

Sweta Vajjhala  
CS 4001  
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## ***Real ID Act of 2005: Should We Have National ID Cards?***

### **Introduction**

Over the past seventy years, the government of the United States of America has constantly tried to improve the security of the country. In an effort to do this, the Bush administration recently passed the Real ID Act of 2005, which requires every legal resident of the United States to have a national ID card by the year of 2008. National ID cards, however, have caused much controversy, both with the general public and also within the government itself. Because the Real ID Act of 2005 implements RFID technology (which is still developing & not fully researched), violates rights of privacy of U.S. citizens and companies, and has not helped prevent illegal immigration or threats of terrorism, the act should be repealed.

### **National ID Cards around the World**

There have been different types of national ID cards in different parts of the world. According to Privacy International, an organization focused on human rights in technology, the national ID card has been successfully implemented in many different countries in Europe, including Germany, France, Belgium, Greece, Luxembourg, Spain, and Portugal (Davies, 1996, p. 2). The UK is also currently in the process of planning its own national ID card, while countries in Asia, such as China and Pakistan, have already fully implemented national ID card systems.

Although national ID cards are different in every country, there are some common characteristics of the ID card throughout the world. According to a Privacy International survey done in 1994, most National ID cards are small plastic cards, which include the

cardholder's name, date of birth, photograph, thumb print, personal identification number, citizenship status (or alien resident), and the cardholder's signature. Cards from Chile, Korea, Germany, Italy, and Pakistan include much more information, such as permanent address, military records, religion, parents' names, ethnicity, physical characteristics, eye color, and height. Most national ID cards also have a magnetic strip or a barcode embedded in them.

National ID cards have been used for many different purposes. In Pakistan, national ID cards are used to help "enforce a quota system", while in China, "they are used as a tool of social engineering." (Davies, 1996, p. 3) The UK proposed national ID cards, hoping that these cards will help fight crime. The UK also hopes that the national ID card will be enough proof of residency to present to other European countries. Some other purposes for a national ID card in various countries include fighting tax evasion and establishing social welfare entitlements. Since this Privacy International report was published in 1994, national ID cards have functioned smoothly for the countries listed above for the past thirteen years. However, Privacy International itself has still had its own controversies about the technology used in national ID cards. This is especially true with the introduction of biometrics, which uses unique traits to identify different individuals. Biometrics has been implemented on national ID cards, passports, and various other forms, and Privacy International has been mired in controversy surrounding this new addition (Please see *Background on Biometric Passports* article for more detailed information.).

Under the Real ID Act, the United States has set its own standards for a national ID card. The card will include some of the cardholder's basic information (name, date of birth, etc.) and will have RFID tags attached to them. There is more information about this in the *Real ID Act of 2005* section of this paper.

## **History of National ID Cards in the United States**

There has been a very rich history behind national ID cards in the United States. Currently, the card which most resembles a national ID card is the Social Security card. According to the Electronic Privacy Information Center (EPIC), social security numbers (SSNs) were first created in 1936, and they were only meant to be used with the Social Security administration. Since 1936, there have been numerous proposals to presidential administrations in 1971, 1973, 1976, 1977, and 1981 to make SSNs “universal identifiers,” but all of these attempts have been rejected. In 1993, the Clinton administration proposed a “Health Security Card.” The Clinton administration “assured the public that the card, issued to every American, would have ‘full protection for privacy and confidentiality,’ ” (EPIC, 2007, p. 2-3) but the idea of the national ID card was still not accepted by both the government and U.S. residents because the card presented numerous privacy rights violations.

After the September 11<sup>th</sup>, 2001 attacks on the United States, the creation of a national ID card was once again suggested. Mr. Larry Ellison, CEO of Oracle Corporation, “proposed ID cards with embedded digitized thumbprints and photographs of all legal residents in the U.S.” (Thierer, 2001, p. 1-3) Ellison offered to donate the technology that would make digital national ID cards possible, and after much Congressional debate, the idea was, yet again, rejected. In 2005, Congress passed the Real ID Act of 2005, which required all states to require certain information on driver’s licenses, and thus, essentially creating a national ID card.

## **Real ID Act of 2005**

The Real ID Act of 2005 was passed in Congress in 2005. It was passed as an addition to a tsunami relief and military appropriations (for troops in Iraq) bill. There was very little debate

and no Congressional hearings. As stated by Republic Senator Lamar Alexander of Tennessee, “This really is a national identification card of the United States of America for the first time in our history. We have never done this before, and we should not be doing it without a full debate.” (Larkin, 2005, p. 1)

Since the Real ID Act was appended onto a military bill, it suggests that, on its own, the Real ID Act probably would not have gained much popularity, and thus, would not have passed. Moreover, since the idea of a national ID card has already been dismissed six different times by the government since the 1970s, it is not very likely that this act would have passed on its own. Thus, as an addition to a military appropriations act, the national ID card was not the primary focus, and therefore, was passed without any debate.

The Real ID Act creates a de facto national ID card for all US citizens and legal residents of the United States by adding mandatory items on to a driver’s license. These cards will include, at the very least, the following information about the cardholder: full legal name, date of birth, gender, ID number (probably a driver’s license number), digital photograph, principle address, signature, physical security features, and “common machine-readable technology.” (EPIC, 2007, p. 5) Some other information that is planned to be added on the national ID card includes digital fingerprints, workplace information, and health care coverage. In addition, the national ID card could eventually be used for the purposes of credit or debit cards as well. The form of machine-readable technology is still undetermined, but RFID chips are very strongly favored and imminent. Because of this, however, another level of privacy issues has come up concerning national ID cards.

The implementation of the Real ID Act of 2005 will cost a total of 11 billion dollars over a span of ten years. Currently, Congress has allocated only 40 million dollars. According to

EPIC, the rest of the money will come from taxpayer dollars. Considering that US residents are already not in support of this act (Please see *Violation of Privacy* below for more specific statistics.), they will surely be unhappy to see that this government-driven effort will have to be funded with its citizens' and residents' own money. (EPIC, 2007, p. 4)

There are many different implications that are associated with the passage of the Real ID Act. Privacy and personal information belonging to US residents and specific businesses are being compromised (Please see *Violation of Privacy* section below.). Moreover, because RFID technology, on which research has not been thoroughly completed yet, is being implemented with the national ID cards, there could be many security issues arising from this act as well. Repealing the Real ID Act of 2005 would eliminate most, if not all, of these potential problems.

### **RFID Technology**

Because RFID tags are a newer technology, they are still not yet fully developed, and therefore, present a controversial topic. RFID is an abbreviation for radio frequency identification. RFID chips “use radio waves to automatically identify different people and objects.”(RFID Journal, 2002, p. 1) Currently, RFID chips are used in passports. By the end of 2006, all new U.S. passports that were issued supposedly contained RFID chips. By monitoring its own citizens, the U.S. hopes to prevent any more terrorist attacks, as well as prevent more illegal immigrants from coming to the U.S. The “smart passports” also hope to speed up customs at Canadian and Mexican borders. However, there has been much controversy associated with RFID tags. The technology that is used to read these tags, for facial recognition, “is a relatively new technology and somewhat unreliable.” Moreover, many privacy issues are raised. “Privacy advocates are concerned that the chips, which can be

read remotely through clothing and purses at a debatable distance, could subject passport holders to spying, theft and other unsavory activities.” (Gilbert, 2004, p. 1-2) If all of these issues have risen with implementation of RFID tags in just passports, then using this new technology for national ID cards is sure to cause all of these problems and more.

RFID chips present many more controversies. First and foremost, the cardholder may not be aware that there is an RFID tag embedded in the card, if he or she is not informed. Since the national ID card that is under the Real ID Act will be an advanced driver’s license, all states will be able to read driver’s licenses of any other states. As stated by the Real ID Act, different DMVs will “provide electronic access by a state to information contained in the motor vehicle databases of all other states.” (McCullagh, 2005, p. 2) So, the cardholder could be tracked, without know that he or she is being tracked. This is a violation of privacy of the cardholder, since he or she does not know about the monitoring.

There are also very high security risks associated with RFID chips. Since it is very simple to track a cardholder’s actions, it is very possible to conduct secretive gathering of possessive data. There could be non-authorized individuals, such as terrorists, that could obtain very personal data about cardholders (i.e. location of workplace, health care coverage, etc.), if the technology was breeched. RFID technology needs to be researched more thoroughly to see if there is a way to prevent non-authorized people from accessing private data. Currently, there are no solutions for solving this problem.

Moreover, the security system and network that will be used for national ID cards is not fully developed yet. Currently, there are 51 different networks, one for each state plus one for DC. Once the national ID card is implemented, there will be one giant network, encompassing all

51 smaller networks. According to Sparapani, "If 51 databases are tied together, and 50 of them have great security but one is easy to break into, the entire conglomeration is vulnerable... We know that any kind of sophisticated hacker, ID thief, organized criminal, or terrorist will be able to hack into this system. There are so many points of entry." (Larkin, 2005, p. 2)

Therefore, if an unauthorized person developed a methodology for reading data on national ID cards through advanced machine-reading technology, there is nothing stopping that person from obtaining information about every single national ID cardholder. This removes any, or all, of the privacy of every cardholder, because any of his or her data can be accessed.

Although the Real ID Act guarantees privacy of the cardholder, clearly, this is not giving the cardholder any privacy at all.

One advantage to RFID technology, however, is that it is the easiest type of card reader to implement. Compared to bar code scanners and magnetic strips, RFID technology is the easiest type of technology to implement. This is also the reason that it was implemented into passports, because it was the cheapest (less than one dollar per chip) and it is very simple to put a microchip into a passport. (Gilbert, 2004, p. 1-2) However, this easy implementation also leads to the fact that it is also very simple to obtain information. Any time or place that the card is swiped or read, all of the information on the card can be read or seen. For example, if the card is swiped at a grocery store, the cashier would be able to see all of the personal data of the cardholder. Is it really necessary for a cashier to see the details of a cardholder's health insurance coverage or annual salary? This information is not needed to buy groceries and it is a violation of privacy. This scenario will become very common, if the national ID in the Real ID Act is implemented, and then, cardholders will have no privacy rights left.

## **Violation of Privacy**

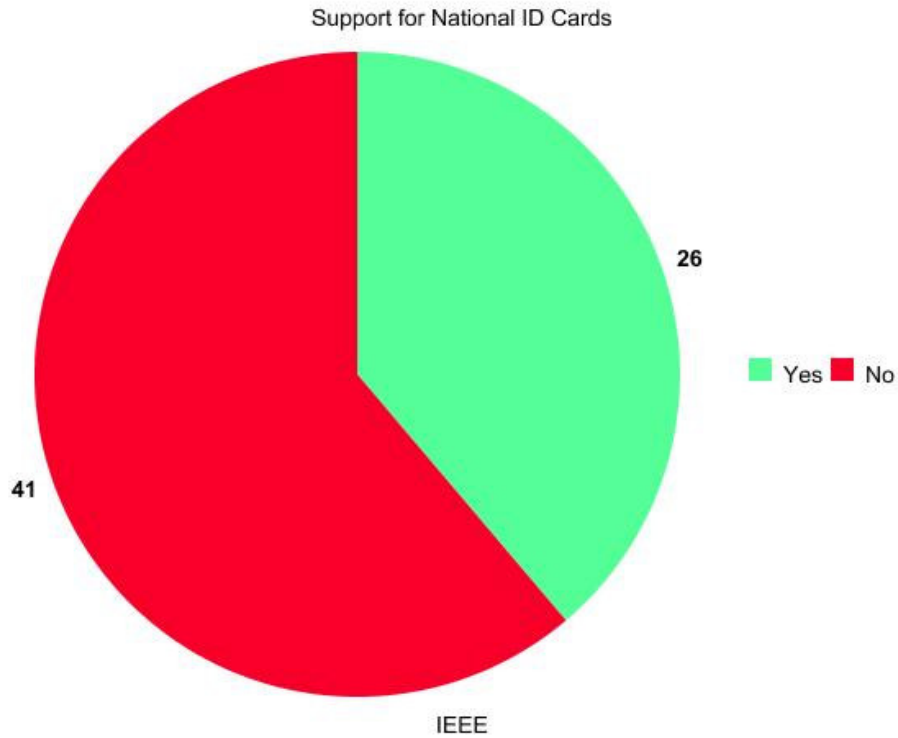
With the creation of the Real ID Act of 2005, there are many different privacy violations. The fourth amendment of the United States Constitution reads as follows:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” (3)

This gives protection of rights to privacy from intrusion from the government. The national ID card proposed by the Real ID Act of 2005, however, violates the fourth amendment, because U.S. residents and companies are not given the chance to keep their privacy.

## *Violation of Personal Information*

Once the national ID card is scanned, the person who scanned the card can easily find out any desired information. This can happen at any time or place. As stated by Thierer, “While proponents of national ID cards will contend that such concerns are overblown, there is no denying that a national ID card could become the equivalent of a domestic passport that citizens are required to produce for the most routine daily tasks.” (2001, p. 1-2) For example, the usher at a movie theater can easily access the information of any movie viewer, with the swipe of the national ID card. (Pellegrini, 2002, p. 2) Moreover, in a poll taken in 2002 asking U.S. citizens if they would support an effort for a national ID card, the following results were found (Malkinson, 2002, p. 3):



This data shows that the majority of the people surveyed do not like having their privacy rights violated, regardless of the possible advantages, because of the fact that national ID cards violate privacy regulations. For a country whose government is “of the people, by the people, for the people,” it should certainly listen to US citizens and repeal the Real ID Act of 2005 so that national ID cards are not required.

#### *Violation of Company Information*

Before the Real ID Act of 2005 was passed, forty-three different organizations wrote letters to President Bush. All of these letters were requests to President Bush to veto the Real ID Act of 2005. All of the letters claimed that “an even more comprehensive ID program [such as the Real ID Act] would garner tremendous opposition.” (Malkinson, 2002, p. 2) Clearly, all of these letters show that companies are not in favor of national ID cards. National ID cards could potentially harm companies by giving away confidential information. For example, if

Bill Gates, the CEO of Microsoft, swiped his card for entrance at a technical conference, confidential information about his company, such as yearly revenue, could be released. If such numerical figures are released, then it could be possible for other company statistics, like general health care coverers, number of employees, and specific business tactics, could also be unveiled. This information should be kept strictly confidential and should stay within the confines of the company. However, through the Real ID Act of 2005, any of this information could be easily leaked.

One advantage of a national ID card is the fact that it is just one card. Currently, the average American carries at least eight cards in his or her pocket: 1 photo ID, 1 credit card, 1 debit card, 1 insurance card, 3 business cards, and a social security card. (Trent, 2007, p. 1) With the national ID card, healthcare, license, passport, debit, and credit cards could all be combined into the ID card. If this is the case, however, if a person's national ID card is stolen, it is much more dangerous than if just a few of the above cards are stolen. The national ID card would also be harder to replace, since there is much more legal documentation required to obtain a national ID card than there is to obtain another driver's license or another VISA card. Please see the *Prevention of Terrorism* section below for more details. Although one could argue that security would also be greatly increased, with the implementation of the national ID card, all different types of private information could still be potentially released to non-authorized officials, by swiping the card in the supermarket, movie theater, or gas station, as discussed before.

### **Prevention of Illegal Immigration**

Another reason for the passage of the Real ID Act of 2005 was to help prevent illegal immigrants from coming into the United States. With the passage of the Real ID Act, the U.S.

government hopes that it will be easier to “get a handle on illegal aliens in the United States,” as stated by Representative James Sensenbrenner from Wisconsin. (Larkin, 2005, p. 1)

However, if this is the case, then there are numerous other questions and concerns that arise, including, but not limited to:

- Will current illegal immigrants receive national ID cards? If they are already working and show supposedly “legal” documents, will their jobs be revoked and will they be deported, or will they be allowed a chance to apply for U.S. citizenship?
- Will the children of current illegal immigrants receive national ID cards or legal resident status, so they have the chance to receive an ID card?
- Will the national ID card fully replace the green card (a card that gives official immigration status)? If so, then how will the privacy rights of these immigrants be affected, because of the privacy violations the Real ID Act presents?
- If needed, how will employers determine which immigrants can be subsidized for national ID cards?

With the passage of the Real ID Act, which is supposed to prevent illegal immigration, all of these questions about immigration arise. Even if all of these issues were resolved, there would have to be a RFID-reader in every Immigration & Naturalization Services (INS) building. As stated by the Electronic Frontier Foundation (EFF), every single “INS [has to be] issued the equipment needed to read the card's high-tech features,” (EFF, 2002, p. 4) which significantly increases the costs of implementation of a national ID card. As a result of all of these issues, the Real ID Act of 2005 should strongly be re-considered, and possibly repealed, by the government of the U.S., since it seems to be causing more potential immigration problems rather than resolving them.

## Prevention of Terrorism

One of the main purposes of the passage of the Real ID Act of 2005 is to help prevent the United States from becoming another terrorist target again. The Real ID Act will, supposedly, “hamper the ability of terrorist and criminal aliens to move freely throughout our society by requiring that all states require proof of lawful presence in the U.S. for their drivers' licenses to be accepted as identification for federal purposes such as boarding a commercial airplane, entering a federal building, or a nuclear power plant.” (McCullagh, 2005, p. 2)

The Real ID Act, however, has not fulfilled this goal. The national ID card has already been implemented in Minnesota. It currently looks like the following, with an RFID tag embedded inside of it. *(Note: Not all of the text on the license may be readable; this same image can be viewed in its accompanying McCullagh article. Please see the Bibliography for more details.)*



As seen from above, there is more information on this card, such as eye color, weight, etc. than normally present on a regular driver's license. There are also holograms and digital water marks on this ID card that can only be seen under ultraviolet light. These features have been newly developed because, according to the American Association of Motor Vehicle Administrators, criminals, illegal-immigrants, alcohol-seeking teenagers, and terrorists have

all been able to obtain fake licenses with ease in the past. (Leinwand, 2004, p. 2) However, the creation of this ID card has not stopped terrorists.

As claimed by Leinwand, “several of the suicide hijackers got driver's licenses legally, but scrutiny of the hijackers' activities showed, among other things, that they knew licenses could be obtained with little documentation.” (2004, p. 2) If terrorists are still able to obtain such documents that will pass as legal, then creation of a national ID card will not prevent terrorists from obtaining such a card. Creating a national ID card does not necessarily mean that terrorists will not be able to obtain a card themselves. According to Leslie Phillips, a spokeswoman for Senator Joe Lieberman, “the bill would not have prevented the 9/11 terrorists from getting driver's licenses. The terrorists obtained licenses legally, using valid documents.” (Leinwand, 2004, p. 2)

Since the September 11<sup>th</sup> terrorists obtained supposedly-legal documents, then they may still be able to obtain national ID cards, with the same documents. The Real ID Act was created to prevent terrorism, and therefore, they should not even have a slight chance of obtaining national ID cards. Clearly, however, the Real ID Act is not preventing this, and therefore, not truly protecting its legal US citizens and residents from terrorist threats.

On the other hand, the US government might argue that creation of a national ID card could help prevent terrorism. The creation of the national ID card also could lead to easier digital record-keeping and easier access of records of all US citizens and information in one big database system (See *RFID Technology* section for more details.). Because the government has every resident's personal information, it could, potentially, be easier to identify terrorists. However, if the government has access to all of this information, then it is, once again,

encroaching on the privacy of ID cardholders. According to Sparapani, “the network of databases may also eventually hold electronic copies of sensitive personal documents. The law requires that states verify and store electronic copies of a driver's photo ID, birth certificate, and Social Security card, along with documents showing name and address.” (2005, p. 2) If all of these important legal documents of every cardholder are electronically filed, then a small security breach, especially to terrorists, could leak an enormous amount of personal information to unauthorized officials. These security concerns are not yet fully addresses, and therefore, because the Real ID Act of 2005 is not preventing terrorist threats without harm, the act should be repealed.

## **Conclusion**

Although the idea of a national ID card may have good intentions, the Real ID Act of 2005 is not successfully implementing it in a way that is beneficial and harmless to its legal residents. Because of this, the idea of national ID cards is still muddled in much controversy in the United States. However, national ID cards have been successfully implemented in many countries in the European Union, as well as in Asia. But, because of underdeveloped RFID technology, privacy violations, and not significantly helping prevent terrorism, the Real ID Act of 2005 is not a proper implementation of national ID cards, and therefore, the act should be repealed.

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