

Election Reform Topic Paper

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Introduction

With the resurgence in authoritarianism around the world, increasing Russian support for radical right-wing anti-democratic governments,¹ and Chinese crackdowns on democratic rights in Hong Kong,² there is increasing talk of the collapse of the international liberal order and the western model for democracy.³ Combined with the increasing number of states restricting voting rights, partisan gerrymandering, and challenges to the validity of the 2020 election, these trends point to a worrying decline in representational democracy both at home⁴ and abroad. The central mission of intercollegiate debate is to better prepare students to be deliberators, decision makers, and democratic agents in a pluralistic society.⁵ This topic would not only inform how we talk about election policy, democratic politics, and the balance of federal responsibilities to protect the right to vote, it will inject democratic pedagogy into the very debates on the topic.⁶ With a variety of philosophical and political differentiations on what democracy is,⁷ how it best functions,⁸ and for whom it should be reserved or provided to, the topic area is rife with opportunities for debaters to invest personal agency and experience into the topic and it's research.

A voting rights topic would have the potential to be a broad AND deep topic simultaneously. Distinctions between types of reforms (expansion of rights or restriction of democratic practices) and the importance of different conceptions of democracy (social, universal, instrumentalist, etc.) means that affirmatives will have a wealth of options for creativity and flexibility. Negative teams will get access to a set of core arguments that circulate around important social and domestic trends in the real world. The importance of federal/state

balance around the questions of voting rights exploded after the 2020 elections. A cadre of radical anti-democratic state legislatures have enacted extremely revisionist election laws that undermine access, transparency, and representation in large swaths of the country. Election reform both at the legislative and juridical levels is extremely controversial. Courts cases would have to contend with court legitimacy arguments and counterplans that use the lower courts or state supreme courts to rule. Legislative cases would need to contend with the politics and midterms disadvantages. There are also disadvantages to any form of imbalanced federal and state powers, disadvantages to the demographics of expanding voting rights, and ways to target the processes by which voting reform is carried out by state and local governments.

Additionally, counterplans abound on the topic. From the states, to the courts, to the ability to engage in specific mechanism debates, the topic would get a healthy dose of both agent and mechanism competition throughout the year. Critical ground is equally ripe. From the radical pedagogy work of people like Giroux to the more postmodern examinations of democratic values systems from Derrida, there are a wealth of critical sources to draw on for critiques of the liberal philosophy, democracy as a concept, or representational politics. A topic that embraces this challenge and offers students the opportunity to discuss current trends in democracy provides a rich resource for our community to research and debate at a time of crisis. If we see debate as the deliberative training forum we speak so much about in writing and in conversation, then debating democracy in a time of democratic fragility seems pressing and urgent. In what follows, I provide a brief discussion of the topicality issues on a voting rights topic, then I examine different wording options and directions the community could offer after a discussion. Next, I look at possible affirmative cases under each of the topic types and provide some examples.

Finally, I examine potential neg ground and offer ideas for policy and critical arguments from the negative.

Topicality Discussion

There are two parts to this part of the paper, a discussion about several word choices, then a quick summary section of terms of art and other elements of limiting and expanding the scope of the topic. First, we can look at the difference between expand and increase when it comes to rights, protections, or regulations. Whichever way the community wants to go with the topic, the difference between expand and increase seems to be a central aspect of that discussion. Second, there is the distinction between legal and constitutional protections that will be discussed, and concluded that the distinction is one without a pertinent difference. Third, I examine the difference in restrictions on voting rights and regulations of voter suppression and how those two topics would differ. Finally, the end section of this part will provide a quick review of terms of art that will be utilized in any discussion of the topic areas, scope, and themes. Hopefully, this section will show that a topic about voting rights will be both educational and creative grounds for debate.

Expand vs. Increase

Expand versus increase debates probably fall along the bias one has for the type of resolution. Expand seems best suited to terms like voting rights, access to voting, protections for voting. While increase seems more naturally suited to arguments like restrictions. Topic wordings that increase the extent of or scope of voting rights would be said to “expand” those rights to cover more people. Topics could “expand” election reform efforts but “increase”

election reform seems more natural in the topic wordings. Expand is more often used in the literature around voting rights and increase around election reform efforts. According to Merriam-Webster⁹, expand means to “increase the extent, number, volume, or scope of” and Macmillan¹⁰ defines it as “to make something become larger in size.” Oxford’s definition is equally informative:

...to become greater in size, number or importance; to make something greater in size, number or importance Metals expand when they are heated. Student numbers are expanding rapidly. a greatly expanded version of his earlier book A child's vocabulary expands through reading. expand to do something The waist expands to fit all sizes. The gallery's focus will expand to include the work of modern artists. expand (from something) to something By 1999, the event had expanded from two to three days. expand something They are continuing to expand the range of goods and services they offer. to expand a programme/service In breathing the chest muscles expand the rib cage and allow air to be sucked into the lungs. There are no plans to expand the local airport. expand something into something The short film is being expanded into a full-length documentary.¹¹

Fundamentally, the definition of expand works best when one considers the concept of voting rights and constitutional protections for that right. If the topic were to focus on including more people in the process, like affirmatives that give former and current felons access to the ballot, voting for immigrant populations and green card holders, or an affirmative that declared a constitutional right to vote, then expand seems more naturally to fit within the scope of this version of the topic. Increase, on the other hand, means to become greater in size, number, or intensity¹² and Oxford defines it as “to become greater in amount, number, value, etc...to increase dramatically/substantially.”¹³ Clearly, these definitions are focused on quantitative increases that are measurable by observation and evaluation. So the primary distinction between the two is the division between qualitative and quantitative measurement (for the most part!) A creative and resourceful debater will always be able to find definitions that argue the opposite, but these seem to be the trends among the major dictionary definitions.

In summary:

Arguments for Expand

- Its qualitative. Means that you can construct affirmative cases that expand rights by making voting easier, more effective, or more just. Offers the opportunity for creative affirmatives to deal with voting rights in a variety of ways (i.e. removing long wait times as a qualitative expansion of voting rights).
- It fits with topics like constitutional protections, voting rights, access, etc.

Arguments against Expand

- Qualitative increases are hard to prove outside a class expansion (i.e. including felons or undocumented immigrants as eligible).
- We typically use terms like increase in debate. Changing to expand without an explicit connection to something like constitutional protections (i.e. coverage) seems unlikely to produce good debates.

Arguments for Increase

- Its quantitative – forces affirmatives to defend an increase of the number of people allowed to vote, opportunities for voting, regulations imposed by the government on the states, etc.
- It fits better with topics like campaign finance, voter suppression, election reform.
 - It does not require affirmatives to prove a qualitative increase, only a quantitative one. We overturned X number of state laws, we increased voter access by Y number of voters, etc.

Arguments against increase

- Increase constitutional protections makes grammatical sense, but is often used as expand constitutional protections (i.e. see focus on scope or extent)

Protections vs. Rights

This debate seems somewhat irrelevant unless one explicitly desires a legal topic.

Dunigan defines “voting rights” as “a set of legal and constitutional protections designed to ensure the opportunity to vote in local, state, and federal elections for the vast majority of adult citizens.”¹⁴ In this definition, which is somewhat representative of the lot of them, rights are defined as legal and constitutional protections – so the two terms are synonymous and would

imply legal or constitutional changes to protect the right to vote in public elections. A topic that had the federal government expand constitutional and/or legal protections for voting rights would be one that drives the debate toward legislative and judicial solutions for the growing problem at the state level. It could include wide ranging affirmatives such as overrule Shelby to the more traditional John Lewis voting rights act. On the other hand, topics that would lean more towards regulating bad behavior by the state through legislative fixes would probably shy away from this debate entirely and instead focus on a term like voter suppression. Overall, this part of the topicality debate seems somewhat irrelevant as the terms define one another and both provide a similar scope to the topic area.

Restrict v Regulate

According to Collins, a restriction is an official rule that “limits what you can do or that limits the amount or size of something.”¹⁵ Others define it explicitly through the lens of limitation and restraint.¹⁶ As you will see below in the topic wording section, increase restrictions against voter suppression in many ways is a viable topic. States are increasing voter suppression efforts now, the federal government can and should regulate state behavior that infringes on the right to vote, etc. Again, this distinction mainly lies upon which direction you want the topic to take. Do you want to increase protections by regulating gerrymandering, or do you want to restrict campaign financing? Restrict voter suppression, restrict partisan gerrymandering, restrict campaign finance. Of course, a regulation is an official rule that limits what you can do, so the distinction is less crucial than the terms of art in the resolution. Either term will allow affirmatives’ flexibility sufficient to be creative in their approach to the topic.

Other relevant definitional questions

Democracy - According to the Stanford Encyclopedia of Philosophy, the definition democracy is overly broad and probably should not be included in the topic wording:

The term “democracy”, as we will use it in this entry, refers very generally to a method of collective decision making characterized by a kind of equality among the participants at an essential stage of the decision-making process. Four aspects of this definition should be noted. First, democracy concerns collective decision making, by which we mean decisions that are made for groups and are meant to be binding on all the members of the group. Second, we intend for this definition to cover many different kinds of groups and decision-making procedures that may be called democratic. So there can be democracy in families, voluntary organizations, economic firms, as well as states and transnational and global organizations. The definition is also consistent with different electoral systems, for example first-past-the-post voting and proportional representation. Third, the definition is not intended to carry any normative weight. It is compatible with this definition of democracy that it is not desirable to have democracy in some particular context. So the definition of democracy does not settle any normative questions. Fourth, the equality required by the definition of democracy may be more or less deep. It may be the mere formal equality of one-person one-vote in an election for representatives to a parliament where there is competition among candidates for the position. Or it may be more robust, including substantive equality in the processes of deliberation and coalition building leading up to the vote. “Democracy” may refer to any of these political arrangements. It may involve direct referenda of the members of a society in deciding on the laws and policies of the society or it may involve the participation of those members in selecting representatives to make the decisions.¹⁷

It produces far too much possibility for bidirectionality, effects topicality, and affirmatives that are in the direction of the status quo. Additionally, as others have noted,¹⁸ the definition of democracy often contains normative assumptions about what democracy values, what kind of freedom orients the society, and to what extent the people are treated as intrinsically valuable individuated units, or agglomerated into a mass of unfeeling outputs.

Electoral reform - Electoral reform is broad and covers a wide range of anti-democratic practices in public elections. It is explicitly directed at combatting anti-democratic practices and expanding institutional protections for the equal right to vote. This seems like a good term to include in mechanisms for the topic. The official and widespread denotation of electoral reform

is to increase protections, decrease anti-democratic practices, and ensure transparency and accountability in elections. As Funk and Wagnalls states, it is the:

elimination of dishonest, corrupt, or undemocratic practices and procedures in the conduct of public elections. Historically, electoral reform laws have sought to prevent abuses, include in the electorate categories of citizens previously barred from voting, and improve procedures for selecting candidates and arranging elections, so that voters may register an effective choice. Among practices that have been the objects of electoral reform are actual or threatened physical violence against voters; concealed pressures such as might be exercised by an employer or government authority; bribery, through gifts of money or other rewards for voting as directed; impersonation of duly qualified voters by others, called personation; voting more than once, called repeating; shifting of voters from districts where a desired result is assured to others where it is doubtful, called colonization; and various forms of Ballot fraud, including the stuffing of ballot boxes and the deliberate miscounting of ballots that have been cast. More recently, especially in the U.S., reform efforts have often concentrated on encouraging voter participation, limiting the advantages of incumbency, and reducing the influence of money in politics.¹⁹

If the community felt that electoral reforms was a sufficiently limiting term, there would be ample affirmative ground to argue for ending many restrictive practices that undermine constitutional protections for voting. Additionally, it would produce fairly interesting topicality debates, as negative teams would need to prove that the object of scorn targeted by the affirmative fell within the range of negative practices election reform is meant to address.

Suffrage – this terms seems somewhat moot depending on how the resolution is crafted.

Voting rights sounds better when written into the resolutions and conceptually means the same as suffrage. Jensen describes it explicitly as “the right to vote”²⁰ and Casey excludes the notion that it is solely a privilege of the few, but rather a process of “expansion and enfranchisement”²¹ towards the citizenry. Cornelison and Yanak also see suffrage more than just a static state, but a process towards universality of the franchise.²² Brown expands that definition to include the exercise of voting and the process by which people get to the voting booth and are able to freely exercise the practice.²³

Right to vote – While there is no explicit constitutional protection for the right to vote, the practice of voting is regulated by laws and constitutional protections which makes it subject to other terms of art discussed above.²⁴

Voting – typically defined as a “method of registering collective approval or disapproval,”²⁵ voting itself can also refer to voting in unions, voting on shareholder events, and voting at your PTA meetings. Clearly not limiting enough for a term of art to be included in the topic.

Gerrymandering – defined as a specific form of voter suppression or voter intimidation, gerrymandering typically takes two forms: political and racial. Duignan defines it as a “tactic that is sometimes treated as a violation of voting rights...gerrymandering ensures that a targeted minority group or political party will be permanently underrepresented in a state legislature or in Congress relative to its absolute numbers in the state.”²⁶ Given the number of solvency advocates on the issue (see below), it would be a term that could be used to limit the resolution as part of a list, or be a good affirmative ground area within a broader, non-list, topic. Given that gerrymandering can be defined through racial, ethnic, or linguistic minorities²⁷ it would make the topic particularly ripe for discussions on race, culture, and discrimination in democracy.

Voter Suppression – defined as “any legal or extralegal measure or strategy whose purpose or practical effect is to reduce voting, or registering to vote, by members of a targeted racial group, political party, or religious community.”²⁸ This term would be the broad version of the topic as opposed to a more narrow one under a “gerrymandering” limiter or list of actions. It would provide expansive affirmative ground and allow teams to counteract practices such as voter intimidation, robocalling, events like January 6th etc. It would also allow for broader discussions of religious intolerance and racism in voting practices.

While this list is not comprehensive, it does provide a decent overview of the way that certain terms could limit or expand the scope of the topic. As I cover below, a lot of this depends on the types of action that the community wants to take. Do we want a topic that increases regulations and restrictions on states' ability to engage in voter suppression, or do we want to expand the constitutional protections for voting through access or eligibility? The ability to craft a topic more specifically designed to ask the questions and have the debates about election reform that we want should make this topic appealing to the community more broadly.

Resolution Wordings

The community has the opportunity to provide two different directions for the topic. One set of wordings could be based on voting rights expansion. This would include ballot access affirmatives, removal of lifetime bans on voting for convicted felons, constitutional protections to the vote, and an increase in the numbers of and types of individuals with voting rights. Another set of wordings could be based on restricting anti-democratic practices in the electoral process. This would include affirmatives that end gerrymandering or institute more equitable redistricting processes, institute new anti-corruption and campaign finance measures, affirmatives that outlaw voter id laws, ban partisanship in electoral commissions, institute harsher penalties for intimidation and coercion, among many others. Lists will obviously allow for a more narrowly defined topic, but given the different proposals provided in the solvency advocates section, there is a broad range of creative and nuanced affirmatives that would produce exciting and interesting debates on the topic. As a third option, there are multiple supreme court cases that could offer a potential legal direction to the topic.

Potential “Expand” topics

- The United States federal government should substantially increase/expand constitutional protections for voting rights in public elections in the United States.
- The United States federal government should substantially increase/expand access to the right to vote in public elections in the United States.
- The United States federal government should substantially increase/expand voting rights in public elections in the United States in one or more of the following areas:
popular suffrage, constitutional protections, ballot access.

Restrict topics

- The United States federal government should substantially increase electoral reform in public elections in the United States.
- The United States federal government should substantially increase restrictions on voter suppression in the United States.
- The United States federal government should substantially increase/expand electoral reform in public elections in the United States in one or more of the following areas: voter suppression, partisan and/or racial gerrymandering, constitutional protections, campaign financing, and/or election access.
- The United States federal government should increase/expand electoral reform that s voting rights in public elections in the United States in one or more of the following areas: popular suffrage, constitutional protections, ballot access, gerrymandering.

Potential Courts topic!!

While the legislative aspects of this topic are interesting, there is also the strong potential for a robust topic involving supreme court cases and election reform. Over the past 20 years, there have been significant rollbacks in federal power and jurisdiction over the election process, and even abrogation of judicial review in questions of partisan gerrymandering. Shelby County is a great example of a court case that is ripe for an overturn, impacts broad swaths of the topic area, and has a robust legal discussion about the merits and demerits of the decision. The Voting Rights Act of 1965 is a centerpiece of protections against racial discrimination and overturning a key decision that gutted the preclearance restrictions would generate many potential advantages for the affirmative. Rucho looked at mail-in balloting and ballot harvesting cases, so would be an excellent area to research for methods of collectivization and organization in elections. Citizens United needs no introduction. Crawford was essential in delivering to state legislatures the power to gerrymander their opponents out of power permanently. All of these would be topical affirmatives under some of the resolutions above. Most either decreased voting rights, or decreased constitutional and legal protections for voting. The list of cases is obviously not complete, but gives the community an idea of the flexibility and creativity that a supreme court topic would provide.

- The United States supreme court should overturn one of the following cases: Shelby County v. Holder (2013), Rucho v. Common Cause (2019), Citizens United v. Federal Election Commission (2010), Crawford v. Marion County Election Bd. (2008).

The following section is an appendix to this paper with citations for affirmative arguments, citations for core negative ground arguments, and advantage areas that are possible under an election reform topic. It is my sincere hope that we take the opportunity to debate a central question of our democracy, how do we save what is left of it?

Solvency Advocates

State Action Restriction Rights Now

Laws like those in Georgia will restrict voting rights for black voters

"Georgia's Proposed Voting Restrictions Will Harm Black Voters Most". 2022. **Brennan Center For Justice**. <https://www.brennancenter.org/our-work/research-reports/georgias-proposed-voting-restrictions-will-harm-black-voters-most>.

The in voting restrictions is nationwide

"Voting Laws Roundup: February 2021". 2022. **Brennan Center For Justice**. <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-february-2021>.

Courts Restricting Now – Congress Key

Duignan, Brian. "voting rights". *Encyclopedia Britannica*, 17 Dec. 2021, <https://www.britannica.com/topic/voting-rights>. Accessed 31 January 2022.

Federal reform key – States restricting rights now

Federal Action is necessary – states are restricting minority rights to vote now
Brennan Center for Justice. The Impact of Voter Suppression on Communities of Color. (2022). Retrieved 31 January 2022, from <https://www.brennancenter.org/our-work/research-reports/impact-voter-suppression-communities-color>

Voting Access/Discrimination Affs

Pass the Freedom to Vote or John Lewis Voting Rights Acts

Solvency advocate

Brennan Center For Justice. "Voting Laws Roundup: December 2021". 2022. <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021>.

Advantage area - It would solve for discrimination

Andrew **Garber**, "Debunking False Claims About The John Lewis Voting Rights Act". 2022. Brennan Center For Justice. <https://www.brennancenter.org/our-work/research-reports/debunking-false-claims-about-john-lewis-voting-rights-act>.

VOTER ID Aff

Solvency Advocate

Henry **Rose**, How the Supreme Court Diminished the Right to Vote and What Congress Can Do About It, 75 Nat'l Law. Guild Rev. 22 (2018).

“As with state literacy tests, Congress can enact laws that seek to prevent or remedy the unconstitutional applications of state voter identification laws. This power extends to suspending their use in federal and state elections because they have been applied in a racially discriminatory manner. Congress could prohibit states from requiring voters to present identification documentation as a qualification for casting a ballot. Such a prohibition would prevent states from enacting voter identification laws, which suppress voter turnout, 104 without evidence that in-person voter fraud is a widespread problem in American elections. Congress should act to make it easier for Americans to vote, not more difficult?”

Advantage area - Voter ID laws are discriminatory

Kuk, John, Zoltan Hajnal, and Nazita Lajevardi. 2022. “A Disproportionate Burden: Strict Voter Identification Laws and Minority Turnout.” *Politics, Groups, and Identities* 10 (1): 126–34. <https://doi.org/10.1080/21565503.2020.1773280>.

They specifically hurt black and latinx voters

Fraga, Bernard L, and Michael G Miller. 2021. “Who Does Voter ID Keep from Voting?” *The Journal of Politics*, July, 716282. <https://doi.org/10.1086/716282>.

They disproportionately affect black voters

Henninger, Phoebe, Marc Meredith, and Michael Morse. 2021. “Who Votes Without Identification? Using Individual-Level Administrative Data to Measure the Burden of Strict Voter Identification Laws.” *Journal of Empirical Legal Studies* 18 (2): 256–86. <https://doi.org/10.1111/jels.12283>.

Barreto, Matt A., Stephen Nuño, Gabriel R. Sanchez, and Hannah L. Walker. 2019. “The Racial Implications of Voter Identification Laws in America.” *American Politics Research* 47 (2): 238–49. <https://doi.org/10.1177/1532673X18810012>.

Advantage Area - Voter ID laws have a chilling effect on turnout

Grimmer, J., & Yoder, J. (2021). The durable differential deterrent effects of strict photo identification laws. *Political Science Research and Methods*, 1-17. doi:10.1017/psrm.2020.57

Souls to the Polls

Restrictions on Sunday voting are discriminatory against black voters

Brennan Center For Justice. "Georgia's Proposed Voting Restrictions Will Harm Black Voters Most". 2022. <https://www.brennancenter.org/our-work/research-reports/georgias-proposed-voting-restrictions-will-harm-black-voters-most>.

Specifically, these restrictions cause people to abstain from voting

Herron, Michael C., and Daniel A. Smith. "Race, Party, and the Consequences of Restricting Early Voting in Florida in the 2012 General Election." *Political Research Quarterly* 67, no. 3 (September 2014): 646–65. <https://doi.org/10.1177/1065912914524831>.

Wait Times Affirmative

Long wait time disproportionately affect voters of color

Hannah **Klain**, Kevin **Morris**, Max **Feldman**, and Rebecca **Ayala**, (2020). "Racial Disparities in Election Day Experiences," Brennan Center for Justice at New York University School of Law, https://www.brennancenter.org/sites/default/files/2020-06/6_02_WaitingtoVote_FINAL.pdf

Wait times are longer in communities of color

Chen, M. Keith, Kareem **Haggag**, Devin **Pope**, and Ryne **Rohla**. 2019. "Racial Disparities In Voting Wait Times: Evidence From Smartphone Data". doi:10.3386/w26487.

Voting wait times amount to unequal treatment

Cottrell, David, Michael C. **Herron**, and Daniel A. **Smith**. "Voting Lines, Equal Treatment, and Early Voting Check-In Times in Florida." *State Politics & Policy Quarterly*, (August 2020). <https://doi.org/10.1177/1532440020943884>.

Election Financing Affs

Public Election Funding

Solvency Advocate

Tim **Lau**, "Citizens United Explained". 2022. Brennan Center For Justice. <https://www.brennancenter.org/our-work/research-reports/citizens-united-explained>.

In the short term, a Supreme Court reversal or constitutional amendment to undo Citizens United is extremely unlikely, and regardless, it would leave many of the problems of big money in politics unsolved. But even without a full reversal of Citizens United in the near future, there are policy solutions to help combat the dominance of big money in politics and the lack of transparency in the U.S. campaign finance system. First, publicly funded elections would help counter the influence of the extremely wealthy by empowering small donors. Specifically, a

system that matches small-dollar donations with public funds would expand the role of small donors and help candidates rely less on big checks and special interests. In recent years, public financing has gained support across the United States. As of 2018, 24 municipalities and 14 states have enacted some form of public financing, and at least 124 winning congressional candidates voiced support for public financing during the 2018 midterm election cycle.

Increase Transparency or Regulations on Funding

Solvency Advocate

Tim **Lau**, "Citizens United Explained". 2022. Brennan Center For Justice.

<https://www.brennancenter.org/our-work/research-reports/citizens-united-explained>.

Lawmakers on the national, state, and local level can also push to increase transparency in election spending. For example, the DISCLOSE Act, which has been introduced several times in Congress, would strengthen disclosure and disclaimer requirements, enabling voters to know who is trying to influence their votes. Congress could also pass stricter rules to prevent super PACs and other outside groups from coordinating directly with campaigns and political parties.

FEC Reform Aff

Solvency Advocate

Tim **Lau**, "Citizens United Explained". 2022. Brennan Center For Justice.

<https://www.brennancenter.org/our-work/research-reports/citizens-united-explained>.

Fixing the U.S. elections system will also require fixing the FEC. Long dysfunctional thanks to partisan gridlock, the FEC is out of touch with today's election landscape and has failed to update campaign finance safeguards to reflect current challenges. For example, FEC rules do not even include the term "super PAC," and it has declined to find violations or even open an investigation in high-profile allegations of coordination. The agency's failure to enforce federal disclosure laws helped allow dark money to pour into U.S. federal elections since 2010.

Redistricting Affs

Gerrymandering Aff

Congress should end racial and political gerrymandering advocate

Michael C. **Li**, Harry Isaiah **Black**, Peter **Miller**, and Chris **Leaverton**, "Redistricting: A Mid-Cycle Assessment". 2022. Brennan Center For Justice. <https://www.brennancenter.org/our-work/research-reports/redistricting-mid-cycle-assessment>.

Will Congress Act in Time? As gloomy as the news about this decade's new maps is, this redistricting cycle is unusual in that the rules for map drawing still could change as a result of the Freedom to Vote: John R. Lewis Act. The bill would transform a broken redistricting process by

creating uniform national rules for drawing congressional districts. These include strengthened redistricting protections for communities of color and — for the first time in American history — a strong, judicially enforceable ban on partisan gerrymandering at the federal level.⁴⁹ The bill also would speed up litigation of redistricting cases.⁵⁰ Courts would be required to expedite these cases and would be given expanded powers to postpone primary elections or create temporary maps.⁵¹ Appeals would also be expedited, and only in limited circumstances could a court allow a map found to be discriminatory to be used while an appeal is pending.⁵² To ensure that the worst gerrymanders are quickly flagged for review, the bill would create the equivalent of a rapid test for assessing a map's partisan effects. Maps would be analyzed using the results of the last two presidential and last two U.S. Senate elections in the state. If the map produced a high rate of partisan bias, as defined in the statute, in two or more of the four elections, it would be rebuttably presumed to be an illegal gerrymander and could not be used unless and until the state successfully rebutted the presumption in litigation.⁵³ The Freedom to Vote: John R. Lewis Act would similarly strengthen protections for communities of color in redistricting. ⁵⁴ States with a recent history of discrimination would once again be required to have their redistricting plans and other election law changes preapproved by either the U.S. Justice Department or a panel of three federal judges in Washington, DC, a process that resulted in Texas's redistricting plans being blocked last decade.⁵⁵ The bill also would expressly clarify that minority coalition districts are protected under the Voting Rights Act.⁵⁶ If the bill passes, it would amount to the most sweeping reform of the redistricting process in the country's history, ensuring greater racial as well as partisan fairness. If Congress acts quickly, the bill could even be enacted in time to impact the maps used in the 2022 midterm elections. Time is running short, however. The primary election cycle will soon be underway in earnest. If Congress does not pass the bill in coming weeks, its benefits will likely have to wait until the 2024 election cycle.

Its been declared outside the scope of the Supreme court recently – this provides UQ for courts affs

Duignan, Brian. "gerrymandering". *Encyclopedia Britannica*, 11 Oct. 2019, <https://www.britannica.com/topic/gerrymandering>. Accessed 31 January 2022.

Shelby County Affirmative

Duignan, Brian. "voting rights". *Encyclopedia Britannica*, 17 Dec. 2021, <https://www.britannica.com/topic/voting-rights>. Accessed 31 January 2022.

Tokaji, Daniel P. "Responding to Shelby County: A Grand Election Bargain." *Harvard Law and Policy Review* 8, no. 1 (2014): 71-108.

Blacksher, James; Lani Guinier. "Free at Last: Rejecting Equal Sovereignty and Restoring the Constitutional Right to Vote: *Shelby County v. Holder*." *Harvard Law & Policy Review* 8, no. 1 (2014): 39-69.

Elmendorf, Christopher; and Douglas **Spencer**. “After Shelby County: Getting Section 2 of the VRA to do the Work of Section 5.” UC Davis Legal Studies Research Paper Series. July 3, 2014. <http://ssrn.com/abstract=2414652>.

Emenaker, Ryan. “Preclearance May Be a Blunt Instrument, but Bailout Is a Sharpening Stone.” Supreme Court of the United States Blog. February 13, 2013. <http://www.scotusblog.com/2013/02/shelby-county-v-holderpreclearance-may-be-a-bluntinstrument-but-bailout-is-a-sharpening-stone/>.

Mooppan, Hashim. “Shelby County v. Holder: The Ineffective Scattershot Defense of Section 5.” Supreme Court of the United States Blog. February 19, 2013. <http://www.scotusblog.com/2013/02/the-ineffective-scattershotdefense-of-section-5/>.

Price, Zachary. “NAMUDNO's Non-Existent Principle of State Equality.” New York University Law Review 88 (April 2013): 24-40. http://www.nyulawreview.org/sites/default/files/NYULawReviewOnline-88-1-Price_0.pdf.

Stephanopoulos, Nicholas. “The South after Shelby County.” The University of Chicago Law School Public Law and Legal Theory Working Paper No. 451. October 2013. http://chicagounbound.uchicago.edu.libproxy.unl.edu/cgi/viewcontent.cgi?article=1436&context=public_law_and_legal_theory.

Advantage Areas

Democracy –

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