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Real Solutions for Real Problems



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There is no shortage of ways to improve our elections.

For instance, the system of registration currently used in New York and most other states makes it harder for millions of otherwise eligible Americans to register. Voters need to affirmatively sign up, and do so at certain times in order to cast a ballot in a primary or general election. Oregon (and, soon, others) makes it easier: The state signs up voters with drivers licenses, allowing them to opt out if they wish; thus, the burden is on the government, not the voter.

Additionally, many states rely on outdated voting machines vulnerable to breakdowns or hacking, and the placement of machines by election regulators is uneven, contributing to long lines on election day.

Citizens with criminal convictions in their past who are living and working in the community are deprived of their vote in many states, a ban originated in many states to suppress voting by certain groups (primarily African Americans).

And, of course, there has recently developed an aggressive effort by certain states to eliminate alleged “voter fraud” by instituting often draconian photo ID laws. Evidence-based studies show that voter impersonation, the only kind of fraud these laws supposedly address, is extremely rare; [one study by Loyola Law School Professor Justin Levitt](#) found just 31 credible incidents out of over a billion votes cast between 2000 and 2014. Such studies, plus exhaustive analyses of criminal prosecution records and consistent testimonials by attorneys general, secretaries of state and other election regulators from across the country, debunk the myth of widespread voter fraud. Indeed, the state of Texas, in defending its very strict photo ID law at trial, identified only two incidents of fraud preventable by a photo ID over a 10-year period in multiple elections. Nevertheless, Donald Trump, while campaigning, and now as president, has repeatedly posited that our election system is “rigged,” and that massive numbers of people voted illegally in 2016. Millions of non-citizens voted for Hillary Clinton, he claimed, and thousands of voters were improperly bused into New Hampshire to vote against him. Neither the president nor anyone in the White House has presented any credible evidence for these allegations. Yet this narrative of alleged voter fraud continues, and the president promises a full-scale investigation by the Department of Justice.

Of course, even in the absence of harsh ID laws, if and when there is fraudulent voting, it should be taken seriously. After all, irrespective of ideology, all Americans want, and depend on, fair and honest elections. So, for example, a New York tea party activist was recently prosecuted for voting from the wrong district. Indeed, a Brooklyn lawyer, John O’Hara, was famously prosecuted by former Kings County District Attorney Charles Hynes in the 1990s for illegal voting. He was convicted after three trials, and sentenced to community service and fined. In this case, though, the current Brooklyn DA recently consented to vacating O’Hara’s conviction on the ground that newly acquired evidence called it into question. (In the O’Hara case, upon his application for re-admission to the bar, a committee of the local disciplinary committee opined that he should not have been prosecuted in the first place.)

In Texas, a non-citizen who was convicted of improperly voting was sentenced to eight years in prison earlier this month. This punishment was four times as long as the sentence imposed upon the Texas teen suffering from “influenza” who killed four people while driving drunk.

Apart from the inherent problem of having a president making unsubstantiated claims about illegal voting, the drumbeat that there is widespread voter fraud saps the energy and attention of those who wish to improve our election systems. In 2014, a bipartisan Presidential Commission on Election Administration—chaired by the election lawyers for both the Mitt Romney and Barack Obama 2012 campaigns—issued a comprehensive report, warning that the state of our voting technology was an “impending crisis.” The commission specifically concluded that the majority of states have voting machines that are at or beyond their intended

lifespan, making them vulnerable to breakdowns and attacks. Thus, it is no surprise that technological malfunctions were reported this past November in Colorado, Michigan, North Carolina, Texas, Virginia, and others. Compounding this problem are the reports that Russian cybercriminals targeted some of our states' voter registration databases.

Yet, a House of Representatives committee voted to eliminate the Election Assistance Commission, the federal agency charged with overseeing the functionality and security standards for our country's voting machines. The House committee's response to the Presidential Commission's report and the actual technological malfunctions and hacking in 2016 thus far does not inspire confidence that Congress is focusing its attention in the right place. On a brighter note, however, [New York State's governor](#) and [Attorney General](#) each has promoted legislation to streamline voting and expand voting rights, including, for instance, automatic registration, early voting (as practiced in so many other states) and same-day registration. [Amy Loprest, the Executive Director of the New York City Campaign Finance Board](#), similarly weighs in on the importance of modernizing our voting procedures. Proposals such as these to improve our voting are more constructive—and certainly more based in reality—than false hand-wringing about extraordinarily rare incidents of improper voting and restrictive laws that actually stymie free and fair elections.

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