

The History of Voting Rights and Racial Discrimination in Texas: 1865-1965

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ABSTRACT :The struggle for voting rights juxtaposed with racial discrimination in America was and is prevalent in numerous parts of the United States and, in some states, the discrimination is more prevalent than in other states. For historical reasons, the Southern states such as Texas have a much deeper racialized climate and discrimination history than the Northern states. Even after the Civil War ended in 1865, Texas was the last state in the Union to recognize the formal emancipation of slavery and was reluctant to give in to federal enforcement. However, while great civil rights progress has been made for minorities, especially Blacks to gain full civil rights, Texas has made valiant efforts to roll back those rights and to prevent Blacks, Hispanics, Indigenous Americans and other minorities from engaging in voting and thus continuing to harm their future civil participation in our democracy. Our paper will discuss the historical background of the struggle for voting rights in Texas.

I. Understanding the Past: Citizenship Rights

The racist resistance towards granting full citizenship rights to Blacks and other minorities such as Hispanic Americans, Native Americans, Asian-Americans as well as Jewish, Irish, and Italian immigrants has been ingrained within mainstream American society since its inception (Johnson, 2009). As early as 1856 - before the Civil War - the Texas legislature revised their criminal penal code and defined that anyone who had at least one-eighth or more of African blood was considered African and subjected to any penalties for being black. In 1866, the Texas Legislature legislated the Black Codes and defined them as an "Act to define and declare the rights of persons lately known as Slaves, and Free Persons of Color" (Price, 2021).

The Black Codes, also known as Jim Crow Laws, were legislative measures enacted by state governments to impede the exercise of full citizenship rights by African Americans (Rice, 2019). These laws placed severe limitations on former slaves, effectively depriving them of the freedoms and opportunities enjoyed by White Americans. Topics such as interracial marriage, voting rights, property ownership, and professional occupations for African Americans were addressed in these codes. The Black Codes also barred African Americans from voting, holding public office or serving on juries. Moreover, Southern states denied Blacks access to public land for the establishment of schools and withheld public funds that would have allowed for equal educational opportunities (Price, 2021).

Blacks and Mexicans in Texas faced discrimination and harassment through various means (Perez, 2009). One such method was the use of vagrancy laws, which allowed local police to arrest individuals for being idle. City courts then imposed fines on these individuals, and if they couldn't pay, they were forced to work without wages in order to settle their debts. The discriminatory attitude of White Southerners led them to find ways to deprive Blacks of full citizenship rights and equal freedom. Additionally, business owners had the authority to deduct money from the paychecks of their Black employees if they were found guilty by the courts for theft, property damage, or other racially biased offenses that were often trivial in nature (David, 2020).

Laws were enacted that permitted apprenticeships without parental consent, under court order until the age of 21 (Johnson, 2009). Minors could be compelled to apprentice with masters, who had the authority to administer corporal punishment. Masters were legally required to furnish food, clothing, medical care, and education in exchange for the labor of their apprentices - a system resembling pre-emancipation slavery. In addition, masters possessed exclusive rights to pursue runaway apprentices and could rely on county courts for legal enforcement of the apprenticeship agreement (Price, 2021).

Formal establishment of housing segregation in Dallas occurred in 1916 through the implementation of laws (Alexander et al., 2015). From the 1940s until the mid-1960s, various cities, including Dallas, utilized federal home loan programs to further policies that promoted racial housing segregation and invested

predominantly in White neighborhoods. The implementation of such "urban renewal" initiatives by city and state leaders resulted in significant disruption and destruction within Black communities across Dallas. Notably, during the construction of interstate highways between the 1950s and 1960s, neighborhoods like Deep Ellum and Stringtown were dismantled, leading to a decline in the strength of Black communities as well as displacing residents from their homes (Barajas, 2020). Another aspect contributing to discontent among Black residents was the temporary seizure of their homes whenever Dallas hosted the State Fair of Texas annually. These racist actions made Dallas residents angered and a sense of injustice was further ingrained and deepened the rift between the Black and White communities (Barajas, 2020).

The city of Fort Worth, located in Texas, was known for its comparable level of racial discrimination against minority groups and had a significantly large faction of the Ku Klux Klan (KKK). In 1920, this group was believed to have over 6,000 members in a city with a populace of just 106,482 (Cleve, 2020). The degree of racism was so profound and generally accepted that by the year 1922, two individuals from Texas - Dr. Hiram Wesley Evans from Dallas and Mr. Brown Harwood hailing from Fort Worth itself - were chosen for positions at the national headquarters of the Ku Klux Klan (Chung, 2021).

The surge in railway travels and advancements in refrigeration techniques led to a spike in the employment of Black individuals within the meatpacking sector (Barajas, 2020). This progression paved the way for an expanding Black demographic, particularly noticeable in metropolises like Dallas and Houston. Sharecropping practices also contributed significantly to this urban population growth trend. As the African American community grew, it was accompanied by an escalating racial tension between Whites and Blacks across Texas's primary cities. Additionally, as their purchasing capability improved over time, there was a parallel uptick in their political influence throughout Texas.

Before the enactment of the 1965 Voting Rights Act, there was a myriad of racial discriminatory tactics designed to intimidate and discourage Black citizens from voting (DeVogue, 2022). The most conspicuous techniques included imposing poll taxes, applying literacy tests, endorsing Whites-only primaries, inciting violence (either through KKK involvement or autonomous acts), implementing party regulations and "grandfather" stipulations, establishing black codes and Jim and Jose Crow laws as well as enforcing segregation. Moreover, other methods like gerrymandering were utilized alongside restrictive qualification criteria and revisions in state constitutions. These strategic plans aimed at denying Blacks along with other minorities their voting rights were deeply rooted across Southern regions and most Texas counties were no exception to this trend. Such forms of voter suppression were tightly woven into the fabric of Southern cultural heritage and political systems; they mirrored an inherent dominion by White males who would manipulate these rules if it meant disenfranchising Blacks (Keyes, 2016).

The acts of racial bias and voter oppression have not only inflicted harm upon African Americans and other minority groups in Texas, but they have also created multi-generational discrimination and trauma through their effects and acts. These forms of racial discrimination transcend historical injustices such as slavery, Jim Crow laws, and residential segregation. They have corrupted various aspects of society including law, sociology, policy-making, and economic progress. Consequently, these discriminatory practices continue to undermine the voting rights of all individuals by subjecting them to intimidation and various obstacles. In the following section, we will delve into the historical methods through which voting discrimination has occurred in Texas.

II. Post Civil War: A History of Texas Voter Suppression

Following the Civil War, numerous Southern states implemented poll taxes to hinder voting rights for Black individuals and other minorities (Keyes, 2016). The Texas legislature took action in 1869 by modifying the state's constitution to require an annual poll tax of \$1 for all men aged 21 to 60. Originally intended to generate additional funds for public schools, this tax eventually became a tool for disenfranchisement, as many minorities were unable to afford the payment of \$1 (equivalent to approximately \$22.00 in today's currency). In 1902, the Texas Legislature further amended the Constitution and implemented laws that voters must pay an annual poll tax ranging from \$1.50 to \$1.75 to be eligible to vote (Keyes, 2016).

The implementation of these newly imposed poll taxes not only targeted Blacks and Hispanics, but it inadvertently hindered the voting rights of poor Whites as well. Consequently, the Texas Legislature devised a means to ensure that Whites could still exercise their right to vote while simultaneously disenfranchising and suppressing the votes of Blacks and Hispanics. To achieve this, they enacted "grandfather" laws which exempted poor Whites from paying the poll tax to cast their votes (Hooks, 2020). Additionally, a new argument emerged that echoed similar recent conservative justifications for modern-day voter ID laws: these poll taxes would be aimed at countering voter fraud as well.

Following the Reconstruction period, when Union troops returned to the North, Southern Democrats utilized their party rules and regulations to limit and deny African Americans and Hispanics from participating in party primaries (Rice, 2019). While minorities were allowed to join the Democrat Party in most of the South after the Civil War, they were unable to vote or have a say in selecting their leadership during these primary

elections, rendering their vote insignificant (Price, 2021). Moreover, minorities were excluded from running for office with support from the Democrat Party, thereby preventing African Americans and Hispanics from representing their community's interests. State and local election primaries played a crucial role in determining which candidates could compete in general elections. In 1923, laws were enacted by the Texas Legislature that effectively disenfranchised Black voters within Democratic Party primaries (Sapper, 2022).

Nevertheless, the Texas law that forbade African Americans from voting in primary elections was invalidated by the U.S. Supreme Court in 1927, as it was deemed to be a violation of the equal protection clause stated in the 14th Amendment. In response to this ruling, the Texas Legislature enacted a new law that granted exclusive power and discretion to determine who could participate in primary elections to each state party's executive committee. However, this legislation met a similar fate when it was declared unconstitutional by the Supreme Court in 1932 for infringing on equal protection rights guaranteed by the 14th Amendment (Perez, 2009).

Despite the overturning of these laws by the US Supreme Court, which were enacted due to the racist beliefs of the Texas Legislature, the Texas Democrat Party persisted in their attempts to hinder Black people from exercising their right to vote. During one of their yearly conventions, the Texas Democrat party unanimously approved a resolution that prohibited Black individuals from participating in primary elections (Johnson, 2009).

The Supreme Court's ruling in 1935 stated that the Democrat Party, being a private enterprise, had the authority to implement rules that excluded specific individuals from becoming members. These rules included banning Black people from voting (Sherman, 2022). However, this decision was overturned by the Supreme Court in 1944. The court argued that according to Texas state laws, election primaries were not solely under the control of private organizations but were essential for public electoral processes. Consequently, it was deemed unconstitutional to prohibit and prevent Black individuals from participating in primary elections (Yu, 2020).

In the late 1800s and continuing until the Civil Rights Act was enacted in 1965, Southern states implemented literacy tests as a requirement for individuals who wanted to vote. The stated public rationale behind these tests was to assess adult literacy levels accurately. However, their true purpose was to suppress and deny voting rights to Black people and other minority groups. It is important to note that these tests did not apply to White individuals, who were able to vote freely, especially if there were grandfather clauses in effect (Keyes, 2016).

Through the enactment of the Voting Rights Act in 1965, Congress mandated that literacy tests be abolished in all states (Litt, 2020). As a result, by 1970, no state was utilizing literacy tests as a means to suppress minority voting. Additionally, significant Supreme Court cases such as *Katzenbach v. Morgan* (1966) and *Oregon v. Mitchell* (1970) played a crucial role in permanently eliminating literacy tests as requirements for voting eligibility (League of Women Voters, 2021).

Racial gerrymandering refers to the intentional manipulation of voting districts to diminish the influence of minority voters (Barajas, 2020). In 1973, the Supreme Court ruled in *White v. Register* that the Texas Democratic Party had engaged in this practice by deliberately altering voting districts in order to suppress the votes of Black and other minority groups. This ensured that White Democrat candidates would have an advantage over their Black or Hispanic counterparts. Similarly, in 1974, *Robinson v. Anderson County Commissioners Court* saw the Fifth Circuit Court of Appeals declare that voting districts should accurately represent communities and it was deemed illegal to divide a county's Black community into three illogical and unrelated parts for electoral purposes.

Through these legal cases, it became evident to both the public and the Supreme Courts that racial gerrymandering undermines democracy by silencing marginalized voices and diluting their political power. The rulings emphasized the importance of fair representation and providing equal opportunities for all citizens to exercise their right to vote without discrimination based on race or ethnicity.

These landmark decisions established precedents against racially motivated districting practices, setting a higher standard for electoral fairness across America. African Americans and Hispanics residing in Texas and other states in the Southern region did not experience a strong sense of allegiance towards state and national politics. This lack of loyalty stemmed from both the Democratic and Republican parties failing to prioritize their well-being, particularly when it came to improving living conditions and safeguarding voting rights. It was only through the intervention of various courts, including the Supreme Court, along with successful litigation efforts that marginalized communities were able to overcome obstacles hindering their ability to exercise their voting influence. Ultimately, this progress culminated with the enactment of the Voting Rights Act in 1965, which aimed to eliminate ongoing marginalization faced by Blacks and Hispanics (Bonner, 2022).

The Voting Rights Act, which was enacted to prevent discrimination in voting practices, aimed to eliminate barriers like poll taxes that hindered Black and Hispanic individuals from exercising their right to vote. With the passage of the Voting Rights Act (VRA), minority groups, including Blacks, Hispanics, and others, gained the freedom to cast their votes without facing harassment or other obstacles. This significant development allowed these communities to elect representatives who truly understood their interests and

concerns. As a result of this increased representation in political offices, efforts were made to integrate minority members into various government sectors such as public schools, police departments, and fire departments through recruitment and hiring initiatives (Brennan Center for Justice, 2022).

III. CONCLUSION

The history of racial discrimination for voting rights for minorities and especially African-American men and women in Texas has been long and ongoing. At the crux of this discrimination was the racist intent of the majority White race to exclude non-Whites from sharing power with minority citizens. One of the most effective ways of politically crushing African Americans and other minorities is voter suppression through the usage of restrictions on when and where to vote as well as how to vote, i.e. in person, mail-in ballot etc. Additionally, state legislatures in several Southern states are working harder to pass laws restricting the voting process. There have been many attempts and different methods utilized to prevent and continue to prevent minorities from exercising their voting rights. Even today in 2023, the fight for equal voting rights continues in Texas and elsewhere in the United States. Future civil rights leader must always keep in mind that the fight for equal civil rights and voting rights will always be ongoing.

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