

# Civic Action Project

# #WhatItTakes



## CAP ASSIGNMENT

### Examining Voting Rights in the United States

Read the document assigned to you by your teacher, and answer the following questions about it. Be prepared to report back on these questions to your classmates, keeping in mind they won't all have read the same document as you.

1. What is this document, and what is/was its purpose?

2. What is the problem or issue addressed by this source?

3. How does this source address the problem or issue? Think about public policy, citizen engagement, other government action, or some combination of all three.

**Source #1: [A one-page summary of S. 4263 - John Lewis Voting Rights Advancement Act](#)**

*This one-pager was prepared by the office of Sen. Patrick Leahy (D-VT), the primary sponsor of the bill in the Senate. He introduced it on July 22, 2020 with 47 other co-sponsors. It is currently awaiting further action by the Senate Judiciary Committee. An identical bill passed in the U.S. House of Representatives on December 6, 201. The House version was renamed the John R. Lewis Voting Rights Act of 2020 after Congressman Lewis' death.*

**JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT**

*The John Lewis Voting Rights Advancement Act responds to current conditions in voting today by restoring the full protections of the original, bipartisan Voting Rights Act of 1965, which was last reauthorized by Congress in 2006, but gutted by the Supreme Court in 2013.*

- Following the *Shelby County* decision seven years ago, several states passed sweeping voter suppression laws that disproportionately prevent minorities, the elderly, and the youth from voting.
- The bill provides the tools to address these discriminatory practices and seeks to protect all Americans' right to vote.

*The John Lewis Voting Rights Advancement Act creates a new coverage formula that applies to all states and hinges on a finding of repeated voting rights violations in the preceding 25 years.*

- Significantly, the 25-year period "rolls," or continuously moves, to keep up with "current conditions," so that only states that have a recent record of racial discrimination in voting are covered.
- States that have repeated and persistent violations will be covered for a period of 10 years, but if they establish a clean record moving forward, they can come out of coverage.

*The John Lewis Voting Rights Advancement Act establishes a targeted process for reviewing voting changes in jurisdictions nationwide, focused on measures that have historically been used to discriminate against voters.*

- The process for reviewing changes in voting is limited to a set of measures, such as the institution of a voter ID law or the reduction of multilingual voting materials – practices that have historically been found to have the greatest discriminatory impact.

*The John Lewis Voting Rights Advancement Act also –*

- Allows a federal court to order states or jurisdictions to be covered for results-based violations, where the effect of a particular voting measure (including voter ID laws) is to lead to racial discrimination in voting and to deny citizens their right to vote;
- Increases transparency by requiring reasonable public notice for voting changes;
- Allows the Attorney General authority to request federal observers be present anywhere in the country where there is a serious threat of racial discrimination in voting;
- Revises and tailors the preliminary injunction standard for voting rights actions to recognize that there will be cases where there is a need for immediate preliminary relief.
- Increases accessibility and protections for Native American and Alaska Native voters.

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## Source #2: “Preclearance,” the Voting Rights Act of 1965, and the 2013 Supreme Court case of *Shelby County, Alabama v. Holder*

This background text on the Voting Rights Act of 1965 and the Supreme Court’s *Shelby County v. Holder* decision is based on an article in the Summer 2015 issue of CRF’s magazine, [Bill of Rights in Action \(vol. 30, no. 4\)](#), “The Voting Rights Act of 1965 and the U.S. Supreme Court,” by Gail Frommer, Esq. and on the Supreme Court’s [ruling](#).

One of the most famous quotes by Supreme Court Justice Ruth Bader Ginsburg is: “Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”

What is “preclearance”? What “discriminatory changes” did it work to prevent? And why was Justice Ginsburg talking about “throwing it out” when she wrote these famous lines in 2013? To answer these questions, we have to first go back in U.S. history.

One of the main goals of the civil rights movement of the 1950s and 1960s (though the work had started long before then) was making sure that the voting rights of African Americans were respected and protected. These rights -- granted to formerly enslaved people by the 15th Amendment to the Constitution in 1870 -- had been systematically denied to Black people after Reconstruction ended in 1877.

Following decades of protest and legal challenges by Black people, and violent opposition from white supremacist authorities in (mostly) Southern states, the U.S. Congress passed the Voting Rights Act of 1965 (VRA). President Lyndon B. Johnson signed the bill into law. It was effective in stopping state and local officials from discriminating against African American voters, as well as voters from other ethnic or racial minority groups.

One of the most important parts of the VRA was that it required the “preclearance” that Justice Ginsburg talked about. This rule said that states and localities (a city or a county, etc.) that had a history of voting discrimination practices were required to get “preclearance” or permission from federal authorities before changing any voting rules or requirements. The purpose of preclearance was to make sure that a place with a history of discrimination could not continue to do so. Between 1982 and 2006, the Justice Department blocked more than 700 discriminatory voting changes in preclearance places.

In 2006, Shelby County, Alabama, one of the areas required to get preclearance for any voting changes, challenged the law. The county went to court, claiming that key parts of the VRA, including preclearance, were unconstitutional. They also argued that the way the law decided which areas or places had to get preclearance was unconstitutional.

In 2013, the case made it to the U.S. Supreme Court. The case was called *Shelby County, Alabama v. Holder*. (Eric Holder was the Attorney General at the time, so he was responsible for enforcing the VRA.) The Court decided 5-4 in favor of Shelby County. The majority said that the way the VRA decided which localities had to get preclearance for voting changes was unconstitutional. In practice, this had the effect of getting rid of preclearance. The majority said that conditions in these places had changed so much that they didn’t need the rules of the VRA anymore.

Justice Ginsburg’s umbrella analogy comes from the dissenting opinion she wrote in *Shelby County, Alabama v. Holder*. (The dissent is the minority opinion). She argued that deciding whether or not to keep the VRA was up to Congress, not the Supreme Court. But since the Court was weighing in on the law, she pointed out that the main reason there was less voting discrimination in Shelby County and

other preclearance sites was because of the VRA. Doing away with preclearance was setting up the real possibility for what she called “backsliding” to the discriminatory practices of the past.

On September 18, 2020 Ruth Bader Ginsberg died at the age of 87. With her passing, the United States lost a compassionate legal giant who believed in and fought for our country’s ideals of equality and justice for all. She was, indeed, the “Notorious RGB”.

Here’s how her colleague Justice Sonia Sotomayor remembered her:

*My dear friend and colleague Ruth Bader Ginsburg was an American hero. She spent her life fighting for the equality of all people, and she was a pathbreaking champion of women’s rights. She served our Court and country with consummate dedication, tirelessness, and passion for justice. She has left a legacy few could rival.*

### **Source #3: Excerpt from essay by the Honorable John Lewis (D-GA), “Together, You Can Redeem the Soul of Our Nation”**

*Congressman John Lewis was a youth leader during the civil rights movement and a lifelong advocate for voting rights. He passed away this summer at the age of 80. This essay was [published in The New York Times](#) of the day of his funeral, July 30, 2020.*

. . . Like so many young people today, I was searching for a way out, or some might say a way in, and then I heard the voice of Dr. Martin Luther King Jr. on an old radio. He was talking about the philosophy and discipline of nonviolence. He said we are all complicit when we tolerate injustice. He said it is not enough to say it will get better by and by. He said each of us has a moral obligation to stand up, speak up and speak out.

When you see something that is not right, you must say something. You must do something. Democracy is not a state. It is an act, and each generation must do its part to help build what we called the Beloved Community, a nation and world society at peace with itself.

Ordinary people with extraordinary vision can redeem the soul of America by getting in what I call good trouble, necessary trouble. Voting and participating in the democratic process are key. The vote is the most powerful nonviolent change agent you have in a democratic society. You must use it because it is not guaranteed. You can lose it.

You must also study and learn the lessons of history because humanity has been involved in this soul-wrenching, existential struggle for a very long time. People on every continent have stood in your shoes, through decades and centuries before you. The truth does not change, and that is why the answers worked out long ago can help you find solutions to the challenges of our time. Continue to build union between movements stretching across the globe because we must put away our willingness to profit from the exploitation of others.

Though I may not be here with you, I urge you to answer the highest calling of your heart and stand up for what you truly believe. In my life I have done all I can to demonstrate that the way of peace, the way of love and nonviolence is the more excellent way. Now it is your turn to let freedom ring.

When historians pick up their pens to write the story of the 21st century, let them say that it was your generation who laid down the heavy burdens of hate at last and that peace finally triumphed over violence, aggression and war. So I say to you, walk with the wind, brothers and sisters, and let the spirit of peace and the power of everlasting love be your guide.