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Voter Disenfranchisement in the United States

Although the United States was founded on principles of democracy, the ability to vote has never been freely available to every citizen. Over the country's lifespan, political elites have consistently disenfranchised sectors of the population through the enactment of voting requirements such as mandatory property ownership and the recently-established Voter ID Laws. These laws ensure that power remains concentrated in the hands of the advantaged members of society, discouraging those with potentially undesirable opinions from exercising their political rights through a range of discriminatory practices.

When the founders of the United States first created the rules and laws that govern the country, they seemed to advocate for true democracy and the extension of voting rights to all those who were denied a voice while part of the British colonial system. This can be seen in the Federalist Papers, a series of anonymously published works written in 1778 by Alexander Hamilton, James Madison, and John Jay that defended the Constitution and advocated for its ratification by the individual states. Federalist Number 52, written by James Madison and published under the shared pen name Publius, describes the right to vote as a "fundamental article of republican government," a government which he goes on to assert should allow for the direct election of men of all religions, and socioeconomic classes to the House of Representatives. It is thus logical to assume that Madison would support universal male suffrage, as the surest way to create a strongly republican country full of equal opportunity for all men to serve their government would be to provide all men with the right to vote. However, this

assumption is refuted within the same essay, as Madison asserted that each state should be allowed to set its own voting qualifications. By advocating for this freedom, Madison demonstrated that he was completely open to subjecting American citizens to stringent voting requirements as long as individual state legislatures thought that it was fair to do so. For all his talk of equality and representation as core tenets of American government, Madison was quick to dismiss these values when it came to assuring state legislatures that they wouldn't lose substantial amounts of power by ratifying the Constitution, showing that they weren't all that essential to his vision of a republican government (Madison).

Although it could be argued that Madison was simply making difficult but necessary compromises by allowing states to decide their own voting qualifications for the sake of ratifying the Constitution, giving up universal suffrage in the present in hopes that states would eventually enact it on their own, this is refuted by another of Madison's Federalist writings, Federalist Number 10. In this essay, Madison remarks on the ability of a republic to prevent political factions from consolidating power and taking over the government. He focuses particularly on the potential for a faction of landless individuals to form and push for a redistribution of resources held by the landowning elite class populated by Madison and his peers. Madison argues that this threat can largely be eliminated by the formation of a large republic with many potential desirable candidates for election to office, making it more likely that public support would coalesce around one such "fit character." This then mitigates the risks found in a more direct democracy that somebody interested in so-called unsavory activities like redistributing the land and wealth of the privileged members of society to those of a lower socioeconomic status could gain power. It thus becomes clear that Madison's love of republican government was not entirely based in any fundamental basis of freedom and equality, as choosing a representative

democracy over a direct democracy also increased the likelihood of preserving his own societal advantages. Hence, even in the early days of the existence of the United States, the men in power were already comfortable with sacrificing democracy in order to preserve their dominance, a trend which would continue to the present day (Madison).

In addition to a desire to maintain their own power, members of state legislatures also saw a need for voting qualifications due to their distrust of the morals of underprivileged members of society. The majority of states tried to solve this problem through property requirements, granting the right to vote only to white men who owned “at least \$300 to \$500” worth of land (Ellis 1038). This was justified by the belief that only property-owning men had a vested interest in improving the community, as they wouldn’t easily be able to uproot their lives and move if corruption were to take hold in government and negatively affect society. In contrast, people who did not own land had little tying them to a specific area aside from familial bonds. Additionally, many laws centered around property rights and taxation, which also affected landowners far more than men without property. This interpretation sees representation in government as less than a universal right, as it places the interests of the landowning classes above those of the common people. In essence, the enactment of property requirements ensured that only those likely to be greatly affected by government decisions had any power in choosing government officials. Instead of viewing every person as deserving of an equal vote and therefore an equal say in determining representation, state legislatures basically weighted the importance of different social classes, justifying the disproportionate representation of the interests of the upper classes with the assertion that any new laws would also unevenly affect this class. This argument attempts to remove all landless people from the equation of government, ignoring their voices in favor of wealthy men like themselves without fear of repercussion, as

lower classes had no way of voting them out of office. In the early days of the United States, the interests of the majority of the population were seen as no more than an annoyance, a slight inconvenience that could easily be dealt with by disenfranchising thousands of potential voters (Ellis).

As the American population grew and changed over time, property requirements slowly fell out of favor and were eventually made illegal in the 15th Amendment, passed in 1870. Although the amendment technically called for universal male suffrage, voting qualifications such as mandatory poll taxes and literacy tests became rampant in the South. These practices were largely aimed at denying African Americans their right to vote and were widely effective, causing a decrease in voting participation by male African Americans “from ninety-eight percent” to “ten percent” over the first twenty years of their widespread use in Virginia (Ellis). The voting qualifications were justified by arguments that former slaves didn’t possess the education needed to make responsible voting decisions. In reality, like property requirements one hundred years previously had claimed to be based in fairness while really being about not trusting the moral character of lower class men, many southern lawmakers used this education argument as a façade to cover up their desire to avoid the possibility of having to “submit to the domination of the black man” (Ellis). By denying black people a voice in government, representatives were free to pass racist legislation without fear of repercussion from their electorate.

Ninety years after the passage of the 15th Amendment, the federal government took a formal stand against these disenfranchisement methods by passing both the 24th Amendment and the Voting Rights Act of 1965. The former made it illegal to prevent people from voting through the use of “any poll tax or other tax” while the latter made it illegal for states to impose any

“voting qualification or prerequisite to voting” designed to limit the eligibility for American citizens to vote “on account of race or color” (Sobel; Voting Rights Act of 1965). The Voting Rights Act also explicitly banned the use of tools like literacy tests to determine an individual’s ability to vote, leaving no ambiguity about whether these practices would still be tolerated under the new law. For the first time in United States history, all American citizens were given equal opportunities to vote (Voting Rights Act of 1965).

During the four decades immediately following the Voting Rights Act’s passage, voter disenfranchisement in the United States appeared to be for the most part a thing of the past. New pieces of legislation such as the 1993 National Voter Registration Act, which required employees of the Department of Motor Vehicles (DMV) to extend the option of registering to vote to all eligible clients, continued to make voting more accessible to the average American and helped to boost voter participation by around 4% (Hershey). This period represented a sharp contrast to the early days of the United States where political elites did everything in their power to limit the voter base to only the most privileged individuals. While the 18th century federal government deferred the power to set voting qualifications to state legislatures, the late 20th century government took an active role in ensuring voting fairness and equality. And while the late 19th century introduced the payment of “optional, complicated, and burdensome” poll taxes as a requirement for voting, one hundred years later saw federal employees actively encouraging American citizens to register to vote (Ellis). It finally seemed like United States officials were recognizing the right to vote as the “fundamental right” of James Madison’s ethical arguments (Madison).

The commitment by the federal government to making voting as simple and easy of a process as possible began to waver in 2002 with the passage of the Help America Vote Act

(HAVA). The act attempted to reform federal elections in the wake of the chaos caused by confusing voting machines and allegations of fraud in the 2000 Bush vs. Gore presidential election. It mandated general minimum election standards including requiring the presentation of a photo ID or official government document displaying the voter’s name and address by all first-time voters who registered by mail. This was accompanied by the Bush administration’s extensive inquiry into voter fraud in United States elections. Officials hoped that putting some identification requirements in place would combat this assumed fraud, but it has only resulted in the return of mass voter disenfranchisement (Tokaji).

One reason that HAVA hasn’t been effective at reducing fraud is that attempted in-person voter fraud occurs extremely rarely, as shown in the following table (Sobel):

STATE	NUMBER OF VOTERS (2012)¹⁸	# OF ALLEGED IN-PERSON VOTER FRAUD (2010-12)¹⁹	% POTENTIALLY FRAUDULENTLY CAST VOTES (2012)²⁰
Pennsylvania	5,593,499	1 ²¹	.000018%
South Carolina	1,921,363	0	.000000%
Texas	7,962,599	3 ²²	.000038%

Out of the millions of votes cast, only four were cases of in-person fraud. Simply put, HAVA didn’t cut down on fraud because fraud was never an issue in the first place. This is supported by a study by the News21 journalism project, which found that out of “2,068 alleged cases” of in-person voter fraud, only ten of them actually “could have been prevented by photo ID laws” (Sobel).

Although it did almost nothing to prevent fraud, HAVA has had an effect on American elections, as it set a federal precedent for states to establish voter identification laws without worrying about violating the Voting Rights Act of 1965. Some states took requirements further, making IDs mandatory for all voters, not just those casting a ballot for the first time. By 2014, 21

states fell into this category. Since approximately ten percent of registered voters don't have photo IDs these new requirements effectively blocked millions of American citizens from voting. Lawmakers justified the new ID requirement by asserting that anyone without a legal ID could obtain one for free at their local DMV. However, they failed to consider that although the IDs themselves are technically free, there are significant costs incurred in the process of obtaining one (Sobel).

One potential cost of getting a photo ID is caused by the need to bring background documents to the DMV in order to prove one's citizenship and identity before it can be issued. These documents include items like an official birth certificate, certificate of citizenship, or a marriage license as well as a social security card (Sobel; Hershey). Unlike the ID, these items cost time and money to go through the process of obtaining. The issue of lost time also applies to the actual trip to and from the DMV as well as time spent waiting in lines. Another cost of getting an ID is the transportation cost. A driver's license is a form of legal photo identification that can be used in election, so anyone who is able to drive already has an ID and doesn't need to go to the DMV to get one. This means that anyone taking advantage of the free ID program doesn't have a license and cannot legally drive a car to go to the DMV and get one. Additionally, the minimum voting age in the United States is eighteen, so these people are unlikely to still live with their parents and be able to rely on them for free transport. As a result, they must rely on and pay fees for public transport systems such as buses or trains in order to get to the DMV in the first place. The problem is compounded in rural areas where public transit isn't as prevalent, forcing people to pay even more for ride-hailing services to drive them to get an ID (Sobel; Hershey).

In total, costs incurred when trying to get a supposedly free ID can be prohibitive, as was the case in Pennsylvania after state legislators proposed a law to require official photo identification in elections. This is demonstrated by the expenses in the table below, which were incurred by three Pennsylvania residents trying to obtain voter identification cards in response to the new legislation (Sobel):

EXAMPLE	OUT OF POCKET COSTS (\$)			TIME COSTS (\$)			TOTAL (\$)
	Document Costs	Travel Costs	Subtotal	Travel	Agency	Subtotal	
#1.1 Birth & marriage certificate, car, minimum wage	53.80	20.00	73.80	29.00	30.81	59.81	133.61
#1.2 Bus, median wage	10.00 ⁵⁹	12.00	22.00	50.13	100.26	150.39	172.39
#1.3 Birth certificate, marriage license, bus, minimum wage	62.25	16.00	78.25	14.50	14.50	29.00	107.25

Explicit costs alone ranged from \$22.00 to \$78.25 while the opportunity costs of going to and waiting at the DMV added anywhere from \$29.00 to \$150.39 to the total. Overall, all three residents had to pay over \$100 to get a “free” ID, making voter identification laws function as modern poll taxes, reserving the right to vote for only those wealthy enough to afford it.

Like poll taxes of decades ago and the property qualifications of the 18th and 19th centuries, voter identification laws function to prevent certain groups from voting, particularly people of low socioeconomic status who can’t afford to pay the fees and take the time off work to obtain a legal photo ID. Minority racial groups are also excessively affected by voter ID requirements. One reason for this is that they are more likely than whites to make less than \$20,000 per year, which according to a study in Indiana makes them “much less likely to have the form of ID that the Indiana law requires” in order to vote in an election (Hershey).

Administration of voter ID laws provide further challenges for minority groups, particularly African Americans, who were found to be disproportionately asked to provide identification compared to white voters during the 2008 Super Tuesday election primaries, according to a study of election practices in fifteen states. Overall, the combined effects of voter ID laws decrease voter turnout by about 3 to 4%. They are also similar in that voter disenfranchisement in the United States has always been hidden behind some ostensibly noble purpose, whether it be making sure only those likely to be impacted by laws have any say in their creation or eliminating in-person voter fraud from federal election; but when the façade falls away, it becomes apparent that voting qualifications serve to silence voices of minority groups and underprivileged classes (Hershey).

Although the United States was founded on republican values, which dictate that citizens have a fundamental right to “participate in electoral processes” and “have a say in choosing their representatives,” these values were almost nonexistent when the country began (Ellis). While suffrage has technically been extended to every American citizen of legal age, voter disenfranchisement still abounds due to voter identification laws, defying the spirit of the republic and thwarting the intentions of the Equal Voting Act and the 24th Amendment. Recent legal disputes have erupted over these laws in several states, most recently in Texas, and many of the stricter policies about requiring a photo ID have been overturned. However, they have not gone away entirely, as most states have chosen to revise the laws instead of getting rid of them altogether. The updated laws are slightly more open to accepting alternate forms of identification on the condition that the voter signs an affidavit swearing that there was some reason they were unable to provide a photo ID. Though these new laws are comparatively better, they still have been found to place undue burdens on underprivileged Americans and those of minority racial

groups, and they will continue to do so until they are repealed completely. However, with the United States' long history of voter disenfranchisement, it is unlikely that every citizen will be given the right to vote at any point in the near future.

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