

Race, Deliberation, and Voter Identification Laws

Matthew Hayes* Bryce J. Dietrich†

April 10, 2017

Abstract

Over the past twelve years, there has been a proliferation of bills across states imposing additional requirements on voters to provide photo identification. These bills are likely to disproportionately affect certain social groups, such as minorities, senior citizens, and the poor. For this reason, it is important to understand how such bills were enacted, and who, if anyone, attempted to make claims for these potentially marginalized groups during legislative debate. Using a new dataset of state floor debates from 2005-2014 as well as existing data from the U.S. House of Representatives, we provide an empirical analysis of who is likely to make claims for minority groups in the debates surrounding voter identifications. Our findings highlight the importance of descriptive representation for whether the concerns of marginalized groups were voiced in deliberations on voter identification laws.

*Assistant Professor, Department of Political Science, Indiana University, Bloomington. Email: mh34@indiana.edu

†Assistant Professor, Department of Political Science, University of Iowa. Email: bryce-dietrich@uiowa.edu

Introduction

One of the most pressing ongoing civil rights debates in the United States centers around voter identification laws. Over the past twelve years, there has been a proliferation of bills across states imposing additional requirements on voters to provide photographic proof of their identity in order to cast a ballot. Critics view these laws as a fundamental assault on the franchise that has the potential to disparately impact vulnerable communities such as minorities, senior citizens, and the poor. This was not always the case. In the aftermath of the controversial 2000 Presidential election, Congress passed the Help America Vote Act (HAVA). HAVA sought to ease the process of registering to vote (via so-called “motor-voter” rules) and casting a ballot (by eliminating difficult mechanical voting mechanisms). Proponents saw HAVA as a major step forward for reducing the challenges associated with voting in America, and the Act received wide bipartisan support. And yet only three years after HAVA was signed into law, Indiana passed the nation’s first successfully-defended photo ID requirement for casting a ballot. What can account for these seemingly disparate outcomes? Why have we seen a rollback of efforts to ease the process of voting for U.S. citizens? Who is (and is not) fighting to protect the franchise for groups that were aided by efforts such as HAVA?

Although the impact of voter identification laws has received tremendous scholarly attention (e.g., Alvarez, Bailey and Katz, 2008; Ansolabehere, 2009; Vercellotti and Anderson, 2006; Mycoff, Wagner and Wilson, 2009; Hershey, 2009; Hood and Bullock, 2012; Hajnal, Lajevardi and Nielson, 2017; Grimmer et al., 2017), there has been relatively less focus on the process of enacting such laws in the first place. Perhaps more troubling, there has been no systematic investigation into whether the concerns of groups most likely to be affected by such laws – the poor, racial and ethnic minority groups, and senior citizens to name a few – were raised in the process of deliberations about voter identification. In this paper, we investigate the legislative debates

surrounding voter identification laws in the United States, and who is likely to raise claims on behalf of those likely to be disproportionately affected by voter identification requirements. Research on descriptive representation would suggest that legislators who are themselves from historically marginalized groups should be more likely to address these concerns in their legislative speech (e.g., Mansbridge, 1999; Pearson and Dancey, 2011). But such studies have focused almost exclusively at the federal level. In this study, we ask: when voter identification laws are discussed in the U.S. House of Representatives, are disadvantaged minority groups raised in debate? Is the the same true in state legislatures? When such groups are discussed, which legislators are likely to do so and is descriptive representation critical for voicing the concerns of these groups?

To answer these questions, we draw on a unique data set of state floor speeches. While the Congressional Record makes it possible to study descriptive representation at the federal-level, no such record exists in state legislatures. To fill this gap, we have collected hundreds of hours of audio from state legislative debates surrounding the successful enactment of voter identification laws. We then transcribed and coded this audio from 8 states to produce data on the groups referenced in over 800 state level floor speeches on voter ID. We could this with 815,000 floor speeches from 1996-2014 on the floor of the U.S. House of Representatives. Using both data sets, we show that the descriptive representation of minority groups is, indeed, central to ensuring that the impact of voter identification laws on minorities are raised during legislative debate. In the following section, we provide an overview of the rise of voter identification laws at the state level before turning to our theoretical expectations for who is likely to raise the concerns of potentially marginalized groups. We then discuss the collection of our data at the state- and federal-level, and use those data to demonstrate that the concerns of minority communities are unlikely to be raised by white legislators.

Voter Identification Laws in the United States

Voter identification laws have become synonymous with the discussion of race in the United States. Some argue such laws are important to preventing fraud, while others see them as another way to disenfranchise minorities. Unsurprisingly, this spirited debate has spilled on to the floor in both federal and state legislatures. Even though this study uses voter identification laws as a way to better understand the relationship between descriptive representation and legislative speech, the following section discusses (1) the origin of these laws, (2) their disparate affect on voters, and (3) their political determinants. After that, we relate this broad discussion to other work on legislative speech. In doing so, we outline several testable hypotheses which are tested in the next section.

The Rise of Voter Identification Laws

The process of systematizing voter identification across state lines can be traced to the 2002 Help America Vote Act (HAVA), passed in response to the voting irregularities and difficulties during the 2000 presidential election. In addition to its other mandates, HAVA required registered voters to provide some form of identification. This requirement, however, was quite easy to meet. Potential registrants could identify themselves using photo identification, social security number, or even a utility bill showing the registrant's home address.

Beginning in 2005, state legislatures began enacting their own voter identification requirements that were more stringent than those imposed by HAVA. Georgia, the first to pass such a bill, mandated that voters present strict photo identification, with no option of casting a provisional ballot without an ID. After being successfully challenged in court, the state legislature repealed the law and replaced it with a weaker version allowing for non-photo forms of identification.

In the same year, Missouri passed its own strict photo identification requirement.

All voters casting ballots were required to present a state- or federally-issued ID with a voter’s name, photograph, and expiration date. As was the case with Georgia, this law was struck down. In the case *Weinschenk v. State of Missouri*, the Missouri Supreme Court ruled that the bill violated the Missouri State Constitution’s guarantee of the right to vote by improperly imposing poll taxes on those who could not afford documentation, and placed a substantial burden on voters.

The first successfully defended photo identification law at the state level was passed by Indiana in 2005. That bill required voters to present a government-issued photo ID in order to vote¹. Like the provisions in Georgia and Missouri, this law was also challenged in court. In the landmark case *Crawford v. Marion County Election Board*, the U.S. Supreme Court held that the Indiana law was constitutional and could be enforced. Decided in April of 2008, this ruling paved the way for a number of states to enact photo identification requirements for voting.

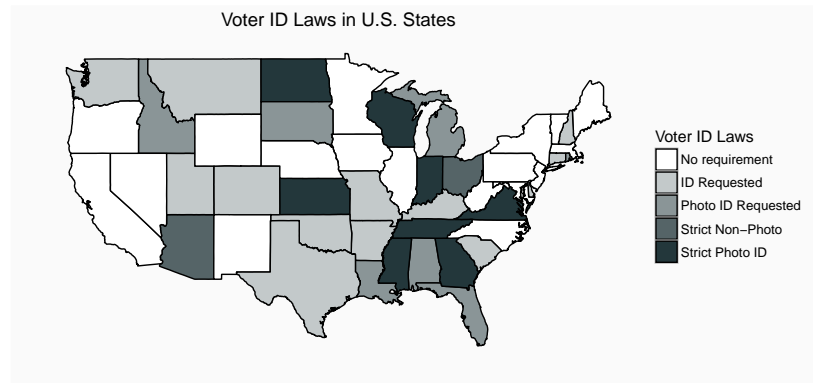
In the years after *Crawford*, several states have enacted strict photo ID requirements, and many more have enacted non-strict photo ID requirements, or identification requirements other than photo ID. Figure 1 shows the distribution of voter identification requirements in U.S. states as of July, 2016. Nine states have strict photo ID requirements². Eight others have non-strict photo ID requirements. Sixteen other states have strict or non-strict requirements for identification, but do not require only identification that includes a photo.

The vast majority of these additional voter identification requirements were enacted after the 2008 *Crawford* ruling. Given the expenses involved with defending the constitutionality of such bills in court, this is not surprising. But once the Supreme Court declared Indiana’s strict photo ID law constitutional, identification laws proliferated,

¹Those who are unable to produce their ID at the poll may cast a provisional ballot and submit their identification within ten days. In a well-publicized incident, Representative Julia Carson (D-IN) was initially unable to cast a ballot because her Congressional ID card did not have an expiration date.

²North Carolina, Wisconsin, and Texas are all currently being challenged in courts, and may not be in force in the 2016 election.

Figure 1: ID Laws in Effect in U.S. States.



with many states enacting requirements for photo identification³.

Recently, the legality of these restrictions has been called into question. Court rulings have struck down parts or all of voter identification restrictions in Kansas, North Carolina, North Dakota, Texas, and Wisconsin. In North Carolina, a federal appeals court even concluded that the law was passed with discriminatory intent. The court found that “the new provisions target African Americans with almost surgical precision.” These legal challenges represent a very real concern that such laws are discriminatory in intent or in result. This will likely not be settled uniformly across the states until a determination is made by the Supreme Court over whether such restrictions have disparate impact on minority voters.

The Impact of Voter Identification Laws

The concern over voter identification laws generally rests on the premise that such laws would have disparate impact on minority communities, as well as the poor and the elderly. In response to the proliferation of voter ID laws in the states, a number of scholars have investigated whether such laws have an empirically demonstrable effect on turnout in general, and turnout of minority voters in particular.

³Prior to Georgia, Missouri, and Indiana in 2005, 7 states had identification requirements, but not required photo ID. Source: National Council of State Legislatures.

The results are surprisingly mixed. Some studies find that the imposition of voter identification laws has little-to-no effect on turnout (Alvarez, Bailey and Katz, 2008; Ansolabehere, 2009; Mycoff, Wagner and Wilson, 2009). Others have found small but measurable reductions in turnout (Vercellotti and Anderson, 2006; Hajnal, Lajevardi and Nielson, 2017), but these effects do not appear to affect minorities more than whites once accounting for socioeconomic status (Hershey, 2009; Hood and Bullock, 2012).

Despite this evidence that there are not large racial disparities in turnout after the imposition of voter identification requirements, recent research suggests that this optimistic conclusion might be premature for three reasons. First, since much of the initial work on the impact of voter ID laws did not focus exclusively on strict photo-ID legislation, it is possible that scholars have underestimated the impact of the strictest voter ID laws. To that end, Hajnal, Lajevardi and Nielson (2017) finds that restricting analysis to those states with strict photo ID requirements results in clear negative impact of Latino and black voters (but see Grimmer et al., 2017). Second, there is evidence to suggest that such laws might be applied unequally across racial and ethnic groups. Focusing on New Mexico's law, Atkeson et al. (2010); Atkeson, Kerevel, Alvarez and Hall (2014) find that Latinos and men are more likely to be asked to provide identification than are white Anglos and women. Similarly, Cobb, Greiner and Quinn (2010) found in a survey of voters in Boston that Latino and black voters report being asked for ID more frequently than did white voters. Third, the negative impact of voter identification laws might be masked by the increased mobilization efforts conducted to counteract such laws (Citrin, Green and Levy, 2014; Valentino and Neuner, 2016). Taken together, these findings reinforce the importance of further studying the effects of imposing identification restrictions on voters. Although the marginal effects appear small in the short term, it is entirely possible that the true effects of strict photo ID requirements might be more pernicious than initially thought.

Determinants of Voter Identification Laws

Due to the potentially burdensome effects of voter ID laws on poorer, older, and minority voters, many scholars have investigated the reasons why such restrictions arise in the first place. Almost universally enacted as a check on potential voter fraud, scholars have identified several underlying mechanisms that predict when legislatures will enact such laws, and which legislators will vote for them. Perhaps unsurprisingly, these studies find that the enactment of these laws has much more to do with politics than direct instances of voter fraud in U.S. states.

A number of studies focused at the legislature level find that the partisan and racial composition of a state is strongly predictive of the emergence and success of voter ID laws. State legislatures under Republican control are more likely to enact such laws (Rocha and Matsubayashi, 2014), although generally only when those states are more competitive (Hicks et al., 2014). In addition to Republican control as a predictor, Rocha and Matsubayashi (2014) finds that states with higher minority populations are less likely to enact voter ID restrictions, controlling for party. Taken together, this suggests that the enactment of state restrictions on voter ID are driven largely by partisan and racial considerations in pursuit of a larger goal of solidifying Republican control of the legislature (Bentele and O'Brien, 2013).

At the legislator level, very similar predictors were found to matter for support of voter ID restrictions. Hicks, McKee and Smith (2016) and McKee (2015) find that a legislator's partisanship and the partisan and racial composition of her district are key to explaining votes on voter identification bills. Republicans are much more likely to vote for such bills than are Democrats. But the relationship with race is opposite for Democratic and Republican lawmakers. For Democrats, having a higher proportion of minorities in the district decreases their likelihood of voting for such restrictions. For Republicans, the opposite pattern emerges. At both the legislator and legislature level, then, it appears that the primary concerns driving support for voter identification laws

are derived from partisanship or racial considerations and not from pressing state-level concerns about voter fraud.

Despite their apparent strategic origins, do these laws have some symbolic value for voters? Evidence suggests that they may, but such effects are conditioned by party. Bowler and Donovan (2016) finds that strict photo ID requirements have diverging effects for Democrats and Republicans. As legislators intended, imposing photo ID requirements does bolster confidence in elections, but only for Republicans. Democrats in states with strict photo ID requirements are actually *less* confident in their state's elections than when no such laws exist. And although most voters believe voter ID laws might prevent fraud, they also tend to believe ensuring access to the polls is more important than preventing fraud (Atkeson, Alvarez, Hall and Sinclair, 2014).

Moreover, the public's attitudes toward these laws seems to be influenced not just by politics, but also by race. Although ideology and partisanship matter as one might expect, Wilson and Brewer (2013) finds that racial attitudes matter as well, with racially conservative individuals more supportive of voter ID laws. In a similar vein, Wilson, Brewer and Rosenbluth (2014) uses an experiment to demonstrate that voters' support for stricter voter ID requirements increases when they are primed with images of black voters and poll workers. These results lend credence to the possibility that voter identification laws might have a racial component in terms of their support in the public, as well as in state legislatures.

Descriptive Representation and Legislative De-liberation

To further examine the role played by race in the passage of voter identification restrictions, we argue that we should examine the actual deliberations that produced these laws. Although deliberations may not provide us with a direct measure of the intent of

legislators, legislative speech is meaningful. Much of the defense of the purpose of these bills is voiced on the floors of legislative chambers. And due to the partisan nature of the enactment of these bills, it is on the floor of legislative chambers where opponents can give direct voice to concerns that such bills are discriminatory in nature.

Studying legislative speech has several advantages. Scholars have demonstrated that legislative speech can be used to measure important unobservable characteristics of legislators, including their ideology and personality (Diermeier et al., 2012; Ramey, Klingler and Hollibaugh, 2016). In addition, legislative speech is an important behavior in which representatives engage. It can serve as a form of position-taking (Mayhew, 1974), and can serve partisan or policy goals (Maltzman and Sigelman, 1996; Morris, 2001; Rocca, 2007; Pearson and Dancey, 2011).

Perhaps more importantly, speech affords representatives with the ability to give voice to the concerns of underrepresented groups. Much legislative speech centers on symbolic actions on behalf of their citizens (Hill and Hurley, 2002). To that end, Mansbridge (1999) argues that it is in the process of deliberation that representatives can give rise to the concerns of traditionally underrepresented groups. By having women or minorities in elected office, those officials can speak for the groups they represent, and help refine nascent policy concerns of those groups. As a result, these groups can receive representation through a process Dan Gillion dubs “discursive governance” (Gillion, 2016). And although such representation may be constrained by when minority group interests overlap with those of whites (Nteta, Rhodes and Tarsi, 2016), experimental research demonstrates that experiencing discursive governance can bolster minorities’ feelings of symbolic representation (Hayes and Hibbing, 2016).

For these reasons, we believe it is important to analyze the ways in which legislators deliberated about voter identification bills. Due to the potential threat they pose to minority voters, these bills offer a unique opportunity to study discursive governance. Poorer minority voters and immigrants are less likely to possess the forms of identification these restrictions call for. As a result, voter identification laws present a clear

and present danger to these voters' ability to cast their ballot. For this reason, this is an area in which we should expect to see discursive governance in action.

Claim-Making by Legislators

To investigate the link between descriptive representation and discursive governance on voter identification laws, we ask who is likely to make claims on behalf of those most affected by such laws. Existing literature provides us with several expectations that can broadly be categorized as relating to constituency, ideology, and demographics.

On the constituency side, legislative speech-making can be seen as position-taking (Mayhew, 1974), and is generally viewed as electorally motivated (Hill and Hurley, 2002). Past research has shown that legislators tend to be responsive to their constituency and changes to it. (Glazer and Robbins, 1985; Leveaux-Sharpe, 2001; Strattmann, 2000; Hayes, Hibbing and Sulkin, 2010). This responsiveness takes the form not only of voting, but also altering behavior and issue attention in the chamber. Legislators who gain military bases in their district, for example, are more likely to sponsor and cosponsor legislation related to foreign policy (Hayes, Hibbing and Sulkin, 2010, , 100-101). To the extent that this logic applies equally well to floor speeches, those legislators with constituencies likely to be affected by voter identification laws should be more likely to voice those concerns. So legislators representing districts with large minority, poor, or senior populations should be more likely to discuss the impact of laws on those communities.

But legislative speech is also constrained by party and ideology. The enactment of voter identification laws in the states, as discussed above, has been a largely partisan issue. The issue of voter identification at the federal level, however, has a more bipartisan history, especially with the passage of HAVA. And given that the content of speech is closely linked to ideology (Diermeier et al., 2012), we should see a divergence based on ideology. This should especially be true at the state level, where there was little

bipartisan support for voting reform. Moreover, existing research suggests that the constituency pressures discussed above might largely be contingent on party (McKee, 2015), leading to an even larger ideological divide on the voicing of concerns of affected communities. For these reasons, we expect that Democrats should be more likely to voice the concerns of groups likely to be affected by voter identification laws.

Finally, legislator demographics should matter for making claims on behalf of those affected by voter identification requirements. Both theoretical and empirical research suggest that legislators from underrepresented groups, such as women and minorities, are more active on issues related to those groups including speech-making (e.g., Pearson and Dancey, 2011; Osborn and Mendez, 2010; Shogan, 2001). Although this literature has largely focused on women, we find good reason to expect a similar logic to hold true for minority legislators as well. Ongoing research (Hayes and Dietrich, 2015) has already found that even white Democrats are less likely to discuss African Americans than black legislators. For this reason, we expect that minority legislators should be more likely to give speeches on voter identification, and to reference the communities with which they share an identity.

Data and methods

We draw on two sources of data for our analyses. At the state level, we first identified all instances of successful voter identification laws enacted at the state level from 2005-2014. The start year of 2005 was selected since it signaled the beginning of the most recent era of voter identification restrictions enacted, beginning with Indiana. It might seem obvious to examine all voter identification bills, rather than only those that were enacted. We believe our focus should be on enactments for several reasons. First is a practical one; proposals for changes to voter identification laws are extremely commonplace. Over the timespan of our study, there were hundreds of such proposals, most of which never reached the floor of a state legislature. For example, the project

Open States⁴ catalogs bills at the state level beginning in 2011. A search for all state-level bills pertaining to “voter identification” yields 3657 bills proposed.⁵ Rather than trying to examine deliberation on any or all of these bills that came to the floor, it is prudent to restrict our data collection and analysis to only those bills that were actually enacted by the state government⁶.

The second reason for our restriction is motivated by our research question. Our aim in this paper is not to explain where or when a state will enact a voter identification law. Rather, we are interested in whether the concerns of traditionally underrepresented groups are being voiced when new restrictions are put in place that might adversely affect those groups. In other words, we want to know if such restrictions were enacted *in spite of* the concerns of these groups, or whether these groups received little or no voice at all. Once we answer this question, we can further examine exactly who is making claims on behalf of underrepresented groups when voting rights might potentially be threatened.

With these concerns in mind, we restricted our data collection to actual enactments at the state level, rather than all bill proposals. We also restricted our data collection to substantial enactments that introduced new restrictions requiring photo identification to vote. Since our question is about voicing concerns when voting rights are threatened, bills that made it *easier* to vote were excluded. Using these selection criteria, we identified 28 bill enactments from 2005-2014 that imposed new or broader requirements of presenting a photo ID to vote. These bill enactments are listed in Table 1.

Although this sample should represent a comprehensive list of significant photo identification requirements enacted in the 2005-2014 period, data on the legislative

⁴www.openstates.org

⁵Restricting this to enactments yields 729 bills enacted since 2011. However, many of these are minor bills that do not fit our selection criteria. Restricting to enactments that imposed new or more stringent requirements on the identification required to vote yields at least 437 bills proposed from 2005-2014, with 36 signed into law.

⁶In several cases, these voter identification changes required subsequent approval by voters. In the case of Minnesota in 2012, the law was rejected by voters after being approved by the state government. That case is included in our sample.

Table 1: Voter ID Bills Passed in States

State	Bill no.	Date introduced	Date Enacted
Georgia	HB 244	February 1, 2005	April 22, 2005
Indiana	SB 483	January 18, 2005	April 27, 2005
Washington	SB 5499	January 26, 2005	May 3, 2005
Missouri	SB 1014	February 6, 2006	June 14, 2006
Ohio	HB 3	January 24, 2005	January 1, 2006
Oklahoma	SB 692	February 2, 2009	November 2, 2010*
Utah	HB 126	January 27, 2009	March 20, 2009
Idaho	HB 496	February 9, 2010	April 8, 2010
Alabama	HB 19	March 1, 2011	June 15, 2011
Kansas	HB 2067	January 24, 2011	April 27, 2011
Mississippi	Initiative 27	N/A	November 8, 2011*
Rhode Island	HB 5680	March 3, 2011	July 2, 2011
South Carolina	HB 3003	January 11, 2011	May 18, 2011
Tennessee	SB 16	January 11, 2011	May 30, 2011
Texas	SB 14	January 24, 2011	May 27, 2011
Wisconsin	AB 7	January 27, 2011	May 25, 2011
Minnesota	HF 2738	March 7, 2012	April 5, 2012 [†]
Mississippi	HB 921	February 20, 2012	May 17, 2012
New Hampshire	SB 289	January 4, 2012	June 27, 2012 [‡]
Pennsylvania	HB 934	March 14, 2012	March 14, 2012
Virginia	HB 9	January 11, 2012	May 18, 2012
Arkansas	SB 2	January 14, 2013	April 1, 2013 [‡]
North Carolina	HB 589	April 8, 2013	August 12, 2013
North Dakota	HB 1332	January 17, 2013	April 18, 2013
Oklahoma	SB 282	February 4, 2013	April 12, 2013
Oklahoma	SB 752	February 4, 2013	April 12, 2013
Tennessee	HB 229	January 24, 2013	April 23, 2013
Virginia	HB 1337	February 26, 2013	March 23, 2013

* - Popular referendum

[†] Popular referendum, rejected by voters

[‡] Gubernatorial veto overridden

deliberations on these bills was not available in each case. Only one state, Pennsylvania, offers full text verbatim archives of legislative deliberations⁷. Most states offer some form of archived video recordings of floor debates. A handful of states offer no written, video, or audio archives of legislative floor debates. These states were unfortunately dropped from our analysis.

For those states with video or audio archives available, we recorded the entire corpus of debate associated with the voter identification bills listed in Table 1. Three graduate student research assistants then transcribed these debates into plain text. Combined with the few text archives available, this process gives us a sample of 19 cases: Georgia (2005)*, Minnesota (2012)*, Mississippi (2011), New Hampshire (2012)*, North Carolina (2013), North Dakota (2013)*, Ohio (2005), Oklahoma (2009 & 2013), Pennsylvania (2012), Rhode Island (2011)*, Tennessee (2011 & 2013), Texas (2011), Utah (2009)*, Virginia (2012 & 2013), Washington (2005)*, and Wisconsin (2011)* (states marked with an * are still being transcribed). This sample of cases provides us with broad geographic coverage and over a hundred hours of deliberation across these states.

Once transcripts were collected from these states, we separated the corpus of floor debates into discrete speeches by state legislators. This process yielded us thousands of individual speeches. To date, we have have all the individual floor speeches from Arkansas, Mississippi, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Virginia, totaling 3,338 speeches

To investigate the explicit group references present in state-level speeches on voter ID laws, we conducted a content analysis of those transcribed speeches that had 50 words or more. We coded for whether the speaker explicitly referenced the impact of the voter ID bill under debate on a social group. To identify social groups present in speeches, we first analyzed a random sample of 100 speeches from across all states and recorded all references to social groups. In this sample, speeches referenced the

⁷Texas occasionally records verbatim transcripts of legislative sessions, but only at the request of the majority or minority party. As such, verbatim transcripts were available for the Texas Senate, but not the Texas House.

impact of voter identification requirements on African Americans, gun owners, Latinos, members of religious groups, people with disabilities, the poor, seniors, students, and women.⁸ These coding categories were not mutually exclusive; a given speech might include references to many social groups. Using this list, we then conducted a content analysis of all 844 speeches of greater than 50 words in the 12 legislative chambers with complete transcripts.

Our content analysis uncovered a high degree of variation in which groups were referenced in speeches by voter identification laws. By far the most commonly referenced group was senior citizens. As Table 2 shows, nearly 15% of all speeches made reference to the impact of voter identification laws on senior citizens. And nearly 6% of speeches referenced the impact of voter identification laws on the poor, and frequently on those who might not be able to afford a driver’s license. Relatively uncommon were references to how voter identification laws might impact demographic groups who might be statistically less likely to possess appropriate forms of identification. Less than 5% of speeches highlighted this concern with regards to African Americans, and less than 4% referenced Latinos, students, or people with disabilities.

In addition to our state-level data, we collected data on the content of Congressional floor speeches using *Capitol Words Project*. Ultimately, we identified every speech addressing voter identification laws delivered between 1996 and 2014 on the floor of either the U.S. House or Senate. Once speeches were collected, we identified those delivered by African-American, Latino, and Asian-American members of Congress. African-Americans and Latino were identified using the House Archives. Asian-American members of Congress were identified using the most recent Congressional Research Service report. If a member of Congress did not fit into any of these racial categories the representative was said to be “white.” To identify speeches re-

⁸Members of religious groups were most frequently mentioned in the context of those with religious objections to being photographed (e.g., the Amish in Pennsylvania). Women were most frequently mentioned in the context of protecting those who were victims of domestic violence and might not have photo identification with their current address. References to “minorities” were coded as references to all minority groups

Table 2

Group	Speeches Referencing Group	Percent of Speeches
Seniors	126	14.9%
Poor	50	5.9%
African Americans	40	4.7%
Veterans	40	4.7%
Women	38	4.5%
Students	34	4.0%
Latinos	33	3.9%
Religious Groups	30	3.6%
Disabled	25	3.0%
Gun Owners	10	1.1%

garding voter identification laws, we searched for all legislative floor speeches with any variation of “voter identification law.” Any speech that included this phrase was flagged as a speech on voter identification laws. Ultimately, this yielded 930 speeches.

In the next section, we conduct two preliminary analyses. In the first analysis, we determine the likelihood a white representative talks about voter identification laws at both the federal and state-level. Here, the dependent variable is a simple count of the number of speeches given. For federal legislators, this is the number of speeches mentioning voter identification laws. For state legislators, this is the number of speeches delivered during enactment debates, as described above. In the second analysis, we determine whether white representatives are more or less likely to mention African Americans when discussing voter identification laws in federal and state legislatures. For federal legislators, we restricted our analysis to the 930 speeches that referenced voter identification laws. For state legislators, we restricted our analysis to the 3,338 speeches delivered during enactment debates. As before, the dependent variable is a count of the number of speeches using the phrase “African American.”

We then turn to an analysis of all group references in the state-level data. Using human coded data from over 800 speeches, we model the likelihood a given speech references the impact of voter identification requirements on black, Latino, poor, and

senior constituents. Although we have not yet incorporated district information, we do control for the general demographics in a state as a proxy for constituency pressures.

Results

Are white legislators less likely to talk about voter identification laws? Table 3 shows the answer is “yes” in both federal and state legislatures. In both columns, pooled negative binomial regressions are used, meaning each legislator only appears in the data set once. We acknowledge the limitations in this approach, so these preliminary results should be taken with a grain of salt. With that said, the results consistently show that white legislators are less likely to talk about voter identification laws, regardless of the legislative body. For state legislatures, African American representatives are 2.61 times more likely to talk about voter identification laws, holding all other variables constant at their mean and modal values. For federal legislatures, this number increases to 3.43, suggesting the difference between white and black representatives is more pronounced at the federal level.

A similar result can be found in Table 4. In this table, we display the results from three negative binomial regressions. In each the dependent variable is the number of speeches referencing African Americans. In the first column, we show the results from our state-level data. Here, we restrict to the analysis to enactment debates. In the second and third columns, we show the results from our federal-level data. In the former, we restrict our analysis to speeches referencing voter identification laws. In the later, we use all speeches, regardless of topic. For state legislatures, black representatives are predicted to give 5.13 times as many speeches referencing African Americans as compared to white representatives. For federal legislatures, black representatives are predicted to give 14.93 times as many speeches referencing African Americans when talking about voter identification laws. This number decreases to 3.39 when all speeches are considered, suggesting black representatives on Capitol Hill are much more likely

Table 3: White Legislators Are Less Likely to Talk About Voter Identification Laws

	State Legislators	Federal Legislators
(Intercept)	-1.83*** (0.52)	0.85 (0.52)
White	-0.96 [†] (0.54)	-1.23** (0.48)
Ideology	-0.09 (0.17)	-0.00 (0.19)
Deep South	2.01*** (0.29)	0.21 (0.24)
Percent Black		-1.12 (1.00)
N	3338	670
pseudo- R^2	0.03	0.31
$\log L$	-805.85	-695.41
AIC	1651.70	1438.82

Note: The coefficient estimates are from two negative binomial regressions. In each column, the dependent variable is the number of speeches that reference voter identification laws. A [†] means significant at $p < .10$; * $p < .05$; ** $p < .01$; and *** $p < .001$. The standard errors are reported in the parentheses. McFadden's R^2 is also reported.

to frame the discussion of voter identification laws in racial terms as compared to other issues.

Even though these results are both limited and preliminary, they provide some evidence that descriptive representation is reflected differently on Capitol Hill. At this point, we can only speculate why such a difference exists, but we suspect it has something to do with the level of exposure members of Congress get relative to their counterparts in state houses. Voter identification laws affect both federal and state legislators. For African American representatives, these laws are not only discriminatory, but they also affect their legislative security. Even though some state representatives undoubtedly feel passionately about similar issues, federal representatives are better suited to give voice to these concerns. This is not to say that descriptive representation at the state-level does not exist, but rather to suggest that our understanding of descriptive representation becomes more nuanced once we begin to incorporate state

Table 4: White Members of Congress are Less Likely to Talk About African Americans

	State Legislator	Federal Legislator	Federal Legislator
(Intercept)	-2.33** (0.81)	0.53 (1.09)	2.27*** (0.34)
White	-1.64** (0.62)	-2.70** (1.01)	-1.22*** (0.31)
Ideology	-1.20 [†] (0.71)	-0.63 (0.58)	-1.03*** (0.13)
Deep South	0.12 (0.58)	-0.54 (0.69)	0.06 (0.16)
Percent Black		-2.00 (2.17)	2.75*** (0.64)
N	228	197	670
pseudo- R^2	0.18	0.26	0.41
$\log L$	-37.44	-61.11	-1593.28
AIC	114.88	170.21	3234.55

Note: The coefficient estimates are from three negative binomial regressions. In each column, the dependent variable is the number of speeches that mention African Americans. In the first two columns, only speeches that discuss voter identification laws are utilized. In the last column (highlighted in gray), all speeches are used, regardless of topic. A [†] means significant at $p < .10$; * $p < .05$; ** $p < .01$; and *** $p < .001$. The standard errors are reported in the parentheses. McFadden’s R^2 is also reported.

institutions.

Group References in State Deliberations

The results in Table 5 shows our results for the explicit group references present in speeches on voter identification laws. The coefficients are the result of a mixed effects logit model with random intercepts and speeches nested within legislative chambers. We model the likelihood of a speech explicitly referencing four groups that might be vulnerable to changes in voter identification laws: African Americans, Latinos, the poor, and senior citizens.

Our results suggest that there are important demographic differences in who voices concerns for the groups that might be most affected by voter identification laws. Turning first to African Americans, it is clear that descriptive representation plays an impor-

Table 5: Explicit Group References in Voter ID Speeches

	<i>Speech referenced:</i>			
	African Americans (1)	Latinos (2)	Poor (3)	Seniors (4)
Black	1.509*** (0.492)	0.160 (0.546)	0.526 (0.412)	0.069 (0.340)
Latino	1.917*** (0.727)	1.159* (0.661)	0.422 (0.574)	0.276 (0.512)
Republican	-1.011 (1.034)	0.293 (1.145)	1.320 (0.920)	-0.775 (0.587)
Ideology	-0.104 (0.523)	-0.882 (0.612)	-1.094** (0.516)	0.136 (0.341)
Prop. Non-White in State	1.964 (2.671)	2.732 (2.262)	0.410 (2.811)	-9.269** (4.701)
Prop. Foreign-Born in State	-6.873 (6.814)	-7.130 (6.293)	0.947 (7.165)	16.003 (11.957)
Constant	-3.533*** (0.831)	-3.959*** (0.683)	-3.686*** (0.782)	-0.730 (0.961)
Observations	795	795	795	795
Log Likelihood	-124.834	-115.550	-177.564	-315.865
Akaike Inf. Crit.	265.667	247.100	371.129	647.729
Bayesian Inf. Crit.	303.094	284.527	408.555	685.156

Note:

*p<0.1; **p<0.05; ***p<0.01

tant role in ensuring that the concerns of the black community are being raised in the context of voter identification laws. Speeches given by black legislators are significantly more likely explicitly to reference the impact of voter ID laws on black constituents. The predicted probability of a speech given by a white Democratic representative referencing the impact on African Americans is only 0.016 with all other variables set at their median. For speeches given by African Americans, this predicted probability is 0.070, an over four-fold increase. Interestingly, Latino legislators were even more likely to reference the effect of voter ID bills on African Americans than were black legislators. We find a similar importance of descriptive representation for speeches discussing the impact of voter ID bills on Latinos. Unlike for African Americans, black legislators are no more likely to reference the impact of voter identification on Latino voters. But speeches by Latino legislators were significantly more likely to make these references. Taken together, these findings indicate that descriptive representation played an important role in ensuring that minority communities' concerns about voter identification were raised in legislative debate. Indeed, the only significant predictor of whether a speech referenced these concerns was the race and ethnicity of the speaker. Not even speeches by white Democrats are significantly more likely to raise these concerns.

We suspect that this is due not to a simple oversight on the part of legislators, but a deliberate attempt to avoid framing voter identification debates in terms of disparate impact. Many of the states in our sample were subject to Department of Justice pre-clearance under the Voting Rights Act prior to the 2013 *Shelby v. Holder* ruling. As a result, legislators were acutely aware of the potential for disparate impact lawsuits. Take, for example, this speech by a white Republican delegate from Virginia:

Mr. Speaker, some of the comments made in committee on this bill was about the disenfranchisement of senior citizens and minorities because they dont carry IDs. Speaker, I would ask, wheres the empirical data that shows senior citizens and minorities carry IDs or dont carry IDs in higher percent-

ages than Caucasians or young Caucasians? Its almost an insulting concept, Mr. Speaker. I have not seen any studies that show that empirical data.

This is one of the few instances in which we see a white Republican explicitly reference the impact of voter identification on minority voters. Yet he does so in an extremely defensive and incredulous way. Despite the existence of empirical data suggesting that minority and poor voters are less likely to possess ID at the national level (Brennan Center 2006), this legislator argues that no such empirical evidence exists. And, if an example from another state is any indication, legislators supporting voter identification laws do not *want* such empirical data to exist. Consider this exchange between a black Democrat and white Republican in Mississippi:

Democrat: Gentleman, I hope you know I am asking this question for the record, and you are answering too for the record, and that I am asking if we have done a study regarding if any minority or ethnic group would be disproportionately affected by this bill or the constitutional mandate?

Republican: You are asking this and the answer to that is no, I have not.

In the effort to enact the strict Mississippi voter identification requirement, legislators did not conduct nor were they willing to conduct an empirical analysis on whether minority populations would be disproportionately affected by the legislation. Taken together, we find this evidence clearly suggests that white legislators, and white Republicans in particular, eschewed any discussion of the impact of voter identification laws on minority constituents. Black and Latino legislators, on the other hand, were willing and able to discuss the impact of voter identification bills on minority communities.

Turning to two other groups likely to be affected by voter identification laws – the poor and senior citizens – we do not see a significant difference in explicit group references based on the demographics of the speaker. Speeches by black and Latino legislators are no more likely to reference the plight of the poor or seniors than were speeches by white legislators. However, the ideology of a speaker was a significant

predictor of whether a speech referenced the effect of voter identification bills on the poor. Speeches by more conservative representatives were less likely to make such references than speeches by more liberal representatives.

Speeches referencing the effect of voter identification on senior citizens were not well predicted by any of our variables capturing attributes of speakers. This is perhaps unsurprising given the ubiquity of discussions of voting protections for senior citizens. In each of our cases, special attention was paid to ensuring that seniors would not face an undue burden in voting, including waiving photo identification requirements in nursing homes and similar facilities. As one representative from Tennessee put it:

We are doing our very best to make sure that all groups, when this is all done, when the bills get through, that everyone who needs an ID will be able to get one. If they are 65, 75, or 92, if they are mentally disabled, or if they are poor, so, we are making a very good faith effort to make sure, because we want everyone to vote, we want everyone who wants to vote, who is a legal registered voter to be able to do that. And you mentioned voter fraud and I would like to just point out a couple of things. First of all, seniors, are the people who seem to be the group that is most victimized by fraud when we had cases here in Tennessee, one has taken a seniors ID and voted. So, I look at this as a way to protect seniors...

So not only are seniors afforded special attention in state legislative debates, voter identification laws were at times justified on the basis of their protection for seniors. This is also likely why references to seniors were by far the most common form of group references (126 of our 844 coded speeches explicitly referenced seniors). As a result of this, the impact of voter identification laws on seniors was not more likely to be mentioned by black, Latino, or white legislators, nor by Republicans or Democrats. However, one of our state-level variables, proportion non-white in the state, was associated with fewer speeches referencing senior citizens.

Taken together, our findings highlight the importance of descriptive representation for whether the concerns of marginalized groups were voiced in deliberations on voter identification laws. We find consistent evidence – at the state and federal level – that descriptive representation matters. Black and Latino state legislators are much more likely to voice the concerns of minority communities when debating voter identification laws. And black members of Congress are more likely to raise the same concerns for the African American community. These effects are stronger even than party or ideology. This suggests that ensuring that minority communities’ concerns are raised may best be accomplished by ensuring their presence in legislatures.

Discussion

Our findings in this paper reinforce the link between descriptive representation and the voicing of concerns for minority groups. We find that in Congress, African Americans are both more likely to talk about voter identification issues, and more likely to discuss their impact on black voters when they do so. This finding is echoed in the states. During deliberations over the enactment of eight voter identification bills, African American and Latino state legislators were significantly more likely to discuss the potential for such bills to disenfranchise minority voters. To us, this suggests that the presence of minority lawmakers is crucial for the adequate functioning of discursive governance.

The data we bring to bear is unprecedented, but incomplete. We have completed only eight of our nineteen cases of voter identification enactments. This underscores the difficulty of achieving transparency in the lawmaking process at the state level. Of our cases, only one state (Pennsylvania) provides full text and verbatim transcripts of legislative debates. For the rest of the states in our sample, obtaining text required first accessing video archives and then transcribing those archives. This is both a time-consuming and expensive process, and stands in the way of the growing “text-as-data”

movement within political science. Our data collection effort represents a first step in a larger project aiming to create a readily accessible text archive of state legislative debates, and this paper is a significant step toward that goal.

We hope this data effort will prove to be invaluable for scholars of representation. To date, the vast majority of research on representation—and especially on the representation of disadvantaged groups—has focused solely on Congress. We believe this paints an incomplete picture of the realities of political representation. Although central for governance, Congress is not always the most consequential actor on issues of importance to marginalized groups. From transgender bathroom laws to voter identification requirements, important issues facing underrepresented communities are being decided in state capitols across the country. Understanding these important pieces of legislation requires us to expand the scope of our analysis to include states. Moreover, scholars of descriptive representation face severe limitations by focusing on Congress; it is not particularly diverse, and its level of diversity does not appear likely to change. States, on the other hand, vary significantly in their levels of descriptive representation for minorities and women. By providing researchers with data on state legislative debates, we hope to inform the vibrant body of literature that is still debating the importance of descriptive representation not just in the U.S. House, but in legislatures across the country.

References

- Alvarez, R Michael, Delia Bailey and Jonathan N Katz. 2008. “The effect of voter identification laws on turnout.” *California Institute of Technology Social Science Working Paper* (1267R).
- Ansolabehere, Stephen. 2009. “Effects of identification requirements on voting: Ev-

- idence from the experiences of voters on Election Day.” *PS: Political Science & Politics* 42(01):127–130.
- Atkeson, Lonna Rae, Lisa Ann Bryant, Thad E Hall, Kyle Saunders and Michael Alvarez. 2010. “A new barrier to participation: Heterogeneous application of voter identification policies.” *Electoral Studies* 29(1):66–73.
- Atkeson, Lonna Rae, R Michael Alvarez, Thad E Hall and J Andrew Sinclair. 2014. “Balancing fraud prevention and electoral participation: Attitudes toward voter identification.” *Social Science Quarterly* 95(5):1381–1398.
- Atkeson, Lonna Rae, Yann P Kerevel, R Michael Alvarez and Thad E Hall. 2014. “Who asks for voter identification? Explaining poll-worker discretion.” *The Journal of Politics* 76(04):944–957.
- Bentele, Keith G and Erin E O’Brien. 2013. “Jim Crow 2.0? Why states consider and adopt restrictive voter access policies.” *Perspectives on Politics* 11(04):1088–1116.
- Bowler, Shaun and Todd Donovan. 2016. “A Partisan Model of Electoral Reform Voter Identification Laws and Confidence in State Elections.” *State Politics & Policy Quarterly* p. 1532440015624102.
- Citrin, Jack, Donald P Green and Morris Levy. 2014. “The effects of voter ID notification on voter turnout: Results from a large-scale field experiment.” *Election Law Journal* 13(2):228–242.
- Cobb, Rachael V, D James Greiner and Kevin M Quinn. 2010. “Can voter ID laws be administered in a race-neutral manner? Evidence from the city of Boston in 2008.” *Quarterly Journal of Political Science* 7(1):1–33.
- Diermeier, Daniel, Jean-François Godbout, Bei Yu and Stefan Kaufmann. 2012. “Language and ideology in Congress.” *British Journal of Political Science* 42(01):31–55.

- Gillion, Daniel Q. 2016. *Governing with Words: The Political Dialogue on Race, Public Policy, and Inequality in America*. Cambridge University Press.
- Glazer, Amihai and Marc Robbins. 1985. "Congressional responsiveness to constituency change." *American Journal of Political Science* pp. 259–273.
- Grimmer, Justin, Eitan Hersh, Marc Meredith, Jonathan Mummolo and Clayton Nall. 2017. "Comment on Voter Identification Laws and the Suppression of Minority Votes."
- Hajnal, Zoltan, Nazita Lajevardi and Lindsay Nielson. 2017. "Voter Identification Laws and the Suppression of Minority Votes." *The Journal of Politics* 79(2):000–000.
- Hayes, Matthew and Bryce J. Dietrich. 2015. Descriptive representation is more than skin deep: race and speech-making in the U.S. House of Representatives. In *Annual Meeting of the Midwest Political Science Association*.
- Hayes, Matthew and Matthew V Hibbing. 2016. "The Symbolic Benefits of Descriptive and Substantive Representation." *Political Behavior* pp. 1–20.
- Hayes, Matthew, Matthew V Hibbing and Tracy Sulkin. 2010. "Redistricting, responsiveness, and issue attention." *Legislative Studies Quarterly* 35(1):91–115.
- Hershey, Marjorie Randon. 2009. "What we know about voter-ID laws, registration, and turnout." *PS: Political Science & Politics* 42(01):87–91.
- Hicks, William D, Seth C McKee and Daniel A Smith. 2016. "The Determinants of State Legislator Support for Restrictive Voter ID Laws." *State Politics & Policy Quarterly* p. 1532440016630752.
- Hicks, William D, Seth C McKee, Mitchell D Sellers and Daniel A Smith. 2014. "A principle or a strategy? Voter identification laws and partisan competition in the American States." *Political Research Quarterly* p. 1065912914554039.

- Hill, Kim Quaile and Patricia A Hurley. 2002. "Symbolic speeches in the US Senate and their representational implications." *The Journal of Politics* 64(01):219–231.
- Hood, MV and Charles S Bullock. 2012. "Much ado about nothing? An empirical assessment of the Georgia voter identification statute." *State Politics & Policy Quarterly* 12(4):394–414.
- Leveaux-Sharpe, Christine. 2001. "Congressional responsiveness to redistricting induced constituency change: an extension to the 1990s." *Legislative Studies Quarterly* pp. 275–286.
- Maltzman, Forrest and Lee Sigelman. 1996. "The politics of talk: Unconstrained floor time in the US House of Representatives." *The Journal of Politics* 58(03):819–830.
- Mansbridge, Jane. 1999. "Should blacks represent blacks and women represent women? A contingent "yes"." *The Journal of politics* 61(03):628–657.
- Mayhew, David R. 1974. *Congress: The electoral connection*. Yale University Press.
- McKee, Seth C. 2015. "Politics is local: State legislator voting on restrictive voter identification legislation." *Research & Politics* 2(3):2053168015589804.
- Morris, Jonathan S. 2001. "Reexamining the Politics of Talk: Partisan Rhetoric in the 104th House." *Legislative Studies Quarterly* pp. 101–121.
- Mycoff, Jason D, Michael W Wagner and David C Wilson. 2009. "The Empirical Effects of Voter-ID Laws: Present or Absent?" *PS: Political Science & Politics* 42(01):121–126.
- Nteta, Tatishe M, Jesse H Rhodes and Melinda R Tarsi. 2016. "Conditional Representation: Presidential Rhetoric, Public Opinion, and the Representation of African American Interests." *The Journal of Race, Ethnicity, and Politics* pp. 1–36.

- Osborn, Tracy and Jeanette Morehouse Mendez. 2010. "Speaking as Women: Women and Floor Speeches in the Senate." *Journal of Women, Politics & Policy* 31(1):1–21.
- Pearson, Kathryn and Logan Dancey. 2011. "Elevating Women's Voices in Congress Speech Participation in the House of Representatives." *Political Research Quarterly* 64(4):910–923.
- Ramey, Adam J, Jonathan D Klingler and Gary E Hollibaugh. 2016. "Measuring Elite Personality Using Speech." *Political Science Research and Methods* pp. 1–22.
- Rocca, Michael S. 2007. "Nonlegislative debate in the US House of Representatives." *American Politics Research* 35(4):489–505.
- Rocha, Rene R and Tetsuya Matsubayashi. 2014. "The Politics of Race and Voter ID Laws in the States The Return of Jim Crow?" *Political Research Quarterly* 67(3):666–679.
- Shogan, Colleen J. 2001. "Speaking Out." *Women & Politics* 23(1):129–146.
- Stratmann, Thomas. 2000. "Congressional voting over legislative careers: Shifting positions and changing constraints." *American Political Science Review* 94(03):665–676.
- Valentino, Nicholas A and Fabian G Neuner. 2016. "Why the Sky Didn't Fall: Mobilizing Anger in Reaction to Voter ID Laws." *Political Psychology* .
- Vercellotti, Timothy and David Anderson. 2006. "Protecting the franchise, or restricting it? The effects of voter identification requirements on turnout." *Manuscript, Rutgers University* .
- Wilson, David C and Paul R Brewer. 2013. "The Foundations of Public Opinion on Voter ID Laws Political Predispositions, Racial Resentment, and Information Effects." *Public Opinion Quarterly* p. nft026.

Wilson, David C, Paul R Brewer and Phoebe Theodora Rosenbluth. 2014. "Racial imagery and support for voter ID laws." *Race and Social Problems* 6(4):365–371.