

THE DISPATCH

Why State Election Reform Bills Don't Signal a New Jim Crow Era

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People are bickering over measures that were considered normal just a few years ago.

The *Washington Post's* fact checker has awarded President Joe Biden four Pinocchios for saying that a new Georgia law would “end voting at five o'clock when working people are just getting off work”—it won't—and then repeating the untrue claim in similar words the next day.

When it comes to stretching the facts about the legislation recently passed in Georgia, Biden is far from alone. The law, widely portrayed as a horrendous venture into so-called voter suppression, actually contains many provisions that liberalize access to ballot methods that came in handy during the pandemic, such as early voting, as well as addressing the genuine problem of long lines at polling places.

Post columnist Henry Olsen ably rebuts the main claims and calls the new law “a decent attempt to balance voter access and election integrity” that “has been unfairly and maliciously maligned.” (For simple explainers about the law's main provisions, see this one from Georgia Public Broadcasting, or this one from *Business Insider*.) Regarding a much-criticized provision on giving items of value to electors waiting in line, Dan McLaughlin at *National Review Online* emphasizes that other states like New York have long had similarly worded prohibitions without great controversy.

Want another narrative scrambler? On March 29 the heavily Republican Kentucky legislature passed by near-unanimous margins a “significant” bill that, to quote the *Courier-Journal*, “will make three days of widespread early voting a regular part of the state's future elections and expand people's access to the ballot in other ways while also instituting new security measures.”

Hold on. Aren't Republican state legislatures bent on taking shocking, novel, and extreme plunges into a “new Jim Crow” era? Isn't the result to put in doubt whether America is even going to go on having a system of democracy? Joe Biden went so far as to describe the Georgia bill “Jim Crow on steroids” while endorsing a call to remove the MLB All-Star game from the state.

The left-leaning Brennan Center has driven a lot of coverage with a running survey finding that GOP lawmakers have introduced more than 350 state bills that “would restrict access to the ballot.” That scary-sounding formulation can mean almost anything. In the eyes of the Brennan people, for example, it “restricts access to the ballot” for a state that did 15 days' worth of early voting during the pandemic—after having never done it at all before 2020—to scale back to doing only 10 days' worth at the request of county administrators stretched thin. It also means

measures to check voter ID, a step widely popular with voters across the board, including those from minority groups.

If the terrain over which people are bickering is solidly within the range of election law considered normal a half dozen years ago, it's probably not a return of Jim Crow, nor is it likely to spell the end of American democracy. And most of the bickering—on measures likely to pass—is on stuff like this.

That's a related point: Keep your eye mostly on the bills state legislatures *pass*, not the flotsam any old lawmaker may happen to *introduce*. Everyday coverage of the doings in state capitals typically spends little time counting the sheer number of bills filed on a topic. There's a good reason for that. Any backbencher in a state capital can introduce a bill that will never pass or even be seriously considered. Consider Arizona, where one GOP representative has filed a bill that would authorize the legislature to overturn the state's popular vote for president and substitute its own electors, as Trump forces called for in December. That's a genuinely horrible idea and needs to be watched, but there's no indication it will emerge from committee.

Why are the bills actually passing in states like Georgia and Kentucky more moderate? One reason is that many of the steps liberalizing absentee, early, and dropbox voting, whatever their other tradeoffs and demands on resources, make life more convenient for voters. Voters like convenience! That goes for many Republicans too, as well as groups like retirees and time-pressed businesspeople who often have the ear of GOP lawmakers.

You should also resist the widely heard theme that the supposed Republican zeal to pass these laws is fueled mostly by Trump's absurd claim that fraud cost him the 2020 election. Sure, some GOP lawmakers are willing to pander to the stolen-election fantasies of many in the base, especially if all it takes is to introduce a bill. But note again the Georgia experience. The responsible-adult GOP officials in that state—Gov. Brian Kemp, Secretary of State Brad Raffensperger, and elections director Gabriel Sterling—rightly won applause for standing up to Trump's false claims, and all have suffered extraordinary ongoing abuse at the hands of the Old Pretender's camp. None of them echo the national liberal line. Sterling, in particular, who brings much credibility, does not hesitate to criticize some details of the process as imperfect. Still, he writes that “nothing in this bill suppresses anyone's vote ... nothing. Those saying so are just stirring the pot and raising money. The claim of voter suppression has the same level of truth as the claims of voter fraud in the last election.”

Election administration is an imperfect art with many genuine tradeoffs. Don't treat ordinary disagreements about them as attempts to destabilize America's system of majority rule. If American democracy is in peril—and that might be a discussion worth having in light of what happened between November 3 and January 6—laws of this sort are not very good evidence for that proposition.

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