

REVIVING THE POLL TAX: VOTER ID AND DEBT LAWS

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“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.”¹ As Chief Justice Warren wrote, one of the most critical ways that individuals can influence governmental decision-making is through voting. Indeed, the right to vote allows citizens to express their will. It provides electoral accountability, via the prism of popular sovereignty, the core of a democratic republic. Yet in the United States, disenfranchisement is deeply rooted in history as a form of punishment—a dual penalty. In the late nineteenth century, the poll tax first emerged to restrict voting and limit the expansion of suffrage to Black men. Primarily aimed at minorities, these laws on disenfranchisement became a significant barrier to U.S. ballot boxes. Even though the poll tax was finally outlawed in federal elections in 1964, nowadays it takes another subtle form through the prism of voter identification laws.

The National Conference of State Legislatures has reported that 35 states currently have voter ID laws, with varying criteria and accepted forms of documentation, thus requesting or requiring voters to show some form of identification at the polls.² These new restrictions disproportionately affect minorities and perpetuate discriminatory practices in voting. The objective of this article is to demonstrate how over the last decades with the advent of neoliberalism many disenfranchisement tax laws have been passed coinciding with the expansion of the penal state reinforcing discrimination and perpetuating inequalities pushing aside the gains of the precedent era regarding the shift to equality in voting right.

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1. *Reynolds v. Sims*, 377 U.S. 533 (1964).

2. National Conference of State Legislatures, *Voter Identification Requirements: Voter ID Laws* (July 7, 2021), at <https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

This issue is fundamental even though the states have appropriated this perimeter and this prerogative, as the inequality generated at the level of federal representation, in Congress or even during the presidential election, has weakened an equal basis for the treatment of the vote. This article begins with a brief history of poll taxes and then analyzes how modern voter identification laws represent a system to block people from participation in the electorate, increasing racial inequalities and discrimination through the form of what is essentially a new poll tax. The third part of the article discusses the new Florida law conditioning eligibility on the repayment of debts and racial disparities correlated to this new poll tax.

I. BARRIERS TO THE BALLOT BOX: FROM THE POLL TAX TO THE ID LAW

A class-free suffrage was intended in the original U.S. Constitution, but the constitutional interpretation and historical evolution of society did not follow this path. The poll tax was first introduced as a way to expand the electorate, yet it soon proved to be a tool to suppress African-American voters. New contemporary developments have opened the door to its revival.

A. *Expanding the Electorate*

In 1788, James Madison expressed his support for this objective of expanding the electorate in *The Federalist Paper Number 57*:

Who are to be the electors of the federal representatives? Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States. They are to be the same who exercise the right in every State of electing the corresponding branch of the legislature of the State of the people of the United States.³

But the situation differed as the Constitution neither included a clear reference to the right to vote nor listed the qualifications of voters, all these elements being principally left to state discretion, leaving this perimeter to the states' sovereignty and their sole appreciation which has created racial disparities. As Justice Thurgood Marshall noted:

3. THE FEDERALIST No. 57, at 296 (James Madison) (1788).

Nor do I find the wisdom, foresight, and sense of justice exhibited by the Framers particularly profound. To the contrary, the government they devised was defective from the start, requiring several amendments, a civil war, and momentous social transformation to attain the system of constitutional government . . . we hold as fundamental today. . . . For a sense of the evolving nature of the Constitution we need look no further than the first three words of the document's preamble: "We the People."⁴

The view that the poll tax is antithetical to American democracy was not that certain historically. It is more the result of the society's evolution and discriminatory practices that make the topic today far from neutral, as it is correlated to a political exclusion on the ground of race.

Initially, many states limited the right to vote to property owners because they wanted a sufficiently interested electorate. Indeed, they believed that property owners were the most interested as they were actively invested in the welfare of the community and thus had the most stake in the electoral outcome.⁵ Establishing property qualifications for voting divided the society into two groups, what French philosopher Emmanuel Sieyès called a distinction between "active" (those eligible to vote) and "passive" citizens.⁶ Voting is considered as a function and not as a right of the citizen. Thus, only individuals perceived as having intellectual or economic capacities can exercise it as an activity. In some states, not exclusively but especially in the South, White men were increasingly accumulating wealth, even though it was not in terms of real property, and demanding the vote.⁷

The shift was therefore towards a substitution of the property qualification in favor of a small tax. Poll tax (also called a "head tax") has been thus connected to voting rights.⁸ By the mid-nineteenth century, nearly every state had abandoned property requirements⁹ as limitations on

4. Justice Thurgood Marshall, *Remarks at the Annual Seminar of the San Francisco Patent and Trademark Law Association* (May 6, 1987), available at <http://thurgoodmarshall.com/the-bicentennial-speech/>.

5. Atiba R. Ellis, *The Cost of the Vote*, 86 DENV. L. REV. 1023, 1036 (2009).

6. See EMMANUEL JOSEPH SIEYÈS: THE ESSENTIAL POLITICAL WRITINGS (Oliver Lembecke & Florian Weber eds. 2014); Christine Fauré, *Representative Government or Republic? Sieyès on Good Government*, in THE ASHGATE RESEARCH COMPANION TO THE POLITICS OF DEMOCRATIZATION IN EUROPE: CONCEPTS AND HISTORIES (2008).

7. Ellis, *supra* note 5, at 1036.

8. *Id.*

9. BRIAN L. FIFE, REFORMING THE ELECTORAL PROCESS IN AMERICA: TOWARD MORE DEMOCRACY IN THE 21ST CENTURY 19 (2010).

9. ALEXANDER KEYSSAR, THE RIGHT TO VOTE: THE CONTESTED HISTORY OF DEMOCRACY IN THE UNITED STATES 25 (2000).

the franchise in their efforts to extend the right to vote to all free White men. After the ending of post-Civil War Reconstruction, a repurposed poll tax was adopted in some southern states in an attempt to undermine the Fifteenth Amendment which had eliminated racial barriers to voting, in order to disenfranchise African Americans.

In the meantime the Supreme Court established social citizenship and political citizenship by separating citizenship from the right to vote as it ruled in *United States v. Cruikshank* that “the right of suffrage is not a necessary attribute of national citizenship.”¹⁰ As David Schultz and Sarah Clark note, the “post-Civil War poll tax was re-established deliberately with the expressed purpose of restricting the electorate” by disenfranchising Black people and poor Whites¹¹ and to mitigate what was viewed as “the danger of the rule of Negroes and the lower classes of whites.”¹² It was an apparent and visible posture which was largely disseminated as illustrated in an editorial in the *Tuscaloosa News* which declared: “This newspaper believes in white supremacy, and it believes that the poll tax is one of the essentials for the preservation of white supremacy.”¹³

B. Poll Tax as a Political Tool

Georgia initiated the poll tax in 1871, and made it cumulative for back taxes owed in 1877. Every former confederate state followed its lead by 1904. In Virginia, the State Constitutional Convention of 1901 gathered with the purpose of disfranchising as many African-American voters as possible by reinstating the poll tax as a prerequisite for voter registration. Article II of the Constitution of 1902 included a requirement that any person who applied to register to vote in or after 1904 must present proof that they had paid a poll tax of \$1.50 for each of the three years preceding an election. In Alabama, Article VIII, section 178 of the Constitution of 1901, deployed a cumulative poll tax which required men to pay all that was due from the age of twenty-one. No state brought prosecutions against any individual for failure to pay the tax, but proof of payment of a poll tax was a prerequisite to voter registration in many states all across the country.

10. 92 U.S. 542, 555 (1876).

11. David Schultz & Sarah Clark, *Wealth v. Democracy: The Unfulfilled Promise of the Twenty-Fourth Amendment*, 29 QUINNIPIAC L. REV. 375, 388 (2011).

12. SAMUEL ISSACHAROFF, ET AL., *THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS* 75 (2016).

13. CONG. REC. App., Apr. 8, 1940 (remarks of Geyer in House of Representatives).

In 1937, in the case *Breedlove v. Suttles*,¹⁴ a unanimous opinion delivered by Justice Butler, the Court upheld the Georgia poll tax statute. The Supreme Court in its rationale affirmed that voting rights are conferred by the states and that the states may determine the conditions of voter eligibility that do not conflict with the Equal Protection Clause of the Fourteenth Amendment nor the Fifteenth Amendment (respecting race) nor the Nineteenth Amendment (respecting sex). The Court ruled that “payment of the Georgia poll tax as a prerequisite to voting is not required for the purpose of denying or abridging the privilege of voting”¹⁵ and the “exaction of payment of poll taxes before registration as an aid to collection is a use of the State’s power consistent with the Federal Constitution.”¹⁶

In theory, the poll tax laws were written without racial connotation, race neutral; but in practice, they had a disproportionate effect with a racial intent. Following *Breedlove v. Suttles*,¹⁷ poll taxes would remain in place in some states until their abolition with the passing by Congress of the Twenty-Fourth Amendment in 1962 which was ratified in 1964. It guarantees that the right to vote in federal elections will not be denied for failure to pay any tax. It reads as follows:

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.¹⁸

Congress enacted the Voting Rights Act (VRA) in 1965 to enforce the Fifteenth Amendment of the Constitution of the United States prohibiting racial discrimination in voting and contains numerous provisions that regulate elections to prevent this.¹⁹

In 2004, Arizona initiated the trend in restrictive voting laws through Proposition 200, also known as the Arizona Taxpayer and Citizen Protection Act, which was approved by referendum.²⁰ It required

14. 302 U.S. 277 (1937).

15. *Id.* at 282.

16. *Id.* at 283.

17. *Id.*

18. U.S. CONST., amend. XV

19. 42 U.S.C. § 1973, now 52 U.S.C. § 10301.

20. 570 U.S. 1 (2013).

“evidence of United States citizenship be presented by every person to register to vote, that proof of identification be presented by every voter at the polling place prior to voting”²¹ The Supreme Court in 2013 in *Arizona v. Inter Tribal Council of Arizona, Inc.*²² struck down the parts of Proposition 200 related to the use of a federal registration form to vote, but allowed the state to retain its requirement related to voters’ identification at polling places before casting their ballots.

A 2005 Indiana law requires that a voter present ID at the precinct on Election Day, with absentee voters and residents of state-licensed nursing homes exempted. The law also exempts anyone unable to afford documentation to obtain a photo ID (typically a birth certificate) and authorizes a provisional ballot for those lacking the ID. In 2008 the U.S. Supreme Court in *Crawford v. Marion County Election Board*²³ found Indiana’s requirement to be constitutionally valid and a reasonable restriction by a vote of 6 to 3. The Court held that:

the state interests identified as justifications for the law were “both neutral and sufficiently strong to require us to reject petitioners’ facial attack on the statute” and that the application of the statute to the vast majority of Indiana voters was amply justified by the valid interest in protecting “the integrity and reliability of the electoral process.”²⁴

Following President Barack Obama’s victory in 2008 and his re-election in 2012, some states started to ramp up barriers to voting. Concomitantly the Supreme Court in 2013 paved the way for states’ legislative actions. Indeed, in *Shelby County v. Holder*,²⁵ the Court struck down one of the most important parts of the Voting Rights Act. Chief Justice John Roberts wrote the 5 to 4 majority opinion. Section 5 of the VRA, the mechanism for the special treatment for fighting local inequalities by requiring preclearance of voting plans based its existence on Section 4(b), which sets forth the formula the federal government uses to determine which states and counties are subject to continued oversight.

21. *2004 Arizona Ballot Propositions: Proposition 200 Arizona Taxpayer and Citizen Protection Act*, <https://web.archive.org/web/20130111164648/http://www.azsos.gov/election/2004/info/PubPamphlet/english/prop200.htm>

22. *Inter Tribal Council*, 570 U.S. at 1.

23. 553 U.S. 181 (2008).

24. *Id.*

25. 570 U.S. 529 (2013).

In *Shelby County*, the Court struck down Section 4(b) so that Section 5 cannot be enforced. The Court invalidated the formula which selects the states and political subdivisions covered by supervision on the ground that it is no longer relevant since it is outdated and unworkable. Section 5 had been a tool against discrimination in voting in the covered jurisdictions which could not implement new measures until a favorable federal determination has been obtained.

While the actual scope of voter fraud, particularly in-person voter fraud, is widely disputed, state voter identification laws have become increasingly prevalent. Former President Trump established the Presidential Advisory Commission on Election Integrity (PEIC or PACEI), also called the Voter Fraud Commission in May 2017 after he continued to insist millions of votes were cast illegally in the November 2016 presidential election he won with the electoral college while losing the popular vote to Hillary Clinton. It is an issue that resonates for his voters even though there is no evidence and the commission's inability to find it. The bipartisan commission was nevertheless led by Vice President Pence and Kansas Republican Secretary of State Kris Kobach. It operated from May 11, 2017 to January 3, 2018. In the meantime, laws resurrecting the poll tax through rigorous photo ID have speckled the nation.

II. MODERN VOTER ID LAWS: A NEW POLL TAX

Voter identification laws were first introduced in only a few states as a way to prevent voter fraud that involves someone impersonating a voter or casting a vote when they are ineligible. But their dissemination has been increasingly falling into two categories, strict identification laws and non-strict identification laws.

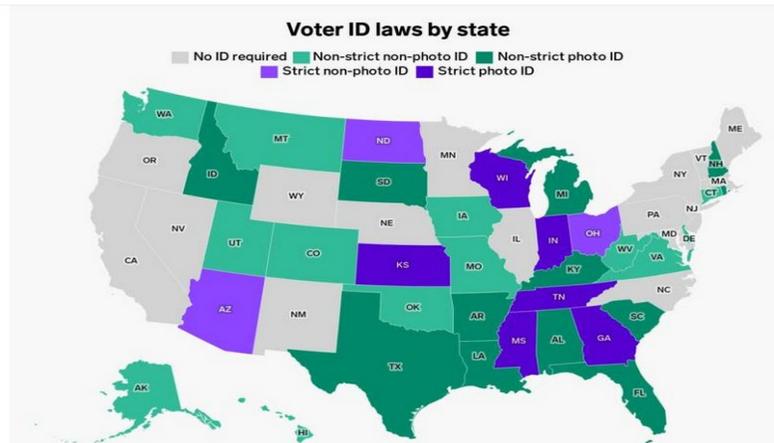
A. *Strict Identification Laws*

In 2020, 35 states required some form of voter identification in order to validate the vote.²⁶ Other states and DC verify voter identity through other non-documentary mechanisms like affidavit signature or biographical information. Among the different identification laws there are two main categories: states which require photo identification and those which accept one document ID without photo.²⁷ Using this categorization for laws that are in effect in 2020, 18 states ask for a photo

26. There were 35 laws in effect for the November 2020 election, and 36 in 2021 (North Carolina's law has a temporary injunction prohibiting it from going into effect). *Voter Identification Requirements*, *supra* note 2.

27. *Id.*

ID (driver's license, state-issued ID card, military ID card, or passport) and 17 states also accept non-photo IDs (birth certificate, Social Security card, bank statement, and utility bill).²⁸



Source: Ballotpedia; NCSL published in Business Insider, 02/11/2020

Several states apply strict photo identification laws as of early 2021:

In Georgia, the law indicates that when voting in person “each elector shall present proper identification to a poll worker at or prior to completion of a voter’s certificate at any polling place and prior to such person’s admission to the enclosed space at such polling place.”²⁹

In 2005, the Indiana state legislature passed a law which requires Indiana residents to “present a government-issued photo ID before casting a ballot at the polls on Election Day,” and defines “proof of identification.”³⁰

In 2011, Mississippi voters approved a citizen-initiated³¹ state constitutional amendment requiring voters to show photo ID at the polls effective in 2014. Initiative 27 was overwhelmingly approved in the

28. *Id.*

29. GA. CODE ANN. § 21-2-417.

30. IND. CODE ANN. § 3-5-2-40.5 (2018).

31. Initiative #27: Voter Identification, Miss Sec. State

<http://www.sos.ms.gov/elections/initiatives/InitiativeInfo.aspx?IID=27>.

November 8, 2011 general election with 538,656 votes, garnering approximately 62 percent of the vote.³²

Since 2012, registered voters in Tennessee must show government-issued photo identification in order to cast a ballot at the polls.³³ The law states “the voter shall present to the precinct registrar one (1) form of identification that bears the name and photograph of the voter.”³⁴

In Wisconsin, nearly all voters must present approved photo identification to cast a ballot.³⁵ The law states “each eligible elector, . . . shall state his or her full name and address and present to the officials proof of identification. The officials shall verify that the name on the proof of identification presented by the elector conforms to the name on the poll list or separate list and shall verify that any photograph appearing on that document reasonably resembles the elector.”³⁶

B. Less Strict Identification Laws

Other states apply less strict photo identification law:

Arkansas newly requires a photo ID for a provisional ballot and eliminates signature verification of provisional ballots.³⁷

In Alabama, in 2011, the legislature approved a law which stipulates that “each elector shall provide valid photo identification to an appropriate election official prior to voting.”³⁸

Florida’s voter ID requires photo identification.³⁹

Hawaii requires that “every person shall provide identification if so requested by a precinct official.”⁴⁰

Louisiana’s voter ID requirements provide “[e]ach applicant shall identify himself, in the presence and view of the bystanders, and present to the commissioners one of the following: (i) A Louisiana driver’s license, a Louisiana special identification card . . . or other generally

32. *Official Tabulation of Vote for Statewide Initiative Measure No. 27*, Miss. Sec. State, <http://www.sos.ms.gov/links/elections/results/statewide/Statewide%20Initiative%20Measure%2027%20-%20General%20Election%202011%20Results.pdf>.

33. TENN. CODE ANN. § 2-7-112.

34. *Id.*

35. WIS. STAT. ANN. 6.79(2)(a).

36. *Id.*

37. *See Voter Identification Requirements*, *supra* note 2.

38. ALA. CODE § 17-9-30.

39. FLA. STAT. ANN. § 101.043.

40. HAW. REV. STAT. § 11-136

recognized picture identification card that contains the name and signature of the applicant.”⁴¹

North Carolina’s voter identification laws had been blocked by federal and state judges, but in December 2020, a federal appellate court unanimously ruled to allow the latest photo ID law to move forward.⁴²

Rhode Island state law requires all voters to present valid photo identification prior to voting at the polls.⁴³

In South Dakota, voter ID requirements state that “[w]hen the voter is requesting a ballot, the voter shall present a valid form of personal identification. The personal identification that may be presented shall be either: (1) A South Dakota driver’s license or non driver identification card; (2) A passport or an identification card, including a picture, issued by an agency of the United States government; (3) A tribal identification card, including a picture; or (4) A current student identification card, including a picture, issued by a high school or an accredited institution of higher education, including a university, college, or technical school, located within the State of South Dakota.”⁴⁴

In Texas the law requires “voters who possess an acceptable form of photo identification for voting listed below to present that identification in order to vote in person in all Texas elections.”⁴⁵

III. THE FRANCHISE AND RACIAL DISPARITIES

ID laws generate important racial disparities similar to the political use of the poll tax with disproportionate effects on minorities by imposing a financial burden. This situation especially alienates African-American voters from politics, a situation which is reinforced in Florida where the rebirth of the poll tax through the prism of a new franchise for former convicts resonates as a discrimination tool of the past.

Studies show that a lack of official identification is particularly acute among the minority population, the poor, and the young, as confirmed by a recent survey.⁴⁶ It reveals that millions of American citizens do not have

41. LA. STAT. ANN § 18:562

42. North Carolina State Conf. of the NAACP v. Raymond, 981 F.3d 295 (4th Cir. 2020).

43. R.I. GEN. LAWS ANN. § 17-19-24.2.

44. S.D. Sess. Laws ch. 82 § 1 (2003); S.D. Sess. Laws ch. 108 § 3 (2004); S.D. Sess. Laws ch. 71 § 1 (2006).

45. TEX. ELECTION CODE ANN. § 62.016.

46. Stephen Ansolabehere. *Effects of Identification Requirements on Voting: Evidence from the Experiences of Voters on Election Day*, 42 POL. SCI. & POLITICS 127 (2009); Robert Pastor, Robert Santos, Alison Prevost & Vassia Stoilov, *Voting and ID Requirements: A Survey of Registered Voters in Three States*, 40 AMER. REV. PUBLIC ADMIN. 461 (2010); Matt Barreto, Stephen Nuno & Gabriel

readily available documentary proof of citizenship. According to the survey, African-American citizens also disproportionately lack photo identification. Thirteen percent of African-American voting-age citizens have no current government-issued photo ID, compared to five percent of White voting-age citizens.⁴⁷ Young and low-income people are also least likely to have photographic identification.⁴⁸

Table 1: Individuals with Confirmed ID by Ethnicity

	PERCENTAGE OF POPULATION	CONFIRMED ID	NO CONFIRMED ID
White	71%	95%	5%
Black	12%	87%	13%
Hispanic	11%	90%	10%
Other	6%	89%	11%
Don't Know	1%	49%	51%
Total	100%	93%	7%

A new study from researchers Zoltan Hajnal, Nazita Lajevardi, and Lindsay Nielson at the University of California, San Diego is one of the first to analyze certified votes across all states after the implementation of voter laws in multiple elections.⁴⁹ Their conclusion is that these laws have a disproportionate effect on minorities, given that members of racial and ethnic minorities are less apt to have valid photo ID. Thus, strict voter ID laws suppress minority votes.⁵⁰

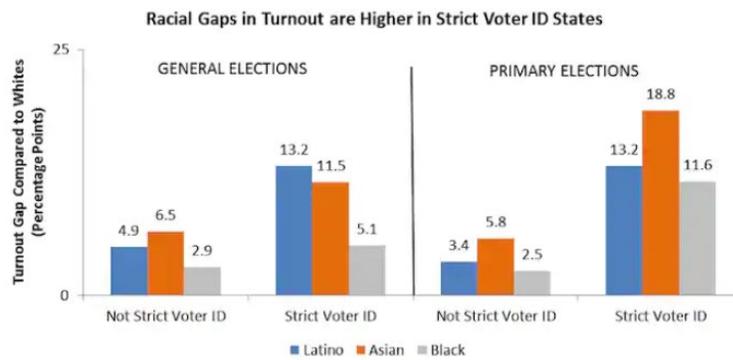
Sanchez, *The Disproportionate Impact of Indiana Voter ID Requirements on the Electorate: New Evidence from Indiana*, 42 POL. SCI. & POLITICS 111 (2009).

47. Vanessa M. Perez, *Americans With Photo ID: A Breakdown of Demographic Characteristics*, Project Vote <http://www.projectvote.org/wp-content/uploads/2015/06/AMERICANS-WITH-PHOTO-ID-Research-Memo-February-2015.pdf>

48. *Id.*

49. Zoltan Hajnal, Nazita Lajevardi & Lindsay Nielson, *Voter Identification Laws and the Suppression of Minority Votes*, 79 J. OF POLITICS 363 (2017).

50. *Id.*



Due to the fact that their turnout models incorporate increase of turnout among minorities thanks to Barack Obama’s candidacy, in their own terms it is plausible that the overall suppression effects of voter ID law might even be underestimated.⁵¹

The implementation of such measures by state legislatures is worrying in terms of access to the vote and the barriers they erect. In the eyes of American history, this erects a wall to block citizens who are essential to any representative democratic institution from voting. As former U.S Attorney General Eric Holder clarified, in a 2012 speech to the National Association for the Advancement of Colored People “many of those without IDs would have to travel great distances to get them and some would struggle to pay for the documents they might need to obtain them. We call those poll taxes.”⁵² An opinion also shared by U.S. District Judge Nelva Gonzales Ramos who struck down the Texas law, saying that “this feature remains discriminatory because [the law] perpetuates the selection of types of ID most likely to be possessed by Anglo voters and, disproportionately, not possessed by Hispanics and African-Americans.”⁵³

Starting administrative procedures is somewhat complex when a person is in a situation of financial or professional insecurity. This requires time, financial means in order to travel, the possibility and the

51. *Id.*

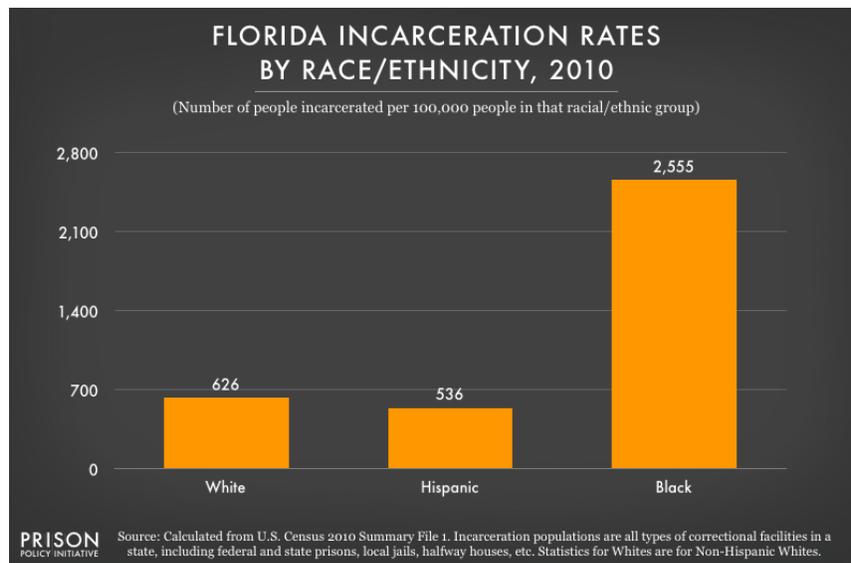
52. Attorney General Eric Holder Speaks at the NAACP Annual Convention, United States Justice Department, July 10, 2012, <https://www.justice.gov/opa/speech/attorney-general-eric-holder-speaks-naacp-annual-convention>.

53. Paul J. Weber, *Federal Judge Again Tosses Out Texas Voter ID Law*, LAS VEGAS SUN, Aug 23, 2017.

knowledge of the steps to be taken to do so. For example, obtaining a birth certificate is by no means easy, as on the one hand there is a financial cost and on the other hand, many elderly people, mainly African Americans in southern states due to past racial segregation, do not have one because they were not registered on the civil record. In addition, the last name could also have been misspelled during their existence. The obstacles are therefore considerable and remove them from the polling station in a discriminatory and disproportionate manner.

IV. THE NEW POLL TAX IN FLORIDA: REPAYMENT OF DEBTS

Racial disparities in incarceration remain extremely wide and are also implicated by a new poll tax.



In Florida, Black people constituted 17 percent of state residents, but 39 percent of people in jail and 47 percent of people in prison.⁵⁴ Most states in the United States allow former inmates and former inmates to vote after serving their sentence. But in Florida, convicted felons used to lose that right for life, even with suspended sentences. In Florida, a constitutional amendment called the “Voting Restoration Amendment” was proposed in 2018 and adopted by popular vote with a strong bipartisan and non-

54. *Incarceration Trends In Florida*, Vera Institute of Justice, <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-florida.pdf>.

partisan support. This was the greatest enlargement of the right to vote in the last decades.

In the 2018 midterm election, 64.5 percent of Florida voters cast ballots in support of Amendment 4 which restored “the voting rights to felons not convicted of murder or a sexual offense after completing their sentences, including parole or probation.”⁵⁵ But then contrary to the intent and the text of the referendum passed by voters, the state senate adopted a bill under Republican impetus, on the grounds that the text had to be clarified, and that clarification restricted the enlargement by conditioning the restoration of the right to vote to the total settlement of legal and financial obligations, in particular fines and court costs and other damages and interest related to the sentence. This Senate Bill 7066 included a note from the Secretary of State who described Amendment 4 as “a mistake” and stated that the governor “would not want to compound that mistake by bestowing blanket benefits on violent offenders.”⁵⁶

Amendment 4 to the Florida Constitution provides for the restoration of voting rights and termination of ineligibility subsequent to a felony conviction. It specifies:

(1) A person who has been disqualified from voting based on a felony conviction for an offense other than murder or a felony sexual offense must have such disqualification terminated and his or her voting rights restored . . . upon the completion of all terms of his or her sentence, including parole or probation. The voting disqualification does not terminate unless a person’s civil rights are restored pursuant to s. 8, Art. IV of the State Constitution if the disqualification arises from a felony conviction of murder or a felony sexual offense, or if the person has not completed all terms of sentence, as specified in subsection (2). * * *

(5)a. Full payment of restitution ordered to a victim by the court as a part of the sentence. A victim includes, but is not limited to, a person or persons, the estate or estates thereof, an entity, the state, or the Federal Government.

b. Full payment of fines or fees ordered by the court as a part of the sentence or that are ordered by the court as a condition of any form of supervision, including, but not limited to, probation, community control, or parole.

55. *Florida Amendment 4*, CNN, at <https://edition.cnn.com/election/2018/results/florida/ballot-measures/1>.

56. Letter from Governor Ron DeSantis to Secretary Laurel Lee, June 28, 2019, at <https://www.flgov.com/wp-content/uploads/2019/06/6.282.pdf>.

c. The financial obligations required . . . include only the amount specifically ordered by the court as part of the sentence and do not include any fines, fees, or costs that accrue after the date the obligation is ordered as a part of the sentence.

d. For the limited purpose of addressing a plea for relief . . . , a court may not be prohibited from modifying the financial obligations of an original sentence required. . . . Such modification shall not infringe on a defendant's or a victim's rights provided in the United States Constitution or the State Constitution.

e. Financial obligations required . . . are considered completed in the following manner or in any combination thereof:

(I) Actual payment of the obligation in full.

(II) Upon the payee's approval, either through appearance in open court or through the production of a notarized consent by the payee, the termination by the court of any financial obligation to a payee, including, but not limited to, a victim, or the court.

(III) Completion of all community service hours, if the court, unless otherwise prohibited by law or the State Constitution, converts the financial obligation to community service.

Former detainees can also seek the cancellation of their debt through the courts or commute it to community service. In any case, many of them cannot afford to pay these sums, which often run into the thousands of dollars or more. It is clearly a poll tax in the sense that the opening of the right to vote is conditional on the payment of a sum which on the one hand completely goes against popular sovereignty as stated by referendum vote.

V. CONCLUSION

The evolution of the franchise poll tax in the United States does not follow a linear thread drawn by an inevitable march of democracy resting only on an inclusive foundation. It is above all a political tool and a major weapon for perpetuating societal discrimination. The current constitutional evaluation of election regulations is inadequate. The 2021 legislative sessions have begun in all but six states, and state lawmakers have already introduced hundreds of bills aimed at election procedures and voter access—vastly exceeding the number of voting bills introduced by this time last year. In a backlash to historic voter turnout in the 2020 general election, and grounded in a rash of baseless and racist allegations of voter fraud and election irregularities, legislators have introduced three times the number of bills to restrict voting access as compared to this time

last year. Both lawmakers and judges use their own discretion in their respective drafting and evaluation of these laws what generates disparities. Concomitantly with the fact that many states have started to tighten voting restrictions through the prism of the discriminating mechanism inherited from the poll tax, putting it back on the agenda under a new name, such as ID law and debt payment as eligibility requirement, the Supreme Court and Congress are focusing on this issue. The Supreme Court in *Brnovich v. Democratic National Committee* upheld voting restrictions on provisional and absentee ballots, finding they were not motivated by racial discrimination.⁵⁷ At the same time, Congress introduced in March 2021 a new bill in its fight against discrimination in order to establish a uniformity of voting standards through the “For the People Act.” With the same perspective of putting an end to racial discrimination as exercised against minorities in the exercise of the right to vote, a pillar of any democratic and representative system which must be based on an egalitarian principle. The “John Lewis Voting Rights Advancement Act” project is in the same vein to reinstate section 5 of the Voting Rights Act. The United States is therefore currently at a crossroads and institutions uninitiated by the various branches, placing federalism at the heart of the issue and of divisions. Beyond institutional considerations, it goes without saying that a united and strong society must represent everyone and not exclude any citizen from the political debate. Through only one’s political vote it is possible to echo one’s voice both locally and nationwide.

57. 594 US __, 141 S.Ct. 2321 (July 1, 2021).