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Voting Rights: 'Our Unfinished March'



From left: Women's Suffrage March in Washington, D.C. on March 3, 1913; and the March for Black Voting Rights, "*Bloody Sunday*," on March 7, 1965 in Selma, Alabama. In the first photo, the sign atop the horse drawn caisson reads, "We demand an amendment to the Constitution of the United States enfranchising the women of this country."

Did you vote in the last election?

If not, why not?

As Eric Holder, former attorney general of the United States and the first African American attorney general, demonstrates in his *Our Unfinished March: The*

Violent Past and Imperiled Future of the Vote A History, A Crisis, A Plan, those are not idle questions. People have died – literally, not metaphorically – to secure that right.

Why?

Because the right to choose is ***the*** fundamental right in a democracy. And choice is exercised by voting. And if that right is lost, American democracy dies with it. Holder believes current voter suppression initiatives and partisan gerrymandering threaten that right. As Holder says, America now confronts “a crisis unlike any we’ve faced since the signing of the Voting Rights Act (of 1965): American democracy is on the brink of collapse.” Why? Because, as throughout our history, we once again are “faced with the question: Whose votes will we count?” [1]

Who gets to vote has always been contested terrain in America.

Why?

Because voting is power; who holds power has always been contested. As Frederick Douglass said, “Power concedes nothing without a demand. It never did and it never will.” [2]

Voting is the essence of citizenship. It is not the privilege of a few, but the right of all. With the right to vote, one is fully a citizen. One has a portion of the power that undergirds a polity. Without it one is at best a spectator; at worst, one is merely a subject – something less than a citizen *subject* to the dictates of those who would rule.

More than a right, it is a citizen’s duty to vote.

Along with respecting the U.S. Constitution, serving in the military and on juries, voting is listed as one of a citizen’s responsibilities in the United States government’s *A Guide to Naturalization*. [3]

If voting is the essence of citizenship and a citizen’s duty, why has America historically made it hard to vote?

And, make no mistake: America has historically made it hard to vote. First, by restricting who could vote then (and now) by making it complicated and difficult to vote. How? By requiring that one must first register at a date and location different from the site of actual voting; not to mention more egregious (what an understatement) historic voter suppression tactics involving violence and

intimidation; and by restricting elections to Tuesdays when most voters have to be at work.

Nonetheless, between 2002 and 2022 in federal elections, American voter turnout has averaged 51.4 percent, with a median turnout of 50.3 percent. So, despite obstacles, one in two Americans eligible to vote manage to fulfill their duty. The highest turnout was in 2020 at 66.77 percent (or two out of every three eligible voters voted) and the lowest was 36.7 percent in 2014 (slightly more than one in three eligible voters voted). [2] In the most recent election in 2022, Erie County, Pennsylvania voters did slightly better than the national numbers. Nationally, 46.76 percent of eligible voters turned out; possibly spurred by gubernatorial and senatorial races, Erie Countians turned out at a 59.6 percent clip. [4]

With eligible voter turnout hovering around a rate of 50 percent maybe the United States should do as they do in Australia and 31 other countries – make voting compulsory! Under Australia’s Commonwealth Electoral Act of 1918, it is “the duty of every elector to vote at each election.” Voting means it is “the actual duty of the elector ... to attend a polling place, have their name marked off the certified list, receive a ballot paper, and take it to an individual voting booth, mark it, fold the ballot paper and place it in the ballot box.” [4] Turnout in Australia typically reaches more than 90 percent. The Australians accomplish this high turnout rate, as Tacey Rychter notes in *The New York Times*, by using both “sticks and carrots.” The “sticks” consists of fines up to 80 Australian dollars for failing to vote; the “carrots” consist of several things, of which three are most important. Election Day in Australia is a holiday; it always occurs on a Saturday; and it results in community barbecues, of which Australians are famously fond. [5]

Although I think Eric Holder would agree that making Election Day a holiday and holding it on Saturdays are good ideas, making voting compulsory sends the wrong message. It implies that low voter turnout is the fault of the voters, when, in fact, both historically and currently lower voter turnout results from a system that makes it hard to exercise, as Frederick Douglass would have called it, “the elective franchise” – one’s duty as a citizen to vote.

To repeat my earlier question, *why has America historically made it hard to vote?*

Well, that’s an old story. It relates directly to my *The American Tapestry Project* available at [The American Tapestry Project \(wqln.org\)](http://TheAmericanTapestryProject(wqln.org)) and at other podcast sites; we also have discussed it in several *Book Notes*, in particular last summer’s multi-part series “The Seeds of Our Discontents” available at [Book Notes - Jefferson Educational Society \(jeserie.org\)](http://BookNotes-JeffersonEducationalSociety(jeserie.org)). Seeking to discover the story of America, *The American Tapestry* realizes there is no one American story

but instead a tapestry of American stories that when woven together are the story of America.

That story has many threads, but, as Holder illustrates, the tapestry's theme tells the story of Americans seeking to master the challenge of self-governance all the while continuously increasing the inclusiveness of the "We," as in "*We the People ...*" in America's founding documents. That theme emerges in several subthemes – "Freedom at Home & Abroad," "Freedom's Faultlines: Tales of Race and Gender," and "The Immigrant's Tale." The latter two tell the stories of those first excluded from the rights, privileges, and benefits of American citizenship fighting for inclusion by patriotically appealing to America's founding documents' foundational values – the Declaration of Independence's "*We hold these truths ...*," the U.S. Constitution's "*In order to make a more perfect Union ...*," its Bill of Rights, subsequent amendments, and the great civil rights acts of the 1960s extending the benefits of full citizenship to a more and more inclusive America. As Holder says of the Voting Rights Act of 1965, it expanded the definition of "We the People" to include African Americans once and for all." [6]

As I mentioned in "The Seeds of Our Discontents," those threads, however, are subsumed within two competing macrothreads. One I originally called the "protean" thread – a story of America's continuing development – and the other the "essentialist" thread – a story that sees America as static and fixed in its original socio-cultural contours. Later, I came to understand that the two threads are really stories of *inclusion* and *exclusion*. The *inclusive* American story sees America as in a perpetual state of becoming as it seeks to perfect self-government while at the same time welcoming all people into its embrace. It's the story of Black Americans, women, and immigrants of all nationalities and hues becoming fully *American*. The other, the *exclusive* story, sees America as a white, Christian, patriarchal nation reserved only for those who look, think, and worship like them.

The current renewed struggle for both voting rights and for the rights of full citizenship exposes these two stories' historic competition for the soul of America. For if freedom means the right to choose, if full citizenship means choosing America's future by exercising the right to vote, then, as Holder says, reflecting upon the historic march for voting rights in Selma, Alabama on the Edmund Pettus Bridge in 1965, our current debates about voting rights presents Americans with a stark choice between these two competing visions about what America means. I doubt Eric Holder listens to ***The American Tapestry Project***, but he succinctly summarizes its challenge. Americans can choose to continue down the *inclusive* story's path, he says, to "an America defined by pluralism, where everyone's voice is heard, where everyone's vote is counted, and everyone's interests are represented." [9] Or, America can choose the path that leads to an America "where the political and racial apartheid we had worked so hard to overcome in 1965 would reemerge; where suppression would once again rear its

ugly head and lock millions out of the polls; where a minority party that doesn't represent the interests or desires of the people would hold on to power by rigging the system in its favor." [10]

Voting rights and the renewed struggle to maintain the rights so arduously earned a half-century ago is all about choosing which of those two *Americas* America will be. That question is sometimes framed as yet another question: Is America a democracy or not? Some, seeking to thwart the will of the people, argue that it is a republic; others seek a pure democracy in which by plebiscite and referendum the people directly decide the issues of the day. In our public opinion poll driven politics, we've come perilously close to the latter. No, recalling James Madison, Benjamin Franklin, and the art of compromise, America is a democratic republic in which the people's democratically, freely chosen representatives decide the issues of the day. The key words in that sentence are "democratically, freely chosen." The ability to choose implies that one is free and that one exercises one's freedom "democratically." Because since at least the 5th century BCE in Greece democracy, it literally means rule by the people – or, in Abraham Lincoln's famous phrasing, "a government of, by, and for the people."

So, democracy means rule by the people.

How do the people rule?

The people rule by voting.

In his *Our Unfinished March*, Holder takes us on a tour of the history of American voting, the current voter suppression efforts attempting to roll back the voting rights gained after passage of the 1965 Voting Rights Act, and what can be done to protect those rights.

A mere **Book Note** can't do justice to the history of American voting and its role in a democratic republic. A literal library has been written telling that story, but a good place to start is Alexander Keysar's *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2009). For a quick survey of the many different ways Americans have voted from voice vote to putting up one's hand to "standing up and being counted" to the ballot to the secret ballot to voting machines, see Jill Lepore's "Rock, Paper, Scissors" in *The New Yorker* (October 6, 2008) at [How We Used to Vote | The New Yorker](#). In his "American Democracy Was Never Designed to be Democratic," Louis Menand takes you on a very readable, short history of the question is America a democracy, a republic, a democratic republic or something else. It can be found at [American Democracy Was Never Designed to Be Democratic | The New Yorker](#).

The history of voting in America is the history of the ever-expanding definition of the “We” in our founding documents. It is the essence of the *inclusive* story. The Naturalization Act of 1790 limited citizenship to free white people (note not all white people – it excluded indentured servants and most recent immigrants, of which there were only a few) and restricted voting to free, white, property owning males. The property qualifications varied among the states. Black Americans, all women, and Native Americans were excluded from the right to vote.

Almost immediately, responding to workers and others who had fought in the American Revolution, some states began to see the contradiction in denying the vote to all males. By the Jacksonian Revolution in 1828 most property qualifications had been dropped and the right to vote extended to almost all white men. Women were still explicitly excluded. After the Civil War, the 15th Amendment granted Black males (but not women) the right to vote. It was almost immediately negated by the rise of the Myth of the Lost Cause, the Redemption, the Ku Klux Klan, and Jim Crow laws in the South restricting Black Americans from political participation.

Beginning with the Seneca Falls Convention in 1848, led by Elizabeth Cady Stanton and Lucretia Mott, then throughout the 19th century by Susan B. Anthony, Lucy Stone, and others, and culminating in the heroic efforts of Alice Paul, Ida B. Wells, and others in the early 20th century, women were finally granted the right to vote on August 26, 1920, with the adoption of the 19th amendment to the U.S. Constitution. The great civil rights movement of mid-20th century America finally re-enfranchised Black Americans with the passage of the Voting Rights Act of 1965. The 26th Amendment passed in 1971 extended the right to vote to all Americans 18 years old or older. 1984’s Voting Accessibility for the Elderly and Handicapped Act “expanded access to polling places for Americans with disabilities.” [11]

So, by the early-1970s almost all Americans possessed the right to vote.

While the overall trajectory of that story’s arc has been to expand *inclusiveness* by expanding the right to vote, it has not always moved directly forward. At times it has been stalled; at others it has been reversed; but until very recently the trajectory has been toward a more *inclusive* America. That is until 2013 and the Supreme Court’s narrow 5-4 decision in *Shelby County v. Holder* reversing the preclearance clause of the Voting Rights Act of 1965. The preclearance clause required any state with a documented history of racially discriminatory voting regulations to obtain federal “preclearance” before changing their voting laws and regulations. Writing for the majority, Chief Justice John Roberts, in a dazzlingly disingenuous performance, argued that since the 1965 Act had essentially eliminated unconstitutional practices it was no longer necessary. The court

declared that the formula used to determine discriminatory practices, therefore, was unconstitutional.

In her dissent, Justice Ruth Bader Ginsburg wrote, “Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.” [12] As Holder, who, yes, is the Holder in *Shelby County v. Holder* points out Ginsberg was almost immediately vindicated. On the same day as the case was decided, “Texas moved forward with a law whose photo ID standards restricted the state’s poorest residents from accessing the ballot.” [13] Other states soon followed suit closing more than 1,700 polling places, purging voters from the rolls, changing registration requirements, and closing both registration and election offices.

Why is this happening? Why, in the third decade of the 21st century after more than 50 years of comparatively open access to the “elective franchise,” are Americans again in multiple states, including Pennsylvania, confronted with voter suppression movements? The answer to that question has two parts. One, historically, is that the right to vote in America has always been contested ground. Ask any member of the League of Women Voters. The flashpoint, however, was the 2008 election of the first African American president in American history. It proved and continues to prove that the election of Barack Obama to the American presidency did not signal the arrival of a post-racial America. No, it signaled to some the need to martial the forces in support of disenfranchising Black, poor, and otherwise “suspect” Americans from their right to vote. As a result, hey, presto, the rise of the Tea Party, voter suppression movements, and the reignition of the culture wars pitting the *inclusive* and *exclusive* American stories in competition for America’s future.

Why voter suppression? It’s simple. For any given politico espousing the *exclusionary* American story, it’s job protection. More generally, it’s to reduce and/or eliminate *inclusionary* Americans from voting and ensure, or at the minimum, greatly increase the probability that the *exclusionary*, white, Christian, patriarchal, ethno-nationalist story will prevail. Or, if not prevail, will still possess the levers of governmental power controlling what America will be and how Americans will behave.

What have those voter suppression tactics looked like? As Holder documents in great detail, they come in two buckets: 1) laws and regulations designed to reduce the number of voters, in particular minority voters, and 2) laws designed to ensure that elections elect the “right” people, i.e. gerrymandering. Regarding laws and regulations designed to suppress voting, a partial list includes requiring a driver’s license to vote (problem: not everyone drives or has a license); requiring a photo ID to vote (problem: since most photo IDs are driver’s licenses, see above). If

states are going to require photo IDs to vote, then they should provide them for free and make getting them easy. If a local legislator in your area is promoting a voter ID law, ask if the ID will be provided free and made easily accessible. How the legislator answers will tell you if they believe in expanding American freedom or reserving it for a limited number.

Other voter suppression tactics include Texas banning the use of student ID cards for voting, reducing and/or eliminating early voting, partisan purges of voter registration rolls, limiting the time period for registering to vote, closing and/or moving registration and election offices, and housing voting sites at inconvenient locations. Regarding the latter, last summer at Chautauqua Institution during one of my Roads Scholars seminars, a woman from St. Petersburg, Florida told me of her surprise when she went to go to the election office to change her address and discovered it had been closed. She had to drive across Tampa Bay to re-register. For the record, she was a white woman, who told me she has always voted Republican, but her experience opened her eyes to the reality of voter suppression for many poor people in St. Petersburg who are disproportionately people of color and could not easily make that trip.

Still other voter suppression tactics include disqualifying provisional ballots, reducing and/or eliminating voting by mail, reducing the number of vote-by-mail drop boxes (as Texas did, allowing only one per county, which in Harris County, site of Houston, creates a large problem), reducing who can deliver mail-in and absentee ballots on behalf of a voter, and outlawing giving water to folks waiting in line to vote, as Georgia did. Which sounds silly, until you realize with fewer polling places that lines and waits will be longer. And, last but certainly not least, the ultimate demagogic tactic unleashed by former President Trump, in the absence of any supporting evidence, was an attack upon the integrity of the election process itself.

Briefly, gerrymandering goes back to the earliest days of the republic and Elbridge Gerry of Massachusetts. Gerry invented the tactic of drawing electoral maps to get the results the party in power wanted. One map he drew resembled a salamander; hence, the neologism “gerrymander.” Gerrymandering achieves its goal by either packing or cracking districts. Packing a district means drawing lines so that one’s party’s supporters represent an ensured majority. On a more sophisticated level, it can mean packing all of the opposing party’s supporters in a super-district ensuring their victory there, but leaving surrounding districts tilted to your own party. Cracking means literally what it says, cracking a district into two or more parts. Erie County was “cracked” by Republicans during the 2010 redrawing of congressional maps. As a result, for years Erie County had two congressional representatives and the power base of U.S. Rep. Mike Kelly’s multi-county district shifted from Erie to Butler, where it remains.

What's to be done? According to Holder, three things – two tactical and the other strategic. At the tactical level, it means making it easier to vote and fixing our institutions to be more democratic, in particular the anti-democratic Electoral College, the gerrymandered House of Representatives, and the Supreme Court.

Making it easier to vote includes **Automatic Voter Registration**. How? Register every American to vote when they turn 18. How? Males still have to register for the draft, so the precedent is set. Every time a person interacts with the government, their data would be updated and they would be added to their home county's voter rolls. Updating the information every time a person interacted with the government would also make the voter registration records more accurate. [14] This should be coupled with **Same-Day-Registration**, i.e. all you have to do is show up at the polls with proof you live in the district and sign up to vote on the spot. In addition, 16- and 17-year-olds ought to be allowed to pre-register so that when they are 18, they can vote immediately.

Lastly, the entire system ought to be brought online. Some will howl that online registration and voting opens the door to cheating, but many (most?) people bank online, manage their investments online, shop online, and do myriad other data-sensitive activities online. Yes, there are hazards, but banks and other institutions have demonstrated that online activity can be made secure. If not bringing the electoral process online, then in-person voting should be made easier by opening more polling locations so that voters do not have to travel long distances to exercise their right to vote. If you think this is not a problem, I refer you back to the woman I met at Chautauqua last summer. And, if we're going to insist on voting in-person, in addition to making it convenient with more locations, we should, as the Australians do, make **Election Day a national holiday**. I'd go a step further than Holder and move it to Saturday. Or, better, make it a three-day weekend with electioneering on Saturday and Sunday and voting on Monday – another three-day weekend engaging in that most patriotic of activities – politics and voting!

Although far too complex for a short summary at the end of an already lengthy **Book Note**, Holder's vision for fixing our institutions involves eliminating the filibuster in the Senate, adopting the National Popular Vote Interstate Compact (NVPIIC) in which each state would agree that its electors to the Electoral College would vote for the candidate who received the most votes across the country. In short, it would transform the Electoral College into a vehicle for a national presidential election. It would also eliminate some future president from attempting another coup by subverting the Electoral College process. It would also require candidates to campaign nationally and not just in so-called "key battleground states." [15] Holder's recommendation for the Supreme Court is term limits of 18 years for each justice, ensuring that every president would get to nominate two Supreme Court justices. As a result, Supreme Court justices would

no longer have lifetime sinecures and the ability to time their retirements to fit the politics of the moment. [16]

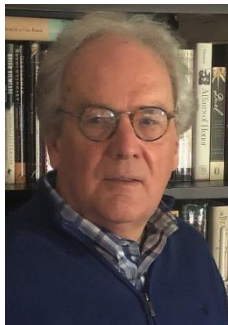
What is Holder's strategy to make all of this happen? Well, he doesn't get into the messy details, but he brings his book to an end with an exhortation to those who believe in the *inclusive* American story to remember that the arc of American history, twisted as it sometimes gets, nonetheless bends towards justice and a more and more *inclusive* meaning to the "We" in America's founding documents.

But it doesn't get there on its own. It requires courage, dedication, and hard work on the part of its adherents. It means to remember, to borrow a cliché from New Hampshire's license plates – "Live Free or Die" – and another from any of many patriotic gatherings – "freedom isn't free"! Hopefully, it won't cost you your life, like it did Medgar Evers, Andrew Goodman, James Chaney, and Michael Schwerner; hopefully, you won't have to stand outside the White House for more than a year or suffer forced-feeding and imprisonment like Alice Paul and other suffragists; hopefully, it will only cost you some time and effort – the time to work with local groups seeking a more just America by working to protect voting rights for all Americans and the effort to get up and, as the Nike ad exhorts, "Just do it" and make your voice heard.

So, just do it – work for a better America by working to protect the voting rights of all Americans!

But, most importantly, vote!

*For those interested in learning more about former Attorney General Eric Holder's **Our Finished March**, on April 4, 2023 from noon to 1 p.m., the University of Pittsburgh's Cyber Security Institute's founding director David Hickton will sit with him to discuss his book. For more information, please see [Protecting Democracy and Securing Our Elections: A Series | Pitt Cyber | University of Pittsburgh](#).*



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End Notes

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9. Ibid., p. 12.
10. Ibid., pp. 12-13.
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