

# **THE VOTER ID LAWS: THE NEW BLACK CODES**

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By:  
Matthew Ellis Simmons  
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Thesis Approval:  
Dr. Iyelli Ichile, Thesis Advisor, African American Studies  
Dr. Anthony Monteiro, African-American Studies

## ABSTRACT

### **The Voter ID Laws: The New Black Codes**

The Black Codes were laws set in place by various states-particularly those located in the South-to limit the political power and social influence of African-Americans in the U.S. These laws came into existence during Reconstruction and transformed into the Jim Crow Laws, ushering in a new form of discrimination that sought to subjugate the African-American people under the foot of white power. These laws were overturned by the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. The intent of these legislative acts were to guarantee all individuals of voting age the right to participate in the political process of this nation and to affect change in the social fabric of society.

In recent years, states have proposed laws that require identification before voting at the voting polls. These laws appear to affect minorities in a negative way, particularly those on a lower socio-economic scale. Are these laws being approved to prevent voter fraud...or are they being used to strip Africans in America of their right to vote? I examine the historical context of the Black Codes and look at the contemporary public policy of the United States through a Critical Race Theory (CRT) framework. I compare these two legislative traditions to identify similarities and continuities. To achieve these goals, I use historical documents, peer-reviewed journals, and other publications to explore this phenomenon, and from there, describe the probable ramifications that these policies will have for the African-American community. This project also evaluates a number of solutions proposed by black political figures to address these challenges, who have offered ways to empower the African-American community to combat the newly-reborn Black Codes.

Key Words: Voter ID, disenfranchisement, Black Codes, Reconstruction, Policy, CRT

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*“The voteless negro is a provocation, an invitation to oppression, a plaything for mobs and a bonanza for demagogues.”-Dr. W.E.B. DuBois (“Politics and Industry”, 1909)*

## CHAPTER 1: INTRODUCTION

The right to vote is a right given to all citizens of the United States. This right enables individuals to participate in the political process, to enact policies that affect how their community operates. What happens when policies are enacted which place stipulations on the right to vote? The attempt of some states to implement the use of voter identification is one such policy. Will this policy hinder certain individuals, ethnicities, and/or socio-economic classes from participating in the political process? Are there historical examples that support the notion that voter identification laws are unconstitutional? There are. These examples are found within the Reconstruction Era: The Black Codes.

This project looks at this issue through a Critical Race Theory (CRT) lens. The reasoning for this is simple. I will be examining an issue that can potentially affect the political and social power of individuals. This policy, even at first glance, appears to disenfranchise individuals who are a part of the ethnic and socio-economic minorities of this nation. These individuals range from African-Americans to Latinos, colleges students and even the elderly. CRT arose from the struggle of minority law scholars who sought to 1) understand how white supremacy created the political and social means to subjugate people of color, and 2) not merely to understand the link between law and racial power but to *change it*.<sup>1</sup> The Black Codes were a set of policies erected in the

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<sup>1</sup>Crenshaw, et al. *Critical Race Theory: The Key Writings that Formed the Movement*. (New York: The New Press, 1995). xiii.

defeated Confederate states during the Reconstruction era whose purpose was to limit the social and political movements of formerly enslaved people.<sup>2</sup> These laws then transformed into the Jim Crow laws, which were used to fully disenfranchise black people and provided the framework for the separate-but-equal doctrine that the Southern states followed until the 20<sup>th</sup> century.<sup>3</sup> The voter identification policies that are being pushed in the 21<sup>st</sup> century are one of the ways in which the subjugation that was seen during the Black Codes/Jim Crow era could be transposed to this day and age. Voter ID policies are the direct descendants of those suppressive laws. CRT is a perfect lens through which to examine this issue. I examine how this policy will be used to create political disenfranchisement in the minority communities as well as present ways to combat and change this policy. This standpoint will be from the perspective of the potentially oppressed, not the oppressors who are pushing for this policy to be enacted.

I have always had a fascination with history. I loved hearing the stories of my great-grandmother in which she spoke about how hard it was to struggle during the sharecropping era in Mississippi. I remember listening to my great-grandfather articulate how he had worked day-in and day-out to buy the land that his descendants could live on and call their own. I saw the look displayed on my grandfather's face as he articulated how he stood up to racist white men who threatened his then-young family with violence. I felt the power with which my grandmother spoke about how she proudly voted for who she wanted to represent her interests in public office.

So when I hear about the recent push by Republican officials in predominately Republican states to pass the voter identification laws with the premise of guarding

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<sup>2</sup>McCaslin "The Black Codes". In the American Mosaic: The African-American Experience. 2010

<sup>3</sup>ibid.

against voter fraud, I feel a need to address their concerns. I am placed in a position to question these said motives behind making individuals present identification at polling locations. Is it really to stop voter fraud from occurring? I believe not. Is it a subliminal attempt by the GOP to suppress a key voting bloc of the Democratic Party? I would argue so, and this paper will call upon examples to support my argument. This paper will counter the Republicans' argument with evidence that voter fraud really does not exist. I assert that voter identification is another way to suppress the minority vote. It is the twenty-first century Black Codes.

## CHAPTER 2: WHY CRITICAL RACE THEORY?

I looked at a myriad of theories in order to ground this project in a sound theoretical structure. I settled on Critical Race Theory (CRT). It is my belief that this lens provides the perfect avenue to connect the Black Codes with the current discourse about the ways in which the recently enacted voter identification laws will disenfranchise minorities and uphold the social and political structure of the status quo within the American society. This section will be used to briefly expound on this theoretical framework in order to lay the foundation for the rest of this intellectual project.

The book *Critical Race Theory: The Key Writings that Formed the Movement* (1995) explains that the Critical Race Theory's (CRT) formation arose from two events that occurred in the 1980s. The first event was the student protest, boycott, and organization of an alternative course on race and law at Harvard Law School in 1981.<sup>4</sup> Derrick Bell was one of two African-American law professors who taught at Harvard before 1980. His course, Race, and Racism and American Law was a platform that looked at legal doctrine from a race-conscious point of view.<sup>5</sup> His inclusion of the photograph of Thomas Smith and John Carlos' acceptance of their Olympic trophies during the 1968 Mexico City Summer Olympic Games in his course book puts into context his position within the academy. Just as their raised fists symbolized their alignment with their racial identification instead of their national representation on global platform, Dr. Bell's class represented his opposition to teaching the academy's preferred curriculum, which catered to the notion of being "race-neutral".<sup>6</sup>

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<sup>4</sup> Crenshaw, Kimberle, et al *Critical Race Theory: The Key Writings That Formed the Movement*. New York: The New Press, xix.

<sup>5</sup> Ibid, xx.

<sup>6</sup> Ibid.

After Dr. Bell's departure to become the dean of the University of Oregon Law School, Harvard students demanded that the university hire a scholar of color to take his place and teach his courses in both constitutional law and minority issues. The university argued that an excellent white professor could instruct the course better than a mediocre African American. The administration also felt that the courses that were already in the curriculum could adequately suffice to teach the students without a pedagogical focus on race and hired two civil rights litigators to teach a three-week mini-course on civil rights litigation. The student responded by boycotting the mini-course and setting up "The Alternative Course", which was a continuation of Bell's course. The students were taught by a myriad of scholars of color from other educational institutions that based their lectures on Bell's *Race, Racism and American Law* publication.<sup>7</sup>

The second event was the 1987 Critical Legal Studies National Conference on silence and race. Critical Legal Studies was created during the late 1970s and it was a white, male academic enterprise. That slowly changed during the mid-1980s and there were a small number of individuals of color who attended their conferences. This sparked conversation between the scholars of CRT and Critical Legal Studies (CLS) and this made them realize that they may have had a common critique of the contemporary legal field but differed in their analysis. This started to come to a head during the 1986 conference, when scholars of the CRT contended that the power structure within the law school institutions was not only based upon a power regime, but it was a power more squarely-based upon racial implications.<sup>8</sup> This made the CLS scholars defensive when faced with the reality that their discourse was still rooted in the status quo. The CRT also

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<sup>7</sup>Ibid, xxi.

<sup>8</sup>Ibid xxiii.

criticized the CLS for failing to incorporate into their doctrine minorities' lived experiences. Still, the CLS maintained that racial identity was outside the scope of law.

I briefly summarized about the history of CRT in order to lay the foundation for why I used as theory to be the framework for this project. CRT looks at how law constructed race. It examines how the law was not only used to try to remedy racism but how it helped to erect and sustain it. Critical race theory also provides a clear understanding that the status quo will continue to try to sustain itself and gives its practitioners the critical analysis skills to help fashion arguments to fight against that racialized power structure. It is not a be-all remedy to racism, because as it will be demonstrated throughout this project, trying to right a social/political wrong through legal means will only lead to a less than desirable result. However, it is a starting point for our communities to understand that the fight for the preservation and advancement of our political, social, and human rights must continue.

### CHAPTER 3: RELEVANCE OF THE BLACK CODES?

As stated above, the Black Codes were a set of policies established in the defeated Confederate states during the Reconstruction era in order to limit the social and political movements of formerly enslaved African Americans. The first two states that enacted the Black Codes were Mississippi and South Carolina (1865). The Mississippi Black Codes were one of the more stringent policies in the newly-defeated Confederate States. It severely limited the social and political power of newly-freed Blacks and already freed Blacks. For example, the Mississippi Black Codes prevented anyone of African-American descent to own property unless it was in an incorporated city or town.<sup>9</sup> It also prevented interracial marriages, set up master/apprenticeships between white plantation owners and black freed men, and limited the travels of freed blacks throughout the state.<sup>10</sup>

South Carolina's Black Codes were slightly more accommodating to the civil liberties of African-Americans. However, they still limited the mobility and social influence of Blacks in the state. They also took away Blacks' right to participate in the political process, and to earn a living as artisans, mechanics and blacksmiths unless they had a license.<sup>11</sup> Other states had similar laws that subjugated the formerly-enslaved Blacks and tied them back to their former slave-owners in order to work off their "fines", sometimes to the extent that they were bound to these individuals for long periods of time.

Another type of Black Codes were the poll taxes. These taxes were implemented in order to prevent African-Americans from voting. The first state to implement the poll

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<sup>9</sup>"Black Codes" of Mississippi 1865. Civil Rights on Freedman, Section 1. [www.pbs.org](http://www.pbs.org)

<sup>10</sup> Ibid.

<sup>11</sup>McClaslin, Nancy A. "Black Codes." In the American Mosaic: The African American Experience. ABC-CLIO., 2010. <http://africanamerican2.abc-clio.com/> (accessed Dec. 5, 2012).

tax was Georgia in 1871 and all other southern states subsequently followed.<sup>12</sup>

Individuals had to pay the poll tax in order to vote, and then show proof that they had paid the tax in order to vote. If someone was unable to pay the tax, their tax was doubled, and it had to be paid at least six to ten months before the general election. According to Keesha Middlemass, the intent of the poll tax was two-fold: It disenfranchised black men and poured money into the white establishment.<sup>13</sup>

However, these laws had an undesirable effect on a sector of their populations of these states: they disenfranchised several white citizens. They then implemented the grandfather clause. The grandfather clause was a provision that stipulated that an individual could vote in elections only if their grandfather was able to vote.<sup>14</sup> This made it so that most formerly enslaved African Americans were unable to participate in the election process because their grandfathers were not eligible to vote before 1870. These laws were outlawed by the Civil Rights Act of 1866, the 14<sup>th</sup> Amendment of the U.S. Constitution, and the military enforced these laws via the Union soldiers until the end of Reconstruction. However, some states enforced their poll taxes until the 1960s, when the Supreme Court ruled that the poll tax levy was unconstitutional.<sup>15</sup>

Methods such as the poll taxes severely limited the socioeconomic mobility of African-Americans and perpetuated a racial caste system.<sup>16</sup> It made African-Americans dependent on their former slave owners. These policies gave way to the Jim Crow laws

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<sup>12</sup>Dowdy, Wayne. "Poll Taxes". In the American Mosaic: The African-American Experience.

[www.africanamerican2.abc-clio.com/](http://www.africanamerican2.abc-clio.com/) (accessed Dec 5, 2012).

<sup>13</sup>Middlemass 2010, p. 11. See also George C Stoney, 'Suffrage in the South Part 1: The Poll Tax,' Survey Graphic 29/1 (1940): 5.

<sup>14</sup>Dowdy, Wayne. "Poll Taxes." In the American Mosaic: The African-American Experience. 2012-  
[www.africanamerican2.abc-clio.com/](http://www.africanamerican2.abc-clio.com/) (Accessed Dec. 3, 2012)

<sup>15</sup>Ibid, n.p.

<sup>16</sup>Nikki Brown and Barry Stentiford. "Jim Crow". In the American Mosaic: The African-American Experience. 2010. [www.africanamerican2.abc-clio.com/](http://www.africanamerican2.abc-clio.com/) (Dec 7, 2012).

that came into being around 1877. These laws were more overt and disenfranchised African-American men by use of literacy tests (which were supposed to be administered to everyone, but were given only to blacks)<sup>17</sup>, white-only/segregated primaries, and racial gerrymandering.<sup>18</sup> When blacks challenged these policies through the judicial system, the system failed to uphold the 14<sup>th</sup> and 15<sup>th</sup> amendment through the Supreme Court decisions of *U.S. v Cruikshank* (1875), *U.S. v Reese* (1875), and *Plessy v. Ferguson* (1896). First, the *Cruikshank* decision undermined these two amendments by ruling that the state could not bring charges against private citizens, thus not offering Blacks protection from whites.<sup>19</sup> Secondly, the *Reese* decision claimed that the Kentucky officials' refusal to count the black vote did not stem from racial motives.<sup>20</sup> Finally, the *Plessy v Ferguson* decision established the separate-but-equal doctrine and ushered in the Jim Crow era in United States history.<sup>21</sup> In the following section, I will talk about the historic legislation that led to the dismissal of the Black Codes/Jim Crow laws but also facilitated new forms of disenfranchisement.

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<sup>17</sup> Ibid.

<sup>18</sup> Dewey M. Clayton. *African Americans and the Politics of Congressional Redistricting*. (New York: 2000, 18).

<sup>19</sup> Richard K. Scher. *The Politics of Disenfranchisement: Why is It So Hard to Vote in America?* (New York: 2011, 36).

<sup>20</sup> Ibid, 36.

<sup>21</sup> James Beckman. "Plessy v. Ferguson". In the American Mosaic: The African-American Experience. 2010. [www.africanamerican2.abc-clio.com/](http://www.africanamerican2.abc-clio.com/) (accessed Jan 17, 2013).

## **Chapter 4: HISTORICAL LEGISLATION: CREATING LOOPHOLES FOR DISENFRANCHISEMENT**

This section will illustrate the connection between the Black Codes and the states' voter identification laws by first examining the "legislative loopholes" in the U.S. Constitution and other legislation which created space for each of these phenomena to occur. The following legislation will be examined: 1) the Emancipation Proclamation, 2) the 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> Amendments, 3) the 24<sup>th</sup> Amendment, and 4) The Voters' Rights Act of 1965. These legislations are critical to this analysis because although they were meant to protect disenfranchised individuals within the United States, they were seriously flawed. I will start with the Emancipation Proclamation.

### **I. Emancipation Proclamation**

President Lincoln issued the Emancipation Proclamation on January 1, 1863. The document states "that all persons held as slaves" within the rebellious states "are, and henceforth shall be free."<sup>22</sup> Even though the wording appears to be comprehensive, the reality is that it is extremely limited in scope. First, the proclamation only "liberated" enslaved blacks that were located in the states that had seceded from the Union. As such, it failed to liberate anyone. It did not apply to enslaved blacks who were in states that remained in the Union, nor those in Confederate territories that were under the Union control.<sup>23</sup> Finally, freedom was only achieved if there was a determination that the North

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<sup>22</sup>Lincoln, Abraham. Emancipation Proclamation. January 1, 1863. [http://archives.gov/exhibits/featured\\_documens/emancipation\\_proclamation/](http://archives.gov/exhibits/featured_documens/emancipation_proclamation/) (Accessed March 18, 2013).

<sup>23</sup> Ibid.

had won the conflict.<sup>24</sup> Abraham Lincoln did not do this because he wanted to elevate the social status of blacks. On the contrary, if he could have ensured the preservation of the Union without emancipating the black race, he would have. This is best articulated in *The Gift of Black Folk* by Dr. W.E.B. Dubois:

Slavery was the cause of the war. There might have been other questions large enough and important enough to have led to a disruption of the Union but none have successfully done so except slavery. But the North fought for union and not against slavery and for a long time it refused to recognize that the Civil War was essentially a war against Negro slavery. Abraham Lincoln said to Horace Greeley as late as August, 1862, "If there be those who would not save the Union unless they could at the same time destroy slavery, I do not agree with them. My paramount object is to save the Union and not either to save or destroy slavery."<sup>25</sup>

This is evidence that this law was handed down in order to preserve the vitality of the Union. Even the President of the United States declared that if he could have saved the Union without being required to take up the cause of ending slavery, he would have chosen to do so. He had no interest in helping those who were being forced into inhumane servitude and unspeakable human atrocities.

Speaking of emancipation, it is important to emphasize that the enslaved Blacks were not freed by the might of the American system. They were freed by the might of their own will. Blacks, enslaved and free, took up arms and fought on the side of the Union forces with the hope that the promise of freedom applied to them. As Dubois stated, "The Negro was not freed by edict or sentiment but by the Abolitionists backed by the persistent action of the slave himself as fugitive, soldier and voter".<sup>26</sup> The agency by which blacks became free was their own.

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<sup>24</sup> Ibid.

<sup>25</sup> Dubois, p. 185

<sup>26</sup> Ibid.

## II. *The Thirteenth Amendment*

The Thirteenth, Fourteenth and Fifteenth Amendments were ratified after the Civil War ended. The Thirteenth Amendment, which was ratified on December 6, 1865, supplemented the Emancipation Proclamation and legally freed blacks from being enslaved within the United States. This is clearly stated in Section 1 of the amendment:

Neither slavery nor involuntary servitude, except as a punishment for crime Whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.<sup>27</sup>

The Thirteenth Amendment abolished slavery and involuntary servitude in the United States except as a punishment for crime that an individual is convicted of. Thus, this stipulates that there are conditions under which someone could still be placed in involuntary servitude and re-enslaved.

## III. The Fourteenth Amendment

The Fourteenth Amendment, which was ratified July 9, 1868, declared that Blacks were citizens of the United States. This is explicitly stated in Section 1 of the amendment:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.<sup>28</sup>

However, it is very imperative to look at the passage carefully. It does state that every individual that is either born or naturalized in the United States is a citizen of this

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<sup>27</sup>Thirteenth Amendment. U.S. Const. Amend. XII, Section 1. Ratified Dec. 6, 1865.

<sup>28</sup>Fourteenth Amendment. U.S. Const. Amend. XIV, Section 1. Ratified July 9, 1868.

country. It also says that no state can form laws that abridge or disenfranchise the citizen in any way without due process of law. That means that if a person is are convicted of a crime, then he/she is no longer a citizen of the United States and their rights can be abridged or altogether stripped away. The legal system generated edicts that decreed that would allow the states could still disenfranchise their citizens.

#### IV. The Fifteenth Amendment

The Fifteenth Amendment is the final amendment that was passed and ratified during the Reconstruction Era. This amendment was ratified February 3, 1870 and it declared that no one could be denied citizenship based on racial factors. This is stated in Section 1 of the amendment:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude--.<sup>29</sup>

This amendment, by itself, states that citizenship cannot be denied based on ethnicity or previous condition of servitude. It was ratified in conjunction with the Thirteenth and Fourteenth Amendment to ensure that the rights of newly-emancipated blacks were legally respected. However, as previously stated, these amendments had glaring loopholes that ensured that the power could remain concentrated in the state seat and not in the hands of blacks

This is illustrated in Christopher Waldrep's analysis of the Warren County, Mississippi courthouse, which explicates the legal workings of the Black Codes in limiting and controlling Black and ensuring that Black labor was instituted almost to pre-

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<sup>29</sup>Fifteenth Amendment. U.S. Const. Amend. XV, Section 1. Ratified February 3, 1870.

Civil War levels. Waldrep argues that the white elite tried to use the law in order to substitute the “law for the lash”.<sup>30</sup> These courts enforced the Black Codes that severely limited newly-emancipated blacks. These codes required that Blacks have written evidence of employment. If they did not have this proof, then they were taken back to the plantation and forced to work as detainees. This even made it so that Black labor was in constant supply due to those individuals being unable to pay their debts and consequently being forced back into semi-slavery.<sup>31</sup>

This example illustrates the shortcomings of the Reconstruction Amendments. Even though they stopped slavery, the defeated Confederacy would have never implemented and enforced them without being forced by Union forces. The South, as illustrated by the Warren Court system of Mississippi, found ways to ensure that its newly-emancipated labor force would still be forced to work for it. This, in turn, ensured that the status quo would remain intact. The 14<sup>th</sup> Amendment stipulated that the right to vote could be abridged by due process of law, and if the state proved that a person had committed a crime, it could and did take the opportunity to disenfranchise as many African-Americans as possible. This was also carried out using economic (poll taxes) or physical means (forced servitude via court order).

#### V. The Twenty-Fifth Amendment

The Twenty-Fourth Amendment is vital to this examination because it made it unconstitutional for the states to use poll taxes to disenfranchise Blacks from participating in the voting process. Before this amendment came into fruition, it was

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<sup>30</sup>Wildrep, Christopher. “Substituting Law for the Lash: Emancipation and the Legal Formalism in a Mississippi County Court.” *The Journal of American History*, 1996: 1425 (27 pgs).

<sup>31</sup> Ibid.

common practice for states, particularly those in the southern region of the U.S., to use discriminatory practices to prevent African-Americans from exercising their right to participate in the political process. Section 1 of the amendment reads as follows:

The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay poll tax or other tax.<sup>32</sup>

This amendment, along with three U.S. Supreme Court cases<sup>33</sup>, put an end to the practice of poll taxes that were used to keep African-Americans out of the political process.

#### VI. The Voting Rights Act of 1965

The Voters' Rights Act of 1965 was created to enforce the Fifteenth Amendment of the U.S. Constitution. It was conceived from the outcry of the murder of voting right activists in the state of Mississippi, as well as the attack on the Selma Marchers by Alabama State Troopers. It was initiated to make unconstitutional the discriminatory practices that states were employing to disenfranchise Blacks and prevent them from participating in the political process. Section 2 of the Act is as follows:

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.<sup>34</sup>

The most controversial portion of the 1965 Voting Rights Act lies in Section 5. It is as follows:

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<sup>32</sup> Twenty-Fourth Amendment. U.S. Const. Amend XXIV, Section 1. (Ratified January 23, 1964)

<sup>33</sup> *Breedlove v. Suttles*, 302 US 277 (1937); *Harman v. Forssenius*, 380 US 528 (1965); *Harper v. Virginia State Board of Elections*, 383 US 663 (1966).

<sup>34</sup> This Act was passed by the 89th Congress of the United States of America. It was signed into law by President Lyndon B. Johnson on August 6, 1965.

Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: Provided, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the Attorney General's failure to object nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court.<sup>35</sup>

The passage of this law had immediate ramifications. A quarter of a million of blacks were registered to vote by the end of 1965.<sup>36</sup>This helped to change the U.S. political structure and facilitated a more diverse representation in state and national legislatures.

This is the section of the Voting Rights Act that contains the crux of the controversy. This section stipulates that before any state uses poll taxes or other statutes, passed any legislation that could be deemed discriminatory, it had to be pre-cleared by the government. The voter identification laws fall under this lens of scrutiny because it is argued that the ID requirement is a prerequisite to an individual right to vote.

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<sup>35</sup> Ibid.

<sup>36</sup> OurDocuments.gov, n.p.

## CHAPTER 5: EMPIRICAL RESEARCH

There has been frenzied debate about how the voter identification laws will affect individuals and their right to vote. This has been of particular interest to those who are non-white, students, the elderly, and part of a lower socio-economic status. Some studies argue that the voter identification statutes will disproportionately impact these groups. Other studies argue that they will not affect these groups at all. This section will briefly highlight the debate among these studies.

There are a few empirical studies that examine how voter identification hinders voting. However, there is dissension among scholars about whether or not voter identification disproportionately affects minorities. One such study done by Barreto, Nuño, and Sanchez, discovered that minority voters were significantly less likely to have driver's licenses and were less likely to bear the various costs of obtaining them.<sup>37</sup> Their method for obtaining the data was achieved by conducting phone interviews with registered voters which they cross-referenced with the Indiana Secretary of State's office. They also examined individuals who voted in the 2002, 2004, and 2006 elections and discovered that 80% of blacks had valid identifications as compared to 85% percent of Caucasian voters.<sup>38</sup> They also found that while only 14% of Caucasians would be affected by the Indiana voter identification statute, over 20% of African-Americans would be adversely affected by the statute.<sup>39</sup>

Another study (Vercellotti and Anderson) discovered that the voter identification requirements did indeed lower voter turnout among minorities, particularly among

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<sup>37</sup>Barreto, Mark A at el. "The Disproportionate Impact of Voter-ID Requirements on the Electorate: New Evidence from Indiana. PS, Political Science and Politics, 42.1 (Jan 2009), 111-116.

<sup>38</sup> Ibid

<sup>39</sup> Ibid.

African-American and Hispanic voters during the 2004 U.S. Presidential election.<sup>40</sup>

When they focused primarily on Hispanics, they saw that the identification requirements could potentially decrease voter turnout. The Vercellotti and Anderson study concludes that providing educational materials to this demographic could lessen the negative impact of these laws over time.<sup>41</sup>

Some studies that were conducted did not find a negative impact on the minority demographics. Mycoff, Wagner and Wilson (2009) found that voter identification laws did not reduce the overall or individual levels of turnout.<sup>42</sup> This study employed an overall level analysis of primary data and national survey data. The study instead argued that political interest and motivation were stronger indicators of voter turnout.<sup>43</sup> Another empirical study by Ansolabehere (2009) analyzed surveys that were conducted after the 2006 general and 2008 primaries and found that about half of the voters were asked about having photo identification. It was concluded that less than half of 1% of voters in the surveys were not able to vote because they lacked identification.<sup>44</sup> There have been other articles that support these two differing opinions and they are still unclear to how the voter identification truly impacts the voting electorate on a myriad of levels.<sup>45</sup>

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<sup>40</sup>Vercellotti, Timothy & David Anderson. "Voter-Identification Requirements and the Learning Curve." *PS, Political Science and Politics*. 42.1 Jan 2009, p 117-120.

<sup>41</sup> Ibid.

<sup>42</sup>Mycoff, J., Wagner et al. "The Empirical Effects of Voter ID Laws: Present or Absent?" *PS, Political Science and Politics*. 42.1. Jan 2009, p 121-126.

<sup>43</sup> Ibid.

<sup>44</sup>Ansolabehere, Stephen. "Effects of Voter Identification on Voting: Evidence from the Experiences of Voters on Election Day." *PS, Political Science and Politics*, 42.1 Jan 2009, p 127-130.

<sup>45</sup>See Chandler Davidson's "The Historical Context of Voter Photo-ID Laws. (2009) and Marjorie Hershey's "What We Know about Voter ID Laws, Registration and Turnout (2009) *PS: Political Science and Turnout*. Also Sanchez, Nuño, Barreto's "The Disproportionate Impact of Photo-ID Laws on the Minority Electorate (2011); Hood and Bullock "Much Ado About Nothing? An empirical assessment of the Georgia voter identification statute" (2012); and Rogowki and Cathy Cohen's "Black and Latino Youth Disproportionately Affected by Voter Identification Laws in the 2012 Election (2013).

## **CHAPTER 6: REPUBLICAN, REHETORIC AND RATIONALIZING VOTER ID LAWS**

The voter identification laws are policies that are being pushed by the Republican Party in order to suppress various minority groups and socio-economic sectors of society. Where did these policies originate from? What is the argument for these policies to exist? I believe that in order to comprehend why the Voter ID laws pose a danger to the enfranchisement of minorities and individuals of lower socio-economic status, the origins and stated arguments for the existence of these policies must be uncovered.

First, it is necessary to attempt to understand why the voter identification discussion has reached national proportions. The American Legislative Exchange Council (ALEC) is a powerful conservative group that helped to push GOP-led state legislatures to pick up the cause of strict identification laws. According to research conducted by the Brennan Center of Justice, they have helped state legislatures to pattern their voter legislation after the model that they helped to create.<sup>46</sup> They assert that 17% of the laws that are passed are patterned after their model. It is also speculated that they are trying to push legislation, such as the voter identification laws in order to disenfranchise minorities and maintain the GOP status quo.<sup>47</sup>

The voter identification laws originated from the Republican argument that uncontrollable voter fraud is embedded within the fabric of the voter political process. This topic of voter fraud is not a new phenomenon, as charges of fraud have been brought up in various presidential elections, but it became a major point of contention during the 2000 U.S. Presidential election. After the conclusion of the election, Attorney John

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<sup>46</sup>Weiser, Wendy R. & Norden, Lawrence. *Voting Law Changes in 2012*. New York, 2011.

<sup>47</sup> See John Nichols, ALEC Exposed: Rigging Elections, *The Nation*, July 12, 2011.

Ashcroft launched a “Voter Access and Integrity Project. This project had the task of eradicating discriminatory barriers and preventing voter fraud.<sup>48</sup>

This gave birth to Congress passing the Help America Vote Act (HAVA) in 2002. This act helped to bolster access to the voting process through the use of provisional ballots, but it required all first time voters who registered by mail to provide identification when they arrived at the polls.<sup>49</sup> States either expanded the requirements listed by HAVA or they narrowed the accepted forms of identification. States, such as Georgia, who had Republican-controlled legislatures, introduced a narrow list of acceptable prerequisites in order to vote.<sup>50</sup>

The state of Georgia has had a long history of disenfranchising minorities. It was one of the states to implement the poll tax during Reconstruction in order to curtail the political power of its African American constituents. A brief look at evidence in Georgia magnifies the ways in which the voter identification laws can and will disenfranchise minorities and other socio-economic groups in order to maintain the status quo.

Georgia passed the poll tax in 1871 and then it was amended again in 1877 to include the provision that prospective voters had to pay their back taxes in order to be qualified to vote.<sup>51</sup> This made it almost impossible for African Americans to vote because of the extreme poverty that was placed on their shoulders. The poll tax remained constitutional until the passage of the Voters’ Rights Act of 1965, which abolished the practice.

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<sup>48</sup> Overton, Spencer. *Stealing Democracy: The New Politics of Voter Suppression*. New York: 2006, p. 151.

<sup>49</sup> Ibid.

<sup>50</sup> Middlemass, Keesha M. “Racial Politics and Suppression in Georgia.” In *African Americans in Georgia: A Reflection of Politics and Policy in the New South*, by Pearl K. Ford. Macon, 16.

<sup>51</sup> Scher, 36.

The poll tax came back into existence with the submission of the 2005 Voter ID Act. The act reduced the acceptable forms of identification from seventeen to only six. It also set a fee for the obtainment of the identification, ranging from \$10 to \$20 and only one-third of Georgia's precincts had offices in which those identification cards could be obtained.<sup>52</sup>

This act had to be pre-cleared by the United States Justice Department because of Section 5 of the 1965 Voting Rights Act. Then U.S. Attorney Alberto Gonzalez ruled it as constitutional, even after the Georgia secretary of state Cathy Cox determined that nearly 700,000 registered voters did not have a valid driver's license.<sup>53</sup> Gonzalez also ignored a Department of Justice report that concluded that the law would disproportionately discriminate against African Americans.<sup>54</sup>

The NAACP Legal Defense Fund took up the case and it went all the way to the Georgia Supreme Court. The Supreme Court upheld the argument that the Voter Identification statute constituted an undue burden upon its constituents and even linked the law to the poll taxes that were in effect in the late 1800s.<sup>55</sup> After many modifications, including the omission of the voter identification fee, the law was finally passed in time for the 2008 Presidential election. The NAACP still contends that the voter identification was passed not fight voter fraud, but rather to suppress the minority vote through state statute.<sup>56</sup> The law addressed individuals who registered to vote, but

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<sup>52</sup>Middlemass, 17.

<sup>53</sup>Ibid, 18.

<sup>54</sup>Ibid, 18.

<sup>55</sup> Ibid, 18-19.

<sup>56</sup>Ibid, 19.

not the absentee ballots. They argued that if it has to exist, the policy should be used for all forms of voting, not just for one type.<sup>57</sup>

One of the individuals who is credited for pushing the voting identification policies with the said goal of fighting voter fraud is Hans von Spakovsky. He is a Republican attorney who served under the Bush Administration and is now a senior legal advisor for the Heritage Foundation, a think-tank that has pushed thirty-plus states to implement voter identification policies. He, along with other Republican individuals, argues that voter identification helps to “maintain the integrity” of the American voting system and fights voter fraud.<sup>58</sup> He bolsters this argument with the account that 1.8 million deceased individuals were still on election rosters while 2.78 million people were registered to vote in America. However, when asked how many of those were fraudulent, he could not say.<sup>59</sup> He then brought up a story that was reported by the Atlanta-based paper, the *Journal-Constitution* in 2000, in which it was reported that fifty-four hundred deceased individuals had voted during the previous two decades.<sup>60</sup>

John Fund also says that voter fraud is rampant within the American political system. He contends in his 2004 book, *Stealing Elections: How Voter Fraud Threatens Our Democracy*, that voter fraud is easily achievable. He argues that nine of the 9/11 hijackers were registered voters who were able to vote in either Virginia or Florida.<sup>61</sup> He also contends that “citizens instinctively realize that some people will be tempted to cut corners in the cutthroat world of politics”.<sup>62</sup> He provides accounts of fraud that allegedly

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<sup>57</sup> Ibid, 19.

<sup>58</sup> Jane Mayer. “The Voter Fraud Myth”. (The New Yorker, 2012)

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> John Fund. *Stealing Elections: How Voter Fraud Threatens Our Democracy*.(San Francisco: 2004, 1).

<sup>62</sup> Ibid., 5.

took place in such cities as Philadelphia, New Orleans, and other metropolitan cities in relation to their voter registration drives and absentee ballots and how they use these methods to “stuff the ballots” and get their party representatives elected.<sup>63</sup> Fund then argues that “Democrats are far more skilled at encouraging poor people—who need money—to participate in shady vote-buying schemes”.<sup>64</sup>

The problem with these arguments for voter identification and against purported voter fraud is this: there is no justification for any of them. Spakovsky’s argument that voter fraud is rampant cannot be verified. He could not give a definite number on how many of the 1.8 deceased individuals’ names were used for elections.<sup>65</sup> He alluded to the fact that they did not have the tools to see if deceased individuals’ names translated into fraudulent votes. How can one substantiate an argument if one does not have the tools with which to back up one’s claim? It cannot be done. Spakovsky’s supporting argument that stemmed from the *Journal-Constitution* does not hold up, especially since that the same newspaper put out an updated report stating that the majority of cases that appeared to be fraudulent were actually due to clerical errors and that the only specific example of a deceased voter that cast a ballot was due to a living voter’s name being identical to the name of a deceased one.<sup>66</sup>

Fund’s argument also has serious flaws. He argues that the nine 9/11 hijackers were registered to vote in two states, however, he fails to mention that they *did not vote*. They did not participate in the political process at all. He cannot even prove that they

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<sup>63</sup> Ibid.

<sup>64</sup> Ibid, 7.

<sup>65</sup> (Mayer, “The Voter Fraud Myth”, 2012).

<sup>66</sup> Ibid.

even had legal photo identification or were registered as American citizens.<sup>67</sup> These individuals can only prove that the political system has flaws, but they cannot prove that voter themselves will vote fraudulently.

Even the courts that upheld the passing of voter identification laws cannot give specific facts, examples, or documents that verify voter fraud, with regard to someone using another's identification. Indiana Seventh Circuit Judge Richard A. Posner wrote an opinion on behalf of the majority decision to let the voter identification law pass. He reinforces the myth of voter fraud in the following passage:

[the voter impersonator enters the polling place, gives a name that is not his own, votes, and leaves. If later it is discovered that the name he gave is that of a dead person, no one at the polling place will remember the face of the person who gave that name, and if someone did remember it, what would he do with the information? The impersonator and the person impersonated (if living) might show up at the polls at the same time and a confrontation might ensue that might lead to a citizen arrest or a call to the police who would arrive before the impersonator had fled, and arrest him. A more likely sequence would be for the impersonated person to have voted already when the impersonator arrived and tried to vote in his name. But in either case an arrest would be unlikely...One response which has a parallel to littering, another crime the perpetrators of which are almost impossible to catch, would be to impose a very severe criminal penalty for voter fraud. Another, however, is to take preventative action, as Indiana has done by requiring a photo ID].<sup>68</sup>

It is clearly seen in this passage that 1) he does not provide any empirical evidence to support his reasoning behind supporting the Indiana voter ID passage. He relies exclusively on unsubstantiated feeling and fears. That is problematic because the court of law is supposed to render a verdict based on evidence, not feeling. Even the symbol of justice, the woman who holds the scales of justice while being blindfolded, alludes to this

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<sup>67</sup>Lorraine C. Minnite. *The Myth of Voter Fraud*. (Ithaca: 2010, 9)

<sup>68</sup>*Ibid.*, 156.

fact. Still, the U.S. Supreme Court upheld the constitutionality of the Indiana Voter Identification law.<sup>69</sup>

The Republican position on voter ID rests on a weak foundation. It is so because of three main points: 1) There is little to no evidence of voter fraud occurring at the polling places on Election day, 2) It does not attack the more likely source of voter fraud: absentee ballots, and 3) Local voting officials would then have significant power over which photo identification is valid and which is not (and thus who can vote and who cannot).<sup>70</sup> To put this in perspective, the Republicans are saying that there is a problem with the way citizens are voting in the elections, but they are applying the wrong solution to the wrong problem. There is little to no evidence of voter impersonation, there is a problem with regards to absentee voting. This is the equivalent of putting a band-aid on a non-existent wound while the real wound bleeds abundantly elsewhere.

Next is an explanation of the ways in which the voter identification policies disproportionately affect minorities and other socio-economic groups. The 2008 presidential showcased a new realization of the political power of African-Americans. An overwhelming majority of blacks voted for Barack Obama, the current President of the U.S. The Republican Party knows that in order for the Democratic Party to stay competitive in political races, it must garner the African-American vote. They also know to maintain the status quo of political relevancy; they have to suppress that voting bloc.<sup>71</sup> Hence, they employ the voter ID policies, in conjunction with other methods, to suppress that vote.

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<sup>69</sup>Crawford v. Marion County Election Board.No. 07-21, 472 F. 3d 949. April 28, 2008.

<sup>70</sup>Scher, 105.

<sup>71</sup>Middlemass, 20.

The Republican Party has argued that they are pushing for stricter voter ID policies in order to protect against voter fraud. However, there has been case after case of instances where their true intentions have been made crystal clear. Former Florida Republican Chairman Jim Greer has been quoted saying that the Republican Party's push for stricter voter ID policies were to suppress the Democratic Vote.<sup>72</sup> He said they discussed this during a December 2009 meeting: "I was upset because the political consultants and staff were talking about voter suppression and keeping blacks from voting. It has been one of those days".<sup>73</sup> Former Florida Republican Governor Charlie Crist also alluded to this fact and an anonymous long-time consultant did so as well.<sup>74</sup> Even Pennsylvania House Majority Leader Mike Turzai claimed that the state's new voter ID law would enable his party presidential candidate, former Massachusetts Governor Mitt Romney, to win the 2012 U.S. Presidential election.<sup>75</sup> I thought that these policies were supposed to help to guard against voter fraud? In light of these and other statements, it is apparent that voter ID laws equal voter suppression/oppression.

The voter ID policies discriminate against the elderly, minorities, and the poor. Studies show that between 6 and 10 percent of the voting age population does not have a government-issued photo ID, which represents between 11 and 19 million potential voters. Studies done in some states have found that blacks were half as likely as whites to not have a driver's license. Georgia's elderly over 75 who are without a driver's license are estimated to be 36%. There are about 3 million disabled individuals who are

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<sup>72</sup> Gene Demby. "Jim Greer, Former Florida Republican Chairman, Says Party Officials Discussed Suppressing Black Vote". The Huffington Post. July 27 2012. [www.huffingtonpost.com](http://www.huffingtonpost.com)

<sup>73</sup> Ibid.

<sup>74</sup> "Ex-Republicans claim Florida GOP Suppressed Democratic Vote". Yahoo News! November 26, 2012. [www.m.yahoo.com](http://www.m.yahoo.com)

<sup>75</sup> Laura Olson. "Turzai's Voter ID Remark Draws Criticism". Pittsburg Post-Gazette. June 26, 2012 [www.post-gazette.com](http://www.post-gazette.com)

without driver's licenses. Finally, there is evidence that requiring photo identification depresses turnout, especially among minority groups.<sup>76</sup> According to the Brennan Center for Justice, more than 5 million voters would be affected by the new policies surrounding voter ID, with around 3.2 million voters affected (11 percent) that do not have state-issued photo identification.<sup>77</sup> Even "immigrants" who are mostly of Latino descent, are targeted. The most extreme example of this is in Arizona, where the state requires all applicants for registration to show proof of citizenship.<sup>78</sup> As stated above, these laws affect individuals that largely vote Democrat and are not a part of the Republican voting bloc.

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<sup>76</sup>Scher., 105. See also notes on page 113.

<sup>77</sup>Brennan Center for Justice. "Voting Law Changes in 2012". [http://brennan.3cdn.net/34876f1cabd6d0e252\\_kwm6id717.pdf](http://brennan.3cdn.net/34876f1cabd6d0e252_kwm6id717.pdf)

<sup>78</sup> Frances F. Piven. *Keeping Down the Black Vote*. (New York: 2009, 208).

## CHAPTER 7: SOLUTIONS

This chapter presents options that can be implemented to combat this situation. They are articulated by various Black political, social, and educational leaders. I will then present my own thoughts about how to combat this situation. Dr. DuBois' position stems from a non-participatory standpoint. Malcolm X stands from a Black Nationalist standpoint. Dr. Jared Ball comes from a multi-party standpoint.

Dr. DuBois articulates his non-participatory point in the 1956 article, "Why I Won't Vote". He provides a stinging rebuke of U.S. politics, especially surrounding the 1956 Presidential election. He felt that there were no differences between the Republican and Democratic presidential nominees or the platforms that they stood for. He illustrates this point in the following quote:

In 1956, I shall not go to the polls. I have not registered. I believe that democracy has so far disappeared in the United States that no "two evils" exist. There is but one evil party with two names, and it will be elected despite all I can do or say.<sup>79</sup>

This appears that Dr. DuBois is encouraging black voter apathy. He is not. He further explains his position in the following quote:

Is the refusal to vote in this phony election a counsel of despair? No, it is dogged hope. It is hope that if twenty-five million voters refrain from voting in 1956 because of their own accord and not because of a sly wink from Khrushchev, this might make the American people ask how much longer this dumb farce can proceed without even a whimper of protest.<sup>80</sup>

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<sup>79</sup> W.E.B. DuBois. "Why I Won't Vote". *The Nation*. (October 20, 1956)

<sup>80</sup> *Ibid.*

He feels if enough of individuals do not vote in that election, they would began to effect change in the system. He ended with saying that if it is impossible to have fair elections, then having democracy is dead.<sup>81</sup>

Malcolm X, when he was with the Nation of Islam, would have probably agreed with Du Bois. However, after he broke away from the religious organization, he began to speak on political matters and lay the foundation for Black Nationalism with an emphasis on human rights. He outlines to this foundation in his speech, “The Ballot and The Bullet”:

Well, we gonna do the same thing, only our gospel is Black Nationalism; his gospel is white nationalism; our gospel is Black Nationalism. And the gospel of Black Nationalism, as I told you, means you should control your own, the politics of your community, the economy of your community, and all of the society in which you live should be under your control.<sup>82</sup>

Malcolm said that we, as a community, have to control our own in order to ensure the vitality of our community. We cannot entrust the politicians to have our best interests at heart, because they do not. We know our issues and we must be able to tackle them ourselves. He argued that we have to control our own politics. He was not able to operationalize this notion due to his untimely assassination, but he did lay the framework from which to start.

Derrick A. Bell, Jr., one of the foundational creators of Critical Race Theory, argues in his essay, “Racial Realism” that we must abandon the notion of racial equality and legal reparation through the rigid parameters of the U.S. court system. He eloquently argues this fact by the following statement:

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<sup>81</sup> Ibid.

<sup>82</sup> Malcolm X. “The Ballot and the Bullet”. The American Radio Works. April 12, 1964. [americanradioworks.publicradio.org/blackspeech/mx.html](http://americanradioworks.publicradio.org/blackspeech/mx.html)

“I would argue that we begin this review with a statement that many will wish to deny, but none can refute. It is this: Black people will never gain full equality in this country. Even those herculean efforts we hail as successful will produce no more than temporary “peaks of progress,” short-lived victories that slide into irrelevance as racial patterns adapt in ways that maintain white dominance.”<sup>83</sup>

Dr. Bell continues to argue that proponents of Critical Race Theory, and the larger minority community at large, continue to pursue policy campaigns that are geared towards making our position as an unwanted entity in this oppressive socio-political system as comfortable as possible.<sup>84</sup> He is not saying to stop fighting against oppression. Dr. Bell is simply saying that we must seek our validation within our resistance to the system, not from assimilating into it.<sup>85</sup>

Rep. Charlie Rangel (D-NY) recommends to a two-pronged strategy to counter-act the assault on the voting rights of minorities and other socio-economic groups. He first recommends that there needs to be a constitutional amendment that places the electoral power and administration duties into the federal government’s control instead of it being in the states’ hands. However, he does recognize that that will be a “long and difficult process”.<sup>86</sup> Rep. Rangel (D-NY) feels that the GOP tactics of voter suppression will hurt them in the long run. He argues that the GOP is losing the diversity war and trying to disenfranchise minorities in an effort to stay in power.<sup>87</sup>

Dr. Jared Ball suggests a multi-party system in order to effect change within American society. He vehemently slammed the two-party system that is currently the

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<sup>83</sup> Bell “Racial Realism”, 306.

<sup>84</sup> Ibid, 308.

<sup>85</sup> Ibid, 308.

<sup>86</sup> Walker, Hunter. “Black Congressmen Let Loose on the GOP Vote Suppression.” April 4, 2013. <http://tpmdc.talkingpointsmemo.com/2013/04/black-congressmen-let-loose-on-the-gop-php>

<sup>87</sup> Ibid.

staple of the U.S. political system. Dr. Ball feels that if we are able to expand the two-party political system into a multi-party system, more change for minorities can occur and the dissolution of the white power system will commence.<sup>88</sup>

I propose that the black community incorporate all of these viewpoints. We must be able to pool our resources within our community and work towards a multi-party system. Political coalitions that were done in the past did not work. However, with the combined minority population exceeding the white voting population, the common causes of political, social, and economic equality can be theoretically achieved. We also must work to build our political and economic power and support and uplift our communities. The power of the collective is strong, and we must tap into that power.

African Americans, and the minority community as large, must also become more educated about the political process. The more politically astute we become, the less likely voter suppression tactics will pass. The age-old adage of “If you want to hide knowledge, keep it in a book” applies here, but in a different capacity. They hide knowledge with covert attempts to violate the suffrage our ancestors fought so hard to obtain. It is our duty to obtain the knowledge and gain the wisdom to effectively use it.

Finally, we must work on going outside American politics and look at alternatives. Maybe we African Americans should make our own nation. Many of us already consider our community to be a “nation within a nation”. We have to lay the groundwork to possibly create our own sovereignty. The nation was built on the subjugation of blacks, so it is a good chance that this nation will never work towards total equality. If all else fails, then we must turn to a revolutionary response and work towards political and social autonomy.

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<sup>88</sup>Jared Ball. In discussion of *I Mix What I Like: A Mixtape Manifesto*. October 29, 2012.

## CHAPTER 8: LIMITATIONS/CONCLUSION

There are several limitations to this project as it currently stands. First, it only highlights one aspect of voter suppression: the use of voter ID laws. It does not elaborate on any of the other forms of voter suppression. The other forms that were not explained are: the denial of felons' suffrage rights, limited voter registration periods, and the suppression of absentee/provision ballots. This paper serves as an exploratory piece into the phenomenon and how it affects minorities. Further expansion of this project will cover these additional issues.

I do not have all the answers nor do I proclaim that I do. However, this project has exposed me to the continuous war that is being fought on the political front for power and control, the struggle for the important right to dictate whom represents the interests of the people. The limiting of voting privileges along racial and socio-economic lines is real. We must combat these situations with intelligence, vigor, and fortitude to not let the struggle of our ancestors be in vain. We must not let our voice be suppressed nor taken away. We must fight the 21<sup>st</sup> Century Black Codes.

## BIBLIOGRAPHY

- ""Black Codes" of Mississippi." *PBS*. 1865.  
<http://www.pbs.org/wnet/slavery/experience/legal/docs6.html> (accessed December 8, 2012).
- Ansolabehere, Stephen. "Effects of Voter Identification on Voting: Evidence from the Experiences of Voters on Election Day." . *PS, Political Science and Politics, 42.1*, 2009: 127-130.
- Ball, Jared, interview by Matthew Simmons. *Discussion of I Mix What I Like! A Mixtape Manifesto*: (October 29, 2012).
- Barreto, Matt A, Stephen A Nuno, and Gabriel S Sanchez. "The Disproportionate Impact of Voter-ID Requirement on the Electorate: New Evidence from Indiana." *PS, Political Science and Politics*, 2009: 111-116.
- Beckman, James A. *Plessy v Ferguson*. 2010. <http://africanamerican2.abc-clio.com/>. (accessed December 9, 2012).
- Brown, Nikki, and Barry Stentiford. ""Jim Crow."." *The American Mosaic: The African American Experience*. 2012. <http://africanamerican2.abc-clio.com.libproxy.temple.edu/Search/Display/1456086?terms=jim+crow> (accessed December 10, 2012).
- Clayton, Dewey M. *African Americans and the Politics of Congressional Redistricting*. New York: Garland Publishing, 2000.
- Crawford v. Marion County Election Board*. No. 07-210. 472 F. 3d 949 (United States Supreme Court, April 28, 2008).
- Crenshaw, Kimberle, Neil Gotanda, Gary Peller, and Thomas Kendall. *Critical Race Theory: The Key Writings that Formed the Movement*. New York: The New Press, 1995.
- Demby, Gene. *Jim Greer, Former Florida Republican Chairman, Says Party Officials Discussed Suppressing Black Vote*. July 27, 2012. [http://www.huffingtonpost.com/2012/07/27/jim-greer-suppress-black-vote\\_n\\_1710700.html](http://www.huffingtonpost.com/2012/07/27/jim-greer-suppress-black-vote_n_1710700.html) (accessed December 10, 2012).
- Derrick A. Bell, Jr. "Racial Realism." In *Critical Race Theory: The Key Writings That Formed the Movement*, by Kimberle Crenshaw, Neil Gotanda, Gary Peller and Kendall Thomas, 302-312. New York: The New Press, 1995.
- Dowdy, Wayne. "Poll Taxes." In *The American Mosaic: The African-American Experience*. . 2010-. [www..africanamerican2.abc-clio.com](http://www.africanamerican2.abc-clio.com) (accessed 3 2012, December).

- DuBois, W.E.B. *The Gift of Black Folk*. Boston: The Stratford Company, 1924.. ""Why I Won't Vote"." *The Nation*, October 20, 1956.
- Fund, John. *Stealing Elections: How Voter Fraud Threatens Our Democracy*. San Francisco: Encounter Books, 2004.
- Hogue, Ilyse. *GOP's Push to Suppress Vote Threatens democracy*. November 4, 2012. [http://www.cnn.com/2012/11/04/opinion/hogue-voter-suppression/index.html?iid=article\\_sidebar](http://www.cnn.com/2012/11/04/opinion/hogue-voter-suppression/index.html?iid=article_sidebar) (accessed December 10, 2012).
- Lee, Trymaine. *Pennsylvania Voter ID Law Halted, But Elderly Still Can't Rest*. October 2, 2012. [http://www.huffingtonpost.com/2012/10/02/pennsylvania-voter-id-law-elderly\\_n\\_1934063.html](http://www.huffingtonpost.com/2012/10/02/pennsylvania-voter-id-law-elderly_n_1934063.html) (accessed December 10, 2012).
- Voter ID Laws Could Disenfranchise 1 Million Young Minority Voters*. September 12, 2012. [http://www.huffingtonpost.com/2012/09/12/voter-id-laws-minorities\\_n\\_1878893.html](http://www.huffingtonpost.com/2012/09/12/voter-id-laws-minorities_n_1878893.html) (accessed December 10, 2012).
- Lincoln, Abraham. "Emancipation Proclamation." *Archives.gov*. January 1, 1863. [http://archives.gov/exhibits/featured\\_documents/emancipation\\_proclamation/](http://archives.gov/exhibits/featured_documents/emancipation_proclamation/) (accessed April 18, 2013).
- Mayer, Jane. "The Voter Fraud Myth." *The New Yorker*. October 12, 2012. [http://www.newyorker.com/reporting/2012/10/29/121029fa\\_fact\\_mayer?currentPage=all](http://www.newyorker.com/reporting/2012/10/29/121029fa_fact_mayer?currentPage=all) (accessed November 18, 2012).
- McCaslin, Nancy A. ""Black Codes."" In *The American Mosaic: The African American Experience*. ABC-CLIO,. 2010. <http://africanamerican2.abc-clio.com/>. (accessed December 5, 2012).
- Middlemass, Keesha M. "Racial Politics and Voter Suppression in Georgia." In *African Americans in Georgia: A Reflection of Politics and Policy in the New South*, by Pearl K. Ford, 7-24. Macon, Georgia: Mercer University Press, 2010.
- Minnite, Lorraine C. *The Myth of Voter Fraud*. Ithaca: Cornell University Press, 2010.
- Morgan, Luch. *Jim Greer Denounces Florida Republican Officials as Liars, 'right-wing crazies in Deposition*. July 26, 2012. <http://www.tampabay.com/news/politics/national/jim-greer-denounces-florida-republPattyparty-officials-as-liars-and/1242157> (accessed December 26, 2012).
- News!, Yahoo. *Ex-Republicans Claim Florida GOP Suppressed Democratic Vote*. November 26, 2012. <http://m.yahoo.com/w/legobpengine/news/blogs/ticket/ex-republicans-claim-fla-gop-suppressed-democratic-vote-194121956-->

election.html?orig\_host\_hdr=news.yahoo.com&.intl=US&.lang=en-US (accessed December 10, 2012).

- Olson, Laura. *Turzai's voter Id Remark Draws Criticism*. June 26, 2012. [www.post-gazette.com/stories/local/state/turzais-voter-id-remark-draws-criticism-641982](http://www.post-gazette.com/stories/local/state/turzais-voter-id-remark-draws-criticism-641982) (accessed December 10, 2012).
- Overton, Spencer. *Stealing Elections: The New Politics of Voter Suppression*. New York: W.W. Norton and Co., 2006.
- Piven, Frances F, Lorraine C. Minnite, and Margaret Groarke. *Keeping Down the Black Vote*. New York: The New Press, 2009.
- Reiser, Wendy R, and Lawrence Norden. *Voting Law Changes in 2012*. New York: The Brennan School of Law, 2011.
- Scher, Richard K. *The Politics of Disenfranchisement: Why is It So Hard to Vote in America?* New York: M. E. Sharpe, 2011.
- "The Southern Black Codes of 1865-1866." *The Constitutional Rights Foundation*. n.d. <http://www.crf-usa.org/brown-v-board-50th-anniversary/southern-black-codes.html> (accessed December 7, 2012).
- Vercellotti, Timothy, and David Anderson. "Voter Identification Requirements and the Learning Curve." *PS, Political Science and Politics*, 2009: 117-120.
- "Voting Rights Act (1965)." *ourdocuments.gov*. January 1, 1965. <http://www.ourdocuments.gov/doc.php?doc=100> (accessed April 19, 2013).
- Waldrep, Christopher. "Substituting Law for the Lash: Emancipation and Legal Formalism in a Mississippi County Court." *The Journal of American History*, 1996: 1425-1452.
- Walker, Hunter. *Black Congressmen Let Loose on the GOP Vote Suppression*. April 4, 2013. <http://tpmdc.talkingpointsmemo.com/2013/04/black-congressmen-let-loose-on-the-gop.php> (accessed April 7, 2013).
- Weiser, Wendy R., and Lawrence Norden. "Voting Law Changes in 2012." *Brennan Center of Justice*. 2011. [http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/Brennan\\_Voting\\_Law\\_V10.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/Brennan_Voting_Law_V10.pdf) (accessed April 3, 2013).
- Wildrep, Christopher. "Substituting Law for the Lash: Emancipation and the Legal Formalism in a Mississippi County Court." *The Journal of American History*, 1996: p. 1425 (27 pg).
- X, Malcolm. "The Ballot or the Bullet." *The American Radio Works*. April 12, 1964. [americanradioworks.publicradio.org/blackspeech/mx.html](http://americanradioworks.publicradio.org/blackspeech/mx.html) (accessed October 2012).