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Partnership Policy Spotlight

Voting Rights: A Brief Legal History

Preserving the voting rights of people experiencing poverty is intrinsic to Community Action. A primary goal of the original Community Action Program was to empower all residents of a community to create opportunity-rich environments where they could thrive – "to help people help themselves and each other." The architects of the first program recognized that effectively fighting poverty required not just coordinating services, but also the "maximum feasible participation" of groups receiving those services. They understood that poverty and political exclusion are mutually reinforcing conditions, and that restoring inclusivity required programs to instill a sense of political empowerment in their customers. In the words of Robert Kennedy, "maximum feasible participation means giving the poor a real voice in their institutions." Actual, meaningful access to the polls gives people experiencing low incomes the chance to help shape their own futures.

IN THE BEGINNING…

Despite lauding democratic ideals of self-government and equal rights bestowed by the laws of nature, the drafters of the Constitution left questions of voter eligibility to the states. Since that time, Constitutional amendments have imposed minimum voter protection requirements on the states, including the 14th Amendment's guarantee of equal protection. The Voting Rights Act and other federal laws were passed to, among other goals, enforce the 15th Amendment's prohibition on race discrimination in voting. The Supreme Court of the United States interprets the meaning of both constitutional provisions (what is "A well regulated Militia," anyway?) and the validity of federal and state laws.

The trajectory of American voting rights closely tracks the progress of other civil rights. As politically

excluded groups began demanding civil rights, majority attitudes shifted, and their recognized right to politically participate expanded. However, Supreme Court rulings over the past decade have caused that voter protection trajectory to at least plateau, if not trend downward, for one of the first times in our history. We all have a responsibility to learn about and understand the history of race-based voter suppression in the United States and the ongoing quest for true equity among all voters. A brief of this length could not successfully attempt such an epic undertaking or effectively recount the centuries of systemic, state-sanctioned violence perpetrated against people of color who sought to exercise their rights (*see* Resources). It does, however, highlight legal changes that have affected the voting rights of Black, Latino, Asian American and Pacific Islander (AAPI), and Native communities over the centuries and lay out the contours of the legislative and judicial protections in place today.

Who Got The Vote & When: A Voting Rights Timeline

1789: At the time the Constitution was ratified, the right to vote was the most restrictive, allowing states to decide who could vote – most of which limited voting eligibility to Christian white male landowners. As attitudes changed and new states were admitted, many property requirements were repealed. By the presidential election of 1828, most white men were eligible to vote, and no states imposed a religious test.

1856: Nebraska last state to repeal property ownership requirements.

1868: 14th Amendment requires due process and equal protection of the laws.

1870: 15th Amendment prohibits states and the federal government from denying or abridging the right of U.S. citizens to vote "on account of race, color, or previous condition of servitude."*

1884: Supreme Court rules Native Americans are non-citizens and ineligible to vote (*Elk v. Wilkins*)

1913: 17th Amendment establishes the direct election of U.S. Senators by eligible voters.

1920: 19th Amendment protects the right to vote for women in all states.*

1924: Indian Citizenship Act grants all Native Americans citizenship and the right to vote.

1944: Supreme Court rules that laws excluding people of color from statewide primaries ("white primaries") are unconstitutional (*Smith v. Allwright*)

1957: Civil Rights Act of 1957 bans interference with a person's right to vote in federal elections.

1960: Civil Rights Act of 1960 creates more stringent penalties for violations and expands definition of "vote" to include the complete process from registration to a vote being counted.

1961: 23rd Amendment allows voters in the District of Columbia to vote in presidential elections.

1964: 24th Amendment prohibits poll taxes in federal elections (the Supreme Court later ruled that poll taxes in state and local elections are also unconstitutional).

1965: Voting Rights Act: (1) prohibits voting discrimination based on race (and later, language minority status); and (2) requires jurisdictions with a history of discrimination to clear new voting laws with the federal government.

1971: 26th Amendment extends voting rights to all eligible citizens 18 years of age or older and prohibits voting restrictions based on age.

1984: Voting Accessibility for the Elderly and Handicapped Act requires all polling places in federal elections be accessible for people with disabilities and elderly individuals.

1986: Uniformed and Overseas Citizens Absentee Voting Act protects the right to vote for active service members and other citizens residing overseas.

1993: National Voter Registration Act creates federal voter registration form option, allows voters to register by mail and at motor vehicle offices, requires state agencies providing public assistance to help customers register to vote, and limits state voter purges.

2000: First Circuit Court of Appeals rules that residents of U.S. territories are ineligible to vote in presidential elections (*Igartua De La Rosa v. US*)

2002: Help America Vote Act: (1) provides funding to states for increased polling place accessibility and computerized registration; (2) institutes requirements for voter identification, provisional balloting, and voting systems; and (3) creates the Election Assistance Commission.

2006: Voting Rights Act provisions extended through 2032.

2013: Supreme Court rules the VRA preclearance formula unconstitutional (*Shelby v. Holder*).

2021: Supreme Court weakens Section 2 of the VRA, making it more difficult to challenge state voting laws that have discriminatory effects (*Brnovich v. DNC*).

** Together, the 15th and 19th Amendments legally established near-universal suffrage. In practice, however, state and local laws intentionally restricted the ability of citizens of color to vote and hate groups threatened and committed acts of violence against those exercising and attempting to exercise their right.*

HOW DO COURTS DECIDE IF A STATE VOTING LAW IS VALID?

Federal law provides two primary methods to challenge a state voting law: (1) claim that the law violates the 14th Amendment's Due Process or Equal Protection Clauses; and/or (2) claim that the law violates Section 2 of the Voting Rights Act. Under the Due Process Clause, certain rights are fundamental and state laws that infringe on those rights are usually struck down. The Supreme Court has often (though not always) viewed the right to vote as fundamental and, therefore, protected. Section 2 of the Voting Rights Act prohibits any voting law, practice, or procedure from denying or abridging the right to vote based on race, color, or minority language status.

The 14th Amendment & Fundamental Rights

The right to vote does not appear in the text of the Constitution, but the document identifies parameters for how voting is regulated. Article I states that the "times, places and manner of holding elections for senators and representatives, shall be prescribed" by state legislatures and that Congress has the power to change those rules (except the place of elections) at any time (Article I, § 4). The state power is broad, but voting laws still cannot violate other constitutional provisions, specifically, the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

Under the Due Process Clause, the Supreme Court has identified a group of rights as "fundamental rights" because they are intrinsic to self-government and protecting them prevents government infringement. These include rights that appear in the Constitution (speech, counsel, etc.), but also some that do not, such as the right to marry, the right to travel between states, and (usually) the right to vote. When a law restricting a fundamental right is challenged, courts apply a rigorous level of review, known as "strict scrutiny," which usually (though not always) leads to the law being struck down. In order to survive a challenge, the law must be narrowly tailored to address a compelling state interest.

The Supreme Court has generally treated the right to vote as fundamental and deserving of this special judicial protection. In *Reynolds v. Sims* (1964), the Court said, "[u]ndoubtedly, the fight of suffrage is a **fundamental** matter in a free and democratic society … and any alleged infringement of the right of citizens to vote must be **carefully and meticulously scrutinized**." The Court has used this reasoning to strike down laws restricting various parts of the voting process, including poll taxes, residency duration requirements, and literacy tests.

In other cases, however, the Court has used a more relaxed standard, implying it does not always view all laws that restrict voting as denying a fundamental right. The Court did not include fundamental rights language in cases upholding a literacy test for registration and a state requirement that, in order to be eligible to vote, a citizen had to have voted in the prior year's general election. Most notably, in a case upholding a Hawaii law prohibiting voters from writing-in an unlisted candidate, the Court stated that "[T]o subject every voting regulation to strict scrutiny ... would tie the hands of States seeking to assure that elections are operated equitably and efficiently."

In 2008, the Court had an opportunity to clarify whether voting rights were fundamental but failed to do so. In *Crawford v. Marion County Election Board*, the Court considered whether an Indiana law requiring voters to present a photo ID at the polls violated the Fourteenth Amendment. In a split decision, the Court upheld the law because it addressed "relevant and legitimate state interests," and did not impose a substantial burden on most voters. The Court deciding to use this more relaxed standard muddied the issue, leaving little guidance for lower courts and state legislatures to look to when drafting laws and assessing their constitutionality.

THE VOTING RIGHTS ACT

Justice Kagan put it succinctly when she wrote that if a single law reminds us of the best and worst of America, it is the Voting Rights Act. The best because it combines the "two great ideals: democracy and racial equality." And the worst "because it was—and remains—so necessary."

Before the Voting Rights Act

Until the Civil War, there were very few restraints on how states determined voter eligibility (*see* Who Got the Vote and When). As a result, many states made it illegal for enslaved individuals and people of color to vote. In the aftermath of the war Congress and the states instituted new legal protections. The 13th Amendment (1865) made slavery and involuntary servitude unconstitutional. Congress also passed the Military Reconstruction Act of 1867 (over President Andrew Johnson's veto), which required former confederate states to adopt new constitutions outlawing slavery as a condition of readmission to the Union. Section 1 of the 14th Amendment (1866) prohibits states and the federal government from denying "persons within its jurisdiction the equal protection of the laws." In 1870, the states ratified the 15th Amendment, which prohibits the federal government and states from abridging or denying the right to vote "on

account of race, color, or former condition of servitude" and gave Congress the authority to enforce the Amendment with "appropriate legislation."

Congress did just that. Within a year, it passed laws instituting criminal penalties for violating voting rights on the basis of race and requiring federal enforcement and oversight. But it didn't take long for those laws to be challenged – the first cases reached the Supreme Court in 1876. In *United States v. Reese*, the Court ruled that the enforcement law was too broad to be considered "appropriate legislation," stating that the 15th Amendment "does not confer the right of suffrage upon any one," but simply prevents the government from imposing racial preferences. In *United States v. Cruikshank*, the Court ruled that the U.S. only had jurisdiction to prosecute voting rights violations by state actors, not private citizens. The following year, the Compromise of 1877 settled the disputed presidential election of 1876, and resulted in Southern Democrats accepting Rutherford B. Hayes as President in exchange for, among other things, removal of the remaining U.S. troops from former confederate states.

In the years following the rulings and troop removal, states began passing laws that were facially race-neutral, but systematically disenfranchised voters of color without violating the Court's interpretation of the Constitution. These included poll taxes and tests that bestowed maximum discretion on state officials to blatantly discriminate against voters of color, like literacy or comprehension tests. Some tests included "grandfather clauses" that exempted people who had been eligible (or a male descended from someone who had been eligible) to vote in 1867, effectively excluding all formerly enslaved individuals and their descendants from voting. Political parties in some states established rules that excluded voters of color from voting in primaries ("white primaries"), arguing that they were private clubs that could set their own rules. In southern states where Democratic majorities dominated general elections, the primary was where votes were most influential.

As a result of these laws, by the early 1900s the number of Black registered voters in Southern States had dropped dramatically (to single digits in some places), which had immediate ripple effects into all other policy areas. Without the ability to participate in the political process, voters of color could not voice their policy demands, serve on juries, or run for public office.

During this time, states and the federal government also made it extremely difficult for Native Americans to exercise their right to vote. Although the 14th Amendment granted citizenship to anyone born in

the United States, the Supreme Court ruled in *Elk v. Wilkins* (1884) that birthright citizenship did not apply to Native Americans and, as such, their right to vote was not protected under the 15th Amendment.

Small steps of progress came in the first half of the twentieth century. In *Guinn v. United States* (1915), the Supreme Court held that the "grandfather clause" in Oklahoma's literacy test was an unconstitutional violation of the 15th Amendment (this was also the first case in which the NAACP filed an amicus curiae brief in a Supreme Court case). In 1924, Congress finally recognized the U.S. citizenship of Native Americans born on tribal lands when it passed the Indian Citizenship Act, but states still passed laws discriminating against Native American voters. In *Smith v. Allwright* (1944) the Court struck down a Texas Democratic Party rule excluding voters of color from voting in its primary election. The Court ruled that "white primaries" violated the Equal Protection Clause of the 14th Amendment and that the state had delegated its authority to the party, opening the door for judicial review of some acts of voter discrimination by private parties.

Following the Supreme Court's ruling in *Brown v. Board of Education of Topeka* (1955) that the Constitution prohibits segregation in public schools, and that desegregation should occur "with all deliberate speed," Congress passed a series of laws that included voting provisions. A 1957 law created the Commission on Civil Rights and the Civil Rights Division at the Department of Justice, empowering the Attorney General to seek remedies for violations of the 15th Amendment. A 1960 law allowed judges to appoint voting referees after a finding of discrimination. In 1964, the states ratified the 24th Amendment, prohibiting Congress and the states from instituting a poll tax as a condition for voting in federal elections. The Supreme Court later found, in *Harper v. Virginia Board of Elections* (1966) that poll taxes in state and local elections were also unconstitutional because they violated the Equal Protection Clause.

Before 1965, constitutional amendments, laws, and judicial rulings made it more difficult for states to dis-

Major Provisions of the Voting Rights Act

- Section 2 prohibits any voting qualification, prerequisite, standard, practice, or procedure that "results in a denial or abridgement of the right … to vote on account of race or color … or membership in a language minority."
- Sections 5 and 4(b) together create the preclearance requirement, which the Supreme Court ruled unconstitutional in 2013 (see Preclearance). Section 5 requires jurisdictions with a history of race discrimination in voting to obtain clearance from the federal government before implementing any new voting laws. Section 4(b) outlines the formula to determine which jurisdictions must submit to preclearance.
- Section 3 ("bail-in" provision) authorizes federal courts to subject any jurisdiction to preclearance if it determines that a violation of the 14th or 15th Amendment has occurred.

criminate against voters of color. However, the hurdles were easily overcome in many instances and had to be litigated on a case-by-case basis. The federal government lacked the personnel and resources to challenge every law, and by the time cases wound their way through the judicial system, states had found and exploited new loopholes. Advocates pressed for a national response, but Congress would not make voting rights a priority. President Lyndon B. Johnson feared a push on voting rights legislation would alienate Southern Democrats and jeopardize his Great Society reforms, including the "War on Poverty."

In early 1965, the Southern Christian Leadership Conference (SCLC) and Student Nonviolent Coordinating Committee (SNCC) organized peaceful protests in Selma, Alabama advocating for voting rights. The protests received national news coverage, prompting President Johnson to announce he would send a voting rights bill to Congress. On March 7, 1965, protesters, led by future Congressman John Lewis and Bob Mants of SNCC and the Reverend Hosea Williams and Albert Turner of SCLC, marched from Selma to the state capital in Montgomery to demand the right to vote.

When the marchers crossed the Edmund Pettus Bridge, state troopers and county posses brutally attacked them, charging into the crowd on horseback, firing tear gas, and beating protesters with nightsticks. Several protesters were severely injured, including John Lewis, Amelia Boynton, and Lynda Blackmon Lowery. Images and recordings of the events of "Bloody Sunday" received national televised news coverage. One week later, Johnson addressed a joint session of Congress where he called voting the "most vital of all our rights," adding that "it is from the exercise of this right that all our other rights flow." On August 6, 1965, he signed the Voting Rights Act (VRA) into law.

The Voting Rights Act: Then & Now

Congress addressed the two most pressing obstacles to voting equality when it passed the VRA: ineffective enforcement of the 15th Amendment and burdensome case-by-case litigation challenging individual discriminatory voting laws. First, Section 2 strengthened enforcement by prohibiting voting laws that result in political processes that are not "equally open" to all races. It broadly covers any "voting qualification," "prerequisite to voting," or "standard, practice, or procedure" (i.e., you name it: registration activities, type of ballots used, polling site locations and hours, maps of new districts, etc.). Second, to avoid challenging each law only to have a slightly different one pop up in its place (a process Justice Kagan compared to "playing a game of whack-a-mole"), Section 5 required the jurisdictions most likely to pass discriminatory voting laws to clear them with the federal government before implementation, in a process called "preclearance."

Preclearance & Formula 4(b)

Section 5 of the VRA requires certain jurisdictions to receive preclearance from the federal government before implementing new voting laws, including new district maps. To determine which jurisdictions were subject to preclearance, Congress created a formula in Section 4(b). Under the formula, jurisdictions were subject to preclearance if, at the time the VRA was

enacted, they employed a “test or device” (such as a literacy test) to restrict voting and less than 50% of adults in the jurisdiction were registered to vote. When the VRA was enacted, all or part of 11 states became subject to preclearance requirements, and those states immediately challenged the new law.

In *South Carolina v. Katzenbach* (1966), the state claimed that the Section 4(b) formula violated the concepts of equality between states and the states’ due process rights. In an 8-1 decision, the Supreme Court upheld the law, finding that the 15th Amendment provided a valid basis for the VRA, and that preclearance was justified to address the “insidious and pervasive evil” of discriminatory voting laws. Nearly fifty years later, in *Shelby County v. Holder* (2013), an Alabama county subject to preclearance, again argued that the Section 4(b) formula was unconstitutional. This time, the Supreme Court agreed, ruling that the formula was no longer justified and imposed an unconstitutional burden on covered jurisdictions.

In his majority opinion in *Shelby*, Chief Justice Roberts wrote that, while circumstances in 1965 may have justified the preclearance process, “things have changed dramatically.” As evidence, he cited the near racial parity of voter registration and turnout rates in covered jurisdictions, the fact that “tests or devices” had been prohibited for over 40 years, and the unprecedented number of people of color holding elected office. In her dissent, Justice Ginsburg argued that preclearance was precisely the reason that conditions had improved, famously writing that “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.” The shell of preclearance in Section 5 remains, but it is inoperable without a formula to determine which jurisdictions are covered.

Section 2: Dilution & Denial

In its first iteration, Section 2 of the VRA did not explicitly prohibit state actions that merely resulted in a racially discriminatory denial of the right to vote. In *Mobile v. Bolden* (1980), the Supreme Court ruled that voting rights laws must have discriminatory intent in order to be subject to review under Section 2. Two years later, Congress amended the VRA to explicitly prohibit both intentionally discriminatory state actions **as well as those that have racially discriminatory effects**. Unlike other VRA provisions, Section 2 does not include an expiration date that requires it to be periodically reauthorized.

Highlighted Resources

- Department of Justice – Voting Resources and Current Initiatives
- U.S. Election Assistance Commission (EAC) – Resources for Voters with Disabilities
- Poor People's Campaign – Unleashing the Power of Poor and Low-Income Americans
- Native American Rights Fund (NARF) – Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters
- National Low-Income Housing Coalition (NLIHC) – Our Homes, Our Votes Campaign
- NAACP Legal Defense Fund – Democracy Defended
- VOX – 19 Maps & Charts that Explain Voting Rights in America
- American Civil Liberties Union (ACLU) – Know Your Voting Rights
- National Park Service – Civil Rights in America: Racial Voting Rights

Historically, there are two types of Section 2 cases: dilution cases (racial gerrymandering) and denial cases (voting restrictions). In dilution cases, voters generally claim that a new set of congressional maps reduce an underrepresented group's ability to elect their preferred candidates, thereby diluting the power of their votes and violating Section 2. In *Thornburg v. Gingles* (1986), the Court identified a two-part test to determine whether vote dilution occurred. First, the underrepresented group must meet three preconditions: (1) it must be possible to create a district where the group represents a majority of the electorate; (2) the underrepresented group members usually vote the same way; and (3) the majority group also votes cohesively enough to reliably defeat the underrepresented group's preferred candidates. If these conditions are met, the Court moves to the second part of the test, where it considers a wide range of factors (the "totality of the circumstances") to determine whether the maps reduce the underrepresented group's ability to elect their preferred candidates. In a later case, *Bartlett v. Strickland* (2009), the Court found that the first precondition could only be met if the underrepresented group could represent a majority (over 50%) of voting age citizens in one of the new districts.

In denial cases, the other type of Section 2 challenge, an underrepresented group is usually challenging laws that restrict the group's ability to cast a ballot. Most recently, *Brnovich v. Democratic National Committee* (2021) addressed two Arizona voting laws that disproportionately affected Hispanic, Native American, and Black voters: one prevented ballot collection by some third parties and the other required ballots cast in the wrong precinct to be dis-

carded. The Court ruled that neither law violated the VRA. Writing for the majority, Justice Alito "identified certain guideposts" for determining if a voting law violates Section 2, including the burden on voters, the size of the resulting racial disparity, a state's overall voting system, and what the state was trying to accomplish with the law. Specifically on disparities, he wrote that "some disparity in impact" does not necessarily correlate to discrimination.

In her dissent, Justice Kagan dismissed these "guideposts" as "a list of mostly made-up factors" that do not appear anywhere in the law. Arguing for a broader reading, and quoting directly from Section 2, she wrote that both Arizona laws "violate Section 2 … because they 'result in' members of some races having 'less opportunity than other members of the electorate to participate in the political process.'" Voting rights advocates argue that the decision further weakened the VRA by making it more difficult for plaintiffs to successfully challenge state voting laws under Section 2.

The enforcement and preclearance provisions of the VRA were designed to be complimentary. They worked in tandem to help protect the voting rights of all Americans. Each had a specific and crucial role to play, and they did their jobs well. In the five years following the VRA, increases in Black voter registration in just six Southern States doubled the total number of Black voter registration nationwide. In the 40 years after preclearance, the Department of Justice stopped over 1,200 discriminatory laws from taking effect. Since *Shelby*, many jurisdictions that no longer have to clear new laws with the federal government have passed restrictive voting laws.

ADDITIONAL LEGAL CONSIDERATIONS

Other Federal Voting Laws

The VRA is certainly one of the most well-known federal voting rights laws, but other federal laws also protect certain parts of the voting process. The Civil Rights Act of 1964 contains pre-VRA protections for voters, like requiring uniform application of statewide voter qualification standards. The Voting Accessibility for the Elderly and Handicapped Act (VAEHA) requires minimum accessibility standards for the elderly and people with disabilities. The Americans with Disabilities Act (ADA) also requires public entities to provide people with disabilities with a full and equal opportunity to vote. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) requires states and territories to create registration and absentee voting processes for U.S. citizens living

abroad as well as military personnel and their families. The National Voter Registration Act (NVRA or the Motor Voter Law) requires states to allow registration by mail, as well as at certain government offices. The Help America Vote Act (HAVA) sets minimum requirements for provisional ballots and dissemination of information to voters.

The States

Each state also has its own constitution and voting laws, which can, and sometimes do, provide more protections than the federal standards. This is especially true now, after the Supreme Court substantially weakened the federal standards in *Shelby* and *Brnovich*.

The Territories

Residents of the five U.S. territories (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) elect non-voting congressional delegates to Congress but are not permitted to vote in presidential elections. The establishment of the Electoral College and other constitutional voting provisions only refer to states and do not contemplate the possibility of territories. In 2018, the Supreme Court declined to hear a case arguing that the Equal Protection Clause of the 14th Amendment required residents of the territories be given the opportunity to vote in presidential elections, leaving in place a 7th Circuit Court of Appeals ruling against the residents. Although the District of Columbia is not a state, its residents were explicitly granted the right to vote for president and vice president in 1961, through the ratification of the 23rd Amendment.

MOVING FORWARD

Since the founding, voter eligibility criteria, laws suppressing or protecting participation, and the interpretation and enforcement of those laws have been evolving and continue to do so today. In *Shelby*, the Court invited Congress to create an updated preclearance formula, but Congress has failed to do so. In 2021, the House of Representatives passed H.R. 4, the John Lewis Voting Rights Advancement Act, which would have created a new preclearance formula, but the bill did not have enough votes to overcome a Senate filibuster (*see* Issues We're Tracking). In the meantime, President Biden has issued an Executive Order directing federal departments and agencies "to consider ways to expand citizens' opportunities to register to vote and … participate in the electoral process."

The Supreme Court agreed to hear two cases in its 2022-2023 term that could have dramatic effects on

how people vote. In Merrill v. Milligan, the Court will revisit how federal courts adjudicate claims of racial vote dilution under the VRA, and in Moore v. Harper it will determine whether state legislatures have unreviewable authority to regulate federal elections in their states (*see* Issues We're Tracking).

Voting rights progress did not happen as a matter of course – it was achieved in the face of persistent and intentional public and private attempts to create and reinforce barriers to the ballot box for the very groups who were most excluded from the political process. Even today, perhaps more so than in recent decades, those forces are in constant tension. Community Action has a crucial role to play in the evolution of voter protection laws and a responsibility to foster the participation of people experiencing low incomes in the political processes that affect their lives.

Issues We're Tracking

- H.R. 4 – John Lewis Voting Rights Advancement Act (*passed House August 24, 2021*): creates a new VRA preclearance formula wherein a state and all of its political subdivisions would be subject to preclearance for 10 years if: (1) 15 or more voting rights violations occurred in the state during the previous 25 years; (2) 10 or more violations occurred during the previous 25 years, at least 1 of which was committed by the state itself; or (3) three or more violations occurred during the previous 25 years and the state administers the elections.

- Merrill v. Milligan: After the 2020 Census, Alabama redrew its congressional maps and made only one of its seven districts a majority Black district, even though over 25% of the state's residents are Black. Alabamians sued, arguing that the state had illegally packed most Black residents into a single district, diluting their votes and violating Section 2 of the VRA. A district court stopped the new maps going into effect, but the Supreme Court voted 5-4 to allow the maps to be used while it considers the case. Read More Here! (Oral arguments took place October 4, 2022 – Listen Here!)

- Moore v. Harper: North Carolina drew new congressional maps that were challenged and struck down by the North Carolina Supreme Court for violations of the state constitution. Three experts created new maps that the trial court approved. State legislators asked the U.S. Supreme Court to block the new maps, but the Court voted 6-3 to deny the request. The Court later agreed to hear the merits of case, where the state legislators are arguing that the power of state legislatures to regulate federal elections in their states is complete and cannot be restrained by state courts or federal law. (Oral arguments have not yet been scheduled)