legally be allowed to own any type of firearm. The right would be taken away altogether. However, restricting our right to own a gun so that the right is still in effect is different. A possible restriction could be that individuals are not allowed to own a certain type of gun. Our right is still in place, but it is limited in some sense. While it would be easy to say that individuals are entitled to fully enjoy their rights without any intrusion or restriction, that is not always the case. When looking at rights in conjunction with the need for public safety, national security, respect of others, and the preservation of values, it is easier to see that some restrictions might be necessary.

Restrictions on rights in place through laws include the requirement of owning a concealed weapon permit in order to carry a gun, the requirement of having your driver's license present when driving a vehicle, and many others. When one's right to carry weapons without permits or practice any religion freely is restricted there is a risk of infringing on their first amendment right. Restrictions in place that contribute to pursuing a legitimate objective include anything that protects public safety, national security, respect for others' rights, and public morals (Wolff, 2006). These restrictions include limiting one's freedom of religion if the particular religion brings harm to public order, limiting the scope of public protests to ensure the security of the public, and restricting the right to access certain information to ensure national security.

Although rights cannot be easily overridden or taken away, many of our rights are restricted. It is important to understand whether the restrictions in place are justified or not. An individual's right to vote can be restricted by several things including the type of

identification they are required to possess, through the process of registration, reducing the early voting period, or the ability to remain on a formal list of registered voters.

An example of restrictions on voter rights can be seen in Georgia. In 2018, the state imposed a requirement that voter registration forms match exactly with other state records – a burdensome process known as “no match, no vote” (Brennan Center, 2018). Reasons for no matches include the transposition of a letter or number, deletion or addition of a hyphen, the accidental entry of an extra character or space, and the use of a familiar name like “Tom” instead of “Thomas” (Valverde, 2018). According to an article published by *PolitiFact*, Georgia’s law does not require registrars to make sure there were not entry errors on their part (2018). Due to this law, 53,000 votes in Georgia were not counted in the last governor’s race (Valverde, 2018). In 2012, West Virginia reduced its early voting period from 17 to 10 days, making it harder for individuals with jobs and prior obligations to get to the polls (Brennan Center, 2018). According to the American Civil Liberties Union, 32% of votes in the 2012 election were cast by early voters (ACLU, 2018). The enactment of West Virginia’s law restricts the amount of days where voting is allowed, causing longer lines and waiting times in the shorter voting period. Many elderly, disabled, and working people depended on the extra voting days. While each of these areas of voter restriction are important, the only disputed area of voter restriction that I will analyze in my thesis is voter identification laws.

Voter Identification Laws and Their History

Voter identification laws are laws that require a person to provide some form of official identification before they are permitted to register to vote, receive a ballot for an election, or vote in elections. Voter identification laws date back to 1950 when South

Carolina became the first state to officially request a form of identification from voters. By 1980, Hawaii, Texas, Florida, and Alaska joined as the first five states to request identification at the polls (Bramble, 2017). It was not until 2004 when Arizona passed the first law that *required* photo identification. Soon thereafter, Georgia and Indiana passed other forms of required photo identification laws. These laws were not implemented until 2008 after Indiana won *Crawford v. Marion County* in the U.S. Supreme Court (Bramble, 2017). After 2008, the rapidity of adoption increased until the 2016 election year. Since then, the enactment of new laws has slowed, but revisions of current laws are still commonplace.

Today, there are two extremes in the U.S. regarding voter identification laws. States such as California and Vermont do not require any form of identification at the polls, while some states such as Virginia and Indiana go so far as to require state issued photo identification (de Alth, 2009). There are variations of voter identification laws. Some laws ask that voters provide a form of photo identification. Other laws simply ask for a bill with proof of residency, and some more lenient laws accept written letters from another registered voter affirming a person's credibility (Underhill, 2019).

Voter identification laws are widely accepted by some parties, yet widely criticized by others. Critics of voter identification laws are worried about their disproportionate effects on minority voters and their likelihood to benefit one particular political party over another. Proponents of voter identification laws argue that they guard against fraudulent voting.

There are multiple studies and reports available on the topic of voter identification laws and their disproportionate effects. Some reports highlight the fact that voter

identification laws decrease voter turnout among minorities (Hajnal, 2017). For example, Bernard Fraga and Michael Miller examined Texas in 2014 and 2016 for a study conducted for *FiveThirtyEight Politics*. In 2014, Texas had a strict law that required voters to provide specific forms of photo identification; however, in 2016, Texas was required by a federal court to provide an alternative way to vote for those who lacked the appropriate forms of identification (Hopkins, 2018). Fraga and Miller found that African American voters constituted 11.4 percent of those voting in 2016 with the required identification, but 16.1 percent of those voting without identification. Similarly, Latino voters made up 19.8 percent of voters with identification, but 20.7 percent of these voters cast a ballot without an identification (Hopkins, 2018). The percentages above may seem insignificant to some advocates of these laws. The differing percentages of those voting during the two elections could be due to multiple factors including disinterest in the particular election. Furthermore, the study did not account for the voters who did not show any identification, but still had one. Areas of concern and gaps in information leave room for further questions to be drawn regarding the actual impact of voter ID laws. The research I will conduct in future chapters of this thesis could be used to supplement studies such as this.

A second study conducted by voting trend researchers Phoebe Henniger, Marc Meredith, and Michael Morse, recorded disproportionate impacts in the state of Michigan. In 2016, voters who arrived at the polls in Michigan without identification were able to vote after signing an affidavit. These researchers collected the signed affidavits in order to identify the voters who would have been turned away had the law been stricter. According to their calculation 28,000 voters lacked the proper form of

identification (Henniger, 2018). The percentage of nonwhite and Democratic voters within the 28,000 voters who signed affidavits was higher than the percentage of nonwhite and Democratic voters in the entire Michigan electorate. Furthermore, through analysis of the collected affidavits, Henniger estimated that nonwhite voters were 6.7 times more likely to file either a signed or unsigned affidavit than white voters (Henniger, 2018). The authors defined signed as an affidavit that was officially signed by an election inspector and unsigned as an affidavit that was not signed by an election inspector.

In yet another analysis under the direction of *The Washington Post*, researchers looked at voting data from 2006-2014. They used a sample of over a third of a million Americans from the Cooperative Congressional Election Study (Lajevardi, 2017). The study defined strict identification laws as laws that require additional steps on the part of the voter such as returning with the correct form of identification. When the data between states with strict identification laws was compared with data from states with non-strict identification laws, the researchers found that Hispanic turnout was 7.1 percentage points lower in general elections and 5.3 points lower in primary elections in strict states. The research also showed that in general elections in non-strict states, the gap between white and Latino voters is on average 4.9 percentage points; however, in strict states the gap grows to 13.2 points (Lajevardi, 2017). There are numerous studies that mirror this same conclusion: voter identification laws tend to have disproportionate effects on minority groups.

The other side of the argument is that quite a few of these restrictions are put in place in order to help pursue a particular objective- to reduce or stop fraudulent voting. Advocates for stricter identification laws are concerned with reducing the risk of voter

fraud in elections, among other reasons. One article written by a Senior Legal Fellow on election law reform for The Heritage Foundation states that voter identification laws can significantly defeat and deter impersonation fraud at the polls, voting under fictitious names or in the names of dead voters, and double-voting by individuals registered in more than one state (Spakovsky, 2012). Many advocates of voter identification laws are apprehensive of non-citizens casting ballots at the polls. According to the Bill of Rights Institute, one of the most common arguments in favor of voter identification laws is that “non-citizens vote in large numbers, though they do not possess the legal right to do so” (Bill of Rights Institute, 2018).

In 2017, President Donald Trump established the Presidential Advisory Commission on Election Integrity (PACEI). This commission ran from May 11, 2017 to January 3, 2018 with the purpose of reviewing claims of voter fraud, improper registration, and voter suppression (Lowry, 2017). Vice President Mike Pence and Kansas Secretary of State Kris Kobach ran PACEI and issued a letter to the White House announcing the dissolution of the commission. The letter stated that there was evidence of “substantial voter fraud”; however, no credible evidence was ever presented that would substantiate this claim (Foran, 2018). While there is certainly a fear and threat of possible fraud at the polling place, the instances of recorded fraudulent voting are extremely rare, showing another discrepancy in the information available.

According to an article written by Brian Fogarty, a professor at the University of Glasgow, in the 2008 and 2012 presidential elections there was one instance of voter fraud for every 15 million votes cast (Fogarty, 2015). In another article, instances of organized fraud were compared with instances of individual fraud. The results showed

that it is significantly harder to commit fraud as a single individual rather than as a part of a larger organized process (Minnite, 2007). Furthermore, according to the Brennan Center's report, *The Truth About Voter Fraud*, most reported cases of voter fraud are traceable to other non-intentional causes. These sources include clerical errors, bad data matching technologies, and glitches in voting databases (Levitt, 2007). Following the 2016 presidential election, *The Washington Post* compiled data from Nexis, a news-aggregation system, to uncover instances of absentee or in-person voter fraud. They found four cases of voter fraud in the 2016 election: a woman who voted twice in Iowa, a man who voted twice in Texas, a woman who cast a ballot for her dead husband in Illinois, and a woman who marked multiple absentee ballots in Florida (Bump, 2016).

Many supporters would argue that voter identification laws are the reason for the low instances of voter fraud mentioned above. There is limited data available to validate this concern, yet it is still important to address the significance of this possibility. Throwing out voter identification laws when they have worked and are continuing to work to reduce instances of voter fraud might be, like Justice Ginsburg said in a different context, like, "throwing out an umbrella in the storm because you are not getting wet" (Justice Ginsburg, 2013).

Additionally, advocates for strict voter identification laws do not believe the voter identification laws in place deter minority groups from voting. A study conducted by The Heritage Foundation found that African-American voters in photo identification states are only 0.012 percent less likely to vote than African Americans in a non-photo identification state (Muhlhausen, 2007). Another study conducted by The Heritage Foundation found that African Americans and Hispanics are just as likely to show up to

vote at the polls in states with strict identification laws as they are in states without strict identification laws (Morrison, 2019). These articles are inconsistent with other articles I have previously referenced. This is highly likely due to the fact that these studies include certain biases that are trying to defend a particular reasoning. These apprehensions are important to consider when determining whether or not strict voter identification laws are justified. Possible biases such as these are important to avoid, and an independent framework such as the one I will be implementing will help with this.

There are several risks associated with restricting, or not restricting, voting rights that should be addressed. If we restrict voting rights, we risk losing voter participation which could harm the functioning of our democracy. We also risk disproportionately impacting minority groups. It is important to weigh the harms and risks involved when restricting a right in order for that restriction to be justified. If we do not restrict voting rights, we risk the possibility of an increase in fraudulent voting. For every restriction in place, there will likely be a clash between prioritizing risks and prioritizing rights that needs to be considered. One side will be more concerned with the risk of fraudulent voting, therefore being in favor of these restrictions as a means of prevention. The other side is dedicated to restoring individuals' right to vote, thus being against certain strict restrictions (Trotter, 2013).

Opponents of stricter identification laws do not believe they seem to be justified by such a small danger of fraudulent voting. A number of studies have been conducted that have all led to a similar conclusion: there are large minority populations that are disproportionately affected by strict identification laws due to the previously mentioned reasons (Weiser, 2012; Ellis, 2015; Gonzalez, 2012; Combs, 2016).

While strict voter identification laws might pose the more obvious threats to voters, non-strict voter identification laws also pose certain risks. With non-strict voter identification laws, the risk of violating the right to vote decreases at the expense of a potentially higher rate of voter fraud. On the other hand, with strict voter identification laws, the risk of voter fraud goes down at the expense of potentially violating the right to vote. There is a question of balance here that needs to be answered.

Based on the amount of existing literature surrounding the topics of voter identification laws, voter fraud, rights, risks, and justifications, it is observable that the task of examining the justification of voter identification laws is a tremendous one. There are many aspects to consider when attempting to answer my research question including the outcome of different risks and restrictions. It is important to determine how much we can restrict a person's right on the basis of risk, and a guiding principle would be helpful in doing so. It is integral that the gaps of information in studies and reports are addressed in order to reach a conclusion on the justification of voter identification laws. This is what I am trying to accomplish by applying an independent framework to these laws.

Chapter III: Methodology

In order to answer the question of whether voter identification laws in the United States are justified, I will attempt to define when it is, or is not, justified to place limitations upon a right. The main purpose of this thesis is to provide new insights on the justification of voter identification laws by implementing a guiding principle. My goal is to implement a principle that not only works for voting rights but can ultimately be applied to when we should limit any number of rights. Once I have tested and provided examples of how my principle works, I will begin applying it to voter identification laws in the United States. The objective is to approach the topic of voting laws through an independent framework in order to deliver new information on the subject. Studies and articles that I mentioned in the previous chapter were conducted and written to try and determine whether these laws negatively impact voters. Instead of attempting to determine the impact on voters, this research concentrates on determining the justification of the laws themselves by applying an independent principle. My goal is to give past and future analyses of voter identification laws, or other restrictions to rights, a strong foundation by providing new material that offers an insight to the justification of these laws.

I narrowed my research focus to be manageable, and I am applying a principle to remain objective. Many of the previously referenced articles appeared to have worked backwards in order to achieve the answer the authors wanted, but an independent principle will allow me to avoid this and any biases that may arise. According to The Brennan Center for Justice, the most common restrictions to voting have come in the form of voter identification laws and laws making it difficult for citizens to register, and

stay registered, to vote (BCJ, 2019). According to an article published by the American Civil Liberties Union, voter identification laws affect more than 21 million Americans who do not have the correct form of identification (ACLU, 2017). I compared this statistic, and several others that mirrored similar assessments, to statistics regarding other forms of voter suppression. According to a study conducted by the Brennan Center, 17 million Americans were purged from voting rolls between 2016 and 2018 (Morris, 2019). Furthermore, the Pew Center released a study stating that only 6.3 million Americans voted via a mail-in ballot in 2016, and many of these ballots were not counted in the election (Desilver, 2016). While these are extremely high numbers and relevant issues, the effects of voter identification laws are broader. From these reports, I was able to narrow my focus to solely voter identification laws due to the scope of their effects.

There are 35 states that have enacted voter identification laws since 2013. Studying each of these laws was too big of a task for me to accomplish single-handedly for this thesis. With the help of a study done by the National Conference of State Legislatures, I was able to narrow the scope of these 35 laws and divide them into four categories: Strict Photo Identification, Non-Strict Photo Identification, Strict Non-Photo Identification, and Non-Strict Non-Photo Identification (NCSL, 2018).

States with laws in the non-photo categories accept forms of identification such as bank statements with the voter's name and address or other statements that may not always include a photo. The states in the photo-required categories demand voters to show documentation with a photo. These forms of photo identification can include a driver's license, military ID, tribal ID, other state issued photo identification forms, and many others. Based on these categories, and on the laws in place in 2018, 17 states ask

for a form of photo identification and 17 states accept non-photo identification (Underhill, 2019). The non-strict category encompasses laws that allow at least some voters without acceptable identification to have an option to cast a ballot that will be counted without further action on the part of the voter. Some examples include, signing an affidavit of identity, having a poll worker vouch for your identity, or voting on a provisional ballot. Some states, including Florida, Montana, and several others, allow voters to vote on a provisional ballot that will be assessed on the close of Election Day. Election officials will then determine whether or not the provisional ballot will be counted by conducting a signature check or other form of verification (Underhill, 2019). The strict category encompasses laws where voters without acceptable identification must vote on a provisional ballot and take additional steps after election day for it to be counted (NCSL, 2018).

Unlike the non-strict category, laws within the strict category require an extra step of the voter. For instance, a voter may be asked to return to the election office within a certain amount of days after the election period is closed and present an acceptable form of identification. If the voter does not return with the accepted form of identification, the provisional ballot will not be counted. Some states do not even notify the voter if their ballot is thrown out (Underhill, 2019).

Given the wide range of acceptable forms of identification in the non-photo ID category, it was not feasible to determine whether these laws are justified. A large part of determining the justification relies on how the law impacts voters. Good data is not available for many of the forms of identification accepted in the non-photo categories; therefore, I could not have reasonably tracked all of them. For example, some states in

the Non-Photo ID categories accept anything from a paycheck to a utility bill, and accurate records do not exist on how many voting-aged persons in a particular state have these forms of documentation. Furthermore, since there are so many acceptable forms of identification in these categories, the likelihood that many voters are being negatively impacted is lower than in the photo ID categories. For these reasons, I chose to solely focus on the Strict Photo ID and Non-Strict Photo ID categories. The chart below lists the states included in each of these categories and summarizes the difference between strict and non-strict photo ID laws.

Photo ID (passport, driver’s license, military ID, etc.)	
Strict (requires an extra step on the voter’s part after the provisional ballot is cast)	Georgia Indiana Kansas Mississippi Tennessee Virginia Wisconsin
Non-Strict (allows at least some voters without ID to cast a provisional ballot without further action on the voter’s part)	Arkansas Alabama Florida Hawaii Idaho Louisiana Michigan Rhode Island South Dakota Texas

When determining what pattern or number of laws to choose, I approached the matter from two different levels- national and state. First, I will apply the principle to the laws using national data. This will give a depiction of the justification of these laws from a national stance, but the outcome could vary depending on the state. For this reason, I

will then apply the principle to Wisconsin. I decided to look at this state specifically because I wanted to test a state within the Strict Photo-ID category. Since this is the strictest category of voter identification laws, I thought it important to test the justification of these laws. If this category is ruled as unjustified, it does not automatically rule out the other three categories because a similar assessment would need to be done for those. Not only did Wisconsin fall into this category, but it is considered a battleground state in the upcoming election. Researchers at *Politico* released a 2020 Presidential General Election Spending Report that estimated over 60 million dollars would be poured into Wisconsin by the Democratic Party alone (*Politico*, 2019). Since the Republican party won Wisconsin in 2016, they will continue to focus their efforts in the state in order to keep it 'red'. Furthermore, the closest presidential elections of recent years were the elections of 2000, 2004, and 2016. Wisconsin was decided with the narrowest margin of any other state in all three elections (Gabriel, 2019). With both parties pouring time and money into Wisconsin in order to win this contested state, the statement "every vote counts" is taken to a new level. Wisconsin also had the available data necessary to determine the justification of its law. During both of these stages, national and state, I will only be using data concerning white, African American, and Hispanic peoples. There will still be a need for further research in each of the states listed in the table above, but the framework for how to test the justification will be provided through this thesis.

I chose to focus solely on the white, African American, and Hispanic demographics for several reasons. First, as mentioned numerous times in Chapter 2, these particular minority groups are impacted the most by voter identification laws. Second, these ethnicities are the most likely to be impacted by these laws according to news

coverage of voting rights. An article released by *The Atlantic* stated that black and Hispanic voters were twice as likely to have experienced barriers to voting than white voters (Newkirk, 2018). In an interview for PBS NewsHour Carol Anderson, professor of African-American studies at Emory University, stated that African-Americans, Latino, and poor voters were overwhelmingly targeted by voter identification laws (Nawaz, 2018). An article by *FiveThirtyEight* also describes the ways in which voter identification laws across the country disproportionately impact African American and Latino citizens (Hopkins, 2018). These articles like many others are heavily focused on the negative effects of voter identification laws, but not on the overall justification of the law which is what I am doing. The articles I have mentioned are simply a fragment of the news coverage on the disproportionate impacts of voter identification laws on minority voters. Lastly, there is an abundance of literature and information available on these demographics.

The decision to not address other demographics such as gender or age was based on the lack of information. The gender spectrum goes beyond the traditional gender-binary scale, and there is not enough information regarding the access of identification to all genders. Furthermore, according to statistics provided by the Federal Highway Administration, 92% of individuals between the ages of 50 and 69 have a form of identification (FHA, 2018). I could have focused on younger age groups, but according to a report released by the Census Bureau, voter turnout among 18-29 year olds increased by the largest percentage of any other age group in the 2016 election (Misra, 2019). Since the younger aged voters had the largest increase in voter turnout, the impact of voter identification laws is likely not as detrimental to young voters as it is to African

Americans and Hispanics in general. A possibility certainly remains that voter identification laws are not justified when it comes to gender and age, but racial relations are extremely prominent today and tend to be more of a concern when discussing voting laws.

My research question is not whether voter identification laws disproportionately affect minorities, but whether voter identification laws themselves are justified. Presumably if these restrictions do negatively affect these demographics without sufficient positive consequences or without protecting some other more important right, then the right is not justified. However, if the conclusion of this thesis is that these restrictions do not disproportionately affect minorities, the question of justification still stands in relation to gender or younger age groups. This leaves another opportunity for further research using the same principle and framework provided in this thesis.

Chapter IV: Principle

For my guiding principle I wanted to create parameters that could be used for a multitude of rights, not just voter identification laws and the right to vote. In order to accomplish this, my principle needed to be broad. The Johannesburg Principles accomplish just that. The Johannesburg Principles are based on international and regional law and standards relating to the protection of human rights, evolving state practice, and the general principles of law recognized by the community of nations (Article 19). These principles were adopted in October 1995 and are included in Article 19 of the United Nations' Universal Declaration of Human Rights. In addition to being applicable to voting rights as well as other restrictions on rights, no study has ever applied the Johannesburg Principles to voter identification laws. While it is unclear as to why no other research has taken this approach, it is important that it be done. The topic of voter identification laws is often heavily opinionated. By applying the United Nations' principle I am able to avoid partisan concerns. This research will produce new information regarding the justification of these laws and provide a template for future research on other restrictions.

The Johannesburg Principles are applicable in this sense for several reasons. First, the Johannesburg Principles were created to protect human rights, specifically the freedom of expression. As I explained in a previous chapter, voting is a human right and a form of political expression. Second, the principles take protecting the interests of the State into account. This is important because the majority of advocates of voter identification laws are concerned with protecting the state against the possible harms of fraudulent voting. Finally, by using these principles I will be able to not only test the

voter identification laws at the national level, but I will be able to take individual states' needs into account. In the battleground state of Wisconsin, for example, the principle allows for a few more restrictions to be placed in this state only to protect against voter fraud. Votes in this state have the potential to sway the election one way or another, so the argument for protection against voter fraud is much stronger in Wisconsin and other battleground states than in others. The electorate in Wisconsin is closely divided along party lines, so the need for strict protection at the polls is high.

The Johannesburg Principles are comprised of 25 principles divided into four sections: General Principles, Restrictions on Freedom of Expression in National Security, Restrictions on Freedom of Information and Rule of Law, and Other Matters (Article 19). The goal of these principles is to set authoritative standards “clarifying the legitimate scope of restrictions on freedom of expression on grounds of protecting national security” (Mendel, 2003). I will only be applying the first principle to the laws previously chosen. The first principle defines the necessary conditions for a restriction to be placed on a right and identifies how governing bodies should determine the strength of the restriction. This principle is comprised of a three-part test. In order for restrictions to be justly placed on laws, the law must pass each of the three portions. I will identify the requirements of each principle in this chapter and apply them to voter identification laws in the next chapter. The three pieces of the first principle are as follows:

Principle 1.1: Prescribed by Law

- (a) Any restriction on expression or information must be prescribed by law. The law must be accessible, unambiguous, drawn narrowly and with precision so as to enable individuals to foresee whether a particular action is unlawful.

- (b) The law should provide for adequate safeguards against abuse, including prompt, full and effective judicial scrutiny of the validity of the restriction by an independent court or tribunal.

Part A of Principle 1.1 requires the restriction in question be placed on a freedom of expression or information. The *Universal Declaration on Human Rights* describes the freedom of expression as including the “right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (UDHR, Article 19). As stated in a previous chapter, voting is a form of political expression, which makes these principles applicable. Part A also requires that these laws be accessible and clearly worded. For the purpose of this research, I am defining accessible as being available to the general public by internet or government records. As long as the law is easily obtainable to the general public free of charge, it is accessible. The laws should also clearly state what forms of identification are and are not required and what additional steps, if any, will be expected on the voter’s part.

Part B of Principle 1.1 states that these laws have standards in place to protect from abuse. Abuse in this sense would include the implementation of voter identification laws when there has been no instance, such as a past case of voter fraud, that would call for such measures to be taken. Furthermore, the scrutiny of the validity of the restriction by an independent court in this case would be the Supreme Court of the United States. In 2013, the Supreme Court reviewed The Voting Rights Act of 1965 and deemed certain aspects of it outdated. This decision led to many states implementing their current voter identification laws. The validity of these laws originates in the decision of the Supreme Court to repeal sections of the Voting Rights Act and from the state legislatures that enact

the laws. Furthermore, any challenge to these laws would move through the federal judiciary system beginning with the District Courts and ending with the Supreme Court of the United States. This verdict is derived from previous challenges to states' voter identification laws as seen in Texas, Ohio, and North Carolina among others. I will further explain and apply my interpretations of the wording of these principles in the next chapter.

Principle 1.2: Protection of a Legitimate National Security Interest

- (a) Any restriction on expression or information that a government seeks to justify on grounds of national security must have the genuine purpose and demonstrable effect of protecting a legitimate security interest.

Principle 1.2 requires the law to be in place to protect a legitimate and specific aim on the grounds of national security. Article 19 states that a restriction is not legitimate unless its purpose and effect is to, "protect a country's existence or its territorial integrity against the use or threat of force, or its capacity to respond to the use or threat of force from either an internal or an external threat" (UDHR, Article 19). This is an extremely high standard, so for the sake of this thesis I will define voter identification laws as initiatives that are protecting legitimate democratic interests. It is integral to a functioning democracy that every person participates in voting. Voter identification laws protect this aim by deterring fraudulent votes from being cast.

Furthermore, this principle states that the restriction must show a demonstrable effect in protecting this specific aim. In the case of voter identification laws, this aim would be to counteract the threat of fraudulent voting; however, I have previously pointed out that the instances of voter fraud are extremely rare. Due to this important

factor, there are two ways to implement Principle 1.2. The first, is to focus on the demonstrable effect aspect of the principle, and the second is to reinterpret this principle to focus on the *possible* threat of voter fraud. I will further explain and apply these interpretations in the next chapter.

Principle 1.3: Necessary in a Democratic Society

- (a) The expression or information at issue poses a serious threat to a legitimate national security interest
- (b) The restriction imposed is the least restrictive means possible for protecting that interest
- (c) The restriction is compatible with democratic principles

As I stated under Principle 1.2, the legitimate national security issue at hand is protecting our functioning democracy from fraudulent voting, or the *possibility* of fraudulent voting. Part A requires that the threat to this national security interest be serious. Looking at the threat of the *possibility* of fraudulent voting, one can see how this could be interpreted as serious. If there were enough cases of voter fraud in an election, the outcome could be swayed causing our democratic system of voting to fail. The current numbers of fraudulent voting cases may not warrant the label of serious, but some would argue that the voter identification laws in place are keeping these voter fraud numbers low.

Part B requires the restriction to be the least restrictive means possible in order for it to be justified. While the Johannesburg Principles do not give a definition of what it means to be the least restrictive measure possible, courts have implemented a similar test that gives us a better idea of what least restrictive is. The least restrictive means test has been used in court cases when considering the validity of legislation that infringes upon

constitutional interests, such as the right to vote. The least restrictive means test requires a regulation to be framed in such a manner that it provides protection to individual civil liberties (Karst, 1986). In regards to voter identification laws, the regulation or restriction in place should continue to protect an individual's right to vote.

Principle 1.3 is the most important part of the three-part test in regards to my thesis. This final step of the principle is in place to protect individuals from excessive restrictions being placed on their human rights. This principle elaborates on the necessary application of the least restrictive measure possible in order to maintain compatibility with democratic principles (Article 19). The least restrictive means possible could have various definitions when it comes to any restriction, including voter identification laws. One imperative aspect of ensuring that the least restrictive means possible is in place is accounting for every voter... meaning that the voting restriction in place does not impact one group significantly more than another. This is where equitable distribution of the restriction is critical.

Consider the following cases:

Case 1: 90% of people have access to the proper form of identification in a particular state. Of the 10% that do not have access, 90% are African American.

Case 2: 90% of people have access to the proper form of identification in a particular state. Of the 10% who do not have access 30% are African American, 30% are white, 30% are Hispanic, and 10% are other(s).

Case 2 is better than Case 1 because it has an equitable distribution of the restriction. The minority groups mentioned in Case 2 are being specifically accounted for, where they were not in Case 1. In a democracy where every vote is important, it is necessary that the

restrictions on our right to vote do not negatively impact a particular group of people more than others.

In order to ensure equitable distribution within this principle, I am defining the least restrictive means possible as a restriction that is equitable in the distribution of its effects. Therefore, the justification of voter identification laws ultimately rests on the equitable distribution of their effects. In the *Rhetoric*, Aristotle stated, “For that which is equitable seems to be just, and equity is justice that goes beyond the written law.” (McDowell, 1982).

To determine the justification of voter identification laws in the United States, every aspect of voters should be considered. Defining the least restrictive means possible as equitable distribution accomplishes this task. Ensuring equitable distribution of the effects of a restriction allows studies to examine the fairness of a restriction whether it be in regards to race, gender, or age. In regards to this thesis and what is necessary for my research with African American and Hispanic minorities, the least restrictive measurement of equitable distribution resembles this:

If a comparable percentage of African American or Hispanic voters have the correct form of identification as white voters, then the law is justified.

The percentages do not have to be the exact same for the law to be justified, but they should be close. This additional definition of the least restrictive means possible helps safeguard against disproportionately impacting Hispanic and African American voters and will ensure that these minorities will be equally considered when determining the justification of a voter identification law. The wording of this principle can be substituted

to include gender, age, religion, or any number of demographics in order to apply it to other rights.

Chapter V: Application

Now that I have explained what the Johannesburg Principles are, I am going to apply them to voter identification laws. I will start by applying the principles to all 35 voter identification laws across the country. After looking at them simultaneously, I will then apply the principles to one state's law in order to provide a better understanding of how the framework for testing the justification of voter identification laws should work.

National Application

Nationally, 35 states have implemented voter identification laws. In order to consider these laws justified, they must pass each of the three steps of the Johannesburg Principles, including the definition of the least restrictive means possible. I will use national statistics regarding voter identification laws in order to apply the principles to each of the 35 states.

Principle 1.1 states that each law must be set in place through a governing body. Each law must also be clearly worded and easily accessible. The wording of each state's voter identification law is very clear, and they can all be found online with details regarding the acceptable forms of identification. There is a concern that online platforms may not be as accessible to elderly individuals or others who do not have access to the internet, but the same could be said for any other platform such as sending the requirements through the mail. Young voters who do not live at home due to school or other reasons may not receive the requirements. Furthermore, elderly voters who live in nursing homes or assisted living may not have access to a mailbox. There are concerns to be raised about every platform the laws could be displayed on, but no method of dissemination of information is perfect, and online platforms reach a majority of people.

Principle 1.1 also states that the validity of the laws be determined by independent courts. As I previously stated, the Supreme Court's decision to repeal of sections 5 and 4(b) of the Voting Rights Act of 1965 allowed for certain restrictions to be placed on voting, such as voter identification laws. Until these laws are contested in their respective district courts, the 2013 decision of the Supreme Court will have to act as the measurement of validity for this thesis. Furthermore, each of the 35 voter identification laws are set in place through their respective state governments, so they all pass this portion of the Johannesburg Principles.

Principle 1.2 states that each law must be in place to protect against a legitimate security threat, have a genuine purpose, and show demonstrable effects of protecting against this purpose. As I previously mentioned, there are two options for interpreting this principle.

The first option is to focus on the genuine purpose and demonstrable effects. Since there are so few recorded instances of voter fraud in the United States, measuring the effects of voter identification laws is nearly impossible unless every law was repealed for one election cycle. This would help determine whether these laws are preventing voter fraud or not; however, this is a highly unlikely scenario. Another part of the first option is to look at the genuine purpose of these voter identification laws. Many states uphold the stance that the reason for voter identification laws is to protect against the possibility of voter fraud. Nevertheless, many Republican politicians have been known to speak favorably of voter identification laws for political reasons. In 2016, Jim DeMint, former president of the Heritage Foundation and former senator from South Carolina, said conservatives are trying to implement more identification laws because "in the states

where they do have voter-ID laws you've seen, actually, elections begin to change towards more conservative candidates" (Graham, 2016). Don Yelton, a politician from North Carolina, said that "voter ID laws will kick Democrats in the butt" (Kamp, 2016).

Other articles, such as one published by Hilary McDaniel, argue that voter identification laws favor the Republican Party. According to the McDaniel article, the presence of strict voter identification laws decreases voter turnout among strong liberals by 7.9 percentage points but increases strong conservative turnout by 4.8 percentage points (McDaniel, 2017). Several states have made changes to their voting laws in order to curb the effects of democratic voters. These changes are not always publicized. A more recent example of this is in North Carolina. On October 15, 2018, two academics tweeted about the legislative efforts in North Carolina to target non-white voters. Sarah Damaske, an associate professor of labor and employment relations at Penn State University, shared University of Chicago professor Harold Pollak's tweet about the state's voter identification law (Garcia, 2018). The tweet cited a court excerpt from 2016 that said the state explained the justification for taking away one of two days of Sunday voting by stating that "counties with Sunday voting in 2014 were disproportionately black and disproportionately Democratic". Pollack and Damske's tweets reached over twenty thousand individuals on Twitter (Twitter, 2018).

Many of the individuals that are impacted by voter identification laws are notorious for voting for Democratic candidates. The Republican lawmakers implementing these voter identification laws and releasing these statements and quotes are most likely not blind to that fact. The quotes from Republican policymakers are not proof that the Republican party systematically works against minority groups; however,

this is a large part of the conversation surrounding the genuine purpose of voter identification laws and other voting restrictions.

It would seem, based on these quotes and many others like them, that voter identification laws are in place for the wrong reasons. Based on this assumption, these laws are not justified. I could end my exploration on this topic now and deem voter identification laws unjustified based on statements from Republican lawmakers. However, it is premature to dismiss every voter identification law based on comments from a few politicians, so I will give them the benefit of the doubt. For this reason, it is necessary to assume that the voter identification laws in place in the United States are to prevent voter fraud. However, based on the evidence outlined in a previous chapter, instances of voter fraud are few and far between. For this reason, I will be interpreting principle 1.2 as the voter identification laws protecting against a genuine threat to national security which I defined as our democratic process.

As I have said numerous times, the instances of voter fraud are far too slim for it to be considered a current threat. However, the *possibility* of fraudulent votes being cast is a potential threat to our democratic system of voting that states are actively trying to avoid through voter identification laws. By taking the concern and possible threat of voter fraud into account within the principle itself, the process of determining the justification of voter identification laws becomes less controversial and less partisan. I will be conducting the remainder of the thesis on the assumption that each voter identification law is in place to protect against the *possibility* of voter fraud. Since every state's law is in place to protect against this possible threat, each of the 35 states pass this principle as well.

Principle 1.3 requires that the restrictions in place be the least restrictive measure possible in order for the laws to be justified. For the purpose of this thesis, the least intrusive measure possible is providing equitable distribution among African American, Hispanic, and White voters. Since I am applying this principle to each of the 35 laws, it was integral for me to find forms of identification that each of these laws accepted in order to test each state uniformly. Not every state accepts the same forms of identification at the polls, but there are two forms of identification in common among each of the 35 laws: a passport and a driver's license. In order for these voter identification laws to be justified this statement must be true:

If a comparable percentage of African American or Hispanic voters have a driver's license or a passport as white voters, then the law is justified.

The disproportionate impact of voter identification laws on African American and Hispanic peoples will determine whether voter identification laws are justified on the national spectrum.

According to a 2015 survey conducted by Project Vote, a nonprofit organization focused on improving voter turnout, 95% of white Americans, 87% of African Americans, and 90% of Hispanic Americans have a confirmed photo identification (Project Vote, 2015). The study identifies these confirmed forms of identification as a non-expired driver's license, a passport, or some other type of government-recognized identification. The study uses data from the American National Election Studies (ANES) to break these forms of ID down further. According to the data, 91% of white people possess either a passport or a driver's license. In contrast, 73% of African Americans and 83% of Hispanics possess either a driver's license or a passport (Project Vote, 2015).

These statistics show an 18-point difference between White and African Americans, and an 8-point difference between Whites and Hispanics. Another study conducted by the National Equity Atlas breaks down the percentage of households without a vehicle by race in the United States. While these percentages do not directly correlate to the percentages of people who have a driver's license, they do support the statistics provided above. According to their 2015 study, only 6.51% of White households do not have a car, while 19.71% of African American households and 12% of Hispanic households do not have a car (NEA, 2016).

Based on these broad national statistics regarding the ownership of driver's licenses and passports, voter identification laws are not justified. They are not justified because the percentage of African American or Hispanic voters that have a driver's license or passport is not comparable to the percentage of White voters that have a driver's license or passport. This means that voter identification laws are not meeting the least restrictive requirement of ensuring equitable distribution of their affects.

A major concern is that there may be another form of acceptable identification that African American or Hispanic voters may have more of than White voters, which would offset the difference in the percentages highlighted above. If that were the case, then the percentages of the minority voters compared to the white voters would be comparable, thus making the laws justified. Consequently, I explored the next commonly accepted form of identification among the 35 states: military IDs. For the sake of remaining thorough, I researched the percentages of each minority in the military. According to Statista, the distribution of active-duty enlisted women and men in the military is as follows: White Men: 69.6%, White Women: 53%, Black Men: 17%, Black

Women: 29.7%, Hispanic Men: 16.7%, Hispanic Women: 19.5% (Statista, 2020). Active-duty military personnel are automatically issued a military ID. With every individual serving in the military receiving this form of identification, the percentages of African Americans and Hispanics with a military ID do not offset the disparities with the other forms of identification since significantly more white individuals are currently serving.

There is one other large concern to be raised about this conclusion. The national statistics used to reach the conclusion that voter identification laws are not justified do not take into account each individual state's demographics. Each state has different percentages of minorities that reside there. One state may have an equitable distribution of forms of identification among African American, Hispanic, and White voters, which would make the law justified in that particular state. Other states may not have an equitable distribution of forms of identification among these demographics which would account for the disparity in the national statistics used above. It is premature to conclude that every voter identification law in the United States is unjustified because not every law has been tested. For this reason, I will apply the Johannesburg Principles and the additional step to Wisconsin's voter identification law to determine whether it is justified or not. While Wisconsin is one of the 35 states with a voter identification law, and only one of the states within the Strict Photo ID category, the application process will serve as a template for future research to be conducted on other states' laws using this same framework.

State

Principle 1.1 states that each law must be set in place through a governing body, be clearly worded, easily accessible, and deemed valid by an independent court. Using

the same reasons as I did in the section above, Wisconsin's law passes this part of the principle.

Principle 1.2 states that each law must be in place to protect against a legitimate security threat. As I previously stated, the voter identification laws in place throughout the United States are in place to protect against the possibility of voter fraud. Wisconsin's law was put in place to protect against this same threat with the promise that not "a single voter in this state will be disenfranchised by the ID law", a direct quote from state Senator Mary Lazich (CBS, 2017). Since Wisconsin's voter ID law passes both of these principles, we can move on to Principle 1.3.

Before applying Principle 1.3 to the law, it is important to know what types of identifications are accepted in Wisconsin. Voters may use:

- Wisconsin DOT-issued driver's license
- Wisconsin DOT-issued ID card
- Military ID
- US passport
- Certificate of naturalization
- Wisconsin tribal ID card
- Veteran affairs ID card
- Student ID issued by a Wisconsin accredited university that contains the signature of the student, their student address, and an expiration date not later than two years after it was issued (MyVote Wisconsin, 2018)

For previously explained reasons, I will still only be looking at statistics regarding African American and Hispanic minorities. In order for Wisconsin's law to be justified, the following statement, in conjunction with parts 1.1 and 1.2, must be true:

If a comparable percentage of African American or Hispanic voters in Wisconsin have the proper forms of ID as white voters, then the law is justified.

In 2005, John Pawasarat, from the University of Wisconsin-Milwaukee, released a report that provided an analysis of licensed drivers in Wisconsin based on race. This report was released to show the impact of the proposed voter identification legislation on Wisconsinites, a proposal that turned into today's voter ID law in Wisconsin. This study found that minorities are much less likely to have a driver's license (Pawasarat, 2005).

The findings of the study were as follows:

White Men without a valid driver's license: 17%

White Women without a valid driver's license: 17%

African American Men without a valid driver's license: 55%

African American Women without a valid driver's license: 49%

Hispanic Men without a valid driver's license: 46%

Hispanic Women without a valid driver's license: 59%

This shows that 83% of White men and women in Wisconsin have a valid driver's license compared to 45% of African American men and 51% of African American women. Furthermore, only 54% of Hispanic men and 41% of Hispanic women in Wisconsin have a valid driver's license. Based on these numbers, the percentages of African American and Hispanic voters with a valid driver's license are not comparable to the percentages of White voters with a valid driver's license. This study shows the

disparity in the ownership of driver's licenses, but there are other forms of identification acceptable in Wisconsin that need to be addressed as well. It matters whether a voter has either a driver's license, *or* a passport, *or* a student ID, *or* any of the other acceptable forms of identification. The justification of these laws is based on the ownership of any one of the forms of identification needed to vote, not each one individually.

In 2011, *The Atlantic* published an article that looked at the ownership of passports in the U.S. by state. Since this article did not go into detail about the racial makeup of passport owners, we must use a different feature that is correlated with passport ownership. According to *The Atlantic*, there is a correlation between people who own passports and their income. Socio-economic status is correlated with passport ownership in that individuals with a higher income are far more likely to own a passport than those without a significant income (Florida, 2011). According to a study conducted by the Wisconsin Council on Children and Families' Race to Equity Project team, the 2011 unemployment rate for African Americans in Wisconsin was 23% compared to 7% for Whites (WCCF, 2013). Furthermore, 39% of African Americans in Wisconsin fell under the poverty line in 2011 while only 10% of Whites fell below the poverty line. A 2011 study released by the University of Wisconsin Applied Population Laboratory stated that in 2010, 28% of Hispanic Wisconsinites lived under the poverty line (UW, 2011). These statistics give reason to believe that there are more white individuals in Wisconsin earning a higher income than African Americans or Hispanics. Based on this reasoning, it is not unlikely that more white individuals own a passport than non-white individuals in Wisconsin.

In addition to income, the level of education is also a factor in passport holders. Individuals with a bachelor's degree or higher are more likely to own a passport than individuals who have not had a college education (Florida, 2011). The Wisconsin Department of Health Services reported that 20.7% of African American women and 16.4% of African American men in Wisconsin have at least a Bachelor's degree while 33% of White women and 32% of White men have at least a bachelor's degree (DHS, 2018). Similarly, only 13.8% of Hispanics in the state have at least a bachelor's degree (DHS, 2018). There is no definitive data available about the exact number of African Americans and Hispanics in Wisconsin who own a passport. However, these statistics support the notion that white people are more likely to own a passport in Wisconsin than other racial groups.

While driver's licenses and passports are the most commonly owned forms of identification, Wisconsin allows for other forms to be presented at the polls. While there is not much data available regarding the percentage of ownership of these forms of identification across minorities, the statistics that are available are on trend with the other two forms of identification already tested. One of these additional accepted forms of ID is a Veterans Identification Card (VIC). According to the U.S. Department of Veterans Affairs, there are 306,347 white veterans and 29,143 non-white veterans in Wisconsin (VA, 2020). The number of white veterans is exceptionally higher than the number of minority veterans. While there is a possibility that the non-white veterans have an equal percentage of VICs as the white veterans, this still does not account for the different minorities included in the nonwhite category. Although this data does not give exact

numbers of individuals who have a VIC within each minority, the numbers are on trend with previous conclusions.

The previous studies have solely focused on one particular form of acceptable identification, but there was a study in 2017 that looked at all forms of acceptable IDs for Wisconsin. Professor Kenneth Mayer and Ph.D. candidate Michael DeCrescenzo of the University of Wisconsin-Madison conducted a survey in Milwaukee County and Dane County. These counties contain Milwaukee and Madison, the two largest cities in Wisconsin. These cities are also home to the largest minority populations in Wisconsin (Mayer, 2017). According to the Wisconsin Department of Health Services, 39.5% of the state's total Hispanic population and 69.4% of the state's total African American population reside in Milwaukee County (DHS, 2018). There were 229,625 registered voters that did not vote during the 2016 election in these counties. The survey used a sample size of 293, a number that the authors determined was large enough to generate accurate estimates of the overall effect (Mayer, 2017). According to their study, 8.3% of Whites lacked the correct form of ID or mentioned ID as a reason for not voting. In comparison, 27.5% of African Americans lacked the correct form of ID or mentioned ID as a reason for not voting (Mayer, 2017). The margin of error for this particular study is plus or minus six percentage points. Even if you take into account the highest possible margin of error with these statistics, the percentages of African Americans and Hispanics with the correct forms of identification is still less than the percentage of Whites with the correct form. This is an important study because as I stated, the justification of this law is not based on the ownership of each individual form of acceptable identification. This type of survey is the best form of information for this research because it looks at all of the

acceptable forms of identification. Other states do not have this information readily available, so conducting this kind of survey in the other 34 states with voter identification laws is integral to determining their justification.

While each of these studies and sets of data have their own shortcomings, the conclusion of each shows that the percentage of African Americans and Hispanics with the correct form of ID compared to the percentages of Whites with the correct form of ID are not comparable. Even when you take into account the margins of error of each study, the differences in the percentages remain striking. Since there is not an equal percentage of ownership of the correct forms of identification between African American, Hispanic, and White voters in Wisconsin, the law is not justified in this state because it does not meet the equitable distribution requirement of the least restrictive means possible.

Another major objection exists that needs to be addressed with this framework. Principle 1.3 states that in order for a restriction to be justified, it should be the least restrictive means possible. In order to determine what the least restrictive measure is, I defined the equitable distribution of the law as requiring the percentage of African American or Hispanic voters who have the correct form of identification to be equal to the percentage of white voters who have the correct form of identification. While this is a step in the right direction, an important factor continues to be missing. It is unfair to assume that every African American, Hispanic, and White voter in each of the 35 states have the correct form of identification; therefore, it is unfair to base the justification of these laws solely on the percentages of people who do have the correct identifications. The unfairness of assuming or expecting every voter in each state to have the proper form of ID comes from certain unreasonable burdens required in obtaining these certain forms

of identification. I will go into further detail about these unreasonable burdens in the next section. What is important is whether these demographics have comparable access to the correct identifications. Rather than basing the justification of laws on the percentages of African Americans, Hispanics, and Whites who *have* the correct forms of identification we should base the justification on the percentages of these demographics that have *access to* the correct forms of identification.

Access

Throughout this thesis, I have stated that the restrictiveness of voter identification laws relies on whether a person has the correct form of identification or not. Consequently, the least restrictive means possible for these laws to be justified relies on the same percentages of white and minority peoples having the correct form of identification in order to ensure equitable distribution. However, relying on individuals that own the correct form of identification did not account for all of the voting-age people that do not own IDs. While it is important that there be equitable distribution of ownership among minorities, it is more important that there be equitable access to the necessary forms of identification among minorities so no one is excluded.

In a broader sense, you might think that everyone has access to the proper forms of identification. All you have to do is go to the appropriate institution and get the correct state-issued identification. Anyone can get a driver's license or passport or state issued-ID as long as they satisfy the requirements. Individuals must learn to drive and pass the driver's test, or pay the fee to get your photo taken along with the fee of a passport. The test of the justification of these voter identification laws does not come from whether or

not individuals have the correct forms of ID. Instead, the justification comes from whether people can access the proper forms of ID.

Since I have already applied the principles to Wisconsin, I am going to move straight to Principle 1.3. Previously, the least restrictive means possible required this statement to be true:

If a comparable percentage of African American or Hispanic voters have the proper forms of identification as white voters, then the law is justified.

I have explained why this understanding of equitable distribution is not sufficient due to the exclusion of certain peoples who do not have a form of identification. Now, in order for a state's voter identification law to be justified, the following statement must be true:

If a comparable percentage of African American or Hispanic voters have access to the proper forms of identification as white voters, then the law is justified.

The first thing to notice about this notion of access is that it is extremely broad and not very useful. With no parameters, access can be defined in many ways. For example, everyone technically has access to own and use a private jet. All you have to do is acquire enough money to purchase the jet and find a pilot, or go to flight school yourself. Presumably, not everyone who wants a private jet has the money readily available to purchase one. Likewise, not everyone who wants a driver's license has the necessary means to get one. Many things can impact the accessibility of IDs. Forms of identification cost money, they take time to get, and they require you to have the proper documents on hand. For Wisconsin, a driver's license costs anywhere from \$28 to \$34 depending on the class of the license (Wisconsin DOT, 2020). According to the

Wisconsin DMV, you must also provide proof of your name and birth, proof of Wisconsin residency, a Social Security card, and proof of legal status in the U.S. in order to get a driver's license (Wisconsin DMV, 2020). These costs do not take in to account the time it takes to learn how to drive or the time needed to study for the written test. Furthermore, the burden of getting a car to use to take the driver's test is not taken into consideration. Whether someone buys a car, rents a car, or simply borrows a car from a neighbor or friend, the burden is still present.

Similar to driver's licenses, individuals may not have the necessary paperwork or money required to obtain a passport. To receive a passport, individuals must provide a DS-11 form, proof of citizenship, a government-issued photo ID, a color passport photo, and a payment of \$65 (USA.gov, 2020). It is significant to note that the required government-issued photo IDs and color passport photos also cost money. On top of the payments and the documents required, individuals may have to take time off of work to make it to their local DMV, or other facility that provides forms of identification, before they close. These sorts of burdens and additional steps are important factors needed to understand the more restricted sense of access.

Measuring the accessibility of identifications is necessary to determine the justification of voter identification laws. However, there is no working method available to measure the accessibility in a more restricted manner. Rather than providing a definition for access, I will provide examples of limited access in Wisconsin specifically to show that not everyone has equal access to the proper forms of identification. The conclusion of this section regarding the justification of Wisconsin voter identification laws will be less precise than it would be with a working definition or measurement of

access. However, this leaves room for further research and provides the framework for applying the measurement of access within the Johannesburg Principles.

Mrs. Gladys Harris is an African American woman who has lived in Wisconsin for two decades. Mrs. Harris no longer drives since her retirement and relies solely on public transportation and her friends to take her to the doctor, grocery store, and voting booth (CBS, 2017). It was a Tuesday morning when she went to her voting precinct in 2016. Mrs. Harris was turned away and told that she could vote once she returned with a replacement photo identification card, but she only had until Friday to do so. This is a requirement included in the Wisconsin photo ID law; provisional ballots will not be counted unless the voters return with the proper identification no later than 4pm the Friday following the election day (NCSL, 2019). She ended up not voting because she could not find a ride, and the public transportation in her town did not run to the local DMV (CBS, 2017).

Alvin and Margie Mueller, an elderly African American couple in Plymouth, Wisconsin, had a similar experience as Mrs. Harris. In 2016, Margie was told she could not vote with her expired driver's license and that she needed to get a new ID at the DMV which was 15 miles away (CBS, 2017). The Muellers did not make the trip to renew Margie's license because it was too burdensome. Neither of them cast a vote in the election.

While both Mrs. Harris and Mrs. Mueller technically had access to the proper form of identification, there were certain unreasonable burdens they needed to address. These burdens included finding a ride, driving 15 miles out of town, paying for the license renewal, and finding another ride to the polling place all within 3 days so their

provisional ballots would count. Stories like the Mueller's and Mrs. Harris's are not rare for African Americans in Wisconsin. In the study conducted by Professor Mayer from the University of Wisconsin-Madison, the results showed that 21.1% of registrants earning less than \$25,000 a year were estimated to have been deterred from voting compared to 8.7% of those earning between \$25,000 and \$99,000 and 2.7% of registrants making \$100,000 a year or more (Mayer, 2017). Of the 21.1% of those earning \$25,000, only 8% were white, the rest were minority voters (Mayer, 2017). Individuals earning less money are less likely be able to overcome the burdens required to obtain a correct form of identification. The majority of individuals who were turned away from the polls were those making under \$25,000 in Wisconsin. Since 92% of those making less than \$25,000 are minority voters, it is reasonable to assume that minority voters have less access to the proper forms of identification than white voters in Wisconsin.

Many advocates of Wisconsin's voter identification law rely on the fact that voters without a proper form of identification can obtain free state voter-ID cards at many of the local DMVs. However, in Sauk City, about 30 miles north of Wisconsin's state Capitol, the local DMV is only open every fifth Wednesday of every month, or four days in 2016 (Smith, 2018). Even if voters in Sauk City who were turned away from the polls had the time and transportation to obtain a proper license, the chances of their DMV being open are slim.

As you can see, it is extremely difficult to measure the accessibility of forms of identification due to all of the moving parts. Transportation, costs, time, and overall feasibility need to be included when determining how accessible something is. While the

data presented in this section does not give an exact answer to the question of the justification of Wisconsin's voter identification law based on access, it does show a trend.

There are several limitations to the conclusion of the justification of voter identification laws in general. This study in particular only looked at Wisconsin's voter ID law, and there are 34 other states that need to be addressed. One of the major limitations is the lack of data regarding how many people have the correct forms of identification in each of the relevant states, especially in states with voter identification laws within the non-photo identification categories. Furthermore, there is not sufficient data available for how many people have access in the relevant sense to the proper forms of identification in each state. Finally, I did not look at gender or age or other demographics that may be affected by voter identification laws. All of these aspects play in to the overall justification of voter identification laws in the United States. The main goal of this thesis was to provide a new framework for testing the justification of these laws and give an example of how to apply it.

While it is difficult to gauge the justification of voter identification laws due to voters not voting for several reasons, determining the impact of these laws on minorities is integral to determining their justification. Surveying nonvoters in the different states where photo identification laws are in place will give a better estimate of the reasons why voters are not participating in elections. Furthermore, depending on the questions, these surveys could be vital in determining the accessibility of certain forms of identification. This chapter's purpose was to provide a framework that could be used to determine the effects of voter identification laws and ultimately conclude whether they are, or are not, justified. Future research on the topic would need to include independent surveys in each

of the states where voter identification laws are in place to determine the exact scope of the laws before applying the Johannesburg Principles.

Chapter VI: Conclusion

Beginning with the 2013 Supreme Court decision to dismantle the Voting Rights Act of 1965, states began enacting restrictions to the right to vote in the form of voter identification laws. Since then, 35 states have implemented some form of voter identification law whether it be a photo, non-photo, strict, or non-strict version of ID laws. The previous chapters have covered varying aspects of our right to vote and the 35 voter identification laws in place throughout the country.

The question of whether or not there is a necessity for voter identification laws heavily relies on the data surrounding instances of voter fraud. It would seem that voter identification laws would be more acceptable in a state that has many cases of fraudulent voting compared to a state that has no cases of fraudulent voting. However, statistics have shown that cases of voter fraud in the country are extremely rare, making this a weak argument. This leads us to the understanding that instead of protecting states against actual cases of voter fraud, voter identification laws are in place to protect against the possible threat of fraudulent voting. Furthermore, the rhetoric surrounding voter identification laws is often extremely partisan. Advocates of voter identification laws tend to be Republican, while opponents of these laws are often Democrats. Many of the article and studies I referenced throughout this thesis relied on these partisan prejudices to enhance their conclusions.

The goal of this thesis was to provide a framework that could be applied to voter identification laws in order to determine whether or not they are justified while avoiding partisan biases. In order to accomplish this, I used the United Nations' Johannesburg Principles as independent guiding principles. In order to be deemed justified, the voter

identification law in question must pass each portion of the Johannesburg Principles' three-part test. In a condensed version, this test ensures that restrictions placed on a right must be clearly worded, easily accessible, in place to protect against a legitimate threat, have a genuine purpose, and be the least restrictive means possible. If a law can pass each of these requirements, among a few others discussed in previous chapters, then the law is justified.

The most significant part of the Johannesburg Principles in relation to this research is how I defined the least restrictive means possible. In order for restrictions in place through voter identification laws to be considered the least restrictive means possible, the law must ensure equitable distribution of its affects among certain demographics. I focused on African American, Hispanic, and White voters for the purpose of this research, but these demographics could be substituted for other races, gender, or age. To test the equitable distribution of these laws, I required that the percentages of African American and Hispanic voters who had access to the proper form of identification be comparable to the percentage of White voters with access to the proper forms of identification.

I applied the principles to both national and state levels of voter ID laws. On the national level I used broad statistics that encompassed all 35 voter identification laws currently in place in the United States. After testing these laws simultaneously, I chose to test Wisconsin's strict voter identification law. Wisconsin is considered a battleground state in the upcoming election, so there is a great need to ensure fair and equitable voting in the state while also protecting against possible cases of fraudulent voting. After testing Wisconsin's voter identification law, I went one step further in order to account for

individuals who did not have the correct form of identification. For this level of testing, I was looking at the percentages of African Americans, Hispanics, and Whites who had access to the correct form of ID.

After applying these principles to national and state levels of voter identification laws, I was able to come to the conclusion that voter identification laws in the United States are not justified. However, this is a very limited conclusion for several reasons. First, the statistics used to test the justification of these laws on the national level did not account for each state's demographics. One state may have an equitable distribution of forms of identification among African American, Hispanic, and White voters, but some states may not which would account for the disparity of the percentages in the national statistics. Furthermore, it would be premature to deem all voter identification laws in the United States unjustified when not every state was tested.

Another limitation to this conclusion is the lack of necessary data. In order to truly determine the justification of these voter identification laws, one would need exact data regarding the number of individuals in each state that do, or do not, have the proper form of identification. The data would need to encompass each form of acceptable identification in each state since the justification of these laws relies on whether or not an individual has access to any one form of acceptable ID. Furthermore, this information would need to be broken down by race, gender, or age depending on what the research was testing.

Moving forward, the framework proposed in this thesis has the potential to provide detailed analyses of the justification of each voter identification law in the United States. The information provided through this research proposal could, and should, be

used as a template for future assessments of the justification of voter identification laws as well as other restrictions placed on our rights.

Appendix I: Citations

- “2020 POLITICAL SPENDING PROJECTIONS.” Advertising Analytics, 2019.
<https://www.politico.com/f/?id=0000016b-b029-d027-a97f-f6a95aca0000>.
- “African Americans in Wisconsin: Overview.” Wisconsin Department of Health Services, September 10, 2018. <https://www.dhs.wisconsin.gov/minority-health/population/afriamer-pop.htm>.
- Amos, Owen. “Is It True Only 10% of Americans Have Passports?” BBC News. BBC, January 9, 2018. <https://www.bbc.com/news/world-us-canada-42586638>.
- Ansolabhere, Stephen. “Effects of Identification Requirements on Voting: Evidence from the Experiences of Voters on Election Day.” Voter-ID Issues in Politics and Political Science, January 2009.
- Baldwin, Bridgette. Symposium: “Backsliding: The United States Supreme Court, Shelby County v. Holder and the Dismantling of Voting Rights Act of 1965”. 2015.
- “Cutting Early Voting Is Voter Suppression.” American Civil Liberties Union, 2016.
<https://www.aclu.org/issues/voting-rights/cutting-early-voting-voter-suppression>.
- Davis, Julie Hirschfeld. “Trump Picks Voter ID Advocate for Election Fraud Panel.” The New York Times. The New York Times, May 11, 2017.
<https://www.nytimes.com/2017/05/11/us/politics/trump-voter-fraud.html>.
- De Alth, Shelley. “ID at the Polls: Assessing the Impact of Recent State Voter ID Laws on Voter Turnout”, 3 Harv. L. & Pol’y Rev. 185. 2009.
- Ellis, Atiba. “A Price Too High: Efficiencies, Voter Suppression, and the Redefining of Citizenship”, 43 Sw. L. Rev. 549. 2014.

Florida, Richard. "America's Great Passport Divide." The Atlantic. Atlantic Media Company, July 17, 2013.

<https://www.theatlantic.com/national/archive/2011/03/americas-great-passport-divide/72399/>.

Foran, Clare. "Trump Voting Commission Had No Evidence of Widespread Voter Fraud, Former Member Says." CNN. Cable News Network, August 4, 2018.

<https://www.cnn.com/2018/08/03/politics/trump-voter-fraud-commission-evidence-documents/index.html>.

"Getting or Renewing a U.S. Passport." USA Gov. Accessed March 29, 2020.

<https://www.usa.gov/passport>.

Gonyea, Don. "Member Of Disbanded Trump Voter Fraud Commission Speaks Out."

NPR. NPR, August 4, 2018.

<https://www.npr.org/2018/08/04/635668304/member-of-disbanded-trump-voter-fraud-commission-speaks-out>.

Gonzalez, Jessica. "New State Voting Laws: A Barrier to the Latino Vote?" CHCI White Paper, April 2012.

Hajnal, Zoltan, Najeta Lajevarti, and Lindsay Neilson. "Voter Identification Laws and the Suppression of Minority Votes." Chicago Press, October 2017.

Henninger, Pheobe, and Marc Meredith. "Who Votes Without Identification? Using Affidavits from Michigan to Learn About the Potential Impact of Strict Photo Voter Identification Laws*." 2018 Election Sciences, Reform, and Administration Conference, July 13, 2018.

“Hispanic/Latinos in Wisconsin: Overview.” Wisconsin Department of Health Services, September 10, 2018. <https://www.dhs.wisconsin.gov/minority-health/population/hispanlatino-pop.htm>.

Holder, Eric. “Taking Back the Vote.” *The View*. TIME, October 2018.

Hopkins, Dan. “What We Know About Voter ID Laws.” *FiveThirtyEight*.

FiveThirtyEight, August 21, 2018. <https://fivethirtyeight.com/features/what-we-know-about-voter-id-laws/>.

Huemer, Michael. “Is There a Right to Own a Gun?” *Right to Own a Gun*, May 19, 2002.

<http://www.ow1232.net/papers/guncontrol.htm>.

Johnson, Theodore, and Max Feldman. “The New Voter Suppression.” Brennan Center for Justice, March 14, 2020. <https://www.brennancenter.org/our-work/research-reports/new-voter-suppression>.

Kelly, Daniel. “PolitiFact - Georgia's 'Exact Match' Law and the Abrams-Kemp Governor's Election, Explained.” @politifact. Accessed March 29, 2020.

<https://www.politifact.com/article/2018/oct/19/georgias-exact-match-law-and-its-impact-voters-gov/>.

Kilgore, Ed. “Black Turnout Could Make or Break Democrats in 2020.” *Intelligencer*.

Intelligencer, November 15, 2019. <https://nymag.com/intelligencer/2019/11/how-can-democrats-get-the-black-turnout-they-need-in-2020.html>.

KTAR.com. “Arizona Gov. Doug Ducey Signs Early Voting ID Requirement into Law.”

KTAR.com, March 22, 2019. <https://ktar.com/story/2497969/arizona-gov-doug-ducey-signs-early-voting-id-requirement-into-law/>.

“Latinos in Wisconsin - A Statistical Overview.” UW Applied Population Laboratory & University of Wisconsin Extension, March 2014.

“Legal Provisions Relevant to the Electoral College Process.” National Archives and Records Administration. National Archives and Records Administration. Accessed March 29, 2020. <https://www.archives.gov/electoral-college/provisions>.

Mayer, Jane. “The Voter Fraud Myth.” The New Yorker, October 2012.

Mayer, Kenneth, and Michael DeCrescenzo. “Estimating the Effect of Voter ID on Nonvoters in Wisconsin in the 2016 Presidential Election,” September 2017. <https://elections.wisc.edu/wp-content/uploads/sites/483/2018/02/Voter-ID-Study-Supporting-Info.pdf>.

McCarthy, Niall. “The Share Of Americans Holding A Passport Has Increased Dramatically In Recent Years [Infographic].” Forbes. Forbes Magazine, January 11, 2018. <https://www.forbes.com/sites/niallmccarthy/2018/01/11/the-share-of-americans-holding-a-passport-has-increased-dramatically-in-recent-years-infographic/#7a2235a53c16>.

McDowell, Gary. “Equity and the Constitution: The Supreme Court, Equitable Relief, and Public Policy.” Richmond School of Law, 1982.

Medina, Jennifer, and Manny Fernandez. “The Latino Vote: The 'Sleeping Giant' Awakens.” The New York Times. The New York Times, March 3, 2020. <https://www.nytimes.com/2020/03/03/us/politics/latino-voters-california-texas-super-tuesday.html>.

Minnite, Lorraine. “An Analysis of Voter Fraud in The United States.” Securing The Vote. Dēmos, 2003.

Misra, Jordan. "Behind the 2018 U.S. Midterm Election Turnout." The United States Census Bureau, July 16, 2019.

<https://www.census.gov/library/stories/2019/04/behind-2018-united-states-midterm-election-turnout.html>.

"My Next Election." MyVoteWI. Accessed March 29, 2020. <https://myvote.wi.gov/en-us/>.

Nawaz, Amna. "How Restrictive Voting Requirements Target Minorities." PBS. Public Broadcasting Service, October 16, 2018.

<https://www.pbs.org/newshour/show/how-restrictive-voting-requirements-target-minorities>.

"New Voting Restrictions in America." Brennan Center for Justice. Accessed March 29, 2020. <https://www.brennancenter.org/our-work/research-reports/new-voting-restrictions-america>.

Newkirk, Vann. "Voter Suppression Is Warping Democracy." The Atlantic, August 21, 2018. <https://www.theatlantic.com/politics/archive/2018/07/poll-prri-voter-suppression/565355/>.

Pawasarat, Johan. "The Driver License Status of the Voting Age Population in Wisconsin." University of Wisconsin-Milwaukee. Brennan Center for Justice, June 2005. https://www.brennancenter.org/sites/default/files/legacy/d/download_file_50902.pdf

Perez, Vannessa. "AMERICANS WITH PHOTO ID: A Breakdown of Demographic Characteristics." Project Vote, February 2015. <http://www.projectvote.org/wp->

[content/uploads/2015/06/AMERICANS-WITH-PHOTO-ID-Research-Memo-February-2015.pdf](#).

“RACE TO EQUITY: A Baseline Report on the State of Racial Disparities in Dane County.” Race To Equity. WISCONSIN COUNCIL on Children & Families, 2012.

Smith, Cameron. “Voter ID Tied to Lower Wisconsin Turnout; Students, People of Color, Elderly Most Affected.” Milwaukee Journal Sentinel. Milwaukee Journal Sentinel, September 30, 2018.

<https://www.jsonline.com/story/opinion/contributors/2018/09/30/voter-id-tied-lower-wisconsin-turnout/1480862002/>.

“State of Wisconsin DOT.” Wisconsin DMV Official Government Site - Driver license documentation. Accessed March 29, 2020.

<https://wisconsin.gov/Pages/dmv/license-drvs/how-to-apply/documentation.aspx>.

“The Atlas: National Equity Atlas.” The Atlas | National Equity Atlas. Accessed March 29, 2020. https://nationalequityatlas.org/indicators/Car_access.

“U.S. Department of Veterans Affairs, Wisconsin.” State Summaries. National Center for Veterans Analysis and Statistics, n.d.

Uggen, Christopher. “6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016.” The Sentencing Project, October 6, 2016.

<https://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/>.

Ura, Alexa. "Texas Ended Temporary Voting Locations to Curb Abuse. Now Rural and Young Voters Are Losing Access." The Texas Tribune. The Texas Tribune, October 10, 2019. <https://www.texastribune.org/2019/10/10/texas-temporary-voting-access-young-rural-voters/>.

"Voter Fraud Map Page." The Heritage Foundation. Accessed March 29, 2020. <https://www.heritage.org/voterfraud/#choose-a-state>.

"Voting Rights : Articles and Essays : Civil Rights History Project : Digital Collections : Library of Congress." The Library of Congress. Civil Rights History Project. Accessed March 29, 2020. <https://www.loc.gov/collections/civil-rights-history-project/articles-and-essays/voting-rights/>.

Wines, Michael. "Wisconsin Strict ID Law Discouraged Voters, Study Finds." The New York Times. The New York Times, September 26, 2017. <https://www.nytimes.com/2017/09/25/us/wisconsin-voters.html>.

"Wisconsin Voter ID Law Proved Insurmountable for Many Voters." CBS News. CBS Interactive, May 2017. <https://www.cbsnews.com/news/wisconsin-voter-id-law-turned-voters-estimate/>.