The Inalienable Right to Vote

Table of Contents

The Inalienable Right to Vote **2**
What Makes for a Strong Democracy **3**
  Barriers to Democracy 4
International Standards **7**
Voting Rights in the United States **8**
Federal Constitution and Statutes **8**
  The U.S. Constitution 8
  The 14th Amendment—Equal Protection 8
  The 15th Amendment—Focus on Civil Rights 9
  The 19th Amendment—Women's Suffrage 9
  The 24th Amendment—Removal of Poll Taxes 9
  The 26th Amendment—Lowering the Voting Age 10
  The 1965 Voting Rights Act (VRA) 10
  Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) 11
  The Americans with Disabilities Act (ADA) 11
  The National Voter Registration Act (NVRA) 12
  The Help America Vote Act (HAVA) 12
Virginia Laws **12**
  The Virginia Constitution 12
  The Virginia Voting Rights Act (VA VRA) 13
Three Groups Without Voting Rights in Virginia **13**
  Under 18– Setting the Voting Age to 16 13
    Societal Benefits to Allowing 16 Year-olds to Vote 14
    Cultivating a Voting Habit 14
    Skills and Knowledge 14
    Civic Education 15
    Younger Citizens are Not Adequately Represented 16
  Historical and Legal Basis of Felony Disenfranchisement 18
    Early History of Citizen Deprivation of Status and Honor 18
    18th and 19th Century Virginia 19

The 20th and 21st Century Virginia Constitution....20
Judicial Decisions on Felony Disenfranchisement....21
Executive Actions....22
Recent Actions by Virginia Governors....22
The Impact of Felony Disenfranchisement....24
The Impact of Recidivism on Automatic Restoration of Voting Rights....26
The Magnitude of Felony Disenfranchisement....26
Recidivism is Not a Valid Reason for Felon Disenfranchisement....28
Mental Capacity and the Right to Vote in Virginia....31
Conclusion....36
Consensus Questions....36
Appendices....37
The Women's Movement and the Franchise....37
Revolution/Early Federal Period....37
Resolution Nine and the Seneca Falls Convention....38
Civil War/ Reconstruction Era....39
Women's Movement Splits....40
Returning to the Natural Rights Argument....40
Late 19th-Early 20th Century....40
Pro-Suffrage Broadsides....42
Project 18 and the 26th Amendment....46
Native American Voting Rights....48
History....48
Ongoing Challenges....48
Asian Voters....50
Resources Cited....51
Additional Resources....64

The Inalienable Right to Vote

In our study of the inalienable right to vote, we explore the fundamental right to vote and how the right to vote is implemented. Who is allowed to vote? Who is barred from voting? How easy– or difficult– is it to vote? Who controls power? Who has the right to govern or has a say in how they're governed?

Voting is power. The word "democracy" comes from two Greek words: demos (people) and kratos (rule) (*Democracy | Definition, History, Meaning, Types, Examples, & Facts*, 2024). In the United States of America, representational democracy, where members of a society select who will govern, had its birth in Jamestown, Virginia in 1619 when the first elected burgesses of Virginia met. Voting is the means of transferring power from the governed to the representative. Representative democracy is a far more efficient means of governing than direct democracy where no decisions or laws could be made without the approval of a majority of all voters in a state, province, or country.

What Makes for a Strong Democracy?

The Economist Intelligence Unit (EIU) looks at market trends, population trends and other metrics businesses might consider when examining the global market and considering where to invest resources. Annually, EIU releases a Democracy Index ranking all the countries in the world based upon "electoral process and pluralism, functioning of government, political participation, political culture, and civil liberties" (*Democracy Countries 2024*, 2024). The United States ranks 29th and is in the second "tier" as a "flawed democracy" (rather than a top tier "full democracy") because of partisan divide and a not fully functioning government.

Who can Vote in the Democracy Index's Top Ten Countries

Rank	*Country*	*Voting Age*	*Compulsory*	*Non-citizens*	*Prisoner*	*Adjudicated*
1	Norway	18	no	3 yr residence	yes	
2	New Zealand	18	no	12 mos residence	yes	
3	Iceland	18	no	3 yr residence	Unless heinous offense	
4	Sweden	18	no	3 yr residence	yes	yes
5	Finland	18	no	2 yr residence	yes	
6	Denmark	18	no	4 yr residence	yes	no
7	Ireland	18	no	residency	yes	
8	Switzerland	18	One canton	Some cantons	yes	Need proxy
9	Netherlands	18	no	5 yr residence	Yes unless election fraud	yes
10	Taiwan	20	no	6 months residence		no

The first paragraph under Election Laws in LWV-VA'S "Positioned for Action" begins: "The League of Women Voters of Virginia believes that democratic government depends on the informed and active participation of its citizens; that voting is a right and responsibility; and that election laws, regulations and administrative procedures should be uniformly designed and applied, and adequately funded to facilitate and increase voter participation throughout Virginia..." (*Positioned for Action*, 2023).

Our election laws have not been uniformly designed or applied. Consider the circumstances of those who commit felonious crimes. Those with privilege are either not charged or receive a reduced or waived sentence. Those who are charged are often met with the full force of the law and their punishment extends beyond time-served. Those who commit a felony in Virginia permanently lose their right to vote unless the governor intervenes and restores that right. The criteria used by the governor are not always transparent, so the application process can vary greatly from administration to administration. Virginia's Constitution should be amended to ensure that voting rights are not subject to withdrawal by individuals or factions in positions of power.

Barriers to Democracy

Many who possess the right to vote experience barriers that make voting difficult or nearly impossible. Some of the most common ways voting are undermined across this country include (*11 Barriers to Voting | Voting*, 2019):

1. Voter ID requirements
2. Lack of language access
3. Voter roll purges
4. Polling place closures/ consolidations
5. Lack of funding for elections
6. Provisional ballot requirements
7. Reduced time for early voting
8. Reduced voting hours
9. Poorly trained poll workers and Officers of Elections
10. Partisan election administrators
11. Creation of at-large local offices to dilute minority vote
12. Criminal disenfranchisement
13. Ignoring accessibility requirements
14. Inadequate mail delivery

There are more than 35 million Americans with disabilities who are qualified to register to vote. Accessibility barriers can take many forms: the location can be difficult to physically access, accommodations for visual and hearing impairments may be lacking, those who have difficulties with in-person situations may lack other options such as mailed ballots or drop boxes (*Voting Should Be Accessible to All*, 2020). Native Americans living on reservations, who are more likely

to have P.O. boxes, experience barriers requiring a physical street address. In addition, polling places may be far away and inaccessible without transportation. Asian, Latino, and other minority language-speaking communities face barriers when local jurisdictions don't translate materials or offer language assistance (Vij, 2020). These barriers, plus others reported in the media, have a chilling effect on voters who already face many obstacles.

Another form of voter disenfranchisement is gerrymandering. In some cases, districts are manipulated so that minority voting blocs are broken up into several districts so they can never reach a majority or they are all packed into one district rather than having influence in several. Black voters, and other voters of color, are disproportionately impacted by such redistricting efforts. "The redistricting process in many states continues to result in district lines that crack and pack Black people and communities of color in ways that minimize their voting strength. They are not adequately represented in our democracy perpetuating the systemic inequality many voters of color already face" (*Why Access to Voting Is Key to Systemic Equality | ACLU*, 2023).

Equal and easy access to voting is essential to our American democracy. This civil right is recognized and protected by the 14th amendment to the Constitution. The "one person, one vote" principle is a requirement for states to apportion their congressional state and local electoral districts. However, in *Rucho v. Common Cause*, the U.S. Supreme Court ruled in a 5-4 decision that the Court could not restrict partisan gerrymandering (Vance et al., 2019).

Racial gerrymandering is still prohibited under the Voting Rights Act but it can be hard to differentiate from partisan gerrymandering. When Virginia's maps were redrawn following the *Bethune-Hill v. Virginia Board of Elections* decision that determined 11 house districts were racially gerrymandered (*Bethune-Hill V. Virginia Board of Elections*, 2019), control of its legislature flipped. In conjunction with a need to respond to pressures resulting from the COVID-19 pandemic, after decades of work, the League was able to realize several goals in 2020:

1. 45 days of early voting
2. No excuse needed to cast an absentee (mailed) ballot
3. Registrar requirement to "cure" missing information from absentee ballot envelopes
4. Availability of drop boxes
5. Expanded list of acceptable IDs
6. The end to prison gerrymandering

Changes in ballot access moved Virginia from the 49th to the 12th in a state ranking of voting ease (Kunzer, 2018). Since 2020, same-day voter registration was added as an option and the witness requirement for absentee ballots was removed.

In 2021, Virginia's redistricting process changed when the Virginia Constitution was amended to create a Redistricting Commission which included citizens. The transparent process allowed public input and special masters considered communities of interest and ignored incumbent

addresses.[1] The resulting maps were completely redrawn districts that sought to un-gerrymander 400 years of partisanship. Voters in 2023 had a more diverse slate of candidates from which to choose and elected more women and minorities to the General Assembly than ever before.

Writing for the majority in *Reynolds v. Sims,* Chief Justice Warren explained, “Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system.”(Fredrickson, n.d.) "Undeniably the Constitution of the United States protects the right of all qualified citizens to vote, in state as well as in federal elections. . . . The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. And the right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effectively as by wholly prohibiting the free exercise of the franchise. . . " (Fredrickson, n.d.).

Stephen Levitsky, Harvard University Professor of Government and author of two bestselling books on democracy recently stated on a Constitution Center webinar, “[We] are one of the very few democracies in the world that doesn't have a constitutional right to vote… In every other democracy I know of, governments make it easy for people to vote. Governments want people to vote. So, it's often a constitutional right, automatic registration when you're 18 is very common in democracies. Voting occurs on a Sunday or a holiday. Really, the United States, it's a very strange case of a democracy in which there have always been more obstacles to vote… [We] think it's important to begin thinking about and publicly debating democratizing measures. The United States, even though our Constitution is very hard to amend, we have a long history of working to make our political system more democratic… The last half century, the last 50 years, have been kind of unique in American history in that we've kind of stopped doing the work of making our democracy work better and making our political system more democratic. We've kind of froze things in the 1970s and have stopped discussing constitutional reform. And what I'm suggesting, or what we're suggesting is getting back to an earlier American tradition of thinking about and working to make our system more democratic” (*Democracy, Populism, and the Tyranny of the Minority*, 2024).

Richard L. Hasen, UCLA professor of law and internationally renowned expert on elections, agrees that the right to vote should be protected in the U.S. Constitution. A constitutionally protected right to vote would remove partisan motives for restricting or expanding voting, reduce the amount of litigation needed, and make any violations a clear infringement of the law (Hasen, 2024).

[1] In past redistricting efforts, incumbents were protected (or excluded) by consideration given to where they lived. In the 2021 process, Special Master map-drawers were agnostic to where incumbent legislators resided.

John Adams, in explaining why those without property should not vote, stated "Depend upon it, sir, it is dangerous to open [such a] source of controversy and altercation, as would be opened by attempting to [change] the qualifications of voters. There will be no end of it. New claims will arise. Women will demand a vote. Lads from 12 to 21 will think their rights not enough attended to, and every man, who has not a [dime], will demand an equal voice with any other in all acts of state. It tends to confound and destroy all distinctions, and [surrender] all ranks, to one common level" (*John Adams Explains Why People Without Property Should Not Be Able to Vote · SHEC: Resources for Teachers*, n.d.).

International Standards

The International Covenant on Civil and Political Rights, adopted by the United Nations on December 16, 1966, and ratified by the United States in 1977, holds that every citizen should be able to vote in genuine, periodic elections under the conditions of "*universal and equal suffrage*" (*International Covenant on Civil and Political Rights*, n.d.). *The Human Rights and Election Standards: A Plan of Action* (*CC Human Rights POA_3_18_B2.indd*, 2017), jointly developed by the United Nations Human Rights and The Carter Center, published in December 2017, provides an overall context for the right to vote as a basic human right.

> Democracy arises from people's desire for dignity, equality, justice, liberty, and participation— their desire for a voice. But obstacles to the right to equal participation have become increasingly formidable for many around the world in recent years. In many countries, civil society is threatened by laws and policies that sharply restrict the ability to associate freely and protest peacefully, and many people's rights to express opinions— including dissenting views — are violently suppressed.
>
> Genuine democratic elections expressing the will of the people are essential to securing the legitimate authority of governments and the promotion and protection of human rights. States [*i.e.*, nations] around the world regularly hold elections and are obligated, in part through their ratification of key human rights treaties and through customary law, to respect and protect a core set of human rights and fundamental freedoms critical for democratic elections.
>
> The inclusion of elections as a means of ensuring the right to participate in public affairs in international and regional instruments means that elections are subject to human rights norms and standards, and scrutiny by international and regional human rights mechanisms.
>
> States have the obligation under international law to respect, protect, and fulfill human

> rights. To do so, states should take proactive steps to facilitate the enjoyment of human rights, including by advancing the inclusion and effective participation of all people, especially minorities, women, young people, indigenous peoples, persons with disabilities, persons deprived of liberty, people living in extreme poverty, internally displaced people, and others who are marginalized and experience barriers to equal participation. State institutions will require appropriate resources to meet these responsibilities. In addition, those working on elections should address the needs of these and other groups.

Voting Rights in the United States

The right to vote is not discussed in the initial articles of the U.S. Constitution. It was first referenced in the post-Civil War 14th and 15th amendments to address voting of newly freed males and later the 19th Amendment granted women the right to vote, the 24th Amendment eliminated the poll tax, and the 26th Amendment lowered the voting age from 21 to 18.

Federal Constitution and Statutes

The U.S. Constitution

Article 1, Section 2 of the U.S. Constitution (Story, n.d.), vested the states with the authority to determine who should vote, and the related "times, places and manner" under which this right should be exercised. Subsequent Amendments, including the 14th, 15th, 19th, 24th and 26th, further defined the states' authority.

The 14th and 15th Amendments, along with the 13th Amendment, are commonly referred to as the Reconstruction Amendments and focus on: the abolishment of chattel slavery (13th); equal protection under the law (14th); and male suffrage without regard to prior enslavement or African descent (15th). Post Reconstruction enforcement of the 14th and 15th Amendments was largely ignored.

The 14th Amendment—Equal Protection

The 14th Amendment, among other provisions, deals with due process under the law and universal male suffrage. However, the implementation of the 14th Amendment encountered resistance. Perhaps the most important amendment in American history was the 14th Amendment. Ratified in June 1868, it fundamentally reordered our system of federalism, adding new restrictions to state power. We best know the 14th Amendment through two of its clauses,

one which says the state cannot deprive a person of life, liberty, or property without "due process of law" and another which guarantees to all persons the equal protection of the laws. Debates regarding abortion, marriage, and segregation all have involved this amendment. And through its "incorporation" of the Bill of Rights at the state level, the 14th Amendment also has been part of most Supreme Court cases about free speech, freedom of the press, religious liberty, and the death penalty (Chapman & Yoshino, n.d.).

The 15th Amendment—Focus on Civil Rights

The 15th Amendment says the rights of suffrage may not be abridged by race, color or prior servitude. Unlike the guarantees in the original Bill of Rights, the 15th Amendment expressly constrains both "the United States" and "any State" from abridging these rights (*Overview of Fifteenth Amendment, Right of Citizens to Vote*, n.d.). It directs the need for a federal, not a state, focus on civil rights, and by extension voting rights, as a national concern. However, the rise of "Jim Crow" laws, "early 20th century laws that were used for racial segregation…" (*Definition of Jim Crow Laws*, 2014) in the late 19th and early 20th centuries, effectively sidelined the 15th Amendment.

In *Northwest Austin Municipal Utility District No. 1 v. Holder, 557 U.S. 193 (2009)*, the Supreme Court discussed the first century of 15th Amendment enforcement as a failure. Although technically the 15th amendment went into effect upon ratification, the Court found that it required additional legislation, including the 1965 Voting Rights Act, to ensure its implementation.

The 19th Amendment—Women's Suffrage

The 19th Amendment prohibits the federal and state governments from denying or abridging a U.S. citizen's right to vote on the basis of sex, thereby recognizing women's suffrage. Debate about women's suffrage reaches back to the origins of the U.S. Constitution but suffrage was not pursued and was not core to the ratification of the Constitution. It was not until changing cultural norms, Western States enfranchising women, and the successful ratification of the 19th Amendment, that white women had the right to vote. And only with the passage of the 1965 Voting Rights Act did minorities effectively and fully gain the right to vote. [See Appendix A. The Women's Movement and the Franchise for more detail.]

The 24th Amendment—Removal of Poll Taxes

Ratified in 1964, the 24th Amendment states that no one may be denied the right to vote by reason of failing to pay a poll tax or other tax (*Harper V. Virginia Bd. of Elections :: 383 U.S. 663 (1966)*).

The 26th Amendment—Lowering the Voting Age

The 26th Amendment, ratified in 1971, lowered the voting age to 18. This amendment was an outgrowth of the movement to broaden the rights of those called upon to serve in the armed forces. [See Appendix B. Project 18 and the 26th Amendment for more detail.]

The 1965 Voting Rights Act (VRA)

Following ratification of the 15th amendment, which provided the right to vote to all male citizens regardless of "race, color or previous conditions of servitude" (*15th Amendment to the U.S. Constitution: Voting Rights (1870)*, 2024) many states passed Jim Crow laws which implemented inequitable practices that prevented African Americans, and other citizens of color, from exercising their right to vote. These discriminatory practices activated the civil rights movements in the 1950s and 1960s. During the peaceful march from Selma to Montgomery, voting rights activists experienced abuse and violence, including attacks with nightsticks, whips, barbed wire-wrapped rubber hoses, and tear gas. But they refused to turn back or give up on their mission. John Lewis (later U.S. Congressman Lewis) was one of the activists beaten during the peaceful march of March 7, 1965, which became known as Bloody Sunday (Klein, 2015).

President Lyndon B. Johnson signed into law the Voting Rights Act (VRA) on August 6, 1965, for the purpose of removing barriers at the state and local levels that prevented African Americans from exercising their rights to vote. Besides ensuring Black Americans could vote, the VRA also enfranchised other minority groups such as Native Americans [Appendix C.], Asian Americans [Appendix D.], Hispanics and people with disabilities.

"The VRA was designed, at least in part, to prevent voting discrimination before it happened, by prohibiting certain practices and by requiring some jurisdictions to seek approval through the preclearance process before changing how they administered elections" (Garrett, 2023). For example, the Attorney General was empowered to challenge the use of poll taxes by states, putting teeth into implementation of the 24th Amendment (*Twenty-Fourth Amendment of the US Constitution -- Abolition of the Poll Tax Qualification in Federal Elections*, n.d.). "Before passage of the Voting Rights Act, an estimated 23 percent of eligible Black voters were registered nationwide; by 1969 that number rose to 61 percent. By 1980, the percentage of the adult Black population on Southern voter rolls surpassed that in the rest of the country, the historian James C. Cobb wrote in 2015, adding that by the mid-1980s there were more Black people in public office in the South than in the rest of the nation combined. In 2012, turnout of Black voters exceeded that of white voters for the first time in history, as 66.6 percent of eligible Black voters turned out to help reelect Barack Obama, the nation's first African American president" (Pruitt, 2020).

The Voting Rights Act was reenacted in 1970, 1975, 1982, 1992, and 2006 with bipartisan support. These reenactments extended the deadline in the original act and added amendments: bans on voter suppression devices such as literacy tests (1970); language-minority protections (ie. voting information and materials) (1975); protections against laws that would have unintended discriminatory effects or that would adversely impact representation; protections for illiterate voters or those with disabilities, and requirements that ballots be provided in a second language where widely spoken (1982). Sections in the VRA regarding federal examiners were repealed because this function was replaced by the National Voter Registration Act (NVRA) (2006) (Garrett, 2023).

In deciding *Shelby Co. v. Holder* in 2013, the U.S. Supreme Court invalidated preclearance sections of the Voting Rights Act of 1965 by reasoning that racism no longer existed at the same levels as in 1965 (*Shelby County V. Holder*, 570 U.S. 529 (2013). The impact of this decision was a green light to attack voters' rights by:

1. Enacting restrictive voter ID laws.
2. Rolling back early and mail-in voting.
3. Purging eligible voters from voter rolls.
4. Making it a crime to provide food or water to voters waiting in line.
5. Limiting or removing drop boxes for absentee ballots.
6. Gerrymandering maps.

In 2021,the *Brnovich v. Democratic National Committee* decision further narrowed VRA protections by restricting who can file lawsuits (*Brnovich V. Democratic National Committee, , 594 U.S. __; 141 S. Ct. 2321 (2021)*).

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

Passed in 1986 and amended in 2011, the UOCAVA permits active duty military (including those domestically based) and their families, as well as U.S. citizens overseas, to vote absentee. If their absentee ballot applications do not arrive in a timely fashion, they may use the Federal postcard application form instead. They may also receive their ballots electronically.

The Americans with Disabilities Act (ADA)

Passed in 1990, the Americans with Disabilities Act required, "state and local governments and their election officials to ensure that people with disabilities have a full and equal opportunity to vote in all elections." This requirement covers all the steps necessary to cast a ballot --

registration, polling sites, and voting processes, not only on election day but also during the absentee and early voting processes (*Voting and Polling Places*, n.d.).

The National Voter Registration Act (NVRA)

In 1993, the National Voter Registration Act (NVRA), also known as the "Motor Voter Act," required states to offer voter registration via their departments of motor vehicles and through state and local offices providing state-funded programs, public assistance or disability services. All armed services recruitment offices must also provide voter registration. The NVRA mandates that states offer mail-in voter applications. Furthermore, election administrators are required to set deadlines and rules regarding registrations and to maintain voter rolls that are VRA compliant (*Civil Rights Division | The National Voter Registration Act Of 1993 (NVRA)*, 2022).

The Help America Vote Act (HAVA)

The Help America Vote Act (HAVA) was passed in 2002 and created minimum standards for states to use in conducting elections: voting information, voter identification, voter registration databases, voting equipment, provisional voting, and handling administrative complaints. HAVA also established the Election Assistance Commission (EAC) to help states comply and to award, distribute, and monitor grant funds that Congress has authorized under that law (*Help America Vote Act*, n.d.).

Virginia Laws

The Virginia Constitution

The Constitution of Virginia establishes criteria for who may vote. Article II states:

> In elections by the people, the qualifications of voters shall be as follows: Each voter shall be a citizen of the United States, **shall be eighteen years of age**, shall fulfill the residence requirements set forth in this section, and shall be registered to vote pursuant to this article. **No person who has been convicted of a felony** shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority. As prescribed by law, **no person adjudicated to be mentally incompetent** shall be qualified to vote until his competency has been reestablished (*Constitution of Virginia - Article II. Franchise and Officers*, n.d.).

The Virginia Voting Rights Act (VA VRA)

In the Congressional Research Service report on the VRA, the author suggested that polarization eroded the bipartisan support that used to exist for voting rights (Garrett, 2023). In the absence of federal legislation, many states are passing their own voting rights legislation. During the first special session of the Virginia General Assembly in 2021, Senator Jennifer McClellan (*SB 1395 Discrimination; Prohibited in Voting and Elections Administration, Etc.*, 2021) and Delegate Marcia Price (*HB 1890 Discrimination; Prohibited in Voting and Elections Administration, Etc.*, 2021) introduced the Virginia VRA, which passed and was signed by the governor.[2] The Virginia VRA prohibits different standards or practices from being applied to a voter "based on his race or color or membership in a language minority group" (*SB 1395 Discrimination; Prohibited in Voting and Elections Administration, Etc.*, n.d.) and prohibits "at large" methods of elections that would prevent minority voters from being able to elect a candidate of their choosing. In addition, localities are required to accept public comments and establish a waiting period before enacting a covered practice. The VA VRA also provides guidance for how affected individuals can seek relief.

Three Groups Without Voting Rights in Virginia

The Virginia Constitution (*Constitution of Virginia - Article II. Franchise and Officers*, n.d.) sets restrictions on voting rights for these categories of persons:

- "[No person younger than] eighteen years of age"
- "No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority"
- "[No] person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished."

We will address each of these groups in turn.

Under 18 - Setting the Voting Age to 16

"Each voter… shall be eighteen years of age…" (*Constitution of Virginia - Article II. Franchise and Officers*, n.d.).

While there was some support for lowering the voting age from 21 to 18 during WWII, "old enough to fight, old enough to vote" became a winning argument during the Vietnam War and

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[2] (Similar legislation introduced jointly by Delegates Price and VanValkenburg in 2020, failed in conference committee.) (*HB 761 Elections; Preclearance of Certain Covered Practices Required, Definitions*, 2020)

led to passage of the 26th amendment of the U.S. Constitution in 1971. The amendment was so popular that it was ratified in a record four months (Barlet, 2020). "We've learned a lot about adolescence since then — enough that we should now lower the voting age to 16" argues Laurence Steinberg, a Temple University psychology professor and author of Age of Opportunity: Lessons From the New Science of Adolescence (Steinberg, 2014).

Societal Benefits to Allowing 16 Year-olds to Vote

The Senate Report accompanying the 26th Amendment explained that it was proposed for three main reasons: "younger citizens are fully mature enough to vote;" 18 year-olds "bear all or most of an adult's responsibilities"; younger voters have the opportunity "to influence our society in a peaceful and constructive manner" (Benson & Morley, n.d.). Proponents make similar arguments regarding 16 year-olds. The organization Generation Citizen identifies four reasons 16 year-olds should be able to vote: voting needs to be a habit; 16 year-olds possess the skills and knowledge making them ready to vote; they are affected by policies and should be treated as equal constituents; civic education would be improved (*4 Reasons for Lowering the US Voting Age to 16*, 2020).

Cultivating a Voting Habit

Striving to achieve balance between protecting minors and protecting the right to participation "can leave young people feeling disenfranchised and less likely to participate in civic life, said D. Scott Foster, who was 22 in 2010 when he ran successfully for City Council in Williamsburg, [VA]. 'They don't see themselves as fit for those roles or having an impact,' said Mr. Foster, who is now 32. 'If laws are skewed against young folks and public perception is skewed against young folks, it's that much harder to get involved. It takes extra effort and willpower'" (Cramer, 2020).

"By dropping the voting age to 16, Vote16USA claims we increase by 25 percent the possibility that a person will vote in the next election. And, research shows that the earlier people start voting, the more likely they are to become lifelong voters. The stereotype of apathy among young people may cause some people to question whether 16- or 17-year-olds would even bother to vote, given the opportunity… Since the local voting age [in Takoma Park, MD] was lowered in 2013, 16- and 17-year-olds are turning out to vote at a rate about four times greater than the overall turnout." (Adee, 2017)

Skills and Knowledge

Studies show that 16 year-olds have the cognitive capacity and knowledge to be educated voters. Between the ages of 13 and 18, teens consider the impact of their decisions on others, their roles in society and push for independence from their parents. In Virginia, the age of emancipation is 16 but this person, recognized as an adult by the law, still cannot vote until age

18 (Steinberg, 2014) (*Growth and Development, Ages 13 to 17*, n.d.) (*The Growing Child: Adolescent 13 to 18 Years*, 2020) (*Code of Virginia Code - Article 15. Emancipation of Minors*, n.d.).

"'There isn't a childhood and then an adulthood,' [explained] Peter Jones, who works as part of the epiCentre group at Cambridge University, ... 'People are on a pathway, they're on a trajectory.' One key part of that trajectory is the development of the prefrontal cortex… that affects how we regulate emotions, control impulsive behavior, assess risk and make long-term plans. The cerebellum also affects our cognitive maturity. But unlike the prefrontal cortex, the development of the cerebellum appears to depend largely on environment. [Adds] Dr. Jay Giedd, chair of child psychiatry at Rady Children's Hospital-San Diego '[The cerebellum smooths] out all the different intellectual processes to navigate the complicated social life of the teen'" (Johnson, 2022). Therefore, 16 year-olds in an environment that supports voting, would more likely actively participate than those who are not in a supportive environment.

On the other end of the age spectrum, cognitive decline is not a consideration for voter ineligibility. "Approximately two out of three Americans experience some level of cognitive impairment at an average age of approximately 70 years." (Hale et al., 2020)

Civic Education

The rationale laid out by Election Buddy for mock elections, holds true for *actual* participation in elections by 16-18 year-olds (*Mock Election Ideas for High School*, 2022):

- Learning About National Politics: The most natural consequence of holding mock elections is knowledge about national, state, and local representative bodies. Students will learn the composition of these bodies, how representatives are elected to them, and the different parties that campaign.
- Boosting Democratic Values: Participating in elections helps students learn about democracy and its importance. It also gives them the opportunity to participate in a process that impacts them directly.
- Forming Individual Opinions: With multiple parties participating in elections, each one will have a different platform. This means students will have to evaluate ideas and perspectives to choose who to vote for, which helps students think critically and develop opinions.
- Getting Used to Voting: Voting is an important part of civic life. Through mock elections, students learn the importance of having their voice heard through voting. This should, ideally, translate into their life beyond school, making them more likely to vote in local, state, and national elections.

Indeed, educating and registering eligible high school students is a mission for many local Leagues. The fact that many high schools sponsor political party clubs shows that students are engaged and want to be politically active.

“During the independent referendum in Scotland in 2014, the inclusion of the youths aged 16 and 17 produced positive results. Most of them who felt inadequate to vote resolved to actively [seek] information that enabled them to make informed decisions on the voting day. This informed the decision of Scotland to lower its legal voting age to 16 from 18” (Omondi, 2017).

Younger Citizens are Not Adequately Represented

Young people have no say in policies that directly affect them like gun safety, education, and minimum wage. Policy decisions on issues that have the most lasting future effects, like war, healthcare, national debt, and climate change, are also made without their input (Drayton, 2023). In the absence of political action from lawmakers, young people have taken to the streets and to the halls of Congress to advocate for change in our firearm laws (*We Are Young Activists Committed to Ending Gun Violence. We Are Students Demand Action.*, n.d.) and to raise alarms about climate change (*About Sunrise*, n.d.).

Our legislators and institutions do not seem to be keeping up with a changing world and the impact on younger generations.

- NPR Congressional editor Kelsey Snell points out, “...policy issues, where I think a lot of people can remember senators, in particular, asking super off-base or unrelated questions about some new technology or AI [Artificial Intelligence] or understanding the internet, and it makes them look out of touch. And in some cases, they can be out of touch with the way the world is changing” (*Old Politicians*, 2023).
- “As Americans have gotten older and more settled, our institutions have also become less dynamic…While this trend toward more regulation and greater constraints on regular life can be seen across all walks of life…: increasing stringency of land use regulations such as zoning, greater prevalence of restrictions on work such as occupational licensing, unusually high incarceration rates given currently low crime rates, an education system that forces people to spend more years in school for a higher cost and less value, and growing debt and other financial burdens among households and at all levels of government. These trends can all be traced back to policy choices made between the 1940s and 1990s. That is to say, while they disproportionately afflict younger generations such as millennials, they are problems created by baby boomers and their parents. If the United States is to have a 21st century as prosperous as its 20th century, these damaging legacies of the baby-boomer generation must be fixed.” (Stone, 2019)

A responsive government, and government officials, would go a long way in improving youth participation and confidence that they are represented and their concerns considered.

> “[Government] leaders and political actors need to reinforce how government and public policy are forces for good in people’s lives. That includes focusing on the serious issues, not the culture war distractions. Gen Z expects big, bold ideas, not incrementalism, or empty promises.
> Perhaps more importantly, we all must do whatever it takes to ensure that young people continue to believe in the importance of our democracy, the free press, and our political systems and institutions. Our future depends on Gen Z’s willingness to participate in civic life, to vote, and to continue to push for solutions. That means we need to do more to show that their votes count, that the effort to become engaged is well spent, and that the system is there to serve their interests” (*Looking Forward With Gen Z*, 2022).

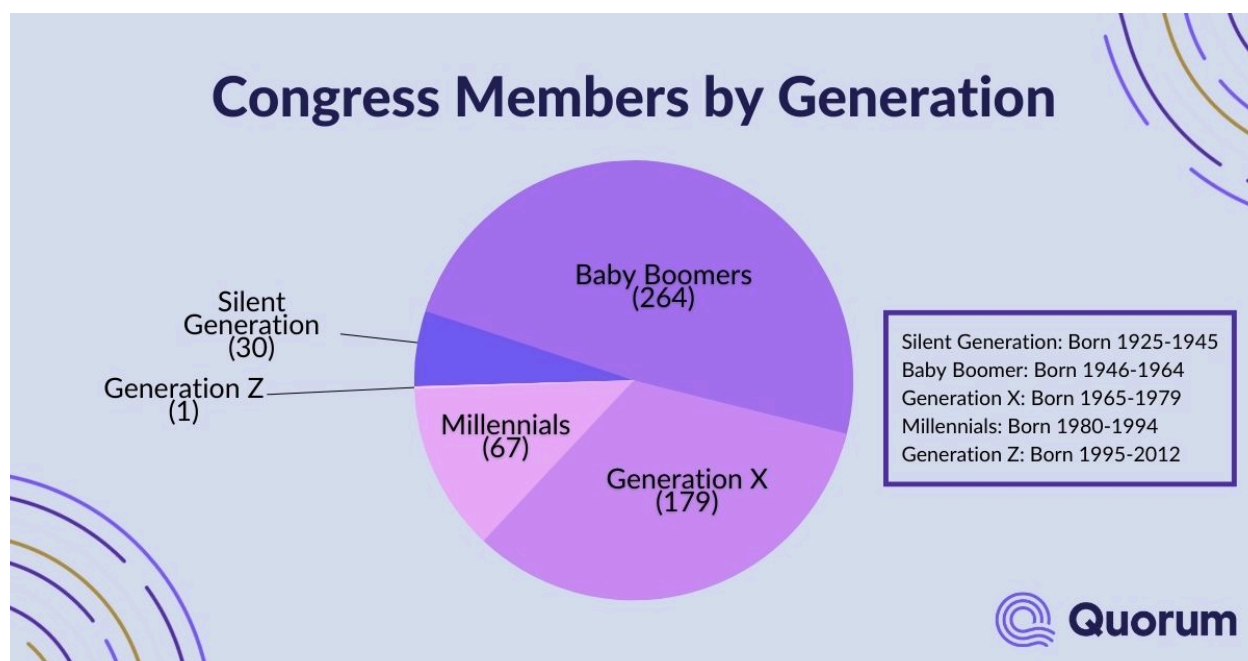

image provided by Quorum Analytics, LLC, 1/5/2024

“While Millennials make up nearly 25 percent of the U.S. population, they only account for 12 percent of Congress... In the next election, all Millennials will be old enough to run for Senate. Conversely, Boomers account for only 23.7 percent of the general population, and yet 49 percent of all members of Congress belong to the Boomer generation.” (*Average Age of Congress [2023 Update]*, 2023)

Even though the 2021 redistricted maps gave us more minority candidates in terms of race and gender, the number of “Young Elected Leaders” [under age 35] in the Virginia General Assembly, dropped from eight in 2019 elections results to five after the 2023 races (*The Virginia State Legislature*, 2020) (*Welcome to the Virginia General Assembly Website*, 2024). One study comparing election results in Sweden and Switzerland found that “a political culture that

welcomes youth" translates into more success for younger candidates (Stockemer, 2023). Younger candidates may be barred from running for election because of lack of resources, being at the point in their careers where they need to work, and the lack of leadership opportunities (Parks et al., 2023) (Farrington, 2023) (Berthin, 2023).

"[Democracies] are the best way to ensure that a government looks out for the public interest, and elections force politicians to represent every citizen. If politics is mainly about who gets what, and democracy is about including everyone in that 'who,' then it's critical that everyone's interests be protected by extending the franchise" (Bernstein, 2023).

"In a democracy, no freedom is more essential than speech, and no form of speech is more fundamental than voting. This truism guides the many programs that promote youth voting as the nexus of America's resurgent, bipartisan civics movement" (Hutchins & Heubeck, 2017).

Historical and Legal Basis of Felony Disenfranchisement

"No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority" (*Constitution of Virginia - Article II. Franchise and Officers*, n.d.).

Early History of Citizen Deprivation of Status and Honor

Scholars trace the origins of felony disenfranchisement back to the concepts of civic behavior that penalized miscreants in ancient Greece (*atimia*) and Rome (*infamia*), to medieval concepts of outlawry and civil death, and to the similar English common law concept of "attainder." All these societies dishonored or civilly (not physically) cast out citizens who committed infamous or heinous crimes, such as treason. Carried into the American colonies and forward into some state constitutions was this notion of "civil death," which meant deprivation of property and liberties, including the right to vote (Pettus, 2013, 28-31).

In ancient Athens and Rome, civil death did not apply to women or to enslaved men. While women were citizens, they lacked rights of citizenship. Slaves, on the other hand, were not citizens at all (Pettus, 2013, 19). Citizenship denoted status and honor, which was particularly important when carried forward in time to antebellum society in the South (Pettus, 19). One philosophical underpinning of civil death was moral: serious crimes violate the social contract, thus perpetrators must be removed from the body politic. The Massachusetts Bay Colony disenfranchised any citizen who committed a "shamefull or vitious crime" [sic] while colonial Marylanders convicted of a third drunkenness offense lost the suffrage (Ewald, 2012). Another theory, originating with Aristotle but espoused by such 17th and 18th political theorists as Locke and Montesquieu, was that criminals are inherently flawed and must not enjoy the status and

honor of citizenship. Neither theory has withstood the 19th and 20th century development of penal policy and the expansion of suffrage (Manza & Uggen, 2008, 19, 25-26). Nevertheless, felony disenfranchisement has been retained.

18th and 19th Century Virginia

Scholars consider Virginia to be the first of the former British colonies to deprive American citizens of the right to vote when they are found guilty of certain crimes (Brooks, 2004, 101-148). Felony disenfranchisement was enshrined in Virginia's second and all following constitutions. The Virginia Constitution of 1830 added a caveat to white male suffrage: "*Provided, nevertheless*, That the Right of Suffrage shall not be exercised by any person of unsound mind, or who shall be a pauper, [or in the United States military], or by any person convicted of any infamous offence [sic]" (*1830 Virginia Constitution Transcription*, 2021). The 1851 Constitution of Virginia added to the exceptions to the franchise any person "who has been convicted of bribery in an election." (*1851 Virginia Constitution*, 2021) Both of these constitutions were ratified before anyone, other than a white male, exercised all rights of citizenship.

The Virginia Readmission Act of 1870, a federal law that readmitted Virginia to the Union after the Civil War, stated that the first condition of readmission was that the state's constitution would never "deprive any citizen or class of citizens of the right to vote…except as punishment for such crimes as are now felonies at common law" (*An Act to Admit the State of Virginia to Representation in the Congress of the United States (January 26, 1870)*, n.d.). The term "felonies at common law" was well-understood to mean murder, manslaughter, arson, burglary, rape, robbery, sodomy, mayhem, and larceny (Homer, 2023). In contravention of the condition of the Readmission Act that citizens could not be disenfranchised except for crimes considered at that time to be "felonies at common law," petit larceny, believed to be a crime to which former slaves were prone (or for which they could be easily accused and convicted) was added by an 1876 amendment to the Virginia Constitution to the list of convictions that disqualified one to vote (Holloway, n.d., 931-962).

Reconstruction ended in 1877, yet Virginia's homegrown Readjuster Party, a political party formed to reduce the state's debt, continued to support voting rights for Black Virginians until the party was defeated in 1883. Thereafter, as in other Confederate states, those in power in Virginia endeavored to deprive their Black citizens of the right to vote by imposing an array of barriers– from poll taxes and literacy tests to expanding the list of "felonies at common law" referenced in the Virginia Readmission Act– all designed to avoid the terms of the 13th, 14th,

and 15th Amendments to the United States Constitution.[3] Virginia codified this goal in the Constitution of 1902.

The 20th and 21st Century Virginia Constitution

As transcribed in the Report of the Proceedings and Debates of the Constitutional Convention, State of Virginia, delegate Carter Glass boldly declared on April 4, 1902:

> I predict…that we shall not again witness a political campaign projected in Virginia on the question of race domination. This plan of popular suffrage will eliminate the darkey as a political factor in less than five years, so that in no single county of the Commonwealth will there be the least concern felt for the complete supremacy of the white race in the affairs of government…. Our politics will be purified and the public service strengthened.
>
> * * *
>
> Discrimination! Why, that is precisely what we propose; that, exactly, is what this Convention was elected for—to discriminate to the very extremity of permissible action under the limitation of the Federal Constitution, with a view to the elimination of every negro voter that can be gotten rid of, legally, without materially impairing the numerical strength of the white electorate….within the limitations of the Federal Constitution by legislating against the characteristics of the black race, and not against the "race, color, previous conditions" of the people themselves (Lindsay, 1906).

Carter Glass was not an outlier; many delegates to the convention expressed similar sentiments and the resolution he proposed passed overwhelmingly.

In addition to treason and the felonies listed in the previous constitution, the 1902 Constitution incorporated more crimes (including those added by the 1876 amendment noted above) that would disenfranchise voters: "bribery, petit larceny, obtaining money or property under false pretences [sic], embezzlement, forgery, or perjury"(Lindsay, 1906). Scholars agree that including such crimes "was clearly designed to target African American voters" (Ortiz, 2020, 17) (Howard, 2020, 121). This constitution perpetuated a climate of racial hostility (Gibson, 2015, 3). Article II of the 1902 Constitution set, as requirements of voter registration, the payment of a tax (a property tax called a poll tax) and a litany of complex regulations that opened the door to voter challenges (*Online Classroom*, n.d.). Designed to disenfranchise Black men, who had won the right to vote with passage of the 13th-15th amendments to the U.S. Constitution, the 1902 Virginia Constitution succeeded by reducing the number of eligible African American voters by

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[3] The 13th Amendment, ratified in 1865, abolished slavery. The 14th Amendment, ratified in 1868, provided equal protection of the laws and due process to all citizens. The 15th Amendment, ratified in 1870, provides, "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

90%. The mandate of a poll tax and a clause requiring understanding of the law and voting processes affected poor whites as well.

The 24th Amendment to the U.S. Constitution, ratified in 1964, prohibited a poll tax in **federal elections**. The Virginia General Assembly never ratified the 24th Amendment, however, and Virginia continued to assess a poll tax in **state elections**. A 1966 U.S. Supreme Court decision, *Harper v. Virginia State Board of Elections* (*Harper V. Virginia Bd. of Elections :: 383 U.S. 663 (1966)*), declared the poll tax unconstitutional **for all elections**. Not until the Constitution of Virginia was again revised in 1971 were various Jim Crow-type barriers to voting removed.

The 1971 revision removed petit larceny from the disenfranchisement clause and removed the poll tax. However, **felony disenfranchisement** was retained in the 1971 Constitution. Article II, § 1 of the current Virginia Constitution states, "No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority" (*Constitution of Virginia - Article II. Franchise and Officers*, n.d.).

The result is that the Governor (or their designee) has sole discretion (which is **not** limited by any rules or criteria) over restoration of civil rights for anyone in Virginia who has been convicted of a felony, including those who are not incarcerated but are under court supervision (probation or parole).

There is scant explanation why the drafters of the 1971 Constitution preserved felony disenfranchisement. The Executive Director of the Commission on Constitutional Revision, claiming that the Commission's members "cared deeply about assuring the right to vote," nevertheless acknowledges that they breezed past the issue in the official report: "'Disfranchisement of persons convicted of a felony remains automatic. The generic term 'felony' has been substituted…. [The Constitution] works no change in the present law'" (Howard, 2020, 121). One critic, noting the lack of illumination, commented, "The absence of racial evidence is not evidence of racial absence" (Ortiz, 2020, 178). Whether the Commission members were conscious of the impact of their decision at the time is unanswered, yet felony disenfranchisement likely remained because it was considered a controversial section which might jeopardize the approval of the entire new document.

Judicial Decisions on Felony Disenfranchisement

The courts thus far have upheld felony disenfranchisement. The landmark 1974 U.S. Supreme Court case *Richardson v. Ramirez* preserves the constitutionality of felony disenfranchisement (*Richardson V. Ramirez,* 418 U.S. 24 (1974), 2017). The decision relied on § 2 of the 14th Amendment, an obscure provision that says apportionment is adjusted to reduce representation when otherwise eligible citizens' right to vote has been denied for any reason, "except for participation in rebellion, or other crime"(Ortiz, 2020, 179). Thus, the Court

reasoned, “states could exclude convicted criminals from the franchise” (Ortiz, 2020, 179). Justice Thurgood Marshall wrote a stinging dissent, highlighting the irony of using a provision that was designed to discourage disenfranchisement of Blacks to support disenfranchisement of a category of citizens who are disproportionately Black. Scholars have roundly criticized the Court’s reasoning (Manza & Uggen, 2008, 31).

In contrast, 11 years later in *Hunter v. Underwood,* the Supreme Court held 8-0 (Justice Powell did not participate) that Article VIII § 182 of the Alabama Constitution of 1901 violated the 14th Amendment’s equal protection clause, § 2 notwithstanding, because the intent of § 182 was to disenfranchise Blacks on account of race (*Hunter V. Underwood*, 471 U.S. 222 (1985), n.d.). In 1996, however, a federal court in Virginia rejected a challenge to felony disenfranchisement on an equal protection claim because *Richardson v. Ramirez* is the authoritative precedent; the court’s opinion never mentions *Hunter v. Underwood* (*Perry V. Beamer*, 933 F .Supp. 556 (1996)). In 2000, the U.S. Court of Appeals for the Fourth Circuit, disregarding the racial animus historically underpinning felony disenfranchisement, ruled that Virginia’s laws denying suffrage to people convicted of felonies could *not* be racially motivated because they predated the 14th and 15th Amendments to the U.S. Constitution and extension of the right to vote to Blacks (Ortiz, 2020, 179). In other words, since Blacks could not vote when Virginia’s Constitution first disenfranchised persons convicted of felonies, felony disenfranchisement could not have the purpose of denying Black people the right to vote, and therefore there was no violation of the equal protection clause. To date, no court has held that Virginia’s felony disenfranchisement is unconstitutional.

Executive Actions

According to historian Helen Gibson, “[l]egal references to the tradition of royal pardons granted by the King of England date to at least the 14th century; evidence of the practice of pardoning convicted felons in Virginia exists as early as 1736, the first year of publication of the colony’s first established newspaper, the Virginia Gazette” (Gibson, 2015, 5). Despite recent reform efforts, Virginia felony disenfranchisement laws are some of the most restrictive in the country.

Recent Actions by Virginia Governors

Governor Douglas Wilder, in 1991, “added a 7-year waiting period after the completion of sentence for drug offenders, and a 5-year period for all other offenders, before becoming eligible to petition the governor [for rights restoration] (Kalogeras & Mauer, 2003). Governor Wilder restored voting rights to 427 individuals (Lazarus, 2016, A1, A5).

Governor Mark Warner reduced the mandatory post-sentence waiting period for non-violent offenders to three years and reduced the number of pages in the application for non-violent

offenders from 13 to 1. While burdensome, these applications did spell out what the person needed in order to get their rights restored. Warner is seen as having compromised, however, in leaving drug offenses under the category of violent felonies" (Gibson, 2015, 7). Those convicted of violent felonies, which included drug possession and election fraud, had to wait five years and use the longer 13-page application. Governor Warner restored voting rights to 3,486 individuals (Lazarus, 2016, A1, A5).

Governor Robert McDonnell issued an executive order in May 2013 that resulted in approximately 350,000 Virginians convicted of non-violent felonies becoming eligible to have their voting rights restored (Gibson, 2015, 7). His action automated rights restoration for people completing sentences (including payment of any fines, fees, and restitution) for convictions classified as non-violent and eliminated their three-year waiting period, though it required that each person receive an individualized rights restoration certificate before registering to vote (*Voting Rights Restoration Efforts in Virginia*, 2023). Governor McDonnell restored voting rights to 8,111 individuals (Lazarus, 2016, A1, A5).

Governor Terry McAuliffe, "[in] April 2014, … moved to reduce the waiting time for restorations of rights applications for a violent felony conviction from five to three years following the completion of a sentence, parole, probation, and payment of all outstanding court fines, restitutions, and fees. He ultimately ended the waiting period for non-violent offenses (Kim and Pandey, League of Women Voters Summer 2022 Intern Project- Restoration of Rights Project, 2). The governor also petitioned successfully to have drug offenses removed from the list of violent felonies, a racially significant move in a state where 20 percent of the state population, 60 percent of Virginians in prison, and 72 percent of Virginians incarcerated for drug offenses are African American" (Gibson, 2015, 7). When Governor McAuliffe tried to restore voting rights as a blanket action, he was sued by the Republican-led legislature. In a 5-4 decision in *Howell v. McAuliffe* (*Howell V. McAuliffe,* Docket No. 160784, Sup.Ct.Va (2016), Caselaw.findlaw.com/court/va-supreme-court/1743532.html, n.d.) the Supreme Court of Virginia stated that the Virginia Constitution required more scrutiny in determining rights restoration. Governor McAuliffe worked to sign individual certificates resulting in the restoration of voting rights to more than 173,000 individuals (Schneider, 2021).

Governor Ralph Northam, during his term (2018-2021), created new eligibility criteria, mirroring a proposed change to the Constitution of Virginia that would automatically restore voting rights to individuals upon completion of their sentence of incarceration. He restored the rights of 126,000 Virginians released from incarceration, even if they remained on community supervision (Schneider, 2021). He also removed waiting periods for all felons, not just those convicted for nonviolent crimes.

Governor Glenn Youngkin changed the process of rights restoration from one that automatically began upon release from prison to a process that needed to be initiated by the formerly convicted person, thereby effectively reviving the state's lifetime ban on voting for people with felony convictions. Now the approximately 12,000 people released from Virginia prisons each year—a population in which Black people are overrepresented – must apply to the governor, who determines on an individual basis who deserves to regain their rights to participate in the democratic process. This is in contrast to the practice of his recent predecessors. His first year in office, Governor Youngkin, following the process used by Governor Northam, restored the rights of more than 4,300 individuals. Since then, Governor Youngkin has not automatically restored voting rights and the criteria he uses are not transparent (Moomaw & Roth, 2023). In 2023, he restored voting rights to just under 2,580 citizens (Wagner & Ress, 2024).

The Impact of Felony Disenfranchisement

Carla Laroche, law professor at Tulane University notes that "...people associate the crime, being bad, with the person being bad. And so there as a result, a person who was convicted of a crime is less deserving" (Noe-Payne, 2023). With passage of the Reconstruction Amendments (13th abolishing slavery, 14th providing equal protection, 15th protecting male suffrage regardless of previous enslavement), white supremists devised legal ways to disenfranchise Black voters by erecting barriers like poll taxes and literacy tests. Because many states excluded those with a felony conviction from voting, it was a ready-made tool for excluding Black voters. "Virginia broadened its list of disenfranchising crimes to include things like loitering, being homeless, even being unemployed. 'The goal was to target Black men,' Laroche argues, 'to put them into jails and prisons, so that they could work for free, like in the slave antebellum era, as opposed to access to economic opportunities, and the ballot box.' This tool of making up a crime, charging someone with a crime, and then using that criminal charge to strip them of the power to vote was effective in part because the U.S. Constitution allowed it" (Noe-Payne, 2023). The school to prison pipeline established a mechanism where Black youth are criminalized at an early age (McCrary, 2019).

"...Virginia [disenfranchises] all people with felony convictions even after they have completed their sentences and parole" (Hill et al., 2021). In 2019, "Black people constituted 20% of state residents, but 53% of people in prison" (Kang-Brown, 2019). In 2013, "It's estimated that [felony disenfranchisement] impacts 12% of voting-age Black Virginians. That's more than 1 in 10 not allowed to vote (Noe-Payne, 2023). "This over-incarceration of the Black population has been attributed to racial profiling, disparities in the amount and type of policing in majority-Black versus majority-White neighborhoods, disparities in access to adequate legal help, and inherent racial bias in the criminal justice system and among its actors. Due to these higher incarceration

rates, Black individuals are more likely to be disenfranchised…" (Hill et al., 2021). Add the fact that "roughly 229,418 men and 67,000 women" (Prison Policy Initiative, n.d.) are released from Virginia prisons and jails each year, but the rights of only 2,601 individuals were restored in 2023 (Littlehales, 2024) means that Virginia's current process isn't working for those those who have served their time.

"Since 1970 Virginia's jail population has increased 800%. Since 1983 the state's prison population has more than doubled. And thanks to felony disenfranchisement policies, that rise in imprisonment goes hand in hand with a rise in disenfranchisement. Research has shown a link between mass incarceration, and voter suppression. The communities where Black people had been kept from the ballot box before the Voting Rights Act are the same communities where Black people were incarcerated at higher rates after the Voting Rights Act" (Noe-Payne, 2023).

" Across the country, states impose varying felony disenfranchisement policies, preventing an estimated 6.1 million Americans from casting ballots. To give a sense of scope — this population is larger than the voting-eligible population of New Jersey. And of this total, nearly 4.7 million are people living in our communities — working, paying taxes, and raising families, all while barred from joining their neighbors at the polls" (Kelley, 2017). "University of Minnesota professor Christopher Uggen, a co-author of [The Sentencing Project report on the impact of felony disenfranchisement], said in an online discussion of its findings that the number of people shut out of voting because of a felony conviction 'often exceeds the vote margins in key elections,' including close 2022 races for the U.S. Senate… In two states — Maine and Vermont — every citizen has the right to vote, regardless of conviction or incarceration. Maine and Vermont have also long been two of the whitest states in the country. It's likely not a coincidence that a Jim Crow tactic to keep Black people from voting was never introduced in two states without a significant Black population" (DeRienzo, 2022).

In addition, "research demonstrates that individuals who have served even brief periods of time in jail are less likely to vote than they were prior to their arrest. This decreased voting activity post-arrest is likely due to what researchers have termed the 'political socialization' process, whereby those who have served time in jail or prison end up with a negative view of government and thus avoid voluntary contact with the state moving forward, such as in voting in elections. Decreased voting post-arrest may also be due to the fact that jail time can decrease one's economic resources (such as employment and housing), imposing additional barriers for these individuals during the voting process. A decreased likelihood of participating in voting after spending time in jail or prison is more common among Black adults than White adults;

evidence suggests this is because White people are less likely to be arrested overall, and those who are arrested are mostly low-income adults who did not vote frequently prior to their arrest, whereas Black people are more likely to be arrested and thus a larger portion of previously politically engaged Black adults are also arrested. Black defendants are 13% less willing to vote post-incarceration. Though over 2 million Americans are incarcerated at any given time, people go to jail 10.6 million times every year in America. Therefore, these post-arrest and post-incarceration voting habits have the potential to be much more damaging to Black voter representation than the initial disenfranchisement during their incarceration" (Hill et al., 2021).

The Impact of Recidivism on Automatic Restoration of Voting Rights

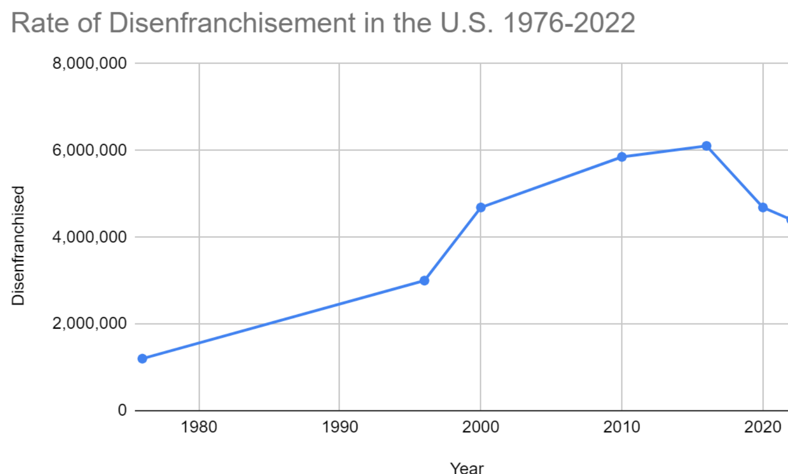
The Magnitude of Felony Disenfranchisement

"Denying the right to vote to people who are living and working in the community runs counter to the modern ideal of universal suffrage. Under that ideal, each citizen is entitled to cast one vote, and each vote counts the same regardless of who casts it. Voting thus becomes a powerful symbol of political equality; full citizenship and full equality means having the right to vote" (Wood, 2009).

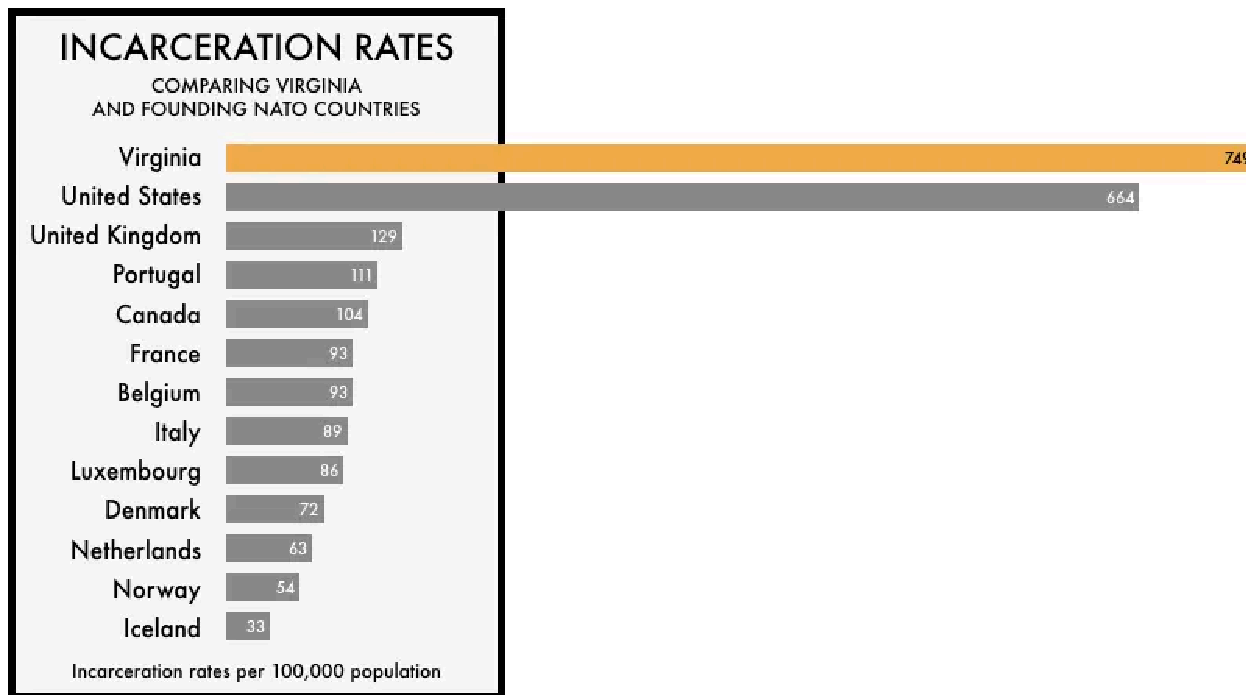
Worldwide, the United States has the 6th highest rate of incarceration at 532 prisoners per 100,000 citizens. Incarceration rate, rather than total prison population, is a better measure to use when comparing countries, since using a total prisoner count would naturally have the most populous countries topping the list (Dyvik, 2024). "The United States accounts for less than 5 percent of the world's population, but almost half of those in the world who cannot vote because of a criminal conviction are U.S. citizens" (Wood, 2009).

"The United States shares the common law root of felon disenfranchisement with many other Western democracies. No other country from that list, however, denies the vote to such large swaths of their population. The history of American felon disenfranchisement policies reveals increasingly blatant racial animus. These policies began as race-neutral and ancient deterrence methods and became tools used to derogate the rights of Americans of color. Other countries with similarly fraught racial histories have recognized the racial implications of their felony disenfranchisement laws and sought to correct them–the U.S. should do the same." (Tuttle, 2021)

In 2022, approximately 4.6 million people in the United States were disenfranchised due to a felony conviction.



The 24% decrease since 2016 indicates that more states are passing laws to limit this practice. State prison populations have declined modestly but there has been a 26% increase overall in felon disenfranchisement since 1976 (Uggen et al., 2022).



Source: https://www.prisonpolicy.org/global/2021.html

“One out of 50 adult citizens – 2% of the total United States voting eligible population – is disenfranchised due to a current or previous felony conviction” (Uggen et al., 2022). Among the adult African American population, 5.3% is disenfranchised ” (Uggen et al., 2022). “One in 10

Black Americans are now banned from voting in Alabama, Arizona, Florida, Kentucky, Mississippi, South Dakota, Tennessee and Virginia and it's estimated that at least 506,000 Latinx Americans are disenfranchised. These statistics show that the original racial intent behind disenfranchisement is alive and well. Despite scientific evidence and increasing public support for re-enfranchisement, the right to vote is determined by the state you live in instead of the values on which this country is based" (Uggen et al., 2022).

According to the National Conference on State Legislatures, as of December 2023:

- In the District of Columbia, Maine and Vermont, felons never lose their right to vote, even while they are incarcerated.
- In 23 states, felons lose their voting rights only while incarcerated, and receive automatic restoration upon release.
- In 14 states, felons lose their voting rights during incarceration, and for a period of time after, typically while on parole and/or probation. Voting rights are automatically restored after this time period. Former felons may also have to pay any outstanding fines, fees or restitution before their rights are restored.
- In 11 states, felons lose their voting rights indefinitely for some crimes, or require a governor's pardon for voting rights to be restored, face an additional waiting period after completion of sentence (including parole and probation) or require additional action before voting rights can be restored (*Brief Felon Voting Rights*, 2024).

Unfortunately, Virginia falls into the last category. After the previous three governors took executive action to automatically restore voting rights to those who completed their sentences, our current governor changed directions. Governor Youngkin restored voting rights automatically to 3,496 Virginians during his first 4 months in office but on May 2, 2022, he terminated that process without notice or explanation. Now individuals convicted of a felony, who did not have their rights restored under the previous system, must apply to the governor to have their rights restored on an individual basis because, without executive action, the Virginia constitution doesn't permit automatic restoration. This change in policy makes Virginia the only state in the nation that permanently disenfranchises all people with felony convictions, unless the governor approves individual rights restoration (*Voting Rights Restoration Efforts in Virginia*, 2023).

Recidivism is Not a Valid Reason for Felon Disenfranchisement

Opponents of re-enfranchisement cite the probability for recidivism or re-offending, but this is a flawed argument. First, the definition of recidivism is generally not well defined, which leads to measurement errors. Policymakers, researchers, and practitioners frequently look to data to

help construct crime policies, but varying definitions of recidivism result in flawed data. For example, depending on the state, recidivism may be defined as arrest, reconviction, return to prison, or parole violation. Arrests that don't lead to conviction could lead to an overestimate of criminal activity. Other studies include the technical violations which often involve noncriminal activities of parole such as missing an appointment, failing to register an email, or leaving a certain radius-- none of which put public safety at risk. Such technical violations entered into improperly updated software led to the Virginia Department of Elections (ELECT) erroneously purging 3,400 voters from the state's voter rolls just before the November 2023 General Election. ELECT didn't take into account that the data they received monthly from a database maintained by Virginia State Police marked probation violations as new felony convictions. All of the people who were removed had a prior felony conviction, but had had their rights restored by the governor. The affected voters were reinstated and notified by mail (Vozzella, 2023).

Another inconsistency in recidivism reporting is the degree to which crime type is delineated. Some studies don't differentiate at all between crime types while some define violent vs. nonviolent– and others get even more specific with crime type. Gerald Gaes, Florida State University criminologist and consultant for Abt Associates, the organization that collects and analyzes the nation's largest corrections database, writes about the pitfall of "relying blithely on recidivism data without investigating the underlying criteria" (Nellis, 2021).

In Virginia, using the recidivism rate as a reason to not restore voting rights is especially problematic since Virginia has one of the lowest recidivism rates in the United States. As of December 2022, Virginia's recidivism rate was 20.6%, the second lowest in the country for the 35 states that report re-incarceration rates of state-responsible inmates within three years of their release. The Virginia Department of Corrections (VADOC) waits four years to calculate the 3-year re-incarceration rate to make sure all court information is received and entered in the Virginia Correction Information System. This is the seventh year in a row that Virginia has had the second lowest or lowest rate of recidivism in the nation (*State Recidivism Comparison*, 2023). VADOC Corrections Director, Harold Clarke states "Virginia's low recidivism rate means increased public safety for families, neighborhoods and the entire Commonwealth" (Sisson, 2023).

Upon release from prison, most felons want to return to their communities to reintegrate into society. Social contract theory proposes that people live together according to unspoken rules that define moral, ethical, and political behavior norms. Opponents of re-enfranchisement believe felons have broken the social contract and don't deserve voting rights. In reality, many people who break the social contract by committing crimes don't go to jail because of plea deals or misdemeanors –so they don't lose the right to vote. Another aspect of social contract theory

proposes that restoring benefits is another way to help ex-felons reenter the social contract. Journalist Chandra Bozelko aptly points out that "voting is a right that belongs to all citizens, not just good or reformed ones. Denying citizens their rights isn't an appropriate form of accountability because citizen status can't be punished out of someone. It's punishment. It's power-stripping." (*Should Felons Regain Right to Vote*, 2023)

This begs the question of whether ex-offenders view disenfranchisement as a deterrent to committing future crimes or if they view the loss of their civil rights as additional (and unjust) punishment. A 2015 Georgia Southern University study analyzed how ex-felons viewed the loss of their civil rights. Based on 54 interviews and narrative analyses of ex-offenders, the study examined the ways ex-felons viewed the loss of their voting rights and how this would likely affect future criminal activity. Three narratives emerged from the interviews indicating feelings of anger, embarrassment, or defeat. The "angry group" was frustrated by the loss of voting rights because they viewed the punishment as illegitimate. Further, the extended duration of disenfranchisement (lifetime) could lead to defiance and more anger, and a slippery slope back to re-offending. Both the "embarrassed" and "defeated" groups accepted the shame of their punishment, but the embarrassed group wanted to change their status into something positive. For this group, the loss of voting rights would likely have a deterrent effect on future criminal activity. Researchers concluded that the ex-offenders who viewed the loss of their voting rights as unfair punishment were most at risk for returning to anti-social behaviors and that using disenfranchisement as punishment serves little or no purpose.

In response to the question, "how does losing these rights make you feel?"

- 14 (26%) expressed anger and frustration about the contradiction between serving their time and still being punished
- 12 (22%) discussed embarrassment they felt in losing the right to vote and the challenge to regain them as a form of redemption.
- 20 (37%) had accepted that they face a life with restricted opportunities and felt this is out of their control
- 7 (13%) were indifferent about the loss of their voting rights or were apathetic about voting

It was concluded that the ex-offenders who expressed anger and frustration (20) and those who were fatalistic (20), totaling 63% of the interviewees, seemed to be most at risk for recidivism by identifying with a criminal lifestyle and re-engaging in anti-social behaviors (Miller & Agnich, 2015).

Other studies suggest that restoration of rights **lowers** recidivism. According to a study conducted by Guy Padraic Hamilton-Smith, at JustLeadership USA, and Matt Vogel, at the University of Albany, individuals who had their voting rights restored post-incarceration were found to have a lower likelihood of re-arrest compared to individuals in states which continued to restrict the right to vote after incarceration (Hamilton, 2012). They analyzed three-year re-arrest rates in a nationally representative sample of 272,111 individuals released from prison in 15 states in 1994. After dividing states into two groups, permanent disenfranchisement or voting rights restoration post-release, they found that individuals were approximately 10% less likely to recidivate if they were released in automatic restoration states versus permanent disenfranchisement states (Budd & Monazzam, 2023).

In 2009, LWV-VA added a position supporting the automatic restoration of rights of any formerly-incarcerated citizen of the Commonwealth (*Positioned for Action*, 2023), but to date, restoration of rights rests solely in the hands of the governor. Recidivism rates are consistently low, and the automatic restoration of rights and privileges, including voting, encourages returning citizens to rejoin society.

Mental Capacity and the Right to Vote in Virginia

The Constitution of Virginia Article II. Franchise and Officers, Section 1. Qualifications of voters states, "As prescribed by law, no person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished" (*Constitution of Virginia - Article II. Franchise and Officers*, n.d.). The Code of Virginia, Chapter 20, Guardianship and Conservatorship states, "A finding that the individual displays poor judgment alone shall not be considered sufficient evidence that the individual is an incapacitated person within the meaning of this definition. A finding that a person is incapacitated shall be construed as a finding that the person is 'mentally incompetent' as that term is used in Article II, Section 1 of the Constitution of Virginia and Title 24.2 unless the court order entered pursuant to this chapter specifically provides otherwise." (*§ 64.2-2000. Definitions*, n.d.)

Therefore, the Virginia Voter Registration Application asks, "Have you ever been convicted of a felony or judged mentally incapacitated and disqualified to vote? If YES, has your right to vote been restored" (*Virginia Voter Registration Application*, 2023)? About 12,000 adults in Virginia are disenfranchised by the mental capacity part of the question. In recent years, rights have been restored to an average of one of these adults per month. The burden of proof falls on the person who has been declared incapacitated. [The disAbility Law Center of Virginia handles many of these cases and assisted with this report.]

Before a person is “judged mentally incapacitated,” a court goes through the steps of assigning a guardian for that person. Someone petitions the court, which then assigns a Guardian Ad Litem (GAL) (*ad litem* means “for purposes of the litigation”) to investigate, followed by a hearing at which the GAL, the petitioner, and perhaps the respondent or their lawyers present evidence. If convinced of incapacity, the judge appoints a guardian or, if only financial matters are involved, a conservator. The guardian must be qualified by the Clerk of Circuit Court and must submit a yearly report.

Frequently Asked Questions: Appointment of Guardians and Conservators for Incapacitated Adults cautions, “Remember that guardianship can take away basic rights such as the right to vote, to get married, to make medical decisions, to sign legal documents such as deeds or apartment leases. The Court’s Order may specifically limit the rights taken away” (*Frequently Asked Questions*, 2023). However, the default is that all rights are lost upon a finding of incapacity. The GAL is not asked to investigate a person’s capacity to vote.

A Joint Legislative Audit and Review Commission (JLARC) report found that, “in FY20, nearly half of the state’s approximately 12,000 adults under guardianship were under age 45” (*JLARC | Improving Virginia's Adult Guardian and Conservator System*, 2021). As the Voter Registration Application indicates, rights can be restored, but JLARC discovered this is rare. “From October 2018 to March 2021, about 30 adults had their rights restored” (*JLARC | Improving Virginia's Adult Guardian and Conservator System*, 2021). Many of the JLARC report recommendations appear to have been codified in Virginia Code Chapter 20. Guardianship and Conservatorship.

Page 14 of the JLARC report states, “GALs are required to recommend whether someone under consideration for guardianship needs a defense attorney but are not required to support in their written report why a defense attorney is not needed” (*JLARC | Improving Virginia's Adult Guardian and Conservator System*, 2021). “Defense attorneys can play an important role in preserving the rights of adults under consideration for guardianship, especially ... where all or at least some of the adult’s rights could be preserved (such as the right to vote)” (*JLARC | Improving Virginia's Adult Guardian and Conservator System*, 2021). Appendix C of the report gives an example of a guardianship court order that preserves the right to vote.

There are several alternatives to guardianship and according to *Adult Guardianship and Conservatorship* “Guardianship and conservatorship should always be looked upon as the last resort. An adult's rights and freedoms should not be taken away unless absolutely necessary.” (*§ 64.2-2000. Definitions*, n.d.) *Options in Virginia to Help Another Person Make Decisions: Choices Less Restrictive than Guardianship and Conservatorship* also warns that, “guardianship typically takes away basic rights such as the right to vote” (*Options in Virginia to Help Another*

Person Make Decisions: Choices Less Restrictive Than Guardianship and Conservatorship, 2021). *Frequently Asked Questions: Appointment of Guardians and Conservators for Incapacitated Adults* explains that, “In a limited guardianship, a Court Order will specifically designate what decisions the guardian may make and what decisions the individual can continue to make on their own. For instance, if you are seeking guardianship for making medical decisions, the Court Order may specify that the individual will retain their right to vote, get married and/or rent an apartment.” (*Frequently Asked Questions*, 2023)

The ARC of Northern Virginia, which is one of the providers of public guardians in Virginia, has a link to a checklist for those considering Guardianship. Hale Ball Carlson Baumgartner Murphy, PLC developed *Thinking about Guardianship* checklist in 2014 (*Transition to Adult Services*, 2024). It suggests specifically taking voting rights into consideration, “The individual does ______ / does not _______ have ability to vote (this might be shown if he/she knows who the President is and how he got his job.)” The Bazelon Center for Mental Health Law’s *Voting Rights Overview* states, “People with psychiatric disabilities are often denied the opportunity to vote on the grounds that they are not ‘competent’ to cast a ballot. Some states have laws forbidding people under guardianship from voting, regardless of whether they are competent to do so. Sometimes poll workers, election officials, and even service providers forbid people from voting by imposing their own ‘competence’ standards that have no basis in law. Under federal law, a person cannot be barred from voting because of “incompetence” except in very limited circumstances. As a rule, if a person is competent enough to go to the polls and vote, or to complete an absentee ballot, federal law requires that the person be allowed to vote” (*Voting*, n.d.). The Bazelon Center’s *Enfranchisement of People Subject to Guardianship* toolkit asserts, “Voting is one of the most sacred rights of our democracy, and is protected by the United States Constitution.” (*Toolkit for Enfranchisement in Guardianship*, 2022)

Despite this, people who wanted to vote have been deprived of that right on account of psychiatric conditions as well as cognitive impairments. The Bazelon Center toolkit offers remedies including model motions, affidavits and orders that people under guardianship—or their family members or advocates—can use to restore voting rights taken away because a person with a mental disability has a guardian. The toolkit also says, “The American Bar Association, the Uniform Law Commission, and six states have adopted an approach to voting competency that strives to protect the federal constitutional and civil rights of people with disabilities and address concerns about election integrity. This model centers the person’s ability to communicate a choice, with or without accommodations, about whether to vote and who to vote for, and means that no one should have to take a test, demonstrate knowledge of the voting process, candidates, or issues, or otherwise be subjected to a test that is not applied to anyone else” (*Toolkit for Enfranchisement in Guardianship*, 2022).

"Under the ABA and Uniform Law Commission model:

1. Individuals subject to guardianship retain the right to vote even if placed under a guardianship unless:
    a. the court makes explicit and written findings,
    b. based on clear and convincing evidence,
    c. that the individual cannot communicate, with or without reasonable accommodations, a specific desire to participate in the voting process, and
2. The individual whose voting rights are at stake receives notice in a language and form they can understand, and has an opportunity to be heard in court, specifically as to the right to vote." (*Toolkit for Enfranchisement in Guardianship*, 2022)

The Uniform Law Commission approved and recommended for enactment in all states *Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act* (*Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act*, 2017) in 2017; voting is addressed on pages 94-7.

In July, 2023, The National Disability Rights Network published *Voting Rights of Individuals Subject to Guardianship* which observed, "While states may not set qualification requirements that run afoul of the Constitution, the federal National Voter Registration Act ('NVRA') does permit disenfranchisement of individuals based on 'mental incapacity'" (*Voting Rights of People Subject to Guardianship*, 2023). However, "mental incapacity" is not defined in the NVRA. "Many laws disenfranchising individuals based on disability and/or guardianship status pre-date the National Voter Registration Act and are based on historical assumptions and outmoded ideas about the capability of people with intellectual or psychiatric disabilities." (*Voting Rights of People Subject to Guardianship*, 2023) Unlike Virginia, 22 states have laws that provide that an individual under guardianship retains the right to vote unless a court specifically removes it.

Voting Rights of Individuals Subject to Guardianship reviews recent court cases to show how rights can be protected. In 2001, in *Doe v. Rowe*, "a federal district court struck down Maine's constitutional provision which disenfranchised individuals under guardianship 'by reason of mental illness'" (*Voting Rights of People Subject to Guardianship*, 2023). In a Missouri case, the Eighth Circuit Court of Appeals conceded that a categorical ban on voting by people under guardianship would fail constitutional inquiry. A federal district court in Minnesota agreed, but a Minnesota state court found that the categorical ban in the state constitution was unconstitutional, citing *Doe v. Rowe*. Courts relied on the 14th Amendment's due process and equal protection clauses in reaching their decisions.

The report continues, "The ADA prohibits disability discrimination in the services, programs, and activities of state and local government entities, including state and local election

authorities. ...[The] critical question in a case challenging disenfranchisement of people on the basis of their disability or guardianship status is what is meant by 'qualified' in the voting context" (*Voting Rights of People Subject to Guardianship*, 2023). That is, what level of mental capacity should qualify a person to vote? This question must be answered on an individual basis, not categorically for all adults with a guardian. "While never tested in court in the context of disability, it is potentially a violation of the Voting Rights Act to impose standards, or require a competency test, only for certain individuals based on their guardianship or disability status." (*Voting Rights of People Subject to Guardianship*, 2023) This would preclude the use of the *Thinking about Guardianship: Checklist* question.

"Much work has been done in recent years to establish a standard for voter competency for people with mental disabilities that adheres to federal constitutional and civil rights protections of people with disabilities, and addresses concerns about election integrity. The evolving consensus among legal and subject matter experts, but which is not the law or practice in most states, is that a person under guardianship retains the right to vote unless the individual cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process. This approach, which moves away from a "capacity" or "functional" test, includes the critical components of: 1) a presumption that the right to vote is retained; 2) a standard that does not exceed what is required of other voters; and 3) individually tailored accommodations consistent with Equal Protection and ADA requirements" (*Voting Rights of People Subject to Guardianship*, 2023).

This builds on an approach adopted by the American Bar Association in 2007. The concept is reflected in the U.S. Senate's Freedom to Vote Act, S 2344, introduced July 18,2023, but unlikely to pass in the current Congress. The bill would create a new SEC. 309 in Subtitle A of title III of the Help America Vote Act of 2002. "SEC.309. Protections for Individuals Subject to Guardianship. "(a) In General.—A State shall not determine that an individual lacks the capacity to vote in an election for Federal office on the ground that the individual is subject to guardianship, unless a court of competent jurisdiction issues a court order finding by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process" (*S.2344 - Freedom to Vote Act 118th Congress (2023-2024)*, n.d.).

The standard for mental capacity should be communicating a desire to vote. Reasonable accommodations should be made for communication disabilities.

Conclusion

In 1619, Virginians adopted a system of government that empowered men who were not of noble birth. Rather than being ruled by a monarch who was ordained by God or by a dictator who seized authority, these ordinary men elected ordinary men from among them to serve as representatives who would pass laws and perform other duties on their behalf.

Voting is a basic component of representational democracy. Restricting who can vote shapes who is represented but also the laws under which society operates. Representatives are influenced by their own perspective and lived experience. In 1619, these "ordinary men" were land-holding white men who were at least 21 years of age. Over time, barriers have been removed so that women, minorities, and 18-21 year olds could elect representatives. The Virginia constitution still leaves out those with a felony conviction (unless restored by the governor), those who have been mentally adjudicated, and those under the age of 18. Should the Virginia constitution be amended to admit these groups? What perspectives and lived experiences are not considered because of their exclusion?

If voting is a "right," as stated in the LWV-VA position, shouldn't it be protected and not taken away?

Consensus Questions

1. "Democracy arises from people's desire for dignity, equality, justice, liberty, and participation–their desire for a voice." If your voice is your vote, should everyone in a democracy have the right to vote?

   Yes___ No___ No Consensus ___. Comments:

2. The U.S. Constitution delegates to states the authority to decide who can vote, but amendments have expanded who can vote. Should the U.S. Constitution be amended to create one national standard for who can vote?

   Yes___ No___ No Consensus ___. Comments:

3. Should the Virginia Constitution be changed to add a "fundamental right to vote" clause in both the title and body of Section 1?

   Yes___ No___ No Consensus___. Comments:

4. Should the Virginia Constitution be changed to permit those who are 16 and older to vote in local and state elections?

   Yes___ No___ No Consensus___. Comments:

5. Should the Virginia Constitution be changed to remove the stipulations in Section 1,

Article II of the Virginia Constitution that disenfranchise citizens convicted of a felony and those adjudicated to be mentally incompetent?

Yes___ No___ No Consensus___. Comments:

6. Given concerns over aging office holders and Supreme Court Justices, should there be an upper age limit to qualify to vote?

Yes___ No___ No Consensus___. Comments:

7. Should someone judged mentally incapacitated retain the right to vote if they demonstrate an understanding of the act of voting and a desire to cast a ballot?

Yes___ No___ No Consensus___. Comments:

Appendices

The Women's Movement and the Franchise

The long struggle for women's suffrage in America is traditionally seen as beginning in 1848 at Seneca Falls, New York. With the passage of the 19th Amendment, the "Anthony" Amendment, to the U.S. Constitution in August 1920, women gained the vote nationally, in all states, at all levels of government. The Tennessee state legislature cast the final ratification vote needed for enactment.

The passage of the 19th Amendment did not, in practice, enfranchise African American women, Native American women, Asian women, or Latina women. Jim Crow practices and laws kept voters of color from the polls. The Civil Rights Movement and the Voting Rights Act of 1965 effectively enfranchised minority voters.

Revolution/Early Federal Period

The American Revolution itself did not alter the political and social equality rights of women in the early 19th century. For a time, New Jersey alone had voting rights for some groups of women. But these were all effectively canceled in 1807.

The U.S. Constitution (adopted 1787) was almost completely silent on the issue of who can vote – neither granting nor denying suffrage to any segment of society based on sex, race, country of origin, immigration status. During this period, the franchise expanded for some Americans and

contracted for others. States tended to drop property and wealth requirements for voting; but did not enfranchise illiterates, criminals, immigrants, and non-white voters generally.
The revolutionary period and early Republic period were awash with the language of natural, universal rights. "Natural rights, more than other kinds of rights, commanded assent because they were said to be inalienable, immutable, and transcendent-possessed by virtue of one's personhood rather than a result of one's citizenship, parentage, or property. As the colonists moved from resistance to revolution, natural rights language gave them an enormously powerful tool for expressing their grievances and justifying their claims against British authority" (Zagarri, 1998, 211-212). The language and ideas of natural rights fueled campaigns in America to expand the franchise and eliminate property requirements – for white males.

Yet general universal rights for women were broached in Mary Wollstonecraft’s revolutionary and influential tract *A Vindication of the Rights of Woman*, which first appeared in Britain in 1792 and quickly thereafter in America. Wollenstoncraft echoed the language and title of Thomas Paine’s sensational pamphlet *The Rights of Man* (1791), when she claimed the existence of universal human rights – for men and women. She held that women, like men, were fully due all these rights. Wollstonecraft did not address the issues of voting at any length. But she did just touch upon political rights, writing "I may excite laughter by dropping a hint, which I mean to pursue at some future time, for I really think that women ought to have representatives, instead of being arbitrarily governed without any direct share allowed them in the deliberations of government" (Wollenstonecraft, 1792).

Resolution Nine and the Seneca Falls Convention

Women became active in the great reform movements of the 19th century: the antislavery movement and the temperance movement. However, legal and social limitations on women’s power and capabilities frustrated these reformers.

Notably, at the 1840 World Anti-Slavery Convention held in London, the convention ruled that only men would be seated. Among those excluded were Lucretia Mott and Elizabeth Cady Stanton, both committed, dynamic abolitionists. The rejection and similar restrictions rankled the women. Eight years later Mott and Stanton called the first American woman's rights convention at Seneca Falls, New York (July 19-20, 1848), “to discuss the social, civil, and religious condition and rights of woman” (Dick, 2023).

Elizabeth Cady Stanton and others drew up a Declaration of Sentiments advocating the removal of barriers women faced. With 260 women and 40 men attending, all 11 resolutions were adopted unanimously, save one. Resolution Nine,which was the most controversial and narrowly passed, read “It is the duty of the women of this country to secure to themselves their sacred right to the elective franchise" (*Internet Modern History Sourcebook The Declaration of*

Sentiments, Seneca Falls Conference, 1848, n.d.). Women's suffrage was the most radical of all the equity demands, more radical than fighting for women's property and marriage rights.

Every year but one, from 1850 to 1860, a national women's rights convention was held in America. The goals were: abolition, temperance, women's rights. Women argued for suffrage based on equal rights that were due to all citizens of the republic – male and female. Until the Civil War, the right to vote was not the sole, or even the primary, goal of the women's rights movement. Economic rights were usually in the forefront.

Civil War/ Reconstruction Era

During the Civil War, women were active in nursing care and relief efforts. Many women expected to be granted voting rights based on their war-time contributions. This did not happen.

With the help of a massive national petition campaign run by women, the 13th Amendment was ratified. Former slaves were recognized as free, but not assured equal rights, much less the vote.

The 14th Amendment granted citizenship to all persons "born or naturalized in the United States," including the formerly enslaved, and provided all citizens with "equal protection under the laws." It also introduced the word "male" into the U.S. Constitution when it stated: "But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the **male** inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such **male** citizens shall bear to the whole number of male citizens twenty-one years of age in such State" (*Fourteenth Amendment Section 2 | Constitution Annotated | Congress.gov | Library of Congress*, n.d.).

The women's rights movement assumed that women could gain political rights on a state-by-state basis. Instead, it appeared that a constitutional amendment was needed to get the vote in federal elections.

Following the adoption of the 14th Amendment, Senator Pomeroy of Kansas introduced the first constitutional amendment on women suffrage in Congress (1868). It failed to proceed.

The 15th Amendment, ratified on February 3, 1870, expressly granted the vote to all citizens regardless of race or prior servitude. The official text reads*"The right of citizens of the United*

States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude” (*15th Amendment - Right to Vote Not Denied by Race | Constitution Center*, n.d.). The 15th Amendment enfranchised freedmen, not freedwomen, nor women overall (DuBois, 2006). Stanton and Anthony opposed the 15th Amendment because women were not expressly included in its provisions.

Women’s Movement Splits

Disagreements over supporting the Reconstruction Amendments (14th and 15th), as well as differences over tactics, led to a split in the suffrage movement. In 1869, two competing suffrage groups were founded: the National Woman Suffrage Association (NWSA), led by Stanton and Susan B. Anthony, and the American Woman Suffrage Association (AWSA) with abolitionist and activist Lucy Stone at the head.

The NWSA sought a federal constitutional amendment on women’s suffrage and restricted its membership to women. In 1878, the “Susan B. Anthony” amendment on woman suffrage was introduced in the U.S. Senate, where it languished for years.

The AWSA took a more state-by-state approach, trying to gain women suffrage by amending state constitutions and state laws.

Returning to the Natural Rights Argument

At the heart of 19th century American radical republicanism was the belief that **natural rights,** including the right to vote, are inherent and natural to all, including women and non-white people. By actualizing natural rights, society would become more egalitarian.

On January 29, 1866, Congressman Thaddeus Stevens, leader of the Radical Republicans of the House of Representatives, presented one of the ”**first of several hundred petitions** for universal suffrage on the floor of the House of Representatives. Signers of this petition included Stanton, Anthony, and members of the former Women's Loyal National League, Ernestine Rose, Lucy Stone, and Antoinette Brown Blackwell. This exceptional combination of signatures represents some of the period's foremost advocates for suffrage and abolition” (Universal Suffrage, 2019). All these petitions failed.

Late 19th-Early 20th Century

By the beginning of the 20th century, many of the problems enumerated in the Declaration of Sentiments had been addressed. Women had gained rights in education, keeping earnings and wages, owning property, obtaining divorce, and more. What remained out of reach was the franchise.

In 1890, the two main American suffrage groups, NWSA and AWSA, combined into the NAWSA – National American Woman Suffrage Association. The war of abbreviations ended! Pro-suffrage women mobilized around this single issue and fought a sustained campaign for voting rights, both at the federal and the state level.

Western states were the first states to significantly grant voting rights to women. Wyoming joined the Union in 1890 as the first women suffrage state, followed by Colorado, Utah, and Idaho. By 1911, women could vote in six Western states.

The Progressive movement of the early 20th century favored voter control of government through citizen initiatives, referendums, recalls, direct primaries, and aligned well with the issue of women's rights. In the early 1900's, the Eastern region began to catch up with the West, granting the vote on a state-by-state basis. By 1919, 29 out of the 48 states in the Union had given full or partial suffrage rights to women.

Meanwhile, parallel to the NAWSA, the National Women's Party, NWP (officially founded in 1916 and led by Alice Paul) took more radical action to win the vote: hunger strikes, protests, marches, demonstrations. The NWP demanded a constitutional amendment on women's suffrage. Many of the protesters were imprisoned and tortured at the Occoquan Workhouse in Fairfax County, Virginia. Media coverage of their treatment served as a turning point in public sentiment (*Turning Point Suffragist Memorial » Suffragist History*, n.d.).

There were major wins at state levels in 1917/1918. North Dakota, Ohio, Indiana, Rhode Island, Nebraska, and Michigan allowed women to vote for President and women won the vote in New York state. The South remained the region most opposed to the suffrage movement.

With more women allowed to vote for the office of president, and the sympathy aroused by women's contributions to the war effort, President Wilson openly advocated for giving the vote to women.

The 66th Congress met in May 1919 in a special session and passed the 19th Amendment – the "Anthony Amendment." The House vote was 304 for and 89 against; the Senate approved it by a vote of 56 to 25 in June 1919.

On August 26, 1920, the last state necessary voted for ratification and the 19th Amendment was part of the U.S. Constitution.

Woman's Suffrage on Eve of the 19th Amendment (Moehling & Thomasson, 2020, 18)	
In 15 states, woman had full voting rights before 19th Amendment	
1869	Wyoming
1893	Colorado
1896	Utah, Idaho
1910	Washington
1911	California
1912	Arizona, Kansas, Oregon
1914	Montana, Nevada
1917	New York–*only state on East Coast to grant full suffrage before 19th Amendment*
1918	Michigan, Oklahoma, South Dakota
Only voting rights for Presidential elections	
1913	Illinois
1917	Nebraska, Ohio, Indiana, North Dakota, Rhode Island
1919	Iowa, Maine, Minnesota, Missouri, Tennessee, Wisconsin
No voting rights until 19th Amendment ratified	
Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, North Carolina, Pennsylvania, South Carolina, Texas, Vermont, **Virginia**, West Virginia	

Pro-Suffrage Broadsides

The women's movement began to reexamine its suffrage arguments and to emphasize various rationales for political rights. The NAWSA broadside advocated women's special qualities and duties. This model allowed the suffrage movement to attract more conservative elements to its side. Meanwhile, the Equal Suffrage League of Virginia (precursor of the League of Women Voters of Virginia) broadside embraced racism to appeal to those, particularly in the South, who

feared adding Black women voters to the rolls would threaten white supremacy. The Equal Suffrage League of Virginia argued that enfranchised women would not threaten white rule because poll taxes and literacy tests would keep out Black female voters.

WOMEN IN THE HOME

We are forever being told that the place for women is in the HOME. Well, so be it. But what do we expect of her in the home? Merely to stay in the home is not enough. She is a failure unless she does certain things for the home. She must make the home minister, as far as her means allow, to the health and welfare, moral as well as physical, of her family, and especially of her children. She, more than anyone else, is held responsible for what they become.

SHE is responsible for the cleanliness of her house.
SHE is responsible for the wholesomeness of the food.
SHE is responsible for the children's health.
SHE, above all, is responsible for their morals, for their sense of truth, of honesty and decency, for what they turn out to be.

How Far Can the Mother Control These Things?

She can clean her own rooms, BUT if the neighbors are allowed to live in filth, she cannot keep her rooms from being filled with bad air and smells, or from being infested with vermin.

She can cook her food well, BUT if dealers are permitted to sell poor food, unclean milk or stale eggs, she cannot make the food wholesome for her children.

She can care for her own plumbing and the refuse of her own home, BUT if the plumbing in the rest of the house is unsanitary, if garbage accumulates and the halls and stairs are left dirty, she cannot protect her children from the sickness and infection that these conditions bring.

She can take every care to avoid fire, BUT if the house has been badly built, if the fire-escapes are insufficient or not fire-proof, she cannot guard her children from the horrors of being maimed or killed by fire.

She can open her windows to give her children the air that we are told is so necessary, BUT if the air is laden with infection, with tuberculosis and other contagious diseases, she cannot protect her children from this danger.

She can send her children out for air and exercise, BUT if the conditions that surround them on the streets are immoral and degrading, she cannot protect them from these dangers.

ALONE, she CANNOT make these things right. WHO or WHAT can?

THE CITY can do it—the CITY GOVERNMENT that is elected BY THE PEOPLE, to take care of the interest of THE PEOPLE.

And who decides what the city government shall do?
FIRST, the officials of that government; and,
SECOND, those who elect them.

DO THE WOMEN ELECT THEM? NO, the men do. So it is the MEN and NOT THE WOMEN that are really responsible for the

UNCLEAN HOUSES — BAD PLUMBING
UNWHOLESOME FOOD — DANGER OF FIRE
RISK OF TUBERCULOSIS AND OTHER DISEASES
IMMORAL INFLUENCES OF THE STREET.

In fact, MEN are responsible for the conditions under which the children live, but we hold WOMEN responsible for the results of those conditions. If we hold women responsible for the results, must we not, in simple justice, let them have something to say as to what these conditions shall be? There is one simple way of doing this. Give them the same means that men have. LET THEM VOTE.

Women are, by nature and training, housekeepers. Let them have a hand in the city's housekeeping, even if they introduce an occasional house-cleaning.

National American Woman Suffrage Association

Headquarters: 505 FIFTH AVENUE, NEW YORK

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[4]National American Woman Suffrage Association. (1910) Women in the home ... National American woman suffrage association. Headquarters: 505 Fifth Avenue, New York. New York. [Pdf] Retrieved from the Library of Congress, https://www.loc.gov/item/2020780444/.

EQUAL SUFFRAGE AND THE NEGRO VOTE

The opponents of equal suffrage claim that the negro woman's vote will constitute a menace to white supremacy. This contention is altogether unfounded for the following reasons:

1. **BECAUSE** under the proposed amendment to the Constitution the same restrictions, which now apply to men must also apply to women and as these qualifications restrict the negro man's vote, it stands to reason that they will also restrict the negro woman's vote.

2. **BECAUSE** there are 191,000 more white women of voting age in Virginia than there are negro women of voting age, and white women outnumber negro men and women put together by 31,407. So the enfranchisement of Virginia women would increase white supremacy.

3. **BECAUSE** white supremacy would be further increased by the literacy test. The Constitution says, in reference to qualification of the voter that "unless physically unable, he make application in his own handwriting," and that he "prepare and deposit his ballot without aid." Illiteracy among negroes is 22 per cent. and among white people is only 8 per cent.

4. **BECAUSE** the Constitution says that the would-be voter shall pay a poll tax of one dollar and fifty cents "for three years next preceeding that in which he offers to register." This qualification will undoubtedly further increase the white supremacy.

5. **BECAUSE** the Constitution further says that "the General Assembly may prescribe a property qualification of not exceeding two hundred and fifty dollars for voters in any county, city or town," etc. (See Article II, Sec. 30, Elective Franchise and Qualification for Office.) This is a provision to be used if needed, but it has never been needed anywhere in Virginia, for there is no county or city or town where negro men qualify in larger numbers than white men. They are shut out by the present restrictions. We are secure from negro domination now—then, ever more.

EQUAL SUFFRAGE LEAGUE OF VIRGINIA,
100 North 4th Street, Richmond, Virginia.

[ca. 1916]

Virginia Museum of History & Culture (Broadside 1916.1)

"Equal Suffrage and the Negro Vote" broadside produced by the Equal Suffrage League of Virginia, ca. 1916-1919.

Project 18 and the 26th Amendment

During WWII, President Roosevelt sought to increase the size of the military by lowering the draft age from 21 to 18. The slogan "old enough to fight, old enough to vote" became a rallying cry for lowering the voting age to 18. West Virginia Congressman Jennings Randolph sponsored a number of bills to lower the voting age to 18 as early as 1942, but failed to garner widespread support. Nonetheless, Georgia lowered the voting age for state and local elections to age 18 in 1943; Kentucky followed in 1955. In his 1954 State of the Union address, President Eisenhower stated "For years our citizens between the ages of 18 and 21 have, in time of peril, been summoned to fight for America. They should participate in the political process that produces this fateful summons. I urge Congress to propose to the States a constitutional amendment permitting citizens to vote when they reach the age of 18" (Barlet, 2020). President Eisenhower's efforts notwithstanding, Congress did not put forth such an amendment.

The effort to lower the federal voting age continued and ultimately succeeded during the Vietnam War era. "In extending the Voting Rights Act of 1965 in 1970 [79 Stat. 437, *as extended and amended by* 84 Stat. 314, 42 U.S.C. §§ 1971 et seq.], Congress included a provision lowering the age qualification to vote in all elections, federal, state, and local, to eighteen. [Title 3, 84 Stat. 318, 42 U.S.C. § 1973bb.] In a divided decision, the Supreme Court held that Congress was empowered to lower the age qualification in federal elections, but voided the application of the provision in all other elections as beyond congressional power. [*Oregon v. Mitchell*, 400 U.S. 112 (1970).] Confronted thus with the possibility that they might have to maintain two sets of registration books and go to the expense of running separate election systems for federal elections and for all other elections, the states were receptive to the proposing of an Amendment by Congress to establish a minimum age qualification at eighteen for all elections, and ratified it promptly. [S. Rep. No. 26, 92d Cong., 1st Sess. (1971); H.R. Rep. No. 37, 92d Cong., 1st Sess. (1971)]" (*Overview of Twenty-Sixth Amendment, Reduction of Voting Age | Constitution Annotated | Congress.gov | Library of Congress*, n.d.).

Known as "Project 18", the National Education Association and their allies, particularly the NAACP and AFL-CIO, staged protests and held youth conferences across the country (Barlet, 2020).

The 26th Amendment lowering the voting age to 18 states:

Section 1:

The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2:

> *The Congress shall have power to enforce this article by appropriate legislation* (*Overview of Twenty-Sixth Amendment, Reduction of Voting Age | Constitution Annotated | Congress.gov | Library of Congress*, n.d.).

“On March 10, 1971, the Senate voted unanimously in favor of a Constitutional amendment lowering the voting age to 18, followed by an overwhelming majority of the House voting in favor on March 23. The states swiftly ratified the amendment, and it took effect on July 1, 1971, nearly 30 years after Senator Randolph first proposed lowering the voting age. In response to its passing, the senator reflected ‘I believe that our young people possess a great social conscience, are perplexed by the injustices which exist in the world and are anxious to rectify these ills’” (Barlet, 2020).

President Nixon, who did not have to sign the amendment, did so– and invited a diverse trio of 18 year-olds (Julianne Jones from Memphis, TN; Joseph W. Loyd, Jr from Detroit, MI; Paul S. Larimer from Concord, CA) to also sign the legislation in a public ceremony surrounded by other members of the Young Americans in Concert before they embarked on a 4-week European tour (*The 26th Amendment | Richard Nixon Museum and Library*, 2021). In his remarks, the president reminded everyone that while the United States is the strongest and richest country in the world, we do not seek to take away peace or freedom from others but to express our hope that they will enjoy the freedoms that we do. He also enjoined the young people to promote peace through voting and leadership (Nixon, 2014).

In application, “[courts] repeatedly have confirmed that the Twenty-Sixth Amendment does not confer any protections outside the realm of voting. They have rejected arguments that the Amendment requires states to lower the age to 18 for jury service, holding public office, or drinking.” In addition, “most Twenty-Sixth Amendment challenges to voter identification laws—including laws that do not allow students to vote using college identification cards—have failed, due to the lack of evidence that legislators adopted them to intentionally discriminate against voters between 18 and 20 years old (Benson & Morley, n.d.).

Native American Voting Rights

History

Pre 1866: There is a complicated history of the status and rights of Native Americans related to the variable interpretation of tribal rights and autonomy, but in no instance were they considered full citizens of the United States (Maltz, 2000).

1866: Civil Rights bill of 1866, which attempted to make real the promises inherent in the 13th amendment, addressed Native Americans rights in a partial manner, when it stated: "Be it enacted . . . , That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude…" (Guelzo, n.d.) During the debate on this bill, the difficulty of determining the status of Native Americans led to adoption of this language, which copied the language "Indians not taxed" in Article 1 of the Constitution, which defined the basis of representation for Congressional Representatives (Maltz, 2000).

1868: Using the same language, Native Americans were specifically excluded from section 2 of 14th amendment, which clarified the basis of representation in the aftermath of the Civil War. However, they were not excluded in the wording of Section 1, which defined citizenship: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside" (*14th Amendment to the U.S. Constitution: Civil Rights (1868)*, 2024). However, the concept that Indian tribes were sovereign entities, prevalent at the time, as well as disinclination for many Native Americans to see themselves as members of the colonialist society, meant continued exclusion from citizenship and its attendant rights for Native Americans.

1884: *Elk v. Wilkins* case SCOTUS decision: The Supreme Court ruled that even though John Elk, a Native American, was born a member of a tribal community within the territorial jurisdiction of the United States, he was not a citizen. Because he owed allegiance to his tribe when he was born, rather than to the United States, he therefore was not subject to the jurisdiction of the United States when he was born. This decision explicitly excluded Native Americans from citizenship under the 14th Amendment.

1924: The Indian Citizenship Act, coming after many Native Americans served in the Armed Forces in WWI, granted citizenship to all Native Americans. This did not however ensure access to the ballot, because states continued to be the controlling authority on determining voting

qualifications. Some states disenfranchised Native Americans because they didn't pay state taxes or were considered "wards of the federal government."

1948: Courts in both Arizona and New Mexico found that denying Native Americans the right to vote was unconstitutional. Not until 1957 did Utah become the last state to remove its laws denying Native Americans the right to vote (*Voting Access for Native Americans: Case Studies & Best Practices*, 2021).

1965: As in the case of Black and other discriminated-against communities, having the right to vote did not ensure that one could exercise that right. Only with the passage of the landmark Voting Rights Act of 1965 did these rights become enforceable. And, as with other affected communities, the breakdown of the enforcement protections of the VRA permitted by the Shelby Co v Holder in 2013 has had a negative impact on the Native American vote.

Ongoing Challenges

National Challenges: Native American communities face a multitude of challenges, many unique to this population. Access to the ballot box remains difficult and as a result, the turnout of Native American voters is lower than other racial and ethnic groups (Dunphy, 2019) (Ferguson, 2020). Difficulties include (*Court Orders North Dakota to Restore Native Voting Power Without Delay*, 2024):

- Geographical isolation
- Discrimination due to lack of traditional street addresses
- Lack of mail and digital services
- Tribal IDs not accepted as valid form of identification
- Restrictions on polling site locations and drop boxes disproportionately affecting those living on reservation
- Language barriers
- Redistricting dividing and diluting Native American voices

There are proposed changes to voting laws that would improve ballot access for the Native American community (*Voting Access for Native Americans: Case Studies & Best Practices*, 2021). But without the legal protections of the VRA, cases must be brought on a state-by-state basis. Multiple cases have been won in recent years defending voting rights for Native Americans. However, without the protection of federal legislation, tribes whose territories cover multiple states, must file suits in multiple states (*2021 Montana Laws That Limit Native Voter Participation (Western Native Voice V. Jacobsen)*, n.d.) (*Walen V. The Mandan, Hidatsa and Arikara Nation*, n.d.).

Ultimately, a federal law is needed to affirmatively protect the right to vote of Native Americans. Language protecting native voting rights was proposed in the 2021 Native American Voting Rights Act (NAVRA), and is included in the John Lewis Voting Rights Advancement Act. Neither bill has passed.

State Challenges: There are 11 recognized tribes in Virginia (*State of Virginia Elections and Voting*, n.d.). Pending federal legislation to more robustly protect voting rights, Virginia should ensure that the basic elements of NAVRA are included in any proposed Virginia legislation.

Asian Voters

The passage of the 15th Amendment in 1870 stated that the right to vote should not be "denied or abridged" "on account of race, color, …or previous servitude" (Parrott & Urofsky, 2024). African American men were eligible to vote, but women were excluded. In 1920, with the passage of the 19th Amendment, ***some*** American women were able to vote. The amendment stated that "The right of citizens of the United States to vote shall not be denied or abridged by the United States on or by any state on account of sex." It did not guarantee the right to vote to women – states managed to find other ways to keep many citizens from voting - for many, disenfranchisement lasted for decades.

Asian-Americans, like many other minority groups throughout history, faced hurdles in their pursuit of the "Great American Dream." They struggled for decades before acquiring the right to full citizenship and voting.

It began soon after the founding of our young nation. In 1790, Congress passed the Naturalization Act of 1790, (*Nationality Act of 1790*, 2019) which restricted citizenship to "any alien, being a free white person."

In 1898, the Supreme Court ruled in *U.S. v. Wong Kim Ark*, that the 14th Amendment guaranteed birthright citizenship to anyone born in the United States, even if their parents were not citizens (*United States V. Wong Kim Ark*, n.d.). But this case did not address the issue of naturalization.

Immigrants from Asia faced many obstacles created by immigration and citizenship laws. In 1882, the Chinese Exclusion Act barred immigration from China (with a few exceptions) for 10 years and barred foreign-born Chinese from citizenship. When it expired in 1892, it was replaced by the Geary Act, which barred courts from granting citizenship to Chinese immigrants. The Geary Act was made permanent in 1902 (*Chinese Exclusion Act (1882)*, 2023).

In 1922, the U.S. Supreme Court (*Takeo Ozawa v. U.S.*) upheld that the plaintiff was not eligible for citizenship because he was not a "free white person *or* alien of African nativity;"

the Court further defined "white" as "what is popularly known as the Caucasian race" (*Ozawa V. United States (1922)*, 2019).

Later, in 1924**,** Congress passed the Immigration Exclusion Act, barring all immigrants who would not be eligible for citizenship – this now applied to immigrants from Japan and other Asian-Pacific nations (*Milestones in the History of U.S. Foreign Relations - Office of the Historian*, n.d.).

Efforts were also made to strip U.S. citizenship from persons who married immigrants who were not eligible for citizenship. Congress passed the Cable Act of 1922, which ruled that women who married such "aliens" "shall cease to be an American citizen" (*Cable Act of 1922*, n.d.). These exclusion acts were finally repealed after World War II, though strict immigration quotas remained.

In 1946**,** immigrants from India were granted the right to naturalized citizenship. Six years later, the McCarran-Walter Act eliminated laws that prevented Asian immigrants from applying for citizenship (*Milestones in the History of U.S. Foreign Relations - Office of the Historian*, n.d.).

Finally, in 1965, the Voting Rights Act was signed into law – it expanded voting rights for Asian-Americans and others including African-American women.

Resources Cited

The Inalienable Right to Vote

Democracy | Definition, History, Meaning, Types, Examples, & Facts. (2024, May 6). Britannica. Retrieved April 3, 2024, from https://www.britannica.com/topic/democracy

What Makes for a Strong Democracy

Democracy Countries 2024. (2024). World Population Review. Retrieved May 13, 2024, from https://worldpopulationreview.com/country-rankings/democracy-countries

Positioned for Action. (2023, June). The League of Women Voters of Virginia • Positioned for Action • Updated Spring 2023. Retrieved May 13, 2024, from https://my.lwv.org/sites/default/files/lwv_va_positions_full_2023.pdf

Barriers to Democracy

11 Barriers to Voting | Voting. (2019, November 1). Carnegie Corporation of New York. Retrieved May 13, 2024, from https://www.carnegie.org/our-work/article/11-barriers-voting/

Voting should be accessible to all. (2020, September 23). Knowbility. Retrieved May 13, 2024, from https://knowbility.org/blog/2020/voting-should-be-accessible-to-all

Vij, S. (2020, June 25). *Why Minority Voters Have a Lower Voter Turnout: An Analysis of Current Restrictions*. American Bar Association. Retrieved May 13, 2024, from

https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/voting-in-2020/why-minority-voters-have-a-lower-voter-turnout/

Why Access to Voting is Key to Systemic Equality | ACLU. (2023, October 6). American Civil Liberties Union. Retrieved August 22, 2024, from https://www.aclu.org/news/voting-rights/why-access-to-voting-is-key-to-systemic-equality

Vance, D., Riestenberg, J., & Phillips, K. (2019, June 27). *Supreme Court Ducks Responsibility to End Gerrymandering*. Common Cause. Retrieved May 13, 2024, from https://www.commoncause.org/press-release/supreme-court-ducks-responsibility-to-end-gerrymandering%e2%80%af/

Bethune-Hill v. Virginia Board of Elections. (2019, June 17). Brennan Center for Justice. Retrieved May 13, 2024, from https://www.brennancenter.org/our-work/court-cases/bethune-hill-v-virginia-board-elections

Kunzer, J. (2018, September 25). *New study scrutinizes time and effort it takes to vote in each state | NIU Newsroom*. NIU Newsroom. Retrieved May 15, 2024, from https://newsroom.niu.edu/new-study-scrutinizes-time-and-effort-it-takes-to-vote-in-each-state/

Fredrickson, C. (n.d.). *Reynolds v. Sims (1964)*. The National Constitution Center. Retrieved May 13, 2024, from https://constitutioncenter.org/the-constitution/supreme-court-case-library/reynolds-v-sims

Democracy, Populism, and the Tyranny of the Minority. (2024, March 14). The National Constitution Center. Retrieved May 13, 2024, from https://constitutioncenter.org/media/files/Democracy-Populism-and-the-Tyranny-of-the-Minority-WTP-transcript.pdf

Hasen, R. L. (2024, January 16). *Opinion | The U.S. Lacks What Every Democracy Needs*. The New York Times. Retrieved May 13, 2024, from https://www.nytimes.com/2024/01/16/opinion/voting-rights-constitution-28th-amendment.html?unlocked_article_code=1.PE0.5QB5.zvaFYhqBaLoe&smid=nytcore-ios-share&referringSource=articleShare

John Adams Explains Why People Without Property Should Not Be Able to Vote · SHEC: Resources for Teachers. (n.d.). Social History for Every Classroom. Retrieved May 13, 2024, from https://shec.ashp.cuny.edu/items/show/1645

International Standards

International Covenant on Civil and Political Rights. (n.d.). ohchr. Retrieved May 20, 2024, from https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

CC Human Rights POA_3_18_B2.indd. (2017, December). The Carter Center. Retrieved May 13, 2024, from

https://www.cartercenter.org/resources/pdfs/peace/democracy/human-rights-and-election-standards-2018.pdf

Voting Rights in the United States

Federal Constitution and Statutes

Story, J. (n.d.). *Voter Qualifications for House of Representatives Elections | Constitution Annotated | Congress.gov | Library of Congress*. Constitution Annotated. Retrieved May 13, 2024, from https://constitution.congress.gov/browse/essay/artI-S2-C1-2/ALDE_00001032/

The 14th Amendment—Equal Protection

Chapman, N. S., & Yoshino, K. (n.d.). *Interpretation: The Fourteenth Amendment Due Process Clause | Constitution Center*. The National Constitution Center. Retrieved August 22, 2024, from https://constitutioncenter.org/the-constitution/articles/amendment-xiv/clauses/701

The 15th Amendment—Focus on Civil Rights

Overview of Fifteenth Amendment, Right of Citizens to Vote. (n.d.). Legal Information Institute. Retrieved May 13, 2024, from https://www.law.cornell.edu/constitution-conan/amendment-15/overview-of-fifteenth-amendment-right-of-citizens-to-vote

Definition of Jim Crow Laws. (2014, July 12). Wikipedia. Retrieved May 13, 2024, from https://dictionary.thelaw.com/jim-crow-laws/#google_vignette

Northwest Austin Municipal Util. Dist. No. One v. Holder, 557 U.S. 193 (2009). (2008, October). Justia US Supreme Court Center. Retrieved May 13, 2024, from https://supreme.justia.com/cases/federal/us/557/193/

The 1965 Voting Rights Act (VRA)

15th Amendment to the U.S. Constitution: Voting Rights (1870). (2024, January 12). National Archives. Retrieved May 13, 2024, from https://www.archives.gov/milestone-documents/15th-amendment

Klein, C. (2015, March 6). How Selma's 'Bloody Sunday' Became a Turning Point in the Civil Rights Movement | HISTORY. Retrieved May 13, 2024, from https://www.history.com/news/selma-bloody-sunday-attack-civil-rights-movement

Garrett, R. S. (2023, April 25). *The Voting Rights Act: Historical Development and Policy Background*. CRS Reports. Retrieved May 13, 2024, from https://crsreports.congress.gov/product/pdf/R/R47520

Twenty-Fourth Amendment of the US Constitution -- Abolition of the Poll Tax Qualification in Federal Elections. (n.d.). Justia Law. Retrieved August 22, 2024, from https://law.justia.com/constitution/us/amendment-24/

Pruitt, S. (2020, January 29). *When did African Americans actually get the right to vote?* History.com. Retrieved May 13, 2024, from https://www.history.com/news/african-american-voting-right-15th-amendment

Shelby County v. Holder :: 570 U.S. 529 (2013). (2013, June 25). Justia US Supreme Court Center. Retrieved May 13, 2024, from https://supreme.justia.com/cases/federal/us/570/529/

Brnovich v. Democratic National Committee. (2021, January 19). Brennan Center for Justice. Retrieved May 13, 2024, from

https://www.brennancenter.org/our-work/court-cases/brnovich-v-democratic-national-committee

The Americans with Disabilities Act (ADA)

Voting and Polling Places. (n.d.). ADA.gov. Retrieved August 12, 2024, from https://www.ada.gov/topics/voting/

The National Voter Registration Act (NVRA)

Civil Rights Division | The National Voter Registration Act Of 1993 (NVRA). (2022, July 20). Department of Justice. Retrieved May 13, 2024, from https://www.justice.gov/crt/national-voter-registration-act-1993-nvra

The Help America Vote Act (HAVA)

Help America Vote Act. (n.d.). U.S. Election Assistance Commission. Retrieved May 13, 2024, from https://www.eac.gov/about/help_america_vote_act.aspx

Virginia Laws:

The Virginia Constitution

Constitution of Virginia - Article II. Franchise and Officers. (n.d.). Constitution of Virginia - Article II. Franchise and Officers. Retrieved May 13, 2024, from https://law.lis.virginia.gov/constitution/article2/section1/

The Virginia Virginia Voting Rights Act (VRA)

Garrett, R. S. (2023, April 25). *The Voting Rights Act: Historical Development and Policy Background*. CRS Reports. Retrieved May 13, 2024, from https://crsreports.congress.gov/product/pdf/R/R47520

SB 1395 Discrimination; prohibited in voting and elections administration, etc. (n.d.). LIS.Virginia.gov. Retrieved May 13, 2024, from https://lis.virginia.gov/cgi-bin/legp604.exe?ses=212&typ=bil&val=sb1395.

HB 1890 Discrimination; prohibited in voting and elections administration, etc. (n.d.). LIS.Virginia.gov. Retrieved May 13, 2024, from https://lis.virginia.gov/cgi-bin/legp604.exe?212%2Bsum%2BHB1890

Three Groups Without Voting Rights in Virginia

Constitution of Virginia - Article II. Franchise and Officers. (n.d.). Constitution of Virginia - Article II. Franchise and Officers. Retrieved May 13, 2024, from https://law.lis.virginia.gov/constitution/article2/section1/

Under 18–Setting the Voting Age at 16

Barlet, T. (2020, October 28). *"Old Enough to Fight, Old Enough to Vote": The WWII Roots of the 26th Amendment*. The National WWII Museum. Retrieved May 13, 2024, from https://www.nationalww2museum.org/war/articles/voting-age-26th-amendment

Steinberg, L. (2014, November 3). *Are 16-year-olds mature enough to vote?* Los Angeles Times. Retrieved May 13, 2024, from https://www.latimes.com/opinion/op-ed/la-oe-steinberg-lower-voting-age-20141104-story.html

Societal Benefits to Allowing 16 Year-olds to Vote

Benson, J., & Morley, M. T. (n.d.). *Interpretation: The Twenty-Sixth Amendment | Constitution Center*. The National Constitution Center. Retrieved October 3, 2023, from https://constitutioncenter.org/the-constitution/amendments/amendment-xxvi/interpretations/161

4 Reasons for lowering the US voting age to 16. (2020, March 3). Vote16USA. Retrieved November 17, 2023, from https://vote16usa.org/reasons-for-lowing-voting-age-16/

Cultivating a Voting Habit

Cramer, M. (2020, January 19). *When Are You Really an Adult?* The New York Times. Retrieved January 4, 2024, from https://www.nytimes.com/2020/01/18/us/usa-legal-age.html

Adee, G. (2017, September 5). *Seriously, drop the municipal voting age to 16.* Chicago Tribune. Retrieved May 13, 2024, from https://www.chicagotribune.com/opinion/commentary/ct-perspec-lower-voting-age-16-0906-story.html

Skills and Knowledge

Steinberg, L. (2014, November 3). *Are 16-year-olds mature enough to vote?* Los Angeles Times. Retrieved November 17, 2023, from https://www.latimes.com/opinion/op-ed/la-oe-steinberg-lower-voting-age-20141104-story.html

Growth and development, ages 13 to 17. (n.d.). Advocates for Youth.org. Retrieved October 4, 2023, from https://www.advocatesforyouth.org/wp-content/uploads/storage/advfy/documents/growth-and-development-ages-13-to-17.pdf

The Growing Child: Adolescent 13 to 18 Years. (2020, April 24). Johns Hopkins Medicine. Retrieved October 4, 2023, from https://www.hopkinsmedicine.org/health/wellness-and-prevention/the-growing-child-adolescent-13-to-18-years

Code of Virginia Code - Article 15. Emancipation of Minors. (n.d.). Virginia Law. Retrieved May 13, 2024, from https://law.lis.virginia.gov/vacodefull/title16.1/chapter11/article15/

Johnson, S. (2022, January 31). *Why is 18 the age of adulthood if the brain can take 30 years to mature?* Big Think. Retrieved October 4, 2023, from https://bigthink.com/neuropsych/adult-brain/

Hale, J. M., Schneider, D. C., Mehta, N. K., & Myrskylä, M. (2020). *Cognitive impairment in the U.S.: Lifetime risk, age at onset, and Years impaired.* Population Health. Retrieved December 7. 2023, from https://doi.org/10.1016/j.ssmph.2020.100577

Civic Education

Mock Election Ideas for High School. (2022, August 16). ElectionBuddy. Retrieved May 13, 2024, from https://electionbuddy.com/blog/2022/08/16/mock-election-ideas-for-high-school/

Omondi, S. (2017, September 7). *Legal Voting Age by Country - WorldAtlas*. World Atlas. Retrieved May 13, 2024, from https://www.worldatlas.com/articles/legal-voting-age-by-country.html

Younger Citizens are Not Adequately Represented

Drayton, M. (2023, June 2). *If you are old enough to hold a job, you are old enough to vote | READER COMMENTARY*. Baltimore Sun. Retrieved December 7, 2023, from https://www.baltimoresun.com/opinion/readers-respond/bs-ed-rr-voting-age-benefits-letter-20230602-iyuvy3cexng4zn22p7togdnuc4-story.html

We are young activists committed to ending gun violence. We are Students Demand Action. (n.d.). Students Demand Action: Home. Retrieved May 13, 2024, from https://studentsdemandaction.org/about

About Sunrise. (n.d.). Sunrise Movement. Retrieved May 13, 2024, from https://www.sunrisemovement.org/about/

Old Politicians. (2023, August 8). National Public Radio. Retrieved December 8, 2023, from https://www.npr.org/transcripts/1192742983

Stone, L. (2019, June 11). *Red, White, and Gray: Population Aging, Deaths of Despair, and the Institutional Stagnation of America*. American Enterprise Institute. Retrieved October 4, 2023, from https://www.aei.org/research-products/report/red-white-gray-aging-despair-stagnation/

Looking Forward with Gen Z. (2022, June 4). Murmuration.org. Retrieved September 19, 2023, from https://www.murmuration.org/static/Looking-Forward-with-Gen-Z.pdf

Average Age of Congress [2023 Update]. (2023, November 11). Quorum. Retrieved May 13, 2024, from https://www.quorum.us/data-driven-insights/age-of-congress/

The Virginia State Legislature. (2020, July 13). Center for Youth Political Participation. Retrieved January 5, 2024, from https://cypp.rutgers.edu/virginia/

Welcome to the Virginia General Assembly Website. (2024). Virginia General Assembly. Retrieved May 13, 2024, from https://virginiageneralassembly.gov/membersAndSession.php?secid=1&activesec=0#!hb=1&mainContentTabs=0

Stockemer, D. (2023, January 17). *Youth without representation – Ash Center*. Ash Center. Retrieved November 17, 2023, from https://ash.harvard.edu/youth-without-representation

Parks, M., Moore, E., & Lopez, A. (2023, August 10). *Young Voters, Young Politicians : The NPR Politics Podcast*. NPR. Retrieved September 19. 2023, from https://www.npr.org/transcripts/1193264737

Farrington, R. (2023, March 6). *Why millennials can't seem to get ahead*. Forbes. Retrieved December 7. 2023, from https://www.forbes.com/sites/robertfarrington/2023/03/03/the-millennial-wealth-gap-why-they-cant-seem-to-get-ahead/?sh=6416fd9d53f2

Berthin, G. (2023, September 14). *Why Are Youth Dissatisfied with Democracy?* Freedom House. Retrieved September 22, 2023, from https://freedomhouse.org/article/why-are-youth-dissatisfied-democracy

Bernstein, J. (2023, May 18). *Only Fair change to voting age would be to lower it.* The Virginian-Pilot. Retrieved December 8, 2023, from https://digitaledition.pilotonline.com/infinity/article_share.aspx?guid=741d416d-92e7-43e6-b0d4-1d8ade2170f9

Hutchins, W., & Heubeck, M. (2017, April 26). *Make Mock Elections Mandatory (Opinion)*. Education Week. Retrieved December 7, 2023, from https://www.edweek.org/teaching-learning/opinion-make-mock-elections-mandatory/2017/04

Historical and Legal Basis of Felony Disenfranchisement

Constitution of Virginia - Article II. Franchise and Officers. (n.d.). Constitution of Virginia - Article II. Franchise and Officers. Retrieved May 13, 2024, from https://law.lis.virginia.gov/constitution/article2/section1/

Early History of Citizen Deprivation of Status and Honor

Pettus, K. (2013). *Felony Disenfranchisement in America* (Second ed.). SUNY Press.

Ewald, A. (2012, March 25). *'Civil Death': The Ideological Paradox of Criminal Disenfranchisement Law in the United States*. Search eLibrary :: SSRN. Retrieved May 13, 2024, from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2028335#

Manza, J., & Uggen, C. (2008). *Locked out : felon disenfranchisement and American democracy* (First ed.). Oxford University Press.

18th and 19th Century Virginia

Brooks, G. (2004). Felon Disenfranchisement: Law, History, Policy, and Politics. *Fordham Urban Law Journal*, *32*, 101-148.

1830 Virginia Constitution transcription. (2021). West Virginia Department of Arts, Culture and History. Retrieved May 13, 2024, from https://archive.wvculture.org/history/government/1830constitution01a.html

1851 Virginia Constitution. (2021). West Virginia Department of Arts, Culture and History. Retrieved May 13, 2024, from https://archive.wvculture.org/history/government/1851constitution01.html

An Act to admit the State of Virginia to Representation in the Congress of the United States (January 26, 1870). (n.d.). Encyclopedia Virginia. Retrieved May 13, 2024, from https://encyclopediavirginia.org/primary-documents/an-act-to-admit-the-state-of-virginia-to-representation-in-the-congress-of-the-united-states-january-26-1870/

Homer, R. (2023, June 26). *Why Virginia's felony disenfranchisement violates the Readmission Act*. Protect Democracy. Retrieved May 13, 2024, from https://protectdemocracy.org/work/virginia-readmission-act/

Holloway, P. (n.d.). A Chicken-Stealer Shall Lose His Vote": Disfranchisement for Larceny in the South, 1874–1890. *The Journal of Southern History*, *75*(4), 931-962. http://www.jstor.org/stable/27779119

The 20th and 21st Century Virginia Constitution

Lindsay, J. H. (1906). *Report of the proceedings and debates of the Constitutional Convention, state of Virginia : held in the city of Richmond June 12, 1901, to June 26, 1902.* Hermitage Press, Richmond, VA. Retrieved May 13, 2024, from https://catalog.hathitrust.org/Record/010446673/

Ortiz, D. R. (2020). Voting Rights and the 1971 Virginia Constitution. *Journal of Law and Politics*, *37*.

Howard, A.E. D. (2020). Who Belongs? The Constitution of Virginia and the Political Community. *Journal of Law and Politics*, *37*.

Gibson, H. A. (2015, January). Felons and the Right to Vote in Virginia: A Historical Overview. *Virginia Newsletter*, *19*(1).

Online Classroom. (n.d.). Online Classroom. Retrieved May 29, 2024, from https://edu.lva.virginia.gov/oc/stc/entries/voting-requirements-of-the-constitution-of-virginia-1902

Harper v. Virginia Bd. of Elections :: 383 U.S. 663 (1966) Justia US Supreme Court Center. Retrieved May 31, 2024, from https://supreme.justia.com/cases/federal/us/383/663/

Judicial Decisions on Felony Disenfranchisement

Richardson v. Ramirez, 418 U.S. 24 (1974). (2017, November 9). Justia US Supreme Court Center. Retrieved May 31, 2024, from https://supreme.justia.com/cases/federal/us/418/24/

Hunter v. Underwood :: 471 U.S. 222 (1985). (n.d.). Justia US Supreme Court Center. Retrieved May 31, 2024, from https://supreme.justia.com/cases/federal/us/471/222/

Perry v. Beamer. (1996). Casetext: Smarter Legal Research. Retrieved May 31, 2024, from https://casetext.com/case/perry-v-beamer

Executive Actions

Gibson, H. A. (2015, January). Felons and the Right to Vote in Virginia: A Historical Overview. *Virginia Newsletter*, *19*(1).

Recent Actions by Virginia Governors

Kalogeras, S., & Mauer, M. (2003, September). *LEGISLATIVE CHANGES ON FELONY DISENFRANCHISEMENT, 1996-2003*. Retrieved May 13, 2024, from https://static.prisonpolicy.org/scans/sp/legchanges-report.pdf

Lazarus, J. M. (2016, April 28). Power to Vote: Go. McAuliffe boldly restores voting rights of 206,000 Virginians, including disenfranchised African-Americans. *Richmond Free Press*, A1, A5.

Gibson, H. A. (2015, January). Felons and the Right to Vote in Virginia: A Historical Overview. *Virginia Newsletter*, *19*(1).

Voting Rights Restoration Efforts in Virginia. (2023, April 3). Brennan Center for Justice. Retrieved May 13, 2024, from https://www.brennancenter.org/our-work/research-reports/voting-rights-restoration-efforts-virginia?splash=

Howell v. McAuliffe :: 2016 :: Supreme Court of Virginia Decisions :: Virginia Case Law :: Virginia Law :: US Law :: Justia. (n.d.). Justia Law. Retrieved May 16, 2024, from https://law.justia.com/cases/virginia/supreme-court/2016/160784.html

Schneider, G. S. (2021, March 16). Virginia's Gov. Northam restores voting rights for 69000 ex-felons - The Washington Post. *Washington Post*. https://www.washingtonpost.com/local/virginia-politics/virginia-voting-felons-northam/2021/03/16/b171271e-868d-11eb-82bc-e58213caa38e_story.html

Moomaw, G., & Roth, Z. (2023, March 23). Youngkin administration now requires felons to apply to get their voting rights back • Virginia Mercury. *Virginia Mercury*. https://www.virginiamercury.com/2023/03/23/youngkin-administration-now-requires-felons-to-apply-to-get-their-voting-rights-back/

Wagner, M., & Ress, D. (2024, March 24). Virginia: Another drop in rights restoration under Youngkin. *Richmond Times-Dispatch*. https://richmond.com/news/state-regional/government-politics/virginia-youngkin-rights-restoration-general-assembly-aclu/article_205f1d92-e861-11ee-bd81-7b15755f47ad.html#tncms-source=login.

The Impact of Felony Disenfranchisement

Noe-Payne, M. (2023). *Branded: The fight to restore voting rights.* WVTF. Retrieved August 15, 2024, from https://www.wvtf.org/branded-the-fight-to-restore-voting-rights

McCrary, L. L. (2019). *To Be Young, Black, and Powerless: Disenfranchisement in the New Jim Crow Era. NCBI.* Retrieved August 15, 2024, from https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9930477/

Hill, D., Coleman, M., & Bassett, E. (2021, Summer). *Disenfranchisement and Suppression of Black Voters in the United States - Ballard Brief. Ballard Brief.* Retrieved August 15, 2024, from https://ballardbrief.byu.edu/issue-briefs/disenfranchisement-and-suppression-of-black-voters-in-the-united-states

Kang-Brown, J. (2019, December). *Incarceration Trends in Virginia. Vera Institute.* Retrieved August 15, 2024, from https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-virginia.pdf

Prison Policy Initiative. (n.d.). Virginia profile. Prison Policy Initiative. Retrieved August 15, 2024, from https://www.prisonpolicy.org/profiles/VA.html

Littlehales, A. (2024, March 25). *Virginia rights restorations dropped in 2023, according to report. WVEC. Retrieved August 15, 2024, from https://www.13newsnow.com/article/news/local/virginia/virginians-whose-rights-have-been-restored-drops-in-second-year-of-youngkin-administration-reports-show/291-fbe59fc9-c488-4449-be3e-ad4c0ba1c374*

Kelley, E. (2017, May 9). *Racism & Felony Disenfranchisement: An Intertwined History.* Brennan Center for Justice. Retrieved August 15, 2024, from https://www.brennancenter.org/our-work/research-reports/racism-felony-disenfranchisement-intertwined-history

DeRienzo, M. (2022, December 8). *How a Jim Crow-era strategy blocked 4.6 million people from voting in 2022. Center for Public Integrity.* Retrieved August 15, 2024, from https://publicintegrity.org/politics/elections/who-counts/how-a-jim-crow-era-strategy-blocked-4-6-million-people-from-voting-in-2022/

The Impact of Recidivism on Automatic Restoration of Voting Rights

The Magnitude of Felony Disenfranchisement

Wood, E. (2009). *Restoring the Right to Vote*. Brennan Center for Justice. Retrieved May 13, 2024, from https://www.brennancenter.org/sites/default/files/2019-08/Report_Restoring-the-Right-to-Vote.pdf

Dyvik, E. H. (2024, January 8). *Countries with the most prisoners 2023*. Statista. Retrieved May 13, 2024, from https://www.statista.com/statistics/262961/countries-with-the-most-prisoners/

Tuttle, H. (2021, April 6). *Be Bold: Comparative and International Arguments for a Campaign to Re-Enfranchise the United States' Prison Population*. Wisconsin International Law Journal. Retrieved May 13, 2024, from https://wilj.law.wisc.edu/jus-gentium/be-bold-comparative-and-international-arguments-for-a-campaign-to-re-enfranchise-the-united-states-prison-population/

Uggen, C., Larson, R., Shannon, S., & Stewart, R. (2022, October 25). *Locked Out 2022: Estimates of People Denied Voting Rights – The Sentencing Project*. The Sentencing Project. Retrieved May 13, 2024, from https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/

Virginia profile. (2021). Prison Policy Initiative. Retrieved May 16, 2024, from https://www.prisonpolicy.org/profiles/VA.html

Brief Felon Voting Rights. (2024, April 12). National Conference of State Legislatures. Retrieved May 13, 2024, from https://www.ncsl.org/elections-and-campaigns/felon-voting-rights

Voting Rights Restoration Efforts in Virginia. (2023, April 3). Brennan Center for Justice. Retrieved May 13, 2024, from https://www.brennancenter.org/our-work/research-reports/voting-rights-restoration-efforts-virginia?splash=

Recidivism is Not a Valid Reason for Felon Disenfranchisement

Vozzella, L. (2023, October 29). *Youngkin “Purge" Removed Nearly 3,400 Legal Virginia Voters From Rolls*. Washington Post. Retrieved June 3, 2024, from https://www.washingtonpost.com/dc-md-va/2023/10/29/youngkin-virginia-elections-voter-rolls/

Nellis, A. (2021, June 30). *A New Lease on Life – The Sentencing Project*. The Sentencing Project. Retrieved May 13, 2024, from https://www.sentencingproject.org/reports/a-new-lease-on-life/

State Recidivism Comparison. (2023, January 2). Virginia Department of Corrections. Retrieved May 13, 2024, from https://vadoc.virginia.gov/media/1818/vadoc-state-recidivism-comparison-report-2023-01.pdf

Sisson, G. (2023, February 7). *Virginia's Recidivism Rate Remains Among Nation's Lowest — Virginia Department of Corrections*. Virginia Department of Corrections. Retrieved May 13, 2024, from https://vadoc.virginia.gov/news-press-releases/2023/virginia-s-recidivism-rate-remains-among-nation-s-lowest/

Should Felons Regain Right to Vote. (2023, June 29). Felon Voting - Pros & Cons. Retrieved May 13, 2024, from https://felonvoting.procon.org/

Miller, B. L., & Agnich, L. E. (2015, November 30). *Unpaid debt to society: exploring how ex-felons view restrictions on voting rights after the completion of their sentence.* Taylor & Francis Online. Retrieved May 13, 2024, from https://www.tandfonline.com/doi/abs/10.1080/10282580.2015.1101685

Hamilton, G. P. (2012, May). *The Violence of Voicelessness: The Impact of Felony Disenfranchisement on Recidivism*. Berkeley Law. Retrieved May 31, 2024, from https://doi.org/10.15779/Z38Z66F

Budd, K. M., & Monazzam, N. (2023, April 25). *Increasing Public Safety by Restoring Voting Rights – The Sentencing Project*. The Sentencing Project. Retrieved May 13, 2024, from https://www.sentencingproject.org/policy-brief/increasing-public-safety-by-restoring-voting-rights/#footnote-ref-16

Mental Capacity and the Right to Vote in Virginia

Constitution of Virginia - Article II. Franchise and Officers. (n.d.). Constitution of Virginia - Article II. Franchise and Officers. Retrieved May 13, 2024, from https://law.lis.virginia.gov/constitution/article2/section1/

§ 64.2-2000. Definitions. (n.d.). Virginia Law. Retrieved May 13, 2024, from https://law.lis.virginia.gov/vacode/title64.2/chapter20/section64.2-2000/

Virginia Voter Registration Application. (2023, April). Virginia Department of Elections. Retrieved May 13, 2024, from https://www.elections.virginia.gov/media/formswarehouse/veris-voter-registration/applications/VA-NVRA-1-Voter-Registration-Application-rev-4-2023.-(3).pdf

JLARC | Improving Virginia's Adult Guardian and Conservator System. (2021). JLARC. Retrieved May 13, 2024, from https://jlarc.virginia.gov/landing-2021-virginias-adult-guardian-and-conservator-system.asp

Frequently Asked Questions. (2023, September). Virginia Courts.gov. Retrieved May 13, 2024, from https://www.vacourts.gov/courts/circuit/resources/guardianship_faqs.pdf

Options in Virginia to Help Another Person Make Decisions: Choices Less Restrictive Than Guardianship and Conservatorship. (2021, June). Virginia's Judicial System. Retrieved May 13, 2024, from https://www.vacourts.gov/courts/circuit/resources/guardian_options_pamphlet.pdf

Transition to Adult Services. (2024, February 16). The Arc of Northern Virginia. Retrieved May 13, 2024, from https://thearcofnova.org/transition-to-adult-services/

Voting. (n.d.). Bazelon Center for Mental Health Law. Retrieved May 13, 2024, from https://www.bazelon.org/our-work/voting/

Toolkit for Enfranchisement in Guardianship. (2022, February 8). Bazelon.org. Retrieved May 13, 2024, from https://www.bazelon.org/wp-content/uploads/2022/04/Toolkit-for-Enfranchisement-in-Guardianship-2022-02-08.pdf

Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act. (2017). Uniform Law Commission. Retrieved May 13, 2024, from https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=f5d36125-9433-c7d8-28ec-6244f4a316e6&forceDialog=0

Voting Rights of People Subject to Guardianship. (2023, July 18). National Disability Rights Network. Retrieved May 13, 2024, from https://www.ndrn.org/wp-content/uploads/2023/07/Voting-Rights-and-Guardianship-07-18-23-AC071723.pdf

S.2344 - freedom to vote act 118th Congress (2023-2024). (n.d.). Congress.gv. Retrieved May 13, 2024, from https://www.congress.gov/bill/118th-congress/senate-bill/2344?s=1&r=41

The Women's Movement and the Franchise

Revolution/Early Federal Period

Zagarri, R. (1998, April). The Rights of Man and Woman in Post-Revolutionary America. *The Williams and Mary Quarterly*, *55*(2), 203-230.

Wollstonecraft, M. (1792). *Vindication of the Rights of Woman*. CORE. Retrieved May 13, 2024, from https://core.ac.uk/download/pdf/36679668.pdf

Resolution Nine and the Seneca Falls Convention

Dick, J. (2023, April 4). *Report of the Woman's Rights Convention - Women's Rights National Historical Park (U.S*. National Park Service. Retrieved May 13, 2024, from https://www.nps.gov/wori/learn/historyculture/report-of-the-womans-rights-convention.htm

Internet Modern History Sourcebook The Declaration of Sentiments, Seneca Falls Conference, 1848. (n.d.). Fordham University. Retrieved May 13, 2024, from https://sourcebooks.fordham.edu/mod/senecafalls.asp

Civil War/ Reconstruction Era

Fourteenth Amendment Section 2 | Constitution Annotated | Congress.gov | Library of Congress. (n.d.). Constitution Annotated. Retrieved May 13, 2024, from https://constitution.congress.gov/browse/amendment-14/section-2/

15th Amendment - Right to Vote Not Denied by Race | Constitution Center. (n.d.). The National Constitution Center. Retrieved May 13, 2024, from https://constitutioncenter.org/the-constitution/amendments/amendment-xv

DuBois, E. (2006). *Reconstruction and the Battle for Woman Suffrage | Gilder Lehrman Institute of American History*. Gilder Lehrman Institute of American History |. Retrieved May 13, 2024, from https://www.gilderlehrman.org/history-resources/essays/reconstruction-and-battle-woman-suffrage

Returning to the Natural Rights Argument

Universal Suffrage. (2019, July 25). National Archives. Retrieved May 13, 2024, from https://www.archives.gov/legislative/features/suffrage

Late 19th-Early 20th Century

Turning Point Suffragist Memorial » Suffragist History. (n.d.). Turning Point Suffragist Memorial. Retrieved May 13, 2024, from https://suffragistmemorial.org/suffrage-history/

Moehling, C. M., & Thomasson, M. A. (2020, Spring). Votes for Women: An Economic Perspective on Women's Enfranchisement. *The Journal of Economic Perspectives*, *34*(2).

Pro-Suffrage Broadsides

Women in the Home broadside. (1910). National American Woman Suffrage Association. Retrieved May 16, 2024, from https://www.loc.gov/item/2020780444/

Equal Suffrage and the Negro Vote broadside. (1916). Virginia Museum of History & Culture (Broadside 1916.1) Retrieved May 16, 2024 from https://images.socialwelfare.library.vcu.edu/items/show/455

Project 18 and the 26th Amendment

Barlet, T. (2020, October 28). *"Old Enough to Fight, Old Enough to Vote": The WWII Roots of the 26th Amendment*. The National WWII Museum. Retrieved May 13, 2024, from https://www.nationalww2museum.org/war/articles/voting-age-26th-amendment

Overview of Twenty-Sixth Amendment, Reduction of Voting Age | Constitution Annotated | Congress.gov | Library of Congress. (n.d.). Constitution Annotated. Retrieved May 13, 2024, from https://constitution.congress.gov/browse/essay/amdt26-1/ALDE_00001015/

The 26th Amendment | Richard Nixon Museum and Library. (2021, June 17). Richard Nixon Presidential Library. Retrieved May 13, 2024, from https://www.nixonlibrary.gov/news/26th-amendment

Nixon, R. (2014, July 1). *President Nixon Certifies the 26th Amendment*. YouTube. Retrieved May 13, 2024, from https://www.youtube.com/watch?v=_Fp0RZme39A

Benson, J., & Morley, M. T. (n.d.). *Interpretation: The Twenty-Sixth Amendment | Constitution Center*. The National Constitution Center. Retrieved May 13, 2024, from https://constitutioncenter.org/the-constitution/amendments/amendment-xxvi/interpretations/161

Native American Voting Rights

History

Maltz, E. M. (2000). *The fourteenth amendment and Native American citizenship. Scholarship Repository*. University of Minnesota Law School. Retrieved May 13, 2024, from https://scholarship.law.umn.edu/concomm/289/

Guelzo, A. C. (n.d.). *Civil Rights Act of 1866, "An Act to protect all Persons in the United States in their Civil Rights, and furnish the Means of their Vindication" | Constitution Center*. The National Constitution Center. Retrieved May 13, 2024, from https://constitutioncenter.org/the-constitution/historic-document-library/detail/civil-rights-act-of-1866-april-9-1866-an-act-to-protect-all-persons-in-the-united-states-in-their-civil-rights-and-furnish-the-means-of-their-vindication

14th Amendment to the U.S. Constitution: Civil Rights (1868). (2024, March 6). National Archives. Retrieved May 13, 2024, from https://www.archives.gov/milestone-documents/14th-amendment

Voting Access for Native Americans: Case Studies & Best Practices. (2021, November 10). U.S. Election Assistance Commission. Retrieved May 13, 2024, from https://www.eac.gov/sites/default/files/2021-11/Voting_Access_for_Native_Americans-Case_Studies_&_Best_Practices.pdf

Ongoing Challenges

Dunphy, P. (2019, March 13). *The State of Native American Voting Rights*. Brennan Center for Justice. Retrieved May 13, 2024, from https://www.brennancenter.org/our-work/analysis-opinion/state-native-american-voting-rights

Ferguson, P. (2020, February 9). *How the Native American Vote Continues to be Suppressed*. American Bar Association. Retrieved May 13, 2024, from https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/voting-rights/how-the-native-american-vote-continues-to-be-suppressed/

Court Orders North Dakota to Restore Native Voting Power Without Delay. (2024, January 9). Native American Rights Fund. Retrieved May 13, 2024, from https://narf.org/nd-redistricting-challenge/

2021 Montana Laws That Limit Native Voter Participation (Western Native Voice v. Jacobsen). (n.d.). Native American Rights Fund. Retrieved May 13, 2024, from https://narf.org/cases/2021-montana-voter-laws/

Walen v. The Mandan, Hidatsa and Arikara Nation. (n.d.). Native American Rights Fund. Retrieved May 13, 2024, from https://www.narf.org/nill/documents/20231102-walen-order-msj.pdf

State of Virginia Elections and Voting. (n.d.). Native Vote. Retrieved May 13, 2024, from http://www.nativevote.org/virginia/

Asian Voters

Parrott, C., & Urofsky, M. I. (2024, May 2). *Fifteenth Amendment | Definition, Significance, & Facts*. Britannica. Retrieved May 16, 2024, from https://www.britannica.com/topic/Fifteenth-Amendment

Nationality Act of 1790. (2019). Immigration History. Retrieved May 16, 2024, from https://immigrationhistory.org/item/1790-nationality-act/

United States v. Wong Kim Ark. (n.d.). Oyez. Retrieved May 16, 2024, from http://www.oyez.org/cases/1850-1900/169us649

Chinese Exclusion Act (1882). (2023, January 17). National Archives. Retrieved May 16, 2024, from https://www.archives.gov/milestone-documents/chinese-exclusion-act

Ozawa v. United States (1922). (2019). Immigration History. Retrieved May 16, 2024, from https://immigrationhistory.org/item/takao-ozawa-v-united-states-1922/

Milestones in the History of U.S. Foreign Relations - Office of the Historian. (n.d.). History State Gov. Retrieved May 16, 2024, from https://history.state.gov/milestones/1921-1936/immigration-act

Cable Act of 1922. (n.d.). Immigration History. Retrieved May 16, 2024, from https://immigrationhistory.org/item/cable-act/

Milestones in the History of U.S. Foreign Relations - Office of the Historian. (n.d.). History State Gov. Retrieved May 16, 2024, from https://history.state.gov/milestones/1945-1952/immigration-act

Additional Resources

National Geographic Society. (2023, October 19). *Democracy (Ancient Greece)*. National Geographic Society. Retrieved February 8, 2024, from https://education.nationalgeographic.org/resource/democracy-ancient-greece/

Library of Congress. (2022). *Voter Qualifications | Constitution Annotated | Congress.gov | Library of Congress*. Constitution Annotated. Retrieved February 8, 2024, from https://constitution.congress.gov/browse/essay/amdt14-S1-8-6-2/ALDE_00013450/#ALDF_00024454

Library of Congress. (2022). *Voting Rights Generally | Constitution Annotated | Congress.gov | Library of Congress*. Constitution Annotated. Retrieved February 8, 2024, from https://constitution.congress.gov/browse/essay/amdt14-S1-8-6-1/ALDE_00013630/

The 14th Amendment—Equal Protection

Louise Lassiter, Appellant, v. Northampton County Board Of Elections. (n.d.). Legal Information Institute. Retrieved May 13, 2024, from https://www.law.cornell.edu/supremecourt/text/360/45

Douglas, J. (n.d.). *B. A. Reynolds, etc., et al., Appellants, v. M. O. Sims et al. David J. Vann and Robert S. Vance, Appellants, v. Agnes Baggett, Secretary of State of Alabama et al. John W. McConnell, Jr., et al., Appellants, v. Agnes Baggett, Secretary of State of ...* Legal Information Institute. Retrieved May 13, 2024, from https://www.law.cornell.edu/supremecourt/text/377/533

Voting Rights in the Law

Virginia VRA

HB 761 Elections; preclearance of certain covered practices required, definitions. (n.d.). LIS.Virginia.gov. Retrieved May 13, 2024, from https://lis.virginia.gov/cgi-bin/legp604.exe?201%2Bsum%2BHB761

Three groups left out of VA Constitution

Setting the Voting Age at 16

Barlet, T. (2020, October 28). *"Old Enough to Fight, Old Enough to Vote": The WWII Roots of the 26th Amendment*. The National WWII Museum. Retrieved February 23, 2024, from https://www.nationalww2museum.org/war/articles/voting-age-26th-amendment

CA Lawyers Foundation. (2024, May 7). *What Happens When You Turn 18 in the State of California? — Conejo Valley Guide | Conejo Valley Events*. Conejo Valley Guide. Retrieved October 3, 2023, from https://www.conejovalleyguide.com/welcome/what-happens-when-you-turn-18-in-the-state-of-california

Cea, B., & Cushing, B. (n.d.). *GenVote 2021-2022 Impact Report*. Generation Vote. Retrieved October 3, 2023, from https://www.genvote.org/2022-impact-report.html

Dang, M. (2023, January 14). *Voting age measures yet to be implemented in the Bay Area*. BerkeleyHighJacket.com. Retrieved January 16, 2024, from https://berkeleyhighjacket.com/2023/news/voting-age-measures-yet-to-be-implemented-in-the-bay-area/

Drysdale, S. (2022, December 1). *City Council backs lower voting age in Boston*. WBUR. Retrieved November 17, 2023, from https://www.wbur.org/news/2022/12/01/boston-16-17-year-old-voters-council-approval

Eglit, H. (1981). Of Age and the Constitution. *Chicago-Kent Law Review*, *57*(4). https://scholarship.kentlaw.iit.edu/cklawreview/vol57/iss4/7/

Grabenstein, H. (2018, April 20). *Should 16-year-olds be allowed to vote?* PBS. Retrieved November 17, 2023, from https://www.pbs.org/newshour/politics/should-16-year-olds-be-allowed-to-vote

Holtermann, C. (2021, November 2). *Should There Be a Minimum Voting Age?* The New York Times. Retrieved October 4, 2023, from https://www.nytimes.com/2021/11/02/learning/minimum-voting-age.html

Jones, C. (2022, August 8). *Berkeley and Oakland Passed Measures to Let 16- and 17-Year-Olds Participate in School Board Elections. So Why Can't They Vote Yet?* KQED. Retrieved January 16, 2024, from https://www.kqed.org/news/11921973/berkeley-and-oakland-passed-measures-to-let-16-and-17-year-olds-participate-in-school-board-elections-so-why-cant-they-vote-yet

Margain, O. (2022, November 30). *Boston City Council Approves Lowering Voting Age to 16*. NBC Boston. Retrieved January 16, 2024, from https://www.nbcboston.com/news/politics/boston-city-council-approves-lowering-voting-age-to-16-pending-approval-from-wu-state/2908123/

Meng Reintroduces Legislation to Lower the Voting Age in America to 16 Years Old. (2021, February 4). Congresswoman Grace Meng. Retrieved October 3, 2023, from https://meng.house.gov/media-center/press-releases/meng-reintroduces-legislation-to-lower-the-voting-age-in-america-to-16

Meng Reintroduces Legislation To Lower The Voting Age In America To 16 Years Old. (2023, January 26). Congresswoman Grace Meng. Retrieved October 3, 2023, from https://meng.house.gov/media-center/press-releases/meng-reintroduces-legislation-to-lower-the-voting-age-in-america-to-16-0

ProCon/Encyclopedia Britannica, Inc. (2023, November 8). *Should the Voting Age be Lowered in the US? Top 3 Pros and Cons*. ProCon.org. Retrieved December 7, 2023, from https://www.procon.org/headlines/lowering-the-voting-age-top-3-pros-and-cons/

Rock the Vote. (n.d.). *The 26th Amendment*. Rock the Vote. Retrieved October 3, 2023, from https://www.rockthevote.org/explainers/the-26th-amendment-and-the-youth-vote/

Smith, E. (2017, November 22). *How Young People Pushed Greenbelt, Maryland, to Lower the City's Voting Age*. Teen Vogue. Retrieved January 16, 2024, from https://www.teenvogue.com/story/how-young-people-pushed-greenbelt-maryland-to-lower-the-citys-voting-age

Stirewalt, C., & Shapiro, J. (2022, February 17). *Stirewaltisms: It's Time for an Age Limit for Federal Office*. American Enterprise Institute. Retrieved September 29, 2023, from https://www.aei.org/op-eds/stirewaltisms-its-time-for-an-age-limit-for-federal-office/

UCLA Center for the Developing Adolescent. (2020, October 30). *How Old is Old Enough to Vote? | Center for the Developing Adolescent*. UCLA Center for the Developing Adolescent. Retrieved November 17, 2023, from https://developingadolescent.semel.ucla.edu/blog/item/how-old-is-old-enough-to-vote

U.S. Census Bureau. (2023, June 22). *America Is Getting Older*. Census Bureau. Retrieved September 29, 2023, from https://www.census.gov/newsroom/press-releases/2023/population-estimates-characteristics.html

Virginia State Bar. (2023, September). *So You're 18; Answers to your questions about your legal rights and responsibilities*. Virginia State Bar. Retrieved December 10, 2023, from https://vsb.org/soyoure18/groups/SoYouRe18/Home.aspx

Wagner, M. (2012, June). *(PDF) Voting at 16: Turnout and the quality of vote choice*. ResearchGate. Retrieved October 3, 2023, from https://www.researchgate.net/publication/257086945_Voting_at_16_Turnout_and_the_quality_of_vote_choice

We the People podcast. (2021, August 26). *The Story of the 26th Amendment - Podcast | Constitution Center*. The National Constitution Center. Retrieved September 29, 2023, from https://constitutioncenter.org/news-debate/podcasts//the-story-of-the-26th-amendment

Yancey, D. (2023, January 4). *Here's what happened when a few places lowered the voting age*. Cardinal News. Retrieved January 15, 2024, from https://cardinalnews.org/2023/01/04/del-rasoul-wants-to-let-16-and-17-year-olds-vote-what-would-happen-if-we-did/

The Impact of Felony Disenfranchisement

Brandon, G. C. (1911). *Unequal Application of the Criminal Law.* Northwestern Pritzker School of Law Scholarly Commons. Retrieved June 5, 2024, from https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1066&context=jclc

O'Brien, M. (2024, August). *My Criminal Record Somehow Vanished*. The Atlantic. Retrieved August 22, 2024, from https://www.theatlantic.com/ideas/archive/2024/08/criminal-record-erased/679408/

Talbot, T., Lewis, N., Aspinwall, C., Weichselbaum, S., Blakinger, K., Neff, J., Li, W., & Schwartzapfel, B. (2019, June 11). *In Just Two States, All Prisoners Can Vote. Here's Why Few Do.* The Marshall Project. Retrieved August 22, 2024, from https://www.themarshallproject.org/2019/06/11/in-just-two-states-all-prisoners-can-vote-here-s-why-few-do

The Impact of Recidivism on Automatic Restoration of Voting Rights

Anderholm, P. (2023, September 21). *Over Two Million People Stand to Regain the Right to Vote in Five States*. Democracy Docket. Retrieved April 9, 2024, from https://www.democracydocket.com/analysis/over-two-million-people-stand-to-regain-the-right-to-vote-in- five-states/

Garrison, W. L. (1881, October 20). *A Plea for Universal Suffrage*. Indian University Indianapolis Archives. Retrieved November 13, 20223, from https://archives.indianapolis.iu.edu/items/111f804a-bf3a-4883-aa4d-2517f90830fd/full

Hernandez, A. (2323, December 12). *How many inmates return to prison? Inconsistent reporting makes it hard to tell.* Virginia Mercury. Retrieved April 9, 2024, from https://virginiamercury.com/2023/12/12/how-many-inmates-return-to-prison-inconsistent-reporting-makes-it-hard-to-tell/

Koren, M. (2019, July 11). *The Pseudoscientific Arguments Against Women's Suffrage*. The Atlantic. Retrieved November 13, 2023, from https://www.theatlantic.com/science/archive/2019/07/womens-suffrage-nineteenth-amendment-pseudoscience/593710/

Leonor, C. (2023, March 29). *State-Sanctioned Displacement: An Interstate Examination of Felon Disenfranchisement*. Law School Journals at UR Scholarship Repository. Retrieved April 9, 2023, from https://scholarship.richmond.edu/cgi/viewcontent.cgi?article=1562&context=pilr

Loeffler, C. E., & Nagin, D. S. (2022, January). *The Impact of Incarceration on Recidivism*. Annual Review of Criminology. Retrieved April 9, 2024, from https://www.annualreviews.org/content/journals/10.1146/annurev-criminol-030920-112506;jsessionid=AW1VS9IFdkB0Lx5fYyxwhpZ53_s_xLEEHqsR7DZs.annurevlive-10-241-10-77

National Academies of Sciences, Engineering, and Medicine. 2022. *The Limits of Recidivism: Measuring Success After Prison*. Washington, DC: The National Academies Press. https://doi.org/10.17226/26459.

Sarai, T. (2022, November 3). *Felon re-enfranchisement restores more than civil rights*. Prism Reports. Retrieved April 9, 2024, from https://prismreports.org/2022/11/03/felon-disenfranchisement-civil-rights/

Schmidt, S. (2020, August 9). *Anti-suffrage movement: Women who fought the vote and 19th Amendment - Washington Post*. The Washington Post. Retrieved November 13, 2023, from https://www.washingtonpost.com/graphics/2020/local/history/anti-suffrage-women-vote-19-amendment/

Schuessler, J. (2020, August 17). *Suffrage at 100: A Visual History*. The New York Times. Retrieved November 13, 2023, from https://www.nytimes.com/interactive/2020/08/17/us/suffrage-movement-photos-history.html

Wong, A. J. (2019, September 15). *Locked Up, Then Locked Out: The Case for Legislative—Rather Than Executive—Felon Disenfranchisement Reform*. Cornell Law Review. Retrieved April 9, 2024, from https://www.cornelllawreview.org/2019/09/15/locked-up-then-locked-out-the-case-for-legislative-rather-than-executive-felon-disenfranchisement-reform/

Conclusion

S.4217 - A bill to secure the Federal voting rights of persons when released from incarceration under the First Step Act. (2024, April 30). Congress.gov. Retrieved May 13, 2024, from https://www.congress.gov/bill/118th-congress/senate-bill/4217

Williams, E. P. (2023, May 18). *What is civil commitment? Recent report raises visibility of this shadowy form of incarceration*. Prison Policy Initiative. Retrieved May 13, 2024, from https://www.prisonpolicy.org/blog/2023/05/18/civil-commitment/

Williams, R. O. (2021, August 27). *Unequal Justice Under the Law*. Los Angeles Review of Books. Retrieved June 5, 2024, from https://lareviewofbooks.org/article/unequal-justice-under-the-law/

Super, D. (2022, June 28). *Recentering Concerns about Uneven Enforcement of Criminal Laws*. Balkinization. Retrieved June 5, 2024, from https://balkin.blogspot.com/2022/06/recentering-concerns-about-uneven.html

Wilson, J. (2023, May 25). *Opinion: 'Equal justice under law' really needs an asterisk*. The Des Moines Register. Retrieved June 5, 2024, from https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2023/05/25/equal-justice-under-law-asterisk/70253177007/

8 Examples of Injustice — Equal Justice Under Law. (n.d.). Equal Justice Under Law. Retrieved June 5, 2024, from https://equaljusticeunderlaw.org/8-ways-our-legal-system-punishes-people-who-are-poor

Vieira, O. V. (2007). *Inequality and the subversion of the Rule of Law*. Sur - International Journal on Human Rights. Retrieved June 5, 2024, from https://sur.conectas.org/en/inequality-subversion-rule-law/

Appendices

The Women's Movement and the Franchise

BRIA 20 2 a How Women Won the Right to Vote - Online Lessons - Bill of Rights in Action - Teach Democracy. (2004, Spring). Constitutional Rights Foundation. Retrieved November 13, 2023, from https://teachdemocracy.org/online-lessons/bill-of-rights-in-action/bria-20-2-a

Chittenden, A. H. (n.d.). *Arguments for and Against Suffrage - Women & the American Story*. Women & the American Story. Retrieved November 13, 2023, from https://wams.nyhistory.org/modernizing-america/woman-suffrage/arguments-for-and-against-suffrage/

National American Women Suffrage Association. (1910). *Women in the home ... National American woman suffrage association. Headquarters: 505 Fifth Avenue, New York [1910].* Library of Congress. Retrieved November 13, 2023, from https://www.loc.gov/resource/rbpe.13200500/

National Women Suffrage. (1916). *Twelve Reasons Why Women Should Vote*. IU Indianapolis eArchives. Retrieved November 13, 2023, from https://archives.iupui.edu/bitstream/handle/2450/926/mss60-8.pdf?sequence=1

State of Oregon: Woman Suffrage - Arguments in 1912 For and Against Woman Suffrage. (1912). Oregon Secretary of State. Retrieved November 13, 2023, from https://sos.oregon.gov/archives/exhibits/suffrage/Pages/context/arguments.aspx

Ware, S. (2020, May). *Leaving all to younger hands: Why the history of the women's suffragist movement matters | Brookings*. Brookings Institution. Retrieved November 13, 2023, from https://www.brookings.edu/articles/leaving-all-to-younger-hands-why-the-history-of-the-womens-suffrage-movement-matters/

Asian Voters

WETA Washington, DC and the Center for Asian American Media (CAAM) for PBS, in association with the Independent Television Service (ITVS), Flash Cuts and Tajima-Peña Productions. (Director). (2020). *Asian Americans* [Film]. https://www.pbs.org/show/asian-americans/

Zhu,MD, D. (2020). *Asian American Doctors Unite Against COVID-19 Racism: Hate is a Virus* [Film]. YouTube. https://www.youtube.com/watch?v=FhD_VFBLLK8