



How Recent Threats to the Voting Rights Act Could Erode American Democracy

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I. EXECUTIVE SUMMARY

This policy brief explores how Supreme Court decisions, most notably *Shelby County v. Holder*, have undermined the Voting Rights Act, dismantling federal safeguards and paving the way for state laws that disproportionately burden minority voters. It traces the VRA's historic role in protecting electoral equity, assesses the impacts of its weakened enforcement, and outlines federal and state policy strategies to rebuild robust voting rights protections.

II. OVERVIEW

Research on Supreme Court decisions concerning the Voting Rights Act (VRA) has emerged as a critical area of inquiry due to its profound impact on American democracy and minority political participation. The Supreme Court's jurisprudence has evolved from upholding robust federal oversight to recent rulings that have curtailed these protections, notably *Shelby County v. Holder* (2013), which invalidated the VRA's coverage formula. This shift has significant social and political implications, as evidenced by documented declines in minority voter turnout and the resurgence of restrictive voting laws. The ongoing debates underscore the VRA's centrality to safeguarding electoral equity and the health of American democracy.

The problem addressed in this brief is the Supreme Court's recent decisions that have weakened key VRA provisions, creating a

knowledge gap regarding their historical context, current policy impacts, and future implications for democratic participation. While some scholarship highlights the Court's rationale emphasizing changed conditions and state sovereignty, others document persistent racial disparities and strategic voter suppression efforts facilitated by these rulings. Moreover, there is controversy over the extent to which the Court's colorblind constitutional interpretations align with the realities of racial discrimination in voting. This gap is critical because it affects the capacity of legal frameworks to protect minority voters effectively and informs policy responses to emerging electoral challenges.

A. Relevance

Several works provide comprehensive historical analyses that situate the VRA within the broader civil rights movement, emphasizing its foundational role in combating racial disenfranchisement and the activism that led to its passage. These studies effectively link the original legislative intent to the persistent need for federal protections, offering a nuanced understanding of the Act's conservative yet transformative nature.

Some historical accounts tend to idealize the VRA's early success without fully addressing the complexities of its implementation or the limitations faced by minority voters even before recent judicial setbacks. Additionally, there is occasional underemphasis on the evolving political and demographic shifts that complicate

the Act's application today.

III. HISTORY

The origins of the Voting Rights Act (VRA) can be traced back to the aftermath of the Civil War, when the 15th Amendment was ratified in 1870. This amendment prohibited federal and state governments from denying a citizen the right to vote based on race, color, or previous condition of servitude. However, despite this constitutional safeguard, many states, particularly in the South, developed sophisticated methods to suppress the Black vote. These included poll taxes, literacy tests, grandfather clauses, and in some cases, direct violence and intimidation. For decades, these measures effectively disenfranchised millions of African Americans, keeping political power concentrated in the hands of white lawmakers.

The mid-20th century saw a renewed push for civil rights, driven by grassroots organizing, legal challenges, and growing national awareness of racial injustice. Landmark court cases like *Smith v. Allwright* (1944) chipped away at discriminatory voting systems by declaring the “white primary” unconstitutional. Still, these legal victories were slow to bring about widespread change. By the early 1960s, the civil rights movement had turned its focus sharply toward voting rights, staging marches, campaigns, and voter registration drives in the most entrenched areas of segregation.

One of the most pivotal moments came with the Selma to Montgomery marches of 1965. On March 7, known as “Bloody Sunday,” peaceful protesters marching for voting rights were brutally beaten by police in Selma, Alabama. Images of the violence shocked the nation, generating a wave of support for stronger federal protections. President Lyndon B. Johnson seized the moment, addressing a joint session of Congress and calling for comprehensive voting rights legislation. Just months later, on August 6,

1965, Johnson signed the Voting Rights Act into law.

The VRA contained several key provisions. It banned the use of literacy tests and similar tools that had long been used to disenfranchise minority voters. Section 5 of the Act required jurisdictions with a documented history of racial discrimination to obtain federal approval, known as “preclearance,” before changing any voting laws. This ensured that discriminatory measures could be stopped before implementation. The Act also allowed federal examiners and observers to oversee voter registration and elections in the most problematic areas, safeguarding the process from local suppression tactics. Beyond these targeted measures, Section 2 applied nationwide, prohibiting any voting law with discriminatory effect.

In the immediate aftermath of the VRA's passage, Black voter registration and turnout soared, particularly in Southern states where suppression had been most severe. For example, in Mississippi, only about 6.7% of eligible Black voters were registered in 1965; by 1967, that percentage had jumped to nearly 60%.

Over the decades, Congress amended and extended the Act to broaden its protections. In 1970, it banned literacy tests nationwide. In 1975, it expanded coverage to protect language minorities, mandating bilingual election materials in certain communities. The 1982 amendments made Section 2 permanent and strengthened its protections by allowing lawsuits to challenge discriminatory effects, even without proving intent. Further updates in 1992 and 2006 renewed key provisions and kept the preclearance requirements intact.

However, the VRA faced a major setback in 2013 with the Supreme Court's decision in *Shelby County v. Holder*. The Court struck down the formula used to determine which jurisdictions

were subject to preclearance, effectively eliminating that safeguard unless Congress created a new formula—something that has yet to happen. Since this ruling, several states have enacted voting laws and restrictions that critics argue disproportionately affect minority and low-income voters.

Today, the Voting Rights Act remains one of the most important civil rights laws in American history. While its core protections under Section 2 are still in effect, the weakening of its enforcement mechanisms has reignited debates over voting rights and equal access to the ballot box.

A. Current Stances

The current stances on the Voting Rights Act (VRA) are shaped by differing perspectives on its necessity and effectiveness. Some scholars argue that the VRA remains essential due to ongoing racial discrimination, while others believe its success indicates it is now obsolete. This debate is rooted in two analytical paradigms: antidiscrimination, which emphasizes progress since 1965, and nondiscrimination, which focuses on the remaining disparities compared to a discrimination-free scenario. Recent legal and political developments, such as the Supreme Court's decision in *Shelby County v. Holder* has further complicated the discourse by questioning the relevance of the VRA's historical provisions in today's context.

IV. POLICY PROBLEM

A. Stakeholders

Voters: Especially Black voters and other voters of color, who have historically faced discriminatory barriers to voting and are disproportionately affected by both restrictive and

protective changes.

Community organizations and advocacy groups: Such as the NAACP Legal Defense Fund, the American Civil Liberties Union (ACLU), and organizations representing marginalized communities, which actively campaign for stronger protections and monitor impacts of legislative changes.

State governments and legislatures: Both those seeking to enact or strengthen State Voting Rights Acts to protect voters at the state level and those considering or implementing more restrictive voting provisions.

Federal government and Congress: Through acts such as the proposed John Lewis Voting Rights Advancement Act, which aims to restore and update the VRA at the national level.

Election officials and administrators: Responsible for the implementation of voting laws and ensuring compliance with both state and federal requirements.

Courts and the judiciary: Which interpret, uphold, or strike down provisions of the VRA and related amendments, as seen in key Supreme Court decisions like *Shelby County v. Holder*, impacting the reach and strength of voting protections.

Political parties and candidates: Interested parties due to the potential influence on voter turnout, electoral outcomes, and representation.

Communities affected by redistricting: Changes to the VRA notably impact redistricting processes, potentially influencing the political power of certain demographic groups and ensuring fair representation.

Individuals formerly incarcerated or impacted by the criminal legal system: Many voting

rights debates and law changes deal with felony disenfranchisement and the rights of people detained before trial.

B. Risks of Indifference

When lawmakers, courts, or the public show indifference, it enables the erosion of critical protections that once safeguarded against racial discrimination in voting. The aftermath of indifference was evident following the Supreme Court's *Shelby County v. Holder* decision, which removed the preclearance requirements of the Voting Rights Act. This indifference allowed states with histories of discrimination to implement new barriers, such as restrictive voter ID laws, polling place closures, aggressive voter purges, and limitations on early voting, with little oversight or consequence. These changes disproportionately harmed Black and Brown voters, leading to a marked increase in voter suppression and disenfranchisement over the last decade.

C. Nonpartisan Reasoning

A major nonpartisan concern arises from the 2013 Supreme Court decision in *Shelby County v. Holder*, which rendered inoperative the formula determining which jurisdictions required federal preclearance before making voting changes. While Section 5's preclearance provisions remain in federal statute, they are dormant without an updated coverage formula. This shift places the burden of challenging discriminatory laws onto individual voters and advocacy groups, often through lengthy and costly litigation, rather than requiring jurisdictions with a history of discrimination to prove changes are nondiscriminatory before implementation. From a neutral standpoint, this rollback has produced both greater variation in local election laws and

potential for new, sometimes inadvertent, barriers to participation.

Nonpartisan critics of recent proposals to amend the VRA or introduce new voting restrictions argue that requirements, such as mandatory in-person proof of citizenship, could unintentionally disenfranchise millions of eligible voters who lack access to qualifying documents, without substantial evidence of widespread fraud. Such changes risk excluding a significant portion of the population, particularly groups less likely to possess specific paperwork, while only marginally addressing the already rare problem of noncitizen voting.

V. TRIED POLICY

The New York Voting Rights Act stands out as a robust state-level response to recent federal retrenchment, reinstating oversight mechanisms reminiscent of the original Voting Rights Act by requiring jurisdictions with histories of discrimination to clear changes in voting procedures with state authorities. This proactive regulatory approach aims to curtail discriminatory practices before they take effect, protecting vulnerable communities from disenfranchisement. At the same time, impact litigation spearheaded by organizations such as the NAACP Legal Defense Fund and the ACLU remains an indispensable tool in the absence of comprehensive federal preclearance. These legal challenges address restrictive policies, including voter ID requirements and polling place closures, often winning important victories that preserve access for minority voters. However, litigation alone can be slow and resource-intensive, underscoring the importance of reinforcing statutory protections like those found in the New York Voting Rights Act to ensure broad, equitable participation in the democratic process.

VI. POLICY OPTIONS

John R. Lewis Voting Rights Advancement Act (2025): This proposed federal legislation would reestablish and modernize preclearance requirements for states and jurisdictions with histories of voting rights violations. It sets clear criteria for triggering federal oversight based on documented abuses in the last 25 years and would require all covered entities to obtain preapproval before implementing changes that affect voting, such as redistricting or new restrictions. Public notice and transparency provisions, as well as streamlined evidence procedures in litigation, are also included to strengthen enforcement.

State Voting Rights Acts: In response to reduced federal oversight, states like New York have passed their own robust voting rights laws. These acts require state-level preclearance for election law changes, ban discriminatory voting practices, and protect minority voters in redistricting. Policymakers can emulate or further strengthen such laws, tailoring them to local demographics and histories of discrimination.

Oppose federal rollbacks and criminalization: Project 2025 and similar initiatives propose centralizing control over voter rolls, criminalizing ballot errors, and shifting enforcement priorities to prosecution and voter intimidation. Policymakers can advocate against such measures and block proposals to weaken the enforcement capacity of the Department of Justice's Civil Rights Division.

VII. CONCLUSIONS

In this brief, I have examined the historical significance of the Voting Rights Act and the ways in which recent Supreme Court decisions, particularly *Shelby County v. Holder*, have weakened its protections. I have analyzed the resulting policy gaps, the disproportionate

burdens placed on minority voters, and the ongoing debates surrounding federal versus state oversight. The most urgent and practical solutions include passing the John Lewis Voting Rights Advancement Act and enacting robust state-level VRAs to restore proactive protections against discriminatory voting laws. Safeguarding the right to vote is essential to maintaining an inclusive and representative democracy, and addressing these legal and policy shortcomings is critical to ensuring electoral equity for all Americans.

ACKNOWLEDGMENT

The Institute for Youth in Policy wishes to acknowledge Mason Carlisle, Lilly Kurtz, Asher Cohen, Paul Kramer, and other contributors for developing and maintaining the Fellowship Program within the Institute.

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