

Chapter One: Voting Rights and Disenfranchisement

Voting rights refers to an individual's access to the voting process, from registration to casting the ballot. Lack of access could result from intentional voter suppression, burdensome administrative rules, structural barriers, personal limitations or authorized disenfranchisement based on criminal history. Voting rights gets to the heart of who can vote and how easy it is to do so. A faithful democracy requires the re-enfranchisement of citizens, ending voter suppression and reforming election administration systems to ensure citizens can access the ballot.

The Fight for the Vote

Registration and voting must be accessible and protected for all citizens. Unfortunately, history shows that we have consistently fallen short of the ideal. To understand the current challenges to voting rights it is critical to know the historical context—particularly related to the racist origins of voter suppression.

A Narrowly Defined “We the People”

The United States Constitution was initially silent on the right to vote, allowing each state to set its own voting standards and regulations. State laws reserved the right to vote for property-owning white men. White men without property, along with women and enslaved persons (who at the time were considered property and only 3/5 of a person), were denied the franchise.¹ However, as part of Reconstruction after the Civil War, Congress amended the Constitution in an effort to establish equality for recently freed enslaved persons. In 1868 the US government passed the 14th Amendment extending citizenship rights to freedmen. This was followed by the passage of the 15th Amendment in 1870, which prohibited federal and state governments from denying someone the right to vote based on a citizen's race, color, or previous condition of servitude. This amendment sought to grant African American men the right to vote. However, women of any race were still excluded from the democratic process². When the 19th Amendment was passed 50 years later, it granted women the right to vote; however, white women disproportionately reaped the benefit.³

“Within our most precious documents, we acknowledge that ALL people are part of God’s creation and that we are one nation under God. As such, our democracy says that every citizen should be respected regardless of sex, race, national origin, etc. ... The most precious nature of American society is the right to vote.” Imam Dr. Talib M. Shareef, USAF-Retired, President, Masjid Muhammad, The Nation’s Mosque

Unheard Voices: Voting Rights & Disenfranchisement

During the Reconstruction Era, Black male political power expanded dramatically. Black men made up an overwhelming majority of southern Republican voters. They held state and local legislature positions, and sixteen Black men served in congress.⁴ However, this progress was short-lived. In 1877, as a part of a political compromise, federal troops withdrew from the old Confederacy marking the end of the Reconstruction Era. With white supremacist governments back in power, Southern states created the sinister network of laws and practices which circumvented the spirit of the 14th and 15th Amendments and came to define the Jim Crow South.

“My faith teaches that every person is imbued with dignity, and in a secular democracy our vote is an indicator of that worth.” Sister Simone Campbell, SSS, Executive Director, NETWORK Lobby for Catholic Social Justice

Take a [“Walk Through History”](#) with this NETWORK Lobby resource that invites participants to learn which groups were permitted to vote at different times throughout our nation’s history.

Jim Crow

When it came to voting rights, states codified literacy tests, poll taxes, moral character tests, and grandfather clauses. In combination with the direct threat of violence and loss of property and jobs, these measures kept many African Americans off the voting rolls. In 1894, a white South Carolina newspaper argued that voting



laws needed to be amended, lest whites be swept away at the polls by the black vote. In 1901, Alabama amended its constitution to expand disenfranchisement to all crimes involving “moral turpitude” — a vague term that was applied to misdemeanors and other acts not punishable by law.⁵ These laid the path for disenfranchisement of felons, another means of restricting the vote of black citizens, who were commonly arrested in the South on trumped-up charges. This widespread criminalization of black people with the express purpose of weakening the black electorate still occurs today.

The Civil Rights Movement

As the civil rights movement gained steam over the 1940s and 50s, pressure built on reluctant politicians to realize the promise of the 15th Amendment and to protect full enfranchisement for black citizens around the country. Black civil rights leaders built power over the summer of 1964 with Freedom Summer, a huge voter registration push in Mississippi. The next year saw a massive organizing push by the Student Nonviolent Coordinating Committee (SNCC), the Southern Christian Leadership Conference (SCLC), Martin Luther King

Jr., Malcolm X, John Lewis, and countless local strategists in Selma, Alabama. A series of marches from Selma to Montgomery were met by violent local gangs, mounted policemen, and zealous Alabama state troopers. On an event remembered as Bloody Sunday, Alabama troopers, determined to stop the marchers, pressed forward in readiness to attack. Governor George Wallace had approved the use of force, if necessary, to halt the march. What ensued was a brutal and sickening attack by police with tear gas, billy clubs, and nightsticks on the unarmed marchers. More than 600 marchers were assaulted and 17 were hospitalized on the first day of the march. White clergy from around the country flocked to take part in the marches, and white racists attacked several pastors, one of whom died from his head wound.



The violence in Selma compelled a resistant President Johnson to introduce a federal voting-rights bill. In a speech to Congress, Johnson introduced the bill and, using the language of civil rights singers, said, "We shall overcome." The Selma-to-Montgomery voting campaign attracted national attention. The witness of the faith community and of people of goodwill to the injustices of Jim Crow contributed to the political pressure necessary for Congress to pass the *Voting Rights Act* in 1965.⁶

The law prohibited the use of literacy tests as a requirement to register to vote and provided recourse for local voters via federal oversight and intervention. It created a formula for federal monitoring of areas that historically had low voter turnouts to preempt new measures to target minority voters.⁷ Most importantly, it provided for federal enforcement of voting rights and created mechanisms for oversight. *The Voting Rights Act* was a pivotal step toward equality for Black Americans.

“Shout out, do not hold back! Lift up your voice like a trumpet!” (Isaiah 58:1) In Hebrew Scripture the same word for ‘voice’ is also the word for ‘noise’ or ‘vote’. In a broader sense, I would say it simply means letting oneself be heard. Using our voice to make noise is one way to be heard, and using our vote is another.” Rev. Traci D. Blackmon, Associate General Minister of Justice & Local Church Ministries, United Church of Christ

The *Voting Rights Act* almost immediately changed the political landscape of the South. In every Southern state, the percentage of black adults who were newly registered to vote rose above 60 percent within four years. By 1969, 12,000 black officials had been elected to office, with more than one-third of that number from the South.⁸

Reflection Questions:

- *What did you learn about voting growing up?*
- *Has your attitude changed over time? Why or why not?*

Watch this 4-minute [video](#) from *Voices of America*. It brings to life the struggle of civil rights leaders that led to the Voting Rights Act.⁹

Voting Rights & Disenfranchisement in the 21st Century

Despite this pivotal success decades ago, voter suppression and disenfranchisement continue as a real and present threat to our democracy 50 years later. Today, there are multiple ways that voting rights continue to be undermined from registration to the ballot.

Restrictive rules and Structural Barriers

Restrictive voting laws are not neutral, but disproportionately affect communities of color and otherwise marginalized communities. Strict ID requirements, for example, have notable racial disparities: research has shown that while 7 percent of Americans lack a government-issued photo ID, the rate is 13 percent among African Americans, 10 percent among Hispanics, and 12 percent for people earning below the poverty line.¹⁰

So-called “purges” of voter registration rolls have also seen a significant uptick in recent years. This entails a range of state practices that can rob Americans of the franchise because of errors, overly aggressive attempts to clean voting lists and voting roll manipulation designed to influence elections and political power. Between 2014 and 2016, almost 16 million registered voters nationwide were removed from the rolls—almost 4 million more than between 2006-2008.¹¹



These laws are often proposed under the guise of preventing voter fraud, but evidence of in-person voter fraud at the ballot is miniscule (31 credible allegations out of approximately 1,000,000,000 votes cast between 2000-2014).¹² It’s important to distinguish voter fraud from other forms of corruption of the electoral process. Corruption committed by elected or election officials, candidates, party organizations, advocacy groups or campaign workers is not “voter fraud”. The latter instances fall under the wider definition of “election fraud” and are not typically addressed by restrictive voting laws.

In 2011 and 2012, at least 180 restrictive bills were introduced across 41 different states.¹³ The oversight role of the Department of Justice—a key protective measure in the VRA—helped to block or blunt these restrictive measures in 14 of those states. Among these were restrictive voter ID requirements, proof of citizenship, restrictions on voter registration, and unduly limiting early and absentee voting opportunities. What’s worse, the subsequent *Shelby* ruling in 2013 gutted VRA protections, exacerbating the issue significantly (see below).

“Voting is a sacred right and a cornerstone of democracy. We desperately need to protect every American’s right to vote - and right now this right is endangered by gaps in the law.” Rev. Jennifer Butler, CEO, Faith in Public Life

Felon Disenfranchisement

Some states continued Jim Crow precedence by instituting lifetime bans from the right to vote based on criminal record, even after people have served their time. In 1974, the Supreme Court upheld felon disenfranchisement laws and, as a result, by 2016 more than six million Americans could not vote due to past felony convictions. Black Americans make up only 13 percent of the population but account for approximately 34 percent of the prison population and are 5 times more likely to be incarcerated than whites.¹⁴ The racial implications of such bans are clear.

Find out what your state’s policy is related to felony disenfranchisement by visiting ACLU’s [Felon Disenfranchisement Map](#).¹⁵

Shelby Ruling

The pivotal 2013 Supreme Court case, *Shelby County v. Holder*, concerned the constitutionality of two sections of the *Voting Rights Act*: Sections 4(b) and Section 5. In the original legislation, Section 5 requires jurisdictions with a history of voter suppression to seek preclearance from the federal government before changing voting laws. Section 4(b), identified which states and counties were subject to the preclearance requirement based on their historical use of suppressive tactics.

On June 25, 2013, the Supreme Court ruled (5-4 vote) that Section 4(b) of the *Voting Rights Act* was unconstitutional because the justification had become outdated since 1965. Notably, they upheld the constitutionality of Section 5. However, without coverage under Section 4(b), the federal government can no longer use Section 5 to preempt discriminatory voting practices before they are implemented. The ruling significantly limits the federal government’s ability to protect the votes of people of color, specifically.



“Abolishing voter protections because they’ve successfully stopped discrimination is like throwing away your umbrella in a rainstorm because you are not getting wet.” Supreme Court Justice Ruth Bader Ginsburg in Shelby dissenting opinion, 2013

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States have since capitalized on this decision to pass harmful voting laws—many of which appear aimed at suppressing the vote of people of color. Just 24 hours after the 2013 decision, Texas announced a plan to implement a strict photo ID requirement for voting.¹⁶ This was similar to a law that Texas had proposed before which had been blocked for having a disproportionate impact on communities of color. The *Shelby* ruling provided a green light for Texas to move forward with this discriminatory law. Since then, 21 states have followed suit in enacting restrictive voting laws.¹⁷

In addition to increased requirements for voting, there has been a surge in structural barriers to accessing the ballot. We saw in states like Georgia, North Carolina, North Dakota, and Florida, flagrant examples of manipulated election procedures

Reflection Questions:

- *Have you ever faced barriers to casting your ballot in an election? Have you seen others struggle to vote?*
- *How did it make you feel?*
- *How did you respond?*

that effectively suppress the vote of marginalized communities.¹⁸ Across 13 different states, 1,688 polling locations were closed, overwhelmingly impacting communities of color.¹⁹ Closing polling locations adds to the problem of African American citizens facing significantly longer average wait times to vote. Residents in heavily black neighborhoods were 74 percent more likely to wait longer than 30 minutes to cast their ballot than residents in entirely white neighborhoods.²⁰

Watch [Suppressed: The Fight for the Vote](#) to see how the application of several voter suppression tactics in the State of Georgia influenced the 2018 election.²¹ (35 mins.)

These [19 Maps and Charts](#) from Vox illustrate the evolution of voting rights in American history in a clear, straightforward way.²²

21st Century Solutions

Since the *Shelby* ruling in 2013, various bipartisan bills, like the *Voting Rights Amendment Act*, have been introduced in Congress to update the Section 4(b) formula to protect voting rights. While proposed updates have varied, the underlying power and role of the Federal Government for oversight is not in question. For six years, Congress has failed to agree on the Shelby fix and some states and jurisdictions have taken advantage of their inaction. Changes to voting laws and procedures that knowingly target communities will increase in the face of legislative inaction.

Voting Rights Advancement Act of 2019 (VRAA)

In the 116th Congress, Representative Terri Sewell (D-AL) and Senator Patrick Leahy (D-VT) have re-introduced the *Voting Rights Advancement Act* (H.R. 4/S. 561) which has the strongest congressional support and momentum. Otherwise known as the VRAA, the bill provides a legislative fix to prevent voter discrimination and increase transparency, thus restoring the original goal of the *Voting Rights Act*.

“In the Bible, we are reminded that ‘when justice is done, it brings joy to the righteous’ (Proverbs 21:15). The Evangelical Lutheran Church in America (ELCA) understands that justice is done when we live out our mutual responsibility for one another by guaranteeing our neighbor’s right to vote and participate freely and fully in society.” Rev. Amy Reumann, Director of Advocacy, ELCA



The VRAA would redesign the formula to evaluate requirements of preclearance for changes in voter laws. It would identify specific states and jurisdictions subject to oversight based on a 25 year historical record of repeated voting rights violations. The VRAA formula also includes preclearance reviews in all jurisdictions nationwide for proposed measures that have historically been used to discriminate against voters of color. These and other measures that prioritize voting rights and increase transparency around the voting process provide preemptive protection against tactics that restrict certain communities from voting.

The *Voting Rights Act* has historically been bipartisan. Back in 1964, the bill passed with majority support from both parties in both chambers. After the *Shelby v. Holder* ruling, however, voting rights became an increasingly partisan issue. Democrats have been staunch supporters of strengthening protections and easing access to the vote while Republicans have backed away, claiming fears of election fraud. While most representatives on both sides of the aisle would agree that all deserve the right to vote, politics has created a real barrier to bipartisan work on the VRAA. The VRAA was passed out of the House Judiciary Committee on October 23rd, 2019 and is expected to pass the House before 2020.

Native American Voting Rights Act (NAVRA)

Native Americans must overcome a variety of unique obstacles, including onerous voter identification requirements, inadequate language assistance, and remote polling and registration sites—all of which suppress the Native vote, whether by mistake or design.

The *Native American Voting Rights Act* (H.R.1694/S.739) is intended to provide the necessary resources and oversight to ensure equal access to the electoral process for Native Americans. NAVRA embraces the principle that decisions made for tribal populations should be made by tribal populations and thereby incorporates principles of Native American sovereignty and self-determination into the electoral process. This allows Indian Tribes and their members to be the decision-makers when it comes to ensuring their communities and members have equal access to the ballot box. As of the end of 2019, the bill awaits mark-up in both chambers of Congress.

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***“A ruler is not to be appointed unless the community is first consulted,’
(Babylonian Talmud Berachot 55a). Diminished federal voter
protections and rampant voter suppression undermines the ability of all
people, particularly communities of color, to participate in our
democracy.” Rabbi Jonah Dov Pesner, Religious Action Center of
Reform Judaism***

Make Voting Easier, not Harder

Although Congress has been unsuccessful in passing a Shelby Fix, many states have taken the initiative to protect their voters by developing best practices to make voting easier and more accessible. California, New York State, and Washington have all passed their own voting rights acts which increase access to early voting and allow for DMV-based voter registration, among other changes. Many states have considered ballot initiatives on voting rights, like Nevada’s proposal to create a declaration of voters’ rights in the state constitution.²³ Currently, 39 states allow early voting, 28 states allow absentee voting without an excuse, and 3 states mail ballots to all eligible voters.²⁴ It is important to know where your state stands and push your state legislatures to make voting an accessible process.

At various levels of government, there are opportunities for us to move past the *Shelby* decision to restore the vote and open up access. Here are some of the best practices being applied in states across the nation which make voting easier and more transparent:

- ✓ Automatic voter registration
- ✓ Online voter registration
- ✓ Same day voter registration
- ✓ Make election day a federal holiday
- ✓ Prohibit deceptive practices and false information around elections that discourage voting
- ✓ Voting rights restoration to people with prior felony convictions
- ✓ Expand early voting and simplify absentee voting
- ✓ Prohibit voter purges that kick eligible voters off the registration rolls
- ✓ Better training and oversight over election volunteers and infrastructure

Learn about your state’s voting laws and practices from this interactive map by the Guardian: [Which US States Make it Hardest to Vote.](#)²⁵

Reflection Questions:

- *Did you learn anything surprising about your state’s voting laws and practices?*
- *What do you like and what would you like to see changed?*

How Can You Take Action?

- ✓ Ask your parish, house of worship, or faith group to [sign-on as endorsers](#) of the *Faithful Democracy: Restoring the Voters Covenant*²⁶.
- ✓ Organize a discussion group to study the *Unheard Voices* toolkit. Reflect on the *Voters Covenant* as you move through the chapters.
- ✓ Call your Senator and your Representative in Congress and urge them to pass the *Voting Rights Advancement Act* (VRAA) and the *Native American Voting Rights Act* (NAVRA) into law. Your legislators need to hear that you support protecting voting rights and that you demand action on the VRAA and NAVRA now.
- ✓ Sign up to [host a screening](#) of *Suppressed: the Fight to Vote* to spark discussion, educate, and take action.²⁷ Help Brave New Films reach their goal of 2,020 screenings by the 2020 election—they will provide screening hosts with a free copy of the film, a discussion and an action guide to help structure the gathering.

Joining and Building Movements

The upcoming year is an opportunity to engage in movement building, there is so much at stake. See how to engage with the following initiatives, which are mobilizing around voting rights in 2020.

The Poor People's Campaign

A legacy of Dr. Martin Luther King, Jr., the Poor People's Campaign has seen a resurgence in recent years, growing into a faith-driven popular movement heading into 2020. Watch this 4 min. video about the PPC movement. The [Poor People's Campaign: A National Call for Moral Revival](#) focuses on giving voice to people who have been left out of the process, including the electoral process.²⁸ Drawing on our deepest constitutional, religious and moral values, PPC challenges both political parties to address an economy and a democracy that are not working for people. Clergy and people of faith across the country have joined the PPC to endorse their message and amplify their demands.

If you know clergy, pastors or others who hold leadership positions in the faith community share [this PPC appeal](#) with them and urge them to engage.²⁹ PPC launched [We Must Do M.O.R.E.](#) (Mobilizing, Organizing, Registering, and Educating) in 2019, a national tour to engage systematically disenfranchised voters.³⁰ Sign up to receive [social media](#) resources from PPC and see how you can help amplify the movement.³¹

Fair Fight 2020

[Fair Fight 2020](#) was founded by Stacy Abrams, former Gubernatorial candidate in Georgia, to combat the systemic voter suppression tactics witnessed in the 2018 election³². The program is building voter protection teams with state and local allies across the country to protect the right to vote. Sign up today to help ensure that 2020 is a Fair Fight.

League of Women Voters

Engage with the [League of Women Voters](#), formed out of the women's suffrage movement nearly a century ago³³. Their mission to empower voters and defend democracy by expanding voting access and fighting voter suppression has been consistent. Find out if there's a league near you, search the LWV's [700+](#) local and state leagues³⁴. Volunteers are working year-round to register new voters, host community forums and debates, and provide voters with election information they need.

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