

New Challenges To The Civil Rights and Voting Right Bills  
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The Supreme Court decision in Shelby County vs. Holder and it's impact on the momentous victories for Civil Rights during the past 50 years, unless reversed or amended by statute, presents us with THE most urgent 21<sup>st</sup> challenge to Civil Rights. The Shelby case is reminiscent of those decisions of the Supreme Court in in 1883 that overturned the Civil Rights Act of 1875. The 1875 Act was intended to legislate the end of slavery following our Civil War and to empower emancipated freedmen with all of the rights and privileges enjoyed by free people. Thus, the Court's decision in United States vs. Stanley, Ryan, Nichols, Singleton, et al, in 1883, gutted and nullified the core principles of the 13<sup>th</sup>, and 14<sup>th</sup> Amendment.

The Court held that “ *The 1st and 2d sections of the Civil Rights Act passed March 1st, 1875, are unconstitutional enactments*”

*as applied to the several States, not being authorized either by the XIIIth or XIVth Amendments of the Constitution.”*

Supreme Court Justice John Harlan in his dissenting opinion, among other things, said:

*“ If the constitutional amendments be enforced according to the intent with which, as I conceive, they were adopted, there cannot be, in this republic, any class of human beings in practical subjection to another class, with power in the latter to dole out to the former just such privileges as they may choose to grant. The supreme law of the land has decreed that no authority shall be exercised in this country upon the basis of discrimination, in respect of civil rights, against freemen and citizens because of their race, color or previous condition of servitude. To that decree--for the due enforcement of which, by appropriate legislation, Congress has been invested with express power--every one must bow, whatever may have been, or whatever now are, his individual views as to the wisdom or policy, either of the recent changes in the fundamental law, or of the legislation which has been enacted to give them effect.”*

Supreme Court Justice Sotomayor’s dissenting opinion in the Shelby case is today’s equivalent to Justice Harlan earlier historic dissent.

Justice Sotomayor wrote:

*“Contrary to today’s decision, protecting the right to meaningful participation in the political process must mean more than simply removing barriers to participation. It must mean vigilantly policing the political process to ensure that the majority does not use other methods to prevent minority groups from partaking in that process on equal footing. Why? For the same reason we guard the right of every citizen to vote. If “[e]fforts to reduce the impact of minority votes, in contrast to direct attempts to block access to the ballot,” were “second generation barriers” to minority voting,*

*Shelby County v. Holder*, 570 U. S. \_\_\_, \_\_\_ (2013) (GINSBURG, J., dissenting) (slip op., at 5), efforts to reconfigure the political process in ways that uniquely disadvantage minority groups who have already long been disadvantaged are third-generation barriers. Race matters.

Race matters in part because of the long history of racial minorities' are being denied access to the political process. See Part I, *supra*; see also *South Carolina v. Katzenbach*, 383 U. S. 301, 309 (1966) (describing racial discrimination

in voting as “an insidious and pervasive evil, which had been perpetuated in certain parts of our country through unremitting and ingenious defiance of the Constitution”). And although we have made great strides, “voting discrimination still exists; no one doubts that.” *Shelby County*, 570 U. S., at \_\_\_ (slip op., at 2). Race also matters because of persistent racial inequality in society—inequality that cannot be ignored and that has produced stark socioeconomic disparities. See *Gratz*, 539 U. S., at 298–300 (GINSBURG, J., dissenting) (cataloging the many ways in which “the effects of centuries of law sanctioned inequality remain painfully evident in our communities and schools,” in areas like employment, poverty, access to health care, housing, consumer transactions, and education); *Adarand*, 515 U. S., at 273 (GINSBURG, J., dissenting) (recognizing that the “lingering effects” of discrimination, “reflective of a system of racial caste only recently ended, are evident in our workplaces, markets, and neighborhoods”).

And race matters for reasons that really are only skin deep, that cannot be discussed any other way, and that cannot be wished away. Race matters to a young man's view of society when he spends his teenage years watching where he grew up. Race matters to a young woman's sense of self when she states her hometown, and then is pressed, “No, where are you really from?” regardless of how many generations her family has been in the country. Race matters to a young person addressed by a stranger in a foreign language, which he does not understand because only English was spoken at home. Race matters because of the slights, the snickers, the silent judgments that reinforce that most crippling of thoughts: “I do not belong here.”

In my colleagues' view, examining the racial impact of legislation only perpetuates racial discrimination. This refusal to accept the stark reality that race matters is regrettable. The way to stop discrimination on the basis of race is to speak openly

*and candidly on the subject of race, and to apply the Constitution with eyes open to the unfortunate effects of centuries of racial discrimination. As members of the judiciary tasked with intervening to carry out the guarantee of equal protection, we ought not sit back and wish away, rather than confront, the racial inequality that exists in our society. It is this view that works harm, by perpetuating the facile notion that what makes race matter is acknowledging the simple truth that race does matter.*

*Winter Time soldiers” or “Lions and Lionesses” enabled the passage of the 1964 Civil Rights Act and the 1965 Voter Rights Acts. Today, THE new challenge to the blood, sweat, and tears of the struggle of hundred of thousands these *Winter Time Soldiers* and *Lions and Lionesses* is “voter suppression” This new assault on our civil and voting rights is conducted under the ruse and guile of “preventing voter fraud” and assuring “voter security”. As the Brennan Center for Justice says*

*“Ballot security” is an umbrella term for a variety of practices that are carried out by political operatives and private groups with the stated goal of preventing voter fraud. Far too often, however, ballot security initiatives have the effect of suppressing eligible votes, either inadvertently or through outright interference with voting rights.*

*“America is in the midst of a high-pitched and often highly partisan battle over voting rights. On one side are politicians passing laws and executive actions that would make it harder for many citizens to vote. This started after the 2010 midterm elections, when new state legislative majorities pushed a wave of laws cracking down on voting. On the other side are groups of voters and advocates pushing back — in the legislatures, at the ballot box, and especially in the courts. The Brennan Center is instrumental in leading this fight*

In 1954, the Supreme Court unanimously declared in its Brown vs. Board of Education decision that, racial segregation in our public schools was unconstitutional. Ten years later, prior to the passage of the 1964 Civil Rights Act, 75% of the public schools in the South remained racially segregated.

Dr. Martin Luther King, Jr., and others looked at this moral and legal existential fact. They said America doesn't seem to understand what its Negro citizens are saying. America doesn't understand our elementary expectations. They don't understand that our expectations are not very complicated. They can be summarized in three words: "*All, Here, and Now!*"

We want ALL of our rights, we want them HERE, and we want them NOW!!!

So, here we are today, after the Shelby\_case and multiple efforts to restrict or suppress our right to vote, and we find, again our nation and Congress doesn't understand our current fierce

urgency of now: We want our ALL of our voting rights; we want them, Here, and we want them NOW!

Like you, I appreciate the efforts of the Justice Dept. and NGO organizations like the Brennan Center, to prevent or restore, by multiple ligations, the insidious voter suppression and restriction efforts now under way in several States.

But, you know that expression that “*you can’t teach and old dog new tricks*”. I am old dog, going on 84 years of age. So, I think we need to reapply some of the lessons we learned under the leadership of our beloved brother Martin Luther King, Jr. In each of the State capitals in the various States that have enacted or have voter suppression legislation pending, we need to assemble, in groups of 100,000 or more, in each State Capital. Once we have non-violently assembled around the respective State capitals we need then to serve notice that we will not

leave. Moreover, we need to make it plain and clear that no other legislative business will be conducted until the various State laws restricting our right to vote have been repealed or amended. If they arrest us, more persons will come and take our place.

Too many of us have been conditioned by sitting at our computers, laptops, I pads and IPHones twittering or text messaging or send emails and posting blogs on different websites. I am talking about reverting back to using that earlier 20th Century “technology” of people in the streets. Bodies around the State Capitols who had have the audacity to denigrate the majesty and personal sacrifices of those lions and lionesses who enabled the passage of the 1964 Civil Rights Bill and 1965 Voting Rights Act.

If not now, when?

If not us, who?

The Police in many urban communities where Blacks and Hispanics reside are out of control. They act as if they have a tacit community license to shoot and kill or apply other disproportionate deadly force to our brothers and sisters who are stopped while driving or walking

down a street, without or without a “hoodie” Young Africa-American men in these United States of America with an African-American President are an endangered species.

How many more Fergersons and Trayvon Martins need occur before we say to the police across America :“*Our cup of endurance, runneth over.*” We will not stand idly by and let you kill our children, at will.

No, we are not going to get a gun to retaliate against you. We are going mobilize, block by block, neighborhood by neighborhood, County by County and State by State. We [are] going direct[ly] against something more powerful than a one or more gun shots.

We are to acquire the political power to dismiss and fire you.

Do you hear our Lord calling us? “*I heard the voice of the Lord, saying, "Whom shall I send, and who will go for Us?" Then I said, "Here am I. Send me!"*”

La Lutta Continua!!! ©

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