



The Battle to Protect the Vote

Voter Suppression Efforts in Five States and Their Effect on the 2014 Midterm Elections

By Ben Jealous and Ryan P. Haygood December 2014

Introduction and summary

*“So long as I do not firmly and irrevocably possess the right to vote, I do not possess myself. I cannot make up my mind—it is made up for me. I cannot live as a democratic citizen.”*¹— Martin Luther King Jr.

The right to vote is the cornerstone of American democracy. The free exercise of the franchise is essential to the preservation and protection of all other constitutional rights. It serves as a check on America’s political leaders and as a source of power for citizens. In this way, the vote is a tangible measure both of what we are as a nation and of what we aspire to be.

The question that every American should ask is: How can we collectively encourage more people to participate in the political process?

Instead of embracing this important principle of inclusion, however, too many states have recently sought to make it harder for Americans to vote in the 2014 elections through concerted legislative efforts or policy decisions. Today, the United States is experiencing an assault on voting rights that is historic in its scope and in its intensity.

Following the U.S. Supreme Court’s devastating 2013 decision in *Shelby County, Alabama v. Holder*²—which invalidated core protections in the Voting Rights Act, or VRA—15 states launched attacks on voting rights in advance of the 2014 midterm elections.³ This report estimates the impact of this assault on the ability of communities of color to participate in the 2014 midterm elections in five of those states—Texas, Alabama, North Carolina, Virginia, and Georgia—each of which has seen a significant population increase in communities of color.

While the precise impact of strict voting laws on the results of the 2014 midterm elections is still unknown,⁴ it is clear that the number of people predicted to face increased difficulties in voting during this election either approaches or exceeds the margins of victory for competitive statewide races.

Moreover, consistent with a recent report from the U.S. Government Accountability Office, or GAO, finding that photo ID laws lower voter turnout, especially among voters of color;⁵ this report highlights the decreases in turnout from previous midterm elections in the three states—Texas, Alabama, and Virginia—that implemented such laws for the first time in 2014.

Thus, the available evidence from this election season strongly suggests that the new restrictions on the right to vote disfranchised large numbers of voters.

These concerted voter suppression efforts are a direct response to the country’s changing demographics and to the lack of federal oversight resulting from the *Shelby County* decision in jurisdictions with a virulent history of discrimination. The 2010 Census indicates that people of color will comprise a majority of the nation’s population by 2043.⁶ At the same time, voter participation by people of color reached record levels in the 2008 and 2012 presidential elections.⁷ These changing demographics and rates of voter participation foreshadow an emerging political landscape in which people of color will play a critical role—even in places where they will not make up a majority of the electorate. It is precisely because of this increased electoral strength that communities of color continue to face a backlash that is more intense than it has been in generations.

These changes also only came about in the aftermath of *Shelby County v. Holder*, the shameful June 2013 decision in which a narrow majority of justices on the U.S. Supreme Court struck down Section 4(b) of the VRA, thereby suspending Section 5 of the law. Known as the crown jewel of civil rights laws, Sections 4(b) and 5 together served as the nation’s discrimination checkpoint.⁸ Section 4(b) contained a coverage provision that identified states with a history of discrimination in voting, including Texas, Alabama, North Carolina, Virginia, and Georgia, among others.⁹ Section 5 required these covered states to submit all voting changes for a process known as “preclearance” before they went into effect.¹⁰

Preclearance required the states discussed here—and certain other jurisdictions—to receive confirmation from a federal court in Washington, D.C., or the U.S. Department of Justice that any new proposed voting laws were nondiscriminatory before those laws could be implemented. For 50 years, Section 5 provided critical protection for millions of voters of color—African Americans, Latinos, Asian Americans, American Indians, and Alaskan Natives. However, by striking down Section 4(b), the Supreme Court immobilized the Section 5 preclearance process. The *Shelby County* decision is akin to letting someone keep their car but taking away

the keys. The Court's decision has left millions of Americans of color even more vulnerable to racial discrimination in places where discrimination has been the most persistent and adaptive.

Similar to the racially discriminatory Jim Crow laws of the early 20th century, these modern day iterations of past laws—which include strict photo identification laws, reductions to early voting and same-day registration, and limits on third-party registration—are direct responses to the nation's recent demographic shift and changes to the legal landscape. Each of the five states analyzed in this report was formerly covered by Sections 4(b) and 5, experienced a relative increase in its minority population, and employed discriminatory voting laws in 2014.

This report focuses on the impact of voting restrictions in Texas, Alabama, North Carolina, Virginia, and Georgia, listed in order of the number of negatively affected voters, for the following reasons:

- Citizens of color in each of these states participated in the past two presidential elections in record numbers and comprised a larger share of the eligible voting population than ever before.¹¹
- The data provided by the 2010 Census demonstrate that communities of color in these states—and eligible voters within those populations—are expanding rapidly and are on track to continue this accelerated growth for the foreseeable future.
- Each state introduced at least one new restrictive voting law or voter suppression policy that applied in the 2014 elections and disproportionately affected people of color.
- Four of these five states—with the exception of North Carolina—experienced sharp decreases in voter turnout from the 2010 midterm elections, likely due, at least in part, to these laws making it harder to vote in 2014.

To combat these challenges, this report proposes that Americans who value and seek

to safeguard the fundamental right to vote for all citizens take the following actions:

- Urge lawmakers to repeal the various laws that suppress the vote
- Urge Congress to immediately restore Section 4(b) of the Voting Rights Act by passing the Voting Rights Amendment Act
- Closely monitor and report voter suppression to the appropriate authorities and groups, including the NAACP Legal Defense Fund¹²
- Engage in massive voter registration as a potential antidote to massive voter suppression

The lawmakers and elected official who are passing laws and adopting polices to thwart the fundamental right to vote are organized. To effectively counter these attacks, those who value democracy must also launch an organized response to protect and advance the most sacred democratic right—the right to vote.

The Center for American Progress is a nonpartisan research and educational institute dedicated to promoting a strong, just, and free America that ensures opportunity for all. We believe that Americans are bound together by a common commitment to these values and we aspire to ensure that our national policies reflect these values. We work to find progressive and pragmatic solutions to significant domestic and international problems and develop policy proposals that foster a government that is “of the people, by the people, and for the people.”

The NAACP Legal Defense & Educational Fund Inc. is America’s premier legal organization fighting for racial justice. Through litigation, advocacy, and public education, LDF seeks structural changes to expand democracy, eliminate disparities, and achieve racial justice in a society that fulfills the promise of equality for all Americans.

The Southern Elections Foundation is dedicated to confronting the recent, large-scale voter suppression efforts across the South by building local infrastructure to make it possible to run massive voter registration and get-out-the-vote programs in every affected state.

