



**STATEMENT OF VANITA GUPTA, PRESIDENT AND CEO
THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS
DPCC FORUM ON VOTING RIGHTS
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Thank you to Senator Stabenow and the DPCC for inviting me to speak to you today. I am honored to be here. My name is Vanita Gupta and I am the president and CEO of the Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations. We were founded 67 years ago and have coordinated national lobbying efforts on behalf of every major civil rights law since 1957, including the Voting Rights Act of 1965 and subsequent reauthorizations. Before I began working at the Leadership Conference, I was head of the Justice Department's Civil Rights Division during the last 2 ½ years of the Obama Administration, and I oversaw the federal government's voting rights work.

The integrity of our democracy depends on ensuring that every eligible voter can meaningfully participate in the electoral process. The right to vote is fundamental to the attainment and preservation of every other civil right. It is essential to our democracy. Indeed, it is the language of our democracy. We have fought epic battles to secure the right to vote and to eliminate barriers to voting – the poll taxes, literacy tests, and brutal physical intimidation that marred our nation's history. Sadly, our voting rights battles are not a distant relic. Efforts to restrict the vote are all too alive today.

Voting Rights Under Assault

Voting rights in America are under assault, plain and simple. The most devastating blow to voting rights in the modern era occurred in 2013 when, in the *Shelby County v. Holder* case, five justices of the Supreme Court struck down the most powerful provision of the Voting Rights Act: the preclearance system. This system had empowered the Justice Department for half a century to block discriminatory voting restrictions in states and localities with the most troubling histories of discrimination, before they were able to do any damage. The *Shelby County* decision dramatically weakened the federal government's ability to prevent unlawful attempts to disenfranchise, harass, and intimidate American citizens as they attempt to exercise their most basic right as Americans.

The *Shelby County* decision emboldened states to pass voter suppression laws, such as those requiring photo identification, cutting back on early voting hours, and eliminating same-day registration.¹ Literally within hours of the *Shelby County* decision, Texas implemented a strict photo ID law which had previously been blocked by the Justice Department because of its racial impact. The day after *Shelby County*, Republican state legislators in North Carolina announced plans to enact a massive election law, and they requested data on the use, by race, of a number of voting practices. Upon receipt of the race data,

¹ <http://civilrightsdocs.info/pdf/reports/2016-Voting-Rights-Report-FOR-WEB.pdf>.



the North Carolina General Assembly enacted legislation that restricted voting and registration in five different ways, all of which disproportionately affected African Americans.

Thankfully, federal courts struck down the Texas and North Carolina laws because the evidence showed that these states had engaged in intentional race discrimination in passing their voting restrictions. In striking down the North Carolina law in July 2016, the U.S. Court of Appeals for the Fourth Circuit described the law as “the most restrictive voting law North Carolina has seen since the era of Jim Crow” with provisions that “target African Americans with almost surgical precision.”² In fact, there have been findings of intentional discrimination in at least 10 voting rights decisions since *Shelby County*.³ Although these laws were successfully challenged in court, this litigation is extremely time and resource-intensive. And by the time such laws were invalidated, elections had occurred and hundreds of thousands of voters had been disenfranchised. And despite many litigation victories, the vast majority of voting restrictions are still in effect. Today, 34 states in America – nearly 70% – have voter ID laws.⁴

It has been heartbreaking for me to witness the Sessions Justice Department embrace the vote suppression agenda and retreat from that agency’s commitment to aggressive voting rights enforcement. In February, the Sessions Justice Department reversed its longstanding litigation position that the Texas voter ID was intentionally racially discriminatory. In June, the Civil Rights Division’s voting section sent a letter to 44 states forcing them to provide extensive voter information on how they maintain their voter rolls, in what appears to be a prelude to a voter purge.⁵ And in August, the Sessions Justice Department filed a brief with the Supreme Court in the case of *Husted v. A. Philip Randolph Institute*, arguing that it should be easier for states to remove registered voters from their rolls – reversing not only its long-held legal interpretation, but also the position we had taken in the lower courts in that exact case.

And then we have President Trump’s so-called Advisory Commission on Election Integrity, which was ostensibly set up to justify the President’s absurd allegation that millions of people voted illegally in the 2016 election. Of course, the real reason the commission was created was to restrict the right to vote in America. Working hand-in-hand with other civil rights organizations, the Leadership Conference has mounted a nationwide effort to challenge this sham commission. The fact that the commission is led by Vice President Pence and the discredited Kansas Secretary of State Kris Kobach tells you all you need to know about its agenda. Secretary Kobach and other commission members have built their careers trying to restrict voting rights in America.

The committee’s opening salvo – an effort to create a national database of sensitive voter information for the first time in U.S. history – should alarm any American who values privacy, security, and the integrity of our elections. Sadly, in response to the commission’s unprecedented data request, thousands of voters throughout the country have canceled their registrations.⁶ In this way, the commission’s voter suppression impact has already begun. The commission has met twice – most recently last week in New

² *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016).

³ <http://www.naacpldf.org/files/about-us/Letter%20to%20Rep%20Goodlatte%20re%20Restore%20the%20VRA%20FINAL%209.7.2017.pdf>.

⁴ <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

⁵ <https://www.nytimes.com/2017/07/19/opinion/donald-trump-voting-rights-purge.html? r=0>.

⁶ <https://www.voterparticipation.org/2017/07/statement-pence-kobach-commission/>.



Hampshire – and has served as a platform for conspiracy theorists and vote suppression advocates. Commission member Hans von Spakovsky was recently identified as the sender of an email to Attorney General Sessions urging that no Democrats or “mainstream” Republicans be permitted to serve on the commission. It is deeply troubling that Mr. von Spakovsky remains a member of this commission and that the commission was created in the first place. We have urged Congress to deny any appropriations to this sham commission, and we appreciate the efforts that Leader Schumer, Senator Booker, and many of you have undertaken to promote that strategy.⁷

Affirmative Agenda for Strengthening Voting Rights in America

Of course, it is not enough just to play defense. And it is not enough to rely on the courts. Although there have been recent voting rights victories in federal court, we cannot count on the courts – not with the types of judges President Trump is putting up.

We must put forward an affirmative legislative voting rights agenda as well. The Voting Rights Advancement Act (VRAA) is the centerpiece of that agenda. This bill would effectively overturn the *Shelby County* decision and create a new coverage formula – one that we believe will pass Supreme Court muster – and restore Section 5 of the Voting Rights Act to its full and proper strength. We strongly support this bill – introduced by Senator Leahy – and I commend all of you who have cosponsored it. There are 46 Senate cosponsors; unfortunately, none are Republicans. In 2015, House Judiciary Committee Chair Bob Goodlatte said he would not hold a hearing on Voting Rights Act legislation and stated: “We are certainly willing to look at any new evidence of discrimination if there is a need to take any measures. But at this point, we have not seen that.”⁸ In light of the fact that there have been findings of intentional discrimination by states or localities in at least 10 federal court decisions, congressional hearings on the Voting Rights Act are long overdue.

We also support the Voter Empowerment Act, which has been introduced by Senator Gillibrand in the Senate and civil rights icon Congressman John Lewis in the House. This comprehensive legislation would dramatically enhance the right to vote. Among other things, the bill would require a minimum of 15 days of early voting in federal elections, permit same-day voter registration, count all provisional ballots, prohibit voter caging practices, ensure equal allocation of polling place resources, modernize our voter registration system by making it available online, and restore the voting rights of formerly incarcerated people.

On this last issue, there is an important stand-alone bill that we strongly support: the Democracy Restoration Act, which has been championed by Senator Cardin. This bill would restore voting rights in federal elections to formerly incarcerated people who are living and working in our communities. Nearly six million American citizens are denied the right to vote because they have a past criminal conviction. Felon disenfranchisement laws are rooted in the post-Civil War era and were used to prevent freed slaves from voting, and these laws still have a significant racial impact. About one of every 13 African

⁷ <http://www.concordmonitor.com/Pence-Kobach-commission-should-be-disbanded-12421122>.

⁸ http://www.newsadvance.com/goodlatte-voting-rights-act-strong-without-amendment/article_b1d5bec5-9241-5aa6-ad0f-54db10e6a05f.html.



Americans in this country are denied the right to vote by criminal disenfranchisement laws. Congressional action is needed to restore voting rights in federal elections to the millions of Americans who have been released from incarceration, but continue to be denied their ability to fully participate in civic life.

We also support a fair, accurate, and fully funded 2020 census, which is among the most significant civil rights issues facing the country today. Census data ensure fair, proportionate voting representation for all Americans. Federal funding for key programs, such as education, health care, and rural broadband access, is determined by census data, and this is crucial in helping federal agencies monitor discrimination. Congress must oversee census planning and allocate enough money to ensure that the 2020 Census counts everyone fairly and accurately, including historically undercounted population groups. This means that Congress must ensure a sufficient funding ramp-up for the 2020 Census, by allocating more funds for the Census Bureau than the administration proposed. It will also be critical for the administration to nominate a highly qualified and widely respected professional to serve as the next Director of the Census Bureau and for the Senate to swiftly confirm that individual.

Another important funding priority is the Election Assistance Commission (EAC). The EAC was created with bipartisan support following the 2000 election to address widely-recognized problems with our voting systems that created confusion, suppressed voter turnout, and fostered doubt about the fairness of outcomes. These problems included long lines at polling stations, outdated voting technology, and registration practices that prevented lawful voters from being heard. The EAC works in a bipartisan fashion to distribute federal funds to states and municipalities for election administration, and to ensure better elections by conducting research, collecting data, and sharing information. It is a small but critical federal agency to protect and modernize the nation's voting systems.

Finally, I would like to say a word of support for Senator Leahy's Automatic Voter Registration Act. Here is how AVR works: eligible citizens who interact with government agencies are registered to vote unless they decline, and agencies transfer voter registration information electronically to election officials. This creates a seamless process that boosts registration rates, cleans up the voter rolls, and makes voting more convenient. Although there has regrettably been a lack of bipartisan support for AVR in Congress, there has been significant bipartisan support for this idea at the state level. Ten states and the District of Columbia have already approved AVR,⁹ and 32 states have introduced AVR proposals this year.¹⁰ Illinois became the latest state to approve automatic registration just last month, when Republican Governor Bruce Rauner signed a bill that the legislature passed unanimously.

Voting rights should transcend partisanship. The Voting Rights Act was passed with both Republican and Democratic support in 1965, and every reauthorization of the Voting Rights Act was signed into law by Republican presidents – Nixon in 1970, Ford in 1975, Reagan in 1982, and Bush in 2006. No matter what policy goals we care most about, we get closer to achieving them through the ballot box. The

⁹ The ten states are: Alaska, California, Colorado, Connecticut, Georgia, Illinois, Oregon, Rhode Island, Vermont and West Virginia.

¹⁰ <https://www.brennancenter.org/analysis/automatic-voter-registration>.



integrity of our democracy depends on ensuring that every eligible voter can participate in the electoral process.

We appreciate your efforts to expand the right to vote in America, because it is critical that all our citizens have the ability to equally and meaningfully participate in our democracy. The Leadership Conference will be by your side in this urgent fight.