

Voting Rights: Popularity Contests and Civil Liberties

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Executive Summary

Voting rights have been an important part of U.S. legislation ever since the American Revolution. Over the years they have been changed, through state or national legislation or through constitutional amendments. Recently, these voting rights have become a prevalent issue as states try to restrict who can vote in an effort to limit voter fraud. In response to these restrictive laws, national representatives have worked to pass policy expanding and protecting the right to vote. These bills—the John Lewis Rights Advancement Act (H.R. 4) and the Freedom to Vote Act (H.R. 1)—are both hotly contested, especially by Republicans in the Senate. However, supporters argue that passing at least one of these bills is the only way to truly protect democracy.

The Problem

- Because of a 2013 Supreme Court decision, states are able to change their voting laws with much more ease and freedom.
- Many states are embracing change of voting laws as a response to perceived voter fraud.
- Critics believe that these changing voting laws are harming the rights of citizens by making it harder to vote.

Many states are currently reforming their election laws. Brookings' Elain Karmack charts the increase in voting reform back to the problems posed by pandemic elections, with an [unprecedented level of reliance on absentee ballots](#) and early voting. President Trump was the foremost of those challenging these laws, arguing that they would undermine democracy by allowing foreign and domestic interference. Whilst these claims were unsubstantiated, their effects were highly substantial – since the election, many states have begun passing voting reform measures that make it more difficult for people to vote.

However, the origins of this particular wave of voting reform go back further than 2020, specifically to the 2013 *Shelby County v. Holder* Supreme Court decision that struck down one of the key clauses of the 1965 Voting Rights Act (VRA), effectively removing the provision that states must clear voting reforms with the federal government before implementing them. This gave states much more independence over their electoral laws, and [passed power to state and local legislatures](#).

States passing these laws claim they will prevent corruption and voter fraud. Civil rights groups like the ACLU, however, argue that these voting reform measures frequently constitute voter suppression. Among these suppressive measures the ACLU lists are the requirement of voter ID, which many Americans do not have or carry on them to vote; ['ballot-box criminalisation'](#), like Georgia's criminalisation of providing food or water to

citizens waiting in line to vote within a certain distance from the polls; gerrymandering, which is the practice of redrawing district lines to one party's electoral benefit; and voter purges, intended to cleanse the register of deceased or relocated voters, but which often lead to the disenfranchisement of eligible voters, for various reasons. These often stem directly from the *Shelby* decision - the Brennan Center found that around 2 [million more people were purged from the electoral register](#) in 2012-16 than if the VRA had remained untouched, while Texas passed a [restrictive voter ID law](#) less than a day after the *Shelby* decision was made.

The difficulty is that both proponents and opponents of these laws argue that their recommended measures will make democracy stronger. However, since claims of voter fraud are almost entirely unsupported, it is likely that American democracy will overall be weakened by their passing. Certain minority groups already find it harder to vote – for example, they are likely to have fewer polling places in their communities. Young people, immigrants, and [disabled people](#) are all also already less likely to be able to vote. Many of the recent voting reforms will only compound these problems, and they often seem to be targeted at minority communities. For example, Georgia's law cited above affects black communities more heavily, as they are more likely to experience long lines to vote. Black Americans are also [less likely](#) to hold photo ID.

Background

- The John Lewis Rights Advancement Act is national legislation designed to protect the right to vote.
- It was passed by the House earlier this year, but blocked by the Senate.

To counteract the restriction of rights that state laws are encouraging, some national lawmakers have introduced policy expanding the right to vote for all citizens. One such piece of legislation is the John Lewis Voting Rights Advancement Act, which [passed the House on August 21st, 2021](#), making voting laws that discriminate against citizens illegal, including factors such as race, language, and ethnicity. [Included in the act](#) are provisions allowing government authority to oversee voting sites that have a risk of discrimination, establishing that last-minute voting changes do not affect voters, and stating that officials should send out updates at least 180 days before an election. This bill was created to reimplement provisions that were [stated in the Voting Rights Act of 1965](#), which was designed to protect the right to vote for African Americans. On November 3rd, 2021, Senate Republicans [blocked the advancement of the legislation](#), with Senator Lisa Murkowski of Alaska being the only Republican to vote for the debate to proceed, stating [“Nothing is more fundamental than the right to vote.”](#) While [this act had a major partisan split](#), the Voting Rights Act of 1965 was passed by the Senate 98-0.

The Freedom to Vote Act [protects voting rights](#), including legislation to allow for same-day voter registration, counters election fraud and puts restrictions on campaign finances. The act is a revised version of the For the People Act, which was [blocked by Senate Republicans](#) in June 2021. Some [differences between the acts](#) are new protections against voter suppression, Election Day being named as a Legal Public Holiday, and voter ID changes. [54 to 64 percent of voters](#) support the Freedom to Vote Act. Because many republicans believe that all the important voting rights are dually protected by the Freedom to Vote act, Senate Republicans voted against the advancement of the John Lewis Voting Rights Advancement Act, arguing that the Supreme Court has already eliminated the outdated elements of the Voting Rights Act of 1965 and that another [voting rights act would be unnecessary](#).

Policy Proposals

- All proposed policy options are subject to debate and criticism, from both sides of the aisle.
- One policy option, HR 4, is accused of being a power grab by the democrats.
- The two major policy options are HR 4 - the John Lewis Voting Rights Advancement Act - and HR 1 - the Freedom to Vote Act - both broad bills facing opposition.

Historically, voting rights have been a point of continual growth within the United States, as lawmakers attempt to live up to the ideals that all men are created equal and that our government is ruled by the people. Attempts

to remove legal and constitutional barriers to equality in voting have been made with substantial success in the [past 100 years](#); however, disparities persist today. [The John Lewis Voting Rights Advancement Act](#) (H.R 4) addresses these disparities and replaces the coverage formula with more up-to-date standards.

Members fiercely oppose the H.R 4 on the right side of the aisle. Many, including Senate Minority Leader Mitch McConnell, contend the Act is a power grab by the Democratic Party. Representative Rodney Davis [claims](#) that "...our country [is] not facing a new era of Jim Crow voting laws, as many of my Democrat colleagues have claimed... to advance a political agenda." Representative Davis cited statistics of record turnout for black voters in the 2020 election. Republicans also leverage the recent Supreme Court Case, [Brnovich v. Democratic National Committee](#). The Supreme Court ruled against the DNC, which narrows Section 2 of the 1965 Voting Rights Act, leaving states with more discretion to create voter suppression laws without fearing unfavorable court challenges. State officials like Attorney General Slatery of Tennessee agree, stating that HR 4 violates state rights and ["would only serve to give the federal government control of our state elections."](#) Democrats push back on these claims, citing instances such as [Alabama's restrictive voter ID laws](#). Representative Sewell, sponsor of the John Lewis Act, points out "while literacy tests and poll taxes no longer exist, certain states and local jurisdictions have passed laws that are [modern-day barriers to voting](#)." H.R 4 has garnered the support of even the most Conservative Democrats as well as one Republican Senator, Lisa Murkowski of Alaska. Both Democrats and Republicans agree that the United States needs to reform its democracy but tend to disagree on approaches.

After the 2020 elections, many states enacted [suppressive voter laws](#), leading organizations like Sweden-based think-tank, IDEA, to [label the United States](#) as a "Backsliding" democracy. In the 2020 election cycle, false claims of fraud led to a shift in opinion concerning voter laws, particularly among Republicans. Research conducted by the [Pew Research Center](#) found that the percentage of Republicans who say "everything possible should be done to make voting easy" declined by 20% since just 2018. The results were reflected in Washington, where in 2006, the Senate voted unanimously to pass the Voting Rights Reauthorization Act. In contrast, now just one Senator has crossed party lines to support the John Lewis Voting Rights Advancement Act, and five months ago, Republicans used the filibuster to halt a vote on the John Lewis Voting Rights Advancement Act.

The Freedom to Vote Act (HR.1) encapsulates a [broader range of](#) issues than the John Lewis Voting Rights Act. The Freedom to Vote Act combats dark money, voter suppression, and partisan gerrymandering.

Early hopes for bipartisan cooperation on the bill were [squandered](#) as Conservative Democrat Joe Manchin of West Virginia seems to have failed to attract the ten conservative votes needed to overcome a filibuster. The primary point of contention among conservatives is the issue of election integrity and security. HR.1 promises to create a nationalized election system standard to prevent potentially suppressive and discriminatory practices by individual jurisdictions. R Street Institute researchers [contend](#) a singular federalized election system would be significantly easier to infiltrate than other dispersed systems such as the one which exists today: "It is challenging to organize an attack that penetrates thousands of jurisdictions, which mostly operate on different systems or procedures..." Proponents of the bill point to provisions that enhance election security, such as provisions that require post-election audits and improve election infrastructure. A statement of support signed by hundreds of field experts by New America explains the consequences of passage would bolster ["national security"](#) for the United States.

Additionally, expansion of voter access provisions in H.R.1 is cause for concern among some Republicans. Conservatives are concerned with heightened fraud due to absentee ballot provisions that enable individual voters to designate "any person" to return ballots. These provisions, in their view, would enable ["ballot harvesting"](#) where partisan operatives may solicit votes more easily. However, voter fraud is [extremely unlikely, hard to perform, and does not swing elections](#). Undue voter fraud concerns [may lead](#) to suppressive and discriminatory consequences in the form of new legislation.

Left-leaning legislators are emphasizing the need for campaign finance reform, among the other concerns of voter access and non-partisan redistricting. The small-donor matching provision within H.R. 1 would reduce the influence of large donors in the post [Citizens United](#) U.S politics. Heather McGhee, a senior fellow Demo --a

progressive think tank—describes the big donor-reliant finance system as a “return to a virtual property requirement.” The Brennan Center claims [such campaign finance provisions](#) will lead to an improved democracy for the people and by the people.

Conclusion

- The Senate ought to pass the Freedom to Vote Act, as it will set an important precedent in voting rights.
- The John Lewis Voting Rights Act is also important legislation, but it may be harder to pass because of the Senate filibuster.

Both H.R. 1 and H.R. 4 need to be passed. The [Freedom to Vote Act](#) will set precedence in the area of safely and freely casting ballots. Throughout the last couple of years, vote counting has been under attack. Voters have not been able to cast their votes and some votes were not counted based on accusations or fears of fraud by Republican lawmakers. Throughout the last year, many states have passed laws that will enact restrictions on voting rights and have also drawn legislative maps that are biased. The maps that have been crafted are in favor of either Republicans or Democrats, and, as a result, are leading to many people’s votes not having equal impact. However, through the Freedom to Vote Act there would be an [enactment of national standards](#) to protect our freedom to vote, reduce dark money in politics, remove partisan gerrymandering, and protect elections from partisan sabotage.

The John R. Lewis Voting Rights Advancement Act would restore the original power of the Voting Rights Act undermined by the courts. During the November elections, black voters played a large role in the election of President Biden and helped to resurrect his campaign, while also playing a key role in turning the senate democratic. Through this, it was believed that they would be able to gain new voting rights and would be able to have these rights permanently solidified. However, despite Biden’s victory and the Democrat-controlled Senate, neither H.R. 1 nor H.R.4 have been passed. Voting rights activist [Helen Butler](#) stated, “It is disheartening, I can tell you, out of all the work we’ve put in to have fair elections, to get people engaged, and to have the Senate that will not act to protect the most sacred right, the right to vote, is unheard of.” The passage of these laws would restore the voting power of the underrepresented and also deal with the issues that the current voting laws present. It was seen in the November elections that these underrepresented voters have the potential to change the elections and this can only happen through the newly passed laws.

However, in order to get these laws passed the [Democrats need to get past the filibuster](#). This is a senate rule which requires that at least sixty votes are needed in order to advance legislation. The Republicans have made use of this rule many times this year for their advantage. In order to gain support to remove this rule, the Democrats need to garner support from two more of their senators in order to get 50 votes. The two senators are opposed because they believe it forges bipartisan compromise, but Republicans have “[weaponized it into a tool of obstruction](#).” A law to prevent gerrymandering is crucial, as Republicans in several states have passed distorted electoral maps that will ensure that Republicans have advantages in Congress for the next ten years

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