

Should 'Ballot Box Selfies' Be Banned?

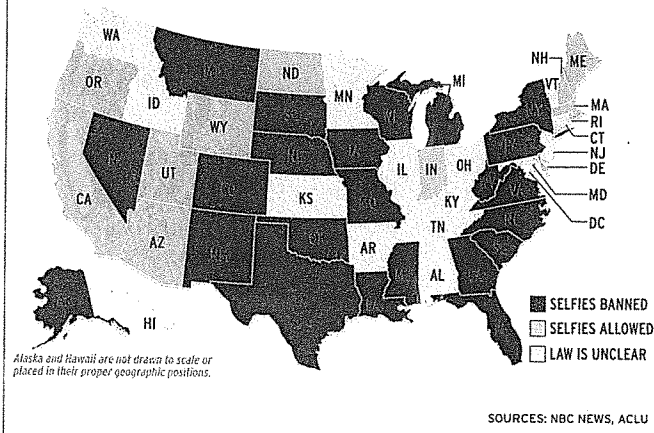


Teens and 20-somethings document their entire lives on social media, tweeting and Instagramming photos of everything from brushing their teeth to hanging out with friends. But what about that ballot some of you will cast for the first time in November? Taking a photo of a marked ballot is illegal in at least 23 states (see map).

Legal fights over the bans have recently erupted in several states. In both New Hampshire and Indiana, federal courts have thrown out bans on the photos—often called “ballot box selfies”—on the grounds that they violate the First Amendment’s free-speech guarantees. Indiana is appealing the ruling, and at press time New Hampshire was considering appealing its case to the U.S. Supreme Court.

Last month, California Governor Jerry Brown signed into law a bill making ballot box selfies legal in the nation’s most populous state.

Election Day Selfies They're banned in at least 23 states



Analyze the arguments, cast your vote, and see instant results at upfrontmagazine.com

YES The right to vote according to your conscience, without fear of intimidation or interference, is one of the most fundamental ideas in American democracy. But you can’t do that without a totally secret ballot.

That’s why we must prohibit people from taking pictures of their marked ballots and then posting them online. Anyone has the right to tell people who they voted for, but showing the actual marked ballot is an entirely different matter because it offers proof.

In the 19th century, vote buying was common. In fact, it’s estimated that 10 to 15 percent of all votes cast in the late 19th century were bought and paid for. Showing a marked ballot that proved who you had voted for was often how people claimed their payment.

To solve this problem, a series of laws were passed in the 1880s and 1890s requiring the government (rather than political parties) to print ballots and prohibiting people from revealing marked ballots. But if we once again make it legal for voters to show an actual marked ballot to someone else,

that would open the door to voter coercion—and possibly outright vote buying.

Even today, some people face pressures to change their votes—from an employer, from a union, or even from a spouse. If anyone asks you to provide proof of how you voted, you should be able to tell them that taking a picture is illegal, and you can’t do it.

The bottom line is that anything that compromises privacy at the ballot box is a step in a very dangerous direction. Some of the most feared

dictators of the 20th century—including Hitler, Stalin, and Saddam Hussein—forced people to vote in sham elections with ballots that could easily be traced to specific voters.

I have been New Hampshire’s top election official for 40 years, and in that time, I have seen how passionately many people feel about voting. When we step into that voting booth, the poorest of us has the same power as the richest of us. We cannot jeopardize the sanctity of that. •

—WILLIAM GARDNER

New Hampshire Secretary of State

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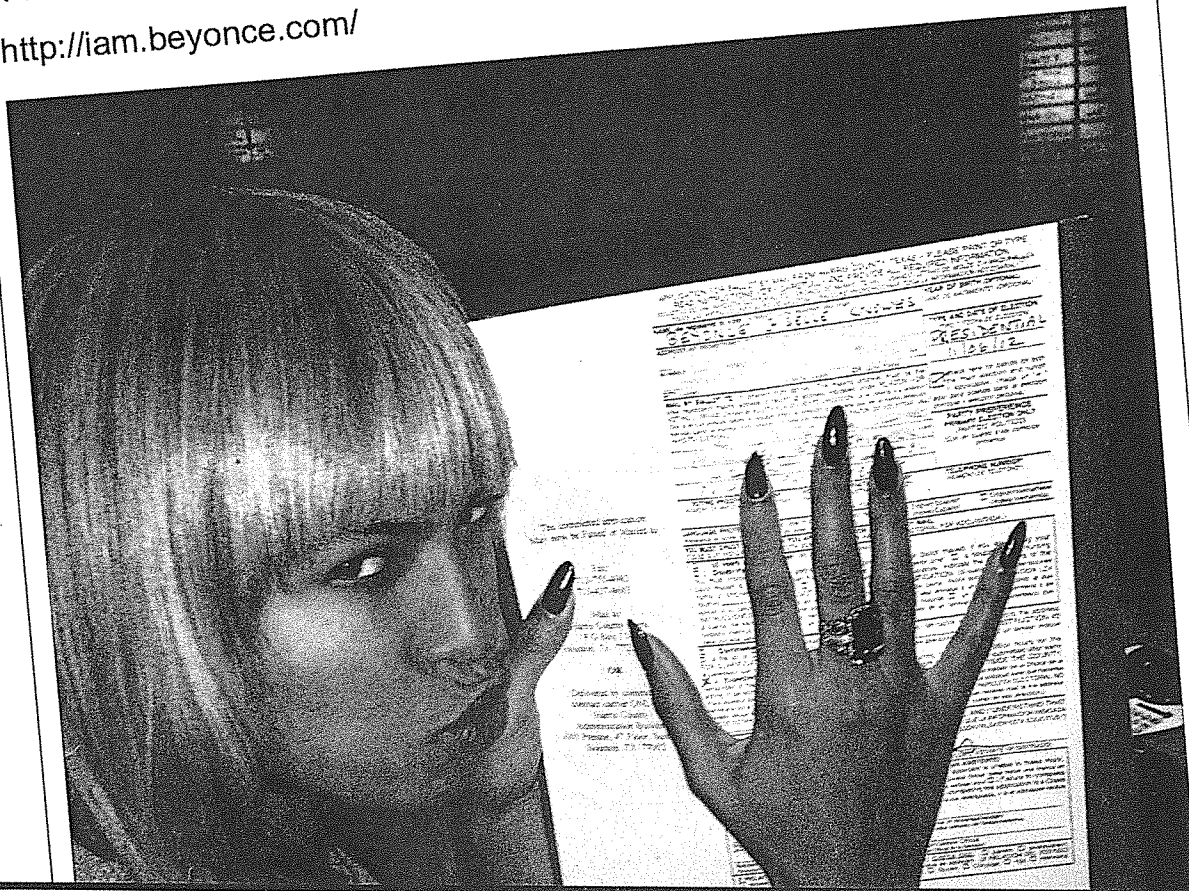
Beyoncé

November 6, 2012

TODAY WE VOTE!

<http://iam.beyonce.com/>

Beyoncé posted this photo of herself and her marked Texas ballot on Facebook in 2012.



NO Of all the protections guaranteed by the First Amendment, perhaps none is more important than the protection of political speech. The ability to freely express political ideas is at the heart of a functioning democracy, and for this reason, American courts have repeatedly ruled that political speech deserves the utmost protection.

This principle applies to the right of voters to take a picture of their marked ballots when they go to vote, as well as their right to share those images however they like on social media.

Posting a “ballot box selfie” online is a powerful—and for young voters, popular—way of letting the world know how they voted. Think about an 18-year-old who is voting in his or her first presidential election. For that eager new voter, sharing a photo of a marked ballot on Facebook or Twitter is a natural and compelling way to express support for a particular candidate and to encourage political participation among their friends.

Recognizing the value of this kind of expression, several states—including Maine, Oregon, Utah, and Arizona—have

passed laws since 2011 explicitly permitting ballot box selfies. In 2014, New Hampshire moved in the opposite direction: The state updated an old law prohibiting photographs of marked ballots to explicitly ban the sharing of such images on social media. The goal of New Hampshire’s ban was to prevent illegal vote buying and voter coercion.

The government can’t ban innocent political speech to prevent criminal conduct.

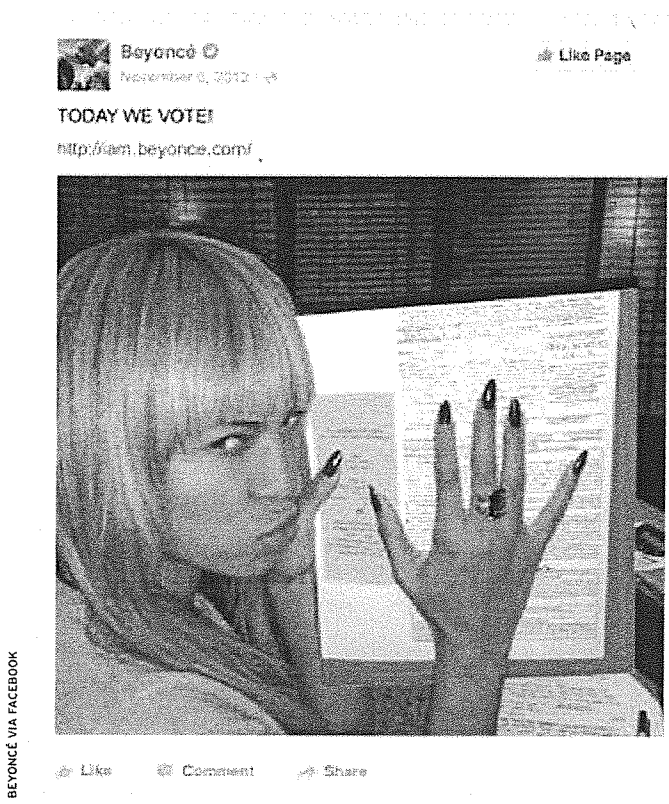
But the government can’t broadly ban innocent political speech in the hope that such a sweeping ban will prevent criminal conduct. The best way to combat illegal vote buying and voter coercion is to investigate and prosecute specific cases of wrongdoing, not ban an entire category of political speech.

Under the First Amendment, the speaker—not the government—gets to choose how his or her message is communicated to the world. For many young voters, the political message they want to convey is far less powerful without the image of their marked ballot. After all, a picture is worth a thousand words. •

—GILLES BISSONNETTE
Legal Director, American Civil Liberties Union of N.H.

PHOTO ANALYSIS

For use with "Should 'Ballot Box Selfies' Be Banned?" on p. 22 of the magazine



Analyze the Photo

(The photo appears on p. 23 of the magazine.)

- 1.** What details do you notice in this photo that Beyoncé posted on her public Facebook page on Nov. 6, 2012?
- 2.** How do you think her followers might have reacted when they saw this photo on social media?
- 3.** Do you think that showing a marked ballot in public can influence other voters? How is that different than just telling people whom you voted for?

ESSAY

Politicians disagree on whether ballot box selfies should be legal or banned. What is your opinion? Explain.

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ANALYZE & EVALUATE CLAIMS

Analyzing Authors' Claims

Read the debate on pages 22-23 about whether "ballot box selfies" should be banned, then follow the directions below to analyze each author's claims and decide who makes a stronger case.

<p>AUTHOR: William Gardner New Hampshire Secretary of State</p>	<p>AUTHOR: Gilles Bissonnette American Civil Liberties Union of New Hampshire</p>
<p>Author's main claim or argument in the debate:</p>	<p>Author's main claim or argument in the debate:</p>
<p>REASON 1: Name one reason the author gives for his claim.</p> <p>List evidence the author gives to support Reason 1.</p>	<p>REASON 1: Name one reason the author gives for his claim.</p> <p>List evidence the author gives to support Reason 1.</p>
<p>REASON 2: Name another reason the author presents.</p> <p>List evidence the author gives to support Reason 2.</p>	<p>REASON 2: Name another reason the author presents.</p> <p>List evidence the author gives to support Reason 2.</p>
<p>REASON 3: Name a third reason the author presents.</p> <p>List evidence the author gives to support Reason 3.</p>	<p>REASON 3: Name a third reason the author presents.</p> <p>List evidence the author gives to support Reason 3.</p>
<p>What persuasive devices does the author use?</p> <p><input type="checkbox"/> Appeals to emotions</p> <p><input type="checkbox"/> Uses data or scholarly research</p> <p><input type="checkbox"/> Tells why the other side's argument is weak</p> <p><input type="checkbox"/> Other: _____</p>	<p>What persuasive devices does the author use?</p> <p><input type="checkbox"/> Appeals to emotions</p> <p><input type="checkbox"/> Uses data or scholarly research</p> <p><input type="checkbox"/> Tells why the other side's argument is weak</p> <p><input type="checkbox"/> Other: _____</p>

EVALUATE: Which author do you think makes a more effective case? Do you spot any weaknesses—like a bias or missing information—in either argument? Explain on a separate sheet of paper.

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