

Vote Dilution and Voter Disenfranchisement in the History of the United States

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There is a long history of voter suppression, including vote dilution and voter disenfranchisement, in the history of the U.S.¹ At times there were specific groups that were the targets of these efforts including immigrants, African Americans, Latinos, Asian Americans, Native Americans, other language minorities, and women. Other times such targeting occurred behind the required payment of property taxes, poll taxes, literacy tests, or convictions for a felony. What is significant about these efforts is they were in almost every instance enacted by efforts designed to maintain groups in power by excluding others. Those groups were, most often, while males.

It is also important to understand that when successful efforts were pursued to fully enfranchise a previously excluded group, those who perceived themselves to have lost or who now had to share power, often worked actively to reverse that enfranchisement. Success, in other words, has rarely been maintained. Retrenchment and reaction have often led to backsliding that required even greater efforts to overcome policies and practices of dilution and disenfranchisement.

In this report, I discuss a history of the presence of efforts at voter suppression, with a special emphasis on vote dilution and disenfranchisement, in the history of the U.S. This is done to provide analytical background to more comprehensively understand the continuing need for

¹ See Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (NY, NY: Basic Books, 2000).

governments—national, state, and local—to actively work to overcome laws, policies, and practices that suppress voters’ capacities to cast a meaningful vote and to cast a vote at all. This history can also be used to understand that current efforts that lead to voter suppression build, and often replicate, what has been done in the nation’s past. One can say that historical legacy may, in fact, not be a legacy of the past, but rather a current manifestation of that past legacy.

It is also the case that judicial endorsement of the expansion of voting rights has been uneven, and often times not long lasting. For example, the Supreme Court in *Shaw v. Reno* (1993),² and *Shelby County v. Holder* (2013),³ changed court precedent most recently. What is learned from the history of the U.S. is that without a clear, strong, commitment on the part of the federal government, one cannot depend on state and local jurisdictions to protect the voting rights of racial, ethnic, language minority, and other historically marginalized voters. This history must be remembered as Congress considers amending Section 4 of the Voting Rights Act to focus on practices that lead to disenfranchisement and vote dilution throughout the country. Such practices can be overt as well as subtle. Whatever clarity can be provided by the rewriting of Section 4 will work to enhance the likelihood that all voters will have an equal chance to vote and to cast a meaningful vote. Only then will one of the most fundamental ideals of American democracy have the chance to be realized.

² 92 U.S. 357.

³ 570 U.S. 529.