



Voter Suppression During the 2018 Midterm Elections

A Comprehensive Survey of Voter Suppression and Other Election Day Problems

By Danielle Root and Aadam Barclay November 2018



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Introduction and summary

During the 2018 midterm elections, voter participation was more than 10 percentage points higher than it was in the 2014 midterm elections, demonstrating Americans' demand for change and increased enthusiasm for exercising their civic duty to vote.¹ That said, nearly 120 million eligible Americans did not participate in the November elections.²

Widespread voter suppression—particularly against historically marginalized groups—is a reoccurring problem in the United States. Each election cycle, untold numbers of eligible Americans are prevented from voting due to barriers in the voter registration process, restrictions on casting ballots, and discriminatory and partisan-rigged district maps. Voter suppression measures can differ by state and even by individual county. And while some voter suppression measures actively seek to discriminate against certain groups, others result from innocent administrative errors and glitches. Regardless of its form or intent, however, voter suppression is relentlessly effective in preventing voting-eligible Americans from contributing to the electoral process.

This year—perhaps uncoincidentally—severe voter suppression occurred in states with highly competitive political races, including Georgia, Texas, Florida, and North Dakota. Policies and practices that limit participation by even a few thousand votes can mean the difference between victory and defeat in competitive elections. When voters cast a ballot, they expect their votes to matter in choosing representatives who are responsive to, reflective of, and accountable to the communities they represent. Yet when voter suppression occurs, election results may be less reflective of constituents' actual will.

This report describes some of the voter suppression measures and other Election Day problems that potentially kept millions of eligible Americans from participating in the 2018 midterm elections. These include:

1. Voter registration problems
2. Voter purges
3. Strict voter ID and ballot requirements
4. Voter confusion
5. Voter intimidation and harassment
6. Poll closures and long lines
7. Malfunctioning voting equipment
8. Disenfranchisement of justice-involved individuals
9. Gerrymandering

This report also offers recommendations for combating voter suppression and making voting more convenient for all eligible Americans.

For a country that prides itself on its elections, the United States has a long way to go to ensure that all eligible Americans have the opportunity to make their voices heard and contribute to the democratic process. Greater participation among voting-eligible Americans results in representative bodies that better reflect the composition and interests of the broader electorate. It is the duty of newly elected lawmakers at the local, state, and federal levels to enact affirmative policies that expand the franchise and make voting more convenient for all eligible Americans. These reforms should include the repeal of harmful voter suppression measures that discriminate against and exclude certain groups from the voting process.

Voter suppression and Election Day problems in the 2018 midterms

During the November midterms, eligible Americans across the country were hindered by laws and circumstances that made it harder to vote—or outright prevented them from voting. The problems that Americans experienced at the polls this year were nothing new, but given the significance of the 2018 elections, they took on new meaning and should be received with a renewed sense of urgency.

Voter registration problems

Every state—with the exception of North Dakota—and the District of Columbia require eligible Americans to register to vote prior to casting a ballot. Despite efforts in some states to streamline the voter registration process and make it more convenient through pro-voter reforms such as automatic voter registration and Election Day registration, each election cycle, registering to vote remains a significant barrier for many Americans. According to the U.S. Census Bureau, in 2016, approximately 1 in 7 American citizens who were of voting age self-reported that they were not registered to vote.³ Between figuring out where and when to register, as well as what materials—including proof of residency—are needed, the process of registering to vote can be confusing and overly burdensome.

In New Hampshire, for example, strict voter registration laws that require those registering within 30 days of an election to prove they live in the ward or town where they are trying to vote were in place on Election Day this year.⁴ This requirement disproportionately disadvantaged college students, who number more than 90,000 in a state with a voting-age population of slightly more than one million.⁵ In Georgia, 53,000 voter registrants—70 percent of whom were black—were placed in “pending” status by the secretary of state because of minor misspellings or missing hyphens on their registration forms.⁶ A federal judge intervened to stop this practice on November 2, 2018—four days before the election—citing the “differential treatment inflicted on a group of individuals who are predominantly minorities.”⁷ However, those with pending registration statuses were still forced to prove eligibility, including U.S. citizenship,

before voting on Election Day, which can be difficult for Americans lacking access to birth certificates, passports, or nationalization documents. During the lead-up to the November elections, Michigan also experienced problems due to the secretary of state's alleged failure to update tens of thousands of voter registration addresses in the state's voter registration database.⁸ Progress Michigan filed a Freedom of Information Act (FOIA) request on October 19, 2018, to learn more about how the error occurred. The secretary of state's office, for its part, vowed to remedy the mistake, although it is unclear at this time whether this was accomplished.⁹

Online voter registration makes the voter registration process more convenient and drives voter participation because it eliminates the hassle of locating where to register, securing time off work, and finding transportation to Departments of Motor Vehicles or other voter registration locations in order to register in person. In 2018, a lack of online voter registration proved a problem for Texans.¹⁰ The absence of this commonsense pro-voter reform has long been a problem for voters in the state. In 2016, the Texas Civil Rights Project filed suit challenging the state's failure to provide opportunities to register to vote when renewing drivers' licenses, claiming it violated the National Voting Registration Act (NVRA).¹¹ In May 2018, a federal judge agreed and ordered Texas to implement an online voter registration system in time for the 2018 midterm elections; however, the state's appeal to the 5th U.S. Circuit Court of Appeals prevented this from happening.¹²

Online voter registration also proved problematic for voters in Arizona this year. Between November 2016 and October 2018, a poorly labeled online form resulted in an estimated 384,000 Arizonans who changed residences and modified the address on their drivers' licenses online failing to update their voter registration information. The online form included an "opt-in," "register to vote" box that was insufficiently labeled.¹³ In an unfortunate turn of events, in September 2018, a federal judge denied voting rights advocates' requests to remedy the state's failure to update voter registration information based on motor vehicle records and notify people that their registration may have been out of date before Election Day.¹⁴

Voter purges

Discriminatory voter purges continued to be a significant problem in 2018, particularly after a June 2018 U.S. Supreme Court decision that validated Ohio's process for purging voters from voter rolls simply for not having voted in two previous elections and failing to return a mailer. In 2015, Ohio purged hundreds of thousands of indi-

viduals from its voter rolls for failing to vote since 2008. Furthermore, more than 10 percent of voter registrants in the “heavily African-American neighborhoods near downtown” Cincinnati were purged for failing to vote since 2012, compared with only 4 percent of registered voters living in the surrounding suburb of Indian Hill.¹⁵ With its ruling, the Supreme Court gave Ohio and other states a stamp of approval to manipulate voter rolls and keep eligible Americans, particularly people of color, from participating in elections. A 2018 report by the Brennan Center for Justice found that between 2014 and 2016, states removed almost 16 million voters from the rolls.¹⁶ Nearly 4 million more names were purged from the rolls between 2014 and 2016 than between 2006 and 2008.¹⁷ Notably, voter purges were particularly prevalent in states with histories of discriminatory voting practices.¹⁸

Since 2012, former Georgia Secretary of State and Gov.-elect Brian Kemp (R) purged an estimated 1.5 million people from the state voter rolls, 107,000 of whom were removed for not having voted in the two previous general elections.¹⁹ These purges disproportionately affected African Americans, whose voter registrations were removed at a rate that was 1.25 times higher than for white Americans in some counties.²⁰ An analysis by the Arizona Republic found that registered voters in Maricopa County, Arizona, “[h]ave been purged from the voter rolls nearly 1.1 million times since the 2008 election.”²¹ The study found that communities of color and low-income neighborhoods were more likely to be removed from the voter rolls than people living in predominantly white, wealthy neighborhoods.²²

Strict voter ID and ballot requirements

Ten states have strict voter ID laws that require eligible voters to present certain forms of government-issued ID before they can vote. Eleven percent of all Americans lack the kind of government-issued photo ID that these laws require, while people of color, low-income Americans, and students are less likely to have qualified IDs than other Americans.²³ A study by the Government Accountability Office found that voter ID laws can reduce participation in elections by between 2 percent and 3 percent.²⁴

On October 9, 2018, the U.S. Supreme Court upheld a North Dakota law requiring voters to have an ID with a current street address, thereby potentially preventing tens of thousands from voting—including an estimated 5,000 Native Americans.²⁵ Many Native Americans living on reservations lack residential addresses and instead receive their mail at P.O. boxes. And under this new law, even tribal ID cards are inadequate if they do not list a street address.²⁶ The Native American Rights Fund (NARF) and

the Campaign Legal Center (CLC) filed a lawsuit on October 30 requesting that the law be blocked ahead of the election, but their request for an injunction was rejected.²⁷ Fortunately, the NARF cooperated with five North Dakota tribes to provide more than 2,000 voters with the requisite documentation ahead of the election. It is still unclear how many North Dakota voters the discriminatory law disenfranchised.²⁸

Moreover, although a federal judge struck down Kansas' illegal documentary proof of citizenship voter registration requirement in June 2018, the state's strict voter ID requirement remained in place on Election Day.²⁹ Voters in Kansas without the requisite ID were required to vote on a provisional ballot and present ID before the canvassing board met or else have their ballot discarded. In 2016, Kansas discarded provisional ballots at a rate that was 8.5 percent higher than the national average.³⁰

In Alabama, a strict photo ID law remained in place for the 2018 midterm elections. In 2015, civil rights groups, including the NAACP Legal Defense and Educational Fund, challenged the law arguing that an estimated 118,000 potential voters lacked the proper photo ID; however, a federal court dismissed the case in January 2018.³¹ The case was taken up by the 11th U.S. Circuit Court of Appeals in July 2018, but no decision has been rendered.³²

Voter confusion ran rampant on Election Day in Missouri. This year, the state was set to implement a new strict voter ID law for the first time. Despite an October 2018 court order requiring the state to accept more diverse forms of ID for voting, some poll workers continued to ask for stricter forms of ID on Election Day and reportedly told voters that they “don’t agree’ with the ruling and don’t believe they are required to follow it.”³³ The Advancement Project brought legal action against at least one jurisdiction where this occurred—St. Charles County—citing the county’s “flagrant disregard” for the court order, after the organization received dozens of reports from 23 precincts of poll workers asking for stricter ID.³⁴ Furthermore, in Michigan, students filed a lawsuit in August 2018 challenging a law requiring voters’ place of residence to match the address on their driver’s license, a policy that likely contributes to Michigan’s large gap in participation between 18–24 year-olds and the general population—the largest participation gap in the nation.³⁵ The students, however, never obtained relief prior to the election, as the case is still pending in court.

Several states evaluated ballots using restrictive and discriminatory criteria resulting in the initial rejection of thousands of votes cast in the 2018 midterm elections. For example, in Georgia several hundred voted absentee ballots were found to have been discarded without proper notification by election officials because voters’ signatures

on their ballots did not exactly match the signatures the state had on file. Of those discarded ballots, more than one-third came from the racially diverse Gwinnett County, where more than half of the rejected ballots belonged to African American or Asian American voters.³⁶ On October 24, a federal judge ordered the state to stop summarily discarding ballots because of voter signature problems and other issues.³⁷ Georgia fell under heavy scrutiny again when it was revealed that election officials were discarding voted absentee ballots simply for having minor discrepancies such as missing or incorrect birth years.³⁸ Fortunately, a federal court ruled on November 14 that officials must count ballots that were discarded on that basis.³⁹

Like Georgia officials, those in Florida initially discarded large numbers of voted absentee ballots and provisional ballots for purported signature mismatches. Across Florida, at least 4,000 absentee ballots were discarded for this reason.⁴⁰ Laws requiring a voter's signature to exactly match that which the state already has on file disproportionately impact Americans with disabilities and the elderly, along with young people.⁴¹ And although some election officials receive forensic signature training to assist them in determining matches, the process is not standardized and is largely subjective.⁴² In ruling that voters whose ballots were initially discarded for signature mismatches must be given the opportunity to "cure" problems, U.S. District Chief Judge Mark Walker proclaimed:

*"[T]his is a case about the precious and fundamental right to vote—the right preservative of all other rights. And it is about the right of a voter to have his or her vote counted. There is no doubt there must be election laws ... There is no doubt that election officials must make certain calls, under the rules, that deserve review. And there is no doubt some of those calls may hinge on highly subjective factors. The precise issue in this case is whether Florida's law that allows county election officials to reject vote-by-mail and provisional ballots for mismatched signatures—with no standards, an illusory process to cure, and no process to challenge the rejection—passes constitutional muster. The answer is simple. It does not."*⁴³

Voter confusion due to administrative errors and misinformation

Voter confusion is a problem each election cycle, and with the rise of misinformation, it has only become more prevalent. Even well-intentioned groups have inadvertently misinformed people, while others have intentionally sought to confuse voters and prevent them from voting.

On Election Day, voters in several states—including Massachusetts, Wisconsin, and New York—received text messages from various groups and organizations that included incorrect information about designated polling locations, which resulted in people going to the wrong polling places to vote only to be turned away.⁴⁴ In Kansas, at least one polling place handed out the wrong ballot for a period of time.⁴⁵ Meanwhile, in Montana, the Republican National Committee (RNC) sent an October mailer to registered voters informing them that they could submit absentee ballots postmarked the day before the election so long as they were received by election officials within 10 days after Election Day.⁴⁶ The mailer contradicted Montana law, however, which requires all ballots to be received by 8 p.m. on Election Day, regardless of when they are postmarked. An RNC spokesperson called the move a “mistake” and promised to make phone calls and send additional mailers to clarify the error, though it remains unclear how many potential voters who received the mailer were ultimately contacted.⁴⁷ Also in October, a local election official in Texas told thousands of Prairie View A&M University students who had already registered to vote that they would have to fill out additional paperwork in order to maintain their voter registration status because they had been incorrectly told to register using an address in a different precinct.⁴⁸ After significant public outcry, Texas Secretary of State Rolando Pablos (R) announced that the additional paperwork was not necessary.⁴⁹ Regardless, events such as these create confusion among voters and ultimately discourage citizens from participating in elections.

Voter intimidation and harassment

This year, there was a rash of racially motivated attempts to frighten voters. In late August, for example, Florida residents received a fake robocall alleging to be from Democratic gubernatorial candidate Andrew Gillum, but the call was ultimately traced to the Idaho-based white supremacist website Road to Power.⁵⁰ On the call, the speaker, claiming to be Gillum, spoke in a minstrel performer’s accent over background audio of donkeys and drums. In November, Road to Power released a second robocall, this time in Georgia, in response to Oprah Winfrey’s canvassing for Democratic gubernatorial candidate Stacey Abrams. Those who answered the call heard: “This is the magical Negro Oprah Winfrey asking you to make my fellow Negress Stacey Abrams the governor of Georgia,” followed by a series of racist and anti-Semitic statements, which included calling Abrams “a poor man’s Aunt Jemima.”⁵¹ In Alaska, North Carolina, California, and Pennsylvania, Republican candidates and groups distributed racist, anti-Semitic mailers depicting Jewish candidates holding wads of cash.⁵² Voters faced intimidation and harassment at polling

places as well. In Missouri, a poll worker asked a voter whether they were “a member of the caravan,” in reference to a group of Latino asylum-seekers who are making their way from Central America toward the United States.⁵³ Meanwhile, a poll worker in Harris County, Texas, told an African American voter: “Maybe if I’d worn my blackface makeup today you could comprehend what I’m saying to you.”⁵⁴

Whereas past administrations have prioritized protecting voting rights on Election Day, President Donald Trump’s administration and those inspired by his rhetoric made efforts to intimidate voters, particularly Latinx voters, and to discourage them from participating in the midterm elections. In August, for example, the U.S. Department of Justice (DOJ) subpoenaed the voter records—an estimated 20 million documents in all—across 44 North Carolina counties that included disproportionate numbers of black and Latinx citizens.⁵⁵ The DOJ backed down only after the North Carolina board of elections’ unanimous objections but requested that election officials send the records by January 2019.⁵⁶ In late October 2018, fake flyers from an unknown source were also distributed in Milwaukee, falsely informing residents that U.S. Immigration and Customs Enforcement (ICE) would actively patrol polling stations and detain anyone without ID. ICE released a statement in response clarifying that they neither patrol polling places nor perform such blanket sweeps.⁵⁷ And President Trump himself engaged in intimidating voters on Election Day, tweeting on the morning of November 5: “Law Enforcement has been strongly notified to watch closely for any ILLEGAL VOTING which may take place in Tuesday’s Election (or Early Voting). Anyone caught will be subject to the Maximum Criminal Penalties allowed by law. Thank you.”⁵⁸ The process of voting can be extremely confusing, even for Americans citizens who are eligible to vote, as inaccurate or misleading information about election eligibility and processes run rampant during election seasons. The president’s threatening rhetoric is enough to keep some eligible would-be voters from participating in elections, which is unacceptable in a democracy that gives all eligible Americans the right to vote.

Poll closures and long lines

Across the country, polling place closures prevent voting-eligible Americans from accessing the ballot box and contributing to the electoral process and contribute to long lines during voting periods. A study from the Joint Center for Political and Economic Studies reported that long lines were estimated to have deterred at least 730,000 Americans from voting in the 2012 elections.⁵⁹ Furthermore, according to a nationwide study, in 2016, roughly 3 percent of people standing in line at voting

locations left before they could vote as a result of long lines.⁶⁰ Polling place closures disproportionately affect communities of color, low-income Americans, and young people. For example, since 2012, local officials in Georgia closed 214 polling locations across the state—a move that has disproportionately affected poor and minority voters and made it tougher for them to travel to other voting sites.⁶¹

In October 2018, Kansas officials moved the last remaining polling location in Dodge City—a majority-Hispanic community—outside the city limits and far away from public transportation. Compounding the problem, officials sent mailers to newly registered voters, incorrectly informing them that they were allowed to vote at the old location.⁶² In Florida, officials moved a polling place located in Deerfield Beach to a private, gated community. Voters who were assigned to vote at the polling place but resided outside of the gated area complained that they were unable to access the polling place because the community’s private security guard stopped them for failing to present ID.⁶³

In Texas, inadequate voting opportunities on college campuses were a significant problem for students of color this year. In October, a group of Prairie View A&M University students in Waller County sued county officials for failing to provide an early voting site on campus or in the city of Prairie View. Prairie View has a majority-black population, and Prairie View A&M University is comprised primarily of black students. The nearby city of Waller, which has two early voting locations, is largely white. The students asked a federal judge to establish an early voting site on campus and require weekend voting hours. Waller County eventually succumbed to the pressure, allowing the students three weeks of early voting and an on-campus polling place.⁶⁴ In North Hays County, students at Texas State University contacted county officials requesting extended voting hours and more voting locations after they were forced to wait in an hours-long line at the only on-campus polling place during the three days it was available.⁶⁵ In response, the North Hays Republican Party president sent an email saying that extended voting hours “probably means that it is going to favor the Democrats, so maybe I should not be in favor of this,” while urging people to oppose extended polling hours for the nearly 40,000 college students at Texas State.⁶⁶ The next closest polling place was located several bus rides away.⁶⁷ After the Texas Civil Rights Project threatened the county with a lawsuit, officials ultimately agreed to two additional days of early voting and two more polling locations in the town of San Marcos, where Texas State is located.⁶⁸ Although Prairie View A&M and Texas State universities ultimately succeeded in protecting their students’ voting rights, these blatantly discriminatory attempts to suppress the voting rights of communities of color and students can lead to disillusionment and disengagement with the electoral process.

Delayed polling place openings also created problems on Election Day, leading to long lines and frustrated potential voters. Some polling places in Texas opened nearly an hour late because polling places were understaffed and poll workers were unable to operate voting machines and equipment. Similar delays were reported in Georgia, Indiana, and Illinois.⁶⁹ Meanwhile, in York, Pennsylvania, and New York City, poll workers reported witnessing some would-be voters get out of line before voting due to long wait times.⁷⁰

Malfunctioning voting equipment

It is crucial that all eligible Americans are able to register to vote and have access to polling places. However, it is equally important that once voters show up to the polls and cast their ballots, the equipment and machinery required to check voters in and tabulate ballots are fully functional. Unfortunately, both leading up to and on Election Day, many polling places experienced machine malfunctions and errors as well as computer glitches.

During early voting, voting machines in several Texas counties experienced vote flipping.⁷¹ For example, in attempting to vote for Texas' Democratic candidate for U.S. Senate, Beto O'Rourke, some straight-ticket voters saw their vote changed to his opponent, Republican Sen. Ted Cruz. At the same time, in attempting to vote for Sen. Cruz, some straight-ticket voters' selections were erased altogether. Election officials blamed the vote flipping on voters' errors rather than the machines', and the state urged voters to "carefully check their review screen before casting their ballots."⁷² In any case, vote flipping constitutes a serious threat to voters' confidence in the electoral process, and in today's electoral climate, every single vote counts. According to one postelection analysis by *The Washington Post*, a mere 0.09 percent of votes effectively decided the outcome of the 2016 presidential race.⁷³

Fast forward to Election Day 2018 in Florida, where the only ballot scanner in a St. Petersburg precinct broke down, resulting in some voters simply abandoning their votes because of the delay.⁷⁴ Problems with voting machines—including machines freezing, delayed testing, and malfunction—plagued several jurisdictions in Michigan as well, with would-be voters leaving polling places without having voted.⁷⁵ Potential voters also abandoned their posts at polling places in Johnson County, Kansas, and Baltimore after some electronic poll books, which are used to check in voters, ceased to function during the early hours on Election Day.⁷⁶ Polling places in Brooklyn, New York, as well as in North Carolina, South Carolina, Alabama, and Boston, also expe-

rienced problems with malfunctioning voting machines, which, in most cases, were blamed on humidity and bad weather.⁷⁷ In Madison County, Alabama, ballot tabulators were unable to read some votes due to weather-related problems and because voters were “bearing down too hard and punching through” the paper ballots.⁷⁸ Meanwhile, would-be voters in Arizona were reportedly told they could not vote with provisional ballots because of broken printers.⁷⁹

Moreover, reports surfaced that eligible voters who showed up to the polls in Geauga County, Ohio, on Election Day were unable to cast regular ballots and were instead required to vote provisionally due to a computer glitch showing they had already voted absentee.⁸⁰ In Georgia, more than 1,800 voting machines sat unused in a warehouse on Election Day in three of Georgia’s largest and most heavily Democratic counties.⁸¹ Georgia officials also initially failed to provide power cords for voting machines in Gwinnett County.⁸² These problems resulted in long lines in several predominantly African American neighborhoods, forcing people to wait hours to vote and causing some to walk away.⁸³

Disenfranchisement of justice-involved people

Approximately 6 million American citizens are barred from participating in the democratic process as a result of felon disenfranchisement laws.⁸⁴ And although gains have been made in recent years to extend the franchise to justice-involved individuals—including Florida’s just-passed Amendment 4—many Americans who have paid their debt to society remain excluded from voting in U.S. elections.⁸⁵

In May 2018, for example, Louisiana adopted a law to restore voting rights to individuals on probation or parole, but only if the individual has not been incarcerated within the five years prior to Election Day.⁸⁶ While this is a step in the right direction, it has only limited impact on the current justice-involved population. For example, the law restores enfranchisement to only about 2,200, or 3 percent, of the 70,000 people currently on probation or parole in the state. Unfortunately, even those eligible for re-enfranchisement under the law were unable to participate in the November midterms because the law does not go into effect until 2019.⁸⁷

Like Louisiana, Alabama has attempted to expand the franchise to formerly incarcerated people. In May 2017, for instance, the state narrowed the types of crimes for which an incarcerated person could be disenfranchised—a move that, in theory, would restore the right to vote for an estimated 60,000 individuals.⁸⁸ Unfortunately,

Alabama's Secretary of State John Merrill (R) refused to allocate funding to publish information on what qualified as a disenfranchising crime or automatically register those who were eligible to vote. Legal efforts waged by civil rights groups to enforce the new law have so far been unsuccessful.⁸⁹ Adding to this is the fact that even those who qualify for re-enfranchisement must first pay all legal fines and fees before registering to vote, a requirement that amounts to a modern day poll tax.⁹⁰ A study published by the Journal of Legal Studies in June 2017 found that 75 percent of ex-offenders still owed legal fees, which could potentially prevent tens of thousands of otherwise eligible voters from participating in elections.⁹¹

People held in pretrial detention who had not yet been convicted of a crime were also disenfranchised in the November midterms. For example, on November 6, 2018, several voting rights groups—including CLC, Demos, and the MacArthur Justice Center—filed a class-action lawsuit in Ohio against state officials for allegedly depriving voting-eligible registered voters held in detention on Election Day from voting.⁹² According to Chiraag Bains, director of legal strategies at Demos, “The criminal legal system in Ohio disproportionately jails poor people and people of color. Hundreds of eligible citizens are systematically prevented from exercising their fundamental rights.”⁹³ A similar lawsuit was filed in 2017 in Allen County, Indiana, where the local sheriff is alleged to have prevented up to 300 inmates who were either awaiting trial or convicted of misdemeanor charges from voting during the 2016 general election.⁹⁴ According to court filings, jail administrators failed to provide them with information about their voting eligibility. Administrators allegedly also failed to assist them in obtaining absentee ballots and did not provide access to the voting booth on Election Day.⁹⁵

Gerrymandering

Politicians in many states have manipulated election districts to choose their voters—rather than having voters choose them. Redistricting can skew representation. In Pennsylvania, for example, Democratic candidates in 2012 received roughly 50 percent of the votes in House races, but Republicans took 75 percent of congressional seats.⁹⁶ On the state level, while Democrats in Ohio won more than 50 percent of the popular vote cast for the state legislature in 2012, in the wake of that election, Democratic members held just 39 of 99 seats.⁹⁷ In Maryland, Republican candidates gained 37 percent of the vote statewide in 2016, but only won 1 of 8 House races.⁹⁸ These distorted voting districts violate the principle of “one person, one vote” and lead to the election of legislators who are less responsive to the will of their constituents.

During the 2018 midterm elections, millions of voters nationwide cast ballots in gerrymandered districts. North Carolinians, for example, voted once again in districts that have been declared unconstitutional. In January 2018, Republican lawmakers successfully petitioned the U.S. Supreme Court to delay a lower court's mandate to redraw district maps until after two other gerrymandering cases were heard.⁹⁹ And in August, a lower court ruled that the maps would stand for the upcoming election.¹⁰⁰ Republican lawmakers in North Carolina have made no effort to hide their partisan and racially based motives, with Republican state representative Dave Lewis declaring, "I propose that we draw the maps to give a partisan advantage to 10 Republicans and three Democrats because I do not believe it's possible to draw a map with 11 Republicans and two Democrats."¹⁰¹ In another instance, Republican mapmakers drew district lines between college dormitories at North Carolina A&T State University—the largest historically black college in the country—so that the 10,000 students would be split between the 12th district and 13th district, a clear attempt to dilute the students' voting power.¹⁰²

Some voters in Texas were also forced to cast ballots under gerrymandered maps. Despite a 2017 federal court ruling that two Texas congressional districts were discriminatorily designed to suppress Hispanic voters, conservative members of the U.S. Supreme Court upheld one of the districts in June 2018, finding that the legislators had not acted with discriminatory intent.¹⁰³ That district—Texas's 35th Congressional District—snakes from Austin to San Antonio and is ranked as one of the most gerrymandered districts in the country.¹⁰⁴ Republicans currently represent 5 of the 6 districts dividing the city of Austin, which is otherwise a liberal stronghold in the Lonestar state.¹⁰⁵

These doctored maps severely curtail political competition. In fact, the Cook Political Report projected that fewer than 1 in 5 congressional districts nationwide were competitive this year.¹⁰⁶ District maps should not serve to shield lawmakers from the will of the electorate and the constituents they serve.

Recommendations

Voter suppression and other Election Day problems likely prevented millions of eligible Americans from participating in this year's midterms. After every election, reports detail the devastating impacts of voter suppression, voter confusion, and administrative problems. While some jurisdictions prioritize making voting more convenient for all eligible Americans, others are not doing enough to protect the franchise. Fortunately, there are common-sense solutions that jurisdictions can adopt to increase voter participation and eliminate voter suppression that disproportionately excludes certain groups from the electoral process.

Expand voting opportunities for eligible Americans

Increasing voter participation and ensuring that every eligible American has access to voting can be as simple as adopting pro-voter policies that make the process of registering to vote and voting more convenient, while providing better opportunities for doing so. For example, automatic voter registration, same-day or Election Day registration, and pre-registration for 16- and 17-year-olds are common-sense solutions that would streamline the voter registration process and avoid many barriers that prevent people from registering, such as arbitrary voter registration deadlines and confusion over where or how to register. Online voter registration also makes the process of registering to vote more convenient, as individuals can register in the comfort of their own home. Other common-sense solutions include early voting, no-excuse absentee voting, and voting by mail. All of these methods provide eligible voters with more opportunities to make their voices heard.

Repeal voter suppression measures and reduce Election Day confusion

In addition to adopting pro-voter policies that streamline the voter registration process and improve the convenience of voting, jurisdictions should repeal harmful and discriminatory voter suppression laws such as strict voter ID requirements, felon disenfranchisement laws, mass voter purges, and unlawful gerrymandering.

Strong policies must also be put in place to deter voter intimidation, which can be dangerous to the safety and well-being of potential voters and may prevent them from casting ballots. Of particular concern is outgoing Kansas Secretary of State Kris Kobach (R) being potentially slated to replace former U.S. Attorney General Jeff Sessions, a move that would have disastrous effects on national voting rights considering his history as an infamous voter suppressor.¹⁰⁷ Furthermore, an emphasis must be placed on voter education: The government should ensure potential voters have accurate, up-to-date information about their designated polling locations and the materials or documentation required to vote. When it comes to voting, information is power. Voters are unable to fully realize their fundamental right to vote if they lack accurate information about where and how to vote.

Invest in poll workers and election equipment

Even with the passage of affirmative policies and the repeal of racist voter suppression measures, voting locations must be stocked with enough resources to adequately serve voters and avoid long lines that deter and hamper participation. Leading researchers at the Massachusetts Institute of Technology developed a resource allocation calculator to help election administrators across the country determine how many polling places, workers, or voting machines a jurisdiction needs based on a variety of factors—including the number of registered or eligible voters within a particular area.¹⁰⁸ Additionally, in order to prevent problems in future elections, officials should conduct assessments of Election Day readiness after each election to evaluate issues such as wait times, difficulties during voter check-in, and bottlenecks in the voting process. Voting equipment—including voting machines and tabulators, along with electronic poll books—should be thoroughly tested prior to Election Day to detect mistakes in programming and other vulnerabilities. They should also be upgraded with updated software and equipment to prevent malfunctioning and to adequately combat security threats.

Conclusion

Voting-eligible Americans are tired of fighting every single election to exercise their fundamental right to vote. This is particularly true of people of color and low-income Americans, who are disproportionately burdened by discriminatory voter suppression measures that prevent them from making their voices heard. During the 2018 midterms, eligible voters across the country were dissuaded or actively prevented from casting ballots that would have counted. Lawmakers hear complaints from constituents every year about problems with the current voting process. It is time for decision-makers at every level of government to start acting on the public's demands by adopting pro-voter policies and doing away with laws that keep eligible Americans from exercising the fundamental right to vote.

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The Center for American Progress is an independent, nonpartisan policy institute that is dedicated to improving the lives of all Americans, through bold, progressive ideas, as well as strong leadership and concerted action. Our aim is not just to change the conversation, but to change the country.

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As progressives, we believe America should be a land of boundless opportunity, where people can climb the ladder of economic mobility. We believe we owe it to future generations to protect the planet and promote peace and shared global prosperity.

And we believe an effective government can earn the trust of the American people, champion the common good over narrow self-interest, and harness the strength of our diversity.

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We develop new policy ideas, challenge the media to cover the issues that truly matter, and shape the national debate. With policy teams in major issue areas, American Progress can think creatively at the cross-section of traditional boundaries to develop ideas for policymakers that lead to real change. By employing an extensive communications and outreach effort that we adapt to a rapidly changing media landscape, we move our ideas aggressively in the national policy debate.

