



**STATEMENT OF WADE HENDERSON, INTERIM PRESIDENT AND CEO
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**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON HOUSE ADMINISTRATION
SUBCOMMITTEE ON ELECTIONS**

**HEARING ON “VOTING IN AMERICA: A NATIONAL PERSPECTIVE ON THE RIGHT TO
VOTE, METHODS OF ELECTION, JURISDICTIONAL BOUNDARIES, AND
REDISTRICTING”**

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Chairman Butterfield, Ranking Member Steil, and members of the subcommittee: Thank you for holding this important hearing today on how we ensure all of us — no matter our color, zip code, or income — have an equal say in our democracy. My name is Wade Henderson, and I am the interim president and CEO of The Leadership Conference on Civil and Human Rights, a coalition of more than 220 national organizations working to build an America as good as its ideals.

The Leadership Conference was founded in 1950 and has coordinated national advocacy efforts on behalf of every major civil rights law since 1957, including the Voting Rights Act of 1965 and subsequent reauthorizations. Much of our work today focuses on making sure that every voter has a voice in key decisions like pandemic relief, access to affordable health care, and policing accountability. At The Leadership Conference, we aim to ensure that every voter can cast a vote and have it counted.

This is a critically important discussion as we watch a coordinated, calculated, and ongoing attack on Black and Brown voters and the very foundation of our democracy: the freedom and right to vote. But we have our marching orders. In one of his final messages to the nation, the late Congressman John Lewis called on each of us to remember that “Democracy is not a state. It is an act.”¹ He said that each generation must do its part to help build the Beloved Community.

Americans are heeding his call. Across diverse backgrounds — and in the face of a once-in-a-century global pandemic — people turned out last year to vote in unprecedented numbers.² It was an awe-inspiring moment for the world’s oldest and greatest democracy. It was a declaration of the possibility of our nation to live up to its highest ideals. And it was a recognition that the right to vote is fundamental to

¹ <https://www.nytimes.com/2020/07/30/opinion/john-lewis-civil-rights-america.html>

² <https://www.pewresearch.org/fact-tank/2021/01/28/turnout-soared-in-2020-as-nearly-two-thirds-of-eligible-u-s-voters-cast-ballots-for-president/>

the preservation of all other rights. Voting is essential to our democracy. Indeed, it is the language of our democracy.

But in response to that historic election, some politicians are trying their hardest to take us backwards by creating barriers for Black, Brown, Indigenous, and new Americans who want to continue to exercise this fundamental right. We are at an inflection point. Our nation has approached the time of dealing with the contradiction of what we say we are as a democratic republic, and what we actually are. In this perilous moment, Congress must carry out its duty and swiftly act to make real the promise of our democracy for all.

The legacy of the Voting Rights Act — and the urgent need to update it today

In 1965, Congress passed the Voting Rights Act to outlaw racial discrimination in voting. Previously, many states barred Black voters from participating in the political system through literacy tests, poll taxes, voter intimidation, and violence. In the mid-1950s, only 25 percent of African Americans were registered to vote, and the registration rate was even lower in some states. In Mississippi, for example, fewer than 5 percent of African Americans were registered to vote.³ Those rates soared after Congress enacted the VRA. By 1970, almost as many African Americans registered to vote in Alabama, Mississippi, Georgia, Louisiana, North Carolina, and South Carolina as had registered in the century before 1965.⁴ The VRA became the nation’s most effective defense against racially discriminatory voting policies.

It was not long ago — just in 2006 — that this body reauthorized the VRA for the fourth time with sweeping bipartisan support. The House of Representatives voted to reauthorize the landmark legislation by a 390-33 vote and the Senate passed it unanimously, 98-0.⁵ Given the importance of the VRA, Congress undertook that reauthorization with great care and deliberation — holding 21 hearings, hearing from more than 90 witnesses, and compiling a massive record of more than 15,000 pages of evidence of continuing racial discrimination in voting.

In the U.S. Supreme Court’s 2013 decision *Shelby County v. Holder*,⁶ five justices eviscerated the most powerful provision of the VRA: the Section 5 preclearance system.⁷ This section enabled the federal

³ U.S. COMM’N ON CIVIL RIGHTS, AN ASSESSMENT OF MINORITY VOTING RIGHTS ACCESS IN THE UNITED STATES 171 (2018), https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf

⁴ *Shelby County v. Holder*, 570 U.S. 529, 562 (2013) (Ginsburg, J., dissenting).

⁵ <https://www.congress.gov/bill/109th-congress/house-bill/9>

⁶ *Shelby County v. Holder*, 570 U.S. 529 (2013).

⁷ Under Section 5 of the VRA, jurisdictions with a demonstrated record of racial discrimination in voting were required to submit all proposed voting changes to the U.S. Department of Justice or the U.S. District Court in Washington, D.C., for “preclearance” in advance of implementation. The jurisdictions were required to prove that the proposed voting change would not deny or adversely affect the right to vote on the basis of race, color, or an eligible voter’s membership in a language minority group. Preclearance was a crucial element of the VRA because it ensured that no new voting law or practice, such as closing or moving a polling place, would be implemented in a place with a history of racial discrimination in voting unless that law was first determined not to discriminate against voters of color. However, in *Shelby County*, the U.S. Supreme Court invalidated the formula that determined which

government to block proposed voting restrictions in certain states and counties with histories of racial discrimination. It also ensured that changes to voting rules were public, transparent, and evaluated to protect voters against discrimination based on race and language. In *Shelby County*, Chief Justice John Roberts, on behalf of the majority, declared that “Our country has changed.” The Court held that the formula that decided which jurisdictions were subject to preclearance was outdated. The Court instructed that Congress must assess current conditions in order to lawfully require states and political jurisdictions to preclear voting changes. Now that this assessment is being conducted, there can be no question of the persistent racial discrimination at the ballot box. Congress must act.

The devastating toll of *Shelby County v. Holder*

Despite the best efforts of The Leadership Conference and its many member organizations to protect voting rights and promote civic participation, the impact of eight years of overt and covert anti-voter tactics are taking their toll. Mere hours after the *Shelby County* decision was announced, some states began ramming through legislation that almost certainly would have been prevented by the federal government. Texas, Mississippi, and Alabama immediately implemented strict voter ID laws that disproportionately harm voters of color.⁸ And North Carolina lawmakers introduced a voter suppression bill that a federal court later struck down and described as “the most restrictive voting law North Carolina has seen since the era of Jim Crow” with provisions that target African Americans “with almost surgical precision.”⁹

Without the VRA’s tools to fight the most blatant forms of discrimination, people of color continue to face barriers to exercising their most important civil right, including voter intimidation, felon disenfranchisement laws built on top of a system of mass incarceration, burdensome and costly voter ID requirements, and purges from the voter rolls. States have also cut back early voting opportunities, eliminated same-day voter registration, and shuttered polling places.

In 2019, The Leadership Conference Education Fund released an analysis of 757 counties once covered under Section 5.¹⁰ Our team found that an astonishing 1,688 polling places were closed between 2012 and 2018. There may be valid reasons for closing certain polling places. But these high rates of closures took place amid a larger constellation of efforts to prevent people of color, older voters, and voters with disabilities from voting. Absent the former preclearance mandate, states are under no obligation to evaluate the discriminatory impacts and potential harms of polling place closures. The report found that closures often mean long lines at polling places, transportation hurdles, and mass confusion about where eligible voters may cast their ballots. For many people, these burdens make it harder, and sometimes impossible, to vote.

states and jurisdictions are covered by Section 5 of the VRA and thus are required to undergo preclearance. Without that determination, the preclearance provision essentially became inoperable.

⁸ <https://www.brennancenter.org/our-work/policy-solutions/effects-shelby-county-v-holder>

⁹ *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

¹⁰ <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>

The deluge of anti-voter laws and policies has been unrelenting. The 2020 election season was marred by politicians making it harder to vote — and some even leveraged the COVID-19 pandemic to limit voter access, forcing voters to risk their health or lose their vote. In the lead up to Election Day, as more than 100 million people went to safely cast early votes, several states limited the number of drop boxes available for voters to return their absentee ballots.¹¹ Some closed polling places in predominantly Black neighborhoods and required onerous witness and notary requirements for vote by mail. Others made late changes in voting rules, and then neglected to inform voters about them.¹²

In one egregious example, Milwaukee had only five polling sites open compared to the usual 180 — dramatically increasing people’s risk of infection. And this in a city that is home to 60 percent of the state’s Black voters and 30 percent of its Hispanic voters.¹³ It must be noted that in the days leading up to the primary election, COVID-19 was spreading in Wisconsin, and it was particularly rampant in Black neighborhoods in Milwaukee. Statistics from the first week of April show that African Americans made up almost half of Milwaukee County’s COVID-19 cases, and 81 percent of the county’s COVID-19 deaths. Because the Republican majority in the state legislature refused to give people a few extra days to return their mail-in ballots, Black and Brown voters had to wait in hours-long lines at the polls or stay home and give up their vote. An analysis of April 2020 primary turnout from our All Voting is Local campaign and Demos found that in Milwaukee, wards with higher Black and Hispanic populations had significantly lower voter turnout compared to wards with a high percentage of white residents.¹⁴

Despite lawmakers’ shameful and life-threatening efforts to silence voters, voters across America showed up to the polls in unprecedented numbers. Make no mistake: Democracy prevailed because the people prevailed. Voters refused to give up their power, and front-line election workers risked their health to make sure the wheels of democracy continued to turn amid the pandemic. The election cycle revealed not only the resiliency of the American people, but also the will to move forward with the systemic change needed to ensure that our democracy works for everyone.

However, the assault on our freedom to vote has only grown more dire since the 2020 election. After voters turned out to the polls in historic numbers, certain politicians peddled electoral lies, tried to discount the votes of communities of color, and attempted to override the will of the people. Their efforts ultimately fueled a deadly attack on the U.S. Capitol by armed right-wing militants. Now, having lost both the election and the attempt to undermine it, Republicans in states are telling lies about voters and our election systems as a pretext for erecting a wide array of barriers to voting and reshaping the electorate to their advantage.

Most Americans believe that voters get to choose our leaders; our leaders do not get to choose their voters. And yet, since January of this year, at least 14 states have enacted 22 laws that roll back early and

¹¹ <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/10/16/rise-in-use-of-ballot-drop-boxes-sparks-partisan-battles>

¹² <https://www.npr.org/2020/10/17/924527679/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-too-few-polling-pl>

¹³ <https://civilrights.org/blog/covid-19-silenced-voters-of-color-in-wisconsin/>

¹⁴ Ibid.

mail voting, add new hurdles for voter registration, impose burdensome and unnecessary voter identification requirements, strip power from state and local election officials to enhance voting access, and otherwise make voting more difficult. Overall, state lawmakers have introduced at least 389 anti-voter bills this year. In Georgia, state legislators passed a bill that takes away local control over elections from counties and transfers it to themselves — a clear indication of the partisan motives behind these laws. The bill even makes it a crime to offer food or water to voters waiting in line. In Arizona, where the overwhelming majority of voters cast their ballots by mail, legislators moved to purge voters from the early voting lists which will limit vote-by-mail. And Florida legislators passed a bill to reduce voting access by limiting the use of drop boxes and making it a serious crime for anyone but a member of a voter’s immediate family to take their mail-in ballot to the mailbox.¹⁵

These restrictions are consistently found to significantly and disproportionately burden voters of color. That disproportionate burden is well documented at every stage of voting — from registering to vote to getting to the polls to casting a ballot. The growing tide of efforts to limit people of color from equally participating in the political process reflects the very strategies of vote denial that led Congress to adopt the VRA in the first place.

The Leadership Conference knows the road ahead presents demanding challenges. It is why in 2018, together with a group of leading civil rights organizations, we launched a campaign called All Voting is Local to help ensure that the right and ability to vote are protected at all levels.¹⁶ The campaign works in eight states — Arizona, Florida, Georgia, Michigan, Nevada, Ohio, Pennsylvania, and Wisconsin — to eliminate needless and discriminatory barriers to voting before they happen. What we’re seeing in states is an attempted power grab, pure and simple. It is coordinated through cookie-cutter legislative measures that ignore the will of the voters and the very real problems in our elections like lack of funding, resources, and voter access.

In the late Justice Ruth Bader Ginsburg’s dissenting opinion in *Shelby County*, she wrote that throwing out the preclearance system when it successfully stops discrimination “is like throwing away your umbrella in a rainstorm because you are not getting wet.”¹⁷ Today, we are drenched.

The time is now to pass the John Lewis Voting Rights Advancement Act

When President Lyndon Johnson signed the Voting Rights Act of 1965, he declared the law a triumph and said, “Today we strike away the last major shackle of ... fierce and ancient bonds.”¹⁸ But 56 years later, the shackles of white supremacy still restrict the full exercise of our rights and freedom to vote.

For democracy to work for all of us, it must include us all. While an overwhelming majority of people in America support policies like access to affordable health care, increasing the minimum wage, and action on climate change, a small handful of politicians have the power to deny progress at every turn. When

¹⁵ <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-may-2021>

¹⁶ <https://allvotingislocal.org/>

¹⁷ *Shelby County v. Holder*, 570 U.S. 529 (2013) (Ginsburg, J., dissenting).

¹⁸ <https://www.presidency.ucsb.edu/documents/remarks-the-capitol-rotunda-the-signing-the-voting-rights-act>

considering the past year alone, it is painfully clear that the history of police violence with impunity against Black people, and the pandemic's disproportionate devastation on Black, Brown, Native American, and low-income communities, are an indictment of our failure to rid American institutions of longstanding racism and systemic inequality. When people can't access the ballot and when they are not represented in the ranks of power, our democracy is in peril.

This coordinated, anti-democratic campaign targets the heart of the nation's promise: that every voice and every eligible vote count. With an election less than two years away, there is no time to waste in guaranteeing all Americans the freedom to vote. That's why Congress must meet the urgency of the moment and pass the John Lewis Voting Rights Advancement Act. The VRAA will restore the essential portion of the Voting Rights Act that blocks discriminatory voting policies before they go into effect, putting a transparent process in place for protecting the right to vote. It will also bring down the barriers erected to silence Black, Indigenous, young, and new Americans and ensure everyone has a voice in the decisions that impact our lives.

On March 7, 1965, just a few months before President Johnson would sign the Voting Rights Act into law, then 25-year-old John Lewis led more than 600 people across the Edmund Pettus Bridge to demand equal voting rights. State troopers unleashed brutal violence against the marchers. Lewis himself was beaten and bloodied.¹⁹ But he never gave up the fight. For decades, the congressman implored his colleagues in Congress to realize the promise of equal opportunity for all in our democratic process. Before his death, he wrote: "Time is of the essence to preserve the integrity and promises of our democracy."²⁰ Members of this body must now heed his call with all the force they can muster.

Thank you for inviting me to testify today. I am pleased to answer any questions you may have, and I look forward to working with you to ensure all of us, no matter race or place, have an equal say in our democracy.

¹⁹ <https://www.history.com/news/selma-bloody-sunday-attack-civil-rights-movement>

²⁰ <https://web.archive.org/web/20200719053551/https://johnlewis.house.gov/media-center/press-releases/rep-john-lewis-demands-doj-action-anniversary-shelby-v-holder-decision>