Personal Obstacles for Voters Today

Require a Voter ID – What if you don’t drive, or don’t have a birth certificate?

Forbid giving water and snacks to voters in line – If the line is long, will there be any porta potties?

Reduce polling locations, hours and voting machines – Will you lose wages traveling and waiting in line?

Move voting locations without warning – Can you get there on the bus?

Require vote-by-mail ballot to have verified signature or prohibit anyone else to return it (“harvesting”) – What if you are homebound?

Purge semi-regular voters from the rolls – Did you return the notice (that looked like a junk mail postcard) to stay registered?
Structural Threats to Voting Rights

- Gerrymandering
- Election Integrity
- Dark Money in Politics
- Senate Filibuster
- Politicized Courts
- Social Media
- Electoral College
The 1965 Solution: The Voting Rights Act

- §2 – No State or political subdivision may apply a policy or procedure to deny or abridge the right of any citizen of the United States to vote on account of race or color.

- §4 – Formula identifies States, Counties and Townships which racially discriminate.

- §5 – States, Counties and Townships “covered” by the Formula are required to obtain Pre-clearance (approval) from the Federal Justice Department or Federal District Court in D.C. before any change to voting practices are made.

Sources: https://www.archives.gov/milestone-documents/voting-rights-act

President Lyndon Johnson signing the 1964 Civil Rights Act outlawing segregation and discrimination

§ = Section number
VRA’s Pre-Clearance Impact Was Huge!

With no poll taxes, literacy tests, etc.:

- Over 1 Million new Black voters by 1970
- Mississippi’s Black voters:
  - 6% registration rate 1965 increased to 59% by 1969
- Congress:
  - 6 Black members in 1965; 13 in 1971
- Senate:
  - no Blacks in 1965; 1 in 1971; 3 in 2023
- Justice Dept’s Attorney General annual pre-clearance reviews:
  - over 4500 claims,
  - 14,000 to 20,000 voting changes!
- Nationwide:
  - 475 elected Blacks in 1965; by 2023
  - 640 Black Mayors represent 48M people
Recent US Supreme Court Cases impact both Federal and State voting rights laws

2010 – *Citizen’s United v FEC (5-4)* ✔
- Allows Corporations and Unions *unlimited* PAC $$$ for federal elections.
- Media spending skyrocketed immediately.

2013 – *Shelby v Holder (5-4)* ✔
- Kills preclearance (approval) by Justice Dept and Federal Court.
- *Immediate result*: 1688 precincts closed and massive increase in barriers to the ballot box in previously covered States.

2019 – *Rucho v Common Cause (5-4)* ✔
- Political gerrymandering *not* unconstitutional; up to Congress to act.

2023 Decisions –
*Allen (originally Merrill) v Milligan (5-4)*
- 1965 VRA prohibits discrimination on race
- Federal Court ruled Alabama is racially gerrymandered.
- Ruling: Affirmed - Alabama districts discriminated on race.

**Moore v. Harper (6-3)**
- NC State Legislature argued it - *not* NC Supreme Court - determines election law because of Article 1.4 of the US Constitution. SCOTUS Ruling: Denied “Independent State Legislature” theory; upheld State Supreme Court power; sent back to State Court to oversee redistricting.
Dark Money in Politics after Citizens United

  • Corporations have a First Amendment right to free speech.
  • Corporations and Unions may create PACs.

• Results:
  • Corporations and Unions *independent from the candidates* buy mass media advertisements, run independent precinct operations, and pick candidates who will further their corporate goals and objectives.
  • Huge corporate impact on 2012 redistricting and elections thereafter

• Response currently up to States, e.g., [CA DISCLOSE Act](#)
  • Requires disclosure of donors to candidates, top donors to ballot measures and political advertisements.
Shelby Ends Pre-clearance

- **Majority Opinion: Chief Justice John Roberts**
  - Coverage formula is based on data over 40 years old, making it no longer responsive to current needs and therefore an impermissible burden on the constitutional principles of federalism and equal sovereignty of the States.

- **Minority Opinion: Justice Ruth Bader Ginsburg**
  - Argued that evidence gathered by Congress supports continuing the law which enforces the 14th and 15th Amendments.

"Throwing out preclearance, when it has worked and is continuing to work to stop discriminatory changes, is like throwing away your umbrella in a rainstorm because you are not getting wet."

RBG
Shelby Impact: 1,688 Polling Places Closed

- 1,688 polling places closed in previously covered States
- Closures continue: Texas bill would prohibit polling locations on all college campuses in Texas.
- Requires litigation to stop racist-based State policies.

Sources:  
https://www.tpr.org/government-politics/2023-02-20/polling-sites-on-texas-college-campuses-would-be-banned-under-proposed-bill  
Shelby Impact: Restrictive Voting Laws

“Since Shelby County was decided, at least 29 states have passed 94 restrictive voting laws.”


Source: https://www.brennancenter.org/our-work/analysis-opinion/states-have-added-nearly-100-restrictive-laws-scotus-gutted-voting-rights
New election laws passed in 2021-2022

Voter access: **improved**, **impeded**, or **some of both**. 7 States also passed **election interference laws** empowering **elected officials** to determine validity of votes.

Partisan Gerrymandering is Legal!

- In 1812, Massachusetts Governor Elbridge Gerry redrew the state senatorial districts to favor his party. The Boston Gazette published this cartoon which merged “Gerry” and “salamander” to describe the result.

- **Rucho v Common Cause (2019):** US Supreme Court states that *racial* gerrymandering is illegal, but *partisan* gerrymandering falls outside the reach of the Supreme Court: a decision to be made by Congress *not* the Supreme Court.

How to Gerrymander

**PACKING** – draw voting district boundaries so as many opposition voters as possible are crammed into the fewest possible districts that they can win.

**CRACKING** – draw voting district boundaries so that the party in charge has a numerical advantage in the majority of districts.

Packing changed 3 Red districts (solid A & B and leaning C) into 1 Red (AB) and 1 leaning Blue (C).

Filibuster Reform Urgently Needed

- Filibuster historically **used to stop voting rights legislation**
  - Anti-Poll Tax Bill (1942)
  - Freedom to Vote Act / John R Lewis VRA (2022)
- **Rural areas over-represented in Senate** (2020 Census).
  - WY + VT + AK + ND + SD have 3.6 million voters (10 Senators)
  - CA has 39 million voters (2 Senators)
  - The 26 least populous states are home to just 17 percent of the US population.**
- “**Cloture**” allows 41 Senators to block a bill
  - A Senate rule, not written in Constitution, requires 60 votes to end a filibuster
  - Cloture voting has skyrocketed since 1917
- **Majority vote applies** for federal budget reconciliation, Executive Branch and Judicial nominations
  - Why not **majority vote for voting rights**?

**Why should 41 Senators be able to outvote 59 Senators when the 17th Amendment specifies each Senator has one vote?**

The Electoral College

• Why Created?
  • 1787 Constitutional Convention **compromise** between election by **Congress** vs. election by **popular vote** – **States choose the Electors**

• Why Outdated?
  • 5 Presidents elected despite losing popular vote**
    • Adams (1824), Hayes (1876), Harrison (1888), Bush (2000), Trump (2016)
  • “the 26 least populous states are home to just 17 percent of the U.S population.” ***

• Abolishment Not A New Idea
  • 1968 Gallup poll found 80% of Americans supported abolishment
  • 1969 House voted 338 to 70 for constitutional amendment (bill failed in Senate)

• “National Popular Vote Interstate Compact” gaining momentum
  • 16 States and DC (76% of electoral votes) so far have agreed to **award all electoral votes to winner of popular vote.****
The Freedom to Vote: John R Lewis Act
Addressed Supreme Court decisions

• Preclearance to be reinstated with updated Formula
• Updates “voter protections in Section 2 in response to Brnovich v. Democratic National Committee” decision which banned ballot collection and out-of-district voting
• Enhances power of the U.S. Attorney General to send federal observers to jurisdictions which courts have deemed necessary
• Allows courts to block new election policy in a wider range of circumstances
• All states would have:
  ✓ Automatic voter registration
  ✓ Vote by mail
  ✓ Felon’s rights to vote
  ✓ Limits on voter identification laws
  ✓ Same day registration

If 2022 Voting Rights Act had passed, Preclearance Would Apply to Green States

- **Green** states would become subject to preclearance applying transparent, objective tests ("the Formula")
- Pre-clearance may apply to the whole State, Counties or Townships.
- **Key**
  - **Green = 1965 and 2023**
  - Pink = 1965 but not 2023
  - White = not covered to date

Strong Voting Rights Laws needed now!

• Congress has the power pass strong election laws for Federal elections: “The times, places and manner of holding elections for Senators and Representatives, … shall be prescribed in each state by the legislature thereof; … but the Congress may at any time by law make or alter such regulations ...” (US Constitution, Article 1, Section 4)

• Congress must exercise its power to enact legislation under the 14th, 15th, 19th, 21st, 24th and 26th Amendments to address voting rights.

• We have a national voting registration form for federal elections. Why not have standard rules for conducting federal elections?

*My zip code should not determine if, when, where and how I may vote!*
The Real Threats to Election Integrity

Voters aren’t the problem — Voter fraud is rare — the threat is Election Interference!

- Out-of-date voting equipment
- Not enough voting equipment at voting precincts
- Intimidation of election officials
- Interference by poll watchers at the precincts
- Failure to update voter databases accurately
- Voter purging by States
- Unjustified recounts and legal challenges to the vote results
- Social media lies that undermine voter confidence in the election process
- Foreign interference

# Appendix: Voting Rights History On 1 Page

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<th>Earlier</th>
<th>Civil War</th>
<th>Reconstruction</th>
<th>Jim Crow Era</th>
<th>Civil Rights Mvt. Era</th>
<th>VRA</th>
<th>Growth</th>
<th>Decline</th>
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<tr>
<td>1789 ...</td>
<td>1861-'65</td>
<td>1865-1877</td>
<td>1877-1957</td>
<td>1945–65 (+ ongoing)</td>
<td>1965 to 1990s</td>
<td>2000 +</td>
<td></td>
</tr>
</tbody>
</table>

1789: Mostly white, propertied males may vote, Slave counts for 3/5 person in census
1864: slaves freed
1865: 13th Amendment - Slavery abolished
1867: Reconstruction Act: terms for readmission to the Union
1868: 14th Amendment grants citizenship & equal protection under law for all people born in USA or naturalized citizens
1870: 15th Amendment: No denial of the right to vote because of previous condition of servitude.

1877: Fed troops leave South,** States enact “Black Codes,” Jim Crow laws enforce segregation and intimidation
1896: *Plessy v Ferguson*: “separate but equal” legal
1914 17th Amendment: direct voting for Senators
1920: 19th Amendment: women get right to vote
1954: *Brown v Bd of Ed*: ends “separate but equal”; left enforcement to states
1955: Montgomery bus boycott
1957: Civil Rights Act allows prosecution for preventing voting

1864: slaves freed
**Actually, “home rule” restored

1963: March on Washington
1964: Freedom Summer
1964: 24th Amendment – no poll taxes

**1965: Voting Rights Act**
1971: 26th Amendment – 18 yrs. to vote
1993: Voter Registration Act ("Motor Voter" law) automates registration
2010: *Citizen’s United v FEC*: no $$ limits on PACs by Corporations and Unions
2013: *Shelby v Holder: Preclearance* ended in previously segregated States
2019: *Rucho v Common Cause*: political gerrymandering not unconstitutional
2023: *Allen v Milligan*: racial gerrymandering unconstitutional
Watch Vote Denial on Film

To understand the *when, where, who, what and why* of vote repression:

- **ALL IN: The Fight for Democracy** - 2020 Film on Prime  
  - [https://www.youtube.com/watch?v=t6jVGswLPd8](https://www.youtube.com/watch?v=t6jVGswLPd8)

- **SUPPRESSED and SABOTAGED the Right to Vote** a 2022 film by Brave New Films  
  - [https://www.youtube.com/watch?v=9EGuGCizZCE](https://www.youtube.com/watch?v=9EGuGCizZCE)

- **RIGGED: The Vote Suppression Playbook** a 2018 film by American Issues Initiative  
  - [https://www.youtube.com/watch?v=Xn7MXFGi9Hs](https://www.youtube.com/watch?v=Xn7MXFGi9Hs)

- **DARK MONEY** a 2018 film by Big Sky Film Productions  
  - [https://www.youtube.com/watch?v=DWG_F4UDMkk](https://www.youtube.com/watch?v=DWG_F4UDMkk)

- **VOTER ID AND THE KOCH BROTHERS**, a 2018 film by Brave New Films  
  - [https://www.youtube.com/watch?v=M_jNVy7LDf0](https://www.youtube.com/watch?v=M_jNVy7LDf0)
About National Voter Corps

• Mission: *Every voter counts and every vote is counted.*
• Through its website, National Voter Corps:
  • Educates voters and policymakers about state and national voting rights, their history and present status.
  • Encourages volunteers nationwide to use the interactive 50-State Map, which details information about local and national non-partisan voting rights organizations.
  • Provides free, downloadable, educational voting rights materials.
• Formed in November 2016 in Palo Alto, California
• Unincorporated, Non-Partisan and Non-Profit
  • *Tax-deductible Donations* are managed for NVC via The Social Good Fund, a 501(c)(3)
• Our website is [https://nationalvotercorps.org/](https://nationalvotercorps.org/)
Don’t Let Democracy Be Crushed!

Stand Up For Voting Rights!