

# Voting Rights

5.31.17



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In May 2017, the Supreme Court dealt with two cases related to voting rights. In [Cooper v. Harris](#), the Court held that North Carolina had drawn legislative boundaries to limit the influence of African-American voters. The Supreme Court also allowed a lower court's decision to stand that determined North Carolina's voting procedures to be discriminatory to African-Americans. These recent cases, along with a 2013 Supreme Court case ([see teaching blog](#)) that dismantled a section of the 1965 Voting Rights Act, raise questions about the relative authority of the states and the federal government when it comes to setting voting procedures within a state.

In 1787, the Constitution gave states the authority to regulate voting laws, and tasked the federal government with determining citizenship requirements (and therefore, who was eligible to vote). The 15th Amendment to the Constitution, ratified by the states in 1870, made it illegal to deny voting on account of race. Despite this amendment, southern states, which had large proportions of African-American citizens, found ways to evade the law by instituting illegal voting requirements (such as literacy tests, poll taxes, and grandfather clauses). During the Civil Rights Movement of the 1950s and 1960s, activists challenged discriminatory voting requirements in order to register more African-American voters. Though African-Americans often faced violence and punishment when trying to vote in the South, Civil Rights activists eventually convinced Congress and President Lyndon Johnson to pass the Voting Rights Act of 1965.

The Voting Rights Act honored the 15<sup>th</sup> Amendment by requiring fair access to the ballot for all Americans, and by placing the federal government in charge of monitoring voting procedures in areas that had a history of attempting to block the non-white vote. As a result, the number of registered African-American voters increased dramatically, and the number of non-white elected officials went from less than 1,000 in 1965 to more than 17,000 in 2015.

In the 2013 case [Shelby County v. Holder](#), the Supreme Court struck down the portion of the Voting Rights Act that authorized federal involvement in states' voting procedures. The Court argued that while in 1965 extraordinary measures were called for to achieve fair and equitable voting, high numbers of registered voters in 2013 meant that federal involvement in states' voting procedures was no longer justified. Following the ruling, some states sought to restrict access to the vote, arguing that it would reduce voter fraud. Opponents of these new requirements point out that there appears to be little evidence of voter fraud, and they warn that new voting rules effectively limit the number of poor and non-white voters by requiring photo IDs and other documentation that can be expensive and time-consuming to obtain, or by making it more difficult for voters with limited mobility or inflexible work schedules.



*Martin Luther King, Jr., President Lyndon Johnson, Whitney Young, and James Farmer discuss civil rights, 1964. LBJ Library image.*

In some states, as seen in the case [Cooper v. Harris](#), politicians have redrawn legislative districts along racial lines to limit the influence of the non-white vote in the surrounding districts (called [racial gerrymandering](#)). Or, in other instances, at-large voting is designed to allow a city's majority population (which is usually white) to control the election of all city council members. Both of these methods are examples of second-generation barriers to voting (after the literacy tests and poll taxes of earlier eras). The [Cooper v. Harris](#) ruling opens the door for future court cases that question the constitutionality of legislative districts that appear to be drawn in a way to elect political officials who do not campaign for the minority vote. The [Cooper v. Harris](#) ruling also suggests that the Supreme Court is carefully considering the intersection of race and politics, and how second-generation barriers perpetuate the legacy of discriminatory voting procedures.

*-Shelley Brooks, Ph.D., CHSSP Statewide Office*



“So long as I do not firmly and irrevocably possess the right to vote I do not possess myself. I cannot make up my mind - it is made up for me. I cannot live as a democratic citizen.”

-Martin Luther King, Jr.

### Selected Timeline of Voting Rights in the United States:

**1776** - The right to vote in elections is restricted to those who own property.

**1787** - No uniform standard for voting rights across the nation. The Constitution gives states the authority to regulate state voting laws. The Constitution gives Congress the power to establish who is eligible to vote by determining rules for naturalization (becoming a citizen after moving to the United States).

**1790** - Naturalization Law determines that those eligible to become citizens are white immigrants who have lived in United States for two years. In 1798 the minimum requirement is fourteen years. In 1902 the requirement is shortened to five years in the country.

**1848** - The Treaty of Guadalupe-Hidalgo ends the Mexican-American War and grants citizenship to those Mexicans living in the new American southwest. However, English language and property requirements, and sometimes the intimidation of violence, prevents most Mexican-Americans from voting.

**1857** - Supreme Court case *Dred Scott v. Sanford* holds that a person descended from Africans, whether slave or free, cannot be a citizen and therefore cannot vote.

**1866** - Civil Rights Act excludes Native Americans from U.S. citizenship.

**1868** - 14th Amendment grants the protection of citizenship to all persons born or naturalized in the United States, and determines that male inhabitants 21 years or older are eligible to vote.

**1870** - 15th Amendment - provides protection for all citizens of the United States to vote, regardless of “race, color, or previous condition of servitude.” Black men

over the age of 21, including those who had once been slaves, are eligible to vote.

**1882** - The Chinese Exclusion Act prevents people of Chinese ancestry from becoming citizens, or voting.

**1890** - The Indian Naturalization Act makes it possible for Native Americans to become citizens after an application process.

**1920** - 19th Amendment gives the right to vote to all women living in the U.S. (some states had allowed women the vote before the 19th Amendment).

**1924** - Indian Citizenship Act makes all Native Americans citizens of the U.S., but intimidation of violence or economic retaliation prevents many from voting.

**1952** - McCarran-Walter Act allows for all people of Asian descent to become U.S. citizens.

**1965** - Voting Rights Act provides federal support for voting right protections and bans literacy tests at the polls.

**1975** - Voting Rights Act amended to require language assistance to citizens without command of the English language.

**1993** - National Voter Registration Act aims to increase number of registered voters by making voting registration possible at Department of Motor Vehicles.

**2013** - Supreme Court case, *Shelby County v. Holder*, strikes down portion of the Voting Rights Act of 1965 that authorizes the federal government to monitor voting laws in certain states with a history of discrimination.



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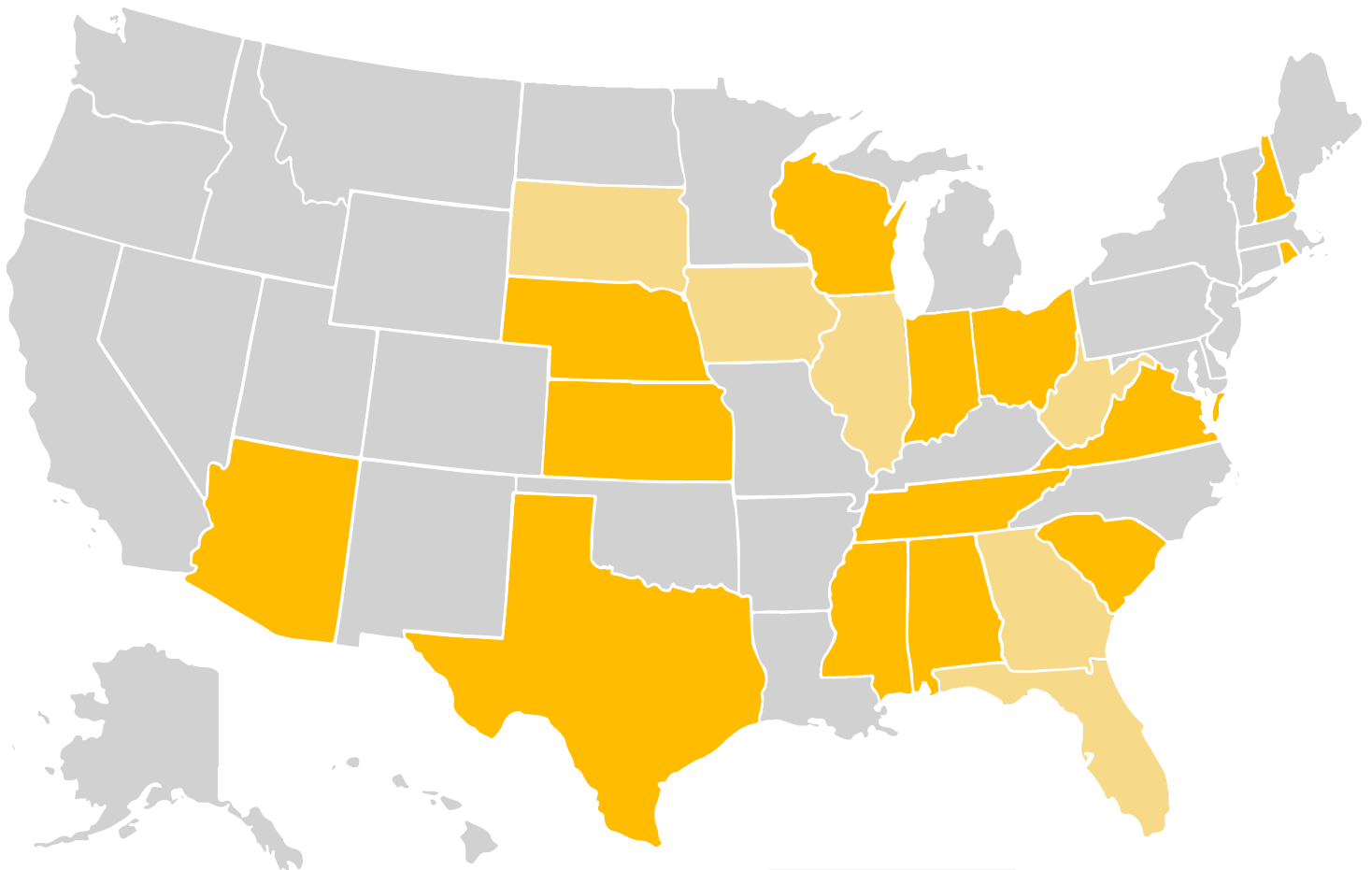
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**Classroom discussion:** Are there any commonalities among these states that have restricted access to the vote? What can you learn about the demographics of these states? What can you learn about instances of voter fraud in these states? What else can you learn that helps you understand the decision to institute new voting requirements in these states?

## New Voting Restrictions

The following states have enacted new voting requirements that have restricted access to the vote. These measures include stricter rules regarding photo identification cards, fewer early voting days and hours, and decreasing the likelihood that citizens with criminal convictions can restore their voting rights.



### Status Key

-  Restriction in place for first time in Presidential Election in 2016
-  Restriction in place for 2012 Presidential Election

Map by Robert Won, CHSSP SO. Based on map from Brennan Center for Justice: <https://www.brennancenter.org/new-voting-restrictions-america>



CHSSP Teaching Blog on Voting Rights: <http://chssp.ucdavis.edu/blog/voting-and-civil-rights/>

#### Additional Resources\*

##### News

- The Nation: <https://www.thenation.com/article/north-carolina-found-guilty-discriminating-black-voters/>
- Fox News: <http://www.foxnews.com/politics/2017/05/22/supreme-court-strikes-down-2-nc-congressional-districts.html>
- The New York Times: [https://www.nytimes.com/2017/05/22/us/politics/supreme-court-north-carolina-congressional-districts.html?\\_r=0](https://www.nytimes.com/2017/05/22/us/politics/supreme-court-north-carolina-congressional-districts.html?_r=0)
- Reuters: <https://www.reuters.com/article/us-usa-court-voters-idUSKBN18I1SG>

##### Overview

- Washington Post (video explaining gerrymandering): [https://www.washingtonpost.com/news/wonk/wp/2016/06/09/how-a-widespread-practice-to-politically-empower-african-americans-might-actually-harm-them/?utm\\_term=.45fd7ab454cf](https://www.washingtonpost.com/news/wonk/wp/2016/06/09/how-a-widespread-practice-to-politically-empower-african-americans-might-actually-harm-them/?utm_term=.45fd7ab454cf)
- Fair Vote: <http://archive.fairvote.org/righttovote/timeline.htm>
- Ballotpedia: [https://ballotpedia.org/Cooper\\_v.\\_Harris#tab=Outcome](https://ballotpedia.org/Cooper_v._Harris#tab=Outcome)
- Brennan Center for Justice: <https://www.brennancenter.org/new-voting-restrictions-america>

\*The resources listed above are provided for further research and do not imply an endorsement by the California History-Social Science Project or the University of California.

Photo citation for page 1 image of Oval Office: <http://www.lbjlibrary.net/collections/photo-archive.html>