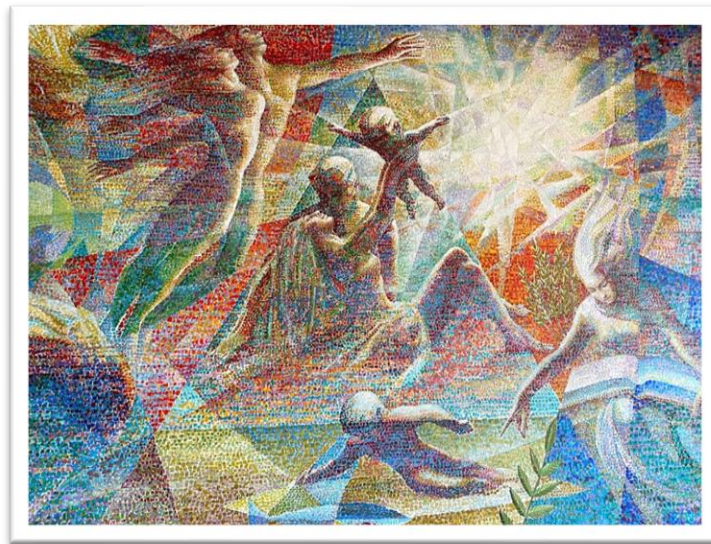


# BRIEFING BOOK on HUMAN RIGHTS

THIRD EDITION 2022-2023

## YOUR HUMAN RIGHT TO VOTE



*Photo by J. Follows*

Prepared by:



The Human Rights Special Interest Group (HR-SIG) is a non-profit, research-based, independent entity. Our mission is to inspire local community efforts to educate, advocate, and implement international human rights policies and goals. [www.hrsig](http://www.hrsig).

## EXECUTIVE SUMMARY

The 1948 *Universal Declaration of Human Rights* (UDHR) is unequivocal — the right to vote is a human right: “Everyone has the right to take part in the government of his country...The will of the people shall be the basis of the authority of the government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures” (UDHR, Article 21). The human right to vote is enshrined in several international covenants adopted by Member States of the United Nations.

Following reviews of articles of the UDHR and several United Nations conventions that pertain to voting rights, this Briefing Book next reviews the U.S. Constitutional Amendments that address voting rights, along with several key pieces of federal voting rights legislation and an important Supreme Court case.

The Human Rights Special Interest Group (HR-SIG) prepared this briefing book, our third, to inform and inspire others to promote our human right to vote. Democracy thrives when an electorate is knowledgeable about the foundations of the human right to vote in free and fair elections. The right to vote must be protected as a cornerstone of democracy and a foundation for basic human rights.

### **The Human Rights Special Interest Group (HR-SIG)**

The Human Rights Special Interest Group (HR-SIG) embraces the expectation in the *Universal Declaration of Human Rights* that “every individual and every organ of society...shall strive by teaching and education to promote respect for the (human) rights and freedoms...” Our Founding Members served as delegates of the League of Women Voters of the United States to the United Nations Commission on the Status of Women in New York City. Recognizing a common commitment to human-rights education, we came together to form the Human Rights Special Interest Group (HR-SIG) to expand our outreach to our local communities.

Our mission is to inspire local community efforts to educate, advocate, and implement international human rights policies and goals.

[www.hrsig.org](http://www.hrsig.org)  
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## UNIVERSAL DECLARATION OF HUMAN RIGHTS

In 1945, World War II was about to end, nations were in ruins, and the world wanted peace. Representatives from 50 countries gathered in San Francisco at the United Nations Conference on International Organizations in Spring 1945, and the outcome was the UN Charter. The United Nations officially came into being on October 24, 1945. Three pillars characterize the UN Mission: **peace and security, development, and respect for human rights.**

One of the first efforts by the United Nations was the creation of the aspirational human rights document, known as the **Universal Declaration of Human Rights (UDHR)**. The UDHR is a milestone document, setting out a common standard for achievement of human rights for all peoples and all nations. Thus, it is more far-reaching than predecessor documents (such as the *Magna Carta* and the *United States Bill of Rights*) because of its near universal adoption.

The United Nations General Assembly proclaimed the UDHR on December 10, 1948. Every year since then, December 10 is celebrated as Human Rights Day. The UDHR is one of the world's most translated documents, having been translated into 500 languages.

The Universal Declaration of Human Rights contains 30 articles, beginning with **Article 1** that states, *"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."*

Article 1 sets the foundation for all subsequent Articles, including Article 21(3) which explicitly proclaims the **human right to vote**:

*The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.*

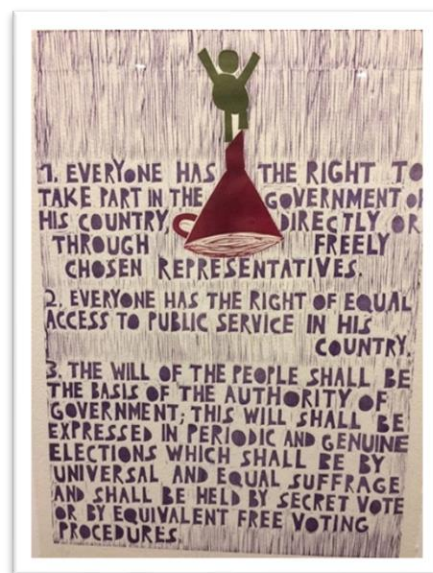


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## INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

The International Covenant on Civil and Political Rights (ICCPR) is a core United Nations human rights covenant. It raises awareness of fundamental and inalienable human rights in the political and civil sphere. The Covenant identifies human rights that reflect the vision and promise of democratic nations to strictly protect, respect, and preserve free peoples right of self-determination, freedom to take part in public affairs and vote, without any regard to any distinction based on gender, race, political opinion, etc. The ICCPR was adopted by the United Nations in 1966 and ratified by the United States in 1992.

Although the United States ratified the ICCPR, it simultaneously claimed a reservation that the human rights set forth in the covenant were not “self-executing.” In other words, the United States claimed that the human rights in the Covenant would not be binding on it until federal legislation was enacted to enforce the rights.

Fortunately, all nations that ratify the ICCPR, including the United States, are obligated to file States Reports to the UN Human Rights Committee on a regular basis. The Human Rights Committee, a body of 18 international experts, reviews, and comments on the States Reports. Additionally, civil society organizations may submit Shadow Reports that detail their first-hand observations of human rights violations in the civil and political sphere.

**Text of the ICCPR:** The belief in the dignity of all individuals and the ideal of free human beings living in civil and political freedom underscores each Article in the ICCPR. Article 25 speaks to the rights of citizens to vote.

*Article 25: Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions:*

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives.*
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.*
- (c) To have access, on general terms of equality, to public service in his country.*



Photo by J. Follows

<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

**Human Rights Committee:** The Human Rights Committee monitors the implementation of the ICCPR by reviewing and commenting on the States Reports and the Shadow Reports. Following the review, the Human Rights Committee files concluding observations and identifies areas of concern for further evaluation by an individual nation. General Comments are issued by the Human Rights Committee periodically and in response to concerns raised by its review of multiple State Reports. The General Comments elucidate the text of the ICCPR and suggest measures to be taken by all nations in their ongoing initiatives to implement the ICCPR. For example,

**General Comment #25:** The Human Rights Committee issued its General Comment, related to Article 25 of the ICCPR, in 1996. <https://www.refworld.org/docid/453883fc22.html>

General Comment #25 suggests the following measures:

- Schedule elections at intervals that are not unduly long
- Enact laws that set a minimum age limit for voting
- Do not restrict the right to vote based on physical disability
- Provide independent assistance to the physically disabled, blind and illiterate voter
- Do not impose literacy, educational, or property requirements to vote
- Do not premise voting rights on a citizen's membership in a political party
- Facilitate voter registration
- Prohibit all forms of intimidation and coercion of voters through the enactment of penal laws
- Do not impose residence requirements in such a way as to exclude people who are homeless from voting
- The drawing of electoral boundaries shall not discriminate against any group or restrict the right of citizens to choose their representatives freely
- Establish voter education and registration campaigns
- Protect individual's rights to freedom of expression and assembly
- Overcome impediments to individual's freedom of movement, such as poverty, language barriers and illiteracy
- Provide information and materials about voting in minority languages and in photographs
- Set reasonable limitations on campaign expenditures to ensure that an individual's free choice to vote is not undermined
- Set measures to ensure the secrecy of the vote during elections and during the absentee voting process
- Secure the ballot boxes
- Apply the principle of one person, one vote

**The United States' Fifth Periodic Review Submitted in 2019:** The UN Human Rights Committee asked the United States to address, specifically, issues that had arisen in the context of a citizen's right to vote and take part in political affairs. The List of Issues included the Committee's request that the United States undertake:

- *Review of state laws on felony disenfranchisement and the removal of lengthy and cumbersome voting restriction procedures.*
- *Review of cuts to early voting and voter identification laws, which may impose an excessive burden on voters, especially those belonging to minority groups*
- *To comment on the compatibility of the practice of drawing electoral boundaries with a view to influencing election outcomes with Article 25 of the ICCPR*
- *Provide information on the measures taken to prevent undue influence on the conduct of elections at the federal and state levels, and to ensure that rules governing campaign funding guarantee an equal right to take part in the conduct of public affairs. [ICCPR Committee List of Issues.pdf](#)*

**Shadow Reports:** There is a vital opportunity for civil society organizations (CSO) to bring violations of voting rights to the attention of the UN Human Rights Committee and thus the world. CSO's have the

frequent opportunity, and perhaps obligation, to raise their voices and shout out the human rights violations they observe close to home and throughout their sphere of influence. The Human Rights Institute at Columbia University filed its Shadow Report in 2019 and acknowledged an “ongoing and systematic attack on the right to vote at the federal and state levels. While most agencies do not work on voting issues, it is vital to emphasize the need for laws and policies that promote, rather than curtail, access to the ballot box-an essential component of a democracy. The right to vote must be protected as a cornerstone of democracy and foundation for basic human rights. Past UN recommendations remain unheeded, with dire impact for US elections and democracy.”

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1296&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1296&Lang=en)

(Scroll down to United States and then click on Columbia Law School’s Human Rights Institute & International Association of Official Human Rights Agencies); See also the (Common) Core Document



*Photo by J. Follows*

## CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Well into the 20<sup>th</sup> century, women in the United States fought justifiably for their human right to vote, a fundamental human right that is the cornerstone of democratic societies. The fight continues today and around the world, as women continue to be marginalized and uncounted. Many people believe that the struggle for women's full and equal participation in public and political life remains hampered by cultural values and religious beliefs that relegate women to the domestic sphere. All too often, women's voices are overlooked and stereotyped, and women's contributions, especially in times of crisis, remain invisible.

The United Nations took a deep dive into human rights for women and adopted the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979. CEDAW has the potential to revitalize political life by securing women's broad representation in public life and in the sharing of political and economic power. CEDAW is built upon the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and other international conventions.

**Text of the Convention:** CEDAW is the comprehensive human rights convention that specifically attributes women's human rights to every facet of life. **The Preamble to CEDAW** boldly states that the United Nations is convinced that the "welfare of the world and the cause of peace require(s) the maximum participation of women on equal terms with men in all fields."



Statuary Hall, United States Congress  
L to R: Elizabeth Cady Stanton, Susan B. Anthony, Lucretia Mott  
Photo by J. Follows

<https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

CEDAW does not give credence to any distinction, exclusion, or restriction on the human rights of women to live on a basis of equality with men, including the right to vote. CEDAW adopts Article 21 of the UDHR and Article 25 of the ICCPR and holds that the right to vote must be enjoyed by every citizen and elections must be held periodically on the basis of universal suffrage and secret ballot.

**Paragraph 7** of this groundbreaking and inspiring convention leaves no doubt that all appropriate measures need to be taken to eliminate discrimination against women in their exercise of political power, whether it be exercised in public administration and policy development or in civil society where organizations such as trade unions, political parties, and community-based organizations exercise authority over public and political life.

*(7) States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and in particular shall ensure to women, on equal terms with men, the right:*

*(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies.*

*(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government.*



*(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country*

**The CEDAW Committee**, the body of international experts charged with interpreting the text of the convention, periodically issues General Recommendations. General Recommendation #23 focused on the elimination of discrimination against women in political and public life. The Committee examined the reports of many nations who had ratified CEDAW and determined that women's rights are impeded by the following factors:

- Women have less access than men to information about candidates and voting procedures
- Women have less time or opportunity to follow political campaigns
- Women lack knowledge of political systems and their impact on daily life
- Women's failure to understand their rights means they may not be registered to vote
- Restrictions on freedom of movement or the right to participate in governing

The CEDAW Committee recommends measures to eliminate discrimination against women in the exercise of the universal guarantee to vote freely and equally to men. These measures include initiatives to:

- Educate women about their right to vote and the importance of doing so
- Attain a balance between men and women holding publicly elected positions
- Reduce inequities based on illiteracy, poverty, and impediments to freedom of movement

The United States has yet to ratify CEDAW. As a workaround to the failure of the US to uphold women's human rights, many counties and cities across the U.S. are passing resolutions or ordinances in support of CEDAW.

## INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

In 1965, the United Nations adopted the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). It was prompted by abhorrence with atrocities committed during World War II. The Preamble did not mince words: It proclaimed that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust, and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere.

<https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

**Article 5** of the ICERD is explicit about the right to vote:

*States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights [including]*

***(c) Political rights, in particular the right to participate in elections -- to vote and to stand for election -- on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service...***

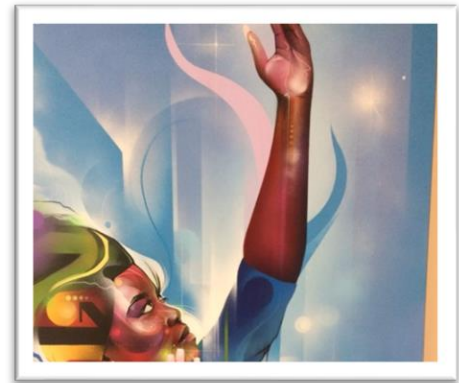


Photo by J. Follows

**The Committee on the Elimination of Racial Discrimination (CERD)** is the body of independent experts that monitors implementation of the ICERD. Signatories are obligated to submit reports every two years detailing efforts to comply with the convention. After reviewing the reports, the Committee issues its concerns and recommendations.

In 1996, the CERD issued **General Recommendation XX(48) on Article 5**, noting that the Convention obligates States to prohibit and eliminate racial discrimination in the enjoyment of human rights, including the right to vote. The Recommendation continues: whenever a State imposes a restriction upon one of the rights listed in Article 5 of the Convention...it must ensure that the restriction...does not entail racial discrimination. <http://hrlibrary.umn.edu/gencomm/genrexx.htm>

The United States signed the ICERD in 1966, but did not ratify it until 1994, and only with reservations that stated the ICERD would not be enforceable in the United States without implementing federal legislation. Moreover, the United States neglected to submit the 2017 regular report to the UN Committee, required under ICERD. As noted by the American Bar Association in 2019: “The United States claimed that its laws already provide comprehensive protections against discriminatory conduct. The United States further explained that racial discrimination can be addressed both by U.S. constitutional and statutory law, including the Equal Protection Clause and the Civil Rights Act of 1964.”

[https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/black-to-the-future-part-ii/the-united-states-hollow-commitment-to-eradicating-global-racial/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/black-to-the-future-part-ii/the-united-states-hollow-commitment-to-eradicating-global-racial/)

## UNITED STATES CONSTITUTION and AMENDMENTS

Attention to voting rights has been a cornerstone of our country from its inception. Initially, the thirteen original states adopted the Articles of Confederation in 1777. The Articles of Confederation emphasized state sovereignty, with states writing their own governing documents and establishing their own methods of voting. By 1787, the Articles of Confederation were considered outdated and unworkable, in large part because they lacked provisions for a national government.

<https://www.ourdocuments.gov/doc.php?flash=false&doc=3>

### • THE UNITED STATES CONSTITUTION

The Articles of Confederation were replaced by the Constitution, which was drafted by delegates to the Constitutional Convention in Philadelphia during summer 1787. Following majority approval of delegates, the Constitution was presented to the thirteen original states for ratification. It was adopted on June 21, 1788. <https://www.archives.gov/founding-docs/constitution-transcript>

The Constitution established the framework for voting and for holding federal elections. Article I, Section 4, authorized each state Legislature to name the time, place, and manner of elections, but gave Congress the power to regulate such elections. Initially, each state's two senators were to be chosen by state legislatures; representatives were elected directly by the citizenry that had been granted voting rights — in most states, this meant free white males who were landowners.

**The Bill of Rights** was added to the US Constitution in 1791. These civil liberties, already part of many state constitutions, had been noticeably absent in the proposed Constitution and a sticking point in the debates over ratifying the Constitution. Importantly, the Bill of Rights is silent with regard to voting rights. <https://www.archives.gov/founding-docs/bill-of-rights-transcript>

In the years since the Constitution was adopted, many subsequent Amendments have addressed the right to vote:

- The **13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> Amendments**, also known as the **Reconstruction Amendments**, were enacted between 1865 and 1870, after the conclusion of the Civil War. The 13th Amendment does not explicitly pertain to voting, but by abolishing slavery, it freed a significant portion of the population, leading to new citizenship rights for former enslaved males.

<https://www.senate.gov/artandhistory/history/common/generic/CivilWarAmendments.htm>

### • THE 14<sup>TH</sup> AMENDMENT (1868):

*Section 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

<https://constitutioncenter.org/interactive-constitution/amendment/amendment-xiv>

The 14<sup>th</sup> Amendment reformed federal voting rights to allow all male citizens at and above the age of 21 the right to vote. The 14<sup>th</sup> Amendment allowed voting rights to be withheld from those who participated in rebellion or other crimes. It also extended various protections, including due process, equal protection and privileges, and immunities of citizens.

- **THE 15<sup>TH</sup> AMENDMENT (1870):**

*Section 1: The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.*

<https://constitutioncenter.org/interactive-constitution/amendment/amendment-xv>

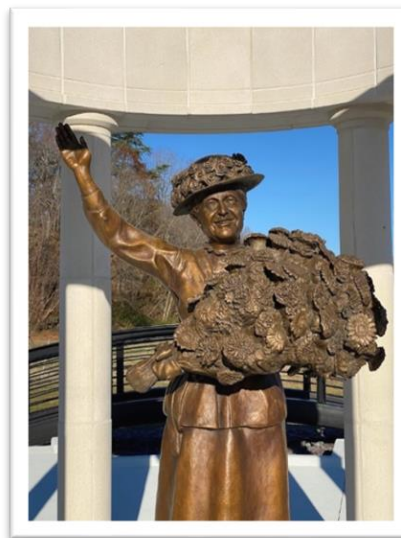
Despite the guarantees of universal male suffrage in the 14th Amendment, a **15<sup>th</sup> Amendment** was needed to explicitly proclaim that the vote could not be denied on the basis of race, color, or previous condition of servitude. Nevertheless, in practice very few men of color qualified to exercise their right to vote under restrictive state laws. For instance, some states used literacy tests, land ownership, poll taxes, or other barriers to disenfranchise people of color and prevent them from exercising their right to vote. Election intimidation and threats of violence to those individuals who wished to vote became a common practice in southern and western states, where election boards and local or state officials provided little to no protections to secure the right to vote for men of color or women. It took passage by Congress of Civil Rights and Voting Rights legislation in the 1960s to address these ongoing violations of the Constitution (see below).

- **THE 19<sup>TH</sup> AMENDMENT (1920):**

*The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.*

<https://constitutioncenter.org/interactive-constitution/amendment/amendment-xix>

Following more than 75 years of advocacy for women's suffrage, the **19th Amendment** was added to the US Constitution in 1920. This amendment granted suffrage to essentially half of the adult American population, female adults, thereby greatly expanding voting rights.



*Photo by J. Follows*

- **THE 24<sup>TH</sup> AMENDMENT (1964)**

*The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay poll tax or other tax.*

<https://constitutioncenter.org/interactive-constitution/amendment/amendment-xxiv>

This Amendment addressed the continuing problem of state-sanctioned voter disenfranchisement, by prohibiting discriminatory preconditions to the right to vote. It was fully ratified in 1964.

- **THE 26<sup>TH</sup> AMENDMENT (1971)**

*The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.*

<https://constitution.congress.gov/constitution/amendment-26/>

In summary, it took nearly 200 years after the US Constitution had been ratified in 1788 for the human right to vote to be explicitly codified into the US Constitution, thus granting suffrage to male and female citizens aged 18 and over, regardless of race.

## FEDERAL LEGISLATION

### • THE CIVIL RIGHTS ACT OF 1870 and SUBSEQUENT CIVIL RIGHTS ACTS

By 1870, the practice of voter intimidation was so widespread that Congress was compelled to adopt the Civil Rights Act to enforce criminal penalties on those groups and individuals who attempted to prevent people of color from voting. Such actions included threats to terminate a person's employment or evict them from their home, as well as violent acts of burning down churches and schools serving as polling locations. Over the years, several iterations of the Civil Rights Act in 1957, 1960, and 1964.

<https://www.dol.gov/agencies/oasam/civil-rights-center/statutes/civil-rights-act-of-1964>

### • THE VOTING RIGHTS ACT OF 1965

The Civil Rights Act of 1964, a monumental piece of legislation prohibiting discrimination in many parts of public life, such as housing and employment, was thought to do little to address voting rights violations. It was not until the Voting Rights Act of 1965 — the sweeping legislation passed by Congress to ensure and protect the right to vote — that people of all racial groups were provided federal protections to secure their right to register and vote in federal, state, and local elections.

[https://www.ourdocuments.gov/print\\_friendly.php?flash=false&page=transcript&doc=100&title=Transcript+of+Voting+Rights+Act+%281965%29](https://www.ourdocuments.gov/print_friendly.php?flash=false&page=transcript&doc=100&title=Transcript+of+Voting+Rights+Act+%281965%29)

The legislation, encouraged by President Lyndon B. Johnson, was prompted by the 1965 march across the Edmund Pettus Bridge in Selma, Alabama, when peaceful demonstrators, marching against the unfair and racist practices that kept black Americans off voter rolls, were violently attacked by state troopers and a civilian posse.

The Voting Rights Act (VRA) was the federal government's direct response to those states that had created laws designed to disenfranchise voters. Congress recognized the need to both actively register disenfranchised communities and continue to remove discriminatory barriers or preconditions to voting. The VRA reaffirmed voting rights protected by the 24<sup>th</sup> Amendment and the Civil Rights Act of 1964, and further abolished poll taxes and prohibited

- Voter discrimination based on race, color, or membership in a language minority group, including standards, practices, or procedures that intentionally discriminate in voting
- Adopting and maintaining voting procedures to purposefully discriminate, resulting in vote denial or failure to count a cast ballot
- Adopting practices such as gerrymandering or unfair redistricting plans that result in vote dilution
- Requiring tests or devices as a condition of voter eligibility, including literacy tests, educational achievements, moral character, or proof of qualifications by the voucher of another registered voter.



*Photo by J. Follows*

To assist voter registration and increase access to the ballot box for disenfranchised communities, the Voting Rights Act further required:

- Election materials to be offered in languages other than English
- The U.S. Attorney General to complete a study to determine whether any State laws or practices created preconditions to voting and therefore served as a violation of voting rights
- Federal preclearance before changing voting practices or procedures within those jurisdictions identified by the US Attorney General to have adopted standards, practices, or procedures of voter discrimination.

As a result, the Voting Rights Act subsequently required the following nine states to provide additional information to the federal government as part of the preclearance for their elections: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia. Six additional states required federal pre-clearance to change their elections procedures within specific voter jurisdictions/counties. Those six states were: California, Florida, Michigan, New York, North Carolina, and South Dakota.

The United States Senate Judiciary Committee (1982) clarified the key characteristics that established the conditions for preclearance. The characteristics included:

1. The history of official discrimination in the jurisdiction that affects the right to vote
2. The degree to which voting in the jurisdiction is racially polarized
3. The extent of the jurisdiction's redistricting practices or procedures that tend to enhance opportunity for discrimination against the minority groups, such as use of majority vote requirements, unusually large electoral districts, prohibitions on bullet voting, and other devices
4. The exclusion of minority candidates from the jurisdiction's candidate slating processes
5. The extent to which the jurisdiction's minorities are discriminated against in socioeconomic areas, such as education, employment, and health
6. The use of overt or subtle racial appeals in campaigns
7. The extent to which minority candidates have been elected to office
8. The degree that elected officials are unresponsive to the concerns of the minority group
9. Whether the policy justification for the challenged law is tenuous

<https://www.congress.gov/bill/97th-congress/senate-bill/1992>

**Extensions of the Voting Rights Act.** Congress enacted major amendments to the Voting Rights Act of 1965 in 1970, 1975, 1982, 1992, and 2006. Each of these amendments coincided with an impending expiration of some of the VRA's special provisions, which originally were set to expire by 1970. However, in recognition of the voting discrimination that continued despite the Act, Congress repeatedly amended the Act to reauthorize the special provisions.

• **FOR THE PEOPLE ACT OF 2021 (H.R. 1)**

In January 2021, U.S. Representative John Sarbanes (D-MD) reintroduced a bill to expand American's access to the ballot box. In addition to provisions that directly pertain to voting rights, the comprehensive bill also seeks to reduce the influence of dark money in campaign finance, develop election security measures, strengthen ethics rules for public servants, and implement anti-corruption measures designed to fortify democracy. The pending legislation also mandates independent redistricting commissions for congressional redistricting.

<https://www.congress.gov/bill/117th-congress/house-bill/1/text>

H.R. 1 seeks to expand voter registration and voting access and supports:

- Automatic and same-day registration
- Vote-by-mail
- Early voting
- Limits to removing voters from voter rolls.

• **JOHN R. LEWIS VOTING RIGHTS ADVANCEMENT ACT OF 2021 (H.R. 4)**

In August 2021, US Representative Terri Sewell (D-AL) introduced the John R. Lewis Voting Rights Advancement Act. H.R. 4 seeks to remove state restrictions on ballot drop boxes and expand access to voting practices that directly impact disenfranchised communities without local polling locations to cast their ballot. <https://www.congress.gov/bill/117th-congress/house-bill/4>

In October 2021, provisions of the proposed **Native American Voting Rights Act (NAVRA)** were folded into the John L. Lewis Voting Advancement Act. These provisions address distinct issues confronting Native American voters, such as: geographic isolation; poor access to polling and registration locations; lack of residential mail delivery; limited access to post offices; and need for translation of voting materials into Native languages. <https://vote.narf.org/native-american-voting-rights-act-navra/>  
<https://www.loc.gov/classroom-materials/elections/right-to-vote/voting-rights-for-native-americans/>



## UNITED STATES SUPREME COURT DECISION *SHELBY COUNTY vs HOLDER, 2013*

In June 2013, the U.S. Supreme Court “swept away a key provision” of the Voting Rights Act of 1965 in the case of *Shelby County v. Holder*.

<https://www.brennancenter.org/our-work/court-cases/shelby-county-v-holder>

In so doing, the Court eliminated oversight of select states that had a history of racially motivated voter suppression practices. [12-96 Shelby County v. Holder \(06/25/2013\) \(supremecourt.gov\)](https://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf)

The Voting Rights Act of 1965 (VRA) was designed to ensure state and local governments did not enact laws or policies denying American citizens the equal right to vote on the basis of race. Under the Act, states and political jurisdictions with a history of significant discrimination against black voters were required to obtain “pre-clearance” from either the U.S. Attorney General or the U.S. District Court for D.C. before implementing new voting procedures, such as closing or moving polling places, creating restrictive identification requirements, reducing the number of early voting days, and purging voter rolls.

*Shelby County vs Holder* ruled that the coverage formula set forth in Section 4(b) of the VRA was old and unconstitutional. According to the formula established under Section 4(b) of the VRA, jurisdictions requiring pre-clearance a) had prohibitive and restrictive voter registration, rules, and policies, and b) had less than 50 percent of eligible voters registered to vote or had voted in the last presidential election.

The majority of the Supreme Court Justices reasoned that 40-year-old facts “had no logical relationship to the present day” and a state could not be subject to pre-clearance requirements merely because it had discriminated on the basis of race in the past. [https://www.supremecourt.gov/opinions/12pdf/12-96\\_6k47.pdf](https://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf)

The four dissenting Justices argued that Congress had sufficient evidence to determine that the formula used in Section 4(b) of the VRA was still valid. As Justice Ruth Bader Ginsburg stated, “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.”

<https://time.com/5890983/ruth-bader-ginsburg-voting-rights/>

Following *Shelby County vs. Holder* a long list of restrictive voting changes began to appear in several States (such as Texas and North Carolina), which previously would have been subjected to pre-clearance procedures. A number of these changes have been challenged in the courts, and their status remains uncertain.

## CIVIL SOCIETY EFFORTS

### LEAGUE OF WOMEN VOTERS

Birthered by the efforts leading to the 19<sup>th</sup> Amendment to the US Constitution, the League of Women Voters worked to foster and preserve voting rights in the United States. In 1982, the League of Women Voters explicitly stated that voting is a fundamental right for citizens and must be guaranteed. (2020-2022 *Impact on Issues*, p. 23 <https://www.lwv.org/sites/default/files/2020-12/LWV-impact-2020.pdf>).

Throughout the succeeding decades, the League of Women Voters of the United States (hereafter League) encouraged advocacy in response to threats against voting rights, including the repeal of minority language provisions in voting laws. The League spawned a grassroots drive to pass the National Voter Registration Act of 1991. (LWVUS's 2020-2022 *Impact on Issue at pages 23-24*).

After 2000, the League focused on election reform and lobbied in favor of the Help America Vote Act of 2002. (LWVUS's 2020-2022 *Impact on Issues*, p. 26).

The League assisted approximately 100,000 students with voter registration since 2010.

The League published a whitepaper entitled, *Power the Vote: How a new initiative launched results for millions of voters* (LWVUS's 2020-2022 *Impact on Issues*, p. 30). The whitepaper summarized the League's national efforts to engage voters.

After the US Supreme Court decided *Shelby County v. Holder* (2013), local and state Leagues targeted districts and employed actions to restore key elements of the Voting Rights Act of 1965 and new nationwide protections (LWVUS's 2020-2022 *Impact on Issues*, p 30). The League opposed the Trump era commission (disbanded by 2018) to address "voter fraud" in the 2016 election and opposed moves to collect voter registration data (LWVUS's 2020-2022 *Impact on Issues*, p. 31).

The League filed amici briefs in pending litigation to expand voting rights in D.C. and support-statehood for the District of Columbia. (LWVUS's 2020-2022 *Impact on Issues*, p. 33).



Photo by J. Follows

### THE CARTER CENTER

The Carter Center in Atlanta, Georgia, is a nongovernmental organization. Its mission seeks to advance democracy and human rights, prevent diseases, and improve mental health care. It published a popular *Handbook on International Human Rights Standards on Elections*. It maintains a popular Election Observation and Standards (EOS) Database of hundreds of public international law sources related to human rights and elections.

Along with many contributors, The Office of the United Nations High Commissioner for Human Rights and the Carter Center presented a Plan of Action to advance human rights related to genuine democratic elections. The Plan is found at

<https://forum.cartercenter.org/media/human-rights-and-election-standards-plan-action>

In 2014, the Carter Center published a 185-page assessment manual for *Election Obligations and Standards*. President Carter wrote in the Foreword to this manual that it is a “distilled companion” to the EOS Database and together are available as a framework to assess that the electoral process is anchored in human rights law. Divided into sections and subsections, the manual is user-friendly. Section 3, for example, organizes sources related to Election Management and Section 4, Voter Registration.

<https://www.cartercenter.org/resources/pdfs/peace/democracy/cc-OES-handbook-10172014.pdf>

### **INSTITUTE FOR THE STUDY OF HUMAN RIGHTS**

Columbia University’s Institute for the Study of Human Rights (ISHR) is a respected resource in human rights and voting rights. The Institute presented an *Election and Human Rights Series*. In October 2020, for example, it presented an event for educators that included discussions about how to teach in a contentious election environment. <http://www.humanrightscolumbia.org/events/election-and-human-rights-series-human-rights-classrooms-and-elections-teaching-day-after>

### **BRENNAN CENTER FOR JUSTICE**

The Brennan Center is a nonpartisan law and policy organization. It is known for research and analyses of pressing issues. The Center championed automatic voter registration and hosted events and prepared publications in the area of voting rights.

In 2014 the Center submitted written testimony on “The State of Civil and Human Rights in the United States.” The testimony was submitted to the US Senate Judiciary Subcommittee and advocated for a three-pronged protection of civil and human rights by (a) modernizing the voting system and strengthening voting protections, (b) reforming the nation’s criminal justice system, and (c) securing national security while balancing protection of civil and human rights.

<https://www.brennancenter.org/our-work/research-reports/state-civil-and-human-rights-united-states>

The Center is known for research into state voting laws and proposed model legislation. Each year the Center publishes roundups of voting legislation around the country.

### **SELECT RESOURCES**

#### **• League of Women Voters**

*Impact on Issues 2020-2022 - Citizen’s Right to Vote (p.18-33)*

<https://www.lwv.org/sites/default/files/2020-12/LWV-impact-2020.pdf>

#### **• The Carter Center - Forum on Human Rights**

Human Rights and Elections: A Handbook on International Human Rights Standards

<https://forum.cartercenter.org/media/human-rights-and-elections>

Carter Center Statement on Voting by Mail for 2020 US Elections

<https://cartercenter.org/news/pr/2020/united-states-050620.html>

- **Institute for the Study of Human Rights at Columbia University**

Elections and Human Rights Series: Ensuring An Equal Right to Vote

<http://www.humanrightscolumbia.org/events/elections-and-human-rights-series-ensuring-equal-right-vote>

ISHR's Elections and Human Rights Discussion Series

<http://www.humanrightscolumbia.org/news/ishr%E2%80%99s-elections-and-human-rights-discussion-series>

Law of the Political Process

<http://www.humanrightscolumbia.org/courses/law-political-process>

- **The Brennan Center for Justice**

Restoring the Right to Vote

<https://www.brennancenter.org/our-work/research-reports/restoring-right-vote>

The Freedom to Vote Act

<https://www.brennancenter.org/our-work/research-reports/freedom-vote-act>

Ensure Every American Can Vote

<https://www.brennancenter.org/issues/ensure-every-american-can-vote>