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I Exist, Therefore I Should Vote: Political Human Rights, Voter Suppression and Undermining Democracy in the U.S.¹

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Abstract

The right to vote is clearly delineated among the rights identified in the Universal Declaration of Human Rights, and the US has long held itself as the beacon of that democracy and enfranchisement. Yet, a long history persists of practices and policies of voter suppression and gerrymandering that targets the rights of Black, brown, and indigenous populations in the US, a history that has in recent years escalated. We use the framework of the Human Rights Enterprise to unpack this history and to explore why efforts of voter suppression are intensifying at this particular moment in history.

Keywords

Voting rights, voter suppression, gerrymandering, The Human Rights Enterprise, voting racism

The right to participate in government—including the right to vote—is a clearly articulated, first generation international human right that, at least for the West, stems both from classic antiquity (Hayden 2001) and later from the political theories and social movements that would climax in the American and French revolutions of the 18th century (Ishay 2008). The right to vote is central to any argument for American exceptionalism, where the U.S. is presented as the model liberal-democratic, rights protective state with the vote at its core. Yet, the notion of *universal* suffrage has always been a highly, and often violently contested terrain across U.S. history, noting for example the brutal struggles of African American and other allied populations to win the

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gains of Civil War Reconstruction, and again leading up to the “second Reconstruction,” or modern civil rights movement culminating in the civil rights acts and urban rebellions of the 1960s (Blackmon 2009, Taylor 2021). And, in the aftermath of the 2020 Presidential election, in which record numbers of marginalized populations voted, an increasing number of states are launching measures to suppress the vote and reconfigure voting districts (gerrymandering) to eliminate the ability of marginalized populations to gain representation in legislative bodies.ⁱ

We engage in an analysis of this highly-charged process using the lens of the Human Rights Enterprise, prompting several questions. How can we define contemporary voter suppression and gerrymandering? What are their mechanisms and how do they work as hegemonic and directly coercive strategies of political domination? To what extent are these strategies succeeding in this sense? If such tactics are so powerful in reproducing power and privilege, under what conditions do they fail or become thwarted by resistance?

Our analysis employs a critical sociology of human rights—a theoretical framework that seeks to understand human rights crises in relationship to broader power struggles and the social structures, institutions, and systems that shape and are shaped by those struggles. Further, the Human Rights Enterprise (Armaline, Glasberg and Purkayastha 2011; 2015), is a critical sociological concept representing the contested process through which human rights are defined and potentially realized in the world. As our previous work demonstrates, when one examines the empirical history of this contested process, it becomes clear that: (1) Human rights and their realization are often determined by bottom-up social movements; (2) These movements are often waged against or in spite of states and other powerful interests charged with human rights protection in the first place according to international law and the “organic” intellectualism of much of dominant human rights scholarship.

That is, human rights scholarship largely continues to consider human rights from a top-down perspective as a liberal legal project, and focuses on the behavior and decisions of elites, legal professionals, and political leaders. In that scenario, human rights are found in instruments such as international human rights covenants and agreements, and are static resources that are bestowed and protected, or denied, by these leaders. While these international covenants are important statements about values and international shared understandings, they are only a piece of the picture concerning the provenance of human rights. Alternatively, a critical sociological approach views human rights not simply as a static possession or resource but rather as a dynamic power process of the resonance between top-down power of elites and bottom-up pressure from below. In such a scenario, human rights are not simply granted by political elites; indeed, historical evidence suggests that it is far more likely that

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human rights evolve as political elites respond to growing pressures and tactics percolating and boiling over from social movements, organized demands, and growing unrest prompted by human rights abuses and denials of such rights. As such, the Human Rights Enterprise model makes it possible for us to understand the ebb and flow of rights according to shifting relations of power, involving political leaders, nongovernmental organizations, and social movements operating across formal and informal political terrains. We argue that it is this framework that informs a fuller understanding of voting structures, policies and practices and how we might engage in forms of human rights praxis to ensure political rights protections.

That said, we are aware, and indeed our earlier work argued, the institutional and legal contexts complicate the ability to achieve rights (Armaline, Glasberg and Purkayastha, 2015; see also Bonilla-Silva and Mayorga, 2009; Falcon, 2009; Libal and Hertel, 2011; Rosino, 2018). Here, while we are discussing rights such as the right to vote, and by implication, racial justice, the ability of the Human Rights Enterprise to thoroughly accomplish either or both of those goals is compromised by the context of a capitalist political economy, in which the goals of racial justice and full and unbridled access to the right to vote are inconsistent with capitalist imperatives to divide, conquer and control the workforce in the interest of undermining collective power. Moreover, the capitalist class is well aware of the need to influence or control the political institutions, as evidenced, for example, by the Supreme Court's decision in *Citizens United* that allowed corporations free rein to contribute as much as they want to whatever candidates they choose as a form of their right to free speech. This decision effectively enables major corporations to elect politicians favorable to their interests. That the goals of capitalism are antagonistic to the goals of human rights means that the challenge of the Human Rights Enterprise to secure those rights continue to be formidable. We argue that while the complicating challenges of the capitalist political economy, it remains useful to examine the struggle over the right to access voting rights, particularly considering the stakes in the coming elections and their implications for racial justice, LGBTQ+ justice, immigration and refugee rights, and abortion rights, as well as the ability to nominate and confirm Supreme Court justices who can continue to have a strong impact for decades to come. In a system of representative democracy rather than direct democracy, the ability to choose those representatives looms ever larger. Yet the right to vote has, like other notions of freedom in the formation and expansion of the American settler colonial state, often been tied to the right and ability to own property, and has been reflective of patriarchal and racist notions of political subjectivity—that is, “who counts” (Grandin 2020, Singh 2019). In short, universal suffrage in the U.S. has always been confronted by the Matrix of Domination (Patricia Hill Collins 1999; Zinn and Dill 1996), in which

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there are overlapping structural positions of domination and oppression that shape and frame people's experiences. The Matrix of Domination becomes critical to the analysis of voting and citizenship because "who counts" was thoroughly tied to the problematic notion of white, male, land-owning American citizenship. The point here will not be to survey this well documented history, but to illustrate how voting rights in settler colonial states like the U.S. are anything but resolved. Instead the hypocrisy that characterized U.S. and waning European colonial powers' claims to common humanity in the creation of the United Nations and Universal Declaration in the face of violent colonial repression, apartheid, and Jim Crow segregation in the post-WWII period (Ishay 2008, Blackmon 2009) absolutely continues. This is not simply a problem for the American democratic experiment, but it points to a persistently questionable assumption built into the foundation of international law—that state governments viably represent the interests of their people.

Specifically, Article 25 of the International Covenant on Civil and Political Rights [ICCPR] demands that all citizens have the right to the following without discrimination, distinction, or "unreasonable restrictions":

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality to public service in his [sic.] country (ICCPR 2021).

In short, access to voting and political participation rights has deep political as well as cultural and symbolic meaning. That can be seen in the white supremacist movement and its baseless "replacement" theory which emerges from the anxiety created by demographic shifts and which insists that there is a conspiracy to use immigration to replace whites with people of color in the US and thus to reduce whites' collective power and privilege. It becomes clear that battles over restricting or expanding access to voting rights are about far more than manipulating the voting base to affect conservative or progressive candidates; they are at heart battles over shifts of what it means to be a citizen, and therefore eligible for rights. And while many political struggles are largely symbolic, there are clearly deeper concerns of structural inequality. For example, while Blacks in the US have won civil rights legislation and more recently gained support for recognition of Juneteenth as a holiday, these remain largely symbolic in that Blacks still face structural stark economic and political inequalities and health, education, and education disparities.

In what follows, we illustrate how the human right to "universal and equal suffrage" is in crisis for populations of color, immigrants, the poor, the young, the elderly, and the disabled in the U.S., largely through

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voter suppression bills and redistricting processes (gerrymandering) in states with conservative legislatures. According to research by the Brennan Center for Justice (2021a), over 400 bills were introduced in 49 states in the 2021 state legislative sessions as of July, from which at least 18 states have enacted over 30 such laws. Not since the end of Reconstruction in 1877 has there been so many voter restriction bills introduced at one time in the U.S. (Berman 2021). The bills passed so far restrict access to voting (by mail, for example), impose stringent voter I.D. requirements, and make likely faulty voter purges in search of voter fraud, despite a lack of supporting evidence for suspicion. They include several large “omnibus” voter restriction bills, such as Texas’s SB 1 (see more below), that was so politically divisive that democratic legislators fled the state in an ultimately unsuccessful attempt to deny quorum to the conservative majority and block the bill. In sum, this wave of voter restrictions in conservative states violate the human rights of many Americans in the form of systematic discrimination and a mine field of “unreasonable restrictions” to political participation.

However, as noted, universal suffrage continues to be a contested terrain in the U.S., and voter restrictions are not being applied evenly across the country. In addition to grassroots movements in conservative states like the Poor People’s Campaign who are directly confronting voter suppression and pressuring for federal legislative reform, 32 states have introduced or enacted 399 laws in 2021 to expand voting access and restore voting rights to some populations, including those with prior criminal convictions (Brennan Center for Justice 2022). But these reforms are mostly occurring in states where comparatively few voting restrictions exist, and the political consequences of an expanding electorate would not affect a considerable political or party shift at the state or national level. Indeed, by 2022, at least 27 states have introduced or enacted more than 250 bills that restrict voter access (Brennan Center for Justice, 2022). As such, the expansion of some voting access in already liberal states will not have the effect of cancelling out the drastic curtailment of voting (and other) rights across so-called “red” states. Further, and most importantly, it will ultimately be harder for the most marginalized populations (poor people, people of color, immigrants, the elderly, and so forth) to exercise their rights in much of the country. *As is now the case for women’s reproductive rights, whether you have the right to vote will largely be determined by the resources available to you and where you happen to live in the U.S.* While this is possible in a Federalist system, this does *not* comport with international law or the international legal obligations of the U.S. under the ICCPR. Thus, international law does not make exceptions for “state’s rights,” and would construct current voting restrictions as violations.

To wit, the 2018 “Report of the Special Rapporteur on extreme poverty and human rights on his mission to the United States of America”

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dedicated an entire section to the “undermining of democracy” for America’s poor—over represented among the nation’s women, children, Black, Latinx, and indigenous populations. The report makes several explicit points on already existing U.S. violations of ICCPR article 25 including (Alston 2018):

- The disenfranchisement of over 6 million felons and ex-felons, disproportionately affecting African Americans, as a clear human rights violation;
- “...covert disenfranchisement, which includes the dramatic gerrymandering of electoral districts to privilege particular groups of voters, the imposition of artificial and unnecessary voter identification requirements, the blatant manipulation of polling station locations, the relocation of the Department of Motor Vehicles’ offices to make it more difficult for certain groups to obtain identification, and the general ramping up of obstacles to voting, especially for those without resources. *The net result is that people living in poverty, minorities and other disfavoured groups are being systematically deprived of their right to vote;*”
- The U.S. has one of the lowest voter turnout rates for elections among all developed countries [approximately 60% in national elections], and has the lowest percentage of eligible registered voters [about 64%] among all OECD nations (see also Desilver 2021);
- The absence of meaningful political rights for American citizen residents of Puerto Rico, due to its colonial past and current realities as an annexed American “territory.”

“Universal and equal suffrage” is far from being realized in the U.S., and political rights will remain a highly contested terrain for the foreseeable future. But how are we to understand the particularly drastic curtailment of political rights in current contexts? How should we understand the struggle for political rights as a contemporary form of human rights praxis?

Again, we recognize the tendency described in our previous work (Armaline, Glasberg, and Purkayastha 2015) that the expanding economic power and “rights” (as people, for instance) of transnational corporations and banks would be mirrored by shrinking rights for the masses of working and unemployed people. This relationship between the rights/reach/power of corporations and the rights/voice/power of everyday people--only one of which can actually enjoy rights according to international (not U.S.) law--is a thread from our previous work that we expand on here. Second, we argue that political repression accompanies the rise of the global police and military state, with the U.S. still firmly at the center of its development and deployment, as power relations are less easily maintained through hegemonic consent, and more people are rendered superfluous from the implications of climate change and transnational capitalist crisis.

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But the case of the U.S. presents more than a singular (voting) rights crisis—it poses a problem for the formal international legal regime that presumes the legitimacy of state governments in representing the interests of the governed. In fact, this philosophical assumption is made clear in the language of the Universal Declaration of Human Rights [UDHR] (Article 21), where the right to political participation also asserts that, “*the will of the people shall be the basis of the authority of government; [and] this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage*” (UDHR 2021, emphasis added). It is rather dangerous and aspirational to suggest that state governments represent the real, expressed interests of their public masses—an assumption that in fact undergirds the very notion of defining human rights via treaties between sovereign states. It goes without saying that many member states to the United Nations expressly are *not* electoral democracies offering universal and equal suffrage. Further, even in ostensibly democratic states like the U.S. voting rights are a constantly contested terrain, and their status depend on very real power struggles. They are far from guaranteed because of their articulation in formal Constitutional or international rights law. This is a painfully obvious lesson learned in the history of Reconstruction Era Constitutional legislation like the 14th Amendment or the quickly betrayed Civil Rights Acts of 1866 or 1875 that would all wait until the rebellions of the Second Reconstruction to be realized in any meaningful way (Blackmon 2009, Taylor 2021).

Still, the United States branded itself as a global beacon of democracy in the modern era, and continues to set itself apart as the paragon of unbridled freedom and political participation in the world. Further, there is a hegemonic notion expressed in and through international law and U.S. international relations—that the measure of state legitimacy is that of democratic representation, and that the United States is somehow exceptional in forging these democratic principles. *The legitimacy of state authority for the U.S. and of international law in general both rely on the dominance of this assumption.*

So, there is notable pressure on the U.S. to create the *appearance* of democracy while simultaneously subverting and warping that very process. Today, the two primary tools for this subversion in the U.S. are voter suppression and redistricting (gerrymandering), which together ensure the disenfranchisement of populations whose interests are likely to challenge or be inconsistent with those of the transnational capitalist class or the entrenched privileges of patriarchy and whiteness.

SETTING THE STAGE: WHAT DO VOTING PARTICIPATION PATTERNS LOOK LIKE IN THE US?

Though participation spiked in 2020 (approximately 66%), voting participation rates have historically been relatively low, rarely reaching

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above 60% of the eligible voting population during presidential elections, and have largely been among the lowest among the industrialized and post-industrialized democracies globally (www.census.gov ; Schlozman, Brady, and Verba 2018). The strongest participation rates occur in the US during presidential elections, and drop dramatically for state and local elections in the off years. Demographic breakdowns suggest an even more troubling pattern: underrepresented populations, younger voters and lower-income voters have tended to participate in the lowest proportions; and while women have surged in recent years, they too have lagged behind the participation rates of Whites and men. There are a myriad of explanations for these patterns (see Glasberg and Shannon 2011), including social psychological analyses focusing on individuals' political socialization (Lipset 1960; Schwadel 2002); structural and institutional analyses focusing on obstacles created by the rules of voting (Piven and Cloward 2000); and political apathy resulting from the sense that it makes no difference who wins (Bay and Blekesaune 2002; Docherty, Goodlad and Paddison 2001). However, none of these explanations assess the effect of political alienation (the belief that voting simply doesn't address individuals' needs), or the deliberate impediments created by practices and policies that pose roadblocks to participation, particularly for underrepresented populations. In particular, these explanations ignore the deliberate political restructuring of voting rights: gerrymandering and voter suppression, which subvert the democratic process and undermine political rights through enfranchisement and voting, and fuel institutional racism. What exactly are voter suppression and gerrymandering, and how does a Human Rights Enterprise framework help us understand their current use?

Voter Suppression

Voter suppression is the practice of creating policies and practices that systematically reduce or eliminate access to voting rights to particular populations. According to the Voting Rights Alliance (Arnwine, 2011; available at www.votingrightsalliance.org), there are at least 61 forms of voter suppression. The introduction of voter suppression policies has accelerated following the 2020 Presidential election that saw the highest participation rate of marginalized populations and younger voters than ever, ushering in the election of President Joseph Biden and prompted cries of “voter fraud” by Republicans and white supremacists (a claim that has been resoundingly rejected repeatedly at every level of the judicial system and by states' own Secretaries of State, including Republicans, after several recounts). High voter turnout rates tend to produce greater support for Democratic candidates and more progressive policies that favor the poor, underrepresented populations, and the less powerful in the population (Avery and Peffley 2005; Denardo 1980). It is no surprise, then, that tactics have evolved, particularly in the wake of the

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Emancipation Proclamation, to suppress their vote. Voter suppression policies and practices are not new, dating back to the mid-19th century during the development of municipal and federal government in the U.S., and to efforts to deny formerly enslaved populations the fruits of newly won civil and political rights following the Civil War (Wang 2012). Contemporary usage of these practices, combined with modern technology, has accelerated disenfranchisement of poor, young and voters of color. This disenfranchisement has primarily targeted three main groups that also capture these demographic groups (without explicitly acknowledging that the practices and policies are thinly-veiled versions of Jim Crow laws): convicted felons (who are disproportionately Black and Brown, in large measure the result of a failed War on Drugs) (Manza and Uggen 2008), the homeless, and immigrants (Ruth, Matusitz and Simi 2017; Minnite and Piven 2012).

Convicted Felons

No other country in the world besides the US permanently strips convicted felons of their right to vote through the application of “civil penalties” (Alexander 2012), even after they have completed their prison sentences, probation and parole. But voting eligibility is to a large degree a state-controlled issue, so not surprisingly it does vary by state. For example, people convicted of felonies are stripped of their right to vote while incarcerated in all states except Maine and Vermont, (Spates and Mathis 2014). Convicted felons in two states (Kentucky, and Virginia) are disenfranchised forever, even after paying their debt to society (ACLU, 2022; Gray 2014). And in 15 states those on out of prison and on probation are ineligible to vote; those on parole are barred from voting in 17 states (ProCon.Org, 2022).

This is no small matter: 1.5 million people currently are serving prison sentences, and 6.1 million have felony records (Lalami 2020). Notably, Black and Brown people, especially men, are disproportionately represented in the prison population. The Sentencing Project (2022) has estimated that over 5.2 million people in the US have lost their right to vote, temporarily or permanently, because they are convicted felons; more than one-fourth of these are Black men, representing about one out of sixteen Black males in the US. (compared with one in fifty-nine non-black males) (see also Uggen et al 2020). Indeed, while the Constitution provided full voting rights to all citizens after the Civil War, states like Florida found a way to confront the ‘threat’ they anticipated by passing lifetime voting bans on convicted felons; this strategy became more racially pointed and powerful when coupled with the War on Drugs that targeted largely Black and Brown populations (Elfrink 2018).

It is difficult to ignore the racist political consequences of this widespread disenfranchisement of Black men: in Wyoming and Tennessee, the disenfranchisement rate of Black male felons now exceeds

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20%; nine additional states (including Virginia and Kentucky, where disenfranchisement is permanent), are quickly approaching 20% Black male felon disenfranchisement (Uggen et al, 2020). Since Black voters are far more likely to support Democratic than Republican candidates running for office, ostensibly color-blind policy regarding mass incarceration and voting rights become mechanisms of racialized voter suppression. Indeed, Alexander (2012) referred to these policies as part of “the New Jim Crow,” referring to the myriad of mechanisms developed in the wake of the Reconstruction Era to deny Blacks the right to vote.

The Homeless

Although every state in the US formally allows the homeless the right to vote, the very circumstances of homelessness pose severe obstacles to their right to vote, given the practices and policies in most states regarding voter eligibility. For example, most, if not all, states have residency requirements to establish an individual’s rightful voting district and supposedly deter fraudulent and multiple voting. For someone who is homeless, establishing residency (typically defined as a permanent or long-term residency in a permanent structure such as a house or apartment) is at the very least difficult if not impossible, since most homeless people are transient by necessity or definition. The Supreme Court has stepped in to address this: in *Pitts v. Black* (1984) the Court instructed states to broaden their definitions of residence so that any location, such as a park, street corner, or shelter such as a tent, intended as a living space for an indefinite period of time would be construed as legitimate. Nearly a decade later, in *National Coalition for the Homeless v. Jenson* (1992), the Court determined that it is unconstitutional to disenfranchise the homeless by requiring the establishment of residency in a more conventional residence.

In addition to residency requirements, Federal law require IDs such as a valid driver’s license or Social Security number to register to vote. Clearly, securing such documents can be a monumental obstacle for someone who is homeless, because such IDs once again require the ability to prove one’s address as valid. Federal law also establishes that individuals who do not have these IDs can get a voter ID card that theoretically would allow them to vote; however, when they show up at the voting polls in most states they will still be required to present a valid form of ID along with their voter ID, thereby deterring them from voting (Ruth, Matusitz and Simi 2017; Keyssar 2013; Bentele and O’Brien 2013; Minnite and Piven 2012; Keyes, Millhisser, Van Oster, and White 2012). Although they may be issued a provisional ballot to vote, which will later be validated before being counted, this acts as a humiliating discouragement to voting for the homeless (National Coalition for the Homeless 2010), and for other populations, such as the elderly, who may not have need for or access to a driver’s license or state I.D.

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It has become painfully clear during the 2020-2021 pandemic that structural inequalities in the labor market are heavily racialized, throwing millions of people, particularly Black and Brown people, into unemployment and eviction. As such, the homeless population has grown, and the people most likely to be disenfranchised are underrepresented populations. The very nature of systemic racism, including homelessness, has coupled with laws purportedly designed to discourage voter fraud to suppress the vote of people of color and the poor.

Immigrants

Again, the history of political rights and citizenship in the US has been heavily shaped by capitalism, territorial expansion (empire), and the broader matrix of domination, where voting rights were traditionally exclusive to white male property holders. When framing of this restriction was explicitly based on class rather than race or gender (property ownership was viewed to provide independence of thinking), the result of political exclusion of women, people of color and indigenous people was the same as if they were explicitly targeted and disenfranchised purely for their identity, giving White men the exclusive power to control the country. While the Fifteenth Amendment, which passed in 1870, granted Black men the right to vote, it sparked an almost instantaneous backlash, particularly in the South, where paramilitary forces (the KKK), poll taxes, literacy requirements, and other so-called “black codes” under Jim Crow laws effectively nullified that right (Lalami 2020).

The US has had a spotty and often clumsy history of extending and then restricting voting rights of immigrants, sometimes allowing them to vote in state and local elections if not federal elections. In fact, while individual states and municipalities may allow non-citizens to vote, federal law bars non-citizens from voting in federal elections. The process is complicated because significant delays in the immigration system—for some, like Indian migrants, it can be up to a decade-- prevent immigrants from achieving citizenship which allows them to vote in federal elections. Finally, the treatment of White European origin immigrants in the Northeast—variably considered “White” or “non-White,” but eventually constructed as legitimate political subjects—varied from the treatment of Mexican and indigenous populations in the West and Southwest, who were made “immigrants” through forced displacement or national boundary changes and subjugated to extrajudicial violence (such as lynching) and social, political, and economic exclusion similar to that of the formerly enslaved (Grandin 2020).

The extension of such limited enfranchisement of immigrants since the 1970s has become more explicitly front-and-center in US politics (see Ruth, Matusitz and Simi 2017). Indeed, the struggle over immigrants’ enfranchisement has become embroiled in the battles over broader immigration policy since 2016. This matters because the highest

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percentage of non-citizen immigrants, a product of national policy increasingly blocking or eliminating pathways to citizenship, are from Asia, Latin America and the Caribbean; Perez (2014) estimates that the US is now home to the highest proportion of documented and undocumented immigrants in the US population in a century. The result is a significantly depressed voting participation rate of Latinx and Asian people (Parkin and Zlotnik 2014).

It is hard to ignore the implications of this suppression: given the increasing numbers of Asian and Latinx immigrants, particularly over the past decade, there is strong potential for a substantial voting bloc and therefore political power of underrepresented populations, something conservatives, nativists, and white supremacists have long considered a threat to the “American way of life” (so-called “replacement theory” or “white genocide,” see Hayduk 2006). Indeed, demographers’ predictions that Whites are likely to be a statistical population minority by 2030 has fueled such fears, often explicitly framed as an existential threat to Whites and ‘our way of life.’ Suppression of immigrants’ voting rights results in a significant loss of potential political power of Black, Brown and indigenous populations, protecting and entrenching Whites’ collective power over how the country is run, and affecting the rights of underrepresented populations in favor of White privilege.

Voter Suppression in the Twenty-First Century

The unique circumstances of the 2020 presidential election, in the context of a global pandemic, created great potential for increasing voter access, but also unfortunately saw widespread attempts to further suppress participation, particularly among underrepresented populations, in an attempt to subvert democracy. While states all around the US tried to develop mechanisms to encourage people to vote while minimizing their exposure to and spread of the COVID-19 virus that ramped up as Election Day approached, efforts to undermine these efforts and nullify votes increased. The creativity of these attempts was endless.

Most if not all states allowed early voting, no-excuse mail-in ballots, and special drop boxes for ballots in an effort to reduce long lines, avoid crowded polling places, encourage social distancing, and enable people who cannot afford to take time off from work to vote. Observers of elections have long recognized that increased participation rates in voting tend to favor Democrats and more progressive policies in part because they enfranchise those more commonly left out, particularly underrepresented populations. This is why voter registration drives, voting rights efforts, and get-out-the-vote drives during the civil rights struggles of the 1950s-1970s were met with such violent resistance in states where Jim Crow laws effectively barred Black and Brown voters from participating.

Opponents of broadened enfranchisement, eager to minimize support for the presidential bid of Joseph Biden and state and local

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elections of Democratic and progressive candidates, while increasing the chances of Donald Trump and Republicans, launched several strategies to subvert the rights of voters and thereby depress voter turnout. For example, there were widespread disinformation campaigns, launched over social media and mass communication airwaves, to confuse and frighten voters away (particularly immigrant voters, who were made to fear deportation because voting might call attention to ICE). Trump himself used Twitter to encourage supporters to “liberate” Michigan, Minnesota, and Virginia from their Democratic governors, inciting large and belligerent protests (indeed, armed militia entered the Michigan statehouse looking for its Governor in an attempt to remove her) (Miller and Sedensky, 2020). He also used Twitter to instigate “Trump’s army” of poll watchers to show up at polling places, often armed with long guns, to interrogate, challenge the legitimacy of, and otherwise intimidate people waiting in line to vote (Liu, Rhyne, Tabrizy, Laffin, and Sarhan 2020).

Several states sought to nullify the legitimacy of voters: Nevada, for example, shifted 90,000 voters to ‘inactive’ status, Indiana canceled nearly half a million registrations, Georgia delayed 53,000 registrations (70% of which were African American, despite the fact that African Americans were only one-third of the Georgia population) (Brater, Morris, Perez, and Deluzio 2018), and Florida placed 27,000 re-enfranchisement applications on hold; meanwhile, North Dakota disenfranchised 70,000 voters under a street address voter ID law (Mayer and DeCrescenzo 2017), Texas rejected thousands of online registrations; and Ohio purged registered voters who failed to vote in two federal elections, a practice upheld by the Supreme Court (Weindling 2018; NPR 2018; Hughey 2020). Many states saw well-organized challenges in the courts and in state legislatures to same-day registration, early voting, and mail-in ballots (it is noteworthy that mail-in ballots have traditionally been used without challenge by military personnel stationed abroad). Other states saw the installation of fraudulent ballot drop boxes that could capture the ballots of unsuspecting voters so that they would never be counted. In largely Black and Brown voting districts, federal mail drop-boxes were simply removed.

Notably, most of these suppression tactics did not erupt suddenly in the unusual circumstances of the 2020 election: midterm elections in 2018 saw widespread voting irregularities, with rights activists and voters complaining of broken voting machines, nullified ballots, and poorly trained poll workers who challenged the right to vote of Black citizens. In North Dakota, Native American voters were denied the right to vote because poll workers rejected IDs that had been issued by tribal officials. In Texas there were complaints that voters with limited command of the English language were barred from bringing interpreters with them, because the ballots were not bilingual. Some states and municipalities sharply reduced the number of polling places, particularly in districts with

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large populations of underrepresented groups, causing long lines, sometimes in serious inclement weather, to vote in the hopes that people would not be willing to stand in the rain and cold waiting to cast a ballot. In Georgia, for example, voters waited for more than four hours to vote in polling places where some voting machines were inoperable. (Gardner and Reinhard 2018). In other states, failure to legally outlaw no-excuse mail-in ballots often prompted tactics such as removal of voters from eligibility after a period of not voting.

Even after the election was over, voter suppression attempts led by Trump and his Republican supporters continued: Trump himself engaged in attempts to nullify ballots already cast and recounted in Georgia with a phone call to the Secretary of State there pressuring him to falsify the count in his favor, and filing more than 60 lawsuits seeking to overturn the election results; significantly, many of these lawsuits targeted the results in Milwaukee, Detroit, Philadelphia and Atlanta, “all of them cities with significant Black populations in states that he lost” (Cobb 2021: 30). These lawsuits were denied by the courts, including the Supreme Court, prompting a refusal by Trump to concede the election to Biden or to engage in a peaceful transfer of power; ultimately, he incited insurrectionists to try to stop the vote count by violently storming the Capitol in Washington, DC while Congress was attempting to certify the Electoral College votes. And although court cases filed by Trump and his supporters denied their claims of widespread voter fraud, Republican supporters continued that spurious narrative, insisting that legal solutions to the non-problem were necessary: at least 43 states had more than 250 new laws proposed that would limit mail-in ballots, early in-person voting, and pose stricter ID laws, limited polling hours, and far more stringent absentee ballot rationales (Gardner, Rabinowitz, and Stevens 2021; Izaguirre and Coronade 2021; Nadler and Yoganathan 2021).

In 2021 efforts continued full-steam-ahead in conservative states to severely curtail voting rights in ways that would impact marginalized populations of all party affiliations. By the end of 2021, nineteen states had passed thirty-four laws designed to hinder or obstruct access to voting (Wilder and Baum, 2022). Among these included Florida Senate Bill 90, which implemented wide-ranging restrictions on mail voting, which millions of voters successfully used during the pandemic. Georgia Senate Bill 202, called “Jim Crow in the 21st century” (Amy, 2021: 3) criminalized the provision of water or food to voters standing on long lines waiting to vote (Georgia has long suffered an infamous reputation of limiting polling places in largely black voting districts, causing huge lines in extreme heat). Iowa Senate File 413 made it a crime for election officials to protect voters from voter roll purges. Montana House Bill 176 eliminated Election Day registration (one Republican state representative asserted that same-day registration enfranchised younger voters who tended not to be sympathetic to conservatives).

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Texas State Bill 1 was an aggressive, broad bill aimed at voter suppression: it restricted mail voting, threatened poll workers and election officials with criminal charges if they so much as encouraged eligible voters to request mail-in ballots, and required voters who are approved to use mail-in ballots to put their Social Security numbers on the ballot (a potentially serious breach of privacy rights) (Wilder and Baum, 2022). When introduced, the Texas bill even borrowed a phrase from southern U.S. House Democrats pursuing the end of Black Reconstruction in 1893, calling for measures to “purify the ballot”—presumably from the stain of Black suffrage. Though this phrase was eventually struck from the bill, and Democratic Texas congressmembers—many of them Black and Latinx—went to extremes to stop the bill’s passage, including fleeing the state to deny quorum to the Texas legislature at risk of arrest and censure (Johnstone and Grumbach 2021).

Despite resistance, on September 7th 2021, Texas Governor signed Senate Bill 1—an “omnibus” voting restriction bill that conservatives argued was necessary to address “voter fraud” and protect the legitimacy of elections in the state. This is despite the fact that there is absolutely no evidence of significant voter fraud in Texas—a study by the Texas Attorney General’s office found only 16 cases of incorrect addresses out of over 17 million voter registration applications. Further, since 2010, only two cases of (in person) voter impersonation were tried to conviction (Weinberg 2021). It is also important to note that even before SB 1, Texas was the hardest state in the country to cast a ballot according to research by Northern Illinois and Jacksonville Universities that provide a “cost of voting index” nationwide (Schraufnagel, Pomante, and Li 2020). This is born out in participation numbers, where Texas ranks near the bottom of the U.S. at 45.6% participation from eligible voters (Ramsey 2020).

In addition to existing barriers, Texas Senate Bill 1 banned drive-thru and 24-hour voting, further restricted early voting, makes it more difficult for those with disabilities or who speak English as a second language to get assistance, prohibits sending mail ballot applications to eligible voters, requires hand signatures and I.D. numbers on all mail-in ballots, expands the possible number and reach of so-called “poll watchers” at polling sites, and restricts the ability of Texas courts to make accommodations to voters during natural disasters or pandemic conditions (two ever present realities in Texas). Finally, early indications are that these restrictions will have the most negative impacts on the voting rights of the poor, elderly, young, disabled, and populations of color (Latinx, Black, and indigenous people in particular) in Texas for many of the reasons already discussed (Weinberg 2021).

Such policy initiatives and practices do not enjoy unbridled legal support. For example, in April, 2022 Chief US District Court Judge Mark Walker ruled that Florida’s voter suppression strategies were intolerable, noting the state’s increasingly racist history. His nearly-300-page ruling

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determined that Florida’s laws increasingly made voting inaccessible to black voters “because of their propensity to favor Democratic candidates. In summation, Florida has a horrendous history of racial discrimination in voting,” noting that at some point...this court can no longer accept that the effect is incidental” (Romance, 2022). Despite this pointed judicial repudiation of Florida’s draconian policies to suppress the vote of marginalized populations, most voter suppression initiatives have yet to be similarly shot down.

The continued curtailment of political rights for those most marginalized in the U.S.—the poor and people of color in particular—should be understood as an explicit strategy of the American owning class to suppress public political participation as capitalism faces crisis and humanity faces OTHS. Made clear in a leaked video (Berman and Surgey 2021; Corasantiti and Epstein 2021), Heritage Action for America—a “dark money” (read: no donor transparency) offshoot of the conservative think tank, The Heritage Foundation—continues to lead “a massive campaign to draft and pass model legislation restricting voting access, which has been swiftly adopted [in 2021] in the battleground states of Georgia, Florida, Arizona, and Iowa [and now Texas]” (Berman and Surgey 2021). In their own words, Heritage Action America has already spent over \$24 million to “create this echo chamber” about the need for voter restrictions (Corasantiti and Epstein 2021). While there has been some resistance (a single letter/statement) to the Texas voting restrictions by TNCs in the state such as Microsoft and Patagonia, this has not been the broad response of corporate or finance capital in the state—noting the particular silence of fossil fuel companies. Further, the important point here is to note that the wave of voter suppression bills across the country has been financed and directed by big business through the now common mechanism of the think tank (Heritage Foundation) and Political Action Committee (Heritage Action for America). It cannot be described as the result of “right wing populism,” or even purely partisan party politics, but must be understood in the context of a broader class struggle.

In addition to these legal and extra-legal policies and practices to suppress the vote, particularly of poor, Black, Brown and indigenous populations, are the laws and practices of gerrymandering.

GERRYMANDERING

While voter suppression tactics are commonly extra-legal practices as well as the result of thinly veiled laws that ostensibly attempt to curtail supposed voter fraud or abuse, gerrymandering is the result of legal maneuverings. The Constitution calls for redrawing Congressional voting district lines that define representation in the House of Representatives to reflect shifts in population documented by the Census every ten years; states with population declines lose the number of representatives they can send to Congress, while states with increasing

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populations gain representatives. This constitutional provision vests the power of legislative reapportionment in state legislatures and governors (Forgette and Winkle 2006). Although changing voting district boundaries is ostensibly designed as a legal mechanism to create representative balance in Congress based on population, defining the district boundaries becomes an irresistible mechanism for suppressing representation by poor, Black, Brown, and indigenous populations. Indeed, Okonta (2018) referred to the blatant racialized gerrymandered districts as a “badge of slavery,” echoing the Post-Reconstructionist Jim Crow laws designed to deny Blacks the right to vote. Gerrymandering is the practice of redrawing legislative voting district boundaries to advantage one group over another, frequently advantaging White voters. It ultimately becomes a mechanism for subverting the Voting Rights Act of 1965 that enfranchises underrepresented populations by prohibiting redistricting that eliminates or minimizes the effectiveness of minority voting. For example, in North Carolina gerrymandering broke apart largely African American districts by drawing redistricting boundaries through them and scattering Black voters into White districts where their votes were diluted (Ingraham 2018).

While the Voting Rights Act opened the way to use gerrymandering to empower and enfranchise underrepresented populations by creating voting districts that ensure their representation by using race as a criterion, several states challenged its intent or subverted it. The Supreme Court attempted to address the conflict by identifying criteria for drawing the lines of voting districts through several cases. In *Thornburg v. Gingles* (1986), for example, the Court determined three criteria for states to redraw the boundaries of voting districts in the creation of majority-minority districts: the new districts must be a geographically compact, they must be politically cohesive, and there must be evidence that a white majority could defeat minority candidates.

Legislatures in several states, notably North Carolina, Georgia, Texas, Illinois, Florida, Maryland and Ohio, used these criteria to develop meandering and oddly shaped congressional districts that in fact guaranteed minimal representation of minorities, a practice sometimes referred to as “stacking and cracking” (Bazelon 2017): stacking districts so that Whites vastly outnumbered Black, Brown and indigenous voters, and cracking apart districts where underrepresented populations were the majority. So odd were these district shapes that the Washington Post referred to them as resembling “a Rorschach test” (Petri 2014). Battles over the use of race in defining voting districts resulted in a 2001 decision that using race to develop minority-majority voting districts was unconstitutional, but legislative reapportionment to maintain the political power of a party was legitimate and constitutional. That provided states an opportunity to continue to use gerrymandering as a tool to subvert the ability of underrepresented populations to gain a presence in Congress, so long as their narrative for such redistricting was framed as an intention to

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preserve political power of a party rather than a racist attempt to dilute the voting efficacy of Black, Brown and indigenous populations (Forgette and Winkler 2006).

Federal courts have ruled in several cases to rein in gerrymandering that obviously results in the suppression or denial of voting rights by underrepresented populations. For example, a federal judge ruled in 2019 that Ohio's congressional districts were unconstitutional, arguing that "the GOP-controlled Ohio Legislature put the Democrats at a disadvantage by packing lots of them into four districts and scattering the rest across the remaining twelve" (Sewell 2019: A5). The judge ordered the state to redraw its districts ahead of the 2020 elections. It is telling that the ruling in no way recognizes the powerful intersection of race and party: Black, Brown and indigenous voters are far more likely to be registered and to vote Democrat than Republican; focusing on party rather than race allowed the judge to sidestep the uglier racist intentions of gerrymandering. Similar rulings, with similar coded language concerning party politics rather than racism, emerged in rulings of North Carolina's gerrymandering.

Although the Supreme Court has on occasion recognized the racist implications and ramifications of gerrymandering and voter suppression, it has also ruled to reinforce it. For example, in *Shelby County v. Holder* (2013), the Court substantially undermined the Voting Rights Act by determining that changes in voting laws to prevent fraud was in fact allowable and not unconstitutional. That decision allows states to simply claim concerns of preventing voter fraud, even where none exists, to redraw district lines that make voting rights increasingly inaccessible to underrepresented populations. Notably, such laws were "overwhelmingly passed in state legislatures controlled by Republicans" (Cobb 2021:29). The Court ignored the fact that widespread fraud in voting has been shown to be a nonexistent issue. Even more to the point, in cases challenging the congressional district boundaries in North Carolina and Maryland the Supreme Court ruled in *Rucho v Common Cause* (2019) that, "federal courts have no role to play in policing political districts for partisan gain" (Sherman 2019:1). That decision overturned decisions by lower federal courts that ordered redrawn maps in Maryland, Michigan, North Carolina, and Ohio, and opened the way for blatantly racist gerrymandering and the subversion of the Voting Rights Act without fear of running afoul of the Constitution. And in 2022, the Supreme Court stopped attempts in Alabama to create a second primarily black Congressional district, raising alarms that the court was undermining the Voting Rights Act in much the same way that it has been eroding abortion rights protected under its *Roe V. Wade* decision (Macaro, 2022).

Why do the machinations at the state level matter in national politics? Since congressional district boundaries and the consequent representation in Congress are decided by state legislatures, it affects

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whose perspectives and voices get heard as national policies are passed or defeated. As such, “control of Congress in many ways is decided by rules put together in state legislatures” (Elliott 2019:45). Yet data clearly indicate that participation rates are lowest at the local and state level compared to presidential elections. Republicans, with a largely white base, have long appreciated that opportunity to skew national politics and power through state legislative processes while disenfranchising Black, Brown, indigenous and poor populations.

A question emerges here: given the clear historical efforts to build structures, policies and practices that dilute or eliminate the right to vote of underrepresented populations, how do people find pathways to retrieve that right? Are they powerless in the face of party politics and a state and federal apparatus largely sympathetic to racist impulses? A conventional human rights perspective, with its top-down framework focusing on the behavior of the state and its leaders, would suggest there is little people can do but wait for political elites to come up with solutions at the state or federal level. On the other hand, the Human Rights Enterprise framework, with its focus on the resonance of top-down/bottom-up approach, helps us to unpack that question to highlight the significant real and potential impact of social movements and organized resistance from the bottom.

HUMAN RIGHTS FROM BELOW: PUSHING BACK IN THE 2020 ELECTION AND THE EBB AND FLOW OF PROTEST

As noted earlier, voter participation rates in the US are typically relatively low in the US, with the highest participation rates in presidential elections; state and local elections are typically notoriously lower. Yet the 2020 election notably broke defied that pattern: according to the United States Election Project, that election elicited the highest participation rate ever in a presidential race, at 66.3% of the voting eligible population. Moreover, there were significant increases in the participation rates of underrepresented populations who more commonly lag substantially behind the rates for non-Latinx White voters; the only election cycles when Black voters participated at higher rates than Whites were in 2008 and 2012, when Obama won the presidency. In 2020, Black participation rates were nearly the same as that of Whites. And while Latinx participation rates are normally among the lowest of racialized and ethnic groups, in 2020 that participation rate was similar to the rate in 2012. In addition, women and younger voters also turned out in record numbers (Dorman 2020).

Moreover, the higher participation rate, particularly among underrepresented populations and especially among Black voters, spilled over importantly into the Senate elections in Georgia, where both seats were up for election. The tremendous organized effort to register voters and get out the vote in the run-off elections of both Senate positions served to tip the election to the Democratic candidates for the first time in

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decades. The significance of these two Senate races cannot be underestimated: those elections created the relatively rare occurrence of an evenly divided Senate between Republicans and Democrats (and independents who align with them) at 50 senators each. With the White House now controlled by Democrats, and therefore the Vice President serving as tie-breaking vote in cases where Senators were evenly split along party lines, Democrats were all but assured of their ability to pass more progressive legislation.

Why does this record demographic turnout matter? After the 2020 election, the 117th Congress was more diverse than ever, showing never-before seen representation of underrepresented populations. For example, 28% of the new Congress was people of color: there were 57 Black members (5 more than the 116th Congress), 43 Latinx members (3 more than before), and 5 Native American members (2 more than before). There were also a record number of women in the 117th Congress, with 141 women, or more than one fourth of the total number of the total members; a record 51 members were women of color. And a record 11 LGBTQ members were elected to the 117th Congress (Lindsay 2020). This shift was important in the narrow passage of the most expensive and comprehensive economic rescue and support bill within weeks on the new Congress, at \$1.9 billion, a bill that required Vice President Kamala Harris' vote to break the tie in the Senate. Without the shift producing a more diverse set of voices and perspectives in Congress, the bill, which will provide much-needed economic support and aid to the poor and working class (where a disproportionate of underrepresented populations languish) since the 1960s, would never have passed.

How do we understand this significant departure from the more typical voter participation patterns in previous elections going back to 1932? We argue that using the framework of the Human Rights Enterprise illuminates the relationships, processes and practices that were key in producing that departure.

Social movements erupted and grew from the day Donald Trump was inaugurated President in 2013. Massive marches on Washington of over a million women in pink 'pussy hats' protested the growing misogyny ushered in by his presidency, and the persistence of Black Lives Matter protests across the country, galvanized by police violence and brutality against Black people and by Trump's constant berating and dehumanizing of people of color, brought racism front and center in the national conversation. These movements coalesced in the 2020 election in a move to get out the vote the echoed the push in the 1960s to register voters of color. In particular, Stacy Abrams and Fair Fight 2020 aggressively sought to register voters of color in Georgia, encourage voters to follow through by casting ballots, and later continued to resist attempts to suppress their votes. Their mantra, every vote matters, became a rallying cry across the country. Indeed, Fair Fight 2020 did not just focus on Georgia: they

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organized a voter protection initiative in several key battleground states around the country to ensure the right to vote of all citizens (The Hartford Courant 2019). The result: both Senate seat runoffs went to the Democratic challengers of two Trump Republicans whose racism was no secret, and the battleground states overwhelmingly shifted against the racist agenda of Republicans, making Trump a one-term president and shifting the makeup of Congress to an unprecedented diversity of leaders.

In addition, Emily's List, which raises money in support of women and underrepresented candidates running for office, opened a second flank by 2016 in the fight against voter suppression with its focus on down-ballot races in state legislatures. To support this battle in the 2020 election they increased their organizational staff by 300% and their fundraising target to \$50 million, up from its previous \$10 million. This is significant, given the power of state legislatures to set the redistricted boundaries in processes of gerrymandering. Their efforts helped to convert 283 state legislative seats to Democrats, resulting in gains in six chambers since 2016 (Elliott 2019).

These down-ballot efforts were joined by the National Democratic Redistricting Committee, which devotes its efforts to monitoring and affecting gerrymandering processes. In addition to this largely conventional party organization, Flippable, a grassroots Democratic organization dedicated to winning state legislative elections, poured \$125 million into Virginia's races, and sent similar support to eight other state legislative battlegrounds (Elliott 2019).

The power of these pressures from below to ensure the right to vote were heard by several major social media outlets, who began to shut down ads and postings that used scare tactics, misinformation and disinformation to suppress the vote, and to tag postings that made assertions unsupported by facts. These posts often came from SuperPACs intent on suppressing the vote in order to support Trump's election (Romm and Stanley-Becker 2019). While the social media giants were certainly late in the game to respond to these tactics, their new-found response to the use of social media to suppress the vote was not insignificant: Trump had long used Twitter to incite his base, galvanize racist hatred, and encourage white supremacists. When Twitter shut down his account it denied him a nation-wide pulpit to discourage, dilute, and outright suppress the right to vote of millions of people of color and indigenous populations. It is hard to imagine that this response of erstwhile reluctant social media moguls to rein in voter suppression attempts on their platforms would have occurred without the strong and growing pressure boiling up from below.

That same pressure from below has resulted in two significant bills being introduced in Congress to increase voting rights: The John Lewis Voting Rights Advancement Act (HR-4/S-4253) and For the People Act of 2019 (HR-1). The John Lewis voting Rights Advancement Act,

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named for the voting rights activist Rep. John Lewis, emerged from an examination of 25 years of voter suppression and “establishes a targeted process for reviewing voting changes in jurisdictions nationwide, focused on measures that have historically been used to discriminate against voters,” including voter ID laws and the elimination of multilingual voting materials, practices long known to suppress voting rights access. The bill also increases access to voting for indigenous populations. It was passed by the House in 2021 but has yet to be passed by the Senate. A similar bill languished in the Senate in 2019 when Republican leaders refused to bring it to a vote; it is likely to be raised again in the 117th Congress, where it may very well benefit from the evenly divided Senate whose logjam will be broken by a tie-breaking vote from Vice President Kamala Harris. This is yet another example of critical legislation that would not have even been discussed were it not for the groundbreaking Senate elections in Georgia in 2020.

Similarly, Rep. John P. Sarbanes introduced HR-1, For the People Act, in 2019. It is designed to address voter suppression by expanding voter access (particularly expansion of voter registration and strict limits on removal of voters from lists of registered voters), election security and integrity. Further, it proposes limits on campaign financing that underwrites misinformation and disinformation campaigns by limiting campaign spending, expanding the restrictions on foreign contributions to campaigns, expanding rules of spending disclosures by organizations (like Super PACs) that spend money on political advertisements (including online ads and social media), and enhances the financial power and amplifies the voices from below by proposing a campaign finance reform initiative that provides federal matching of small contributions to qualified candidates in federal elections. And It addresses gerrymandering by proposing to establish an independent, nonpartisan commission for redistricting. This bill passed the House in 2019 but has yet to pass the Senate.

While these legislative initiatives suggest human rights from above, it is important to note that they would not have received support (or even a hearing) in Congress without the surge of pressure from below to address voter suppression and gerrymandering as the key mechanisms for denying voting rights of millions of people in the US, particularly people of color and indigenous voters. These bills represent the Human Rights Enterprise in action.

HUMAN RIGHTS PRAXIS AND POLITICAL HUMAN RIGHTS IN THE US: WHAT CAN WE LEARN AND WHY DOES IT MATTER?

Democracy hinges on the right to vote and democratic citizenship, in which “suffrage is the embodiment of individual sovereignty” (Ruth, Matusitz and Simi 2016:58). In fact, in the US the principle of ‘one person,

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one vote' stand as an assurance that all citizens, regardless of any differentiating characteristics, will have the same chance of affecting who the political leaders will be. It is the political coinage of power from below. However, in practice, that principle is compromised by two key practices and policies: voter suppression and gerrymandering, twin practices and policies that particularly target Black, Brown and indigenous voters. Indeed, in an editorial, *The Washington Post* (2017) referred to voter suppression as the "civil rights issue of this era." And, in the absence of salient power from below through access to voting rights, disenfranchised voters are increasingly turning up the heat on political and organizational elites who significantly affect rights from above by organizing on the ground, protesting, and pressuring political leaders to address these twin pillars of the denial of voting rights.

Conventional human rights perspectives, which largely focus on human rights from above, offer limited abilities to analyze and understand the evolution, contraction and expansion of voting rights because they miss the role of activism and social movements from below. On the other hand, the Human Rights Enterprise perspective highlights the resonance of rights from above and rights from below by examining specifically the percolation of pressures from below. That perspective highlights the reality that human rights from above are not typically granted because political leaders necessarily recognize that everyone had rights simply by virtue of being human; rather, they are addressed by political leaders because of increasing pressure from organized social movement efforts that percolate from the bottom up. ^[SEP]

Owning class domination via the political ideological state apparatus is also made clear in that policies rarely reflect the desires of a majority of the American public, often across political party affiliation. Take, for example, the perpetual bi-partisan increase in funding of the American military in the face of Presidential impeachment, and military defeat in the Afghan theater of the "war on terror" at the cost of \$2.26T, a quarter million human lives, and the displacement of well over 5 million Afghans. Consider the over-arching *increase* in (local and federal) police funding across American cities one year after one of the largest and most diverse organized resistance movements in American history decried racist police violence, demanded alternatives to policing, and even burned down a police station in Minneapolis, MN—home of the slain George Floyd. Consider the failure to provide universal health care in the U.S. despite overwhelming public approval, and an historic global pandemic that continues to kill thousands, infect millions, strain health and economic systems worldwide, and threatens to produce increasingly dangerous viral "variants" (such as Delta). An analysis framed in the Human Rights Enterprise helps us to understand that it is no mere coincidence that renewed and escalated assaults against the voting rights of Black, brown and indigenous populations is occurring at precisely the same moment in

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history as renewed attempts to demonize migrants of color and resistance to any notion that Black Lives Matter. Clearly, the bedrock white supremacist fears of an ever-larger population of color outnumbering whites and tipping political power balances that favor unearned white-skin privilege loom large in the attempt to suppress the vote of all but white voters. The Human Rights Enterprise frame makes it possible for us to draw out these relationships and to understand them for what they are, in addition to pointing the way to addressing them.

Our research has also raised great questions for further research. For example, is there a correlation between states' voting laws and other human rights policies and practices: do states with more restrictive voting laws also have more restrictive laws regarding access to other human rights, and do states with more expansive voting laws also pursue more expansive policies and practices regarding other human rights? The case of Florida provides a starting point here, in that it has aggressively pursued more restrictive access to voting rights as well as restrictive and punitive policies regarding access to reproductive rights, LGBTQ+ rights, and policies banning the inclusion of books and curriculum acknowledging critical race theory and structural racism. Is Florida reflective of a wider correlation in other states as well? While this is a fascinating question, it is one for future research.

REFERENCES

- ACLU (American Civil Liberties Union). 2022. Map of Convicted Felon Rights. Available at <https://www.aclu.org/issues/voting-rights/voter-restoration/felonv-disenfranchisement-laws-map>
- Alexander, Michelle. 2012. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press.
- Alston, P. 2018. "Report of the Special Rapporteur on Extreme Poverty and Human Rights on his Mission to the United States of America," *United Nations Human Rights Council*, May 4. Retrieved 09/01/21 (<https://digitallibrary.un.org/record/1629536?ln=en#record-files-collapse-header>).
- Amy, Jeff. 2021. "GA voting law called 'Jim Crow in the 21st century.'" *Hartford Courant*. March 27:3.
- Armaline, William T, Davita Silfen Glasberg and Bandana Purkayastha. 2011. "Human rights in the United States: The 'gold standard' and the human rights enterprise." Pages 251-253 in Armaline, William T, Davita Silfen Glasberg and Bandana Purkayastha (eds.), *Human Rights in Our Own Back Yard: Injustice and Resistance in the United States*. Philadelphia: University of Pennsylvania Press.
- _____. 2015. *The Human Rights Enterprise: Political Sociology, State Power and Social Movements*. Malden, MA: Polity Press.
- Arnwine, Barbara R. 2011. "61 forms of voter suppression." Available at www.votingrightsalliance.org.
- Avery, James M. and Mark Peffley. 2005. "Voter registration requirements voter turnout, and welfare eligibility policy: Class bias matters." *State Politics and Policy Quarterly* 5(1): 47-67.
- Bay, Ann-Helen, and Morten Blekesaune. 2002. "Youth, unemployment and political marginalization." *International Journal of Social Welfare* 11(2): 132-139.

Glasberg, Armaline, and Purkayastha / Societies Without Borders 16:1 (2022)
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- Bazelon, Emily. 2017. "The new front in the gerrymandering wars: Democracy vs. math." *The New York Times Magazine*, August 29.
- Bentele, Keith G. and Erin E. O'Brien. 2013. "Jim Crow 2.0? Why states consider and adopt restrictive voter access policies." *Perspectives on Politics* 11(4): 1088-1116.
- Berman, A. 2021. "Jim Crow Killed Voting Rights for Generations. Now the GOP is Repeating History," *Mother Jones*, June 2. Retrieved 09/01/21 (<https://www.motherjones.com/politics/2021/06/jim-crow-killed-voting-rights-for-generations-now-the-gop-is-repeating-history/>).
- Berman, A. and N. Surgey. "Leaked Video: Dark Money Group Brags About Writing GOP Voter Suppression Bills Across the Country," *Mother Jones*, May 13th. Retrieved 09/01/21 (<https://www.motherjones.com/politics/2021/05/heritage-foundation-dark-money-voter-suppression-laws/>).
- Blackmon, D. 2009. *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to WWII*. NY, NY: Anchor Books.
- Bonilla-Silva, Eduardo and Sarah Mayorga. 2009. "Si me permiten hablar: Limitations of the human rights tradition to address racial inequality." *Societies Without Borders* 4(3): 366-382.
- Brater, Jonathan, Kevin Morris, Myrna Perez and Christopher Deluzio. 2018. "Purges: A growing threat to the right to vote." Brennan Center for Justice. Retrieved 08/01/21 (https://www.brennancenter.org/sites/default/files/publications/Purges_Growing_Threat_2018.1.pdf).
- Brennan Center for Justice. 2021. "Voting Laws Roundup: July 2021," *Brennan Center for Justice*, July 22. Retrieved 09/01/21 (<https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021>).
- Brennan Center for Justice. 2022. "Voting Laws Roundup: February, 2022," *Brennan Center for Justice*, February, 22. Available at <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-February-2022>).
- Cobb, Jelani. 2021. "How parties die: Will the GOP go the way of the Whigs?" *The New Yorker*, March 15: 24-30.
- Collins, P.H. 1999. *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (Second Edition). NY, NY: Routledge.
- Corasaniti, N. and R. Epstein. 2021. "GOP and Allies Draft 'Best Practices' for Restricting Voting," *The New York Times*, March 23. Retrieved 09/01/21 (<https://www.nytimes.com/2021/03/23/us/politics/republican-voter-laws.html>).
- DeNardo, James. 1980. "Turnout and the vote: The joke's on the Democrats." *American Political Science Review* 74(2): 406-420.
- Desilver, D. 2021. "Turnout Soared in 2020 as Nearly Two-Thirds of Eligible U.S. Voters Cast Ballots for President," *Pew Research Center*, January 28. Retrieved 09/01/21 (<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/>).
- Docherty, Iain, Robina Goodland and Ronan Paddison. 2001. "Civic culture, community and citizen participation in contrasting neighborhoods." *Urban Studies* 38(12): 2225-2250.
- Dorman, John L. 2020. "Young voters in the US turned out in record numbers in 2020, powering Biden's presidential victory," *Business Insider*, November 22. Available at <https://www.businessinsider.com/young-voters-record-voting-turnout-biden-trump-presidential-election-2020-11>
- Elfrink, Tim. 2018. "Florida's racist history on voting rights." *The Hartford Courant* November 11: A6.
- Elliott, Phillip. 2019. "The battle to draw the battle lines: State races starting this fall will shape Congress for the next decade," *Time*, September 16: 45-47.

Glasberg, Armaline, and Purkayastha / *Societies Without Borders* 16:1 (2022)
20-47

- Falcon, Sylvanna M. 2009. "Invoking human rights and transnational activism in racial justice struggles at home: US antiracist activists and the UN Committee to Eliminate Racial Discrimination." *Societies Without Borders* 4(3): 295-316.
- Forgette, Richard and John W. Winkle III. 2006. "Partisan gerrymandering and the Voting Rights Act." *Social Science Quarterly* 87(1): 155-173.
- Gardner, Amy and Beth Reinhard. 2018. "voting problems spring up across the country, groups say." *The Hartford Courant* November 7: A7.
- Gardner, Amy, Kate Rabinowitz and Harry Stevens. 2021. "How GOP-backed voting measures could create hurdles for tens of millions of voters." *The Washington Post*, March 11, 2021.
- Glasberg, Davita Silfen and Deric Shannon. 2011. *Political Sociology: Oppression, Resistance, and the State*. Thousand Oaks, CA: Sage/Pine Forge.
- Grandin, G. 2020. *The End of the Myth: From the Frontier to the Border Wall in the Mind of America*. NY, NY: Metropolitan Books.
- Gray, Anthony 2014. "Securing felons' voting rights in America." *Berkeley Journal of African American Law and Policy* 16(1): 3-31.
- Hayden, P. 2001. *The Philosophy of Human Rights*. St. Paul, MN: Paragon House Pub.
- Hayduk, Ronald. 2006. *Democracy for All: Restoring Immigrant Voting Rights in the United States*. New York: Routledge.
- Hughey, Matthew W. 2020. "Gender and race in American elections: From the pathos of prediction to the power of possibility." *Sociological Forum* 35(51): 877-897.
- Ingraham, Christopher. 2018. "One state fixed its gerrymandered districts, the other didn't. Here's how the election played out in both." *The Washington Post*, November 9.
- Ishay, M. 2008. *The History of Human Rights from Ancient Times to the Globalization Era*. Berkeley, CA: University of California Press.
- Izaguirre, Anthony and Acadia Coronado. 2021. "GOP lawmakers looking to make voting tougher." *The Hartford Courant*, February 1: 3.
- Johnstone, L. and G. Grumbach. 2021. "Texas Democrats Stage Walkout over Restrictive Voting Bill, Killing it For Now," NBC News, May 30. Retrieved 09/01/21 (<https://www.nbcnews.com/politics/elections/texas-democrats-stage-walkout-stop-debate-restrictive-voting-bill-delaying-n1269079>).
- Keyes, Scott, Ian Millhiser, Tobin Van Ostern, and Abraham White. 2012. "Voter suppression disenfranchises millions." *Race, Poverty and the Environment* 19(1): 11-12.
- Keyssar, Alexander. 2013. "Barriers to voting in the twenty-first century." Pages 39-58 in Jack H. Nagel and Rogers M. Smith (eds.), *Representation: Elections and Beyond*. Philadelphia: University of Pennsylvania Press.
- Lalami, Laila. 2020. *Conditional Citizens: On Belonging in America*. New York: Pantheon Books.
- Libal, Kathryn and Shareen Hertel. 2011. Paradoxes and possibilities: Domestic human rights policy in context." Pages 1-22 in *Human Rights in the United States: Beyond Exceptionalism*, edited by Shareen Hertel and Kathryn Libal. New York, NY: Cambridge University Press.
- Lindsay, James M. 2020. "The 2020 election by the numbers," *Council on Foreign Relations*. Retrieved 09/01/21 (www.cfr.org/blog/2020-election-numbers).
- Lipset, Seymour Martin. 1960. *Political Man: The Social Bases of Politics*. Garden City, NY: Doubleday.
- Liu, Isabelle, Emily Rhyne, Nilo Tabrizy, Ben Laffin and Hanaan Sarhan. 2020. "Trump's campaign is building an army of poll watchers. What can they actually do?" *New York Times*, October 30.
- Manza, Jeff and Christopher Uggen. 2008. *Locked Out: Felon Disenfranchisement and American Democracy*. New York: Oxford University Press.
- Mascaro, Lisa. 2022. "High court ruling on Alabama voting maps sparks alarm." *Hartford Courant* (February 9: 4).

Glasberg, Armaline, and Purkayastha / Societies Without Borders 16:1 (2022)
20-47

- Mayer, Kenneth R. and Michael G. DeCrescenzo. 2017. "Supporting information: Estimating the effect of voter ID on nonvoters in Wisconsin in the 2016 Presidential election." Retrieved 09/01/21 (<https://elections.wisc.edu/wp-content/uploads/sites/483/2018/02/Voter-ID-Study-Supporting-Info.pdf>).
- Miller, Zeke and Matt Sedensky. 2020. "President tweets support for protestors." *The Hartford Courant*, April 18: 1.
- Minnite, Lorraine C. and Frances Fox Piven. 2012. "The other campaign: Who gets to vote?" *New Labor Forum* 21(2): 34-40.
- Nadler, Ben and Anila Yoganathan. 2021. "Georgia House passes voting restrictions bill." *The Hartford Courant* March 2: 3.
- National Coalition for the Homeless. 2010. *Voter Rights/Registration Packet*. Chicago: National Coalition for the Homeless.
- National Coalition for the Homeless v. Jensen. 1992. 187 A.D. 2d 582 (N.Y. App. Div).
- National Public Radio. 2018. "Supreme Court upholds Ohio's use-it-or-lose-it voting law," *Morning Edition*, June 12. Retrieved 09/01/21 (<https://www.npr.org/2018/06/12/619109646/supreme-court-upholds-ohio-use-it-or-lose-it-voting-law>).
- Okonta, Patricia. 2018. "Race-based political exclusion and social subjugation: Racial gerrymandering as a badge of slavery." *Columbia Human Rights Law Review* 49(2): 254-296.
- Parkin, Michael and Frances Zlotnick. 2014. "The voting rights act and Latino voter registration: Symbolic assistance for English-Speaking Latinos." *Hispanic Journal of Behavioral Sciences* 36(1): 48-63.
- Perez, Chris. 2014. "US has highest percentage of immigrants in 93 years." Page A1 in New York: *New York Post*.
- Petri, Alexandra. "The nation's ten most gerrymandered districts: A Rorschach test," *Washington Post*, May 19. Retrieved 09/01/21 (www.washingtonpost.com/blogs.compost/wp/2014/05/19/the-nations-ten-most-gerrymandered-districts-a-rorschach-test/).
- Pitts v. Black. 1984. 608 F.Supp. 696 (S.D.N.Y.)
- Piven, Frances Fox and Richard A. Cloward. 2000. *Why Americans Still Don't Vote: And Why Politicians Want It That Way*. Boston: Beacon Press.
- ProCon.Org. 2022. "State Voting Laws & Policies for People with Felony Convictions." Available at <https://felonvoting.procon.org/state-felon-voting-laws/>
- Ramsey, R. 2020. "Analysis: It's Harder to Vote in Texas than in Any Other State," *Texas Tribune*, October 19. Retrieved 09/01/21 (<https://www.texastribune.org/2020/10/19/texas-voting-elections/>).
- Romance, Jeff. 2022. "Voter suppression gets deserved jolt in judge's ruling." *The Palm Beach Post* (available at www.palmbeachpost.com).
- Romm, Tony and Isaac Stanley-Becker. 2019. "Pro-Trump super PACs challenged over Facebook ads seeking voter data." *The Washington Post*, October 29: A15.
- Rosino, Michael L. 2017. "A problem of humanity: The human rights framework and the struggle for racial justice." *Sociology of Race and Ethnicity* 7(1): 338-352.
- Ruth, Terrence, Jonathan Matusitz and Demi Simi. 2017. "Ethics of disenfranchisement and voting rights in the US: Convicted felons, the homeless, and immigrants." *American Journal of Criminal Justice*, 42:56-68.
- Schlozman, Kay Lehman, Henry E. Brady, and Sidney Verba. 2018. *Unequal and Unrepresented: Political Inequality and the People's Voice in the New Gilded Age*. Princeton, NJ: Princeton University Press.
- Schraufnagel, S., M. Pomante II, and Q. Li. 2020. "Cost of Voting in the American States: 2020." *Election Law Journal*, 19(4), DOI: <https://doi.org/10.1089/elj.2020.0666>.
- Schwadel, Philip. 2002. "Testing the promise of the churches: Income inequality in the opportunity to learn civic skills in Christian congregations." *Journal for the Scientific Study of Religion* 41(3): 565-575.

Glasberg, Armaline, and Purkayastha / *Societies Without Borders* 16:1 (2022)
20-47

- Sentencing Project. 2022. Data available at <https://www.sentencingproject.org/issues/voting-rights/>
- Sewell, Dan. 2019. "Federal judges strike down congressional map in Ohio." *The Hartford Courant*, May 4: A5.
- Sherman, Mark. 2019. "Supreme Court says federal courts have no role in policing partisan redistricting," *Boston Globe*, June 27. Retrieved 09/01/21 (<https://www.bostonglobe.com/news/politics/2019/06/27/supreme-court-says-federal-courts-have-role-policing-partisan-redistricting/mFeBGridoCIBMS>).
- Singh, N.P. 2019. *Race and America's Long War*. Berkeley, CA: University of California Press.
- Spates, Kamesha and Carlton Mathis. 2014. "Preserving dignity: Rethinking voting rights for US prisoners, lesson from South Africa." *The Journal of Pan African Studies* 7(6): 84-105.
- Taylor, K.Y. 2021. *From #BlackLivesMatter to Black Liberation* (Updated Edition). Chicago, IL: Haymarket Books.
- The Hartford Courant*. 2019. "Voter initiative." August 14: A3.
- The Sentencing Project. 2010. *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States*. New York: Human Rights Watch.
- The Washington Post*. 2017. "Voter suppression is the civil rights issue of this era." August 19.
- Uggen, Chris, Ryan Larson, Sarah Shannon, and Arleth Pulido-Nava. 2020. "Locked out 2020: Estimates of people denied voting rights due to a felony conviction." Available at <https://www.sentencingproject.org/publications/locked-out-2020-estimates-of-people-denied-voting-rights-due-to-a-felony-conviction/>
- Wang, Tova Andrea. 2012. *The Politics of Voter Suppression: Defending and Expanding Americans' Right to Vote*. Ithaca, NY: Cornell University Press.
- Weindling, Jacob. 2018. "Your state-by-state guide to GOP voter suppression," *Paste Magazine*, October 16. Retrieved 09/01/21 (<https://www.pastemagazine.com/politics/2018-elections/your-state-by-state-guide-to-gop-voter-suppression/>).
- Weinberg, D. 2021. "Texas's Proposed Voter Suppression Law," *Brennan Center for Justice*, August 23. Retrieved 09/01/21 (<https://www.brennancenter.org/our-work/analysis-opinion/texas-proposed-voter-suppression-law>).
- Wilder, Will and Stuart Baum. 2022. "5 egregious voter suppression laws from 2021." *Brennan Center for Justice*, January 31. Available at www.brennancenter.org.
- Zinn, Maxine Baca and Bonnie Thornton Dill. 1996. "Theorizing Difference from Multiracial Feminism." *Feminist Studies*, 66(2): 321-331.

Since things are rapidly evolving arounds issues of voter suppression and gerrymandering, we provide context for our analysis: this paper was submitted May 17, 2022. Any changes that may occur later are beyond the scope of this paper.