

A PLEA FOR THE RIGHT TO VOTE: TO EVERY US SENATOR

The right of every citizen to vote should be fundamental in a functional democracy.

Many citizens were denied the right to vote under the original Constitution because state legislatures determined who could vote (Article I.2) thus certain States excluded non-landowners, African Americans, Chinese Americans, Native Americans, indentured servants, and women from the right to vote.

By Amendments to the Constitution and then by the Voting Rights Act of 1965 (VRA) as subsequently amended, the right to vote could not be denied because of previous servitude, gender, race, or national origin. Poll taxes could not be used to abridge the right to vote. Then 18-year-olds were granted the right to vote.

The teeth in the 1965 Voting Rights Act was *preclearance*: states with a history of denying the right to vote systematically as defined by a formula in Section 4 of the VRA were required to seek preclearance from the Justice Department or the DC Federal Court before changing any law or procedure which had an impact on the right to vote. Thousands of actions were stopped and millions of previously barred voters registered to vote (though not without federal intervention in many instances). Then Congress passed universal standards for voters with disabilities to enable them to vote, obtain ballots in different languages, a National Voter Registration standard (you can only ask the registrant to fill in the number on a driver's license or state ID or the last 4 digits of their social security as identification to register to vote). This was done after states tried to get around the VRA by enacting difficult rules for registering to vote.

The Supreme Court in its infamous 5–4 *Shelby County v. Holder* decision ruled that the preclearance formula was no longer constitutional (it was 40 years old, out of date, and the increase in minority voting was obvious). With the end of preclearance immediately began the systematic denial of voting rights, especially to minorities and students in previously covered states: 30 million voters purged from the rolls, closing of 1688 voting locations in minority jurisdictions, and onerous, restrictive voter ID laws passed within weeks of the *Shelby County* case.

2020: Massive voter registration drives during COVID pandemic and the inclusion of easier vote-by-mail rules to protect voters and poll workers from the disease resulted in the largest voter turnout ever in 2020 and the election of President Biden and a Democratic House and a tied Senate (50/50).

After 2020, certain state legislatures began systematically to pass legislation designed to make it harder for certain voters to vote or have their vote counted, mindful of a favorable US Supreme Court where certain justices had consistently voted against the Voting Rights laws while in the minority on the court (Roberts, Alito, Thomas) or who had worked to defeat the VRA as lawyers (Alito and Roberts).

Thus, under the guise of “election integrity,” 19 states enacted 33 statutes that will make it difficult for some people—especially people of color, the economically disadvantaged, students, the aged,

and those with disabilities—to vote. Under the guise of preventing non-existent voter-fraud, onerous provisions include the requirements for certain types of voter ID:

- Having a suitable ID may seem a given for people of means, but this is not the case for many others. State photo IDs are often issued only on specific days by offices hundreds of miles away, so they require time and money—two things that many others do not have.
- Getting a state photo ID may require a certified birth certificate, which if even possible is a slow process; in California, getting a certified birth certificate may take six months. The process is exceedingly burdensome even for those who know how to navigate the system, and nearly impossible for those who aren't tech savvy.
- Many people of color were denied access to hospitals in the pre-civil rights days and have no formal birth records yet many have been legally voting for decades; they are now in danger of losing this right.

Historically, poll taxes and literacy tests were used to keep people of color from voting. Now, new voter ID requirements work to the same end:

The Voting Rights Act of 1965 was enacted to prevent such abuses, but it has been largely eviscerated by *Shelby County v. Holder in 2013*, *Rucho v. Common Cause* (political gerrymandering is constitutional); *Brnovich v. Democratic National Committee* (Arizona's acts were not intentionally racially biased and Alabama (eliminating black Congressional district was not racial gerrymandering).

Congress must remedy both repressive state laws and the Supreme Court's decisions by exercising its authority under Article I.4 of the US Constitution, and the 14th and 15th Amendments.

Congress must protect the right to vote—which ought to be the cornerstone of our democracy.

Toward that end, the House of Representatives passed the Freedom to Vote: John R Lewis Voting Rights Act. This bill has stalled in the Senate for lack of 60 votes to overcome a filibuster. The filibuster should be suspended for voting-rights legislation—to allow this bill to get to the floor of the Senate and be voted on. To do otherwise is to fail to govern.

Consider the situation in Russia, China, and Syria, where there is no unfettered right to speak out.

Our vote is our voice in the United States. Let's show totalitarian governments that our Congress will ensure that all American citizens have the same right to vote.

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