

Don't Stand Idly By: Voter ID

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It has been said that every rabbi has just one sermon that they preach over and over in different ways. I believe it is true. Those of you who have heard me speak from this bima over the years probably have a pretty good idea of what my one sermon is. But today you will hear a different sermon from me. And to be frank, I am a little nervous about stepping outside of my sermonic comfort zone.

But first, a story: A rabbi was crossing through the woods when he saw a huge bear approaching. He tried to run away but soon he was trapped. Fearing his end was near, he began to pray, "*Shema Yisrael...*"¹ When he was done he heard the bear saying "*Baruch Atah Adonai...*" The Rabbi was overjoyed - a Jewish bear! We're *mishpocheh* - I'm saved!" Then he heard the bear finish his prayer: "...*hamotzi lechem min haaretz.*"

The bear was reciting the blessing before meals.

Moral of the story: Things are not always what they seem.

I want to talk to you today about something that is not at all what it seems. It is the proposed amendment to the Minnesota constitution entitled: "Photo Identification Required for Voting." The question on the November 6 ballot reads:

"Shall the Minnesota Constitution be amended to require all voters to present valid photo identification to vote and to require the state to provide free identification to eligible voters, effective July 1, 2013?" Yes, or No.

My first reaction to this was "Sure; that makes sense." And that is what proponents of the amendment are counting on. Their tagline is "Its just common sense." With this, I agree - given Merriam-Webster's definition of common sense as "...judgment based on a **simple perception** of the situation..." But simple perception is not the best source for important decision making.

When Jews study, it is always with the aid of commentary. Our Torah commentator par excellence is Rabbi Shlomo Yitzhaki, known by the acronym Rashi. Rashi explored both the plain sense and the underlying meanings of every verse in the Torah. His commentary is so preeminent that we have come to use his name to refer to the very exercise of close text study and of gleaning hidden implications.

So let's "do the Rashi" on the ballot question.

"Shall the Minnesota Constitution be amended...

Rashi might note: This issue comes before the voters as a constitutional amendment because after receiving a majority vote along party lines in the Legislature, it has twice been vetoed by the governor. Constitutional amendments cannot be vetoed.

“to require all voters...”

Rashi might emphasize that “all voters” means NO EXCEPTIONS.

“to present valid photo identification to vote...”

Rashi might speculate what will qualify as valid photo identification. The amendment’s authors have said that this will be left up to the 2013 Legislature. But by all indications it will be a **very strict standard, - the strictest of any state in the nation**: To be valid for voting, the ID will have to be issued by the state, and contain a current photo, current name, current address, and an expiration date.

“and to require the state to provide free identification to eligible voters...”

Rashi might wonder: How will the eligible voters get the free identification? Who will pay for it? What documentation will be required? Here, his commentary would go on for several pages. I’ll get to that in a moment.

And about the whole thing, Rashi might ask, “*Ma Pit’om?*” Why?

The purported goal is “election integrity and fraud prevention.” This sounds reasonable, but the fact is that voter impersonation - the only kind of fraud that photo ID would prevent - is virtually non-existent in Minnesota.

We have a very good election system in Minnesota. We topped the nation in voter turnout in 2008. In 2008 and 2010 – Minnesota’s elections underwent close scrutiny in recounts. The legal teams of both parties pronounced our system squeaky clean. Senator Coleman’s lead attorney said “We were looking for fraud, but found none.” He went on to say that Minnesota’s system is transparent and remarkably thorough.²

So as a fraud-prevention or election integrity measure, this constitutional change is unnecessary.

It will also be unwieldy and very costly in both time and money. Start-up costs have been estimated at over 55 million dollars to cover the free IDs, a new balloting system, hardware, software, and staffing.

If the issue was simply that this is unnecessary and impractical, it would not be a fitting topic for Yom Kippur, and I would be delivering a more comfortable sermon.

The fact is that it is patently unjust, and as Jews we are obligated to oppose it. As Elie Wiesel said in his 1986 Nobel Laureate lecture: "There may be times when we are powerless to prevent injustice, but there must never be a time when we fail to protest."³

Disenfranchising anybody threatens the very foundation of the democracy we cherish. Free, fair, and accessible voting is the cornerstone of American democracy, and this will make voting costly, unfair, and inaccessible for the most vulnerable members of our society. The amendment is modeled after Indiana's voter ID law, which disenfranchised more Indiana voters in two years, than the all the voter impersonations found in the entire country over *two decades*.⁴

The Voting Rights Act— which was drafted in the Washington office of the Religious Action Center of Reform Judaism - outlawed discriminatory voting in 1965. At the time President Lyndon Johnson said:

[A]bout this there can and should be no argument. Every American citizen must have an equal right to vote. There is no duty which weighs more heavily on us than ... to ensure that right. There is no reason which can excuse the denial of that right.⁵

But that is exactly what the Voter ID amendment will do.

As I said a moment ago, in order to vote, one will have to present a state-issued photo ID, with current name, current address, and expiration date. In effect, this means a Driver's License.⁶

Who has a Driver's License? People who drive.

Who drives? People who can afford a car.

So, in essence, if you can afford a car, you can vote. For most of us here, this is not a problem.

But consider all the people who don't have a valid Driver's License. Proponents of the amendment argue that the state will be required to provide free ID to those who need it, and that they will actually be helping people because everyone should have an ID. Again, this appears reasonable until we take a closer look.

First of all, this free ID will be good for VOTING ONLY, not for getting on airplanes, opening bank accounts, receiving social services, or any other purpose. Second, there will be hidden costs to the recipients, which amount to a poll tax.

Let's do an exercise I'll call "There but for the grace of God, go I..."

Imagine you don't have a Driver's License because you don't have the money to own a car. You have a job, maybe even two, at minimum wage. Can you take time off from work to take the bus to the DMV, and wait, probably for hours, to get your free voter ID? Will there be someone to watch your kids while you do that?

Or maybe you don't have a valid Driver's License because you are elderly and have given up driving, or have moved into a nursing home. Perhaps you are bedridden or in a wheelchair. How are you going to get to the DMV to get your free photo ID?

Remember, too, that you will need to bring supporting documents to prove your identity. Do you have your official raised-seal birth certificate? To get a replacement you will need to get your application notarized, and pay up to \$75, depending on where you were born. If the issuing state has lost your birth certificate, you are out of luck. If you are an African American born before 1965 when the Civil Rights Act enabled equal access to hospitals, a birth certificate was never issued.

If you changed your name when you married, then the name on your birth certificate won't be right. You'll need your marriage license. Can you afford another \$35 for a certified copy? Do you know how to get one?

Suppose you are able to collect the necessary documents, and get yourself to the DMV for your free State-issued Voter ID. But then later, you can't make rent, or your home is foreclosed, and you have to move to a cheaper apartment or stay with friends or family. Or, God forbid, you've moved to a shelter to escape domestic violence. Now your new free Voter ID card is invalid because your address is wrong. You will have to start over.

Imagine you are a veteran who put your life on the line in defense of democracy, but your Veteran's ID doesn't count for voting.

Let's look at some numbers: The Minnesota Secretary of State has identified 200,000 *registered* voters who do not have appropriate ID. They probably do have ID, and it may even have a photo on it, but it is not "valid government-issued Photo ID with current name and address and an expiration date" and therefore unacceptable for voting. Who are they?

- They are 25% of African-American Minnesotans of voting age. This is unmistakably racial discrimination, and illegal according to the Voting Rights Act.
- They are our future leaders: 20% of college students don't have ID with their current address. Statistics show that early voting experiences influence life long civic engagement.⁷ Do we really want to turn our young voters away?
- They are our parents and grandparents: 20% of elderly Minnesotans have expired ID.
- They are 15% of people making less than \$35,000 a year, and the percentage rises as the annual income goes down.

If this amendment passes, all these people will have to leap formidable if not insurmountable hurdles to exercise their civil right to vote. We must ensure that voting remains a right, not a privilege.

Imagine you are an absentee or a mail in voter. You will need to submit “substantially equivalent identity verification.” It is hard to imagine how a person submitting a mail-in ballot can present photo-ID. In 2008, a quarter of a million Minnesotans voted absentee or by mail. Who are these people?

- Farmers in rural townships.
- Students living out of state.
- People who are homebound or bed-ridden.
- Service men and women on active duty overseas.

There is yet another problem with the amendment. It will replace Election Day registration with Provisional Ballots. I mentioned earlier that the most common form of acceptable ID will be a current MN Driver's License. Since you probably have one, you won't be directly affected.

Unless you lose your wallet, move, get married or divorced, change your name, or go to school away from home around election time. Then the name or address on your Driver's License will not be correct until you get a new one. Under our *current* system, you can re-register at the polls on Election Day, and have your vote.

Under the new system you will be given a Provisional Ballot. After you cast your vote, your ballot will be put in a special envelope *with your name on it*, and set aside. You will then have one week to gather appropriate documentation and bring it to the county elections office. There your documentation will be studied, and if deemed acceptable, your ballot will be removed from its envelope and counted.

In 2008, there were 500,000 Election Day registrants in Minnesota. That is half a million votes. Nationwide statistics show that most Provisional Ballots end up uncanceled. Even if you are not elderly, poor, disabled or black, you will have been disenfranchised. Not to mention that your ballot is no longer anonymous.

So let's add it up: 200,000 *registered* voters without acceptable ID, 250,000 absentee and mail-in voters, and 500,000 Election Day registrants. That is nearly one million voters at risk of disenfranchisement. Hubert Humphrey reminded us in one of his last speeches that the moral test of a society is how it treats its weakest members.⁸ If we allow this amendment to pass, Minnesota will fail the test.

Given Minnesota's first place record of voter turnout, and its “squeaky clean” system, what is motivating this?

History has shown that our democracy tends to contract following large scale expansions of civil liberties. After Mexicans in the southwest were guaranteed citizenship in 1848, property and literacy requirements were imposed to keep them from voting. In 1870, the 15th amendment enfranchising African American Men was immediately followed by poll taxes, literacy tests, and Jim Crow laws.⁹

We appear to be following this trend. According to the Pew Research Center, national turnout in the 2008 presidential election was the *most racially diverse* in American history, with nearly one-in-four votes cast by non-whites.¹⁰ The 2010 census revealed that minority populations are growing at an unprecedented rate.¹¹

In 2011, *new* restrictive voting legislation was introduced in 34 states.¹² You do the math.

The 1965 Voting Rights Act requires states with a history of racial discrimination to apply for pre-clearance by the US Justice Department before they can alter their election laws. So far, Texas and South Carolina have been denied because their proposed Voter ID laws are deemed discriminatory. Minnesota does not require clearance, because we do not have a history of discrimination. Thank God for that. Let's not start now.

Rabbi Spilker spoke on Rosh Hashanah about how our stories move us to work for *Tzedek* (justice). Our Jewish story compels us to prevent this travesty. From our sacred texts to our historical experience, Judaism exhorts us to seek justice and fight oppression.

Genesis teaches that every human being is created in the Divine image, and so must be treated with equal respect. From Exodus we learn the heart of the oppressed. In every generation we are to see ourselves as if we, ourselves, came out of slavery in Egypt. In Leviticus we have the golden rule, which we will hear this afternoon. The book of Numbers teaches us to make sure every individual is counted, and in Deuteronomy we are exhorted: *Tzedek Tzedek Tirdof*: Justice, Justice you must pursue.

The Prophets echo this message: Jeremiah says "Woe to one who builds his house by injustice." Amos pleads "Let justice well up like waters and righteousness as a mighty stream." Micah asks, "What does God require of you but to Do Justice, Love mercy, and walk humbly with your God?" Just moments ago we read from Isaiah: "This is the fast I look for: to unlock the shackles of injustice."¹³

From expulsions to crusades to pogroms to the Holocaust, experience has taught us that we cannot tolerate discrimination.

Rabbi David Saperstein, speaking on behalf of the Union for Reform Judaism and the Central Conference of American Rabbis said, "No election should be won or lost based on the exclusion of eligible voters. Barriers at the polls are a violation of a basic principle of our democracy ... It is

our duty to ensure that all citizens are afforded the free and unfettered opportunity to vote and have their votes fairly counted.”¹⁴

This past year the Twin Cities Jewish Community rose up to oppose the marriage amendment. Rabbi Marcia Zimmerman, co-chair of the Minnesota Rabbinical Association wrote in a letter to our colleagues: “the Jewish community should be able to say that we fought [just] as hard ... against Voter ID - with the message that ALL people count in our society, our communities, and our democracy.”

Elie Wiesel said we can't win every fight. But I think we can win this one, if everybody participates. As I said earlier, proponents are counting on people to vote on the basis of “common sense.” Instead, we must make sure that Minnesotans vote on the basis of *accurate information*. We must reach out to everyone we know, and also to those we don't know, to educate them about the discriminatory impact of this amendment.

You can find resources on the tables outside the sanctuary, and on our website under the Social Justice tab, under the News and Updates section, or attached to my sermon. Send a friendly informational email to everyone in your address book. Text and tweet your friends. Post on Facebook. Get a lawn sign. Sign up for a phone-bank. Talk to people. And of course, vote NO on Election Day.

Hillel taught:¹⁵

Im Ain Ani Li Mi Li: If I am not for myself, who will be for me?
In our democracy we advocate for *ourselves* by voting.

Uksheani L'atzmi ma ani: If I am only for myself, what am I;
We must intervene for those who risk losing their right to vote.

V'im lo akshav, eimatai? And if not now, when?
There are only 41 days left until the election.

The time is short and the task is great.¹⁶ This afternoon we will read from Leviticus: *Al ta'amod al dam re'echa*, Do not stand idly by while your neighbor bleeds.¹⁷ In Hebrew the word *Dam* can also mean silence. Our neighbors are being silenced, and our democracy is bleeding. We must act now.

VOTER ID RESOURCES

http://ballotpedia.org/wiki/index.php/Minnesota_Voter_Identification_Amendment_%282012%29#Text_of_measure

Background of the amendment at Ballotpedia.org

http://conservancy.umn.edu/bitstream/123582/1/Anhut_Voter%20Identification%20The%20True%20Costs%20An%20Analysis%20of%20Minnesotas%20Voter%20Identification%20Amendment.pdf

Voter Identification: The True Costs. From the Humphrey School of Public Affairs

<http://www.jewishcommunityaction.org/>

Jewish Community Action. An informational website, with opportunities to take action, such as phone banks.

<http://www.lwvmn.org/page.aspx?pid=329>

League of Women Voters

<http://www.minnpost.com/category/minnpost-topic/politics/voter-id-amendment>

MinnPost has a variety of articles on both sides of the issue

<http://www.naacp.org/>

NAACP Click on #1 (23 Million) on the scrolling banner to watch a video.

http://naacp.3cdn.net/67065c25be9ae43367_mlbrsy48b.pdf

Defending Democracy: Confronting Barriers to Voting Rights in America

<http://www.ourvoteourfuture.org/>

Our Vote Our Future is the primary organization fighting the Voter ID amendment.

<https://www.revisor.mn.gov/bin/bldbill.php?bill=H2738.3.html&session=ls87>

Read the full text of the amendment

<http://www.takeactionminnesota.org/>

Take Action Minnesota. An informational website, with opportunities to take action, such as phone banks.

<http://www.protectmyvote.com/>

If you wish to learn the other side, visit their official website Protect My Vote. It is interesting to note that it is called protect MY vote, while the organization against Voter ID is called OUR vote OUR future. Note also that in the video, they present cases of voter fraud, nearly all of which were caught and punished, or types of fraud which would not be preventable with Voter ID. It is also highly partisan.

NOTES

¹ "Hear O Israel;" The beginning of the prayer on says on one's deathbed.

² Twin Cities Public Television, Almanac, February 5, 2010. <http://www.tpt.org/almanac/>

³ http://www.nobelprize.org/nobel_prizes/peace/laureates/1986/wiesel-lecture.html?print=1

⁴ Justin Levitt, Analysis of Alleged Fraud in Briefs Supporting Crawford Respondents (2007), at <http://www.truthaboutfraud.org/pdf/CrawfordAllegations.pdf>

⁵ President Lyndon Baines Johnson's Special Message to the Congress: The American Promise, 1 Pub Papers 1 (Mar. 15, 1965).

⁶ A Minnesota Non-Driver Identification Card would also be acceptable, but these carry a surcharge. <http://www.dmv.com/mn/minnesota/apply-id-card>

⁷ <http://www.theuptake.org/2012/08/30/voter-restriction-amendment-would-discourage-college-students-from-voting/>

⁸ 1976 <http://www.hhh.umn.edu/about/HHHquotes.html>

⁹ Defending Democracy: Confronting Barriers to Voting Rights in America http://naacp.3cdn.net/67065c25be9ae43367_mlbrsy48b.pdf

¹⁰ www.pewresearch.org/pubs/1209/racial-ethnic-voters-presidential-elections

¹¹ http://naacp.3cdn.net/67065c25be9ae43367_mlbrsy48b.pdf

¹² <http://www.ncsl.org/legislatures-elections/elections/voter-id.aspx>

¹³ Jeremiah 22:13, Amos 5:24, Micah 6:8, Isaiah 58:6-7

¹⁴ <http://rac.org/Articles/index.cfm?id=22870>

¹⁵ Pirkei Avot 1:14

¹⁶ Pirkei Avot 2:20

¹⁷ Leviticus 19:16