

Sixty years of the Voting Rights Act: progress and pitfalls

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We are grateful to the editors (Isabel Ruiz and William A. Darity Jr) and one referee of this journal. We thank Noam Yuchtman and participants at the *Oxford Review of Economic Policy*'s editorial seminar for valuable comments and suggestions. All remaining errors are ours.

Abstract

We review the literature on the effects of the 1965 Voting Rights Act (VRA), which removed formal restrictions to Black political participation. After a brief description of racial discrimination suffered by Black Americans since Reconstruction, we introduce the goals that the VRA was meant to achieve. Next, we discuss the local level impact of the law on political participation and representation, on public goods provision and policing practices, and on labour market outcomes. We then turn to Whites' reactions, from political realignment to electoral counter-mobilization to changes in voting rules and arrests patterns. We conclude by discussing how the evidence reviewed in this article can inform policy-making and the design of legislation aimed at reducing racial discrimination and inequality.

Keywords: civil rights, race, voting behaviour, enfranchisement.

JEL codes: D72, J15, H70, N92

I. Introduction

On 6 August 1965, President Lyndon B. Johnson signed the Voting Rights Act (VRA) into law. Almost 100 years after the end of Reconstruction, Black Americans in the US South regained the franchise. The legislation, initially set to expire after 5 years, has been re-authorized five times, with the last authorization of 2006 extending it for another 25 years. But, with a controversial 5–4 ruling, the US Supreme Court in *Shelby County v. Holder* (2013) struck down one of the key provisions of the VRA—known as coverage—bringing an abrupt end to the mandated federal oversight of the voting processes in those jurisdictions with the worst record of minority discrimination.

The Court held that the special provisions of Section 4 of the VRA were no longer needed.¹ In the words of Chief Justice Roberts:

The Voting Rights Act of 1965 employed extraordinary measures to address an extraordinary problem.... Nearly 50 years later, they are still in effect;... There is no denying, however, that the conditions that originally justified these measures no longer characterize voting in the covered jurisdictions.... Census Bureau data indicate that African American voter turnout has come to exceed white voter turnout in five of the six [s]tates originally covered by [Section] 5, with a gap in the sixth [s]tate of less than one half of one percent.

By contrast, in the minority opinion, Justice Ginsburg lays out a very different picture, pointing out that:

¹ Section 4(a) establishes a formula to identify areas that are subject to preclearance of any change in voting procedures.

The Court today terminates the remedy that proved to be best suited to block that discrimination.... Although the VRA wrought dramatic changes in the realization of minority voting rights, the Act, to date, surely has not eliminated all vestiges of discrimination against the exercise of the franchise by minority citizens. Jurisdictions covered by the preclearance requirement continued to submit, in large numbers, proposed changes to voting laws that the Attorney General declined to approve, auguring that barriers to minority voting would quickly resurface were the preclearance remedy eliminated.²

To what extent has the VRA been successful in its endeavours? In this article, we carry out a selective review of the vast literature that has studied the effects of this landmark piece of legislation. We start by providing a brief historical account of the evolution of Black American voting rights in the US South. We then lay out the main provisions of the VRA and analyse how the legislation affected Black progress, focusing on three main areas. First, we review the literature on political participation, providing evidence of how the VRA led to an immediate and sustained increase in Black voter registration and turnout. Second, we consider the impact of the legislation on Black office holding, showing that Black representation at the local level increased shortly after the policy, whereas gains in state and federal offices only occurred much later. Third, we look at the effect of Black empowerment on policies, documenting tangible gains for Black communities in the domains of local public goods provision and labour markets, as well as in the administration of justice. Despite these indisputable gains, the path toward racial equality has not been without hindrances. We review the literature on the reaction to the VRA, and discuss how southern racially conservative Whites remained hostile toward minorities, with sizeable counter-mobilization efforts that reduced the overall efficacy of the policy.

This article provides a nuanced picture of the legacy of the VRA. Given the high level of racial polarization permeating US politics, it speaks to the current debate on the implications of interventions that, by rolling back federal oversight protecting minorities, could lead to the erosion of their voting rights—similarly to *Shelby County v. Holder* (2013). The existing evidence suggests that Black Americans have been able to mobilize to partly offset attempts to undermine the progress made over the past 60 years. At the same time, the return of costly case-by-case challenges to discriminatory voting practices indicates that the battle for equal rights is far from over.

II. Historical background

(i) Racial discrimination and Black disenfranchisement

The 15th Amendment, passed by Congress in 1869 and ratified in 1870, granted Black American men the right to vote, preventing its denial on account of race or colour. Heralded as a milestone in the history of American democracy, it conferred—in the words of Congressman and future President James Garfield—‘upon the African race the care of its own destiny. It places their fortunes in their own hands’ (Foner, 2005). Black office holding grew rapidly, but progress was short-lived (Valelly, 2009; Logan, 2020). Starting already in the 1870s, southern legislatures introduced measure to curtail Black Americans’ rights, from anti-enticement laws (Naidu, 2010) to voting requirements such as poll taxes and literacy tests.³ While *prima facie* these restrictions were supposed to exclude all poor and illiterate voters, in practice they had different implications for Black voters. For example, grandfather clauses (introduced in Louisiana, North Carolina, Alabama, Georgia, and Virginia) protected the voting rights of the descendants of persons who had already cast a ballot (or served in the state’s military forces) before a specified date, thus exempting mainly White voters from restrictions to the franchise.⁴ Illiterate Whites were further protected in their right to vote if ‘they owned a certain amount of property, could interpret a section of the [s]tate constitution read to them by the registrar, could demonstrate an understanding of the duties and obligations of citizens under a republican form of government, or could show themselves to be a good moral character’ (US Commission on Civil Rights, 1965).⁵

² Opinion of the Court in *Shelby County v. Holder* (2013).

³ After the end of the Civil War, poll taxes were introduced first in Florida in 1885 and, by 1908, they were in place in all eleven states of the former Confederacy (Carmichael and Hamilton, 1967). The first literacy requirements in the US South appeared in Mississippi in 1890. Shortly after, six more states enacted a similar legislation: South Carolina (1895), North Carolina (1900), Alabama (1901), Virginia (1902), Georgia (1908), and Louisiana (1921).

⁴ Alabama Const., 1901, art. 8, ss 180; Georgia Const., 1877, art. II, ss 1, para. IV (1-2); Louisiana Const., 1898, art. 197, ss 5; North Carolina Const., 1868, art. VI, ss 4, as amended in 1900; Virginia Const., 1902, ss 19.

⁵ Alabama Const., 1901, art. 8, ss 181; Alabama Const., 1901, ss 180; Georgia Const., 1877, art. II, ss 1, para. IV (5), as amended in 1908; Louisiana Const., 1898, art. 197, ss 4; Louisiana Const., 1921, art. 8, ss 1(d); Mississippi Const., 1890, ss 244; South Carolina Const., 1895, art. II, ss 4(c); Virginia Const., 1902, ss 19.

The combination of these measures allowed illiterate Whites to register, while Black citizens became disenfranchised.⁶ Furthermore, literacy tests were administered in a clearly discriminatory fashion. As pointed out by the US Commission on Civil Rights (1965),

tests were hyper-technical, unnecessarily difficult, or vested broad discretion in the registrars. They bore little relationship to an individual's ability to read or write or to cast an intelligent ballot and were extensively utilized to discriminate against Negroes. Registration officials applying them rejected educated Negroes and registered illiterate whites.

The nineteenth century voting restrictions had large political and economic impacts. The process of disenfranchisement reduced Black political participation and power. In turn, this led to a reduction in the resources available for the provision of public goods and, in particular, school resources (Margo, 1990; Vally, 2009; Jones *et al.*, 2012; Logan, 2020). *De facto* discriminatory practices complemented *de jure* measures of voter suppression. A pervasive culture of White supremacy, widespread intimidation, and institutionalized suppression curtailed Black participation in the social, political, and economic life of southern localities (Andrews, 1997). Among these, the Ku Klux Klan produced 'a state of terror and a sense of utter insecurity among a large portion of the people, especially the colored population'.⁷ Between 1877 and 1950, 4,084 southern Black men, women, and children fell victim to 'racial terror lynchings' (Equal Justice Initiative, 2017).⁸ The murders were carried out with impunity, often in broad daylight and 'on the courthouse lawn', and generally took place in communities where there was a functioning criminal justice system (Ifill, 2007).

(ii) The Voting Rights Act of 1965

The widespread discrimination perpetrated by local registrars during the first half of the twentieth century meant that, by 1956, an estimated 1,238,038 Black voters were registered in the 11 southern states (Price, 1959). This represented only one-quarter of the nearly 5 million Black citizens of voting age in these states, as compared to a registration rate for Whites hovering around 60 per cent (US Commission on Civil Rights, 1959).

The Second World War and its aftermath witnessed an increase in pro-civil rights activism (Morris, 1984; Guglielmo, 2018), leading to important developments such as the US Supreme Court ruling on *Smith v. Allwright* (1944)—which struck down the White-only primary—and the ruling on *Brown v. Board of Education* (1954)—which declared the unconstitutionality of school segregation. Southern White political leaders reacted by planning a series of initiatives, which have become known as the Massive Resistance, to fight Black progress. At the same time, the Eisenhower and the subsequent Democratic administrations, under the pressure of both the civil rights movement and the international community (Layton, 2000), introduced the three Civil Rights Acts (CRA) of 1957, 1960, and 1964. These bills, which contained provisions to improve Black Americans' access to the franchise, were approved in Congress only after arduous negotiations that reduced their bite and made their enforcement more challenging.⁹ As a result, their efficacy was limited due to 'the intransigence of [s]tate and local officials and partly because of the delays inherent in the case-by-case litigation required under these statutes' (US Commission on Civil Rights, 1965).¹⁰

In the first days of 1965, President Johnson, in his State of the Union Address, spelled out his plans to pass legislation that would 'eliminate every remaining obstacle to the right and the opportunity to vote'.¹¹ Bloody Sunday on 7 March 1965, when law enforcement officers attacked civil rights activists peacefully marching from Selma to Montgomery, Alabama, represented the turning point in the battle for voting rights. Soon after, in his 'We Shall Overcome' speech to Congress, President Johnson laid out his vision for equal rights for Black Americans. Acknowledging that 'the harsh fact is that in many places in this country men and women are kept from voting simply because they are Negroes', he crucially identified the root cause of the problem: 'No law we now have on the books... can ensure the right to vote when local officials are determined to deny it', and announced that he would address it by sending to Congress a law 'designed to eliminate illegal barriers to the right to vote'.¹² The bill—the

⁶ The US Supreme Court struck down the grandfather clause in *Guinn v. United States* (1915).

⁷ House Reports, 42nd Congress, 2nd session (1872), II, pt. 1.

⁸ The most violent state being Mississippi with 654 episodes of lynching, followed by Georgia (589), Louisiana (549), Arkansas (492), Alabama (361), Texas (335), Florida (311), Tennessee (233), South Carolina (185), Kentucky (168), North Carolina (123), and Virginia (84).

⁹ For instance, the longest one-person filibuster in the US Senate history was made by Senator Strom Thurmond (Fisk and Chemerinsky, 1997).

¹⁰ In the 7-year period between the first and the last Civil Rights Acts, several suits were brought by the Department of Justice against either individual registration officials directly or against entire states' voter qualification rules: e.g. in Alabama, Louisiana, and Mississippi.

¹¹ 111 Cong. Rec. 28 (daily ed. 4 January 1965).

¹² 111 Cong. Rec. 4924 (daily ed. 15 March 1965).

Voting Rights Act of 1965—was soon introduced: in the House on 17 March and in the Senate on 18 March.¹³ Its central features were, on the one hand, the removal of all discriminatory devices used by local registrars (e.g. literacy tests) and, on the other, the introduction of provisions for a ‘systematic, automatic method to deal with discriminatory tests, with discriminatory testers, and with discriminatory threats’ (Katzenbach, 1965). As targeting specific jurisdictions would have almost certainly been challenged in court on constitutional grounds, the legislation devised an innovative formula—known as coverage. This spelled out general rules that, while applying to the country as a whole, *de facto* were only binding for jurisdictions with the worst record of Black disenfranchisement. In particular, jurisdictions that imposed a test or device restricting the right to vote and experienced a total turnout lower than 50 per cent in the 1964 presidential election were covered under Section 5. As a consequence, these jurisdictions were subject to strict federal monitoring of their election processes, requiring preclearance for any changes that could affect voting, and oversight by federal examiners. Six of the 11 states of the former Confederacy were fully covered (Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia) and one state was partially covered (North Carolina).

The VRA was signed into law on 6 August 1965. Southern state officials responded to the federal law in a mixed way. The Governor of Georgia and the Attorney General of South Carolina declared (on 7 and 8 August, respectively) their intention to comply with the legislation.¹⁴ The Louisiana Board of Registration telegraphed all registrars (on 10 August) that they were to adhere to the mandates of the federal law until it could be challenged in court.¹⁵ Similarly, the Secretary of the Virginia State Board of Elections announced (on 11 August) that all registrars were being instructed to complete forms for applicants needing assistance.¹⁶ On 13 August, the Attorney General of Alabama advised its own Secretary of State that county boards of registrars were not going to receive the new literacy test forms.¹⁷ South Carolina challenged the constitutionality of the coverage provisions in *South Carolina v. Katzenbach* (1966). Alabama, Georgia, Louisiana, Mississippi, and Virginia all supported South Carolina’s case. But in a 8–1 ruling, the US Supreme Court upheld the policy, pointing out that the enforcement clause of the 15th Amendment gave Congress full remedial powers to prevent racial discrimination in voting, and that the policy was a ‘legitimate response’ to the ‘insidious and pervasive evil’ that had denied Black Americans the right to vote since 1870. Throughout the 1970s, further attempts at undermining the efficacy of the VRA—such as strategic redistricting and changes to electoral rules to dilute the Black vote—failed, as courts effectively reversed discriminatory measures.

(iii) The goals of the law

In his iconic ‘Give Us the Ballot’ speech of 1957, Martin Luther King spelled out the paramount importance of voting rights in the Black struggle for equality:

So long as I do not firmly and irrevocably possess the right to vote, I do not possess myself. I cannot make up my mind—it is made up for me. I cannot live as a democratic citizen, observing the laws I have helped to enact—I can only submit to the edict of others.¹⁸

The VRA was hailed as the tool to restore the franchise to Black Americans, after the three Civil Rights Act(s) of 1957, 1960, and 1964 proved to be ineffective. The day the VRA was passed, President Johnson called the new law

a triumph for freedom as huge as any victory that has ever been won on any battlefield.... This law covers many pages, but the heart of the Act is plain. Wherever, by clear and objective standards, [s]tates and counties are using regulations, or laws, or tests to deny the right to vote, then they will be struck down.¹⁹

A week after the VRA’s enactment, King also highlighted the importance of this new law: ‘We now have a federal law which can be used, and use it we will,’ describing it as ‘a great step forward in removing all of the remaining obstacles to the right to vote.’²⁰

However, voter intimidation tactics persisted. Civil rights activists knew that the ballot would only be effective if potential voters rid themselves of the fear associated with political participation. Still, the hope was for the removal

¹³ 111 Cong. Rec. 5176, 5227 (daily ed. 17, 18 March 1965).

¹⁴ *The Evening Star* (Washington, DC), 8 August 1965.

¹⁵ *The Times-Picayune* (New Orleans, Louisiana), 11 August 1965.

¹⁶ *Washington Post* (Washington, DC), 12 August 1965.

¹⁷ *Mobile Register* (Mobile, Alabama), 13 August 1965.

¹⁸ ‘Give Us the Ballot’ address delivered at the Prayer Pilgrimage for Freedom (Washington, DC), 17 May 1957.

¹⁹ President Johnson in the Capitol Rotunda at the signing of the Voting Rights Act.

²⁰ King in a press conference after meeting with President Johnson, 5 August 1965.

of *de jure* discrimination to pave the way for future change, including the election of Black officials and the advancement of conditions of Black Americans in several domains, from the protection against violence to public goods provision (Button, 1989). In the words of King, the ballot alone could empower Black Americans, allowing them to write: '[an anti-lynching] law on the statute books of the South and bring an end to the dastardly acts of the hooded perpetrators of violence',²¹ and 'to vote out of office public officials who bar the doorway to decent housing, public safety, jobs, and decent integrated education'.²²

III. The effects of the VRA

The direct goal of the VRA was to enfranchise Black Americans, with the hope that it would also lead to fundamental changes in Black representation and government policies. Did the legislation live up to expectations?

(i) Political participation

Historical and anecdotal accounts indicate that the VRA was successful in increasing Black political participation, in terms of both voter registration and turnout (Handley and Grofman, 1998). However, only recent analyses have systematically quantified the causal impact of the legislation. In seminal work, Cascio and Washington (2014) exploit two features of the VRA to causally identify the effect of the policy. First, southern jurisdictions affected by the VRA that had a larger pre-existing Black population share likely experienced a larger increase in Black political participation after the passage of the legislation. Second, as the VRA was not binding everywhere in the South, former Confederate states that were not covered by the law provide a suitable comparison group to address the potential concern that Black political participation might have changed differentially in areas with a larger Black population share even in the absence of the policy. Cascio and Washington (2014) find that, between 1960 and 1980, the removal of literacy tests led to an additional 0.6 per cent increase in aggregate turnout in presidential elections for each percentage point increase in the share of the Black population in covered jurisdictions, as compared to non-covered ones. Although data on turnout by race are not available, results in Cascio and Washington (2014) resonate with anecdotal evidence pointing towards a large increase in voter registration among Black Americans. At the same time, contemporary sources note that, soon after the re-enfranchisement of Black Americans, competition for the registration of both Black *and* White voters intensified. For example, while the Alabama Democratic committee removed the 'White supremacy' slogan from its party ballot emblem in a bid to appeal to Black voters,²³ organizations like the Citizens' Council of Greater New Orleans proclaimed their intention of registering more White voters to counteract Black registration drives.²⁴

Disentangling the effects of the VRA on political mobilization by race is challenging. Voter registration records are collected and maintained by county offices (e.g. election administrators and registrars) and are not routinely collated in official publications.²⁵ Using archival records, Bernini *et al.* (2023b) gathered race-specific registration data for southern counties between 1956 and 1980.²⁶ These records have been digitized from reports of the Secretary of State, the Board of Registrations, the Auditor of State, and the Election Commissioner, located in the Southern Regional Council's Voter Education Project (VEP) archives. Other data sources include the US Department of Justice, surveys of local governments carried out by the Southern Regional Council, the US Commission on Civil Rights (1959, 1961b), and the Inter-university Consortium for Political and Social Research (1992). Figure 1 illustrates changes in voter registration rates by race between 1960 and 1980.

Bernini *et al.* (2023b) use this novel dataset to assess the effect of the VRA on Black and White registration rates across southern counties. Their results show that covered counties, with a larger 1960 Black population share, experience a stronger increase in Black registration rates between 1960 and 1980, as compared to non-covered southern counties. Interestingly, and in line with the racial threat hypothesis (Key, 1949), the increase in Black political participation is mirrored by a sizeable rise in White registration. The surge in White mobilization greatly limited the overall efficacy of the VRA in reducing the Black–White gap in political participation. According to the estimates in Bernini *et al.* (2023b), absent the additional White mobilization, a 10 percentage points higher Black population share would have led to a 3.6 percentage points additional decline in the Black–White gap in

²¹ 'Give Us the Ballot' op. cit.

²² *The New York Times* (New York, NY), 14 March 1965.

²³ *The New York Times* (New York, NY), 23 January 1966.

²⁴ *The Times-Picayune* (New Orleans, Louisiana), 23 August 1965.

²⁵ States 'allow local registrars wide latitude. As a result of this discretion, registration practices of some states vary widely from county to county' (James, 1987).

²⁶ The sample spans all states of the former Confederacy, with the exception of Texas, for which registration rates by race are not recorded in official statistics.

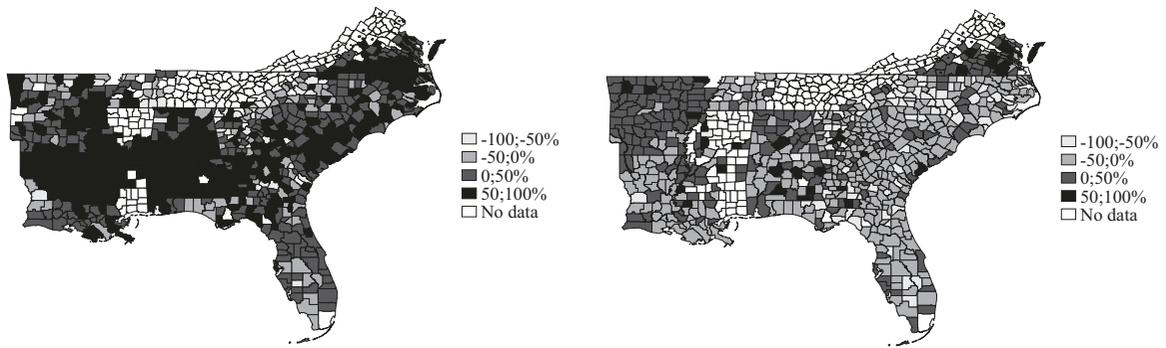


Figure 1: Voter registration rates. *Source:* Bernini *et al.* (2023b).

Notes: The maps show the change in registration rates between 1960 and 1980.

registration rates in covered counties, as compared to non-covered ones. Taking into account White mobilization reduces this number by 90 per cent, down to only 0.3 percentage points.²⁷ Overall, the empirical evidence indicates that the VRA reached its objective of increasing Black political participation, but that White resistance decreased its overall efficacy.

(ii) Black office holding

When the VRA was enacted, the expectation was that it could lead to Black ‘state representatives, county commissioners, sheriffs, city councilmen, police chiefs, and even mayors’ (King, 1965). However, civil rights activists were well aware of the obstacles to Black representation. First, a culture of White supremacy and intimidation practices discouraged Blacks from running for office. Second, newly enfranchised Black Americans often remained a minority within jurisdictions, and their ability to gain descriptive representation crucially depended on the existing electoral rules. Third, many worried that the few Black officials gaining office would do so in positions of limited power.²⁸

In the first 15 years following the VRA’s passage, Black Americans experienced little or no gain in representation, either at the state or at the federal level (Cascio and Washington, 2014). At the local level, the evidence is more nuanced. Several studies have analysed the patterns of elected officials by race throughout the 1970s, typically focusing on cross-sections of cities (Davidson and Grofman, 1994; Marschall *et al.*, 2010, 2013), finding that the legislation is positively correlated with Black office holding. More recently, Bernini *et al.* (2023a) carry out a systematic analysis by exploiting newly digitized data on all Black officials elected to county governments, municipal governments, and school district boards between 1962 and 1980.

Figure 2 shows a notable increase in local-level Black office holding between 1964 and 1980. To assess the causal effect of the policy, Bernini *et al.* (2023a) deploy a two-pronged strategy. First, they use a design similar to Cascio and Washington (2014), comparing covered counties with larger pre-existing shares of Black Americans in the population, to similar counties that were not covered. Second, to address potential imbalances in the distribution of the Black American population between covered and non-covered counties, they implement a geographic discontinuity design that compares jurisdictions straddling the border between covered and non-covered states. The main finding of the analysis is that coverage increased Black office holding at the local level, with a noticeable impact already in 1968. Black electoral gains extended to the powerful county commissions—the most important local government bodies in the US South—and are quantitatively large: by 1968 (resp., 1980), a 10 percentage points increase in the 1960 Black population share is associated with an additional 0.5 (resp., 2.3) percentage points increase in the share of Black officials in covered states. This indicates that the VRA produced immediate effects in the most staunch segregationist states. For example, just before the passage of the policy, none of the 81 counties in Mississippi had any Black elected official. Three years later, Black officials were in office in 12 counties, and by

²⁷ Using information on pre-VRA county-level voter registration statistics, Alt (1994) shows that the use of literacy tests increased the numerical advantage in registration of White voters over Black voters, and that this White advantage was an increasing function of the share of the local Black population. Stanley (1987) uses survey data between 1952 and 1984 to document that literacy tests were negatively related to self-reported voting participation by Black Americans, while no effect is found for Whites.

²⁸ For example, in 1976, *Ebony* wrote: ‘Most of the [B]lack officials holding county offices have been elected as justices of the peace, constables, or school board members rather than to posts of greater policy making authority’ (Poinsett, 1976).

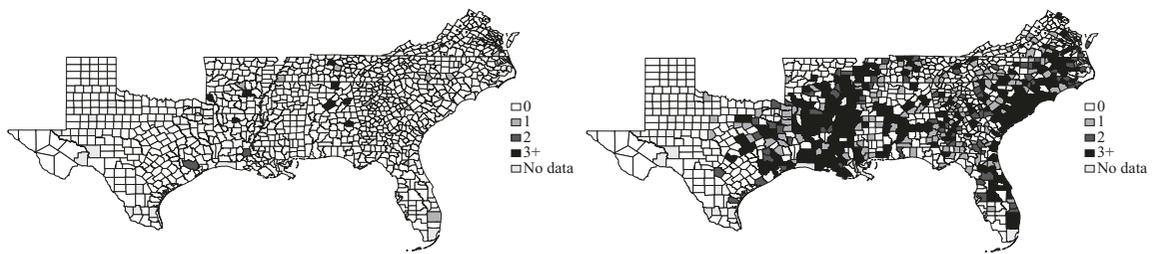


Figure 2: Number of Black elected officials. *Source:* Bernini *et al.* (2023a).

Notes: The maps show the number of Black elected officials in 1964 (left) and 1980 (right).

1980 they had been elected in 52 counties. In sum, the federal scrutiny mandated by coverage achieved its goal, and transformed the racial make-up of local governments in the South.

Some gains in representation were registered also for state offices (Handley and Grofman, 1994). Yet, at the federal level, progress was disappointingly slow. By 1980, only two Black Americans, Harold Ford Sr from Tennessee and Barbara Jordan from Texas, had been elected to Congress. The 1982 re-authorization of the VRA and its interpretation by the US Supreme Court in *Thornburg v. Gingles* (1986) tackled the issue of minority vote dilution due to racial gerrymandering, leading to the introduction of minority-majority districts. Since then, Black representation in Congress quickly improved. By 1993, ten of the 11 states of the former Confederacy elected Black Americans to Congress.

(iii) Black empowerment and local policies

The VRA opened a new chapter in the quest for Black progress. As King pointed out in 1965: ‘The Negro community must become fully conscious of its potential political power, of its growing ability to change, through concerted political action, the conditions of life in the South.’²⁹ Those conditions were dire in the 1960s. Despite some improvements in sanitation and schooling that occurred already before the passage of the VRA (Margo, 1990; Troesken, 2004), Black residents continued to suffer from under-provision of local public goods and from systematic discrimination in the workplace and in the administration of justice (US Commission on Civil Rights, 1961a; Button, 1989; Wright, 2013). Did the VRA lead to the necessary policy change to address these inequities?

Starting with public spending, the legislation did bring tangible improvements. Early work, mostly based on case studies, documents improvements in street paving, garbage collection, fire and police services in Black communities soon after 1965 (Keech, 1968; Button, 1989). More recent systematic evidence shows that the VRA led to an increase in public spending within counties with larger Black American populations. Cascio and Washington (2014) find that states channelled more funds to local governments to improve the provision of education. They estimate that:

for each 10 percentage point increase in a county’s 1960 [B]lack population share, the elimination of the literacy test generated nearly a 6 per cent increase in per capita state transfers over the decade and a half following the VRA. For the average county in a literacy test state, this amounted to a 16.4 per cent increase in per capita transfers over the period.

These localities also experienced increases in the share of Black teenagers enrolled in school and the quality of Black schooling.

Bernini *et al.* (2023a) find an increase in local capital expenditures (e.g. infrastructure)—financed mainly through debt—but not in current outlays, which include payments for welfare and salaries. This result suggests that the extension of the voting franchise did not take place at the expense of White Southerners. This is in line with the argument that the VRA facilitated a ‘biracial coalition for economic growth’ towards mutually beneficial goals, including investment on growth-enhancing policies (Wright, 2013).

How did Black empowerment lead to these important changes? The election of Black Americans into office should be an important channel for greater representation of Black interests. At the same time, White elected officials themselves may have become more responsive to the Black electorate. As state governments did not see tangible gains in Black office holding until the 1980s, Cascio and Washington (2014) rule out descriptive

²⁹ Summary of the Annual Convention, 1965 Southern Christian Leadership Conference (Birmingham, Alabama).

representation as the driving factor behind state spending decisions. In other words, greater accountability of White elected state officials to newly enfranchised Black voters is the likely explanation for the observed patterns in intergovernmental transfers. On the other hand, when looking at local public spending, Bernini *et al.* (2023a) find that the extension of the franchise led to an increase in public goods provision only within covered counties that had electoral rules more favourable to the election of Black officials, pointing towards a greater role for descriptive representation.

Turning to the conditions faced by Black Americans in the labour market, the 1960s saw a number of reforms that led to an overall reduction in the Black–White gap in labour market outcomes. The 1938 Fair Labor Standards Act, which was introduced by the Roosevelt Administration with the intention of covering the entire economy, had been strongly opposed by southern Democrats, who managed to shield from it key sectors, such as agriculture, which were particularly important for the former members of the Confederacy and where Black workers were over-represented (Derenoncourt and Montialoux, 2021). Civil rights activists explicitly requested this issue to be addressed, but only after the passage of the VRA was significant progress made. In 1966, Congress passed a major amendment to the Fair Labor Standards Act, extending its scope to a number of additional sectors employing a large fraction of Black workers. Derenoncourt and Montialoux (2021) show that this reform led to a considerable reduction in the Black–White wage differential. Focusing on the coverage provisions of the VRA, Aneja and Avenancio-Leon (2019) document a similar improvement in the relative economic status of Black men, with a 7 percentage points increase, between 1950 and 1980, in Black wages relative to Whites in counties covered by the law.

An additional policy area close to the heart of the civil rights movement was the administration of justice, which was strongly biased against Black Americans. Local law enforcement officers were perceived as the

principal enforcers of the social and legal convention of the Jim Crow Society.... [T]he sheriff sent a signal to the [B]lack community: any [B]lack citizen entertaining thoughts of challenging the system had only to walk by the local jail to see the hierarchy of race. (Moore, 1997)

In his ‘I Have a Dream’ speech, King himself pointed out that ‘we can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality’. Did the VRA lead to an improvement in the treatment of Black Americans by law enforcement officers?

Facchini *et al.* (2020) tackle this question using historical data on arrest rates sourced from the FBI Uniform Crime Reports, with information on the type of arrest (e.g. more serious felonies or less serious misdemeanours), the race of the individual arrested, and the type of law enforcement office that carried out the arrest (e.g. sheriff or municipal police).³⁰ The authors document that covered counties with larger shares of Black Americans experienced a decline in Black arrest rates. These results are driven by arrests carried out by elected chief law enforcement officers, rather than appointed ones, and by a reduction in arrests for misdemeanours—over which officials presumably have more discretion—rather than felonies. These patterns are consistent with the idea that the VRA made elected officers more accountable, which led to an improvement in the treatment of minorities.

IV. Southern dealignment and White mobilization

In the previous sections we discussed how, by enfranchising Black voters, the VRA brought Black Americans to local office and promoted the introduction of policies aimed at improving minority conditions. At the same time, the federal intervention triggered a dramatic change in the balance of power in the South. While President Johnson hoped that Black enfranchisement would ‘brighten the lives of every American’, he was well aware of the challenges ahead: ‘As a man whose roots go deeply into [s]outhern soil, I know how agonizing racial feelings are. I know how difficult it is to reshape the attitudes and the structure of our society.’³¹ In fact, racially conservative Whites were not ready to accept the emerging new social order and their opposition to Black empowerment led to important changes in the political landscape.

Until the early 1960s, southern politics was dominated by the Democratic Party. With the exception of some presidential elections, political competition was confined to the Democratic primaries as many congressional and local elections were uncontested. Republican candidates, when present, were very rarely elected to office and, as a result, ‘enclaves of authoritarian rule’ became widespread (Mickey, 2015). Gradually, as the northern wing of the

³⁰ In the US South at the time, all sheriffs were elected into office, whereas most municipal police chiefs were appointed.

³¹ ‘We Shall Overcome’, President Johnson’s Speech to Congress on Voting Rights, 15 March 1965.

Democratic Party embraced the civil rights agenda, political allegiances in the South started to shift. Legislation introduced in the mid-1960s—in particular the Civil Rights Act and the Voting Rights Act—is credited as the main driver of the so-called ‘southern dealignment’ (Carmines and Stimson, 1989; Valentino and Sears, 2005), whereby Democrats started to lose their dominant status.

Kuziemko and Washington (2018) show that the exodus of southern Whites from the Democratic Party began as early as the spring of 1963, when President Kennedy addressed the nation on civil rights, and accelerated after the passage of the CRA of 1964 and of the VRA of 1965. Between 1958 and 1980, Democratic identification among White southerners (relative to other Whites) fell by 17 percentage points. This decline is entirely driven by racially conservative southern Whites. Kuziemko and Washington (2018) conclude that racial attitudes, rather than economic drivers, seem to explain the partisan shift of the South. Ang (2019) focuses more specifically on the impact of the VRA, exploiting the extension to new jurisdictions as a result of the 1975 re-authorization of the Act. The new formula subjected 283 additional counties across nine states to the federal oversight. Ang (2019) documents that this expansion lowered Democratic support in areas subject to the law. The drop in the share of Democratic votes cast is estimated to average 3.2 percentage points across all elections since 1975.³² Using historical survey and newspaper data, Ang (2019) also argues that the partisan shift was the result of political backlash among racially conservative Whites.³³

Anecdotal evidence suggests that resistance to the VRA went beyond the change in political allegiances, as racially conservative Whites counter-mobilized to oppose the surge in Black voter registration. Consistent with this idea, Alt (1994)—focusing on four states—documents that White registration rates are positively correlated with the share of Black Americans in a county, whereas Fresh (2018)—focusing on North Carolina—finds that covered counties experienced an increase in both Black and White registration rates.

As discussed in section III(i), Bernini *et al.* (2023b) use novel data on registration by race for ten states of the former Confederacy and show that the VRA increased both Black and White political participation. They also provide two complementary pieces of evidence that, consistent with the law triggering counter-mobilization, document that the surge in White registration rates is concentrated in areas where Black political empowerment is more tangible and salient. First, White mobilization mirrors the patterns of Black representation: the differential increase in White registration is concentrated in covered counties with electoral rules favourable to the election of Black candidates.³⁴ Second, White registration rates increase right after the election of the first local-level Black official, and continue to rise for at least 10 years after that event. Bernini *et al.* (2023b) also document that the local election of the first Black American is a highly salient event. Leveraging newly digitized data on the names of all elected commissioners by race, the authors find that the first Black elected official is mentioned more frequently by local newspapers compared to White officials.

V. The VRA today: *Shelby County v. Holder* (2013)

As obstacles to the political empowerment of Black Americans proved to be persistent, the VRA was re-authorized several times after its initial enactment. In the latest reauthorization of 2006, ‘President [George W. Bush] has committed his administration to vigorously enforce the provisions of this law and to defend it in court.’³⁵ This measure, which extended some temporary core enforcement provisions for another 25 years, cleared both chambers of Congress with strong bipartisan support. However, on 25 June 2013, the US Supreme Court struck down the coverage formula of Section 4(b). The controversial ruling of *Shelby County v. Holder* (2013) left the preclearance mechanism (Section 5) unenforceable, unless Congress enacts a new coverage formula.³⁶

In the majority opinion, the five Justices concurred that this key provision was no longer required, because of the VRA’s very success in eradicating discrimination: ‘50 years later, things have changed dramatically. Voter turnout and registration rates in covered jurisdictions approach parity; blatantly discriminatory evasions of federal decrees are rare. Minority candidates hold office at unprecedented levels.’ The four dissenting members of the Court expressed a radically different view, reiterating that:

³² Lacroix (2023) finds that ‘voting became the new institutionalized way to state political preferences’, with a marked reduction in electoral and small-scale strategic violence. The decrease in violence after enfranchisement is noteworthy, as it follows an intense period of political violence, ethnic conflicts, and race riots, especially during the second half of the 1960s (Bernini, 2023).

³³ For example, newspapers—especially those endorsing President Nixon—located in counties covered by the law are more likely to mention words related to the federal policy.

³⁴ See the discussion on electoral rules and minority representation in Trebbi *et al.* (2008) and in Bernini *et al.* (2023a).

³⁵ ‘Voting Rights Act Reauthorization and Amendments Act of 2006’, Office of the Press Secretary, 27 July 2006.

³⁶ Bullock *et al.* (2016) describe how the ideological make-up of the US Supreme Court created an appellate environment that made the Act ripe for a challenge.

in the Court's view, the very success of the Voting Rights Act demands its dormancy. Congress (in 2006) was of another mind. Recognizing that large progress has been made, Congress determined, based on a voluminous record, that the scourge of discrimination was not yet extirpated.

Since 2013, new laws restricting voting started to appear once again in formerly covered jurisdictions. On the day of the ruling, Texas Attorney General Greg Abbott declared that: 'With today's decision, the [s]tate's voter ID law will take effect immediately. Redistricting maps passed by the Legislature may also take effect without approval from the federal government.' The proposed law restricted the forms of acceptable IDs required to cast a ballot, and an estimated 600,000 registered voters lacked these types of ID.³⁷ Shortly after, Mississippi and Alabama also passed voter ID laws. In a similar vein, North Carolina passed H.B. 589 less than 2 months after the Court's decision. It included a photo ID requirement, curtailed early voting, eliminated same day registration, restricted pre-registration, ended annual voter registration drives, and eliminated the authority of county boards of elections to keep polls open for an additional hour. After a 3-year battle, the measure was struck down in court in its entirety because of its discriminatory intent designed to 'target African Americans with almost surgical precision'.³⁸

Recent work on the effects of voter ID laws has reached mixed conclusions. Several studies focusing on individual states have documented a negative effect on voter turnout.³⁹ On the other hand, in a national level study using individual data over the period 2008–18, Cantoni and Pons (2021) show a very limited effect of ID laws on Black registration and turnout. The authors explain this result by noting that mobilization campaign targeting minorities were successful in offsetting the efforts to disenfranchise them.⁴⁰ Importantly, the effects of ID laws could depend on pre-existing features of the jurisdictions exposed to them, which are not fully incorporated in the analysis in Cantoni and Pons (2021). Besides ID laws, other attempts have been made to limit Black political participation. Purges of voter rolls began to occur more frequently in formerly covered jurisdictions. Brater *et al.* (2018) document that the median removal rates in those areas is 2 percentage points higher than in non-covered ones (9.5 per cent v. 7.5 per cent), with 2 million additional voters purged.⁴¹ A third approach to disenfranchise minority voters involves the closure of polling places. The Leadership Conference Education Fund (2019) counts 1,688 polling place closures between 2012 and 2018 in places once covered by the VRA.⁴² In 2015, Georgia's Secretary of State Brian Kemp sent local election officials a memo reminding them that:

as a result of the *Shelby v. Holder* Supreme Court decision, you are no longer required to submit polling place changes to the Department of Justice for preclearance. [...] The decision concerning drawing or redrawing precinct boundaries is left up to the local election and voter registration officials.

Political participation is only one of the factors behind minority empowerment. Making preclearance practically unenforceable could well trigger changes in electoral rules or in the boundaries of jurisdictions harming minority representation. The recent US Supreme Court ruling in *Allen v. Milligan* (2023), which under Section 2 of the VRA struck down Alabama's redistricting plan, highlights that this danger is real. Although the VRA continues to protect minorities from overt violations of the 15th Amendment, the absence of a mechanism requiring federal oversight of all changes in voting rules—including those applying at the local level—could undermine the progress achieved by the legislation since 1965. In the words of Deuel Ross, an attorney at the NAACP Legal Defense Fund (LDF):

Unless someone happens to know to call LDF or the ACLU [American Civil Liberties Union] or someone else and flags that for them, and we happen to have the resources to bring that litigation, nothing ever happens.... There's so many things that I think slip through the cracks and have a real impact on Black representation.

³⁷ In 2014, a federal district court ruled that the Texas voter ID law was in part discriminatory toward minority political participation, but the state passed a new ID law a few years later. See *Veasey v. Perry* (2014) and *Abbott v. Veasey* (2017).

³⁸ The state was sued by a coalition composed of the Department of Justice, the North Carolina State Conference of the NAACP, and the League of Women Voters, among others. See *N.C. State Conference of the NAACP v. Patrick McCrory* (2016).

³⁹ For the case of Georgia, see Hood III and Bullock III (2012); for North Carolina, see Grimmer and Yoder (2022); for South Carolina, see Hood III and Buchanan (2020).

⁴⁰ Alternatively, Valentino and Neuner (2017) argue that voting restrictions might generate an emotional response among Democrats, leading to more mobilization.

⁴¹ The states with a significantly higher rate of voter purges are Georgia, Texas, and Virginia. Besides high purge rates, Georgia has received two federal lawsuits in 2016 and 2018 for its 'exact match' system. This system placed more than 50,000 voter registrations—disproportionately minority voters—on hold because of discrepancies between government records (e.g. hyphens in names).

⁴² Since the 2013 ruling, reductions in the number of polling stations have taken place in Texas (750), Georgia (214), Louisiana (126), Mississippi (96), Alabama (72), North Carolina (29), and South Carolina (18).

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