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Dynamics of Power in Indiana's Voter Identification Law

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Zachary Gossett

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Abstract

Indiana's voter identification law is controversial. Supporters argue that the law is necessary to protect the integrity of elections. Its critics argue that the law suppresses the votes of racial minorities and other historically marginalized and oppressed groups. The ensuing legal battle culminated in the U.S. Supreme Court case *Crawford v. Marion County Election Bd.* This thesis investigates this law's oppressive intent by utilizing qualitative, interpretive content analysis. The arguments within the respondents' case briefs are interpreted and evaluated through the context in which the law was introduced and enacted and Iris Marion Young's five faces of oppression: exploitation, marginalization, powerlessness, cultural imperialism, and violence. While Young's faces focus on experiences, this paper employs them to find language that supports or embraces those experiences. This study identifies four of the five faces in these case briefs – violence was not found. Since these faces were found in several arguments, this thesis concludes that there was oppressive intent in proponents' arguments for Indiana's voter identification law.

Voter identification laws are a relatively new phenomenon. Implementation of these laws has grown only since the start of the twenty-first century, but they remain controversial. Opponents link these laws to previous attempts at voter suppression whereas proponents argue that they secure electoral integrity. Generally, the literature is inconclusive about these laws' suppressive efficacy, but claims of oppression require investigation. This thesis investigates whether there is oppressive intent behind the law by subjecting proponents' arguments for Indiana's voter identification law to interpretive, qualitative content analysis. The arguments are interpreted and evaluated through the context in which the law was introduced and enacted utilizing Iris Marion Young's five faces of oppression.

The following sections demonstrate this context and theory, interpret the arguments, and evaluate them according to theory. The first section lays out Indiana's voter identification law in context while the second section covers the discussion on voter identification. Third, this paper details Young's theory of justice and oppression. Fourth, this theory is translated into methods to identify oppressive meaning and intent. Lastly, I demonstrate that oppressive meaning and intent according to Young's five faces of oppression. Ultimately, I hypothesize that Republicans intended to oppress historically oppressed social groups, and based on my findings, this thought seems to be well founded.

Indiana's Voter Identification Law in Context

From denial of its systemic and systematic character (Cole 2020) to protection of its signifiers and agents, like monuments (King 2020), institutions (Baker and Kaplan 2020), and white supremacists (Phelps 2019), people are attempting to maintain the

United States' oppressive regime. This regime is a hierarchy of power and privilege, dividing and ranking social groups, historically placing able-bodied, heterosexual, cis-gender, Christian, old, white men at the top (Strolovitch et al. 2017). Party compositions even align with these divisions. The Democratic party is forming a coalition of historically oppressed groups (Oliphant 2019) whereas the Republican party is growing whiter, more Christian, and more male (Heersink and Jenkins 2020), which are historically privileged groups. Considering party composition, the Republican party is expected to represent historically privileged people's interests. However, many of the Republican party's actions transcend typical or acceptable party behavior. The party is attempting to change rules to give its constituents disproportionate power. Voter identification laws are one example of these actions.

Through historical analysis, Combs (2016) argues that these laws are attempts to counter the United States' changing demographics through voter suppression. As the United States grows more diverse, benefiting the Democratic coalition, the Republican party is apparently attempting to limit the influence of historically oppressed groups to solidify power for the historically privileged. In other words, the Republican party may be aiming to worsen the United States' oppressive regime. However, this effort is not historically charged to Republicans. Throughout America's history, politics have been constituted by two racial institutional orders: white supremacist orders and transformative egalitarian orders. The former order was historically associated with the Democratic coalition, but it has since been fully embraced within the Republican party (King and Smith 2005). This project investigates these concerns in voter identification laws.

In current circumstances, this project aligns with efforts for increased scrutiny and action against laws that unjustly restrict voting. While these laws are not novel to the United States, they are on the rise after the 2020 presidential election. Republican lawmakers are justifying additional voting restrictions through baseless claims of election fraud that argue the election was stolen (Wines 2021). Recently, Republicans' effort to undermine confidence in the United States' presidential election culminated in the January Sixth Insurrection, where troves of President Trump's supporters stormed the US Capitol Building, forcing federal officials to hide and resulting in five deaths (Healy 2021). After these events, the House of Representatives impeached President Trump. While the Senate acquitted him, the vote marked the most bipartisan vote to impeach and convict a United States President in history (Blake 2021). With blood spilled in the halls central to the American experiment and calls to overturn a duly elected government, these events do not indicate a healthy democracy.

Throughout the United States, Republicans are making conscious efforts to immobilize voters, especially Democratic constituencies. In the 2020 election cycle, Democrats voted disproportionately by mail. This trend is clearly in response to health concerns arising from the COVID-19 pandemic. While previous elections demonstrated no partisan benefit related to voting by mail (Karp and Banducci 2000; Thompson et al 2020; Epstein and Saul 2020), Republicans overwhelmingly chose to vote in person since President Trump and his allies constantly berated the merits of voting by mail (Epstein and Saul 2020; Weiser and Ekeh 2020). The onslaught of voting law reforms in Republican controlled legislatures clearly coincide with Democrats' use of mail-in voting during the 2020 election (Pew Research Center 2020). These efforts to immobilize are

not new to conservative politicians, however. For decades, Republicans have openly indicated their support for less democratic participation. In 1980, Paul Weyrich, an influential conservative and co-founder of the Heritage Foundation, said, “I don’t want everybody to vote. As a matter of fact, our leverage in the elections quite candidly goes up as the voting populace goes down” (Berman 2011). The Heritage Foundation continues to play an influential role in election reform: lobbying state Republican lawmakers to introduce and enact many of their election reform priorities in the shadow of the 2020 election, for instance (Corasaniti and Epstein 2021).

Nevertheless, that election was not the first to spark controversy that resulted in election reform. Two decades ago, the controversial 2000 election between then Governor of Texas George Bush and Vice President Al Gore spurred calls for changes to the United States’ elections. These calls generated the Help American Vote Act (HAVA). This bipartisan act was meant to improve the voting process by replacing voting machines, reforming voter registration, and increasing access to polls, to name a few. It also included voter identification requirements to prevent fraud (Legal Information Institute n.d. a).

Indiana’s voter identification was framed as effort to comply with HAVA. When Senate Enrolled Act 483 was signed into law in 2005, it was the strictest photo voter identification law in the country (Indianapolis Star 2005b). While five other states required photo identification at the time, these states offered more alternative forms like school IDs and utility bills. Indiana’s law only allowed federal or state issued photo identification. Voters could complete a provisional ballot on Election Day, but that vote would only count if these voters verified their identity by displaying photo identification

at their county clerks' office by the Monday after the election or signed a religious exemption form (2005a).

While these routes offered some leeway, they ignored how difficult it was to obtain a form of photo identification in Indiana. In 1991, Indiana's Bureau of Motor Vehicles attempted to decrease fraudulent state IDs by decreasing valid forms of verification, mostly accepting things that included photos (Fahy 1991). Mary Anderson, who was the interim Executive Director of the Lafayette Urban Ministry in 2005, informed lawmakers that getting a photo ID is often a paradoxical experience; people need a birth certificate to get a state issue photo identification, but people need a photo ID to get their birth certificate. People also must pay a fee to get their birth certificate. In 2004, the Lafayette Urban Ministry received 150 requests for help obtaining photo ID, but fewer than seventy-five received one (McNeil 2005). Considering these difficulties, many Democratic lawmakers and activists voiced their opposition.

When the bill was being considered in Indiana's House of Representatives, Democrats and Republicans bitterly debated it for three hours. Republicans argued that the bill was necessary to ensure voter confidence and decrease voter fraud (Indianapolis Star 2005a). While there was not widespread evidence of voter fraud, the Madison County Democratic Party Chairman was arrested for twelve counts of voter fraud in 2004 (2004d), and voter fraud and election integrity were common talking points for Republicans even before this instance (Tully 2003). Democrats argued that this bill aimed to decrease turnout by making voting more difficult (McNeil 2005). During the debate, Democrats even made comparisons to the KKK and America's history of voter suppression, suggesting that Indiana Republicans were participating in a nationwide

campaign to suppress minority voters (Indianapolis Star 2005a). This argument coincided with increasing minority population percentages in Indiana (Kinghorn 2008). Democrats also argued that this bill does not treat people equally, giving some people exemptions while making it harder for poor people to vote (Indianapolis Star 2005a). Ultimately, Indiana's strict photo voter identification law passed Indiana's House of Representative and Senate on party line votes. In the House, every present Republican voted in favor and every present Democrat voted against, resulting in a fifty-two to forty-five vote in favor (Indianapolis Star 2005a). In the Senate, every Republican voted in favor and every Democrat voted against concurring the changes made by the House, meaning the Senate's thirty-three to seventeen vote sent the bill to the governor for signature (2005b).

Republicans were able to pass this bill without any Democratic support because they controlled both chambers of Indiana's General Assembly and the governor's office. In recent years, Indiana has largely been considered a safe Republican state. Currently, they have a super majority in both Indiana's House and Senate, meaning Democrats cannot even prevent a quorum (Davies 2020). However, that trifecta was not always the case. In 2004, Republicans were extremely successful in Indiana's elections. Before the election, Indiana's governor was a Democrat, and Democrats controlled the House by a slim fifty-one to forty-nine majority (Indianapolis Star 2004b). Republicans have controlled Indiana's Senate since 1978 (Ballotpedia n.d.). Republicans overturned that slim House majority, controlling the House for the first time since 1996. When they controlled both chambers from 1996 to 1998, Republicans pursued a controversial agenda, prompting two protest demonstrations at Indiana's Statehouse (2004b).

However, the circumstances in 1996 were different because the governor was a Democrat. In 2004, Mitch Daniels, a Republican from Indianapolis, left the Bush Administration to run for governor in Indiana, and he became Indiana's first Republican governor in sixteen years (2004c). Since 2004, Republicans have not lost a gubernatorial election, and while Democrats controlled Indiana's House from 2006 to 2010, Republicans have had a trifecta since 2010 (Ballotpedia n.d.). During the 2004 election, Republican announced eleven priorities. Of that list, many priorities promised a pro-business agenda. Other notable priorities include a gay marriage ban and a voter identification requirement (Indianapolis Star 2004a). When they were successfully elected to their first trifecta in decades, Republicans passed their voter identification priority (2005b) despite a Democratic boycott that prevented quorum and nearly killed the bill (Corcoran 2005). Consequently, Democrats promised to sue (Indianapolis Star 2005a).

The Indiana Democratic Party, several elected officials, and many community groups challenged the law, and they said the state failed to justify the law, which could burden thousands of poor, elderly, and disabled people. These challengers lost in the Federal District Court in Indianapolis and the United States Court of Appeals for the Seventh Circuit in Chicago (Greenhouse 2008). However, the appellant panel was divided. In his dissent, Judge Terrence Evans argued that Indiana's voter identification law was a thinly veiled effort against these historically oppressed groups. Ultimately, the

challengers petitioned to the Supreme Court of the United States, losing in a 6-3 decision (Oyez n.d.).¹

The Discussion on Voter Identification Laws

Voter identification laws require voters to present some form of identification at the polls to vote. Sometimes these laws mandate that the form of identification include a photo while others merely require people to verify their identity. Then, these laws are characterized by the additional steps they require when a voter does not have identification. Non-strict voter identification laws allow some voters to cast a ballot without additional effort – they may sign an affidavit, have their signature checked, or have the poll worker vouch for them. However, strict voter identification laws require additional effort after the attempt to vote for the ballot to count. For example, voters may have to present a form of identification to an election official later. If voters in states with strict voter identification laws do not complete the required additional steps, their vote will not be counted. Thirty-six states have voter identification laws, and ten of these states have strict laws, seven of which require photo identification as well (NCSL 2020). When it was introduced, Indiana’s voter identification law was the strictest in the country (Indianapolis Star 2005b).

Voter identification laws are controversial. Proponents tend to suggest that voter identification laws are necessary to ensure the integrity of elections whereas opponents argue that these laws are meant to suppress historically oppressed voters (Hicks et al. 2015). Generally, the most common argument in favor of voter identification laws relies

¹ The respondents’ case briefs argued in support of Indiana’s voter identification law. Since these arguments were employed for the final judgment according to the US Constitution, they are employed in this project to judge the intent of the law according to normative theory on oppression.

on voter fraud, specifically voter impersonation. This type of fraud occurs when a person votes under the name of an eligible voter while the person who casts the ballot is, in fact, not eligible. Voter identification proponents argue that this fraud is rampant in the United States election system. Studies, nonetheless, have found that this fraud is quite rare (Ahlquist et al. 2014; Levitt 2014). While these findings are slightly disputed (Richman 2014), the literature overwhelmingly concludes that this problem is overstated. Regarding the opponents' arguments, however, there is even more dispute.

Opponents of voter identification laws worry that they suppress voters, especially voters that belong to historically oppressed groups (Hicks et al. 2015). However, scholars have been unable to determine these laws' suppressive efficacy. In a landmark study, Hajnal, Lajevardi, and Nielson (2017) found that these laws do in fact lessen the turnout of minority voters. Scholarship on this issue was immersed in conflict after Grimmer, Hersh, Meredith, Mummolo, and Nall (2018) disputed this landmark study. These researchers took issue with Hajnal et al.'s (2017) reliance on the Congressional Election Studies surveys. When Grimmer and his colleagues (2018) used the same test considering these issues, they came to a different result, finding that voter identification does not lessen turnout. Therefore, this debate is far from settled.

Nonetheless, critiques of voter identification still have some intuitive appeal considering the access to identification. Numerous studies display that there are vast disparities in access to identification; moreover, these studies display that the disparities are often along racial and ethnic lines (Barreto et al. 2018; GAO 2015). In Indiana, Barreto et al. find that significant disparities in access to valid identification suggest that many people are disenfranchised by the voter identification law. Notably, people who are

predisposed for privilege have the most access (2009). When these known disparities are considered alongside the United States' changing demographics (U.S. Census Bureau 2012), voter identification laws seem positioned to limit voting access to an increasing proportion of the population, hence concern with the intent of these laws.

While the merits of both arguments are disputed, there is little doubt about the incidence of these laws. Although these laws were once valence issues,² now voter identification laws are uniformly introduced by Republicans (Hicks et al. 2015). Voter identification bills' introduction and enactment processes seem to be extremely political, strategic, and racialized (Bentele et al. 2013). Moreover, the opposition is largely Democratic, making this issue intensely partisan. However, these bills are not necessarily passed just because Republicans have control – they are influenced by the political context. These bills are positively associated with Republican control and political competitiveness, and they are likely meant to empower Republican's dwindling constituency by demobilizing growing minority populations (Hicks et al. 2015). States are most likely to adopt voter identification laws when the governor's office and legislature switches to Republicans (Biggers and Hanmer 2017).

Despite this partisan split, highlighting and investigating these party asymmetries is not inherently partisan. In fact, these efforts are intellectually honest and increasingly common. Differences between parties include demographics (Heersink and Jenkins 2020), activism (Carmines and Stimson 1989), financial contributions (Panagopoulos and Green 2011), and turnout (Hillygus and Shields 2008), for instance. Party positions may be equivocated for a false sense of non-partisan, unbiased research. Objectively, the

² Voter identification laws are still fairly popular within the electorate. Despite opposition from Democratic officials, many voters agree with requiring photo ID when casting a vote (Rakich 2021).

Republican Party supports voter identification laws, and it argues that these laws address voter fraud, specifically, from non-citizens. The party's intention is more debatable. The Republican party argues that these laws address fraud, but this occurrence is rare (Ahlquist et al. 2014; Levitt 2014). Hicks et al. (2015) displays that there is some partisan benefit in these laws, potentially aiding Republican electoral success. Since there are concerns that these voter identification laws are meant to harm historically oppressed groups in favor of privilege social groups, they must be considered within theories of justice, power, and oppression.

Theory on Justice, Power, and Oppression

Perhaps intuition places voter identification laws in discussions of justice, but scholarly debate is less clear about that categorization. Young argues that this institution is a product of the late twentieth-century social movements. Classical and predominant theories of justice tend to focus more on distributions of goods or resources. Young argues that these theories of justice mistakenly subscribe to the distributive paradigm – a combination of ideas and practices that suggest social justice is “the morally proper distribution of social benefits and burdens among society's members” (1990).

When considering social movements for justice, these theories limit the scope of justice in two ways. First, these theories ignore and presuppose institutional context and social structures. Young argues that by presupposing institutional context, theories of justice tend to assume centralized and removed policy enactment and enforcement; therefore, there are few evaluations about just organization of governmental institutions or just methods of political decision-making (Young 1990). Since an evaluation of voter identification would often be considered within the institutional context, it may be missed

by predominant theories of justice. Young's theory, nevertheless, provides a framework for consideration that include institutional context and social structures that are relevant to voter identification in Indiana. Second, distributive theories of justice articulate a static view of power. This view suggests that any social value is a thing or aggregate that people possess. That conception focuses on end-state patterns instead of processes and relations that produce injustice. Essentially, they ignore many experiences that would be considered unjust, possibly including racism and sexism (Young 1990). Since investigating oppressive intent in Indiana's voter identification is more about the processes of voting than the end-state disenfranchisement, distributive theories are not adequate. Overall, these distributive theories of justice cannot be used to interpret proponents' arguments, but Young's theory is more applicable.

However, Young's theory of justice is untold in a positive sense. By criticizing the distributive paradigm of justice, she elucidates a concept of justice based on social relations. Justice to Young is "derived from a conception of communicative ethics" in which everyone has influence in deliberation and decision-making. She describes justice by its negation: domination and oppression. These concepts elucidate a theory of justice relating less to distributive patterns but more to structures, relations, and power.

This systemic character is a product of perpetuated structures and institutions. Oppression is not necessarily exercise through the direct will of a tyrant; it is embedded in everyday actions. When people act in society, they are often following predetermined acceptable behaviors or continuing legacies of action. These behaviors and actions are social processes perpetuated by structures and institutions. Structures are like

conventions, rituals, and norms whereas institutions are organized laws, rules, and associations.

According to Young, decision-making structures and procedures, the division of labor, and culture are three rough aggregates of structures and institutions that are crucial to justice that cannot be captured by distributive theories because they exist within institutional context. Decision-making structures and procedures refer to who, through their position and authority, can influence decisions that organize society and to the rules by which these decisions arise. These structures and procedures include not only codified institutions like government but also social hierarchies that affect communities and households. These procedures include processes like voting, which places voter identification laws primarily within decision-making structures and procedures.

While the first category of structures and institutions includes voter identification primarily, these categories overlap and impact each other. Therefore, voter identification laws may also affect the division of labor and culture. The division of labor can be distributive or non-distributive. When distributive, this division refers to how jobs, tasks, and occupations are split between groups and people, but as a structure, it is about the definition and value of positions. Culture is the meaning attached to people, actions, gestures, and institutions, among other things. Therefore, culture is everywhere. Through culture, people express their experiences and understanding of the world. Social groups make meaning through culture.

According to Young, many theorists fail to accurately conceptualize social groups. They often characterize them as aggregates or associations. While groups share some traits of these collectives, their distinctions are crucial for her theory of oppression.

Social groups are created through relations: they exist in relation to at least one other group. Members of these groups have shared or similar experiences; therefore, they develop similar practices and meanings. These similarities compel members to have affinity for fellow social group members, and they differentiate them from other groups. These affinities and differences define identity. Consequently, social groups in common discourse are collectives defined by race, gender, sexuality, ability, and age, to name a few. The other commonly invoked collectives do not have this complexity (Young 1990).

Aggregates are collectives defined by shared attributes like skin color, language, or location to name a few. Social groups often include these shared attributes as well, but that shared attribute is where aggregates end. Groups are centered on shared identity. They have history and culture, meaning there is more value placed upon them than similar appearances or background. People within social groups relate to and identify with collective symbols, practices, and other experiences. For example, Black people are not only a collective with dark complexion but also groups with shared or similar history, culture, and experiences. These shared or similar experiences are not monolithic, but they are generally more relatable than these features for other races (Young 1990).

This relatability expresses social relations, which differentiate social groups. Each social group is defined in relation to at least one other group. Associations are also produced by relations. These collectives are differentiated by relations to other collectives, and there is affinity for members and their shared characteristics. Political parties are examples of associations. In the United States, Republicans and Democrats are defined by their relation to each other, and their members generally subscribe to similar views. Unlike associations, however, groups constitute individuals. Individuals do not

choose groups like they do associations; instead, individuals find themselves in groups. The groups to which they belong seem ingrained within their identity. People can change social groups, but when they do, they experience a transformation of their identity (Young 1990). This identity serves as sort of social position where people belong to multiple social groups: there are White men and White women, for example. In that position, people have differing degrees of power.

In Young's theory, power is not something that people possess – it is dispersed throughout society. Young criticizes distributive theories of power for articulating a concept that can be traded, exchanged, and distributed. That critique does not dismiss that people have different degrees of power, but power – in Young's view – is relational, not substantive. Power, therefore, is product of social processes determined by structures and institutions. Social groups have differing degrees of power based on their relations to other groups in the institutional context. Since Young does not explicitly define power, Allen expands Young's theory, defining power as “a general capacity to act” (2008). This definition conveys that power is a potential – people are not required to act to have power. Instead, people who have greater power are more easily able to influence or act within society. Despite power being a general capacity to act, it is realized through actions or processes. When these processes constrain groups, they are unjust (Young 1990).

For Young, justice is concerned with whether society provides the institutional conditions required for a good life, which must include two general values – self-development and self-determination. These values require the ability to act; therefore, they require power. Injustice exists when social relations prevent groups from realizing

these values. Oppression and domination are experiences of injustice. Oppression prevents self-development whereas domination prevents self-determination. On this distinction between oppression and domination, voter identification laws fall strangely between these diverging yet simultaneously overlapping phenomena. Since they are not mutually exclusive, some policy or action can be an instance of oppression and domination. While domination tends to be oppression, not all oppression is domination. Therefore, if voter identification laws are found to have oppressive intent, they are likely policies of domination as well. Overall, oppression occurs when structures and institutions immobilize or diminish groups, but specific experiences of oppression are elucidated in Young's five faces of oppression: exploitation, marginalization, powerlessness, cultural imperialism, and violence (Young 1990).

Exploitation

Young's first face of oppression is exploitation. From scholars to common use, exploitation broadly indicates taking advantage of someone's vulnerabilities. Exploitation's tenets have been employed since Saint Thomas Aquinas, but exploitation as a concept in employer relations was popularized by Karl Marx. Through his labor theory of value, Marx argues that Capitalists take advantage of laborers by taking the surplus value from their production (Zwolinski and Wertheimer 2017). While Marx's labor theory of value is largely refuted, other scholars continue to use distributive theories of exploitation. Despite fundamentally disagreeing with baseline assumptions in previous theories of exploitation, Young employs their tenets in her own concept.

Young argues that these aforementioned theories of exploitation are limited by the distributive paradigm of justice to which they seemingly subscribe. According to Young,

exploitation is systematic transfer of powers. In that definition, there are three crucial thoughts. First, exploitation is systematic because it is structural. It is not enforced by a tyrant or boss – there may not even be a direct oppressor. Exploitation is perpetuated through everyday actions. It is the product of social relations between groups. These relations create decision-making structures or procedures and divisions of labor. The former dictates who has authority to make decisions as well as rules and procedures that enable, promote, and affect certain decisions like the legal system. The latter defines work, distributes tasks, determines compensation, and establishes value of labor. Both decision-making structures and the division of labor institutionalize these rules or relations, creating a continuous pattern of power transfers. Transference constitutes the second feature of exploitation. These transfers indicate processes, not mere exchanges that occur at specific times like distributive models of exploitation suggest. These processes occur through social relations that are constantly in flux. Through these relations, one group can appropriate the powers of another group (Young 1990). Third, power to Young can be considered “a general capacity to act” (Allen 2008). These capacities are abilities to produce and alter states. It is the means to agency.

Exploitation thereby shifts capacities to act from one group to another through social relations. For economic issues, instances of exploitation are often obvious. When employers underpay their employees to increase profit, they take purchasing power from these employees and empower themselves. These instances are often clear exchanges, and they may even fit distributive models of exploitation. For social issues, however, instances of exploitation tend to be less clear. In *Justice and the Politics of Difference*, Young highlights several instances of gender exploitation, which can be used as a model.

For example, women are regularly compelled to complete a disproportionate number of household chores. Consequently, men are freed for other pursuits (1990). In these relationships, there is not a single instance of exchange, but men have increased capacities to act because women's capacities are transferred through gendered household labor. Regarding both economic and social issues, nonetheless, one group's power is systematically transferred to another.

Marginalization

In informal discussion, marginalization is regularly conflated with oppression generally. For instance, any given social group may experience several faces of oppression that could include or exclude marginalization, yet that group is still regularly referred to as marginalized. While this use of marginalization may not have significant consequences, it obscures the experience of this face. Nonetheless, marginalization is a much narrower, specific experience that can have dangerous consequences. Young even suggests that this face may have the most detrimental effects, often leading to material deprivation and – in extreme cases – even extermination. These effects may arise from the sheer inability of marginalized groups to wield their power to influence their environment and broader society. Unlike exploitation, marginalization is not concerned with any process or transference. Groups that experience marginalization may have significant power through their relations; they are unable to wield it in certain contexts, however. Marginalization then is an experience of preemption. It prevents the capacity to act by isolating agents from things on which to impose their will (Young 1990).

Through marginalization, social groups are “expelled from useful participation in social life” (Young 1990). This expulsion is not merely exclusion from social interactions

or socializing, which would characterize social distancing or quarantine as marginalization. Allen (2008) argues that marginalization, along with exploitation and powerlessness, are concerned with the social and economic division of labor; however, she does not discuss how this exclusion affects access to decision-making. It limits or eliminates groups' access to decision-making structures and procedures by preventing "the opportunity to exercise capacities in socially defined and recognized ways" (Young 1990). These ways are most of society's productive activities, and they occur through social cooperation. This cooperation refers to the division of labor and decision-making structures and procedures that sustain and organize society. Marginalization, therefore, has both economic and political implications.

For an economic example, groups' power cannot be direct towards useful participation in the economy, meaning members are often denied legally sanctioned valuable jobs or careers. This condition is foundational for many instances of exploitation since individuals are coerced into exploitative labor to make ends meet. These economic implications often force marginalized group members into illicit or menial sectors. That work also affects cultural imperialism when these marginalized groups are stereotyped in those positions. Marginalization also involves political participation. It is perhaps most blatant when groups are denied basic rights supposedly guaranteed to citizenry. That includes the right to vote. Yet, explicitly denying participation is not the baseline; any attempt to limit or eliminate participation prevents groups' capacity to act or ability to engage with society in productive, recognized ways is marginalization. For example, placing insufficient polling places in a locality marginalizes groups by significantly increasing the burden to access decision-making structures and procedures. Ultimately,

policies or practices are marginalizing when they exclude or block meaningful and productive participation in economic, political, or social activities that sustain and organize society.

Powerlessness

While the nomenclature suggests a static state, powerlessness – like exploitation and marginalization – is experienced through systemic social relations. It exhibits a situation in which groups are relegated to the status of passive subjects. They are rarely able to exercise power, yet they undergo the consequences of its execution. In society, groups that experience powerlessness are situated where they have little ability to influence decision-making structures and procedures. Regarding the division of labor, that position limits opportunity to develop and exercise skills (Young 1990). Since power is a relational capacity to act dispersed throughout society (Allen 2008), powerlessness is not an experience of absence. Social relations render the powerless underdeveloped. Powerless groups do not have less power as a thing that can be possessed; instead, they have limited influence in society based on positioning (Young 1990).

Whereas marginalization relates to actions, powerlessness refers to capacity. Powerlessness is a condition where relation within structures and institutions hinder capacities. Powerless groups have relatively less ability to act in a recognized and respected way according to society. This underdevelopment is regularly expressed as less education, knowledge, or expertise. Powerless people may be considered less educated or intelligent, but this characterization is oppressive because it disables the ability to affect their own situation. They are granted less autonomy, and they do not get to express creativity or independent judgment in their work. Powerless people often behave

awkwardly or abnormally in influential or bureaucratic settings like the courthouse or DMV. Essentially, powerless groups are portrayed as people that do not belong in important settings (Young 1990).

According to Young, the powerless have comparatively less “authority, status, and sense of self.” She identifies powerlessness in the differences between professionals and nonprofessionals. She highlights three major differences that express powerlessness in this relation. First, professionals’ work has “an expansive, progressive character,” meaning it is considered with continued development. In their work, they garner expertise or specialization. Professional work has an educational prerequisite of, at a minimum, four-year degrees. As professionals develop or progress in their field, they gain more recognition or status. Nonprofessionals often do not have these opportunities. They are afforded limited chances to gain knowledge or earn promotions. Second, nonprofessionals are allowed limited autonomy. They are given orders from professionals, and they have little freedom to deviate or express creativity and independent judgment. This division extends to nearly every aspect of social life. These groups live separately, and they tend to develop different cultures and lifestyles (Young 1990).

These different lifestyles extend into the third difference – nonprofessionals are not respected. According to Young, respectability is a relation of influence. When people are respected, other people tend to show them willingness to listen and do as requested. Nonprofessionals are not shown this respect. Professionalism is associated with respectability in society, meaning lifestyles and behaviors associated with professionals are required for influence. When nonprofessionals are placed in settings of respect, they

are expected to behave according to professional standards. However, they rarely have opportunities to learn and practice these standards. Even if they can behave appropriately, when their nonprofessional status is revealed, they are respected less. Therefore, groups that experience powerlessness have disabled or underdeveloped influence (Young 1990).

These three differences between professionals and nonprofessionals are not unique to this relation, however. Many other groups experience powerlessness, and it is exemplified by undeveloped or underdeveloped capacities. Minorities and women are often not respected even if they are professionals (Young 1990). Many people who are considered disabled have limited ability because social relations constrain capacity development. These people are not given the accommodations required for action in many settings. In powerlessness generally, social relations disable potential ability. The powerless are inhibited from action, not by barriers nor constriction but by structures and institutions that disable.

Cultural imperialism

Whereas the three prior faces of oppression primarily focus on the division of labor because they have to do more with concrete power, the latter two faces are primarily concerned with culture, but they all affect decision-making. Culture is the assortment and creation of meaning. Through cultural imperialism, dominant groups constrain non-dominant groups' cultures through erasure and stereotyping.

Young uses culture to describe groups' meanings developed through shared experiences, which includes communication and interpretation in society. Regarding communication, people convey meaning in ways defined by culture. It includes the expressions that people use to relate and indicate shared experiences, histories, and

interpretations. These expressions can include practices and norms. People regularly act according to these culturally acceptable practices and norms, which are perpetuated by structures and institutions. From greeting to departure, culture influences interactions, but norms in these interactions are not uniform between cultures. For example, French cultures and American cultures are often perplexed by the intimacy of the other sets' greetings: Americans are unlikely to kiss when greeting, and the French are unlikely to hug when greeting. These differences exemplify social relations that distinguish groups. Cultural expressions differ between groups due to different shared experiences that inform interpretation of meaning. Through interpretation, groups identify significance. They determine values, and they identify important events, practices, goals, and achievements. Interpretation also informs the meaning within expressions, and it can even decide the value of other cultures or groups within a given groups' perspective. These interpretations underscore cultures' understanding of the world and their place in it. Different cultures do not necessarily conflict, but cultural imperialism occurs when the dominant culture imposes their perspective on other cultures.

Through cultural imperialism, dominant cultures deny the perspective or experience of non-dominant groups. When speaking about imperialism generally, people typically allude to colonialism – dominant or powerful countries extend their reign over other countries. In this context, however, imperialism is not necessarily pursued by the state nor between countries. In cultural imperialism, non-dominant groups are subjected to the communications and interpretations of dominant cultures. Meanings from dominant cultures are most widely disseminated in media and everyday actions (Young 1990); dominant groups' privilege gives them primacy over the means to interpretation

and communication (Fraser 1987). Therefore, dominant expressions are considered normal, and dominant interpretations are considered correct. The dominant groups' experience comes to represent humanity entirely (Young 1990).

Through this universalization of dominant cultures, non-dominant cultures are made invisible. The meanings of experiences are erased or hidden by the prominence of dominant cultures (Young 1990). This erasure is often present when recounting past events. For example, narratives about Manifest Destiny tend to focus on American Exceptionalism instead of Indigenous genocide. When dominant groups encounter other cultures, they regularly rationalize them by imposing dominant meanings or norms. This subjection marks non-dominant cultures as deviant and inferior (Young 1990).

Dominant groups' cultural meanings also regularly prescribe essences to these other groups, which is often underscored by that perceived deviance and inferiority. These essences are stereotypes about characters or behaviors that mark non-dominant groups as the Other. This mark begets simplicity – members of non-dominant groups are not allowed the complexity of individuals. Dominant cultures suggest that these other groups do not range in character or qualities. These non-dominant groups are made into monoliths whereas dominant group members have the privilege of personality and uniqueness (Young 1990).

Non-dominant groups' culture is often simultaneously invalidated by both invisibility and stereotyping. However, these groups still share experiences – they communicate expressions and interpretations about the world, which inform their lifestyles. Since these non-dominant groups have their own culture and they must incur the imposition of dominant meanings, they regularly experience double consciousness,

wherein they both see themselves in their own perspective as well as the perspective of dominant groups (Young 1990). This duality enables members of non-dominant groups to more easily recognize the structures and institutions that perpetuate each face of oppression.

Through these experiences, cultural imperialism is widely present and observed in society. It often describes the experience of racial minorities, for instance. Through erasure, Black Americans' influence of music and dominant culture is ignored. Through stereotypes, Black Americans are portrayed as criminals. This cultural imperialism characterizes Black Americans as the Other in dominant cultural meanings.

Violence

The last face of oppression is systematic violence. When Young refers to violence in the context of oppression, she is not focused on individual instances, though they may be examples of this face. Violence as a face of oppression refers to systemic attack on members of social groups motivated by their membership within those groups. This face includes systematic attacks, harassment, intimidation, or ridicule employed to degrade, humiliate, or stigmatize group members. This systematic character results from the social context surrounding this violence, which makes these actions common social practices (Young 1990).

Throughout society, many members of non-dominant social groups must fear violence directed at them for their membership. Therefore, they are victims of this face not only by being acted on directly but also having to live with "daily knowledge" that they may be subjected to violence. They must fear this violence because everyone is aware that these actions are commonplace. These violent instances have happened before,

and they will happen again (Young 1990). That character is present in police brutality. Black men regularly die during routine traffic stops, and they are compelled to fear this potential with every interaction with police officers.

The threat of violence compels certain behavior, thereby undermining non-dominant group members' freedom and dignity. To avoid the exercise of violence, they must act accordingly, and even then, they are not safe (Young 1990). Women must avoid walking the streets alone, especially at night, for example. The regularity of this violence as a social practice demonstrates dominant cultural interpretations. Systematic violence approaches legitimacy in many settings. People are not surprised when this violence occurs, and many people suggest or overtly claim that this violence is justified. The perpetrators hardly incur strict punishment for these actions. Referring again to police brutality, people are not surprised by these killings, and despite visible suffering from Black communities and families, there are many people who side with murderers because their position enables them to enact violence by protecting them through dominant structures and institutions. Therefore, dominant interpretations convey that this violence is tolerable because it affects people who are viewed as lesser or undeserving of justice. This tolerance is widely recognized. Despite regular and obvious instances of injustice, violence remains inevitable through that tolerance.

Identifying Oppression in Content

Indiana's voter identification law was selected because its unique place in the literature. Indiana's law was the first of its kind, and after the Supreme Court upheld it, many states followed suit. This project is a case study since that scope enables qualitative detail required to analyze intent. The respondents' case briefs supporting Indiana's voter

identification law are employed in this study because they present the most cogent arguments in favor of the law from those who are charged with defending it. This project is not meant to analyze the legal validity of these arguments; instead, it interprets and analyzes them according to Young's normative theory of justice. Therefore, this project engages in an interpretive, qualitative content analysis.

While perhaps uncommon, political theory may be applied in empirical research to conjure a better understanding of dynamic phenomena. When they work together, political theory provides a framework for analyzing and interpreting phenomena according to normative concepts and principles whereas qualitative research provides the empirical trends and patterns subject to this theory (Zapata-Barrero 2018). In this instance, applied political theory and qualitative research enables conclusions about justice and oppression. Since case briefs are unlikely to overtly state oppressive intent, there is some need for contextual interpretation. Drisko and Maschi distinguish interpretive content analysis from basic content analysis by the former's ability to explore latent meaning in the context of communications. When these communications or content are interpreted in the context that they are made, conveyed, and received, researchers can make inferences about the communicators' meaning or intentions. Interpretive content analysis regularly begins inductively with preliminary raw data. Researchers form emergent coding by identifying themes within content. They expose these themes to connotative codes that are based on overall meaning, not explicit words. These codes are created through contextual knowledge and theories (2018). In this project, those emergent themes are arguments within respondents' case briefs supporting Indiana's voter

identification law to the Supreme Court of the United States, and those codes are determined by Young's political theory.

Young's five faces of oppression have been used in this type of content analysis before. Some researchers employed Young's faces to analyze interviews with Mexican immigrant mothers. Their study identified all five faces of oppression in the women's experiences. These interactions with oppressive institutions and structures ranged from exploitation through lower wages to violence through threats of sexual assault (Ayón et al 2018). Like this project, these researchers interpreted language in context to identify elements of political theory. Both interpretation and political theory are required to infer meaning and determine normative value.

Ayón et al. (2018) uses political theory to code experiences of oppression whereas this project employs the same political theory to identify and judge intent. In my project, I familiarized myself with the context in which the voter identification law was introduced and passed in Indiana, and I created detailed descriptions of Young's five faces of oppression. That information was used to identify emergent themes or arguments in the respondents' case briefs for the United States Supreme Court with oppressive meaning, thereby suggesting whether there was oppressive intent behind the law.

Notably, Young's five faces express experiences of oppression, not advocacy intent. Translating these accounts into mechanisms for identifying oppressive meaning or intent presents some challenges. These challenges are not insurmountable, nonetheless. The oppressive themes were found by extrapolating Young's five faces of oppression that detail experiences of oppressed social groups into coded language that promotes

experiences of exploitation, marginalization, powerlessness, cultural imperialism, and violence for non-dominant social groups.

In this project, I identified the emergent arguments by pulling quotes or premises. Then, I interpreted them in context and subjected them to the tenets of Young's five faces of oppression. If these quotes demonstrated support or embrace for these faces, they were coded as demonstrating meanings of that given face. In the descriptions below, these faces were described as mutually exclusive; therefore, any given quote is only coded as belonging to one face. Nonetheless, if there are multiple instances of a face, the argument is said to have oppressive intent, specifically related to that face. Since proponents are unlikely to say that they support voter identification to oppress certain social groups, I distinguished premises or quotes in their arguments as implicit or explicit. This distinction was mostly descriptive, and it functioned to highlight clarity of the respondents' intent. Nonetheless, this scheme created eleven mutually exclusive categories, including five categories that explicitly express each face, five categories that implicitly express each face, and one when oppressive meaning is not present.

Exploitation

Exploitative intentions are expressed through interests in perpetuating systemic transfers of powers. Arguments that express exploitation would indicate a direct relationship of transference or exchange between two or more parties. Therefore, they would likely be coded in concerns of value or benefit. Explicit oppressive intentions could argue in favor of advantage-taking. Proponents could suggest that vulnerabilities permit this advantage-taking, even suggesting that powerful or privileged people have the right to exploit disadvantaged or historically oppressed social groups. They could also

argue for enriching or empowering social groups at the obvious expense of others.

Implicit arguments with oppressive intent would be less direct about advantage-taking or transfers of value and benefit, but these ideas would still be present. These arguments could delegitimize or reject claims of entitlement to protect transference or value. They could suggest that a privileged group deserves or earns the value or benefit taken from another group because that privileged group meets certain requirements.

Marginalization

Marginalization is expressed in arguments that attempt to isolate agents from effectively participating in society. This face is seen in language of barriers and burdens that disallow groups from executing their capacities to participate or influence decision-making structures and procedures or the division of labor. Explicit arguments for marginalization would purposely aim to block or burden social participation within decision-making structures and procedures or the division of labor to decrease social participation. These arguments could deny people's rights to participate in society. They could argue that decreased participation is not a problem; in fact, decreased participation may be viewed as beneficial.

Implicit arguments for marginalization would likely support burdens and barriers to participation as a means to securing and maintaining structures and institutions within decision-making procedures or the division of labor. These arguments could suggest that burdens and barriers are necessary for effective social participation, not unfortunate consequences of structures and institutions. They would justify barriers and burdens through precedent, suggesting that other barriers and burdens make new ones accepted or needed. These arguments may suggest that other structures or institutions need

reconsidered if the given one is problematic. Implicit arguments could also include efforts to diminish the barring effect of structures and institutions by emphasizing comparably worse or explicit examples.

Powerlessness

Intentions underscored by powerlessness will support efforts to render people unable to act. These arguments would suggest constraining or limiting opportunities to develop that capacity, or they would deny how that development is already constrained by structures and institutions. Explicit arguments for powerlessness could seek to disable the ability to develop skills or qualities required for work or participation. They could argue that disabling structures or institutions are necessary, which could be excused by resource scarcity or unmet qualities. Therefore, these arguments could state that a disabling effect is not proper justification for policy approval or rejection, including historical instances of disproportionate underdevelopment.

Implicit arguments for powerlessness would express tacit support of disabling structures and institutions. These arguments could deny that disabling structures and institutions exist, which is often hidden in language of personal responsibility for capacity development. They could dismiss or ignore the inability for people to launch a challenge to oppression because their powerless position, or they could argue in favor of structures and institutions that disable capacity development. These arguments for powerlessness could also downplay or diminish the importance of disparity in capacities or possession.

Cultural Imperialism

Arguments for cultural imperialism will apply or impose dominant meanings on other cultures. These arguments will express either erasure or stereotypes, and they may express both. Explicit arguments for cultural imperialism could label other cultural practices or uncommon lifestyles as inferior or wrong, and these arguments could compel people to adjust their practices and lifestyles to act according to normal or dominant cultural expressions. They could also deny the right to existence of different cultures and lifestyles. Explicit arguments for cultural imperialism could include generalizations or stereotypes about groups of people, ascribing that characterization as an essence, and they could justify certain treatment based on these assumed essences.

Implicit arguments for cultural imperialism would include similar but more concealed erasure or stereotypes. These arguments could diminish the importance of social group or culture belonging by stressing neutrality or color-blindness. They could diminish the value of other practices or lifestyles, suggesting that dominant cultures are more valuable or correct. They could suggest that other lifestyles or cultures only exist on the fringes of society, stressing their seeming infeasibility or unimportance. They could deny the significance of meanings or gestures to other people. These arguments could overextend vague assumptions about groups of people, not describing them as essential qualities but not offering nuance about diversity within those groups.

Violence

Arguments for violence would legitimize or support systematic attacks to damage, humiliate, or destroy people or their property. They would support attempts to harass, intimidate, or ridicule to degrade, humiliate, or stigmatize non-dominant social group

members. These arguments would legitimize systematic violence. Explicit arguments for violence could overtly call for violence against people, encouraging listeners or detailing plans to attack members of non-dominant social groups. These arguments could legitimize systemic violence against people by claiming violence is acceptable or tolerable, and they could even argue that they are necessary. Explicit arguments for violence could justify this violence by stating that it is deserved.

Implicit arguments for violence would more subtly encourage violence. They may advocate for roughness or harshness. They could suggest that something should happen to certain people without specifying what action should take place. These arguments could make excuses for or downplay the threat or frequency of known systematic violence. They could suggest that systematic violence is just how the world works.

Finding Oppressive Meaning in Voter Identification

Within the respondents' case briefs in support of Indiana's voter identification law, there are numerous premises that convey oppressive meaning, and when they are interpreted in the proper context, these arguments demonstrate oppressive intent. Throughout the briefs, there are oppressive arguments in four of five faces of oppression: there are arguments that express exploitation, marginalization, powerlessness, and cultural imperialism. This section highlights quotes that express premises with oppressive meaning, and it demonstrates how these premises and arguments are interpreted to convey oppressive intent.

Exploitation

In many settings, exploitation is viewed merely as economic. That view is present in most experiences characterized as exploitation. These experiences are often

encapsulated by unfair wages and poor working conditions. However, as the earlier description of exploitation demonstrated, this face has many social applications outside economic distribution issues. In their case brief for Indiana's voter identification law, the state respondents employ premises with exploitative meaning.

As displayed earlier, exploitation requires a transfer of powers between two or more parties. That transfer improves certain people's capacity to act at the expense of others, and in this context, that capacity to act is the ability to vote. The respondents employ this face when they discuss the value of votes. They argue that Indiana's voter identification law protects the value of eligible voters.

The Voter ID Law protects the franchise by ensuring that those who meet substantive eligibility requirements have their votes counted at full strength, undiluted by ineligible voters (*Crawford v. Marion County Election Bd.* 2008).

This implicit premise shows how the respondents use eligibility as a crux for exploitation. Despite common allusion to voter impersonation, fraudulent is not synonymous with ineligibility in their arguments. In fact, the connection between these attributes is unclear if even present. Therefore, eligibility is not a measure of fraud; instead, it is a structure meant to improve votes' value for people "who meet substantive eligibility requirements" (*Crawford v. Marion County Election Bd.* 2008) at the expense of groups who cannot meet these requirements.

While eligibility can be a justifiable reason to deny voting, these "substantive eligibility requirements" are not necessarily accurate measures of eligibility. They are additional requirements to prevented dilution of power, making some groups – who would otherwise be eligible if not for the voter identification requirement – ineligible.

That structure thereby transfers the power of newly ineligible voters to eligible voters. The respondents explicitly indicate that this requirement benefits some groups at the expense of others.

Requiring indigents and religious objectors to validate their ballots at the clerk's office benefits the electorate as a whole (*Crawford v. Marion County Election Bd.* 2008).

This quote explicitly demonstrates that some oppressed groups' ineligibility or difficulty is beneficial for other groups. It demonstrates that ineligibility in this argument characterizes historically oppressed groups.

Exploitation is clear in this argument when interpreted in the proper context. In Indiana, elections determine representation in districts with a given population. For many districts, that population affects where districts' boundaries are drawn, and it determines the available value of each vote by its relation to the elected official, meaning officials' mandate is based on population. These votes have relative weight or value based on its influence in elections, and that relative weight increases when fewer people vote. This phenomenon underscores many critiques of the Electoral College (Durrant 2017), but that conversation compares districts. In a given district, each vote has less relative influence when more people vote than when fewer people do. Therefore, this argument is about turnout, and as the literature displays, Republicans have expressed desires to decrease turnout because they feel it helps them win elections.

This interest is notable in competitive elections. Increasing the pool of "ineligible" voters even marginally can sway elections in competitive districts, and Republicans in Indiana introduced this law when elections were competitive, as

Republicans have done across the country. When this law was introduced, there were numerous claims that it would disadvantage oppressed groups, and since the Republican coalition is increasingly comprised of privileged groups, Republicans knew that their coalition was less likely to be affected by this law. In this context, this argument suggests that Republicans introduced this law to increase the value of “eligible” votes, which would likely contain more privileged people, at the overt expense of newly “ineligible” voters, likely including more historically oppressed groups.³ Since premises underlying this argument indicate exploitative meaning, the respondents’ argument that the voter identification law increases or gives full strength to voters has oppressive intent. While this argument relies on exploitation, it is supported by arguments that support decreased social participation, which is marginalization.

Marginalization

When groups are marginalized, they are ostracized. They are excluded from social participation and cooperation. They cannot fully influence events or environments. When referencing decision-making structures and procedures, that influence is perhaps most clearly embodied by voting. Hence, disenfranchisement is a clear example of marginalization. But structures and institutions need not be that extreme to be marginalizing. They can marginalize through various degrees of barriers and burdens that can deter or immobilize social groups from participating. In arguments for Indiana’s

³ Exploitation within the US electoral system is not new: it is most clearly represented in an infamous original provision of the US Constitution. The Three-Fifths Compromise transferred the powers of Black Americans to White Americans. According to this agreement, slaves would be counted as three-fifths a person for direct taxation and representation (Editors of Encyclopedia Britannica 2020). Slaves’ power was not only transferred to masters through their labor; their capacity to act was transferred to White Americans by increasing the value of their vote based on slaves’ mere existence. Slaves’ ineligibility did not decrease the available power, but it increased the relative value or weight of non-slaves’ votes.

voter identification, there are premises that express marginalizing meaning by justifying disproportionate burden to social participation for certain groups.

Marginalization is most clearly expressed in respondents' arguments to prevent the court from applying strict scrutiny to Indiana's voter identification law. This form of judicial review is the highest standard used to determine constitutionality. When strict scrutiny is applied, laws must demonstrate compelling government interest, and they must narrowly accomplish that interest. These stringent rules are often applied in cases of alleged discrimination (Legal Information Institute n.d. b). Since strict scrutiny necessitates that laws meet more stringent requirements, there is obviously a greater chance that laws will be struck down when it is applied.

The respondents clearly do not want strict scrutiny to be applied. This idea alone presents concerns. If the respondents were confident that law is not oppressive, strict scrutiny would not present a problem for the law. However, the respondents explicitly state that this law could have marginalizing effects.

All States have enacted complex election laws, each provision of which 'will invariably impose some burden upon individual voters' (Crawford v. Marion County Election Bd. 2008).

This quote is explicitly marginalizing because it argues that barriers are necessary for effective social participation. According to this premise, burdens are necessary for secure elections, meaning burdens alone should not require courts to apply stringent requirements for review. The respondents argue that these burdens are justified by the state's compelling interest to secure its elections.

State's compelling interest in preventing fraud through the Voter ID Law outweighs the minimal burdens the Law imposes on the right to vote (*Crawford v. Marion County Election Bd.* 2008).

That premise is implicitly marginalizing because it downplays the burdens, and it suggests that potential immobilization is necessary. With this premise, they stress that the law does include some mitigation of this burden by offering exemptions for religious objectors and poor people. However, even these mitigating factors include some burden by requiring these people to incur additional burdens after the election. These burdens are even more excessive when considering how hard it can be to obtain the proper identification in Indiana, especially during the time constraints. Nonetheless, they argue that these burdens are required to prevent fraud and facilitate fair elections.

While the respondents argue that the mitigating policies address these barriers, they do not hold that lost participation is a problem. The respondents dismiss these burdens by denying the importance of social participation. They downplay negative impacts by contrasting this law with more burdensome laws, including infamous examples of voter suppression.

The Voter ID Law is unlike other election regulations that the Court has subjected to strict scrutiny, such as poll taxes, durational residency requirements, and property-ownership qualifications. The Court has expressly distinguished between such substantive voter qualifications and benign procedural safeguards, such as advance registration requirements. The former was suspect because the State totally denied the franchise to an entire class of residents that had no way to gain eligibility to vote...Like voter registration, the Voter ID Law provides procedural

protection of election integrity and is not subject to strict scrutiny. At most, it is subject to relatively mild review that balances the State's compelling interest in preventing election fraud against the minor burdens imposed by the Law (Crawford v. Marion County Election Bd. 2008).

This quote is coded as implicitly marginalizing because it attempts to downplay the burdens and barriers associated with the law by suggesting that these restrictions could be worse, as if equivalence to known instances of oppression is required to be oppressive. That premise indicates that they are not majorly concerned with decreased social participation. This position is even more explicitly stated in continued comparisons, specifically with voter registration.

If immediate ability to vote is the measurement of the "severity" of a voting law, the Voter ID Law is far less burdensome than Indiana's voter registration law. Even assuming (unrealistically) that the Voter ID Law prevents 43,000 citizens who supposedly lack photo identification from voting, by parity logic, Indiana's voter-registration law prevents over 1.5 million individuals from voting, which is 33.2% of 2004 VAP. This represents 35 times more 'severity' than the Voter ID Law. Yet, presumably, no one would argue that voter-registration laws impose a "severe burden" on voting (Crawford v. Marion County Election Bd. 2008).

In this quote, the respondents explicitly demonstrate that they do not consider decreased social participation a problem, which is marginalizing – they imply that severity should not be determined by exclusion. The respondents show that they are not concerned with people who are excluded from social participation by this law. Republicans generally have indicated that they prefer elections with less participation, and they have taken

repeated steps to demobilize the electorate throughout the nation because they believe it helps them win. Naturally, that interest would inform actions in states with competitive elections, which Indiana was at the time.

Arguments for electoral integrity that are truly committed to democracy and justice would not shy from stringent tests that are meant to prevent discrimination or disproportionate burden. These arguments should welcome these challenges as means to securing elections without perpetuating oppression and dominance. However, the Republican coalition is increasingly comprised of privileged groups that would not be affected by these phenomena, and this party has expressed interest in decreasing participation. Nationally, they have introduced voter identification laws in states with competitive elections and increasing diversity. In Indiana, Republicans enacted this law after obtaining a trifecta in state government for the first time in decades. In this context, respondents' argument to dismiss measures to protect historically oppressed social groups indicate a vested interest in perpetuating structures that privilege certain groups at the expense of others. Even if Republicans were not pursuing marginalization, this context with this argument against strict scrutiny demonstrates that decreased social participation would be a fortunate consequence for Republicans. Therefore, this argument within this context is classified as having marginalizing intent. Republicans did not enact policies to effectively mitigate burden for historically oppressed groups; instead, their mitigation included additional burdens, and they turned to individual responsibility to dismiss challenges, which employs powerlessness.

Powerlessness

When people experience powerlessness, they are inhibited from developing capacities to act. These people are often considered underdeveloped or unable to complete normal or respectable tasks. They often cannot control their own environment or situation. Powerlessness is produced through relations to structures or institutions that render other groups underdeveloped or unable to act. These relations can be embodied by standards or requirements that are easier to achieve by privileged social groups. Young demonstrates these standards through respectability (1990). In these case briefs, these standards are embodied by eligibility. The respondents employ arguments with oppressive intent in two ways: 1) ignoring the power required to challenge structures and institutions in court and 2) downplaying the difficulty of obtaining identification.

First, respondents make clear that the petitioners do not belong to the group that would be disenfranchised by this law. They begin their case by attempting to dismiss the challenge because people who are potentially disenfranchised did not pose the challenge.

None of the Petitioners in this case is a registered voter who cannot vote because of the Voter ID Law (Crawford v. Marion County Election Bd. 2008).

This quote is coded as an implicit premise of powerlessness because it ignores the structures that makes this fact. In context, this argument clearly demonstrates support for powerlessness. Challenging structures and institutions through the legal system requires people in or associated with respected and empowered positions. People in these positions must obtain law degrees to express the competency required to challenge the laws in ways that are recognized and respected by society. Both the respondents and opponents of voter identification acknowledge that the potential disenfranchised groups

do not have these traits. These potential affected groups include people who are largely disadvantaged by many structures and institutions. They likely would not have the skills or relations to bring a challenge to the court themselves, and they would not be obviously identifiable by people who attempt to challenge this law on their behalf. Considering many respected or recognized activities in society do require photo identification, people who could be disenfranchised with this law likely would have limited experience or knowledge about these activities. Since the respondents obviously rely on premises that have meanings of powerlessness, these arguments employ intent of powerlessness to combat the challenge to voter identification.

Second, the respondents consistently deny and ignore the difficulties associated with obtaining an acceptable form of photo identification even though they were provided with evidence. As the context section displays, lawmakers were provided ample evidence that obtaining identification is a difficult process for people in disadvantaged social groups – they may not have the proper documents, evidence, or means to receive a state issued photo ID. Nevertheless, the respondents do not accommodate for this inability; instead, they suggest that this struggle is exaggerated.

As for the hypothetical, minuscule percentage of voters who must yet procure government-issued photo identification to be able to vote in-person, Petitioners unfairly atomize each step of the process to make it appear an impossible task...They stress the difficulty of acquiring a birth certificate, secondary document, and proof of address, and the need to travel to the BMV, ignoring the fact that voters without identification need only gather these documents once and need not wait until after casting a provisional ballot to do so. The way Petitioners

describe the process, it is a wonder any Indiana citizens are licensed to drive, let alone able to vote (Crawford v. Marion County Election Bd. 2008).

This premise is coded as implicit meaning of powerlessness because it readily ignores – if not perpetuates – structures that make this process difficult, despite that these structures were made clear by testimony from the interim Executive Director of the Lafayette Urban Ministry and that the state of Indiana purposefully made obtaining state issue photo identification more difficult to combat fraud.

The respondents purposefully ignore this evidence of structures and institutions that make this process hard for historically oppressed groups. They contend that this obviously new requirement cannot be considered such. Instead, the voter identification law is merely a different policy for proving identity.

It does not establish any new criteria for voting, but instead provided a reasonable method of verifying voter identity – a fundamental, pre-existing voter-eligibility requirement (Crawford v. Marion County Election Bd. 2008).

This quote has implicit meaning of powerlessness because it is a disingenuous attempt to dismiss these known challenges. Before the law was enacted, people did not have to provide photo identification; therefore, this new requirement is clearly a new criterion. People do not just need to verify their identity – they must provide a specific form of proof. The respondents dismiss that some people may be incapable of providing that proof. The respondents deflect from difficulties associated with compliance by highlighting the accommodations the law does make.

Finally, Indiana's Voter ID Law contains several safeguards to accommodate the 1% of VAP allegedly without government-issued photo identification. The BMV

must issue non-license photo identification free to voters who need it. Voters who arrive at the polls without identification may cast a provisional ballot and validate it within 10 days at the county clerk's office – far more time than the 48 hours recommended by the Carter-Baker Commission, Indigents who must pay a fee to obtain identification (such as for a birth certificate) and religious objectors may cast provisional ballots and validate them without identification. The Law does not apply to mail-in absentee ballots, so the elderly and disabled will not need photo identification (Crawford v. Marion County Election Bd. 2008).

This quote is coded as implicit meaning of powerlessness because it ignores the challenges still included by these accommodations. The respondents clearly ignore the structures and institutions that even underscore these accommodations.

These accommodations overtly still include burdens and barriers that many people who are powerless would struggle to fulfill, but they highlight these accommodations to dismiss these challenges so they can blame this disadvantaged position on individuals.

But with procedural rules, responsibility lies with voters: “if their plight can be characterized as disenfranchisement at all, it was not caused by the law, but by their own failure to take timely steps to affect their enrollment” (Crawford v. Marion County Election Bd. 2008).

This premise that relies on individual responsibilities is coded as an explicit instance of powerless because it overtly dismisses the structures and institutions that create these difficulties. The respondents blame this underdeveloped eligibility on the individuals instead of recognizing their status within disadvantaged, historically oppressed social groups. Despite their attempts to deflect and ignore the challenges related to obtaining

proper identification that is now required to vote, the respondents explicitly admit employing powerlessness.

The effort and expense may exceed the wherewithal of many uneducated, poor, and elderly citizens (Crawford v. Marion County Election Bd. 2008).

This quote indicates that these citizens may not be able to develop the capacities required to vote according to the voter identification law, which is an explicit use of powerlessness. Since the context in which this law was enacted demonstrates that photo identification is not easy to obtain in Indiana and Republicans knew this fact when advocating for the law, they clearly intended to use those structures in the law. When paired with the fact that the Republican party is increasingly comprised of people privileged by these same structures, this argument is interpreted as having intent of powerlessness. The respondents employed structures and institutions to potentially render members of historically oppressed groups underdeveloped or incapable of acting. Yet, they consistently attempt to dismiss these same people as non-existent, which is characterized as cultural imperialism.

Cultural Imperialism

Cultural imperialism occurs when dominant groups impose their cultural expression and interpretations on non-dominant groups. That imposition occurs through two experiences: erasure and essentialization. For the former, dominant groups often universalize their own perspective or experiences, making other groups' interpretations and expressions invisible or inferior, which dismisses the plausibility of non-dominant lifestyles or very existence. That inferiority also underscores essentialization, the latter experience of cultural imperialism. This essentialization stereotypes groups by depicting

them as defined by a certain essence or character. These two experiences can occur alone, but they are often applied simultaneously.

Cultural imperialism is present in the respondents' argument supporting voter identification laws. This argument has numerous premises that attempt to erase or stereotype non-dominant expressions or interpretations. They often characterize these non-dominant cultures as deviant or inferior.

In light of such widespread demands for (and concomitant prevalence of) government-issued photo identification, it is almost shocking that in late 2007 Indiana can be characterized as even unusual in requiring it at the polls (Crawford v. Marion County Election Bd. 2008).

This quote implicitly demonstrates cultural imperialism by suggesting that widespread dominant expression and interpretations render other practices deviant. It suggests that widespread or commonplace practices are normal or correct for every process or procedure. The respondents argue that dominant practices should extend from other structures and institutions to the central decision-making structure or procedure in society: voting. That effort is an attempt to universalize the meaning or interpretation of this practice. This universalization is expressed by erasing other possible lifestyles.

Photo identification is already required for many routine activities, such as flying, driving, cashing a check, staying in a hotel, purchasing alcohol, and renting a video (Crawford v. Marion County Election Bd. 2008).

This premise is coded as implicit cultural imperialism because it attempts to universalize common dominant actions, and it interprets them as central to normal life. This assertion ignores that these seemingly commonplace actions may not occur in every person's life.

There are numerous people that have never flown. There are many people that do not use banks. When considering these actions, they obviously include some degree of privilege to fulfill, and considering that the people that would be disenfranchised because they do not have or cannot easily procure photo identification, they would not be expected to undertake actions that require some degree of privilege or demonstrate dominant structures and institutions. Since the Republican party is increasingly comprised of privileged social groups, the Republican lawmakers would not be concerned that their coalition is primarily affected by something that targets people unaccustomed to or removed from these widespread or commonplace dominant practices. Therefore, this premise displays an implicit attempt to erase these non-dominant lifestyles.

Whereas that premise is primarily erasure, it also has vague notions of an essence of inferiority, which underscores many stereotypes. This effort to essentialize is embodied in another premise, however.

Petitioners agree with this estimate of 99% pre-enforcement compliance, Dem.Br. 12; ACLU Br. 12, but then proceed as if the entire remaining 1% will necessarily be burdened by the Law. They do not, however, show that any of these estimated 43,000 individuals (1) are registered to vote; and (2) would like to vote; but (3) will be unable to vote because of the Voter ID Law (Crawford v. Marion County Election Bd. 2008).

This premise implicitly expresses cultural imperialism because it attempts to stereotype the potentially affected group as removed or unlikely to contribute regardless. The respondents repeatedly stress that the petitioners do not say whether affected people would participate in elections if the law were not there to seemingly insinuate that they

would not participate. This characterization closely aligns with many preconceived notions about historically oppressed groups, specifically the poor and many racial minorities. While this context is not highlighted in this paper, it is well established in thought, and it is closely related to the earlier premises that express cultural imperialism by universalizing dominant cultural expressions and interpretations. In context, this premise is interpreted to characterize this small number of people as deviant – the respondents suggest that this group is inferior by their lesser commitment to these dominant structures and institutions, which is cultural imperialism.

Throughout the briefs, the respondents continuously stress the size of the potentially affected group, suggesting that the small number of people affected makes the voter identification law permissible.

Instead, Brace's data established that 99% of Indiana's VAP already possess photo identification, which alone renders untenable any theory of discrimination and process the insignificance of any burdens the Law imposes (*Crawford v. Marion County Election Bd.* 2008).

This quote is coded as an explicit instance of marginalization since the respondents attempt to dismiss any burden because that burden would affect a small number of people. With this premise, the respondents attempt to render this group invisible. While generally attempts to ignore groups of people is problematic regardless of size, considering the context in which this law was introduced, that premise is even more concerning. At the time, Indiana had competitive elections where a small number of people could swing a district or even statewide office. Since this particular small group would be comprised of historically oppressed people, who are increasingly members of

the opposing party, Republicans would be interested in erasing this group to alleviate concerns of advantageous disenfranchisement or immobilization. Therefore, this premise demonstrates cultural imperialism. When this premise is paired with multiple others that express cultural imperialism, the respondents' argument clearly demonstrates intent to impose cultural imperialism.

Violence

Unlike the other faces, there are not identifiable examples of violent intent in the respondents' briefs for Indiana's voter identification law. While the respondents do mention instances of violence, they provide merely a historical account of voter intimidation. The respondents do not advocate for violence implicitly or explicitly. While other proponents of voter identification may appeal to violence, that face is not present in these briefs. Nonetheless, this finding is understandable. It is unlikely that a case brief meant to support the law and counter arguments of discrimination in an official setting would express support for violence. That argument would certainly be less beneficial in court and would more clearly target historically oppressed people.

Conclusion

Despite an absence of violence, these case briefs demonstrate arguments with oppressive intent by including multiple premises with meanings of exploitation, marginalization, powerlessness, and cultural imperialism. This conclusion is not surprising, however. When these arguments are interpreted in context, the Republican party's interest in this law is clear. Indiana's voter identification law was introduced and enacted in a politically advantageous moment for the Republican party. During that time, Indiana was electorally competitive, and Indiana state Republicans introduced and

enacted the voter identification law after achieving their first state government trifecta in decades without a single vote from the opposition party. That action persisted through calls of discrimination from lawmakers and community organizers, and it occurred while racial minorities', who typically vote for the Democratic party, proportion of Indiana's population increased.

This environment even exemplified national trends. Across the nation, Republicans were most likely to enact voter identification laws in electorally competitive states (Hicks et al. 2015) when taking control of governor's offices and state legislatures (Biggers and Hanmer 2017). Considering these factors, this law implies an understandable calculation: Indiana Republicans could use their new trifecta to increase their chances of victory in future elections by changing the rules about who could vote, specifically decreasing the size of eligible groups that were unlikely to vote for their party. That calculation is even more understandable when elections are competitive, meaning a small number of votes can sway the results.

This effort is comparable to numerous anti-democratic policies and practices embraced by the Republican party in recent decades. This embrace extends from Paul Weyrich rooting for lower turnouts to now. There have been at least 361 new bills with restrictive provisions introduced in forty-seven states since the 2020 election alone, for example. Nearly twenty-five percent of these bills seeks stricter voter identification requirements (Brennan Center for Justice 2021). These efforts exemplify a Republican party that is willing to reject democracy. The Republican party is increasingly composed of fewer social groups, and those groups' proportion of the population is decreasing. Therefore, Republicans have less potential to win a majority. That challenge is clear in

recent presidential elections: since 2000, Republicans have lost six of the last seven popular votes despite winning three of those elections. Consequently, decreasing the pool of eligible voters enables Republicans to win a majority with fewer votes. This anti-democratic embrace is even more troubling because it further entrenches the dominance of historically privileged social groups.

Indiana's voter identification law – among many restrictive election reforms – attempts to manipulate the decision-making structures and procedures that govern society. This law targeted historically oppressed groups to solidify control for historically privileged groups. By imposing barriers to voting that could imply cost or additional effort, they created a mechanism to disenfranchise people who already lack sufficient means common amongst privileged or dominant social groups. This barrier employed photo identification, which represented an obvious disparity in use of and access to dominant structures and institutions, to restrict voting eligibility. Since their party is increasingly composed of historically privileged groups, Republicans could be confident that this policy would not negatively affect their base regardless of whether it actually suppressed voters. Considering that this law was introduced and enacted by historically privileged groups, but it is relevant mostly for historically oppressed groups, there are legitimate concerns of oppression.

This project seeks to investigate those concerns by evaluating whether there is oppressive meaning in proponents' arguments. That meaning is found in the respondents' case briefs in *Crawford v. Marion County Election Board*, which were judged by the Supreme Court. Despite the Court upholding the law, I establish that the repeated use of exploitation, marginalization, powerlessness, and cultural imperialism suggests that there

is oppressive intent behind the law. Therefore, this law seems to align with historical examples of voter suppression. Like literacy requirements, this law employs what may intuitively seem to be an understandable requirement to abuse disparities. Ultimately, this law is anti-democratic, and it seeks to perpetuate the dynamics of power in Indiana.

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