

**Written Testimony of Rev. Dr. William J. Barber II, Repairers of the Breach
before the
U.S. House of Representatives
Committee on The Constitution, Civil Rights and Civil Liberties**

“Oversight of the Voting Rights Act: The Evolving Landscape of Voting Discrimination”

Thursday, April 22, 2021

Thank you for the opportunity to speak before you today. My name is Rev. Dr. William Barber II. I am President and Senior Lecturer of Repairers of the Breach, and Co-Chair of the *Poor People’s Campaign: A National Campaign for Moral Revival*.¹ I am also a leader of the Forward Together Moral Movement, a civil and human rights movement that began in North Carolina and has since been embraced across the South and across the country, and the immediate past president of the North Carolina State Conference of the NAACP.²

In the wake of the organized *coup* attempt emboldened by hate, lies, and racism on January 6, 2021 at this U.S. Capitol,³ the people of America and this Congress sit at the crossroads of a historic reckoning calling us to Restore the Soul of our Democracy and enact full protections of our sacred right to vote. Our Constitution says that we must establish justice. Our Constitution requires equal protection under the law, and our Constitution commands that you cannot deny or abridge the right to vote on account of race or color. When you suppress the right to vote, in essence, you are suppressing people's humanity, you are saying that they are not worthy of full citizenship. To suppress the right to vote is to suggest, in theological terms, that other people do not have the same *Imago Dei*, “the image of God” in you. **The brazen, surgically targeted vote suppression sweeping this country is both unconstitutional and immoral. It results in what we should understand to be an impoverished democracy: a democracy deprived of the wealth and representation of its peoples’ voices and the expressive force and legitimacy of the true will of its people.**

¹ Repairers of the Breach is a nonpartisan 501c3 tax exempt, not-for-profit organization that seeks to build a moral agenda rooted in a framework that uplifts our deepest moral and constitutional values to redeem the heart and soul of our country. The Poor People’s Campaign: A National Call for Moral Revival unites tens of thousands of people across the country to challenge the evils of systemic racism, poverty, the war economy, ecological devastation and the nation’s distorted morality.

² The NC NAACP is a nonpartisan, nonprofit organization composed of over 100 local branches and 20,000 individual members throughout the state of North Carolina. The Forward Together Moral Movement is a multiracial movement of blacks, whites and Latinx seeking a just and inclusive democracy.

³ Rev. William Barber and Rev. Liz Theoharris, “Statement from the Poor People’s Campaign: A National Call for Moral Revival on the Events of January 6th,” *Poor People’s Campaign*, last modified January 9, 2021, accessed April 21, 2021, <https://www.poorpeoplescampaign.org/january-6th-statement/>.

As we come together this morning, less than 100 days since the inauguration of a new American government, at least 361 bills have been introduced in 47 state legislatures to suppress the right to vote.⁴ From Georgia⁵ to Texas, from Tennessee, to Iowa, to Mississippi,⁶ and in my home state of North Carolina,⁷ I stand alongside courageous state-based leaders rising up to fight these targeted attempts to silence the votes of people of color, indigenous people, and low-income voters. The proposed laws target access to the ballot by the very people who overcame the most extreme obstacles — including the devastation of an unprecedented global pandemic — to make our voices heard,⁸ shattering voter turnout records in 2020, and changing the course of history.⁹

It is unsurprising, but should shock the conscience, that a recent Washington Post analysis found that if these bills succeed, it would amount to *“the most sweeping contraction of ballot access in the United States since the end of Reconstruction, when Southern states curtailed the voting rights of formerly enslaved Black men...”*¹⁰

Together we have lived through the first two Presidential elections, in 2016 and 2020, without the full protections of the Voting Rights Act since its passage in 1965. Our democracy and our people can afford no further assault. Today, we must pledge anew to immediately restore the full protections of the right to vote for all Americans in the name and spirit of all those who have given their lives and their blood to this cause. We must stand in covenant across generations with those who have held faithful belief that America, though originating in the sins of exclusion, will be

⁴ State Voting Bills Tracker 2021, Brennan Center for Justice. <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>. Accessed 21 Apr. 2021.

⁵ On March 24, 2021 Georgia passed the “Election Integrity Act of 2021” or SB 202. SB 202 will disenfranchise voters. Among other restrictions, SB 202 shortens early voting during run-off elections, reduces the time to request and return absentee ballots, limits the use of absentee drop boxes, prohibits mobile voting booths unless there is a state of emergency, and bans non-poll workers from giving food or water to voters standing in line. <https://www.legis.ga.gov/api/legislation/document/20212022/201121> (Section 26, lines 1172-1219); (Section 42, lines 2226-2239); (Section 20, lines 776-778); (Section 33, lines 1887-1889).

⁶ “Special Report: The GOP’s National Effort to Make Voting More Difficult.” NC Policy Watch, 31 Mar. 2021, <http://www.ncpolicywatch.com/2021/03/31/special-report-the-gops-national-effort-to-make-voting-more-difficult/>

⁷ Newton, et al. Election Integrity Act. Senate Bill 326, 22 Mar. 2021, <https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S326v1.pdf>.

⁸ “Unleashing the Power of Poor and Low-Income Americans.” Poor People’s Campaign, <https://www.poorpeoplescampaign.org/resource/power-of-poor-voters/>.

⁹ Desilver, Drew. “Turnout Soared in 2020 as Nearly Two-Thirds of Eligible U.S. Voters Cast Ballots for President.” Pew Research Center, 28 Jan. 2021, <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/>.

¹⁰ Gardner, Amy, et al. “How GOP-Backed Voting Measures Could Create Hurdles for Tens of Millions of Voters.” Washington Post, <https://www.washingtonpost.com/politics/interactive/2021/voting-restrictions-republicans-states/>.

reconstructed, its breaches repaired, to realize the abundant, soaring promise of a Democracy truly of, by, and for all people of this nation.

We are living at a time when voters of color hold increased potential for political power. More than 30 percent of America’s eligible voters — the largest percentage in our nation’s history — are people of color.¹¹ From 2000 to 2018, the national eligible voter population grew by 40.3 million — and Latinx, Black, Asian voters or voters of another non-white race or ethnicity comprise 76% of this increase.¹²

We are also living at a time in which America is home to 140 million poor and low-income people – over 43.5% of the population – in the richest country in the history of the world. This includes 39 million children, 74.2 million women, 60.4% or 26 million Black people, 64.1% or 38 million Latinx people, 40.8% or 8 million Asian people, 58.9% or 2.14 million Native and Indigenous people, and 33.5% or 66 million white people.¹³

Increasing the harm on these 140 million individuals and people of color in this nation, since 2010, we have experienced an onslaught of attacks on voting rights in state legislatures: racialized voter suppression and gerrymandering have helped to smuggle state leaders into office, who then turn around and pass policies that hurt the poor and marginalized. Life-giving social programs are being eviscerated to make way for increased spending on war, militarizing our border, and tax payouts to Wall Street.

And yet, African Americans, Latinx, Asian Americans, and whites are coming together in historic numbers to form fusion coalitions to elect representatives of choice. At the same time, particularly

¹¹ Steve Phillips. “Brown is the New White: How the Demographic Revolution Has Created a New American Majority” (The New Press, 2016), citing U.S. Census data. (According to the latest Census data, the nation’s citizen voting age population has reached over 220 million eligible voters. Of these, over 27 million (12.3%) are African-American, over 23.6 million (10.7%) are Latinx, 8.7 million (4.0%) are Asian and Pacific Islander, and among others, 155.8 million (70.8%) are white).

¹² Igielnik, Ruth, and Abby Budiman. “The Changing Racial and Ethnic Composition of the U.S. Electorate.” Pew Research Center, 23 Sept. 2020, <https://www.pewresearch.org/2020/09/23/the-changing-racial-and-ethnic-composition-of-the-u-s-electorate/>.

¹³ Shailly, Gupta Barnes. “Explaining the 140 Million: Breaking Down the Numbers Behind the Moral Budget.” Kairos, 26 June 2019, <https://kairoscenter.org/explaining-the-140-million/>; Hartley, Robert Paul. *Unleashing the Power of Poor and Low-Income Americans*. 11 Aug. 2020, <https://www.poorpeoplescampaign.org/wp-content/uploads/2020/08/PPC-Voter-Research-Brief-18.pdf>.

across the South, we are experiencing the worst restrictions on voting rights since the 19th century. Our democracy is plagued by disillusionment and distrust spurred by generations of disenfranchisement, indifference toward, or the outright vilification of excluded people by elected officials. In the 21st century, two presidential elections have been decided by the Electoral College, contradicting the popular vote. In 2018, in an election where voter turnout reached its highest level in a midterm election in 100 years, more than half of eligible voters did not vote.¹⁴ In every election in the last decade, millions of Americans were excluded from voting due to past felony convictions, a vestige of white supremacist-originated voter suppression that must be confronted and eliminated root and branch in our country.¹⁵

In my state of North Carolina, we have labored for more than a decade defending against an all-out attack on voting rights. This attack began as backlash against the multi-racial coalition that came together in 2008 to elect our nation's first African American President but was given free license when the Supreme Court gutted the protections of the Voting Rights Act in *Shelby County v. Holder* in 2013.¹⁶ As the Committee knows, North Carolina has not stood alone as a testing ground in the struggle to protect the right to vote. I provide this detailed testimony focused on the battleground of North Carolina to illustrate the stark necessity of immediate action by Congress.

When North Carolina's 15 electoral college votes were given to America's first African American President in 2008, shockwaves coursed through a racially polarized, white-dominated Republican Party that had, since the time of Nixon, banked on winning elections in Southern states through campaign strategies that stoked racial tensions in order to appeal to white voters. When this "Southern Strategy" failed to deliver in 2008 and was instead defeated by the strength of a multiracial fusion coalition, corporate and far-right interests¹⁷ scrambled to invest unprecedented sums of money in state legislative races, resulting in an extremist takeover of North Carolina's government in 2010 that would ultimately embed unprecedented racial gerrymanders that targeted the right to vote of African Americans.

¹⁴ Emily Stewart, "2018's Record-Setting Voter Turnout, in One Chart," Vox, accessed November 19, 2018, <https://www.vox.com/policy-and-politics/2018/11/19/18103110/2018-midterm-elections-turnout>.

¹⁵ At least 1 in 44 adults or 2.27 percent of the U.S eligible voting population is disenfranchised due to a felony conviction. 6.2 percent of the adult African American population is disenfranchised compared to 1.7 percent of the non-African American population. See Christopher Uggen, et. al., "Locked Out, 2020 Estimates of people denied voting rights due to felony convictions", October 30, 2020, accessible at: <https://www.sentencingproject.org/wp-content/uploads/2020/10/Locked-Out-2020.pdf>

¹⁶ *Shelby County v. Holder*, 133 S. Ct. 2612 (2013).

¹⁷ Mayer, Jane. "State for Sale." The New Yorker, <https://www.newyorker.com/magazine/2011/10/10/state-for-sale>.

As is now well known, the majority that gained power in the North Carolina General Assembly in 2010 quickly redrew both state legislative districts and U.S. congressional districts in their favor, illegally using race as a primary indicator and proxy for voters who opposed their agenda. “Stacking and packing” black voters in as few districts as possible, the extremists who hijacked the Republican party consolidated power, illegally gerrymandering congressional seats and succeeding in obtaining a state legislative supermajority for themselves by 2012. The 2011 districts segregated white and Black voters by mechanically adding Black voters to election districts in concentrations not authorized or compelled under the Voting Rights Act, thereby “bleaching” adjacent districts of voters of color and frustrating their ability to vote in alliance with a growing, multiracial fusion electorate that both bridges racial divides and mitigates the effects of racially polarized voting.

Half a decade later, in June 2017, after years of heroic fighting both in the streets and in the courts by the Forward Together Moral Movement and North Carolinians, a unanimous U.S. Supreme Court issued a *per curiam* decision affirming the striking down of the maps that created this unaccountable supermajority as a sweeping unconstitutional racial gerrymander;¹⁸ and in November 2018, the people of North Carolina finally held long-awaited elections under the court-ordered remedial maps.

The unconstitutional racial gerrymander, set in place in 2011, created a governing body in North Carolina filled with the very legislators against which the Supreme Court has cautioned: legislators who believed their “primary obligation is to represent only the members’ of a particular racial group,¹⁹ namely, a polarized base of white voters divided from the multiracial community. It did not surprise us then, and will not surprise you now, to learn that one of the first items on the agenda of this extremist supermajority was a bill to restrict access to the ballot, which came to be known as the “monster voter suppression law.”²⁰

The best safeguard protecting voters of color in North Carolina and across the nation from the enactment of racially discriminatory voting laws under consideration by racially gerrymandered state legislatures, like the one in North Carolina, in 2012 was the law that so many in the civil

¹⁸*North Carolina v. Covington*, 198 L. Ed. 2d 110 (U.S. 2017) (per curiam) (affirming lower court holding that 28 North Carolina state legislative districts were unconstitutional racial gerrymanders). The U.S. Supreme Court also upheld the striking down as unconstitutional racial gerrymandering in North Carolina’s congressional districts in *Cooper v. Harris*, 137 S. Ct. 1455 (2016).

¹⁹ *Shaw v. Reno*, 509 U.S. 630, 648 (1993).

²⁰ N.C. Sess. L. 2013-381 (Aug. 12, 2013), *invalidated by NC NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

rights movement had fought, bled, and died for: the Voting Rights Act. In North Carolina and across this nation, it was therefore devastating when, in the Summer of 2013, the Supreme Court gutted the heart of that critical piece of civil rights legislation in *Shelby County v. Holder*, leaving previously-covered jurisdictions vulnerable to voter suppression efforts, despite the fact that they remained sites of struggle for voting rights.²¹ For example, in the 30 years prior to the *Shelby County* ruling, the U.S. Department of Justice objected more than 60 times to more than 150 voting changes in North Carolina on grounds that they were racially retrogressive. Without the protection of preclearance, Voting Rights Act violations from that period would have resulted in disenfranchisement. Instead, African Americans and other voters of color participated in North Carolina elections at historic numbers.

Dissenting from the majority opinion in *Shelby County*, Justice Ginsberg wrote that, “[t]hrowing 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.”²²

In North Carolina, without preclearance protections, we were immediately – and continue to be – soaked in a deluge of voter suppression efforts. In just a matter of hours after the 2013 *Shelby County* ruling was handed down, leadership of the North Carolina General Assembly announced that because *Shelby County* had rid them of the “headache” of the Voting Rights Act’s preclearance protections, they could now move forward with the “full bill.”²³ The legislature introduced a sweeping, omnibus voter suppression bill that erected a slate of stringent, racially discriminatory barriers to the ballot. **The law eliminated same-day registration, pre-registration for 16- and 17-year-olds, out-of-precinct ballots, the first week of early voting, and instituted one of the nation’s most stringent voter ID requirements, among other restrictions.** This “monster voter suppression law” – the worst of its kind in the nation – was only possible because preclearance protection was no longer in place.

The Forward Together Moral Movement’s “Moral Mondays” organized a weekly people’s peaceful assembly and protest at our statehouse, ultimately resulting in arrests of over 1,200 people engaging in nonviolent civil disobedience. We stood united to oppose the General Assembly’s suppressive and regressive laws and express our first amendment right to instruct our legislature.

²¹ At the date of the *Shelby County* decision, fifteen states were covered by Section 5 in whole or part, and nine of those were Southern states from the former Confederacy: Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas and Virginia. Forty counties in North Carolina were subject to Voting Rights Act federal preclearance requirements, which covered statewide elections.

²² *Shelby Cty.* 133 S. Ct. at 2650 (J. Ginsburg, dissenting).

²³ Jim Rutenberg, *Disenfranchised: A Dream Undone*, N.Y. Times (July 27, 2009), available at: <https://www.nytimes.com/2015/07/29/magazine/voting-rights-act-dream-undone.html>.

After years of organizing and legal battles led by the Forward Together Moral Movement, the “monster voter suppression law” was ultimately struck down as intentionally racially discriminatory. **In July 2016, a unanimous panel of the U.S. Court of Appeals for the Fourth Circuit held that the law “target[ed] African Americans with almost surgical precision” and “impose[d] cures for problems that did not exist.”**²⁴ **This landmark decision became final when, in May 2017, the Supreme Court denied the leadership of the North Carolina General Assembly’s petition for certiorari in the case.**

Yet, the resurgence of voter suppression legislation in North Carolina did not end there. In the summer of 2018, undeterred by the federal courts’ 2016 ruling striking down its previous attempt to enact photo voter ID as *intentionally racially discriminatory*, and the federal courts’ 2017 ruling that it was the product of one of the largest unconstitutional racial gerrymanders “ever encountered,”²⁵ a General Assembly tainted by racially discriminatory intent used its power gained by racial gerrymander to put a photo voter ID requirement in the North Carolina Constitution.

It did so by leveraging its illegal supermajority to place the proposed photo voter ID constitutional amendment on the 2018 ballot in one of the last acts of the final regular session of its six-year run. Then, after the vaguely and misleading voter ID constitutional amendment was passed by statewide vote in the 2018 election, instead of allowing the elected legislature to take their seats, the same tainted and illegally-constituted legislature convened a December 2018 lame-duck special session to enact implementing legislation for the voter ID amendment, N.C. Sess. L. 2018-144, (SB824) overriding a gubernatorial veto.

As I testify today, North Carolina’s discriminatory photo voter ID requirement, as enshrined in the state constitution and implemented through law, is, once again, being fought by the people of North Carolina in the courts. On February 22, 2018, in an important ruling, the Wake County Superior Court found for the NC NAACP and Forward Together Moral Movement in a state case challenging the voter ID constitutional amendment. The court voided the 2018 voter ID amendment, holding that the General Assembly may only propose amendments to the state constitution “insofar as it has been bestowed with popular sovereignty,” and struck down the challenged amendments on the ground that “the unconstitutional racial gerrymander tainted the three-fifths majorities required by the state constitution before an amendment proposal can be submitted to the people for a vote, breaking the requisite chain of popular sovereignty between North Carolina citizens and their representatives.”²⁶ While this order, the effect of which has since been stayed, remains pending before the state Supreme Court, challenges to the photo voter ID

²⁴ *NC NAACP v. McCrory*, 831 F.3d. 226 (4th Cir. 2016), *cert. denied*, 581 U.S. ___, 137 S.Ct. 1399 (2017).

²⁵ *Covington v. North Carolina*, 270 F. Supp. 3d 881, 892 (M.D.N.C. 2019).

²⁶ *NC NAACP v. Moore*, 18 CVS 9806 Order (Wake Cty. Super. Ct. Feb. 22, 2019).

implementing legislation as illegal both in its racially discriminatory intent and racially discriminatory results remain pending before federal and state courts, as well.²⁷

On December 31, 2019, Judge Biggs of the Middle District of North Carolina granted the North Carolina State Conference of the NAACP's Motion for a Preliminary Injunction to halt implementation of Senate Bill 824. **The Court held that the state of North Carolina likely engaged in intentional racial discrimination when it passed Senate Bill 824.** On February 18, 2020, the North Carolina Court of Appeals also issued an injunction of S.B. 824, pending a final decision by the court. The court recognized that the law had already been enjoined by the federal court, but noted that “the federal district court’s injunction is merely temporary.” The court agreed with Plaintiffs – and with Judge Biggs’ ruling in the Middle District - that the law was likely passed with a discriminatory intent, and also held that the law “likely will have a negative impact on African Americans because they lack an acceptable ID at a greater rate than white voters.”²⁸ This ruling by a three-judge panel was unanimous. While the federal preliminary injunction has been overturned in 2021 by a panel of the Fourth Circuit, the case is still pending trial and a final decision by the Middle District of North Carolina, and the state injunction remains in place today. As a result, there is currently no discriminatory photo voter ID in North Carolina.

North Carolinians also await a final ruling from the Wake County Superior Court in *Community Success Initiative, et al. v. Moore et al.*, which we hope will bring an end to North Carolina’s racially discriminatory felony disenfranchisement scheme. In 2019, Community Success Initiative, along with other organizational and individual plaintiffs, brought a state constitutional challenge to the practice of disenfranchising those who have previously been convicted of a felony until they had completed their term of probation or post-release supervision.²⁹ In North Carolina, over 50,000 individuals are currently prohibited from voting because they have a prior felony conviction, and in many cases are disenfranchised solely due to their inability to pay fines and fees.³⁰ Black individuals represent 22 percent of North Carolina’s voting age population, but make up 42 percent of individuals who are disenfranchised while on probation or post release supervision.³¹ In September 2020, a three-judge panel ruled that North Carolina’s felony disenfranchisement scheme **does violate sections of the state Constitution, and that thousands of people on community supervision whose inability to pay fines and fees extended their probation can**

²⁷ See *NC NAACP v. Cooper*, 18-cv-01034 (M.D.N.C. filed Dec. 20, 2018); *Holmes v. Moore*, 18CV15292 (Wake Cty. Super. Ct. filed Dec. 18, 2018).

²⁸ *Holmes v. Moore*, No. COA19-762 (Feb. 18, 2020).

²⁹ Plaintiffs’ Complaint, *CSI v. Moore*, 19CVS 15941 (November 20, 2019).

³⁰ Expert Report of Dr. Frank Baumgartner at 5, Table 1, *CSI v. Moore*, 19 CVS 15941 (May 11, 2020).

³¹ *Id.* at 7, Table 2.

register to vote.³² While this ruling was a partial victory, the fight continues. Tens of thousands of people on community supervision remain disenfranchised because the ruling only applied to those who still owe fines and fees. The Plaintiffs will return to court in 2021 to continue to fight to expand the “we” in “we the people” and create a more inclusive democracy.

As I have detailed in Congressional testimony in further detail in the past,³³ in addition to legislative action, showing no chagrin at the Fourth Circuit’s finding of intentional race discrimination, extremists in the state continued to attempt to suppress the vote in North Carolina during the 2016 General Election, as North Carolina, along with states across the country, entered the first presidential election in 50 years without the full protections of the Voting Rights Act, and those efforts have continued through the present day.

For example, despite the Fourth Circuit’s ruling requiring the restoration of the first seven days of the early voting period, North Carolina Republican Party Chairman Dallas Woodhouse produced and distributed a memo to Republican members of the county boards of election (who were then in the majority in each county in the state), instructing them to make “party-line” decisions in drafting new early voting plans, including voting **against** Sunday hours for voting and maintaining decreased numbers of hours and sites particularly on weekends.³⁴ This directive was given—and to a large degree carried out—notwithstanding the Fourth Circuit’s clear instruction in *NC NAACP v. McCrory* that “using race as a proxy for party . . . constitutes discriminatory purpose.”³⁵

³² Order on Injunctive Relief, *CSI v. Moore*, 19 CVS 15941 (September 4, 2020).

³³ *What Have We Learned: Lessons from the First Election Post-Shelby County Decision: Congressional Briefing*, Nov. 16, 2016 (statement of Rev. Dr. William Barber II, President of NC NAACP).

³⁴ Colin Campbell, *NC Republican Party seeks ‘party line changes’ to limit early voting*, News & Observer (Aug. 17, 2016) available at: <http://www.newsobserver.com/news/politics-government/election/article96179857.html>

³⁵ For example, in Guilford County, where over 30% of voters are African American, voters had 16 early voting sites available to them in the first week of early voting in 2012, but in 2016, only one site was open, resulting in lines reported of over 3 hours. Zachary Roth, *NBC News Analysis: North Carolina Counties That Cut Early Voting Sites See Lower Turnout*, NBC News (Oct. 2016), available at: <https://www.nbcnews.com/politics/2016-election/analysis-north-carolina-counties-cut-early-voting-sites-see-lower-n671246>.

In Winston-Salem, Greensboro, and Durham, early voting sites previously available on or near Historically Black Colleges and Universities, either were not opened at all in 2016 or only open on Election Day. In Nash County, a polling site that served disproportionately African American voters in Rocky Mount was not included in the first week early voting plan, over significant protests by the African-American community. Overall, in just the 40 counties in North Carolina that were formerly covered by preclearance, there were at least 158 fewer polling places open during the 2016 presidential election than in 2012, despite the fact that the state’s population has grown. Leadership Conference Education Fund, *The Great Poll Closure* (Nov. 2016) at 10, available at <http://civilrightsdocs.info/pdf/reports/2016/poll-closure-report-web.pdf>.

During the 2016 presidential election, we also saw the resurgence of another age-old voter suppression scheme in the form of mass mailings used to sweep up and purge eligible African-American voters from the voter registration rolls. Just days prior to the start of the 2016 early voting period, Grace Bell Hardison, a 100-year-old African-American woman who was disenfranchised under Jim Crow laws but had been a faithful voter for decades, received notice that her registration was being challenged by a white neighbor, and that the county board of elections would be holding a hearing on her eligibility to vote. Further investigation quickly uncovered that thousands of eligible voters in at least three counties in North Carolina were being removed through similar mail-based challenges, in violation of the National Voter Registration Act. On the eve of the election, Ms. Hardison and the NC NAACP filed suit and together we won an emergency injunction to stop the illegal purges and restore the removed voters.³⁶

In other counties in North Carolina, efforts to prevent eligible voters from casting a ballot were even more blatantly hostile taking the form of voter intimidation. In Chatham County, when the local NAACP branch and African-American churches organized a “Moral March” to the polls during the early voting period, they found “KKK,” “White Power,” and a swastika painted on the street leading to the A.M.E. church hosting the march. On the day of the event, onlookers shouted derogatory phrases parroting slogans from President Trump’s campaign and photographed the voters participating in the event.

Efforts at voter intimidation continued in 2020. For instance, on February 15, 2020, during the early voting period in North Carolina, a group of demonstrators gathered and protested an event held in the Chatham County Agriculture and Conference Center, where local groups Chatham for All and Abundance NC were hosting a panel discussion called “The Civil War Today.” These demonstrators displayed flags supporting the Confederacy, the League of the South (which has been designated as a violent hate group by the Southern Poverty Law Center) and in support of then-President Donald Trump – and reportedly yelled racial slurs – in the same area that voters had to traverse to access the designated polling place for early voting.³⁷ There is photographic evidence that at least some of these demonstrators were located directly in front of the entrance to the polling location. These events happened in the county that historically lynched more African Americans than any other in North Carolina during the Jim Crow era. Repairers of the Breach, the NC NAACP, the North Carolina Poor People's campaign, along with voting and civil rights organizations like Forward Justice, have documented these and other instances of voter

³⁶ *NC NAACP v. NC State Bd. Of Elections*, 1:16CV1274, 2016 U.S. Dist. LEXIS 153249 (M.D.N.C. Nov. 4, 2016); see also Ari Berman, *North Carolina Republicans Tried to Disenfranchise a 100-Year-Old African-American Woman*, *The Nation* (Oct. 17, 2016), available at <https://www.thenation.com/article/north-carolina-republicans-tried-to-disenfranchise-a-100-year-old-african-american-woman/>.

³⁷ NC NAACP Letter to State Board General Counsel Katlyn Love (February 15, 2020). Available at <https://www.naacpldf.org/wp-content/uploads/2-24-20-Coalition-Letter-to-SBOE-re-Voter-Intimidation-in-Chatham-County.pdf>.

intimidation based on race across the state of North Carolina, and appealed to the State Board of Elections to take emergency action to ensure that voter intimidation would be proactively addressed in our state.³⁸

During the 2020 General Election, the Poor People’s Campaign partnered with the NAACP Legal Defense Fund and Forward Justice to create a poll monitoring program across 10 states on election day 2020, in order to protect against and report instances of voter suppression and intimidation.³⁹ Through those efforts we documented and took action on a host of similarly troubling instances of voter intimidation and obstacles to the ballot that have no place in our democracy. One instance that has left images reminiscent of the civil rights movement seared in my mind took place on October 31, 2020, when a peaceful “Souls to the Polls” march in Graham, NC ended with primarily African American voters being pepper-sprayed and physically blocked from completing their walk to the early voting site in Alamance County.⁴⁰

Voters in North Carolina, across the South, and nationwide are caught in a storm of voter suppression without the cover of preclearance and full voting rights protections. The people have had to depend on costly, protracted, and difficult litigation to ensure our most fundamental rights.

We are certainly proud of the victories we have won. In North Carolina, thousands have stood together, regardless of race, color, economic status, or political party to defend the sacred right to vote – at times following in the footsteps of those who came before us and putting our bodies on the line in acts of nonviolent civil disobedience. We know this is a deeply moral issue that affects us all. **But these are battles that should never have occurred at all and justice delayed too often results in justice denied. The sanctity of our electoral system should not depend on whether or not we can find the means to take those who would undermine our democracy to court, time and time again.**

³⁸NC NAACP Coalition Letter to North Carolina State Board of Elections (September 24, 2020). Available at <http://forwardjustice.org/wp-content/uploads/2020/09/September-24-2020-Letter-re-Voter-Intimidation-Response-SBOE.pdf>.

³⁹ “Poor People’s Campaign Activates Rapid Response Operation against Voter Suppression with Attorneys, Poll Monitors in Battleground States & South.” Poor People’s Campaign, Available at <https://www.poorpeoplescampaign.org/about/press/poor-peoples-campaign-works-with-attorneys-poll-monitors-to-build-rapid-response-against-voter-suppression/>

⁴⁰ “Police used pepper spray to break up a North Carolina march to a polling place.” CNN, (November 1, 2020). Available at <https://www.cnn.com/2020/10/31/us/north-carolina-police-pepper-spray-polls/index.html>.

County-by-county across the South, in state legislatures and in the highest offices nationwide, old voter suppression schemes have found new champions. These champions – federal and state actors and private parties alike – have been emboldened by the erosion of those institutions that have been historically entrusted with protecting access to the ballot, and by the utter demolition of the preclearance protections that were at the heart of the Voting Rights Act.

They are emboldened by the fact that, because Congress has refused to restore the Voting Rights Act, the U.S. Attorney General and the U.S. Department of Justice have less power to protect voting rights now than they would have had in 1965. Without preclearance protections, extremists in these states have attempted and will continue to attempt to disenfranchise voters of color in ways that are difficult to stop.

Southern states hold 160 of 538 electoral votes and 138 of 435 Congressional House seats, as well as the highest concentrations of people of color of any region in the country. We must recognize that the South, due to our unique history, is still a distinctive region and remains uniquely susceptible to voter suppression abuses where racially polarized voting persists and where the poverty and systemic racism remain intertwined. The end of the Southern Strategy based on racial division is at hand. But we must address systemic voter suppression if we are to realize the promise of our democracy.

There has never been a more critical moment for expanding Americans’ access to the ballot box and for reducing the corrupting influence of big money in politics. Our experience in North Carolina — and the evidence of a tidal wave of voter suppression across this nation — makes absolutely clear that the right to vote remains under attack and that it is imperative upon us to eliminate the discriminatory and burdensome barriers to the ballot box so that we can have full participation in the important issues of our day.

After a massive fusion movement of poor and low-wealth people helped shift the political landscape in the 2020 election, more than 360 voter suppression bills have already been introduced in 47 states to limit voting access including voting by mail, early voting and voting on Election Day.⁴¹ In our March 2021 editorial,⁴² renowned voting rights attorney Penda Hair and I emphasized “designing a voting system to exclude voters because of their race or the political party they tend to support is illegal under the Constitution.” Study after study⁴³ has found that no election

⁴¹ State Voting Bills Tracker 2021 | Brennan Center for Justice. *Available at* <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>.

⁴² Barber, William, and Penda Hair. “Only Congress Can Save Our Democracy.” *Democracy Docket*, 17 Mar. 2021, *Available at* <https://www.democracydocket.com/2021/03/only-congress-can-save-our-democracy/>.

⁴³ Levitt, Justin. “A Comprehensive Investigation of Voter Impersonation Finds 31 Credible Incidents out of One Billion Ballots Cast.” *Washington Post*. *Available at* www.washingtonpost.com,

fraud of the type that these barriers proposed could impact exists.⁴⁴ In more than sixty lawsuits brought across the country by Trump and his supporters, courts consistently and resoundingly rejected claims of voter fraud. Yet the false drumbeat of voter fraud propaganda led to an armed insurrection on January 6th aimed at overturning our democratically elected government.

The strategic stoking of the myth of voter fraud mixed with racism and hate placed our democracy at risk of armed insurrection, and the more than 360 voter suppression proposals already advanced in statehouses this year place our democracy at risk of overthrow by voter suppression.

The protections of the Voting Rights Act – for which our ancestors bled and died – have never been more critical than in this renewed and emboldened era of voter suppression that has swept North Carolina, the South, and this country. The premise of *Shelby County* – that there is no longer a need for preclearance of voting changes – has been proven woefully wrong in North Carolina and many other formerly covered jurisdictions. The facts compel immediate, full restoration of the Voting Rights Act.

To aid this committee and the nation in seeing a vision for change that would respond to the grave threats to our democracy, the *Poor People's Campaign: A National Call for Moral Revival* identified and released the following necessary investments in democracy and equal protection under the law, which we believe are inextricably interlinked, morally and constitutionally:

- We demand the immediate full restoration and expansion of the Voting Rights Act, an end to racist gerrymandering and redistricting, early registration for 17-year-olds, automatic registration at the age of 18, early voting in every state, same-day registration, the enactment of Election Day as a holiday, and a verifiable paper record. We demand the right to vote for the currently and formerly incarcerated.
- We demand adequate funding for polling places to accommodate the full participation of the electorate.
- We demand statehood, voting rights and representation for the residents of Washington D.C.

<https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/>.

⁴⁴ Minnite, Lorraine. The Politics of Voter Fraud. Available at http://www.projectvote.org/wp-content/uploads/2007/03/Politics_of_Voter_Fraud_Final.pdf.

- We demand the reversal of state laws preempting local governments from passing minimum wage increases, and the removal of Emergency Financial Management positions that are unaccountable to the democratic process.
- We demand that First Nations, Native Americans and Alaskan Native people retain their tribal recognition as nations, not races, to make substantive claims to their sovereignty.
- We demand a clear and just immigration system that strengthens our democracy through the broad participation of everyone in this country. This includes providing a timely citizenship process that guarantees the right to vote. It also requires protecting immigrants' abilities to organize for their rights in the workplace and in their communities without fear of retribution, detention, and deportation.
- We demand equality and the safety of all persons, regardless of sexual orientation and gender identity.
- We demand equal treatment and accessible housing, health care, public transportation, and adequate income and services for people with disabilities.

If there is any further information that I can provide to this body to aid in its work to consider the impact of this grave issue, I stand sincerely and steadfastly ready to assist.