

**“Jim Crow 2.0?”:**

**Do Voter ID Laws Harm American Democracy?**

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## **Abstract**

Half a century after the end of the Jim Crow era, racial minority citizens in the United States still face many struggles in realizing the ideal of “one person, one vote.” After *Shelby County, Alabama v. Holder* (2013) invalidated §4(b) and §5 of the Voting Rights Act, an increasing number of states created or considered legislation that increases barriers to voter registration and voting, with the effect of suppressing minority voters. Among the controversial issues related to voting costs, voter ID laws are most commonly debated and judicially blocked because they determine who can and cannot cast a ballot, which could potentially undermine the fundamental principle of democracy. This study assesses the actual effect of voter ID laws (beyond the theoretical basis) on minority voters both at the national and state levels. I conducted analyses in multiple ways utilizing two data sources: federal government voter turnout reports and the Cooperative Congressional Election Study (2016 and 2018). In general, this study provides mixed results that support both sides of the existing debates in regard to the effect of voter ID laws. After all, it is premature to discern the influence of voter ID laws on minority groups.

## **Keywords**

Voting Rights Act, *Shelby County v. Holder*, Voter ID Laws, Quantitative Analysis

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## 1. Introduction

The most fundamental principle of democracy is granting individuals the right to elect officials to represent their interests. The U.S. was the first country to establish a representative democracy, and it has served as a model for many countries in regard to developing their governments. However, a number of states, especially in the South, did not extend civil rights or liberties to racial and ethnic minorities until the end of the Civil Rights Movement. The Voting Rights Act of 1965 (VRA) ended the system of mass disenfranchisement that had excluded southern Blacks from registering and voting.<sup>1</sup> It has since been one of the most successful laws in American history and has played a significant role in allowing minority citizens to obtain fairer and more effective representation.

In the 21st century, however, it is said that the U.S. has entered a second Jim Crow era, and that mass racial discrimination in elections is observed all over the country.<sup>2</sup> *Shelby County Alabama v. Holder* (2013; *Shelby* hereafter) is said to have initiated the second era because it invalidated a powerful VRA provision, making it easier for state officials to make voting harder.<sup>3</sup> Through the “Black Lives Matter” movement, Black Americans have highlighted the discrimination and suppression they face in the society. In his eulogy for the late John Lewis, a civil rights icon, former President Obama mentioned the controversial electoral systems and remarked the following:

*“... once the Supreme Court weakened the Voting Rights Act<sup>4</sup>, some state legislatures unleashed a flood of laws designed specifically to make voting harder, especially, by the way, state legislatures where there is a lot of minority turnout and population*

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<sup>1</sup> Daniel P Tokaji, *Election Law in a Nutshell* (97 St. Paul, MN: West Academic Publishing, 2017).

<sup>2</sup> Theodore R Johnson., and Max Feldman. “The New Voter Suppression,” *Brennan Center for Justice*, January 16, 2020. <https://www.brennancenter.org/our-work/research-reports/new-voter-suppression>

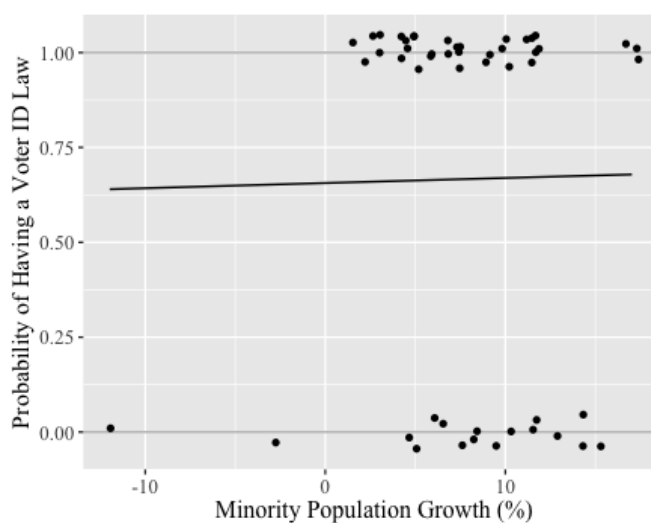
<sup>3</sup> Keith Gunnar Bentele and Erin E O'Brien, "Jim Crow 2.0?: Why States Consider and Adopt Restrictive Voter Access Policies" (2013). *Sociology Faculty Publication Series*. 11. [https://scholarworks.umb.edu/sociology\\_faculty\\_pubs/11](https://scholarworks.umb.edu/sociology_faculty_pubs/11)

<sup>4</sup> Obama was referring to *Shelby County, Alabama v. Holder* (2013).

*growth. That's not necessarily a mystery or an accident. It was an attack on what John fought for. It was an attack on our democratic freedoms. And we should treat it as such.*"<sup>5</sup>

Barack Obama stated that *Shelby* weakened the VRA and has, subsequently, threatened the country's democracy. However, it is possible that this argument is not supported by the data. Figure 1 displays the results of a logistic regression analysis, and it shows the probability of having a voter ID law based on minority population growth between 2000 and 2018 in each state. In contrast to Obama's statement, the results do not suggest that the probability of having a voter ID law increases when a state's minority population increases.

This study focuses on voter ID laws and political participation and demonstrates whether and how *Shelby*'s decision has influenced on American democracy.



**Figure 1. Minority Population Growth (2000 – 2018) and Voter ID Laws**

Source: Author's own graphic based on U.S. Census Bureau data<sup>6</sup>

<sup>5</sup> CNN, "READ: Barack Obama's Full Eulogy of John Lewis," *CNN Politics*, July 31, 2020, <https://edition.cnn.com/2020/07/30/politics/barack-obama-john-lewis-eulogy-full-transcript/index.html>

<sup>6</sup> "Voting and Registration Tables," United States Census Bureau, accessed June 24, 2020, <https://www.census.gov/topics/public-sector/voting/data/tables.html>.

## 2. Background

Considering the history of voter suppression in the U.S., Congress issued the VRA as a novel way to protect minority citizens' right to vote. Section 4(b) speaks to a "Coverage Formula," and Section 5 includes information on "Preclearance."<sup>7</sup> Section 5 required the jurisdictions covered in Section 4 to submit any changes in their voting systems to either the U.S. Attorney General or the U.S. District Court in Washington D.C. for permission to enact them.<sup>8</sup> The jurisdictions covered in Section 4(b) were the states, counties, or districts that had previously hindered racial minorities from registering/voting and/or had historically low registration/participation rates.<sup>9</sup> Subsequently, changes in voting systems and rules that had discriminatory intentions or potentially discriminatory effects on racial minorities were scrutinized and blocked. Therefore, the jurisdictions included in VRA gradually experienced much higher Black voter turnout rates.<sup>10</sup>

In 2013, however, the U.S. Supreme Court (SCOTUS) ruled in *Shelby* that Section 4(b) of the VRA was unconstitutional.<sup>11</sup> This decision simultaneously invalidated Section 5 of the VRA.<sup>12</sup> Section 5 was originally intended to be enacted for five years but was expanded and reauthorized four times, allowing it to remain in effect for nearly 50 years until was overturned in *Shelby*.<sup>13</sup> This decision meant that, though there had been achievements made by the Civil Rights Movement, racially motivated voter suppression continued at the state level.<sup>14</sup> However, SCOTUS concluded that the coverage formula in Section 4(b) of the VRA was obsolete since it was written decades ago, and it argued that the relevant jurisdictions had even better

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<sup>7</sup> Tokaji, *Election Law in a Nutshell*, 98–100.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*, 111–113.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*, 110–111.

<sup>14</sup> Charles S. Bullock, Ronald K. Gaddie, and Justin J. Wert, *The Rise and Fall of the Voting Rights Act* (Norman, OK: University of Oklahoma Press, 2016), 161–167.

representation for Black voters in comparison to jurisdictions that were not covered in the original VRA.<sup>15</sup>

Now that one of the most powerful provisions of the VRA is no longer in effect, and given that the previously covered jurisdictions are not subject to federal government supervision, state officials can change their related legislation. A number of states have implemented troublesome laws, such as introducing felony disenfranchisement<sup>16</sup>, drawing bizarrely shaped district maps (i.e., “gerrymandering”<sup>17</sup>), and creating stricter voting procedures such as voter ID requirements<sup>18</sup> or other administrative changes. This movement has been referred to as “new vote denial”<sup>19</sup> or “Jim Crow 2.0”<sup>20</sup> because the changes are highly related to race, especially to Black and Latinos.

Some political scientists claim that these issues are a result of the *Shelby* decision. For instance, Stephanopoulos (2013) argued that Section 5 may have barred such changes and that the only provision that may possibly strike them down is Section 2 (the essential redeclaration of the 15<sup>th</sup> Amendment to the U.S. Constitution). However, Stephanopoulos explained that Section 2 claims can be applied only after the changes are enacted,<sup>21</sup> and argues that the gap between Sections 2 and 5 will eventually lead to negative effects on minority citizens.

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<sup>15</sup> *Shelby County, Alabama v. Holder, Attorney General*, 570 U. S. \_\_\_\_ (2013)

<sup>16</sup> Jeff Manza and Christopher Uggen, “Punishment and Democracy: Disenfranchisement of Nonincarcerated Felons in the United States.” *Perspectives on Politics* 2, no. 3 (September 2004): 491–505. <https://doi.org/10.1017/S1537592704040290>.

<sup>17</sup> Charles S. Bullock, *Redistricting: The Most Political Activity in America*. Lanham, MD: Rowman & Littlefield, 2010.; Engstrom, Erik J. *Partisan Gerrymandering and the Construction of American Democracy*. Ann Arbor, MI: University of Michigan Press, 2016.

<sup>18</sup> *Crawford v. Marion County Election Board.*, 553 U.S. 181, (2018); *Veasy v. Abbott*, 796 F.3d 487, (5th Cir. 2015)

<sup>19</sup> Daniel P. Tokaji, “The New Vote Denial: Where Election Reform Meets the Voting Rights Act,” *South Carolina Law Review* 57, no. 4 (2006): 692.

<sup>20</sup> Carol Anderson, *One Person, No Vote: How Voter Suppression is Destroying our Democracy* (New York, NY: Bloomsbury Publishing, 2018).

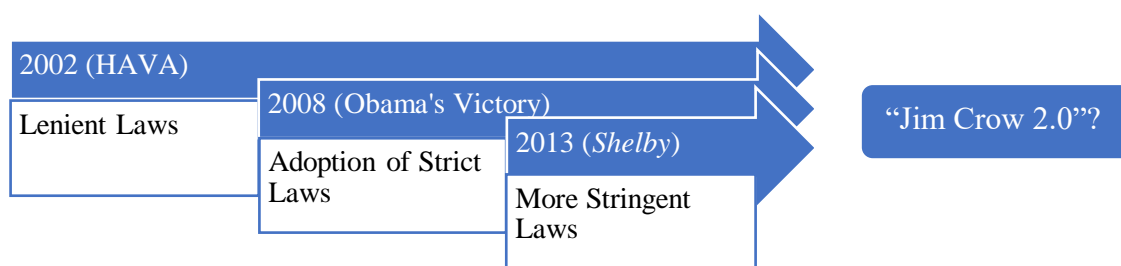
<sup>21</sup> Nicholas O. Stephanopoulos, “The South After Shelby County,” *The Supreme Court Review* 57 (2013): 127.; Sydnee Fielkow, “Shelby County and Local Governments: A Case Study of Local Texas Governments Diluting Minority Votes,” *Northwestern Journal of Law and Social Policy* 14, no. 3 (Spring 2019): 349.



Many consider the VRA to be the most successful civil rights law in American history,<sup>22</sup> and connected that Section 5 was one of the most powerful shields for minority voters. Subsequently, there has been a consensus that the *Shelby* decision undermines the massive civil rights effort to guarantee the rights protected by the 15<sup>th</sup> Amendment and the VRA, leading to the argument that *Shelby* may trigger retrogressive effects on voting history.<sup>23</sup>

### 3. The Impacts of *Shelby County v. Holder* (2013)

The Help America Vote Act (HAVA) was passed after the *Bush v. Gore* (2000) decision, leading to a number of states adopting voter ID laws to prevent voter fraud.<sup>24</sup> However, after Barack Obama became the country’s first Black president, certain states started to adopt strict voter ID laws to suppress racial minorities.<sup>25</sup> Subsequently, *Shelby* facilitated and accelerated the adoption of more stringent election laws.<sup>26</sup> Figure 2 shows the premise of this paper, which is that these important events, especially *Shelby*, led to the “Jim Crow 2.0” era.



**Figure 2. Critical Events and Voter ID Law Implementations**

<sup>22</sup> Melissa J Marschall and Amanda Rutherford, “Voting Rights for Whom? Examining the Effects of the Voting Rights Act on Latino Political Incorporation,” *American Journal of Political Science* 60, no. 3 (July 2016): 591, <https://doi.org/10.1111/ajps.12182>.

<sup>23</sup> Jon Greenbaum, Alan Martinson, and Sonia Gill, “Shelby County v. Holder: When the Rational Becomes Irrational,” *Howard Law Journal* 57, no. 3 (2014): 859–67.

<sup>24</sup> Tokaji, *Election Law in a Nutshell*, 186–187.

<sup>25</sup> Tracey Brieger, “Jim Crow 2.0: Modern Voter Suppression and Threats to Voting Rights,” *Oakland Rising*, December 9, 2016, <https://www.oaklandrising.org/es/blog/jim-crow-20-modern-voter-suppression-and-threats-voting-rights>.

<sup>26</sup> *Ibid.*

After the *Shelby* decision in 2013, Alabama, Florida, Mississippi, North Carolina, Texas, and Virginia all passed or implemented laws that require citizens to present a photo ID when registering to vote.<sup>27</sup> In Texas, even though the attorney general dismissed a state bill that attempted to change the voter ID requirement in 2013, the bill was later put into effect immediately after the *Shelby* decision removed the “preclearance” requirement.<sup>28</sup> Likewise, North Carolina enacted HB589, which comprised stricter voting protocol, such as stricter photo ID requirements, polling place closures, and limited voting windows.<sup>29</sup>

Section 5 gave the federal government substantial authority over state legislation.<sup>30</sup> While Section 2 is ex post facto, the Section 5 “preclearance” requirement was ex-ante, which means that it allowed the federal government to prevent state officials from suppressing the voting rights of minorities. Furthermore, Section 5 was quite efficient and effective because it was much easier than going to the courts in terms of cost, time, and above all, the probability of winning.<sup>31</sup> As a result of *Shelby*, however, minority citizens and voting rights advocates lost their most powerful voting protection and have to rely on case-by-case litigation.<sup>32</sup>

In the “new vote denial” or “Jim Crow 2.0” era, the voter ID laws are controversial and have been widely debated for the last decade. The number of strict new laws requiring photo IDs to both register and vote has significantly increased since 2008 (see Figure 3). In 2016, 80% of Americans supported voter ID requirements; however, there is a partisan gap, as 63% of Democrats and 95% of Republicans support them.<sup>33</sup> On the other hand, proponents of these

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<sup>27</sup> Brennan Center for Justice. “The Effects of *Shelby County v. Holder*.” *Brennan Center for Justice*, August 6, 2018, <https://www.brennancenter.org/analysis/effects-shelby-county-v-holder>; Stephanopoulos, “The South After *Shelby*,” 60.

<sup>28</sup> Tomas Lopez. “‘*Shelby County*’: One Year Later.” *Brennan Center for Justice*, June 24, 2014, <https://www.brennancenter.org/our-work/research-reports/shelby-county-one-year-later>.

<sup>29</sup> Brennan Center for Justice. “The Effects of *Shelby County v. Holder*.”

<sup>30</sup> Tokaji, *Election Law in a Nutshell*, 108–110.

<sup>31</sup> Stephanopoulos, “The South After *Shelby*,” 58.

<sup>32</sup> Sudeep Paul, “The Voting Rights Act’s Fight to Stay Rational: *Shelby County v. Holder*.” *Duke Journal of Constitutional Law & Public Policy Sidebar* 8 (April 2013): 271–98.

<sup>33</sup> Justin Mccarthy, “Four in Five Americans Support Voter ID Laws, Early Voting,” *Gallup*, August 22, 2016, <https://news.gallup.com/poll/194741/four-five-americans-support-voter-laws-early-voting.aspx>.

laws (mostly Republicans) argue that such laws are necessary to prevent voter fraud. On the other hand, opponents (mostly Democrats) argue that such laws will reduce voter participation, especially among racial minorities, the lower-income class, college students, and the elderly.<sup>34</sup>

A 2006 Brennan Center for Justice survey found that 11% of U.S. citizens (21 million individuals) do not have a government-issued photo ID.<sup>35</sup> Specifically, 18% of American citizens aged 65 and above, 25% of Black citizens of voting age, and 15% of citizens earning less than \$35,000 per year do not have a valid government-issued photo ID, while only 8% of whites.<sup>36</sup> Further, even though the majority of Republicans perceive voter fraud to be a major problem, it is actually rare. Levitt (2014) summarized that since 2000 there were only 31 credible allegations of voter impersonation (which is the only type of fraud that the photo ID requirement could prevent) out of more than 1 billion ballots cast.<sup>37</sup> In other words, when the focus is on balancing electoral integrity and access,<sup>38</sup> the electoral integrity in question might not be an issue in contrast to the Republican argument. That is, most Republican-enacted voting restrictions intend to suppress the voter turnout of groups that typically vote for Democrats, such as ethnic minorities, documented immigrants, and poor citizens.<sup>39</sup> While these intentions are evident, the effects of these strict voter ID laws are less clear.

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<sup>34</sup> Tokaji, *Election Law in a Nutshell*, 165.

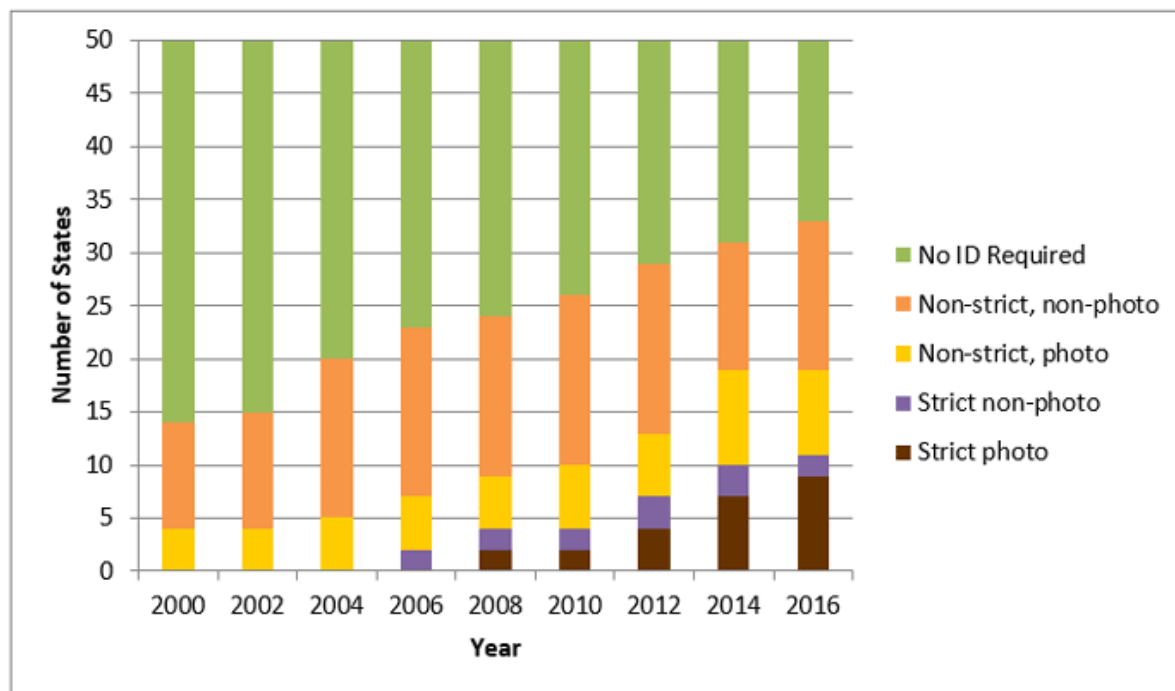
<sup>35</sup> Brennan Center for Justice, "Citizens without Proof: A Survey of Americans' Possessions of Documentary Proof of Citizenship and Photo Identification," *Brennan Center for Justice*, November 28, 2006, [https://www.brennancenter.org/sites/default/files/2020-09/download\\_file\\_39242.pdf](https://www.brennancenter.org/sites/default/files/2020-09/download_file_39242.pdf).

<sup>36</sup> *Ibid.*

<sup>37</sup> Justin Levitt, "A Comprehensive Investigation of Voter Impersonation Finds 31 Credible Incidents Out of One Billion Ballots Cast," *Washington Post*, August 6, 2014, <https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/>; American Civil Liberties Union, "Fact Sheet on Voter ID Laws," *American Civil Liberties Union*, May 2017, [https://www.aclu.org/sites/default/files/field\\_document/aclu\\_voter\\_id\\_fact\\_sheet\\_-\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/aclu_voter_id_fact_sheet_-_final.pdf).

<sup>38</sup> Stephen Ansolabehere, "Effects of Identification Requirements on Voting: Evidence from the Experiences of Voters on Election Day," *PS: Political Science and Politics* 42, no. 1 (January 2009): 127–30, <https://doi.org/10.1017/s1049096509090313>.

<sup>39</sup> Terry Gross, "Republican Voter Suppression Efforts Are Targeting Minorities, Journalist Says," *NPR*, October 23, 2018, <https://www.npr.org/2018/10/23/659784277/republican-voter-suppression-efforts-are-targeting-minorities-journalist-says>.



**Figure 3. The Number of States that Enacted Voter ID Laws Between 2000 and 2016**

Source: Voter ID History. National Conference of State Legislatures. (2017).<sup>40</sup>

#### 4. Literature Review

Although voter ID laws are relatively new, there have already been studies conducted to investigate whether or not voter ID requirements have a negative influence on American democracy and minority citizens. First, there have been controversies over electoral integrity versus access.<sup>41</sup> Proponents of voter ID laws argue that they are necessary to protect electoral integrity, i.e., to have secure and fair elections.<sup>42</sup> On the other hand, opponents claim that it is a manipulation of direct and indirect voting costs to dissuade certain types of American voters

<sup>40</sup> “Voter ID History,” National Conference of State Legislatures, accessed November 20, 2019, <http://www.ncsl.org/research/elections-and-campaigns/voter-id-history.aspx>.

<sup>41</sup> Ansolabehere 2009, 129.; Stephen Ansolabehere, “Access versus Integrity in Voter Identification Requirements,” *New York University Annual Survey of American Law* 63, no. 4 (2008): 613.; Russell Weaver, “Can Voter Identification Laws Increase Electoral Participation in the United States? Probably Not—A Simple Model of the Voting Market,” *SAGE Open* 5, no. 2 (April 2015): 1–10.

<sup>42</sup> Kris W. Kobach, “Why Opponents are Destined to Lose the Debate on Photo ID and Proof Citizenship Laws: Simply Put – People Want Secure and Fair Elections,” *Syracuse Law Review* 62, no. 1 (January 2012): 1–14.

from electoral participation,<sup>43</sup> and they argued that increasing the voting cost ultimately decreases overall turnout in the U.S.

Second, in the context of these laws influencing specific voters, the mainstream arguments put forth is that voter ID laws disproportionately prevent certain voters from casting a ballot.<sup>44</sup> Hajnal et al. (2017) analyzed strict voter ID laws with the Cooperative Congressional Election Study (CCES) (2006 - 2014) and found that they have a disproportionately negative effect on Blacks, Latinos, Asian Americans, and multi-racial Americans.<sup>45</sup> Barreto et al. (2009) measured access to IDs using six combined datasets: surveys in Wisconsin, Indiana, Pennsylvania, and Texas, the 2008 Collaborative Multiracial Post-Election Survey (CMPS), and the 2012 American National Election Study (ANES).<sup>46</sup> They provided evidence of racial disparities in access to obtaining the type of identification cards needed for voting, and they found that these disparities persist even after controlling for important covariates such as education and income.<sup>47</sup>

On the other hand, Rocha and Matsubayashi (2014) found that the implementation of voter ID regulations does not negatively affect individual turnout across racial and ethnic groups.<sup>48</sup> However, given that these scholars used data from 1980 to 2011, it is necessary to update their study using post-*Shelby* data. Regardless, their analyses based on outdated data are not an appropriate counterevidence against today's "Jim Crow 2.0" context. Moreover, the

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<sup>43</sup> Weaver, "Voter Identification Laws," 9–10.

<sup>44</sup> *Ibid.*; Jaime Fuller, "How has Voting Changed Since Shelby County v. Holder?" *The Washington Post*, July 8, 2014, <https://www.washingtonpost.com/news/the-fix/wp/2014/07/07/how-has-voting-changed-since-shelby-county-v-holder/>.

<sup>45</sup> Zoltan Hajnal, Nazita Lajevardi, and Lindsay Nielson, "Voter Identification Laws and the Suppression of Minority Votes," *The Journal of Politics* 79, no. 2 (April 2017): 368–77.; Zoltan Hajnal, John Kuk, and Nazita Lajevardi, "We All Agree: Strict Voter ID Laws Disproportionately Burden Minorities," *The Journal of Politics* 80, no. 3 (July 2018): 1052–9.

<sup>46</sup> Matt A. Barreto, Stephen Nuño, Gabriel R. Sanchez, and Hannah L. Walker, "The Racial Implications of Voter Identification Laws in America," *American Politics Research* 47, no. 2 (March 2019): 238–49, <https://doi.org/10.1177/1532673X18810012>.

<sup>47</sup> *Ibid.*; Matt A. Barreto, Stephen A. Nuño, and Gabriel R. Sanchez, "Voter ID Requirements and the Disenfranchisements of Latino, Black and Asian Voters." Paper presented at 2007 American Political Science Association Annual Conference, September 1, 2007, <https://doi.org/10.1002/polq.12868>.

<sup>48</sup> Rene R. Rocha and Tetsuya Matsubayashi, "The Politics of Race and Voter ID Laws in the States: The Return of Jim Crow?" *Political Research Quarterly* 67, no. 3 (September 2014): 666–79.

scholars only categorized states according to whether or not they required/requested an ID (photo or non-photo) and did not consider the strictness of the laws. Besides, they examined the effects of the voter ID laws based on individual self-reported data on voting. This is problematic as self-reported turnout is much higher than actual or validated turnout.<sup>49</sup>

Hersh and Ansolabehere (2017) provided evidence of a clear racial disparity in regard to voting rights. Specifically, they found that 3.6% of registered white voters had no match in any state or federal ID database, while 7.5% of Black registered voters were missing from those databases.<sup>50</sup> However, they also show that voter ID laws affect a relatively small percentage of the population. For example, 4.5% of all registered voters in Texas lack proper ID, but this number drops to 1.5% for registered voters who actually showed up at the polls in 2012.<sup>51</sup> Furthermore, Gibson (2020) analyzed voter turnout to assess the effect of removing of “preclearance” requirement in North Carolina and claimed that there is little evidence of significant amount of “backsliding” (of democracy) occurring in the state.<sup>52</sup>

To summarize, a number of scholars have asserted that voter ID requirements have a negative effect on racial minorities (i.e., “Jim Crow 2.0” or “mass racial disenfranchisement”), while others doubt that their actual effect is evident. As of yet, no study has considered all of the categories and burdens of voter ID laws in combination with the actual effects both at the national and state levels. Therefore, the present study uses both survey data and federal government voter turnout reports to analyze these issues.

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<sup>49</sup> Hajnal, Lajevardi, and Nielson, “Voter Identification Laws,” 365.

<sup>50</sup> Issie Lapowsky, “A Dead-Simple Algorithm Reveals the True Toll of Voter ID Laws,” *WIRED*, April 1, 2018, <https://www.wired.com/story/voter-id-law-algorithm/>; Stephen Ansolabehere and Eitan D. Hersh, “ADGN: An Algorithm for Record Linkage Using Address, Date of Birth, Gender, and Name,” *Statistics and Public Policy* 4, no. 1 (2017): 8–10, <https://doi.org/10.1080/2330443X.2017.1389620>.

<sup>51</sup> *Ibid.*

<sup>52</sup> Nadine Suzanne Gibson, “Moving Forward or Backsliding: A Causal Inference Analysis of the Effects of the Shelby Decision in North Carolina,” *American Politics Research* 48, no. 5 (September 2020): 649–62, <https://doi.org/10.1177/1532673X20915235>.

## 5. Hypothesis, Research Method, and Data

The objective of this study is to identify whether voter ID regulations have negative effects on minority voters in practice (beyond a theoretical basis). First (see section 6.1), it is necessary to determine whether voter ID laws decrease electoral participation, and if so, which laws have the strongest effects (if any).

*Hypothesis 1: States with voter ID laws will have lower voter turnouts than states without any requirements. The higher cost of voter ID laws will be associated with lower voter turnouts in each state.*

To test the first hypothesis, I conducted multiple regression analyses to assess whether the cost of the voter ID laws influences the total turnout in each state (34 states with voter ID laws). Second (see section 6.2), I observed the shifts in turnout before and after the enforcement of voter ID laws in each state. If voter ID laws lead to “massive racial disenfranchisement,” the results will indicate that minority voter turnout decreased significantly after the laws were implemented.

*Hypothesis 2: If voter ID laws have a negative effect on minority voters, I expect to observe substantial reductions in turnout exclusively for minority groups after such laws were enacted.*

Third (see section 6.3), I conducted simple linear regression analyses to observe the influence of voter ID laws on racial minority voters more closely. Specifically, I examined whether each racial group’s turnout is associated with the cost of voter ID laws in the 34 states with such laws.

*Hypothesis 3: If voter ID laws have a negative effect on minority voters, the level of strictness of such laws will be associated with voter turnout for racial minorities.*

Last (see section 6.4), using the 2016 and 2018 CCES, I evaluated whether voter ID laws have disproportionately discriminative impacts on racial minorities at polling places using cross tabulations and Chi-square tests.

*Hypothesis 4: If voter ID laws have a negative effect on minority voters, those who were denied casting a ballot at the polling places will be disproportionately racial minorities.*

In this study, the voter ID laws are classified along two dimensions (strict versus non-strict, photo required vs. photo not required), resulting in four categories. In this context, “strict” means that voters without acceptable identification must vote on a provisional ballot and need to take additional steps after Election Day for their vote to be counted. On the other hand, “non-strict” means that at least some voters lacking acceptable identification can cast a ballot that will be counted without further action on the part of the voter.<sup>53</sup> “Photo ID” refers to an identification that includes a photo, such as a driver’s license, state-issued ID card, military card, or other forms of ID. “Non-photo ID” refers to official documents that include the individual’s name and address but do not include photo, such as bank statements or other official documents.<sup>54</sup> The categorization depends on whether a state requires/requests for an individual to prove their identity and legitimacy to vote with a photo or, alternatively, using only proof of residency.<sup>55</sup> Table 1 shows the list of identifications accepted under the four types of voter ID laws. This table also presents the cost of each type of voter ID law included in this study. The “cost” or “burden” of each voter ID is not equivalent to the actual cost imposed on an individual; instead, the cost refers to the law’s strictness in comparison to laws with “no requirement.”

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<sup>53</sup> “Voter Identification Requirements, Voter ID Laws,” National Conference of State Legislatures, accessed September 19, 2020, <https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

<sup>54</sup> *Ibid.*

<sup>55</sup> Ansolabehere, "Effects of Identification Requirements on Voting," 127–30.



**Table 1. Four Types of Voter ID Laws: Accepted Identifications and Procedures**

Strict Photo ID (Cost = 5)	<ul style="list-style-type: none"> <li>- U.S. Passport</li> <li>- State driver's license</li> <li>- ID card issued by the state or the federal government</li> <li>- Military ID</li> <li>- Student ID (some states with stringent voter ID laws do not allow this form of ID)</li> </ul>
Strict Non-Photo ID (Cost = 4)	<p>Current and valid photo ID (same as "strict photo ID")</p> <p>If not available, the individual must provide:</p> <ul style="list-style-type: none"> <li>- Current utility bill</li> <li>- Current bank statement</li> <li>- Current paycheck, check, or document issued by a federal, state, or local government</li> </ul>
Non-Strict Photo ID (Cost = 3)	<p>Identification with photo (same as "strict photo ID")</p> <p>If an individual either does not have or does not bring an ID at the polls, voters can</p> <ul style="list-style-type: none"> <li>- sign an affidavit of affirmation</li> <li>- cast a provisional ballot</li> </ul>
Non-Strict Non-Photo ID (Cost = 2)	<p>Identification without photo</p> <p>If an individual either does not have or does not bring an ID at the polls, they can:</p> <ul style="list-style-type: none"> <li>- sign an affidavit of affirmation</li> <li>- cast a provisional ballot</li> </ul>

Source: The author, using information from the National Conference of State Legislatures website<sup>56</sup>

Of the country's 50 states and Washington D.C., 34 states implemented laws between 2000 and 2018 that require or request even already-registered voters to present identification. Table 2 presents information on these states, which is categorized by type of voter ID law.

This study utilized two data sources. First, I collected data from the U.S. Census Bureau website, which breaks down voting and registration data by race for each state.<sup>57</sup> Specifically, the U.S. Census Bureau provides biannual data on the percentage of Hispanic, Black, and white individuals who voted or registered to vote (of all U.S. citizens of legal age),<sup>58</sup> and I used voter

<sup>56</sup> National Conference of State Legislatures, "Voter Identification Requirements."

<sup>57</sup> United States Census Bureau, "Voting and Registration Tables."

<sup>58</sup> For the 1996 and 1998 elections, the registration and turnout rates are based on the total population aged 18 and older.

turnout data between 1996 and 2018 for general elections. Second, I utilized the 2016 and 2018 CCES, which I obtained from the Harvard Dataverse.<sup>59</sup>

**Table 2. List of States with Voter ID Laws as of 2020**

Strict Photo	Strict Non-Photo	Non-Strict Photo	Non-Strict Non-Photo
Georgia ('08) Indiana ('08) Kansas ('11) Mississippi ('18) Tennessee ('11) Virginia ('12, '13) Wisconsin ('15)	Arizona ('04) North Dakota ('03, '13, '15, '17) Ohio ('06)	Alabama ('03, '14) Arkansas ('13, '17) Idaho ('10) Michigan ('07) Rhode Island ('12, '14) South Carolina ('11) South Dakota ('03) Texas ('13, '17)  Florida <sup>60</sup> ('98) Louisiana ('97) North Carolina <sup>61</sup> ('13)	Alaska ('81/ '14) Colorado ('03) Connecticut ('83/ '08) Missouri ('02) Montana ('03) New Hampshire ('12) Oklahoma ('10, '13) Utah ('09) Washington ('05) West Virginia ('18)  Delaware <sup>62</sup> ('96) Hawaii ('78) Kentucky <sup>63</sup> ('88) Iowa <sup>64</sup> ('19)

Source: The author, using data from the National Conference of State Legislatures website<sup>65</sup> and Ballotpedia.<sup>66</sup>

Note: The years in parentheses indicate which year the state enacted the law. For the states that amended the laws twice or more and, subsequently, moved to a different category, the underlines show the year the state created/amended the law in that category.

<sup>59</sup> Ansolabehere, Stephen and Brian F. Schaffner. *CCES Common Content, 2016*, V4 (August 2017), Harvard Dataverse, <https://doi.org/10.7910/DVN/GDF6Z0/RK0ONG>.; Schaffner, Brian, Stephen Ansolabehere, and Sam Luks. *CCES Common Content, 2018*, V6 (August 2019), Harvard Dataverse, <https://doi.org/10.7910/DVN/ZSBZ7K>.

<sup>60</sup> Florida and Louisiana have such laws; however, since they enacted the laws before 2000, therefore, they are not included in the analysis.

<sup>61</sup> North Carolina passed a strict photo ID law but the court blocked it based on its discriminatory intent. In 2019, the state passed legislation that delays the implementation of their new voter ID provisions until 2020.

<sup>62</sup> Delaware and Hawaii have such laws; however, they are excluded from the analysis since they were enacted before 2000.

<sup>63</sup> Kentucky passed a strict photo ID law in 2020, but this is included in the "Non-strict non-photo ID" group for the analysis.

<sup>64</sup> Iowa issued a non-strict, non-photo ID requirement, but it was excluded from the analysis because it took effect in 2019.

<sup>65</sup> National Conference of State Legislatures, "Voter Identification Requirements."

<sup>66</sup> "Voter Identification Laws by State," Ballotpedia, accessed November 20, 2020, [https://ballotpedia.org/Voter\\_identification\\_laws\\_by\\_state](https://ballotpedia.org/Voter_identification_laws_by_state).

## 6. Analysis

### 6.1. Test 1: Overall Influence on Voter Turnout

This section closely examines the general elections that took place in 2016 and 2018 to determine whether voter ID laws influence overall turnout, using U.S. Census Bureau data. Specifically, I explore data on all 50 states to identify whether voter ID laws (as well as types of voter ID laws) affect overall turnout. Since electoral participation is the foundation of democracy, if such laws did negatively affect turnout, this would provide an evidence of democratic “backsliding.”<sup>67</sup>

Table 3 displays the results from the multiple regression analysis, and Figure 4 illustrates the coefficients of each variable in graphic form. The results from the multiple regression analysis indicate that white, male, and female have statistically significant positive effects, however, being a racial minority, age, and especially voter ID law burdens did not have statistically significant effects on total turnout in 2016. In the 2018 election, being male had a small but statistically significant positive impact on turnout. “Generation 1 (age 18-24),” “generation 2 (age 25-34),” “generation 3 (age 35-44),” and “generation 4 (age 45-64)” have very small but statistically significant positive impacts on turnout, while “generation 5 (age 65+)” had a very slight but statistically significant negative effect on turnout. To summarize, despite the arguments provided above, voter ID law costs did not have direct impacts on total turnout.

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<sup>67</sup> Gibson, “Moving Forward or Backsliding,” 1–14.

**Variables:**

DV: Total turnout for each state (2016, 2018)

IV (1-3): Race (White, Black, and Hispanic)

IV (4-5): Gender (Male and Female)

IV (6-10): Age (Generation 1: 18-24, Generation 2: 25-34, Generation 3: 35-44,  
Generation 4: 45-64, Generation 5: 65+)

IV (11): Cost of voter ID law (see Table 1)

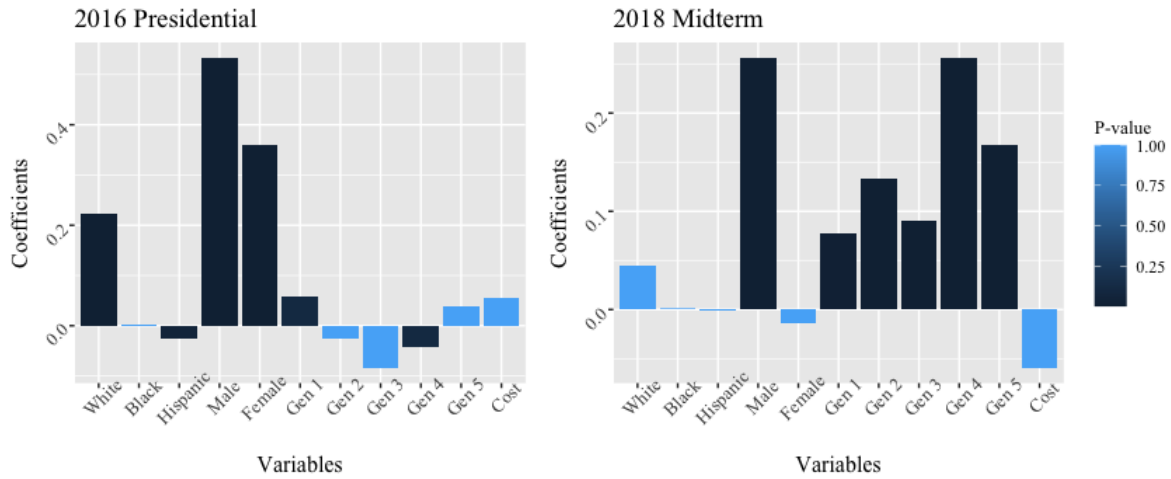
**Formula:**

Total Turnout for State (Y) =  $b_0 + b_1 \times (\text{White}) + b_2 \times (\text{Black}) + b_3 \times (\text{Hispanic})$   
 $+ b_4 \times (\text{Male}) + b_5 \times (\text{Female}) + b_6 \times (\text{Generation 1}) + b_7 \times (\text{Gen 2}) + b_8 \times (\text{Gen 3})$   
 $+ b_9 \times (\text{Gen 4}) + b_{10} \times (\text{Gen 5}) + b_{11} \times (\text{Cost})$

**Table 3. The Effects of Race, Gender, Age, and Voter ID Laws on Total Turnout**

	<b>2016 Presidential Election</b>	<b>2018 Midterm Election</b>
White	.22158*** (.0515)	.04485 (.0677)
Black	.00124 (.0091)	.00091 (.0090)
Hispanic	-.02566* (.0106)	-.00043 (.0122)
Male	.53296*** (.1090)	.25588*** (.0635)
Female	.36111*** (.0924)	-.01381 (.0588)
Gen 1	.05848 (.0299)	.07697** (.0259)
Gen 2	-.02474 (.0390)	.13256*** (.0290)
Gen 3	-.08328 (.0415)	.09069*** (.0234)
Gen 4	-.04233 (.0731)	.25600*** (.0323)
Gen 5	.03843 (.0448)	.16736*** (.0323)
Cost	.05617 (.0736)	-.05903 (.0746)

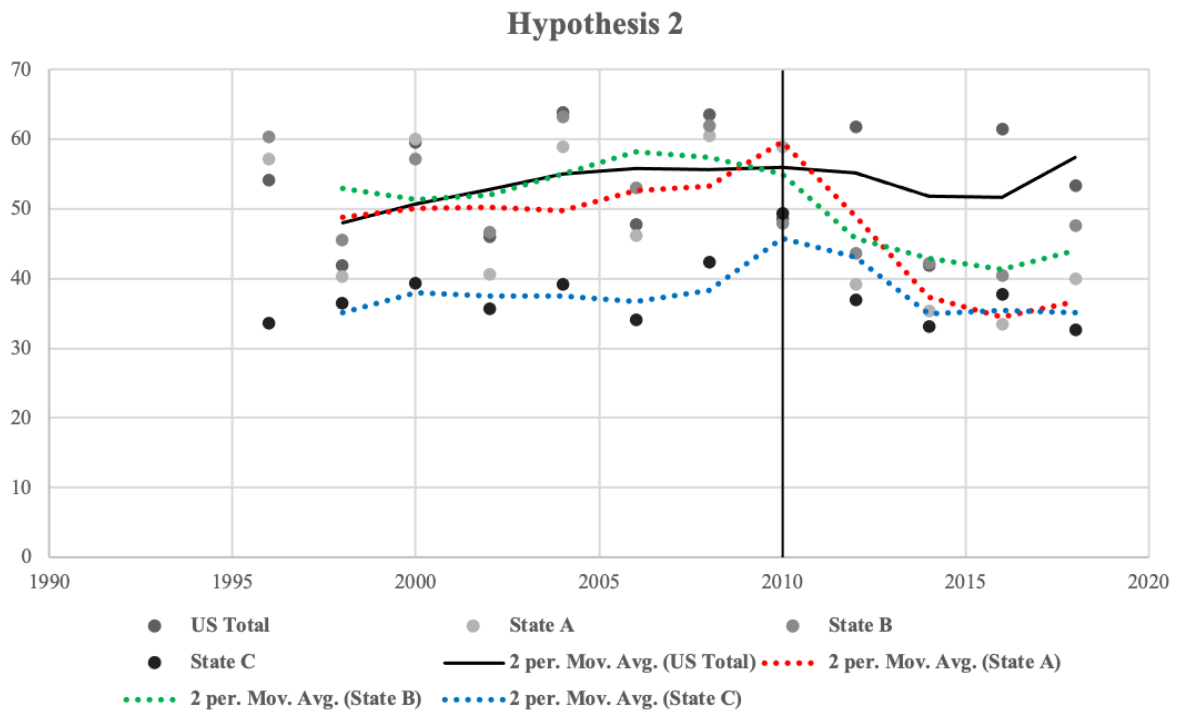
Note: The regression coefficients are reported, and the standard errors are included in parentheses below the coefficients. \*\*\*p < 0.001, \*\*p < 0.01, \*p < 0.05.



**Figure 4. The Effects of Race, Gender, Age, and Voter ID Laws on Total Turnout**

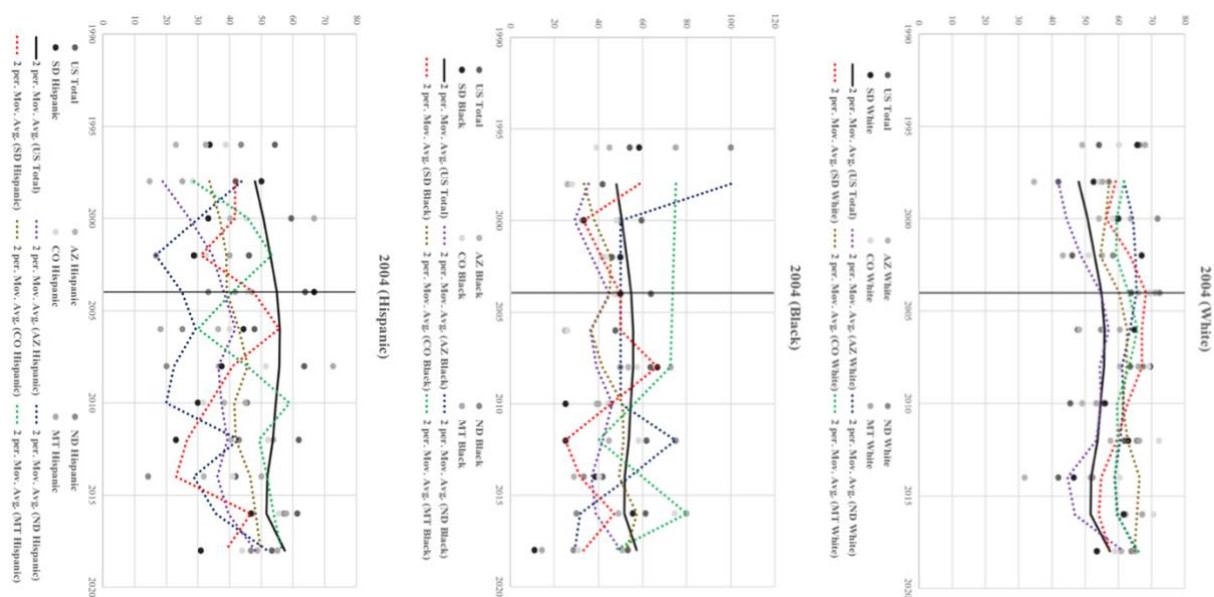
### 6.2. Test 2: The Effect of Voter ID Laws on Turnout for Each Racial Group

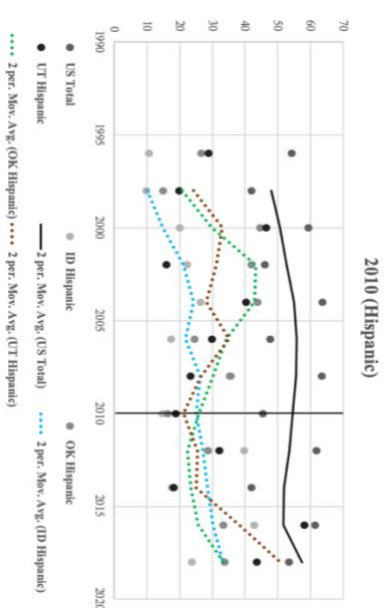
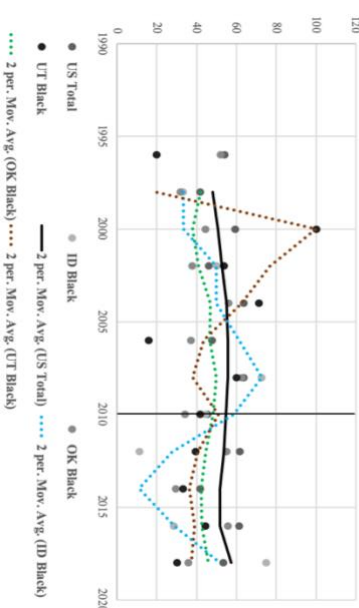
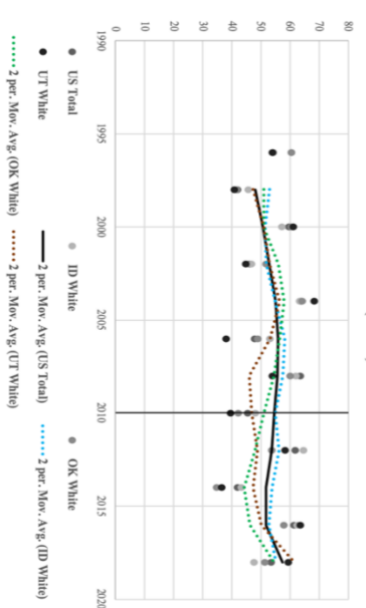
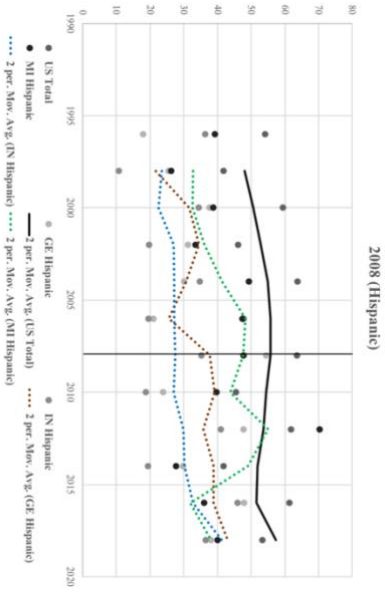
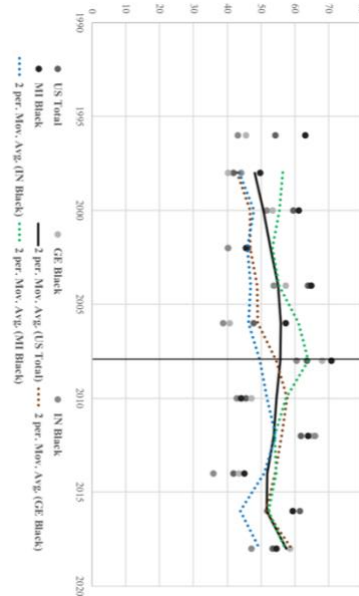
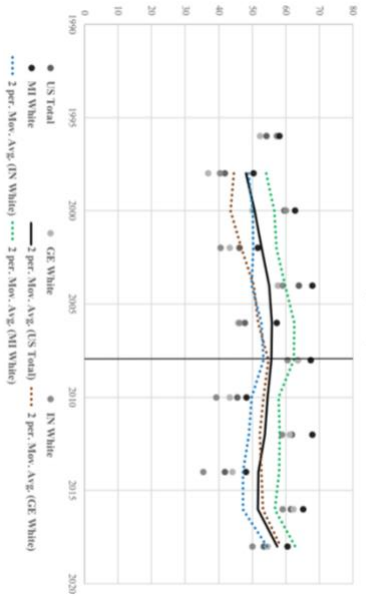
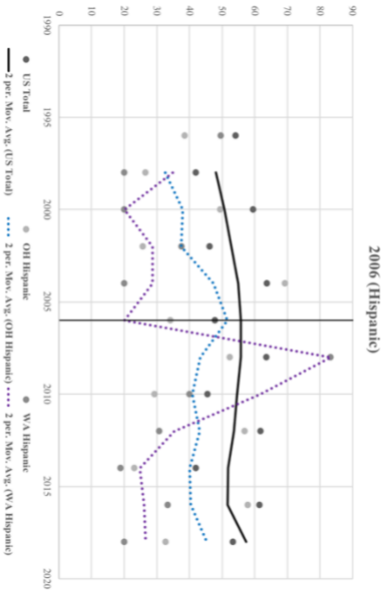
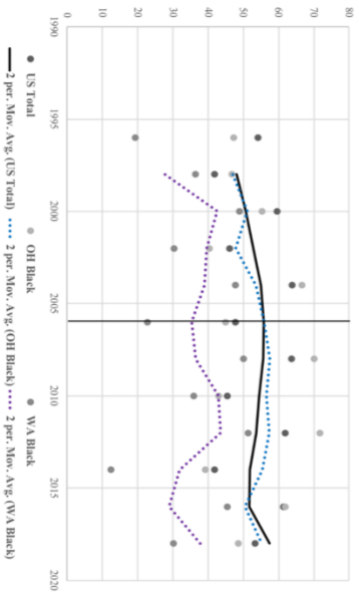
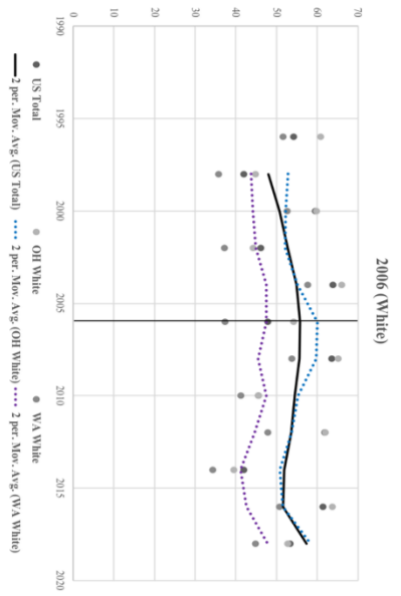
Figure 5 displays the expected hypothesis; in this hypothetical situation, three states (A, B, and C) enforce a voter ID law in 2010, and the voter turnout in all three states declined in a 2012 (hypothetical) election. If the hypothesis is correct, the turnout shifts for Black and Hispanic voters will be close to Figure 5, yet, the actual results turned different.

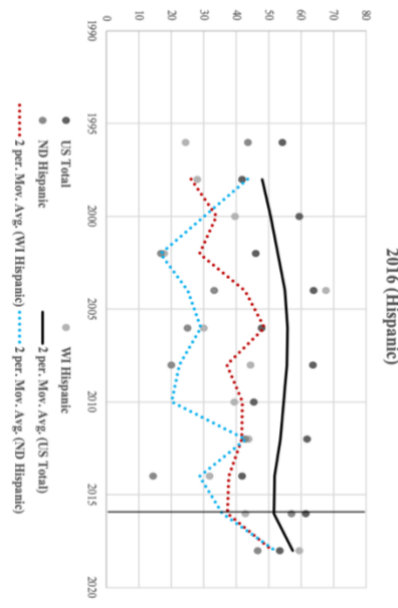
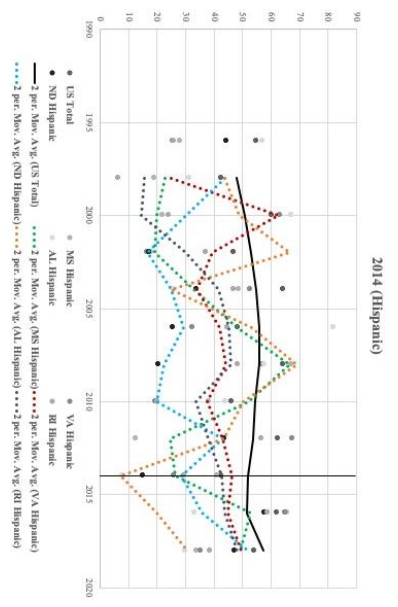
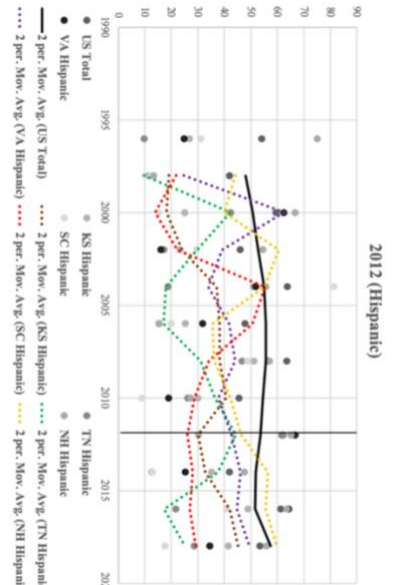
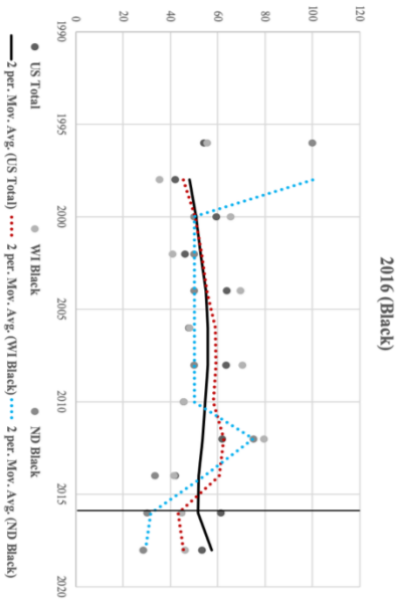
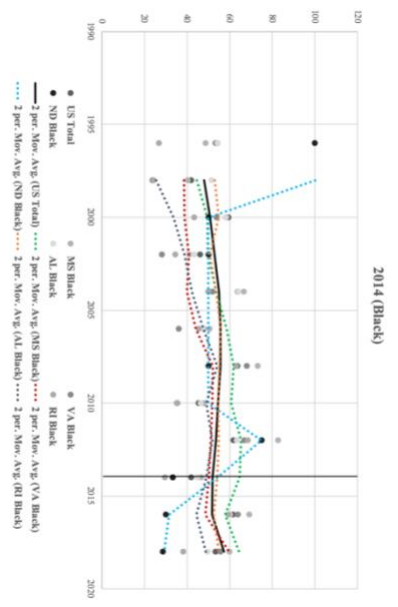
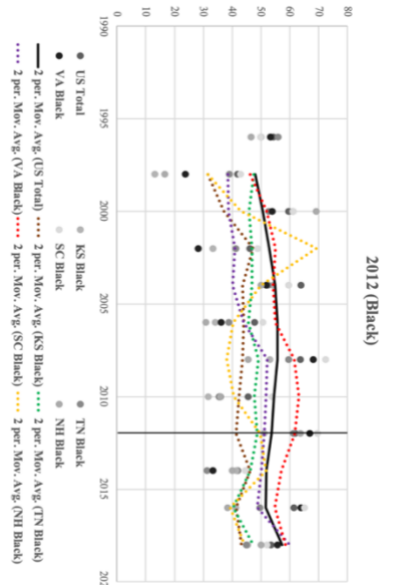
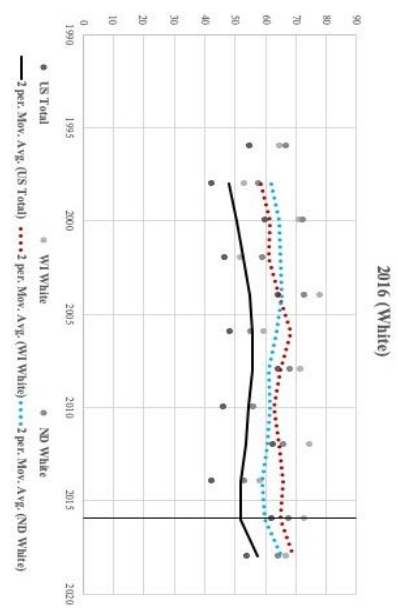
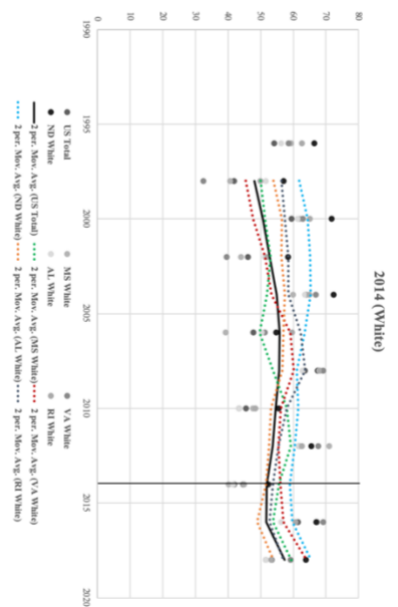
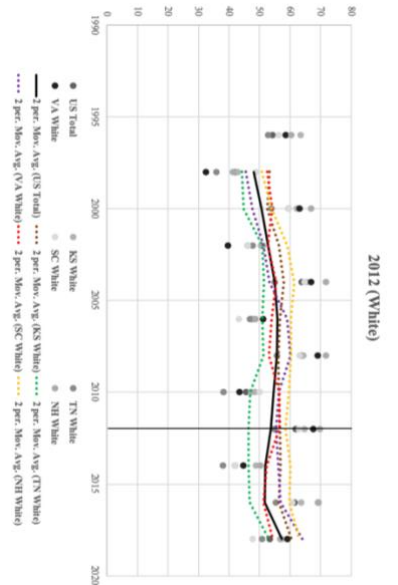


**Figure 5. Expected Results for Hypothesis 2**

Figure 6 shows the actual results; specifically, it displays the results in regard to how actual turnout for white, Black, and Hispanic voters shifted before and after the enforcement of voter ID laws in each state. The vertical lines indicate the year each law was enacted or amended. In 2004, for example, five states (Arizona, North Dakota, South Dakota, Colorado, and Montana) implemented voter ID laws (of any kind), and the turnout for white voters has remained stable with little variance from the average total turnout in the U.S. On the other hand, the results indicate that the turnout for Black and Hispanic voters has changed inconsistently; therefore, it cannot be concluded that there has been a clear decline in the turnout for these groups. Overall, the implementation of voter ID laws has not affected the turnout of white voters, and Black and Hispanic turnout has not substantially declined over time.









**Figure 6. Actual Results: Turnout Shifts for Three Racial Groups with Trend Lines (2004 – 2016)**

Source: The author using data from U.S. Census Bureau.<sup>68</sup>

**6.3. Test 3: Voter ID Laws and Turnout for Racial Minorities**

Table 4, Figure 7, and Figure 8 display the results of a simple linear regression analysis, which analyzed the relationship between voter ID law burdens (Table 1) and turnout in the 2016 and 2018 general elections for white, Black, and Hispanic voters. According to the results, the null hypothesis cannot be rejected. In other words, the results indicate that the cost of voter ID laws does not have a statistically significant (negative) impact on Black and Hispanic voters.

**Variables:**

DV: Voter Turnout by Race (White/Black/Hispanic) in all 34 state

IV: The Cost of Voter ID Law (refer to Table 1)

**Formula:**

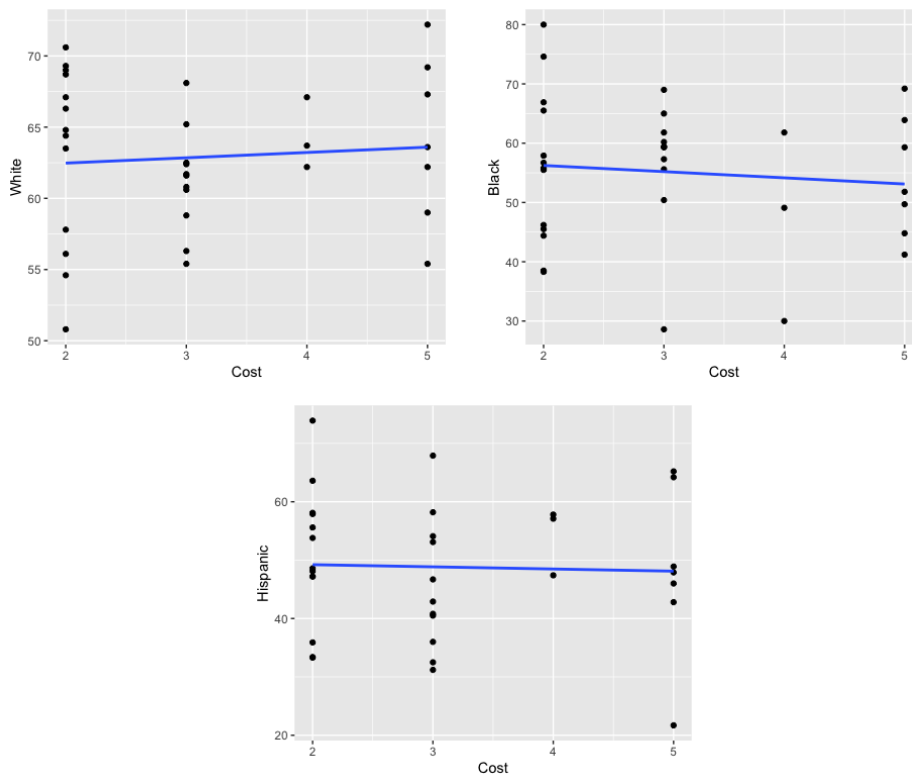
Voter Turnout by Race (Y) =  $b_0 + b_1 x$  (The Cost of Voter ID Law)

**Table 4. Simple Linear Regression Analysis Results (Cost of Voter ID Laws and Race)**

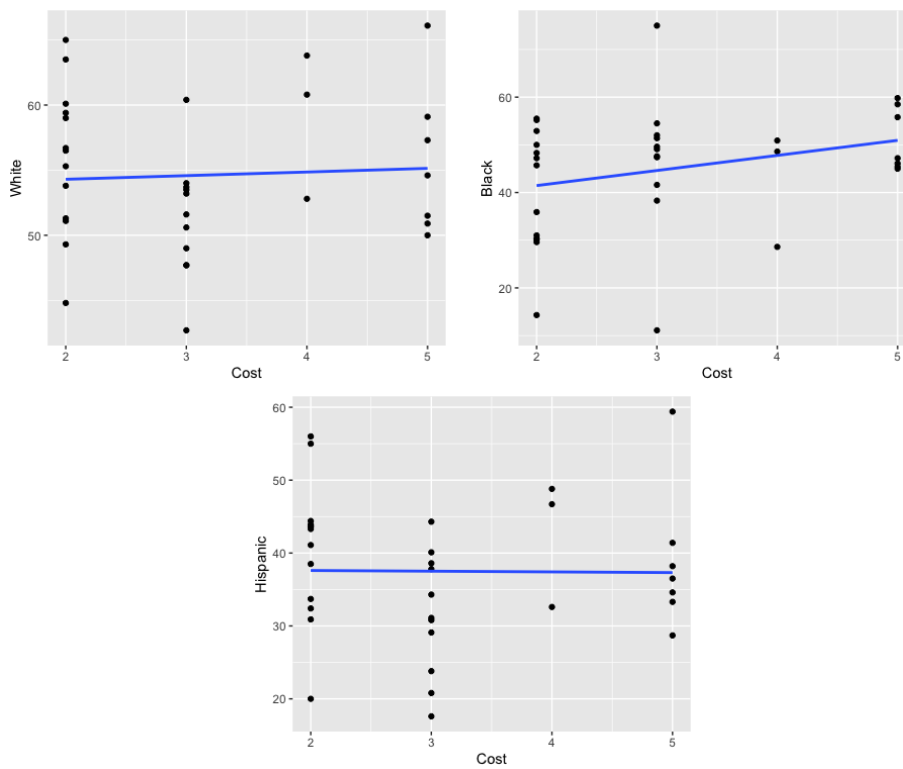
	<b>2016 Presidential</b>	<b>2018 Midterm</b>
White	.373 (.798)	.2792 (.8784)
Black	-1.043 (1.086)	3.162 (1.886)
Hispanic	-.3707 (1.8135)	-.09649 (1.5085)

Note: The regression coefficients are reported, and the standard errors are included in parentheses below the coefficients. \*\*\*p < 0.001, \*\*p < 0.01, \*p < 0.05.

<sup>68</sup> United States Census Bureau, "Voting and Registration Tables."



**Figure 7. The Cost of Voter ID Laws and Turnout by Race (2016)**



**Figure 8. The Cost of Voter ID Laws and Turnout by Race (2018)**

#### 6.4. Test 4: Cooperative Congressional Election Study (2016 and 2018)

In this section, I assessed the impact of voter ID laws on racial minority voters, using 2016<sup>69</sup> and 2018 CCES<sup>70</sup> data. The CCES is a national stratified sample survey, and the 2016 CCES includes 64,600 total respondents with 563 questions, while the 2018 CCES includes 60,000 total respondents with 526 questions. Hajnal et al. (2017) used the CCES (2006-2014) data and determined that voter ID laws have negative impacts on racial minorities. Thus, it is important to use updated CCES data to identify whether voter ID laws still disproportionately impact racial minorities. To do so, I first analyzed the effect that being a racial minority has on facing difficulties when voting. In the CCES, the relevant question is: “was there a problem with your voter registration or voter identification when you tried to vote?”

*H<sub>0</sub>=The probability respondents have a problem with voter registration or voter ID is not different among races.*

The cross-tabulation and Chi-squared test results indicate that there is a statistically significant difference between races; accordingly, the null hypothesis is rejected (Table 5). Specifically, the results suggest that respondents are more likely to have a problem with their registration or ID when they are not white. For the 2016 election, Black respondents were 1.6% more likely to face problems with their voter registration or voter IDs, compared to white voters. Moreover, Black voters were 1.5 points more likely to face issues in the 2018 election compared to white voters. Additionally, Hispanic individuals tend to run into challenges in regard to their IDs or registration, as they were 1.44% and 0.94% more likely to face problems for 2016 and 2018 respectively. In general, the results suggest that there are small but distinct differences between white and racial minority voters in terms of running into problems with voter registration or using their IDs at the polls.

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<sup>69</sup> Ansolabehere and Schaffner, *CCES Common Content, 2016*.

<sup>70</sup> Schaffner, Ansolabehere, and Luks, *CCES Common Content, 2018*.

**Table 5. Results for Voter Registration or Voter Identification Problems**

	2016 Presidential Elections		2018 Midterm Elections	
	No (%)	Yes (%)	No (%)	Yes (%)
White	98.01	1.99	98.13	1.87
Black	96.34	3.66	96.63	3.37
Hispanic	96.57	3.43	97.19	2.81
Others	96.73	3.27	96.59	3.41
Total	45,714 observations		42,989 observations	
	$\chi^2 = 79.107, df = 3, p < 0.001^{***}$		$\chi^2 = 65.088, df = 3, p < 0.001^{***}$	

Next, I assessed one's likelihood of being denied voting after facing voter registration and/or ID issues. In this part of the analysis, the CCES sub-question used was: "were you allowed to vote?" The results first indicated that racial minority voters are slightly more likely to run into registration and/or ID issues in comparison to white voters. Subsequently, I focused on whether the racial minority voters who did face such issues were actually more likely to have their vote rejected in comparison to their white counterparts.

*H<sub>0</sub> = Whether respondents were allowed to vote or not is irrelevant to their race.*

I used a cross-tabulation and Chi-squared test to analyze the 2016 Presidential election. The results indicate that the null hypothesis can be rejected (Table 6, left-hand side), as there is a statistically significant difference between races. Black voters are 4% more likely to be denied the ability to cast a ballot, and Hispanic respondents are as high as 16% more likely to cast a provisional ballot. However, I was unable to reject the null hypothesis when examining the data for the 2018 midterm election (Table 6, right-hand side). Regardless, in 2018, 21.8% of Hispanic voters who faced registration or ID issues were only able to cast a provisional ballot; moreover, 16.7% of Hispanics facing such issues were not able to vote at all. This part of the analysis, therefore, provides evidence that racial minorities are less likely to be allowed to vote (without having to fulfill any conditions) compared to white voters. There are a number of inconsistencies among Black and Hispanic respondents; however, these inconsistencies might be due to the small number of sample size for each racial group.

**Table 6. Percentage of the Voters that Faced Registration and/or ID Issues that were able to Vote**

	2016 Presidential Elections			2018 Midterm Elections		
	Allowed (%)	Allowed using a provisional ballot (%)	Not allowed (%)	Allowed (%)	Allowed using a provisional ballot (%)	Not allowed (%)
White	76.6	12.6	10.7	73.9	14.4	11.7
Black	64.7	20.5	14.7	71.9	19.0	9.1
Hispanic	61.8	28.4	9.8	61.5	21.8	16.7
Others	62.0	25.0	13.0	63.2	16.8	20
Total	1,064 observations $\chi^2 = 29.85$ , $df = 6$ , $p < 0.001$ ***			918 observations $\chi^2 = 12.57$ , $df = 6$ , $p < 0.0504$		

## 7. Conclusion

### 7.1 Findings and Implications

The previous sections analyzed the effect of voter ID laws in four different ways. The test 1 results indicate that the voter ID laws, as well as the level of strictness of such laws, do not statistically significantly affect total turnout in each state; therefore, the argument that voter ID laws undermine political participation, the most fundamental principle of democracy, is rejected. The test 2 results do not provide evidence that there has been a clear and consistent reduction in turnouts of Black and Hispanic voter turnout since the voter ID laws were implemented. The results for test 3 suggest that strict voter ID laws have not affected turnout for any of the three racial groups. In other words, the stricter voter ID laws do not lead to lower participation rates for racial minority citizens. However, test 4 provides the contrasting results, as the analysis demonstrated that non-white voters are more likely to face registration and/or ID problems. Further, when minority voters do face these issues, they are also less likely to be allowed to cast a ballot without having to fulfill any conditions. In general, this study provides mixed results that support both sides of the debates.

There are various possible explanations that can be used to interpret the results of the analyses. First, the results from tests 1 - 3, which use state-level voter turnout data, show that voter ID requirements do not have statistically significant impacts on either total turnout or racial minorities. On the other hand, the test 4 results, which uses the aggregated national survey data, indicate that voter ID requirements have a modest but statistically significant influence on racial minorities. That is, the differences in datasets (state versus federal level) may help explain the contrasting results. Additionally, while the CCES has more than 60,000 respondents, there were only 1,000 respondents who faced issues at the polls. Of these 1,000 respondents, there are statistically significant differences across races; thus, it is possible that the actual impacts of these laws on minority voters may have been overlooked due to the small sample size (see sections 6.2 and 6.3). Furthermore, as Gibson (2020) speculates, because minority group outreach programs are effectively mobilizing their voters,<sup>71</sup> even though there are more barriers for minority voters, they are more likely to be prompted to practice the right to vote. This, in turn, might obscure the actual effects on voter turnout, or, democratic participation. After all, it is premature to discern the influence of voter ID laws on minority groups.

## 7.2 Study Limitation

As mentioned previously, this study used two types of data- national reported voter turnout and the CCES. In regard to voter turnout data, it is possible that future results will show different outcomes when/if more variables become available to allow one to control for education, income level, etc. Further, given that voter ID laws are new and malleable (i.e., the number of states adopting voter ID laws is increasing and states with voter ID laws are

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<sup>71</sup> Gibson, "Moving Forward or Backsliding," 10.

changing the laws), the related data is limited, and the literature is still lacking definitive empirical content.<sup>72</sup>

### 7.3 Conclusion

In her dissent of *Shelby*, the late SCOTUS Justice Ginsburg described the removal of “preclearance” as “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.”<sup>73</sup> *Shelby* has spurred debates on voting rights half a century after the passage of the Voting Rights Act of 1965. Even though there are a number of criticisms that voter ID laws have negatively affected minority participation and, subsequently, diminished the impact of their voice, this study does not find a definitive proof that there is a clear, substantial and consistent (negative) effect on minority turnout. In other words, there is no evidence of a “Jim Crow 2.0” era or “mass racial disenfranchisement.”

However, this study’s results do indicate that there are obvious attempts to block particular voters from the polls in a number of states. Since HAVA, the number of voter ID laws has increased with the intent to prevent voter fraud. A number of Republican-controlled legislatures, however, have taken advantage of the act and enforced disproportionately strict requirements. Rocha and Matsubayashi (2014) found that the likelihood that a unified Republican government approves a new photo ID law is 16 times greater than the other types of governments.<sup>74</sup> Moreover, several states and jurisdictions that were originally covered by Section 4 of the VRA bailed out from “preclearance” and immediately effectuated laws that were previously blocked by the Department of Justice. In this regard, in some cases, Section 2 of the VRA functions well and allows for suspension of laws that have a racially discriminatory

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<sup>72</sup> Weaver, “Voter Identification Laws,” 10.

<sup>73</sup> *Shelby County, Alabama v. Holder, Attorney General*, 570 U. S. \_\_\_\_ (2013).; Gibson, “Moving Forward or Backsliding,” 2.

<sup>74</sup> Rocha and Matsubayashi, “The Politics of Race,” 671–672.

effect.<sup>75</sup> Still, “Jim Crow 2.0” is not only explicit (e.g., “vote denial”) but is also implicit (e.g., “vote dilution”). This study only focused on “vote denial” by exploring voter ID laws; therefore, it is necessary for future research to evaluate the effects of “vote dilution” such as “gerrymandering” and at-large elections to assess whether they disproportionately influence minority representation and, consequently, harm American democracy.

(5,730 words)

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<sup>75</sup> Kansas, Texas, Alabama, and North Carolina.



## Bibliography

### Data

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