

# A MARK OF INTEGRITY: WHETHER PHOTO ID LAWS SAFEGUARD THE ELECTORAL PROCESS

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## Abstract

*In the past two decades, many states have begun to implement stricter photo identification laws. They justify these laws on the premise that no one should have the right to dilute or steal the votes of perfectly eligible voters. Without such safeguards, they reason, the electoral process will lose its legitimacy in the eyes of the American people. This study addresses whether photo identification laws actually have the ability to safeguard the electoral process by examining whether photo ID laws reduce voter fraud, whether they increase public confidence in the electoral process, and whether they have the effect of reducing voter turnout. The study concludes that, due to several weaknesses, voter identification laws have only a limited ability to prevent voter impersonation fraud. As an alternative, states should consider implementing the safeguard of indelible ink, which is immune from many of the weaknesses inherent in photo identification.*

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## Introduction

96-year-old Dorothy Cooper never missed voting in an election for seventy years. The 2011 election marked the first year that she was completely unable to cast a ballot. Her failure to vote was not due to an oversight on her part. Rather, it resulted from Tennessee's new strict photo ID law that required voters to show a valid, current photo ID before casting a ballot in person (Brazile, 2011). Even though she came well in advance with her rent receipt, a copy of her lease, voter registration card, and birth certificate, she could not obtain a new photo ID simply because the name on her birth certificate differed from her current married name and she did not have a marriage license. Consequently, Dorothy's voice in the electoral process was silenced. Because of situations like Dorothy's, many individuals have argued that strict voter photo identification laws are impermissible because they disenfranchise eligible voters (Brazile, 2011).

Conversely, others contend that even though these photo ID laws burden some voters, they are absolutely necessary in order to protect the integrity of our electoral process. Each time someone commits voter fraud, they effectively steal the vote of an eligible voter (von Spakovsky, 2008). Proponents of photo identification laws argue that in order to preserve the legitimacy of elections, some type of proof of identity is necessary. Indeed, the Commission on Federal Election Reform, a landmark committee founded by former President Jimmy Carter and statesman James A. Baker to study electoral reform, concluded, "The electoral system cannot inspire public confidence if no safeguards are put in place to preserve the integrity of the process" ("Photo ID for Voting," 2006, para. 4). Any burden on the electorate is outweighed by the interest of the state in preserving the integrity of the electoral process; an interest that the Supreme Court has considered to be "compelling" (*Purcell v. Gonzalez*, 2006).

In the 2016 election, the longstanding and largely partisan feud over the necessity of photo ID laws only continued to escalate. This debate raises the question of whether strict photo ID laws protect the integrity of the electoral process. To answer this question, this study will test the hypothesis that laws requiring an individual to show photo identification before casting a vote can effectively safeguard electoral integrity. Testing the hypothesis involves examining three indicators of effectiveness: first, the relationship between photo ID laws and impersonation voter fraud, second, voter ID laws' effects on public confidence, and third, whether the laws place a severe burden upon the electorate. Finally, this study will examine whether alternate methods of verification, such as indelible ink, would have equal ability to protect electoral integrity.

## Literature Review

In order to understand whether photo ID laws are necessary, many researchers have conducted studies on the prevalence of the different types of voter fraud. Some researchers found voter fraud to be a significant issue. Apfel (2008) identified multiple different types of voter fraud, including absentee ballot fraud, voter impersonation, vote buying, and voter registration fraud. Richman, Chattha, and Earnest (2014) compiled extensive survey data focusing specifically on the occurrence of non-citizen voter fraud to conclude that a considerable portion of non-citizens voted in 2008 and 2010. New York City's Department of Investigations provided further literature attesting to the frequency of fraud when they sent undercover agents, who pretended to vote under fictitious names, to more than 60 polling places. Their study concluded that impersonation fraud is relatively easy to commit (Fund, 2014).

By contrast, other studies cast doubt on the narrative that voter fraud is pervasive. Minnite (2007) defined voter fraud as knowingly and willingly voting illegally and, based on this definition, conducted a study on the occurrence of fraud. Once she distinguished actual fraud from human error, her study concluded that voter fraud is a minuscule problem (Minnite, 2007). Another researcher concluded that fewer Americans are struck and killed by lightning annually than commit impersonation voter-fraud (Levitt, 2012).

Ultimately, most researchers agree that no comprehensive data on the occurrence of voter fraud exists. Evidence of voter fraud mainly originates from interviews, local newspaper articles, and court proceedings. However, officially compiled reports of voter fraud statistics simply do not exist. The FBI's uniform crime reports do not include voter fraud cases, even though such crimes are technically considered felonies.

A few organizations have attempted to fill this gap, however, with self-compiled databases on fraud. The Heritage Foundation maintains a database on voter fraud that tracks the growing number of recent convictions and currently catalogues over 1,000 proven cases of voter fraud ("A Sampling," n.d.). The Republican National Lawyers Association similarly published a list of voter fraud cases, finding that voter fraud is indeed a widespread problem ("Election Integrity News," n.d.). Arizona State University conducted an in-depth study of fraud rates throughout America from 2000 to 2011 (Carson, 2012). Despite not obtaining results from non-responsive states such as Massachusetts, Oklahoma, South Carolina, and South Dakota, their efforts resulted in one of the most comprehensive databases on fraud in the country. This study provides a unique perspective on the issue by separating occurrences of fraud by state and specific type of fraud.

A sharp divide exists in the literature that examines the effects of photo ID laws on voter turnout and participation. Some studies assert that these laws significantly

inhibit participation, especially among minority voters (Newkirk, 2017). Another study used voting data from the Cooperative Congressional Election Study to determine that strict photo identification laws “skew democracy toward those on the political right” and away from racial and ethnic minorities (Zoltan, Nazita, & Lindsay, 2017, p. 363). Similarly, the Government Accountability Office (GAO) performed a quasi-experimental analysis to measure the effects of voter ID laws on turnout by comparing voter turnout in states that implemented strict photo ID laws, such as Kansas and Tennessee, to similar states that did not implement such laws. They concluded that turnout among eligible voters decreased at a greater rate in states that implemented photo ID laws than in states that did not implement such measures (Government Accountability Office, 2014).

Scholars are also divided on whether photo identification requirements increase turnout by bolstering confidence in the electoral process. Hans von Spakovsky (2015) conducted a study on Texas’ strict photo ID law and came to the conclusion that turnout actually increased during the 2013 state elections. Though it plummeted in 2014, it did so at a lesser rate than it did in the rest of the United States (von Spakovsky, 2015). On the other hand, Mabrey’s study asserted that voter ID laws have no significant effects on overall turnout or on turnout among racial and ethnic minority groups (Mabrey, 2016). Other major studies agree that voter turnout is less related to photo ID laws and more related to other variables, such as the candidate running, the closeness of the race, or the likelihood that a person’s favorite candidate will win (Stewart, Ansolabehere, & Persily, 2016).

Many policymakers justify the passage of photo ID laws due to their ability to increase confidence among the electorate. The Carter-Baker Commission Report, which provides a comprehensive plan for electoral reform, advocated electoral safeguards in order to maintain public faith in the democratic process. The Supreme Court drew upon this reasoning in *Crawford v. Marion County Election Board* (2008), upholding Indiana’s voter ID law partly because the Court believed it would build confidence in elections. Many studies have tested whether photo ID laws indeed have the ability to achieve this goal. One major study conducted by Stanford University examined the effects of voter identification laws on voter confidence, both on a statewide and national level. The study ultimately found that these laws only have a limited effect to this end (Stewart et al., 2016). Another prominent project, conducted by Bowler and Donovan (2016), studied the relationship between voter ID laws and party affiliation. Their findings revealed that voter ID laws’ ability to build confidence depends, in a large part, upon whether the individual is a Republican or Democrat (Bowler & Donovan, 2016).

Further literature has examined potential alternatives to voter ID reforms. Many studies assert that voter registration reform should be at the top of the

legislative agenda, since outdated registration lists currently pose the greatest threat to our electoral integrity. The Pew Center on the States found a disconcertingly large number of dead voters and voters who had moved that were still registered (“Inaccurate,” 2012). Another election expert suggested reforming the registration process in states that allow people to register without first proving their citizenship (Jordan, 2015).

## Data and Methods

This study seeks to measure whether photo identification laws can strengthen a state’s ability to prevent fraudulent voting practices. To do so, this study will use three indicators: first, whether photo identification laws have the ability to prevent impersonation fraud; second, whether photo IDs increase public confidence in the electoral process, and, third, whether their effectiveness is impeded by factors such as decreased voter participation.

This study will rely on databases provided by News21 and The Heritage Foundation to numerically analyze the prevalence of impersonation voter fraud (Carson, 2012; “A Sampling,” n.d.). Additionally, it will rely on survey data to measure the effects that photo ID laws have on voter confidence. Finally, the study will examine whether the states that implemented photo ID laws saw a decrease in public participation.

Finally, for the purposes of this study, electoral integrity is defined as the overall fairness of the electoral process, achieved by an absence of fraud. If a photo ID law has a statistically significant, positive impact on voter fraud and voter confidence, it will be deemed successful. Additionally, of the two main types of voter identification—strict and non-strict—this study focuses on strict photo ID laws, since strict laws place the heaviest burden upon voters and have been the center of the most controversy (Horwitz, 2016).

## Research

### *Background of Photo ID Laws and Voter Fraud*

In the wake of the tumultuous election in 2000, states started increasing precautions to protect the fairness of their elections. Currently, 32 states require some kind of ID in order to vote. The seven states with the strictest laws currently require photo identification. This number has risen from 2012, when only four states had such a requirement (Lee, 2016).

Many different forms of fraud exist, including double voting, voting by dead persons, felon voter fraud, voter suppression, registration fraud, voter impersonation, vote-buying, fraud by election officials, and absentee voter fraud

(Snead & Batista, 2015). Double voting involves the process of voting twice by two different methods or under two different names. For example, in 2008, a resident of Idaho attempted to double vote by casting votes in person in his hometown and then later casting an absentee ballot in a nearby town (Snead & Batista, 2015). Vote bribery was demonstrated when, in a 2003 run-off election, a resident of Mississippi bribed voters with beer and money to cast absentee ballots for a particular candidate. Additionally, the practice of vote-buying occurred in West Virginia when Circuit Clerk Greg Stowers and five other Democrats faced the charge of paying for votes in liquor and cash, as well as performing a number of favors for supporters (Snead & Batista, 2015). In 2007, Georgia faced a conspiracy to commit absentee ballot fraud, which resulted in a change in the electoral outcome (Levy, 2014).

Photo identification laws were specifically designed to prevent in-person voter fraud. Before casting a vote when an individual comes to the polls in person, the voter must present a valid form of identification. This verification process serves two main purposes: first, it verifies that the person is who they claim to be and, second, it confirms that the person’s name matches the name on the registration list. These laws also have the ability to reduce the occurrence of noncitizen voting, as well as to reduce double voting by individuals who are registered to vote in more than one state (von Spakovsky, 2011). However, photo identification laws do not mitigate other types of fraud, such as ballot stuffing, vote buying, absentee ballot fraud, human error, or collusion by poll workers (Levitt, 2012).

*The Effect of Photo ID Laws on Impersonation Fraud*

Available data indicates that strict photo ID laws do not have a statistically significant impact on impersonation fraud. One study that compiled comprehensive data on voter fraud between 2000 and 2011 found just 2,068 cases of election fraud in total (Edge & Holstege, 2016). Only ten of these cases consisted of impersonation fraud (Figure 1).

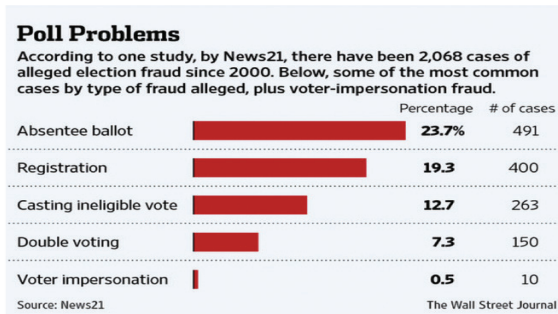


Figure 1. Alleged instances of voter fraud by type (Bialik, 2012b).

These instances occurred in Texas, Colorado, Kansas, New Hampshire, Alabama, and California (Carson, 2012). It should be noted that, aside from Kansas, none of the other six states that currently have strict photo ID laws in place, including Tennessee, Wisconsin, Mississippi, Georgia, Indiana, and Virginia, are included in this list as states that have suffered from impersonation fraud (Lee, 2016). A more recent study of fraud in Arizona, Ohio, Georgia, Texas, and Kansas revealed an increase in allegations of voter impersonation fraud. However, while there were 38 voter fraud prosecutions, not one of them was for voter impersonation (Edge & Holstege, 2016). Indeed, the majority of voter fraud databases clearly revealed that instances of voter impersonation fraud occur infrequently (“A Sampling,” 2016).

Remarks by the Supreme Court and election experts suggest that strict photo ID laws are not always established to stop rampant fraud. When litigating cases surrounding new state voter ID laws, election officials in Wisconsin, Indiana, Georgia, and Pennsylvania testified in court that there were no documented instances of impersonation voter fraud (Minnite, 2014). Similarly, both South Carolina and Texas presented negligible evidence of voter impersonation fraud when their new voter ID laws faced legal challenges (Minnite, 2014). After upholding Indiana’s new voter ID law, the Supreme Court noted in *Crawford v. Marion County Bd. of Elections* (2008), “The record contains no evidence of any [impersonation] fraud actually occurring in Indiana at any time in its history.” Ultimately, due to a lack of documented cases, voter identification laws have not proven to significantly reduce impersonation fraud.

This lack of proof is partly due to the absence of officially compiled national or state statistics on voter fraud rates (Minnite, 2014). Instead, most statistics on voter impersonation fraud come from newspaper articles, anecdotal evidence, and court proceedings. This situation makes a completely accurate assessment of voter fraud’s prevalence almost impossible.

Some researchers argue that the evidence is scant because it is impossible to detect. They contend that, especially if no photo identification law currently is in place, there is no way to identify individuals who double voted or voted in someone else’s place. However, this line of reasoning may be undermined by a 2007 report by the Department of Justice (DOJ), which indicates that election-related offenses may be even easier to detect than other crimes (Donsanto & Simmons, 2007). First of all, the DOJ reasoned, election crimes occur mostly under the public eye and are thus easier to spot. Second, successful election crimes—including fraud—involve multiple individuals, which increases chances of detection. Vote bribery, for example, requires numerous voters, and ballot box stuffing requires collusion by poll workers (Donsanto & Simmons, 2007). The U.S. Election Assistance Commission interviewed over twenty election experts for their 2006 annual report on election

crimes and found that the experts generally agreed that impersonation fraud is “the most likely type of fraud to be discovered” (Election Assistance Commission, 2006, p. 9). This likely arises from the fact that impersonation fraud occurs in front of poll workers who may recognize that the voter is not who he claims to be.

Impersonation fraud also offers no significant benefits yet carries high risks. Voter impersonation is punishable as a felony in many states. For example, in Wisconsin, fraud is considered a felony punishable with a fine of \$10,000 and three and a half years in prison (Poltrock, 2017). Rick Hasen, an election law expert from University of California, Irvine, explained the inherent difficulty of voter impersonation: “You have to know who you’re impersonating at the polls. You have to hope the person at the polling place doesn’t know who you are” (Bialik, 2012a, para. 9). Additionally, any potential benefit of voter impersonation is nearly nonexistent. A single fraudulent vote would scarcely change an election result. Yet, an organized, fraudulent conspiracy would be very difficult to successfully accomplish and greatly increase the likelihood of detection (*Crawford v. Marion County Election Board*, 2008). Casting just one more vote is not worth the risk of imprisonment (*Crawford v. Marion County Election Board*, 2008). One study likened the ease of voter impersonation to “pick-pocketing a cop” (Edge & Holstege, 2016, para. 23). Similar reasoning reduces the likelihood of in-person voting by undocumented persons. The risk of deportation is not worth the minuscule benefit of a single fraudulent vote (Atkinson, 2007).

Conversely, statistics demonstrate that the many other forms of fraud, which voter ID laws cannot address, are far more prevalent. A “rare point of agreement among most election experts [is that] absentee ballot fraud is a far bigger problem than voter-impersonation fraud—about 50 times more common” (Bialik, 2012b, para. 16). This stands to reason, since there are much lower chances of being caught when sending in an absentee ballot. A member of the Carter-Baker Commission argued that, since absentee voting did require a production of photo identification, implementing photo ID requirements could not widely curtail fraudulent practices (Fortier, 2006). The privacy surrounding the absentee ballot increases the possibility of coercion and mishandling by other individuals (Fortier, 2006).

A study by the Pew Research Center revealed that outdated registration lists provide significant opportunity for fraudulent practices in ways that photo identification laws cannot address (“Inaccurate,” 2012). Data gathered from the study reveals that about one out of every eight voter registrations is either inaccurate, out of date, or duplicative. These inaccuracies greatly increase the possibility of individuals registering as multiple people and then proceeding to vote in multiple states, or registering as someone else and then sending in an absentee ballot. The study concluded that approximately 2.75 million people have registered in multiple



states at once, and over 1.8 million dead people remain on the registration rolls (“Inaccurate,” 2012). The registration process is also responsible for many instances of noncitizen voting. California provides driver’s licenses to illegal immigrants (Sanchez, 2016). Combined with the fact that California does nothing to verify citizenship before registering to vote, non-citizens could easily cast a ballot; neither photo identification laws nor indelible ink could stop them (Mass, 2016).

Other states have experienced similar situations. For example, one county in Kansas became aware, when offering voter registration at a naturalization ceremony, that about a dozen new citizens were already registered and had voted in multiple previous elections (von Spakovsky & Fund, 2016).

The ease of obtaining false identification is another factor that would render photo ID laws ineffective. The Document Security Alliance, a public/private partnership dedicated to improving security documents, stated that “getting a fake ID has become as easy as ordering a pair of shoes online” (“Getting a Fake ID,” n.d., para. 1). Various Chinese manufacturers have recently created fake IDs that are nearly impossible to detect. A chief liquor license inspector reported that these IDs have correct holograms and “can pass backlight tests in states that use backlight stamps and are able to get past scanners at bars and restaurants” (“Getting a Fake ID,” n.d., para. 5). Election experts reason that if someone is willing to risk three years in prison and a \$6,000 fine, it is likely that their risk would not significantly increase by showing a fake ID (*Crawford v. Marion County Election Board*, 2008).

Regardless of these limitations and the infrequency of impersonation fraud, many election experts, as well as recent Supreme Court decisions, suggest that even if photo identification laws only had the ability to prevent one instance of voter fraud, they would be worth implementing. Election lawyer J. Christian Adams wrote, “We don’t pass laws against fraud to stop election results from changing. We pass laws against voter fraud because the system must be free from corruption” (Bialik, 2012a, para. 2). The Supreme Court affirmed that states have the responsibility to protect every single vote from being diluted or stolen (*Crawford v. Marion County Election Board*, 2008). Indeed, Colorado’s chief election officer, Wayne Williams, espoused the principle that each instance of voter fraud, no matter how scarce, presents a grave assault on election integrity: “Voter fraud is like bank robbery. It doesn’t happen most of the time, but it’s absolutely critical to take precautions against it” (Lucas, 2017, para. 10). The Supreme Court has agreed with this principle. In the 1984 case of *Munro v. Socialist Workers Party*, the majority held that “[l]egislatures should be permitted to respond to potential deficiencies in the electoral process with foresight rather than reactively.” Because free and fair elections lie at the heart of American democracy, judges and government officials largely agree that states have an interest in stopping voter fraud, regardless of how many documented cases of fraud exist.

### *Voter ID Laws' Effect on Public Confidence in the Electoral Process*

Courts and election leaders also justify the implementation of photo identification laws by their ability to uphold the legitimacy of the democratic process. They argue that even if photo ID requirements did not prevent even one instance of fraud, the regulations still are worth implementing because they increase confidence in the electoral process (Nelson & Niska, 2012). The perception of fraud can be just as damaging to the democratic process as the actual existence of fraud. In *Buckley v. Valeo* (1976), the Supreme Court noted that the appearance of corruption is “of almost equal concern as the danger of actual” corruption. Additionally, the Supreme Court in *Crawford v. Marion County Election Board* (2008) upheld Indiana’s law, SEA 483, because it reasoned that photo IDs have the ability to effectively increase confidence in the electoral process.

This assertion is easily testable. People residing in states that have implemented strict photo ID laws should have an increased confidence in the integrity of the electoral process. However, evidence indicates otherwise. Major studies, conducted from the early 2000s to 2016, have found that photo identification laws only have a limited effect on the public’s perception of fraud, due to the politicized nature of these laws (Stewart et al., 2016). Thus, the ability of these laws to increase confidence in the electoral process is largely based upon party affiliation (Bowler & Donovan, 2016).

National surveys have consistently shown that since states began to implement photo identification laws, the gap between the numbers of Democrats and Republicans that support such laws has increased exponentially. Shortly after the decision in *Crawford v. Marion County Election Board*, a majority of both Democrats and Republicans supported photo ID laws. During this time, support levels stood at 65% for Democrats and 90% for Republicans. In 2012, Democratic support had fallen to 54.4% and, finally, in 2014, to 51.8%. In total, the difference between Republican and Democratic views grew from 25.0 percentage points in 2008 to 39.4 percentage points in 2014 (Stewart et al., 2016).

In addition, opinions on voter fraud, specifically impersonation fraud, are influenced by party affiliation. Republicans are much more likely than Democrats to believe that such fraud is prevalent. During the 2012 election, respondents were presented with a choice of two multiple-choice answers to measure their confidence in the results. The first was a neutral response that affirmed the fairness of the results. The second consisted of the response: “Votes were counted accurately nationwide. The man who actually received the most votes was elected president in a fair election.” To this option, 79.1% of Democrats agreed, whereas only 40.4% of Republicans agreed (Stewart et al., 2016, p. 1471). These responses remain consistent with the increase in Republican belief in voter fraud during 2012, compared to 2008 and 2014

(Stewart et al., 2016). On a nationwide level, this study concluded that no evidence suggests that these laws lead to a significant increase in either party's confidence in the electoral process (Stewart et al., 2016).

Overall, voter confidence depends more heavily upon additional factors. Sances and Stewart (2014) conducted a study that assessed factors affecting voter confidence and concluded that confidence is most closely related to whether a voter's candidate or party won the last election. This theory remains consistent with the evident drop in Republican confidence after Barack Obama won the 2012 Presidential election (Langer, 2010). However, evidence supports the idea that implementation of photo identification requirements may increase Republican confidence in statewide elections. A study measured voters' confidence in their own state elections, comparing states that met the minimum requirements from the Help America Vote Act (HAVA) with strict photo ID states. Republicans residing in states with strict photo ID laws showed substantially more confidence in the legitimacy of their state's elections than those who reside in HAVA-minimum states (Stewart et al., 2016). On the other hand, Democrats who lived in states with strict identification laws were significantly less confident than those in HAVA-minimum states (Stewart et al., 2016). The confidence levels of Democrats were highly conditional upon whether a state employed strict photo ID requirements (Stewart et al., 2016). Thus, although photo identification may increase confidence in statewide elections among Republicans, evidence indicates that photo identification only has a small effect on nationwide confidence in the legitimacy of the electoral process.

### *Photo ID Laws and Voter Participation*

When considering the effectiveness of photo ID laws, states should also assess whether such regulations will reduce voter participation. A law that precluded a large number of voters from exercising the franchise hardly would bolster the democratic process.

All strict identification laws, whether they require a photo ID or a non-photographic ID, make voting more burdensome. These requirements make voters jump through multiple hoops by forcing them to bring the correct form of identification and, where the law is strict, to take further action if they fail to provide that identification (Underhill, 2017). Conservative estimates place the number of registered voters who do not have the forms of identification required by the most restrictive photo ID laws at 1.2% (Levitt, 2012). However, even these conservative estimates translate into a magnitude of more than 2 million registered voters who would be impacted by this law (Levitt, 2012). For some individuals, obtaining an ID may prove especially difficult. Some will find it onerous or even impossible to obtain a birth certificate or other documents necessary to secure a new ID. Many citizens must fulfill these requirements even though they likely do not possess driver's

licenses and may not have access to public transportation systems (“The Fire,” 2016). This burden either increases or decreases depending on individual circumstances and the stringency of state law.

Despite these potential burdens, current data simply does not prove a conclusive causal link between strict photo ID laws and a widespread suppression of votes. Statistically, Latino turnout was 10.3 points lower in certain states with strict photo ID laws between 2008 and 2012 than in states without strict laws (Mock, 2016). However, these numbers could not “definitively show a causal connection between voter ID laws and turnout” (Mock, 2016, para. 8). Indeed, other states, such as North Carolina, saw an increase of minority turnout after implementing strict photo identification laws. Additionally, turnout “soared” during a 2012 primary election in Alabama, despite the adoption of a strict photo identification requirement (“The Fire,” 2016).

This data suggests that a rise and fall of turnout is more closely related to the competitiveness of the race or the individual candidate than to identification laws. Examining turnout in Texas’ individual counties confirms this principle. For example, Tarrant County’s 2014 legislative race was far more competitive than the 2012 race, which caused the 3% uptick in turnout between those years. Similarly, in the heavily Hispanic Hidalgo County, Texas Governor Greg Abbot’s active GOTV measures caused a boost in turnout (“So, is it,” 2014). In the words of *The Economist*, “Demonstrating a single rule’s consequences is tricky; proving why people fail to vote is particularly fraught” (“The Fire,” 2016, para. 8). Photo ID laws certainly have the potential to severely burden some individuals, but they do not result in disenfranchisement on a nationwide scale.

### *An Alternate Option*

The infrequency of impersonation fraud, politicization of the issue, and increased burdens on voting all undermine the effectiveness of photo identification laws. However, no matter how rare impersonation fraud is, research demonstrates that it has occurred and could occur in the future, as well. The importance of protecting every citizen’s vote lends credence to the claim that states should have the option of implementing safeguards to prevent even the possibility of impersonation fraud. Given the weaknesses present in photo identification, the question going forward is whether a better option exists. One answer can be found in a method that the United States has already utilized in developing countries to help assist fledgling democracies: indelible ink (Frezza, 2012). Due to its ability to stop repeat voting, its inability to disenfranchise, and its low cost to the state, indelible ink may provide a viable alternative to states that wish to implement safeguards to protect their election processes.

This method is increasingly utilized in major democracies around the world to prevent double voting. Indian-made indelible ink has been shipped to over 20 countries, including Sierra Leone, East Timor, and Cambodia (Anand, 2014). Before casting a vote at the polling place, poll workers mark the voter's thumb with an inerasable ink mark. Once applied, it indicates that the voter has already cast a ballot, thus preventing them from coming back with the intent of casting a second ballot ("CSIR's Memorable Mark," 2016).

This indelible ink is composed of silver nitrate. When applied to voters' finger, the silver nitrate reacts with the salt on the skin and subsequently forms silver chloride. This new substance remains on the skin and does not wash off because it is not soluble in water ("With the Indian Election," 2014). The marketing manager of Mysore Paints and Varnish Limited, the company that produces the indelible ink used in India, noted that indelible ink is nearly impossible to remove and remains on the voter's finger for as long as a month. Mr. Harakumar revealed, "If the voters try to remove the ink through any chemical concoction they might end up burning their fingers" ("Erase Voting Ink," 2016, para. 3). The company that produces ink is certified by the National Research Development Corporation and produces the substance in conjunction with the Election Commission ("Erase Voting Ink," 2016).

Mexico's indelible ink also has proven to be inerasable. In Mexico, the Federal Electoral Institute and the National School for Biological Sciences at the National Polytech Institute in Mexico City developed an ink designed to remain on the voter's fingers at least three days after its application ("Elections in Mexico," 1994). To determine the effectiveness of this method, the Carter Center sent a delegation to Mexico city to test the true indelibility of the ink. After attempting to remove the ink with chlorine bleach, hydrogen peroxide, alcohol, acetone, saliva, Coca-Cola, urine, baking soda, and various household detergents, the delegation confirmed the veracity of the government's claim that the ink is indelible for three days (Scott, 1994).

Indelible ink has been endorsed by both the United States and by the United Nations. The United States government endorsed this integrity safeguard for Iraq when it had provisional authority there. As one U.S. State Department official noted, indelible ink was a necessary measure to build confidence in the Iraqi electoral process (U.S. Department of State, 2005). Additionally, in his state of the union address, President George W. Bush lauded the advance of democracy in Iraq, specifically pointing to the use of indelible ink in encouraging this democracy ("Transcript," 2006). The Iraqi-run Independent Electoral Commission of Iraq (IECI) also supported increased use of indelible ink in Iraqi elections. In 2013, the IECI sought to establish several anti-fraud measures in hopes of protecting election integrity and increasing voter confidence. To this end, they proposed a number of voting requirements, such as a voter identification requirement and updated voter

lists (Young, 2009). However, in order to specifically prevent double voting, the IECI implemented use of indelible ink. Polling officials carefully inked voters' fingers directly before they cast a ballot. The only allegations of double voting occurred when election officials failed to ink the fingers of a few members of the Iraqi Security Force (Young, 2009).

Indeed, the United Nations Assistance Mission in Afghanistan (UNAMA) considered indelible ink to be a necessary means of protecting the integrity of elections in any democracy. Since Afghanistan's elections suffered from cases of multiple voting, the UNAMA recognized that some mechanism had to be put in place to combat this problem ("Level of Interest," 2009). The organization recognized the fragility of the electoral process and, consequently, the necessity of implementing the best possible reforms so that the election results would be accepted by the people ("Level of Interest," 2009). To this end, the UNAMA put in place several reforms that they asserted are based on international best practices to combat fraud ("Level of Interest," 2009). Among these, one official revealed, "The most important [anti-fraud] mechanism is the use of indelible ink so that a person can only vote once... There are also some other checks that can be put in place as well, but the indelible ink is the most important" ("Level of Interest," 2009, para. 15). As one UN Senior Official noted, the ink is fool-proof, because even if a voter attempts to register under multiple names, the mark of ink will indicate that they may not vote a second time ("Level of Interest," 2009). Use of indelible ink has been included in the election reform policies of numerous other countries as well. One study described it as an "international norm in election administration in emerging democracies [as] virtually all emerging democracies use ink to identify those who have finished the process of casting a ballot" (Ferree, Dowd, Jung, & Gibson, 2013).

It has become so widely utilized by other nations and endorsed by the United Nations precisely because of its great ability to prevent double voting. For example, in Somaliland, the occurrence of multiple voting had become widespread during Somaliland's past three elections. However, when the United States monitored Somaliland's elections through the International Republican Institute, they found that after implementing use of indelible ink, multiple voting had become scarce ("Advancing Democracy," 2005). The IRI attributed this improvement to the use of indelible ink, noting that "the use of indelible ink and ultraviolet lamps kept the majority of potential multiple voters from succeeding" ("Advancing Democracy," 2005, para. 4).

The security of Afghanistan's 2004 elections enjoyed noticeable improvement after the UN and United States implemented indelible ink as one of the main mechanisms to reduce multiple registrations and voting. In fact, registration increased significantly following the implementation of the ink ("UN Mission,"

2004). Indeed, *The Economist* reported that the implementation of indelible ink in the Afghani elections meant that “most of those with multiple registrations should have only been able to vote once” (“A Fair Vote,” 2004, para. 5).

Additionally, election leaders in Mexico noted that, due to the ease of obtaining false identification, indelible ink might prove more verifiable than photo IDs. New technology makes it disconcertingly simple to obtain two credentials under a false name. For example, researcher Meliton Garcia performed an experiment to test the reliability of Mexico’s electoral system. For \$110, Garcia bought an official photo ID card that included his picture and a false identity. Because he also possessed a legitimate voting card, he was able to vote twice (Anderson & Moore, 2000). A hand stamped with the unmistakable mark of indelible ink would make his efforts to vote twice nearly impossible. Election officials at the second polling place would have been able to clearly see that the same person was attempting to vote. For this reason, election experts stated that, out of all of Mexico’s elaborate election reforms, “it may be the ink stain that ultimately provides the most important stamp of credibility” (Scott, 1994, para. 12). Due to its easily verifiable nature, indelible ink is used in countries that have the highest risk of voter-impersonation and vote buying (“Voting Operations,” n.d.).

If states implement visible indelible ink rather than ultraviolet ink, the high visibility of the stain would provide an added deterrent to impersonation fraud. As mentioned before, studies have shown that impersonation fraud is already very risky because of the high level of exposure at the public polling place (Levitt, 2012). A highly visible, permanent ink mark would increase the risk of being spotted. Especially for voters such as illegal aliens, who face the possibility of deportation, this would have a significant chilling effect on fraudulent voting attempts.

This method of identification would cost the state far less than photo IDs. One phial is sufficient for nearly 700 people (Balasubramanyam, 2013). In Mexico’s elections, the government only spent \$200,000 on producing indelible ink. This is out of the \$730 million that Mexico spent on anti-fraud mechanisms in general, such as a computerized electoral roll and photo ID cards with a person’s signature and thumbprint (Scott, 1994).

By contrast, in Wisconsin, the Legislative Fiscal Bureau estimated that providing free identification to everyone would cost over \$2.7 million dollars. Additional costs would include \$2.1 million to cover public education and training in the state (Marshall, 2011). Similarly, Missouri estimated that a new voter ID policy would cost the state over \$20 million over the next three years, and the Institute for Southern Studies estimated that North Carolina would have to spend at least \$14 million to educate the 6 million voters about a new voter ID law over a three year period (Marshall, 2011).

Furthermore, indelible ink places less of a burden on the individual voter.



Rather than placing a burden on citizens to acquire and bring the correct form of identification or drive to a center that issues IDs, the state would directly provide the necessary anti-fraud measure to every voter who comes to the polls to cast a ballot. Ink has been utilized in other democracies precisely because it does not threaten to disenfranchise members of the electorate. One study noted that, in many democracies, most citizens do not possess photo identification (Maltbie, 2010). Consequently, the threat of multiple voting fraud looms over any election. However, election officials recognize that attempts to place stringent photo identification requirements on voters would surely disenfranchise large portions of the population (Ferree et al., 2013). For example, in some middle-eastern countries, such as Iraq, where women traditionally have not had the chance to exercise the right to vote, indelible ink has proven to be an effective method of preventing double-voting, while allowing wide access to the polls because this ink is effective and non-intrusive (Maltbie, 2010). Its reliability and cost-efficiency to the state and the individual voter may make it one of the best ways to avoid the double vote (Scott, 1994).

Indelible ink may also be able to bolster public confidence in the electoral process. In the past, indelible ink has served to place a stamp of legitimacy on the voting process and encourage civic pride. In many countries that use indelible ink, citizens boldly wear the mark as a reflection of the fact that they had a meaningful chance to express their voices in the electoral process (Woolf, 2014). It serves as both a celebration of the ability to cast a vote and a reminder that the process ensures integrity. When used for the first time in Iraq's 2005 elections, voters proudly displayed their inked fingers as an expression of freedom. One Iraqi citizen joyfully explained, "I'm very happy to show everybody my finger...I wish it could stay there for years and years" (Wilgoren, 2005, para. 29). The ACE Electoral Knowledge Network, an organization devoted to improving electoral integrity throughout the world, noted that indelible ink creates a "strong image of integrity control to the public for acceptance of election validity" ("Voting Operations," n.d., para. 41). Indeed, when utilized by other countries, the public has lauded indelible ink as a symbol of democracy's success, prompting the UNDP to consider it the "most powerful symbol of the General Elections" ("UNDP Provided Indelible Ink," 2015, para. 5). According to the UNDP, the ink's ability to drastically reduce the risks of multiple voting instilled confidence in the public and made the ink a symbol of democracy ("UNDP Provided Indelible Ink," 2015). Similarly, an Indian spokesperson for a major Indian ink production company noted that the ink "signifies the power of the electorate in deciding the fortunes of contestants" ("Mysore Ink," 2009, para. 5).

These past successes indicate that indelible ink has the potential to instill similar confidence and civic pride in the American electorate. More than 50% of American citizens support implementing safeguards to prevent against fraud, as a



recent Rasmussen poll revealed (“Most Still Support Requiring Photo ID,” 2016). On the other hand, indelible ink provides a non-partisan solution that would incite no concerns of disenfranchisement or disproportionate impact. Instead, it has the potential of serving as the ultimate “I voted” stamp, signifying the “precious right” of expressing one’s voice in the electoral process (*Wesberry v. Sanders*, 1964). This combination of strengths makes ink a viable means of increasing public confidence in the electoral process.

Some contended that any identification system should have the capability of preventing against illegal alien voting, ensuring that people do not vote in place of dead voters and ensuring that a person does not vote in place of someone who is registered in two states (von Spakovsky, 2011). However, research has demonstrated that the ease of obtaining false photo identification (“Getting a Fake ID,” 2014) undermines the ability of photo identification to combat this problem. The registration system, in some states, demonstrates that photo identification may also fail to prevent against noncitizen voting. In California, illegal aliens can both register to vote and obtain a valid driver’s license without proving their citizenship (Jordan, 2015). In this case, even the strictest photo ID law would not prevent illegal immigrants from casting a vote.

## Conclusion

The importance of protecting every citizen’s vote cannot be overstated. For this reason, states should have the ability to implement safeguards to prevent against all types of fraudulent practices, no matter how frequently they occur. Even protecting against the least common form of fraud can significantly contribute to the protection of election integrity.

However, while photo identification laws present one method of accomplishing this goal, their many weaknesses should lead states to question whether a superior option exists. To this end, indelible ink presents a strong alternative. Its easily verifiable nature could ensure that no voter has the opportunity to cast a double ballot. Further, the fact that it presents a non-partisan reform would increase its chances of building public confidence in the electoral process. Finally, its burden on the state, rather than on the individual voter, will increase the accessibility of voting.

There is merit to the claim that neither voter identification laws, nor indelible ink, have the ability to prevent against every type of fraudulent practices. Much like photo identification, indelible ink cannot solve every election-related problem. However, even the Supreme Court once noted that election reforms need not address every flaw in the process because the government is incapable of addressing problems in “one fell regulatory swoop” (*Williamson v. Lee Optical of Oklahoma Inc.*, 1995).

States should consider utilizing indelible ink to address important aspects of electoral integrity. Implementing indelible ink would provide a practical and reliable way for states to guard against the double vote. Indeed, the ink's unique strengths have the potential to increase confidence in the electoral process, while helping states ensure that every individual has a meaningful chance to exercise the "most precious right" in a democratic society (*Wesberry v. Sanders*, 1964).

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