

**Legal Dodges and Subterfuges:
Measuring Impact of New Obstacles on Minority Voter Registration**

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ACADEMIC ABSTRACT

Nearly 350 years of politically sanctioned domination over Blacks ended with the passage of the Voting Rights Act (VRA) in 1965. The federal regulation of voter and election law sought to end retrogressions in representation by intentional or effectual laws. In the VRA's wake, race based politics and policy rooted in White supremacy were curtailed with the gradual representation of communities of color in all levels of government. *Shelby County v Holder* (2013) obstructed progress by effectively terminating preclearance of legal changes by the federal government. Since *Shelby*, retrogression of voter registration is once again on the rise. Remedies for retrogression require litigation and matriculation through the courts. This process is time consuming and allows states to conduct election law with minimal interruption until decisions are rendered.

Research predating the passage of the Voting Rights Act by Matthews and Prothro indicated that there was a significant correlation between growing minority populations and the severity of election and voter laws. This paper seeks to determine if growing minority populations, in part due to disproportionately large in-migration, correlates with declining voter registration rates. These voter registration rates are due to substantive legal changes and procedural enforcement changes. Retrogression in Black, White, and Latinx is shown in analyzing state voter registration data.

Using a time-series multivariate analysis to compare impact on Black, Latinx, and White communities across counties in North Carolina and Alabama, this paper determines that growing minority populations and in-migration do not have consistent statistical significance in explaining declining voter registration rates for Blacks and Latinx communities based on data from the US Census Bureau's American Community Survey and the Alabama and North Carolina Board of Elections. Periodic retrogression in voter registration for the Black community show statistically significant positive associations with increasing population sizes. The Black community experiences retrogression via statistically significant negative associations in national election years, and Black voter registration rates recover in off-year elections. Data indicates that there may be a decrease in representation of larger minority communities that Black communities are able to overcome.

There is a strong association between decreasing voter registration rates and larger Latinx communities while the opposite is true of Black communities. The Latinx community voter registration have statistically significant negative associations with increasing population sizes and during national election years, with recovering registration rates in off-year elections.

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GENERAL AUDIENCE ABSTRACT

Nearly 350 years of politically sanctioned domination over Blacks ended with the passage of the Voting Rights Act (VRA) in 1965. The federal regulation of voter and election law sought to end retrogressions in representation by intentional or effectual laws. In the VRA's wake, race based politics and policy rooted in White supremacy were curtailed with the gradual representation of communities of color in all levels of government. *Shelby County v Holder* (2013) obstructed progress by effectively terminating preclearance of legal changes by the federal government. Since *Shelby*, retrogression of voter registration is once again on the rise. Remedies for retrogression require litigation and matriculation through the courts. This process is time consuming and allows states to conduct election law with minimal interruption until decisions are rendered.

Research predating the passage of the Voting Rights Act by Matthews and Prothro indicated that there was a significant correlation between growing minority populations and the severity of election and voter laws. This paper seeks to determine if growing minority populations, in part due to disproportionately large in-migration, correlates with declining voter registration rates. These voter registration rates are due to substantive legal changes and procedural enforcement changes. Retrogression in Black, White, and Latinx is shown in analyzing state voter registration data. Findings determine that for Black, Latinx, and White communities across counties in North Carolina and Alabama, growing minority populations and in-migration do not have significance in explaining declining voter registration rates for Blacks based on data from the US Census Bureau's American Community Survey and the Alabama and North Carolina Board of Elections. However, voter registration rates decrease as Latinx communities increase in size while the opposite is true of Black communities. Retrogression in Black and Latinx voter registration during national election years and rebound in off-year elections.

Dedication

To Blake, Kyla, Ian, Kellen, Shirley, and Ralph - for making the space in your life for this dream of mine. Your support and continued love made this wild ride possible

To Dad - for inspiration all those years ago. Hoping to chat about the world around us again some day in the distant future.

To mom - for your unending belief that I can do this, even when I was sure I could not.

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List of Abbreviations

ACS: American Community Survey

ERIC: Electronic Registration Information Center

CrossCheck: Interstate Voter Registration Crosscheck program

NC v NAACP: North Carolina, et al. v. North Carolina State Conference of the NAACP (2016)

NVRA: National Voting Registration Act

RedMAP: Redistricting Majority Project

Shelby County: Shelby County v Holder (2013)

VEP: Voter Education Project

VIVA: Voter Information Verification Act

VRA: Voting Rights Act of 1965

Stylistic Notes

Ethnic and racial communities are referred to as White, Black, and Latinx throughout this paper. Black refers to African American and Black individuals who self-report as Black on federal and state documentation. Latinx encapsulates Hispanic and Latino/a communities as self-identified by respondents to federal and state documents. The White community is capitalized for continuity in presentation with other ethnic and racial communities.

Chapter I: Introduction

In 1956 W.E.B. Du Bois provocated Americans by declaring Democracy dead. He did not single out one region of the country over another, instead declaring “there is still nothing to replace real democracy. Drop the chains, then, that bind our brains... [and] when again we can hold a fair election on real issues, let's vote, and not till then. Is this impossible? Then democracy in America is impossible” (DuBois, 1956). Du Bois targeted the lack of representativeness that any election has when true interests of an entire community are sidelined or silenced, and deduced that the association between democracy and America was false until something changed. While Du Bois explicitly hovers momentarily over southern Black disenfranchisement in his 1956 piece in *The Nation*, the idea is stitched in. Black disenfranchisement was in the fabric of the America's south. White power invested in keeping patches of Black community isolated and without a representative voting populace. As the country's attention turned towards Black voting rights due to the sustained and courageous actions of the Black community and their allies, outcroppings of academic research sought to measure the impact of this disenfranchisement.

Some seven years earlier, V. O. Key characterized southern politics in a manner that is still relevant. In *Southern Politics in State and Nation*, Key observed, “[t]he character of the politics of individual [southern] states will vary roughly with the Negro proportion of the population.” These politics centered on the desire to maintain the supremacy of the elite White upper class through a series of “ingenious contrivances to inconvenience the would-be voter” (Key, 1949). The 20-year elite White counterinsurgency against Black suffrage started in Mississippi, South Carolina, and Louisiana. Focusing on attributes of Black lives after

Reconstruction, Mississippi targeted newly mobile populations via residency requirements, poverty via poll taxes, absence of education via literacy tests, the criminalization of Black lives via felony disqualifications.

By targeting these realities of post-antebellum Black life, Southern states like Alabama, Mississippi, Georgia, and North Carolina instituted an electorally supported form of neo-slavery. This neo-slavery was facilitated through the Fourteenth Amendment's exception to compulsive labor. Through the criminal code, predatory policing, and kangaroo courts, Blacks' debts to the criminal justice system were bought and sold legally, placing Blacks back in the fields to do compelled and far more deadly hard labor (Blackmon, 2008; Oshinsky, 1997). Surviving a federal investigation under the Roosevelt administration, convict leasing and debt peonage enriched White property holders and corporations by enabling booms in Southern industry. This was all viewed as perfectly legal up through the 1910s and maintained in part through the elimination of Black electoral threats to the ballot box. Martin Luther King Jr.'s impassioned call in 1957 for voting rights demonstrate the necessity of the vote to hold elected leaders accountable at the ballot box as representatives, as intended in the Constitution:

“Give us the ballot, and we will no longer plead to the federal government for passage of an anti-lynching law; we will by the power of our vote write the law on the statute books of the South and bring an end to the dastardly acts of the hooded perpetrators of violence... we will place judges on the benches of the South who will do justly and love mercy, and we will place at the head of the southern states governors who will, who have felt not only the tang of the human, but the glow of the Divine (King Jr., 2001).”

In short order, other former Confederate states followed suit. Low-class Whites found themselves in many of the same categories as targeted Blacks, and therefore Louisiana

introduced the grandfather clause to carve out exception for low-class White voters. Critically important White backcountry farmers kept the Black community from voting and to protect White hegemony in the South. Years later, Congressman Emanuel Celler called the fleet of legal mechanisms intended to suppress Black voters and create a single party race-based system “legal dodges and subterfuges” (May, 2013). Such contrivances, dodges, and subterfuges spread through the south between 1890 and the 1910s and stayed in place for the most part through the 1960s.

The Voting Rights Act (VRA) of 1965 was a revolutionary measure created to protect an individual’s right to vote regardless of race. Through the VRA, the federal government enforced the 15th Amendment and Article 1 §4 to end racial discrimination in state elections and state voting administration that perpetuated for 100 years in America’s southern states. Enforcement of the VRA grew Black and language minority voter participation rates. The desire to increase actual representation of Americans regardless of race resulted in six reenactments of the VRA, a dramatic increase in Black voter registration and participation in elections, and an increase in the number of elected Black politicians. Black voters were critical to the election of the first Black president in 2008, President Barack Obama. Yet the legislative side effects of this effort illuminated complexities sourced in actual representation. Integration of racial minorities into the voting population and party platforms is chief among these complexities, and evidence indicates such integration resulting in a wide-scale support for policy geared towards Black issues remains controversial.

Since Key’s seminal study on Southern politics, research shows increasing correlation between party identification and race. This indicates that the Republican party is undergoing a partisan bleaching undertaken by leadership and voters while minority voters flock to the

leadership and advocacy of the Democratic party (Valentino & Sears, 2005). The Southern Democratic coalition has shifted with party realignment between 1950 and today. During the 1950s, the Democratic party included a coalition that was 54% White male, 41% White female, and 5% Black. Blacks accounted for 36% of the Democratic vote in the 2010s, with the balance of the vote comprised of White women (30%), White men (25%), and Latinx (9%) (McKee S. , 2019). Additionally, issues do not have to be explicitly relating to race for race to play a factor the electorate's understanding of the issues (Adam & Scott, 2018). Racial cleavages between parties in Southern states was unmistakable in the 2008 and 2012 elections, where exit polls revealed that Southern Black voters chose Obama nearly 96% of the time while Southern White voters chose Obama only 27% of the time (Bullock III & Rozell, Blacks and Contemporary Southern Politics, 2016; McKee S. , 2019). In the 2018 midterms, Blacks overwhelmingly preferred Democratic candidates, with 90% of the Black population voting blue as indicated in Figure 1. Race strongly predicted party identification in 2008, and it is reasonable to assume that this correlation has increased in the eleven years since that election.

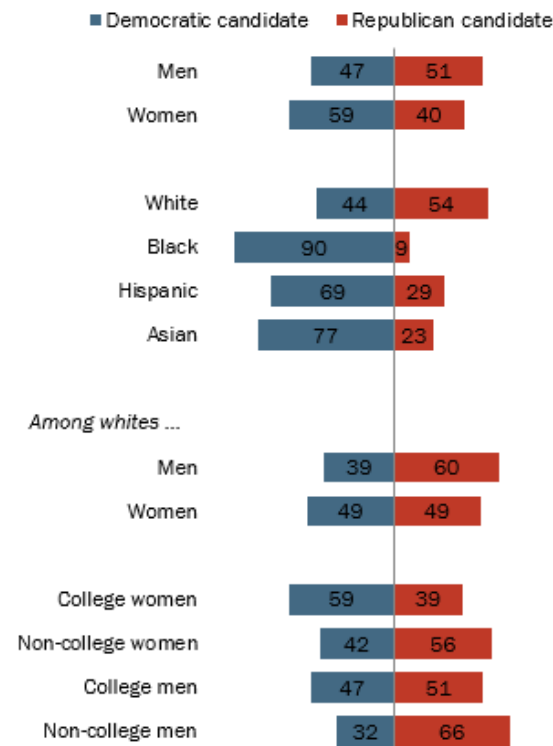
A symbiotic relationship between state legislatures, conservative thinkers, and special interest groups worked to discredit support for the VRA. Individuals like Edward Blum, Hans von Spakovsky, and Abigail Thernstrom worked through conservative special interest groups to influence federal and state bureaucratic agencies. Conservative influencers also sought relief through litigation to create strategies leading to the dismantling the VRA (Anderson, 2018) (Berman, 2015). Continued conservative litigation achieved success eventually. In 2013, the Roberts Court struck down key portions of the VRA because “the conditions that originally justified these measures no longer characterize voting in the covered jurisdictions” (*Shelby County v Holder*, 2013). The rebalancing of authority over voting rights in *Shelby County v*

Holder (Shelby County) eradicated the trigger formulas found in §4 and therefore neutered §5 of the Voting Rights Act in favor of a return to the idea of equal sovereignty as prescribed through

Figure 1 2018 Midterm Voting Preferences by Demographics

In 2018 vote, sizable gender, race and educational divides

% who say they voted for the ____ in the election for House of Representatives



Source: Based on exit polls conducted by Edison Research for the National Election Pool, as reported by CNN.

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Tyson, A. (2018, November 8). *The 2018 midterm vote: Divisions by race, gender, education*. Retrieved from Pew Research Fact Tank: <https://www.pewresearch.org/fact-tank/2018/11/08/the-2018-midterm-vote-divisions-by-race-gender-education/>

the Tenth Amendment. The Supreme Court cited Congress' failure to alter §4's triggers and bailout mechanisms for covered jurisdictions and states created in the 1960s as well as evidence that Blacks are no longer kept from voting.

By 2009, ‘the racial gap in voter registration and turnout [was] lower in the States originally covered by §5 than it [was] nationwide.’ Since that time, Census Bureau data indicate that African-American voter turnout has come to exceed White voter turnout in five of the six States originally covered by §5, with a gap in the sixth State of less than one half of one percent (*Shelby County v Holder*, 2013).

By successfully playing the 15th Amendment off the 10th Amendment, the time for federal intervention to proactively halt the “insidious and pervasive evil which had been perpetuated in certain parts of our country through unremitting and ingenious defiance of the Constitution” ended (*South Carolina v Katzenbach*, 1966). As a result, states passed a wave of changes to election practices without pre-emptive scrutiny from the federal government.

It is reasonable to believe that states no longer need the threat of preclearance to ensure an unencumbered right to vote for minorities in southern states. After all, voter registration rates, voting rates, and even the number of minorities in elected positions improved between 1965 and 2013. In some cases, Black rates surpassed that of their White counterparts (Bullock III & Rozell, *Blacks and Contemporary Southern Politics*, 2016). Research indicates states with stabilized minority populations are less likely to pass laws that erode the impact of Black interests (Hicks, McKee, Sellers, & Smith, 2015). However, the strong correlation of race and party identification presents cognitive dissonance for both parties: maintaining electoral laws that continue to promote minority voting rights in states with growing minority populations and representation make fair election and voting policy harder to achieve in the eyes of the opposing party, particularly since one party espouses the minority interest and the other does not (*North Carolina State Conference of the NAACP v McCrory*, 2016; McKee S. , 2019). So long as race continues to correlate heavily with party identity, Democrats will always benefit from federal

intervention while Republicans will lose representation for their White constituents. The reverse is true for an environment without an intact VRA. In states with Republican control, Democrats and minorities are often asked to choose an identity in the face of dwindling political power. Therefore, it is a mistake to believe disenfranchisement of minority communities is past tense; that we can memorialize valiant efforts of past civil rights leaders because America has moved beyond it.

There is evidence that states are reversing past efforts, that America is regressing into the environments described by W.E.B DuBois and Doctor Martin King, Jr. In the interval between *Shelby County v Holder* and 2018, the voter registration rates for minorities showed signs of slipping. Black nation-wide voter registration topped out at 69.7% of the Black voting age population in 2008 (U.S. Census Bureau, 2012). Ten years later, the US Census Bureau reported nation-wide Black voter registration rates for the voting age population down 5.8% at 63.9% (U.S. Census Bureau, 2019). This retrogression, once actively guarded against VRA, is concurrent with the passage of restrictive race-neutral laws no longer proactively reviewed by the Department of Justice. It is of critical importance to determine if this retrogression is due to *Shelby County*. If there is correlation, a second period of voting rights retrogression is upon the Black community.

A compounding issue is the lagging effects of racial segregation and the clustering of minority in isolatable geographic spaces that facilitate isolating yet race-neutral election policies. Total integration of racial minorities is burdensome; political negotiations for electoral law often play Democrats off minority communities. Specifically, Democrats find significant portions of their base benefitting from majority minority districts at the detriment to Democratic electoral power. Republican platforms in such states can continue to create distance between minority

interests and the Republican base's interests while winning elections as a result of politically advantageous election and voting laws (Daley, 2017; Anderson, 2018). It is expected that all parties in control will try to create a legal environment where the party will continue to win. These competing interests create a political quagmire, meaning the legal environment will run afoul of the Fifteenth Amendment once again as cleavages in the American population fault along race.

Echoing Reconstruction, the present correlation between race and party identification indicates that the present Republican party's competitiveness is once again threatened by Black voting blocks. The GOP's base prefers policy platforms that do not capture the interest of the Black community. Black voter preference for Democrats coupled with a Black population increasing faster relative to the White population in many areas of the South presents and impediment to continued electoral victory for Republicans (Vespa, Armstrong, & Medina, 2018). Democratic party identification for Blacks has hovered at 80% since the 1980s (McKee S. , 2019).

Party competitiveness depends upon who votes, and for Democrats the Black vote is critical. Conventional wisdom holds that easing voting policies benefits Democrats, although research on this wisdom offers a more nuanced view of which specific policies are more beneficial to which parties (Burden, Canon, Mayer, & Moynihan, 2017). In addition, evidence regarding restrictiveness of elections, specifically with Voter IDs correlates far more with competitive elections than with the Republican controlled states (Hicks, McKee, Sellers, & Smith, 2015). Echoing a variety of new and old contrivances that impede voting, Republican controlled state governments associate with altering voting and election laws to minimize the effect of the Black vote. As Republicans continue to appeal to a White voting electorate that

captures over 90% of the White Southern voting electorate, there is evidence that the Republican party's response bends electoral laws in competitive states to create a Republican hegemony reminiscent of the Democrat's Solid South single party rule. That hegemony is not farcical; Republican party strength achieved majority status in the South since 2000 (McKee S. , 2019). Evidence suggests that alterations in election and voter laws by southern states effect the impact that White and minority voters have on elections. Reporting by the Associated Press underscores the reality of these efforts. Recordings surfaced of Trump's senior political advisor advocating for stronger poll watching among other things, stating that "[t]raditionally, it's always been Republicans suppressing votes in places... Let's start protecting our voters... That's what you are going to see in 2020. It's going to be a much bigger program, a much more aggressive program, a much better funded program" (Bauer, 2019).

Recent elections in Florida, North Carolina, and Georgia show Republicans do not shift towards more inclusive party platforms to win elections. Republican officials alter the procedures and conditions under which voters vote. Florida's recent passage of a constitutional amendment reinstating the right to vote for felon suffrage has been circumvented by action in the Republican dominated legislature, where felons cannot regain suffrage without paying back court fees and fines (Mazzei, Felon Voting Legislative Obstacle, 2019). This contrived obstruction to a democratically determined state constitutional amendment could keep 1.5 million ex-felons from voting based on their socio-economic status (Mazzei, Florida Felon Voting Rights, 2019). Using felon status and socio-economic status to disenfranchise voters is a resurrected subterfuge from the Jim Crow era, reminiscent of poll taxes. This policy obstructs ex-felons from weighing in on issues related to for-profit prisons, the ability of the state to profit off civil asset forfeiture and seized property, removal from welfare benefits and housing stipends (Alexander, 2010). It is

worth mentioning that the 2017-18 prison population in Florida included 43,444 Black male prisoners or a disproportionate 45.1% of the prison population (Florida Department of Corrections, 2018).

Georgia's Republicans passed and enforced laws with a disproportionate effect on minority populations in keeping with trends throughout the south. Georgia's Republican Governor Brian Kemp won office in 2018 under the cloud of controversy by striking a disproportionate number of minority voters from the voter poll books in another throwback to Jim Crow (Reveal, 2018). Known to intimidate groups that register minorities to vote by threatening lawsuits, Kemp's actions removed 107,000 Georgians for failing to vote (Anderson, 2018; Caputo, Hing, & Kaufmann, 2018). VRA covered this action prior to *Shelby County*, as did the National Voting Registration Act (NVRA) of 1993's protection from disenfranchisement through poll book purging. Since 2013, 156 of Georgia's 159 counties report an uptick in voter poll purge rates (Timm, 2018). Kemp cited a race-neutral motivation behind his effort - to prevent voter fraud. Kemp won by less than 55,000 votes over Democratic candidate Stacey Abrams in the 2018 Georgia state gubernatorial contest, prompting accusations that Kemp was an "architect of voter suppression" who used procedural election policy to minimize minority voters and unfairly win an election for Georgia governor (Kreig, 2018). These actions are synonymous with the third generation of voter suppression tactics that effectually strip actual representation and voter rights from minority voters.

The tale of partisan rancor over voting rights in North Carolina is equally as sordid. North Carolina's voter registration rates for Blacks swelled by 51.1% between 2000 and 2012 compared to 15.8% for White voters in the same time period (North Carolina State Conference of the NAACP v McCrory, 2016). The voting rates of Blacks in North Carolina eclipsed White

voting rates in 2008 and 2012 (Blitzer, 2017). Since the Republican backed Redistricting Majority Project (RedMAP) delivered the State of North Carolina to Republicans in 2010 using partisan gerrymandering techniques, several rounds of redistricting have increased Republican seats via partisan and racial gerrymandering in both the state legislature and the House of Representatives. After *Shelby County*, a Republican controlled legislature passed the Voter Information Verification Act (VIVA) in 2013 that effectively limited Black turnout. The VIVA required voter IDs, reduced early voting, eliminated same-day registration, eliminated voter pre-registration for 16-year-olds, and eliminated out-of-precinct voting. The Court of Appeals for the Fourth Circuit struck down by *North Carolina, et al. v. North Carolina State Conference of the NAACP*, et al in July of 2016 as evidence indicated interests in the Republican legislature of 2013 aimed at curbing minority voter participation (Wines & Blinder, 2016). Indeed, voter turnout rates decreased by 6% points in the 2016 general election (Blitzer, 2017). Since *NC v NAACP*, components of the bill like Voter IDs and cutting early voting passed in 2018 over the veto of Democratic Governor Roy Moore. The Supreme Court dealt a deathblow to partisan gerrymandering challenges out of North Carolina by ruling the issue a political question, thus terminating any further litigation on the matter (*Rucho v Common Cause*, 2019). Justice Elena Kagan spells out the danger of a judicially unmanaged partisan gerrymander:

“The partisan gerrymanders in these cases deprived citizens of the most fundamental of their constitutional rights: the rights to participate equally in the political process, to join with others to advance political beliefs, and to choose their political representatives. In so doing, the partisan gerrymanders here debased and dishonored our democracy, turning upside-down the core American idea that all governmental power derives from the people” (*Rucho v Common Cause*, 2019).

Representation is incongruent with the consent of the people; the system of elections and voting intended to keep representatives mindful of their dependence on the people is shattered in favor of the elected selecting their constituents. This breach in trust is dangerous as it obscures Jefferson's epochal vision of a government "deriving their just powers from the Consent of the Governed." But selected constituency enables a government to exercise its power just shy of equitably. It seems that new and old subterfuges to limiting representation prevail.

Events in Florida, Georgia, and North Carolina are only some examples of an increase of actions in voter and election law that has had a disproportionate effect on voting rights for minorities. These actions exceed the geographical boundaries of the South. Nationwide, voter purges alone have removed 33% more voters between 2014 and 2016 than between 2006 and 2008 for a total of 4 million purged voters between 2014 and 2016 (Brater, Morris, Perez, & Deluzio, 2018). Republican politician Kris Kobach advocated nationally for state usage of flawed voter databases like the Interstate Voter Registration Crosscheck program (Crosscheck) and Electronic Registration Information Center (ERIC) to find fraudulent voters (Anderson, 2018). Coupled with other changes in state election and voter legislation and enforcement like Voter IDs and redistricting, the potential for unconstitutionally disproportionate obstructions on minority voters is great.

The long arc of the moral universe seems to be circular, if not nebulous; where strides forward in the 1960s seemed to justly restore political and civil rights, there is a sense that some of those rights are once again receding. To see this ebb and flow, we will apply a historical lens. The first period of retrogression for minority voting rights occurred after the abandonment of Reconstruction policies after 1876. Minorities lost representation as the federal government abandoned enforcement of voting rights. The degree to which retrogression impacted the Black

community was cataloged by V.O. Key, Jr. and by Donald Matthews and James Prothro among other scholars. Matthews and Prothro sought to quantify the forces behind the loss of representation and voting rights cataloged in *Negroes and the New Southern Politics*. Matthews and Prothro's work uncovered a complex reality that pitted the livelihood of an impoverished, isolated, powerless, and exposed parallel society against a cultural and legal complex that cast few remnants off the table of political power. While access to voting rights and community organization did not produce a seamless and united fabric of repression, minorities were outfitted with far less political power, and were faced with the grim reality of what they had being rend into pieces if the Black community sought more.

1.1 Research Question

The question being asked in this paper is to return to previous research conducted by Donald Matthews and James Prothro in the 1960s. They found that the higher the percentage of Black citizens in a county, the lower the share of adults were registered (Matthews & Prothro, 1966). Subsequent research indicates that increasing minority populations have a higher correlation with restrictive voting and election laws.

Using data from North Carolina and Alabama, two of the eleven states originally covered under the VRA's §4, do counties experiencing growth in minority populations translates into a decrease in registered Black and language minority voters after the termination of §4 of the VRA in *Shelby County* and the passage of substantive and procedural state voter registration laws that have the effect of curtailing minority voter registration?

The return of these trends in the era of equal sovereignty would mean a return to 15th Amendment violations regardless of intent. These trends would indicate that Republican legislatures in North Carolina and Alabama pass laws that negatively effect the voting strength of

mostly liberal minority voters. Such an effect is still challengeable after the passage and enactment under §2 of the VRA and may indicate a need to update triggering formulas found in §4 of the VRA to halt this retrogression in minority voter rights.

Chapter II: Background

An investigation into the impact of *Shelby County* on Black voter registration rates in the South first warrants definition of several terms. In order to conceptualize the purpose of voter registration and subsequent voting rates, the concept of representation must be clarified. The Voting Rights Act of 1965 pays considerable attention to the purposes and aims of representation, which speaks to a much deeper and older conversation on the appropriate nature of representation in democratic republics. Once representation is defined, it is important to determine to what extent representation existed in the South prior to the passage of the Voting Rights Act for the purposes of comparison to contemporary trends. Finally, an evaluation will be made of the impact of the Voting Rights Act on representation as well as the unintended consequences of the VRA on electoral politics and the ability of parties to exercise right of decision for minority communities.

2.1 On Representation

Recognizing that “political rights pave the way for all others,” the role of state action to cripple voting rights of citizens on the basis of suspect classifications results in a lack of representation of these classes of individuals (Matthews & Prothro, 1966). Determining what form of representation is best for all citizens bears further investigation. To a degree, the idea that White officials elected by White citizens can represent the ideas of Blacks is problematic. It reminisces on the core arguments espoused by Edmund Burke during the Revolutionary period. Edmund Burke’s vision of virtual representation relied upon an elite ruling group, a natural aristocracy, making decisions for the masses as a trustee of the masses’ interests. The elite was ‘an essential integral part of any large body rightly constituted because the mass of people are incapable of governing themselves’ (Pitkin, 1967). Burke’s reinterpreted philosopher-kings were

animated to discern by reason the fixed and unattached interests of the state. There were no personal interests, instead a town or region that was not actually represented by an elected representative from among the region would be represented virtually by a similarly composed region's representative even though there is no ability to select such representatives. Virtual representation does not assign voice to a concrete electorate. Representatives speak for the interests of all citizens. Burke believed interests to be monolithic; without variation based on class for interests for the public good were for the entire community.

Limitations on this theory could be found in the American colonies, which did not have virtual representation in Parliament. This was primarily because representatives in Parliament did not know the community of America; it was distant, alien, and unknown. Burke was critical of the exclusion of American representation in Parliament and advocated for actual representation of the American colonies in Parliament (Burke, 1775). It appears Burke contradicted himself; he also believed that if the rationally discerned interest is identified and represented, virtual representation that enables the display of real grievances should suffice. Burke believed that there must be substratum of experience in the actual representation. In the case of the American colonies, most members of Parliament have never been on American soil; three months separate the coasts. It is not possible to argue rationally that the Parliament's composition had any relation to the colonists' interests. Burke's rejection of the proposition that London or Birmingham or any other district knew the interests of the colonies is evident in his discourse:

“What! Does the electric force of virtual representation more easily pass over the Atlantic than pervade Wales, which lies in your neighborhood? Or than Chester and Durham, surrounded by abundance of representation that is actual and palpable?” (Pitkin, 1967)

Furthermore, Burke's elitist vision of representation made strange bedfellows for American colonists as it conflicted with James Madison's belief that the individual can know their own interests and should therefore be able to find representation for oneself (Pitkin, 1967). It is in this belief that the individual can know their own interests and that alienated experiences require actual representation in legislatures that the argument for Blacks must center. Actual representation often translated into substantive representation in early American history, where representatives focus on constituent relationships and second-hand knowledge of constituent's interests (Pitkin, 1967).

Burke's rejection of virtual representation for American colonists in Parliament on the basis of experience is similar to the problem faced by Blacks. Here, it is not geography that determines the substratum of experience. It is knowing and experiencing the disparate and varied realities of the Black community. The historical record presents countless White candidates in power elected by an all-White electorate. Such representatives elected cannot experience life as a Black person and by extension do not represent political ideas that are meant to ensure equality of opportunity, rule of law, and privileges and immunities of citizenship regardless of race. For example, Matthews and Prothro catalogued Black farm laborers who never voted remarking on the interests of the Black community; that the community "talk[ed] about the affairs of wages, and socialism, and what's going to become of [them]. [They] stood around and look[ed] at them work" (Matthews & Prothro, 1966). States excluded these laborers from political rights and therefore locked the laborers into political and economic destitution. It is this political and economic destitution that created an alienated community unknown to White interests. In the 1960s, less than 3% of the Black community made more than \$7,500 annually (adjusted to \$63,635 in 2018) compared to 20% of the White population. The number of impoverished

southern Blacks was staggering: 33% of the community made less than \$1,000 annually while 14% of the White population was at or under the same demarcation (adjusted to \$8,438 in 2018) (Matthews & Prothro, 1966). Statistics on disparity in education levels, and employment status mirror these trends prior to the publication of Matthews and Prothro's work.

White elites cared little for Black interests, and therefore virtual representation was not adequate. Nearly 200 years previous, American colonists advocated for descriptive representation, or representation that stands for or mirrors a class's experience by demographics, to prevent bad governance. The cry for the VRA and descriptive representation for the Black community was just the next chapter in a longer conversation about how democratic republics adequately represented interest for the benefit of good governance. Representation of political, social and economic interests of White Americans found adequate representation while Black representation was accomplished virtually with disastrous effects. The dual sovereignty of states to administer elections created these alienated realities despite the guarantee of the Fifteenth Amendment to level the playing field.

In terms of identifying what kind of representation is necessary for a class of citizens to have political rights enough to defend all other rights, descriptive representation is a start. Certainly, descriptive representation can lead to more reflective proportionality of the legislative body's composition. However, this does not guarantee that the representation will result in a 'right of decision,' as majority rule is an instrument of substantive action and not representation (Pitkin, 1967). Therefore, representation is incomplete; not related to the resulting actions of government in any meaningful way. There is no guarantee that having a mirrored reflection present will result in more representative actions, it is more accurately viewed to supply information. Furthermore, subsequent reauthorizations to the VRA states the proportional

representation was not a goal for the VRA (Bullock III, Gaddie, & Wert, *The Rise and Fall of the Voting Rights Act*, 2016). It appears the realities of seeking descriptive representation and a proportional reflection of minority interests is fraught with problems. Despite these problems, there are historical roots to these aims.

During the debate over the Constitution, a consideration over how to reflect the will of the people ran similar parallels to voting rights for Blacks. John Adams pointed out that in local and continental governments, representation requires deep consideration.

But, by what rules shall you choose your representatives? Agree upon the number and qualifications of persons who shall have the benefit of choosing or annex this privilege to the inhabitants of a certain extant ground. The principal difficulty lies, and the greatest care should be employed, in constituting this representative assembly. It should be in miniature an exact portrait of the people at large. It should think, feel, reason, and act like them (Greene, 1975).

Adams' view on representation reflects beliefs that a representative assembly mirrors an accurate reflection of the community's various shifting interests. This form of representation referred to as a liberalists approach is more than descriptive representation, since each person can be can speak to their own, atomized interests is important to capture the plurality of interest (Pitkin, 1967).

This plurality of opinion is the critical component of the substantive construction of representation. Similar to Adams' request for something more akin to descriptive representation in state governments, the author of *Four Letters on Interesting Subjects* advises that whatever the mechanics of actual representation may be, that mechanism should be guaranteed in a state's constitution.

A Constitution should lay down some permanent ratio, by which the representation should afterwards increase or decrease with the number of inhabitants, for the right of representation, which is a natural one, ought not to depend upon the will and pleasure of future legislatures (Greene, p. 314).

These mechanisms, specifically a permanent ratio that assists in more descriptive representation without guaranteeing it as such, as well as election of representatives is necessary to ensure that the “interests of the representatives are to be identified with the interests of the community” (Greene, 1975). By making representatives accountable (but not necessarily descriptive in representation), representatives become a part of the community they serve. Therefore, it appears that representation should be accountable via election, competitive via a reasonable ability for communities to find constructive representation, and adequate to afford representatives that right to action. This is similar to, but is not synonymous with, descriptive representation as it requires an extension beyond a substantive mirroring of a community’s demographics into action for that community.

2.2 Representation in Jim Crow South

For the Black community in the South prior to the passage of the Voting Rights Act of 1965, there was no meaningful accountability on elected officials to identify and act on the interests of the Black community (Matthews & Prothro, 1966; May, 2013). Decoupling Black interests from elected officials was intentional and necessary for the return to White supremacy and White hegemony in the South. Indeed, electoral law prior to 1965 made it detrimental for elected officials to consider Black interests, and this vicious cycle would reinforce *de facto* and *de jure* segregation for generations to come. These obstructions featured in the Jim Crow South featured the second generation of voter obstruction, the first being outright bans on Black voting. As visible in Table 1, a progression of Jim Crow voter obstruction created racist institutions

stripping Black suffrage and therefore any pressure for substantive or descriptive representation while avoiding conflict in the 14th Amendment bans on racially based voter qualifications.

The evolution of an electoral landscape that corrals voters down racial lines began as soon as Rutherford Hayes took office in 1876. In the spaces vacated by federalized reconstruction policies, States rapidly innovated practices *de jure* and *de facto* that would create parallel societies, one inherently superior to the other. Through parallel societies, Whites sought to truncate Black political and civil rights so that the White elites could find alternative means to extract human labor to rebuild the south. A new labor-extractive society arrested Blacks and funneled their compulsive and often fatal labor through convict leasing, prison plantation systems, and chain gangs. In the process, racist practices were re-institutionalized across the South, and would slowly wind their way into Northern and Western states (Theoharis, 2018). A legal system that associated felon status with Blackness was a feature of second-generation voter suppression and remains so to this day.

Between 1876 and 1910, the driving force of these compulsive and deadly arrests were often locally elected Whites who held limited education but high esteem within the community. These elected officials doubled as White store owners and large landowners with limited legal experiences who would arrest on often trumped up charges of vagrancy, indebtedness, and other non-violent charges and pass judgement on Blacks. Thus, Black representation withered on the vine in the legal system, and impacted representation in the electoral system. Southern states did not have the resources or desire to incarcerate; instead states sold convicts labor to cotton plantations, turpentine operations, coal mines, and railroads. High Black mortality rates near 45% would not earn these White backcountry mayors, justices of the peace, notaries publics, and county magistrates' re-election if the Black community had representation legally or electorally

(Blackmon, 2008; Oshinsky, 1997). White elite intent was made plain in *The Nation*: “The Negro will disappear from the field of national politics. Henceforth, the nation, as a nation, will have nothing more to do with him” (Blackmon, 2008). These *de jure* and *de facto* practices could only be done if Blacks could not vote, making elected officials unencumbered to represent the Black community.

White political elites who mostly hailed from the heartland of the plantation economy, called the black belt due to the color of the soil, went about reclaiming political power lost during Reconstruction. Mississippi led the way in stripping Blacks of civil rights, creating laws that sought to prevent them from voting and therefore from any realistic chance of beneficial representation. Second generation Jim Crow featured state laws which eliminated Black registrants from poll books through substantive changes via poll taxes, literacy tests, and voter registration rules that required presentation of themselves, their family’s safety, and their economic livelihood before the public for judgement (Anderson, 2018). Some of these second-generation voter obstruction practices survive today in the third generation of removing substantive and descriptive representation from the Black community. Even surprising and accepted practices of today like the presentation of vital information like date of birth could keep Blacks who did not know their birth information from voting. The Australian Ballot was also a way to prevent illiterates from voting; it barred election officials from helping the illiterate from voting (Kousser, 1974). These practices took advantage of institutional racism via school segregation. Via a system built to under-educate via diminished resources and a parallel society with little political means to advocate for itself, obstruction of the Black community was just below the surface of ballot construction in the Jim Crow South. Should Black individuals overcome these institutions, the ability to pass a literacy test or pay a poll tax were reinforced by

procedural discrepancies by local election officials. “Whether a person can register to vote depends on what the man down at the courthouse says, and he usually has the final say. It is how the tests are administered that matters” (Key, 1949).

Any dissent from impoverished upcountry southern Whites who faced similar conditions threatened to elite White political power. Impoverished upcountry Whites disagreed with White elites over the necessity of slavery prior to the Civil War. Differing economic realities meant upcountry Whites were more likely to vote Republican (McKee S. , 2019). A critical cultural phenomenon was layered on-top of the electoral system to ensure that Black representation was destroyed. W.E.B Du Bois referred to this as the psychological wage, in which impoverished Whites were able to feel culturally superior to poor Blacks and would be more likely to see common political interests and representation with the elite White community (Du Bois, 1998).

The Democratic White primary created a race-based nomination system that existed beyond the reach of the Constitution in second generation voter obstruction that sought to further stymie representation for Blacks. After Reconstruction, White elites in the Alabama legislature played on the color line to drive the issue of election domination home, stating in the *Tallapoosa Voice* “the one issue before the White people of Alabama is to maintain the integrity of the White man’s democratic party. This is the one thing to which the party organization should look. This is the one thing the voter should address himself to” (Blackmon, 2008). The deference given by the federal government for these White primaries and other contrivances ensured that the South was a single-party ethnocratic state.

The impact of these policies left visible voids in historical voting rates and election results. Elite White state legislators killed Blacks and impoverished Whites off poll books at

Table 1 Voter Obstruction Legislation, 1875 - 1908

LAW	1875	1877	1881	1882	1889	1890	1891	1892	1893	1894	1895	1897	1898	1899	1900	1901	1902	1903	1908
OBSTRUCTS REGISTRATION																			
LITERACY TEST					MS						SC		LA		NC	AL	VA		GA
REGISTRATION				SC	TN				AL	SC		LA		NC					
UNDERSTANDING CLAUSE					MS						SC						VA		GA
PROPERTY TEST													LA		NC	AL	VA		GA
GRANDFATHER CLAUSE													LA		NC	AL			GA
OBSTRUCTS VOTING AND REGISTRATION																			
POLL TAX	VA	GA	VA*		FL	MS, TN		AR			SC		LA		NC	AL	VA, TX		
OBSTRUCTS VOTING																			
MULTIPLE BOX				SC	FL										NC				
SECRET BALLOT					TN	MS	AR		AL	VA		LA						TX	
N LAWS, BY YEAR	1	1	-1	1	5	4	1	1	2	2	3	2	4	2	4	4	5	1	4

(Kousser, 1974) (McKee S., 2019)

Adapted from Kousser and McKee. Modified to skip years in which legislation was not entered.

*Virginia repealed the poll tax in 1881.

staggering rates, as neither possessed character and intelligence to vote in the eyes of the White elites. More than 40% of voters registered under Reconstruction were removed (Anderson, 2018). Intent was blatant, with Mississippi Senator Theodore Bilbo, arch segregationist, and member of the KKK boasting in 1947 that “what keeps [Blacks] from voting is [an 1890 law that requires registering voters to read and explain the Constitution]... Mississippi then wrote a constitution that damn few White men and no n---rs at all can explain.” Nearly 123,000 Blacks almost instantly lost representation and were kept from voting (Anderson, 2018; Goldstone, 2018). Other southern states followed suit in short order. The legal effect was staggering. For

instance, voting age Blacks registered in Louisiana was above 130,000 in 1896. By 1904, that number plummeted to 1,342 (Behring Center, n.d.). Those left to vote were White, and overwhelmingly voted conservative Democratic tickets in all elections. By 1900, the gap in voter turnout rates between the North and South was nearly 40%. Republicans controlled less than 10% of US House Seats, a drop of more than 50% from 1868. The popular vote for Presidential candidates shifted from competitive elections between Democrats and Republicans and 1868 to an almost 25% difference advantaging Democrats in 1900. The Democrats controlled 90% of the state legislatures in all Southern states except Tennessee and North Carolina between 1900 and 1948 (McKee S. , 2019). A self-perpetuating system of racialized disenfranchisement and single party White rule obliterated any promise of Black representation and racial equality guaranteed by the Reconstruction Amendments.

What state actors could not do to alienate and vanquish southern Black society, parties did. *Cruikshank v US* (1875) reserved a legal landscape in which non-government actors including parties were free to exist “immune from the strictures of the of the Fourteenth and Fifteenth Amendments” (Anderson, 2018; United States v. Cruikshank, 1876). At the turn of the twentieth century, Republicans and Populists catered to Black and impoverished White voters. Both parties were sufficiently neutered by the lack of appreciable voters to threaten Southern Democrats in the general election. Democrats were able to marginalize parties that threatened the White political power. The White primary rule was elusive to source but cited as a “continuation of the practices of democracy: Negroes were all Republicans anyway. In local primaries and elections, understandings between White factions had the effect of excluding Negroes, and as the direct primary came to rest on statute rather than party rule, local and state party committees were empowered to prescribe qualifications for voters in the primaries” (Key, 1949). The

Supreme Court found in *Newberry v United States* (1921) that party primaries are institutions free from Constitutional jurisdiction (*Newberry v United States*, 1921). The southern democratic primaries transformed into another event steeped in institutionalized racism in which candidates and constituents alike were only White, and no candidate within this primary system would survive with a platform catering to Black interests. The White primary dominated for thirty years until *United States v Classic* (1941), *Smith v Allwright* (1944), and *Terry v Adams* (1953) would finally rule any vehicle that was an integral part of the election machinery capable of being affected by federal action (Anderson, 2018). These actions targeted behaviors of parties, but it would take more federal action to unwind the constrictive hold that exclusive and alienating race-based elections had on the South. Such positive trends that preceded the passage of the Voting Rights Act of 1965 allude to the argument of those opposed to the federal ‘overreach’ of forcing states and localities to seek preclearance, which will be discussed later.

In stark terms, Matthews and Prothro surveyed the impact of the Fifteenth Amendment from inception to the 1960s and remarked that “the right to vote is not the same thing as the effective exercise of that right” (Matthews & Prothro, 1966). Matthews and Prothro refer to the inability for Blacks to have any form of representation, let alone right of action for Black representatives. Registering to vote is the first step towards an individual seeking representation in the government. When entire communities are disenfranchised via barriers to registration, that community is not represented effectively. Here, a preponderance of evidence indicates that substantive representation in a system of institutionalized racism routinely ignores the interests of the Black community at large to pursue issues of economic and political self-determination. The data reveals this evaluation to be true for Southern Blacks on the eve of the Voting Rights Act of 1965. Voting rates catalogued by the US Census Bureau revealed a trickle of increased

voters circumventing state laws preceding the passage of the Voting Rights Act of 1965. Estimated numbers of registered voter age Blacks in 1940 hovered around 5% or 250,000 total registered voters across eleven former Confederate states in 1940 (Matthews & Prothro, 1966). *Smith v Allwright* (1944) may have influenced registration rates, as southern Black Voting rates increased between 1940 and 1947 by 7% to 595,000 registered voters. The passage of the 1957 Civil Rights Act enabled the Attorney General to sue states exhibiting policies that violated the 15th Amendment, removing the risk to health and safety from Black voters and their families. The 1960 Civil Rights Act furthered this commitment to enforcing the Fifteenth Amendment, requiring state to maintain election documentation to facilitate lawsuits and the enabling of federal officials to register Blacks in a county where discriminatory practices were found by a court (Bullock III, Gaddie, & Wert, 2016). Between 1947 and 1964, Black voter registration increased an additional 26% to 1,907,279 (Matthews & Prothro, 1966).

Matthews and Prothro's research in 1960s southern states cast a meticulous light on this legal hold on Black political realities, producing a quantitative approach to cataloging disparity between Black and White communities. Deeper investigation into registration rates between Blacks and Whites revealed distributing statistics. Of the 11 former confederate states, registration data revealed registration rates at 66% of the White population and 33% of the Black population in 1960. On the other hand, Black registration rates in non-southern states were 2% behind White registrations in 1960, clocking in at 78% (Matthews & Prothro, 1966). In deep southern counties Black registration rates hovered between 0-32%, while peripheral southern states saw higher rates of registration. At the same time, upwards of 60% of voting age Blacks never participated in a presidential election (Matthews & Prothro, 1966).

While examining variables that correlated with voter registration rates, Matthews and Prothro highlighted several informative trends in their statistical research. As the population of Black communities grew, there was a significant negative correlation with Black registration rates. At the time, the correlation coefficient for percentage population Black and the proportion of the Black population that was registered to vote was $-.46$ (Matthews & Prothro, 1966). Controlling the 1958 registration rates with the concentration of Blacks in 1900, the correlation coefficient is $-.41$. The strong stability of Jim Crow and other southern legal practices indicated that allowing southern states to expand Black suffrage via state electoral law at their own pace would not be timely or effective in increasing actual representation for Blacks. Jim Crow was effective at keeping the threat of the Black vote from destabilizing the Southern White political power monopoly.

Additionally, the small successes to opening voting to Blacks via federal action between 1947 and 1965 was insufficient for adequate community representation. Not only was right of action via representation a long way off, there was simply no way to even find descriptive representation in a sea of White voters, White candidates, and White officeholders unconcerned about the needs of Blacks. Race baiting, populist politicians backed by the Bourbon elites needed lower class Whites to keep racialized barriers in place. King, like W.E.B. DuBois before, confronted this history not through doggedly exacting research but through peaceful nonviolent protest. On the steps of Montgomery's capitol, he spoke to the "roots of racism and the denial of the right to vote. Through [the elites] control of mass media, they revised the doctrine of White supremacy... saturated the thinking of poor White masses, thus clouding their minds to the real issue [of economic inequality... instead they] directed the placement on the books of the South laws that made it a crime for Negroes and Whites to come together as equals." (King Jr., 2001).

Malcolm X pointedly delineated how representation could remedy this inequality: “[We will] let our people have an understanding of the science of politics so they will be able to see what part the politician plays in the scheme of things; so they will be able to understand when the politician is doing his job and when he is not doing his job. And any time the politician is not doing his job, we remove him...” (X, 1970). Thus, the march towards representation in the Southern streets and jailhouses would find such remedy in a seachange of legislation.

2.3 Effects of the Voting Rights Act

The Voting Rights Act of 1965 combatted second generation voter obstruction found in Jim Crow. Concurrently, a third generation of voter obstruction developed along side the VRA. The VRA obstructed portions of these new innovations cataloged in Table 6. Obstructions struck at voter registration, voting, and vote strength. The VRA prevented the full development of many of these obstructions, most notably in changes to voter strength via annexation and redistricting (Bullock III, Gaddie, & Wert, 2016). However, critical changes to voter registration of note given the importance to the research question. Using §5 preclearance, the Department of Justice or the DC District Court examined changes to voter registration laws to prevent retrogression in the Black electorate before these laws were enforced.

Following the passage of the VRA, voter registration rates increased steadily. Voting age Black registration rates increased nearly 24% of the voter age population in 1965 to 56.6% across the South ten years later (United States Commission on Civil Rights, 1975). By 2012, the median Black voter registration rate in the South would be 72.6% compared to 73% the median voter registration rates of Southern Whites in 2012 (Bullock III, Gaddie, & Wert, 2016). States like North Carolina saw voter registration rights for Blacks at 46.8% before the passage of VRA. In 2012, the Black voter registration rate would top out at 85.3% to White voter registration rates

at 77.9%. The Black to White voter registration rate for North Carolina was only greater in the state of Mississippi. With raising voter registration comes greater rates of Black representation. As the Black community registers to vote and goes to the polls, representation is more responsive to that community's political power.

A competing body of research counters the need for the Voting Rights Act on several grounds. As stated before, a body of evidence suggests Black registration rates rose prior to the passage of the VRA. Less aggressive actions taken by the federal government to end the White primary, grandfather clause, and poll tax coupled with far riskier and dangerous activist movements like the Voter Education Project (VEP) saw Black registration rates increase (Bullock III & Rozell, 2016; Timpone, 1995). This increase was slow, as cited by future Representative John Lewis in 1972 while serving as director for the VEP, stating that "registration boards dominated by party hacks... set up rules and regulations and other barriers to the ballot which make it impossible for poor people and working people to register with ease." (Kousser, 1974). The Voting Rights Act's effect on Black voter registration rates were harder actions taken to force states to release their hold on White laws meant to barricade access to Black representation.

Critics of the law like conservative influencers Edward Blum and Abigail Thernstrom of the American Enterprise Institute rejected the need to continue the VRA. Thernstrom suggested that the law's enforcement quickly moved away from a law that was "meant to level the political playing field, so that Blacks could become a political faction with the ability to enter and exit coalitions as other citizens do" (Thernstorm, *Voting Rights and Wrongs: The Elusive Quest for Racially Fair Elections*, 2009). In Thernstrom's mind, this political integration of Blacks into the election apparatus morphed into an unconstitutional nationalization of voting rights that shredded

the reserved powers of states. Any action of a state impacting representation regardless of discriminatory intent was at question; as the Court determined that intent was no longer relevant. So long as the state law effected minority voter registration retrogression, or the loss of voting rights, it could be struck down by the federal government (Culliton-González, 2015). This led to the creation of majority minority districts, which would impact the “right of decision” for Blacks as districts would be mapped to corral Black voters. Critics like Thernstrom and Blum claimed that protections against retrogression created a demand for proportional representation of Black voters. They argued that proportional representation via barred retrogression was unconstitutional; it had no grounding in American history and constitutional law.

Proportional representation was heavily debated in the 1982 reauthorization of the bill, in which the preamble incorporated bars against retrogression established first in the courts; now state election law and actions that had the effect of diluting minority representation would be up for preclearance. Opponents continued to ridicule the reauthorization, pointing out that the Constitution makes no explicit guarantee for proportional representation, and that retrogression bars legalized proportional representation. The argument asserted was that Congress exceeded their delegated powers in crafting the reauthorization. New life for this argument came with the decision of *City of Boerne v Flores* (1997) in which the Supreme Court ruled that the enactment of legislation could not exceed Congress’s delegated powers of legislating by creating remedies disproportional to the injury. Concerns about the applicability of *Boerne* continued to boil on the surface of the reauthorization of the Voting Rights Act in 2006. During the 2006 re-enactment of the VRA that maintained the retrogression standard as well as triggering formulas in §4 from the 1975 re-enactment, academia testified that “there is no right to representation based on group membership” and that the use of old triggers to prevent the dilution of minority voting strength

post *Boerne* would most likely trigger undesirable litigation (Thernstorm, 2009; Presto, 2004). These concerns about proportionality became further motivation to strike down VRA's preclearance. While *Boerne* was not central to the argument of the Roberts Court, the majority opinion did voice concern over the necessity of intervention for past concerns. When *Shelby County* struck down §4, the question of whether the Black community had adequately assimilated into political representation became moot. The Roberts Court targeted the antiquated triggering formulas from the 1975 reenactment; no formula meant no states were required to seek preclearance.

Indeed, this test of representation transformed into a new political reality. The near exclusive assimilation of minorities into the Democratic party created an environment where state Republican lawmakers still leave minimal discussion of minority interests to defeat Democrats. Democrats and Black interests are turned upon each other in the ensuing debates as Republicans can dangle rewards like majority minority districts in exchange for substantive representation but not for right of action in legislatures. The strong correlation between Blacks and the Democratic party indicates that states are targeting political, economic, geographic, and cultural realities of these groups as the distinguishing lines to suffocate party competition and policy outputs. These actions call into question whether actual representation and the right of decision can be achieved, particularly when evidence that minorities struggle in entering and exiting parties due to the lack of competition of ideas reflecting these communities' interests.

2.4 Electoral Changes in North Carolina

Since *Shelby County*, states undertook several electoral and voting laws that effect voting rights. These laws and procedures can still be challenged under §2 of the VRA. Changes to North Carolina and Alabama's voter registration policy and procedure brought sharp criticism. Some of these changes predated *Shelby County*, most notably the unveiling of the 2010 Republican

backed redistricting maps in June of 2011. Republicans regained control of the government in 2012 and expanded their control in 2014. These maps tipped the balance of the North Carolina legislature significantly, changing the seat advantage of Republicans in the State House of Representatives from a 6-seat advantage in 2012 to a 34-seat advantage in 2014, and a 2-seat advantage in the North Carolina Senate. Additionally, Democrats received four districts out of 13 for the US House of Representatives, even though Barack Obama won the state by a little more than 14,000 votes or by 0.331%. Democratic Governor Beverly Purdue was powerless in the face of the Republican redistricting; North Carolina law prohibits the vetoing of a redistricting plan (North Carolina Board of Elections, 2019; McKee S. , 2019). This advantage continued for the most part until the 2018 state-wide elections, where the Republicans lost their supermajority in the North Carolina Senate and lost seats in the House, with the seat advantage decreasing from 28 to 10. The US House of Representatives maps shifted from a Democratic majority in 2010 to a significant Republican majority after 2012. This is due in large part to the lingering effect of redistricting laws despite challenges from the NAACP and other impacted parties on grounds of partisan and racial gerrymandering (Jacobs, 2018). The extent to which the Republican party disproportionately controls the State legislature and therefore enacts policy adverse to easy voter registration is significant, particularly when compared to the relatively close margin of victory for presidential elections in the state.

Table 2 Election Results by Party, North Carolina State Board of Elections Results

	<i>US House</i>	<i>Party Control</i>	<i>NC House</i>	<i>Party Control</i>	<i>NC Senate</i>	<i>Party Control</i>
2010	7 D; 6 R	+1 D	68 D; 52 R	+16 D	30 D; 20 R	+10 D
2012	4 D; 9 R	+5 R	52 D; 57 R; 11	+5 R	19 D; 31 R	+12 R
2014	3 D; 10 R	+7 R	43 D; 77 R	+34 R	18 D; 32 R	+14 R
2016	3 D; 10 R	+7 R	46 D; 74 R	+28 R	16 D; 34 R	+18 R
2018	3 D; 10 R	+7 R	46 D; 74 R	+28 R	15 D; 35 R	+17 R

*Indicates not an election year. (North Carolina Board of Elections, 2019)

Legislative action in the North Carolina legislature produced several laws that could be construed to be third-generation voter suppression vehicles. Right after *Shelby County* readjusted the voter rights enforcement towards equal sovereignty, North Carolina passed a series of laws including VIVA that effectively limited representation via voter registration and community electoral strength. These laws notoriously identified characteristics of minority voters like lack of access to voter IDs, early voting, and same day voting to create legislation that targeted such voters. VIVA targeted “four voting and registration mechanisms, which had previously expanded access to the franchise, and provided a much more stringent photo ID provision” (Anderson, 2018; North Carolina State Conference of the NAACP v McCrory, 2016). These actions were cited in *NAACP v NC* to overturn legislation, pointing out that debate over VIVA was rushed after *Shelby County*. “The legislature substantially changed the one provision that it had fully debated before the passage of *Shelby County* in VIVA. The General Assembly completely revised the list of acceptable photo IDs, removing from the list the IDs held disproportionately by Blacks, but retaining those disproportionately held by Whites” (North Carolina State Conference of the NAACP v McCrory, 2016). Considering the context of legislative actions, it is reasonable to see correlation between voter suppression measures under Jim Crow and new debates over voting rights post - *Shelby County*.

VIVA featured a narrow list changes to the process of registering voters starting in 2014, except for Voters IDs. The delayed requirement for photo IDs included a narrow list of state-issued identification cards, United States passports or military ID, federal ID cards issued by the Veterans Administration, tribal enrollment cards, and driver’s license from states other than North Carolina. In order to obtain these IDs at or before the time of registration, North Carolina required social security cards, marriage licenses, or birth certificates. The necessity of these

documents could depress the number of citizens attempting to register, particularly those who do not have ready access to such documentation. Same day registration, in which voters could register and vote on the same day, was eliminated. Under VIVA, voters must register 25 days before the election. Republicans terminated the ability for outside groups to compensate for voter registration efforts; nor could any non-state entity register voters online. VIVA altered the voter registration laws for non-state entities; there was a new requirement for a “wet-ink” or hand-filled voter registration application. Pre-registration of 16- and 17-year-old minors was terminated under VIVA unless said 17-year-old will be 18 by the date of the next registration. Republicans eased restrictions impeding citizens access to voter registration records for the purpose of inspection. Finally, VIVA enabled the State Board of Elections the ability to cross-check registrants for double registered individuals on databases like CrossCheck and ERIC (Civitas Institute, 2013; North Carolina State Legislature, 2013). Key portions of this law were active between 2014 and its removal in 2016. Critics anticipated these key portions to negatively impact on Black voters between 2014 and 2016. Additionally, recent changes in election law that pull individual components of VIVA did not pass by veto override until late in 2018, so there should not be a significant impact by these laws during that time period.

The NAACP challenged poll book purging in 2016 for state removal of voters too close to the general election in Cumberland, Beaufort, and Moore counties only. A federal judge sided with the NAACP days before the general election in North Carolina, stating that voters had to be replaced on the pollbooks. However, there was only enough evidence to prove illegal action for the cited counties. It was unclear that similar behaviors happened statewide (Tribune News Services, 2016). Furthermore, the state of North Carolina went on to purge 11.7% of voters between September of 2016 and May of 2018 in advance of midterm elections (Morris & Perez,

2018). Seeing that purges effect the number of registered voters, it is anticipated that these purges will have a negative impact on the voter registration rates.

Table 3 North Carolina Electoral Law Changes, General Assembly of North Carolina

	<i>Voter IDs</i>	<i>Pre-Registration</i>	<i>Same-Day Voting</i>	<i>No-Excuse Early Voting</i>	<i>Out-of-precinct voting</i>	<i>Extreme Partisan Redistricting</i>
2010	N	Y	Y	Y	Y	N
2011	N	Y	Y	Y	Y	Y
2012	N	Y	Y	Y	Y	Y
2013	Y	N	N	N	N	Y
2014	Y	N	Y	N	Y	Y
2015	Y	N	Y	N	Y	Y
2016	Y	N	Y	N	Y	Y
2017	N	Y	Y	Y	Y	Y
2018	N	Y	Y	N	Y	Y
2019	Y	Y	Y	N	Y	Y

Red font indicates existence of restrictive measures; green font indicates non-restrictive measures. (North Carolina General Assembly, n.d.)

2.5 Electoral Changes in Alabama

Actions taken in Alabama present a different landscape of potential voter suppression. Less disputed legislative action is visible in Alabama, but Alabama closely resembles a one-party state, as illustrated in Table 4. In 2010, Democrats officially lost hold in the state legislature in losing both the Alabama House and Senate. Actions taken by the state legislature generally receive support from the Republican-held governor's mansion. Since Reconstruction, Republicans were the minority in the Alabama legislature (Ballotpedia, 2019). The Republicans maintained a trifecta since 2010. Alabama's negative press primarily centered around procedural execution of elections.

Table 4 Election Results by Party, Alabama State Board of Elections Results

	US House	Party Control	AL House	Party Control	AL Senate	Party Control
2010	1 D; 6 R	+1 R	39 D; 66 R	+27R	12 D; 22 R; 1 I	+10R
2012	1 D; 6 R	+1 R	--		--	
2014	1 D; 6 R	+1 R	33 D; 72 R	+39R	8 D; 26 R; 1 I	+18R
2016	1 D; 6 R	+1 R	--		--	
2018	1 D; 6 R	+1 R	28 D; 77 R	+49R	8 D; 27 R	+19R

(Alabama Secretary of State, 2019)

Such policies are increasingly restrictive of voter registration, including measures restricting same-day voting, voter IDs, and purging of voter rolls. (See Table 5) Alabama was among the first states to pass a non-strict photo ID law in 2011, where failure to produce acceptable identification results in voting provisionally unless two poll workers can testify to the identity of the ballot (Underhill, 2019). Allegations of racially divisive motives for the predominantly White Republican majority swirled as the law was debated, in which lawmakers referred to the Black community as “illiterate Black voters” and “aborigines” in the context of the larger legal debate. The Republican sponsor of the law previously remarked that the lack of a photo ID law was “beneficial to the Black power structure” and “benefits Black political

Table 5 Alabama Electoral Law Changes

	Voter IDs	Purging of Voter Rolls	Same-Day Voting	No Excuse Early Voting	Voter ID with Absentee Ballot	Partisan redistricting
2010	N	N	N	N	N	Y
2011	N	N	N	N	N	Y
2012	Y	N	N	N	N	Y
2013	Y	N	N	N	N	Y
2014	Y	N	N	N	N	Y
2015	Y	N	N	N	N	Y
2016	Y	N	N	N	N	Y
2017	Y	Y	N	N	N	Y
2018	Y	Y	N	N	N	Y
2019	Y	Y	N	N	Y	Y

(Ballotpedia, 2019)

leaders” (Greater Birmingham Ministries, et. al. v Merrill, 2018). As the law wound its way through the legislative chambers of Alabama, all Black legislators voted down the measure. These Black legislators comprised 67% of the Democratic caucus in the state legislature.

The same Alabama legislature produced a redistricting plan struck down by federal courts for violating the VRA. These voter ID laws, implemented in 2014 require an Alabama driver’s license, Nondriver ID, or Voter Photo ID. Additional IDs accepted include Federal-issued ID, passports, State-issued IDs, Employee ID from a federal, state, or local agencies; State college or university IDs, Military ID, or Tribal ID (Alabama Secretary of State, 2019). The state issued free Voter ID has an additional level of deterrence to potential impoverished voters. A voter must sign on their application that they do not presently possess any other form of identification. The penalty for falsification or fraud on this form is a Class C felony in the State of Alabama, which would thereby terminate one’s ability to vote unless they found a way to ask for re-enfranchisement as the process is not publicized and requires initiation by the disenfranchised citizen (Greater Birmingham Ministries, et. al. v Merrill, 2018; Astor, 2018). Voter ID laws impact voter registration as failure to obtain required documentation may deter potential registrants, as registrants have to provide either their driver’s license number or a social security number, which is then used to generate a photo ID. (See Appendix A) These circuitous requirements feed on each other, and may act as a barrier to individuals who do not have access to such documentation. Therefore, voter registration rates are expected to be impacted negatively in Alabama because of these restrictions.

Experts expect administrative decisions on how to conduct voter registration to further impact minority voters. A 2012 report from the Brookings Institute illuminated the extent to access disparity for voter registration varied from county to county (Gaskins & Iyer, 2012).

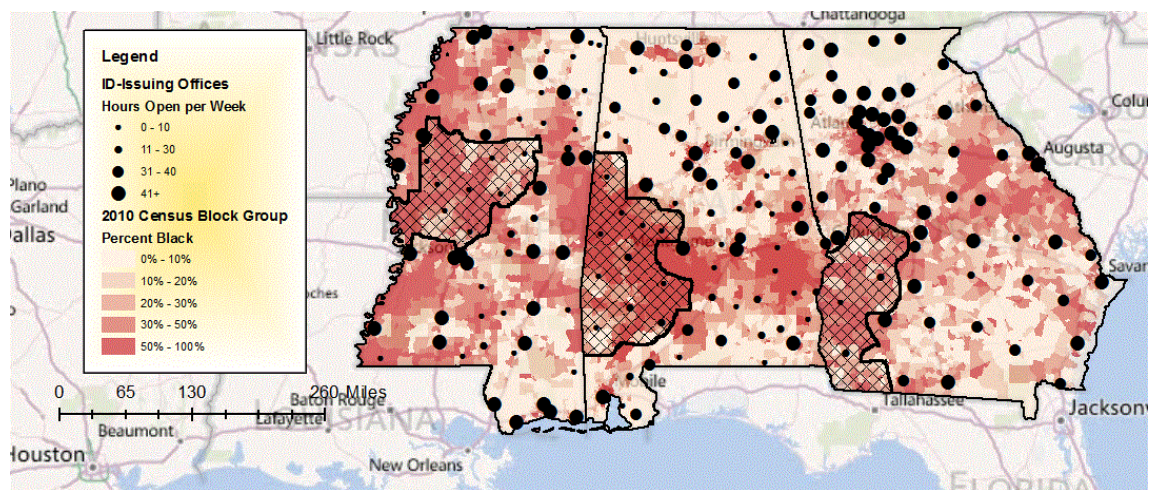
Research from the Brookings Institute illuminated deep discrepancies in the administration of voter registration. Counties with more than 50% Black population found Department of Motor Vehicle (DMV) sites open no more than twice a week. More than 1.1 million or 32.7% of voter age Alabamians lived more than 10 miles from a voter ID issuing office. Additionally, 6.1% of the Alabama population in 2012 did not have access to a vehicle; Alabama did not invest in public transportation (Gaskins & Iyer, 2012). Further research indicated a correlation of .43 between total population and DMV availability; the more populated a county, the more days open per month (Lopez, 2017). As DMVs are easily accessible locales at which citizens can register to vote, there is a possibility that registration of minorities in these communities may be disproportionately affected.

Finally, Alabama engaged in the similar controversial voter purging programs found in North Carolina and 11 other states. After mailing postcards to hail voters, Alabama pronounced 340,000 voters inactive as a precursor to removal from poll books (Astor, 2018). A report originating from the NAACP Legal Defense Fund identified that in the 2017 special elections, several voters were denied the right to vote as they were reported as inactive and therefore required re-identification or re-registration. Several of these voters voted frequently and recently to the 2017 special election, but failure to return the postcards resulted in their deactivation (Ifill, 2017). These voters would not appear in the registered voter lists utilized in this research, depressing voter registration rates.

Alabama's substantive and procedural actions to obstruct voting continues beyond this list. The Leadership Conference Education Fund logged the shuttering of 66 polling places were closed between *Shelby County* and November 2016, with a disproportionate number closing in some majority black counties, as illustrated in Figure 2. The report did not find any trends given

the small sample size included in the review (The Leadership Conference Education Fund, 2016). Additional actions taken by the State of Alabama to limit or restrict voting rights included a 2017 decision by the Secretary of State John Merrill to terminate state expenditures publicizing the reinstatement of thousands of convicted felons (Astor, 2018). The list of new and old contrivances to obstruct minority representation continues on in Alabama.

Figure 2 Percentage Black and State Driver's License Offices, Mississippi, Alabama, and Georgia. Brookings Institute (2012)



Used with permission of Brennan Center. Gaskins, K., & Iyer, S. (2012, June 18). The Challenge of Obtaining Voter Identification. From <https://www.brennancenter.org/publication/challenge-obtaining-voter-identification>

2.5 Significance to Scholarship and Policy

States undertook several electoral and voting laws that effect voting rights. These laws and procedures are challengeable under §2 of the VRA, but only after states enact and enforce new laws. For the most part, the effect of these changes is not reversible even after laws are struck down. North Carolina and Alabama's actions offer examples of some of the methodologies that effect voting rights of minorities, attacking both registration and voting. Research into the impact of such policies, particularly at voter registration, indicated the continued importance for §2 challenges in federal court after legislatures pass policies. Dependent upon the variation between expected registration rates of minorities and the actual

registration rates of minorities may indicate a need to revisit §4 and policies scrutinized under VRA. These policies have evolved, as indicated in Table 6. Policy changes in states obstruct registration, voting, and vote strength. The purpose of this research will be limited to voter registration only.

The continued evaluation of changes in voter registration remains critical due to its facilitation of actual representation and right of decision for minority communities. The state election and voting law landscape post-*Shelby County* requires further consideration as to whether the VRA was terminated at a point where actual representation was self-sustaining and therefore needed no further federal intervention. Critics of the law have long posited that the

Table 6 Contemporary Methods of Vote Obstruction

Obstruction at Voter Registration	Obstruction at Voting	Obstruction in Vote Strength
Positive Identification*	Strict Photo Voter ID Card	Racial or Partisan Gerrymandering
Felon Disenfranchisement & Voting Rights Reinstatement Process	Non-photo ID Card	Changes between At-large and Single Member Districts
No Preregistration	Excuse Required Absentee Ballots	Incorporation/annexation of locales
No Same-day Registration	No Early or Extended Voting	Changes to composition of government boards and panels
Limited Access to Register (hours, locale, wait time)	Poll book Purges	Plurality, Winner-take-all, and Instant Run-off Voting
Limitations on Voter Registration Drives	Changes to Precinct Location	Off-cycle and special elections
Voter Information Update	No Language Minority Ballots/ Access to Translators	
Advancing Final Registration Date	Exclusive Party Primaries (firehouse primaries, caucuses, conventions, canvass)	
Limited on-line or mail-in registration	Out-of-precinct Voting	
Provision of vital information**	Australian Ballot***	
Proof of Citizenship provisions		

*Required by Help America Vote Act of 2002, often requires birth certificate or other form of positive identification (Bullock III, Gaddie, & Wert, *The Rise and Fall of the Voting Rights Act*, 2016) (Anderson, 2018) (McKee S. , 2019)

** Historically used to prevent former slaves from registering as date of birth and location of birth were often unknown. Today, lack of access to birth records for Blacks born outside of hospitals can be a form of obstruction.

***Evidence that the Australian Ballot kept illiterate voters from receiving assistance from election officials, overcome today in several states by allowing election officials to assist those who cannot mark their ballots. (Kousser, 1974)

necessity of the law expired, and therefore the law should as well. Scholars like Abigail Thernstorm and Edward Blum question the intent of the law, believing the law antiquated and harmful to representative democracy as it created incentives for the political parties to create racially polarized districts and political environments (Blum, 2018). The need to nationally facilitate voting for a protected class of citizens was intended to be temporary, yet the law lasted

for more than 50 years using data that was pegged to a time in which more racist attitudes prevailed. Loyola Law Professor Richard Hasen, a supporter of the VRA, pointed out that the generations old trigger in the VRA would create an environment for test cases to challenge the validity of the law. The decision of *City of Boerne v Flores* (1997) brought more urgency; the Supreme Court ruled to limit that the enactment of legislation could not exceed Congress's delegated powers of legislating by creating remedies disproportional to the injury. Petitioners in *Shelby County* echoed this desire to determine the constitutionality of the reauthorization via the 'congruence and proportionality' enforcement standard. In essence, the means used and the ends achieved in the enforcement of a power cannot be 'so out of proportion to a supposed remedial or preventative object that it cannot be understood as responsive to, or designed to present, unconstitutional power' (Bullock III, Gaddie, & Wert, The Rise and Fall of the Voting Rights Act, 2016; *City of Boerne v Flores*, 1997). By 2006, Black registration rates and office holding outpaced their peers in non-covered jurisdictions throughout the nation (Bullock III, Gaddie, & Wert, 2016). It appeared that the VRA achieved descriptive and actual representation of Blacks, while right of decision was still a contended political reality not really discussed. The first point for further consideration is whether the law was terminated at a point where actual representation was self-sustaining and therefore needed no further federal intervention. Edward Blum has his own doubts that this was possible, admitting that "[i]t may be that one or two of the states that used to be covered by Section 5 has gone too far..." in subverting efforts taken to create a legal apparatus that facilitates actual representation (Gumbel, 2016).

Furthermore, allegations that the VRA seemed to seek out proportional representation caused political problems. Thernstrom believed that the outdated guarantees were built into the 1982 reauthorization of the law stating that "nothing... establishes a right to have members of a

protected class elected in numbers equal to their proportion of the population” were ignored, and indeed proportional representation was the goal (Bullock III, Gaddie, & Wert, 2016). She notes that “a slew of controversies over racially gerrymandered districts carefully drawn to ensure that minorities are elected to public office roughly in proportion to their share of the population” (Thernstorm, 2010). According to Thernstorm, this is a political inequality, given that there is no constitutional guarantee to proportional representation by demographics or political party affiliation or any other measure.

Complicating this legal bar on proportional representation are requirements like the retrogression standard, in which minority representation cannot be diluted. Retrogression creates incentives for states to create majority minority districts instead of working towards integration of the minority population into partisan politics (Thernstorm, 2009). States can still employ election and voting law like racial and partisan gerrymandering, early voting, creation of at-large and single-member districts, and other race-neutral legal labyrinths that effectively obstruct the effective representation of Blacks interests. Thernstrom posits that these maneuvers hint at proportional representation by creating “tailored districts [that] seem to be poor training grounds for Blacks politicians who have larger ambitions and need experience in building biracial coalitions in majority-White settings.” Black representatives were ‘largely symbolic’ and ‘unsuccessful’ candidates who do not get bills passed in Congress. Black constituents would be better served by allowing states to legislate without federal overreach to integrate communities that might create representatives with better position to act on minority interests, taking an approach akin to substantive representation (Thernstorm, 2009). Yet Thernstorm’s withering racist critique of Black representation does not address the lack of integration of platforms that appeal to racial minorities or the effects of procedural electoral laws that have the effect and

sometimes the intent to disproportionately impact minorities. It appears that the actual representation and integration of minorities into parties has not occurred.

These core premises were grounds to dismantle the VRA §4. According to Chief Justice John Roberts in *Shelby County*, America was post-racial after the 2012 elections. With cries of mission accomplished, the conditions required to justify temporary triggering formulas based on decades old election data were no longer present. It was time to return to an equal sovereign approach to American elections. Critics scorned Roberts' ability to impartially judge, citing his experience as a clerk for Chief Justice Rehnquist and later as in the Reagan and Bush administrations skewed his objectivity. Rehnquist was a denier to civil and voting rights throughout Rehnquist's own career, specifically dissenting against *Brown v Board* as a clerk for Justice Jackson and in his actions suppressing Arizona Democratic voters in Operation Eagle Eye between 1960 and 1964. After receiving training from Rehnquist, Roberts then worked at the Department of Justice as a leading voice in the Reagan administration against the 1982 VRA reauthorization (Berman, 2015). Roberts' reasoning reflected much of his experience working to diminish the effects of the VRA.

Intentional or not, Roberts did not consider third generation voter suppression vehicles that obstruct minority voters without utilizing race-based language. A flood of First Amendment-protected corporate campaign financing after *Citizens United v FEC (2010)* enabled the creation of misleading or factually incorrect election information. In 2012, Koch funded SuperPAC Americans for Prosperity billboards in low income and mostly minority neighborhoods warned of criminal penalties for fraudulent voting (Charles, 2012). Voter ID cards requirements disproportionately impeded low-income, elderly, and minority voters who struggle with obtaining information and finding the requisite time and ability to travel to specific registration

locations (Gaskins & Iyer, 2012). Such laws are statistically most likely to be passed when the minority population is growing and when Republican party competitiveness is threatened, although voter mobilization by Black interest groups in the community diminishes the laws effect (Voris, 2016).

Further third-generation voter disenfranchisement vehicles beyond the pale of the Roberts Court include felon disenfranchisement. Felon disenfranchisement is complicated by a myriad of factors in the criminal justice system, but the impact of these policies is clear. Minorities are disproportionately impacted (Pettus, 2013; Alexander, 2012). As of 2018 Florida disenfranchised 1.5 million people, with one in five Blacks stripped of voting rights. The state average is one in ten, nationally that average is one in forty (Bazelon, 2018). In May of 2019, Florida passed a law requiring ex-felons to pay all back fines despite the successful passage of a 2018 ballot initiative restoring felon voting rights (Mazzei, 2019). Race neutral on its face, such laws catch a disproportionate number of minorities and low-income Whites, presumably most of which are liberal. These coalitions are the same coalitions sacrificed under Jim Crow policies in the Solid South.

Final examples of third-generation voter disenfranchisement are enhanced pollbook purges using Interstate CrossCheck and ERIC, which recently errantly caught 300 properly registered voters for one fraudulent registration. Highly accurate GIS mapping are utilized by states with the express and implied intent to strip minorities from voting (Ayala, 2018). These laws continue to violate core American values in representation. The low hanging fruit of striking classes of voters is all too alluring a bait for parties that thrive only when parties can choose their voters.

Returning to the effects of *Shelby County*, Chief Justice Roberts rested his argument on the premise that progress no longer warrants protection, that voting rights are safe because Selma, Alabama and Philadelphia, Mississippi have Black mayors; because Mississippi registers higher rates of Blacks than Boston, Massachusetts (Berman, 2015). Yet other feature synonymous with Jim Crow and the Solid South are also on the rise, like racial violence. The Southern Poverty Law Center reported a 50% increase in White nationalist groups in 2018; an estimated human loss by White nationalist groups in that same time is around 40 people (Southern Poverty Law Center, n.d.). President Trump issued tweets that exude bigoted ideas from previous times (Lopez, 2019). Roberts may be surprised to hear that Black voting rates slipped since *Shelby County*. While the causation is not clear, it should be noted that Black voters decreased by nearly 5% between 2012 and 2016, falling from the highest voter turnout rate by race in 2012 to the second highest voting rate by 5% as well (Pew Research Center, 2017). Federal Courts heard cases challenging violations of the VRA in North Carolina and Virginia after *Shelby County*, and courts have overturned these laws on those grounds. Roberts' assertion that 'the caste system that originally justified taking race into account in structuring elections is gone' appears short sighted (*Shelby County v Holder*, 2013). Racial progress indicates race may still have to be considered to extend to African actual representation and mere possibility for right of decision. One way to ascertain the extent to which actual representation and integration of racial minorities into parties occurred is to examine whether racial minority voter registration has disproportionately experienced retrogression, which was at one time a concern of the federal government.

Chapter III: Research Question and Methodology

The Voting Rights Act seeks to protect both ethnic and racial minorities from laws that effect the impact of the minority vote, even though the VRA originally sought to protect Black voters. As stated above, this does not guarantee proportional representation. The VRA aims to prevent retrogression in minority representation to facilitate better substantive and descriptive representation of historically disenfranchised communities. Given that effective representation requires access to registration, impartial voting mechanisms, and the ability for communities to find right of action, the VRA has an expansive mandate.

Voter registration is the main focus of research here. It is the critical first step towards representation, as the state mandates first that all individuals of a community must meet certain requirements to vote. Setting requirements is the primary power of the states, although those powers cannot conflict with the 14th and 15th Amendment. The people delegated these powers constitutionally in Article I Section 2, Article I Section 4, the 14th Amendment and the remaining suffrage amendments. Further power to determine voter qualifications and conduct elections rests first with the states while the federal government has power delegated by the people to ensure that suspect classifications and obstructions of voting are mitigated. Issues emanating obstruction at the ballot box or even in voter strength are obstructions that develop after states classify who can and cannot vote. Additionally, measuring voter turnout does not speak to who cannot cross the threshold of a voter precinct. These disenfranchised people are classified as nonvoters for failing to meet the states qualifications. Their voice is relegated to virtual representation, and it is here we focus our attention.

Thus far, discussion has centered in the Black community. However, language minorities experienced disenfranchisement that merited federal protection. The 1975 Amendment to the

VRA determined that "through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process....The Congress declares that, in order to enforce the guarantees of the Fourteenth and Fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices" (Civil Rights Division, 2018).

Given the inclusion of language minorities into VRA's jurisdiction, this study targeted data on Black and Latinx communities will be included to measure the impact of legislative and procedural changes surrounding voting. While the Latinx community is included in modeling to determine the impact of post-*Shelby County* legislation, the primary focus of this paper is not to determine the reasoning behind any impacts on Latinx voter registration. There are many unique complexities in the Latinx community that this model does not speak to. For instance, the Latinx community is far less populated in the targeted states of Alabama and North Carolina, voter registration rates are significantly lower in both states, and the Latinx community is not as loyal to Democrats as the Black community nationally. Exit polls in the 2018 midterms found that the Republican party enjoys 54% of the White vote nationally, 29% of the Latinx vote, and 9% of the Black vote (Krogstad, Flores, & Lopez, 2018). Representation in both communities are both effected but these two communities may desire representation of different interests. The purpose of including the Latinx community is to measure other minorities caught up in the patterns of voter obstruction experienced by the Black community since *Shelby County*.

Efforts to dismantle protections for the Black and Latinx representation were finally successful in 2013. In the case *Shelby County v Holder*, the 5-4 decision from the Roberts Court struck down the preclearance formulas that determined which states required federal permission from U.S. District Court for the District of Columbia or from the Department of Justice, enabling

states to substantively and procedurally change voting and election law enforcement. As a result, states can pass and enforce voting and election laws that effect retrogression in minority representation. The Roberts Court asserted that Congress required updates to the formulas that determined which states were covered under the VRA, stating that these formulas were outdated, and that discrimination against minority voters was not as flagrant, pervasive, or widespread as it had been in 1965 (*Shelby County v Holder*, 2013). Logically speaking, it is not surprising that second-generation voting discrimination against minority voters was less pervasive in 2013 than it was in 1965, 1975, or 2006. These states were subject to federal preclearance. Now that these states are not subject to federal preclearance, it is possible for these discriminations to return. Given the near perfect affiliation between Black and Latinx communities and the Democratic Party, the partisan motivations at a minimum may be enough reason alone to disenfranchise these communities. Of course, the existence of latent or obvious racially discriminatory motivations that are beyond the scope of this paper could also be at play. A natural question arises: has minority representation experienced retrogression since *Shelby County* and the perpetuation of third generation voter obstruction?

Post *Shelby County* changes in policies surrounding voter registration with disproportionate effect on racial minorities can be extrapolated by examining how increasing in-migration within each county may incentivize an overall change in voter registration rates state-wide and within each county relative to each other and to voter registration rates for White voters. This study re-examined Matthews and Prothro's study connecting destabilized and growing minority populations with greater efforts to disenfranchise minority voters in the states of Alabama and North Carolina. The VRA covered all of Alabama and parts of North Carolina since 1965. The expectation is that substantive and procedural changes post-*Shelby County* to

voter registration will vary depending on in-migration rates of racial minorities compared to White voters in both states. This study's assertion is that the ability to pass and enforce election and voting laws without preclearance on destabilized and growing minority communities with federal intervention after elections caused retrogression in minority representation. Minority in-migration was a measure of destabilized and growing minority populations. As counties become more competitive due to disproportionate in-migration of liberals and/or minorities, the Republican party responds with stricter voter registration regulation at the state and local level. Republican party coalitions are predominantly White; Democratic coalitions are far more diverse and capture more than 90% of the Black vote (McKee S., 2019).

The correlation of stricter voter registration regulation has a historical and contemporary basis. These substantive and procedural variations are seen historically throughout the South under Jim Crow, but also more recently as jurisdictions are given flexibility in enforcement (Anderson, 2018). Enforcement of voter registration protocols leaves discretion to governors in their direction of their administration, as well as from locale to locale. There are well-documented instances in which enforcement discretion in voter and election law creates an uneven application of the law upon the population. The National Voter Registration Act of 1992 (NVRA) is an additional federal law that intervenes in state sovereignty in elections. After the passage of the NVRA, flexibility was found in offering registration at Departments of Motor Vehicles in the instructions, varying from “not offer[ing] to register clients, or to tell [clients] only if [state employees] have time” (Piven & Cloward, 1996). In 2017, Alabama voter precincts demonstrated variation in administering voting law by asking citizens who were deemed inactive by the State of Alabama questions that were extralegal and in violation of the NVRA and the VRA (Ifill, 2017).

The NVRA requires coordination from various state and local agencies. For instance, in the Commonwealth of Virginia, this means the State Board of Elections (SBE) works with the Department of Motor Vehicles, the Department of Health, Department of Social Services, Mental Health and Substance Abuse Services, military recruitment centers, the Department of Game and Inland Fisheries, and 135 local jurisdictions that register citizens locally. While there are protocols and procedures spelled out by the Virginia legislature and the SBE, discretion on registration is probable given the wide range of interagency cooperation (Watson, 1999). These local variations in voter registration rates are attributed to eligibility requirements, procedures on how to approach incomplete voter registration applications, meeting voter registration deadlines, applicability of provisional voting, and registrar training protocols (Merivaki, 2019). Given the variation surrounding executing federal and state voter registration law in Virginia, it is reasonable to expect procedural and substantive differences in voting registration policies due to legal changes after *Shelby County* in Alabama and North Carolina.

Generally, looser regulation of citizen access to registration (for example, increased hours of operation, ease of access, and geographic location relative to population concentration) results in increased voter registration, as evidenced in McKee and Craig's research on Florida electoral law changes in 2017 (McKee & Craig, 2017-18; McKee S. , 2019). Yet looser or stricter regulation of voter registration policy does not have equal impacts on all racial demographics. Herron and Smith's research in North Carolina indicated that the changes to voter registration laws impacted Blacks disproportionately, and that VIVA was not race-neutral. For instance, the elimination of same-day registration negatively impacted Black voters more than White voters. Between 2008 and 2012, Black voters registered to vote 25 days before the election more often than White voters (Herron & Smith, 2016). Complicating the matter, state legislatures are also

far more likely to change election and voting law when majority party control decreases and elections trend towards increased competitiveness (Brater, Morris, Perez, & Deluzio, 2018; Burden, Canon, Mayer, & Moynihan, 2017; Voris, 2016).

There are several ways to explain why state legislatures trend toward looser or stricter regulation of voter and election law. Despite these trends in previous research, the expectation is that changes to voter registration law will continue to disproportionately effect Blacks in counties where the in-migration of minorities is highest. It is theorized that growing minority populations in southern states once covered by the VRA will present a threat to the conservative, predominantly White party that results in the creation of laws that seek to prevent minorities from obtaining better representation. The effects of voter registration policies on the pool of eligible voters will be examined to determine if disproportionate minority in-migration can be associated with decreasing voter registration through the effects of changing voter registration policies in North Carolina and Virginia.

3.1 Data Collection

Matthews and Prothro's original case study masked the identify of counties examined in the South, instead describing four counties under pseudonym by their demographic and economic information (Matthews & Prothro, 1966). Therefore, some decisions had to be made regarding which states would be covered in this analysis.

The VRA enactment of 1965 originally covered six southern states and forty of North Carolina's one hundred counties. Since 1965, several states and jurisdictions within states have bailed out and bailed in, including several in traditionally southern states (US Department of Justice Civil Rights Division, 2015; The New York Times, 2013). These states and covered areas include:

Table 7 Southern States and Counties covered under Preclearance

STATES	COUNTIES OF NORTH CAROLINA			
Alabama***	Anson	Granville	Pasquotank	
Georgia***	Beaufort	Greene	Perquimans	
Louisiana	Berlie	Guilford	Person	
Mississippi	Bladen	Halifax	Pitt	
South Carolina	Camden	Harnett	Robeson	
Virginia***	Caswell	Hertford	Rockingham	
Texas*	Chowan	Hoke	Scotland	
	Cleveland	Jackson*	Union	
	Craven	Lee	Vance	
	Cumberland	Lenoir	Wake**	
	Edgecombe	Martin	Washington	
	Franklin	Nash	Wayne	
	Gaston	Northampton	Wilson	
	Gates	Onslow		

*Jurisdiction bailed in after 1965

** Jurisdiction bailed out after 1965

*** Portions of jurisdiction bailed out after 1965

A decision was made to explore states originally covered by the VRA, even though some of the states and counties may have terminated or “bailed out” of §5 preclearance coverage prior to the passage of *Shelby County* in 2013. Therefore, there is no non-southern state acting as a control in this case study, as this case study seeks to explore whether retrogression is occurring due to substantive and procedural changes in the law after the passage of *Shelby County* in states originally covered by the VRA.

In surveying states that still publicly released county-by-county voting registration information by race and ethnicity, it was determined that only North Carolina and Alabama were suitable. The other five originally targeted states either required fees for their registration data or did not collect racial demographics at the time of registration between 2010 and 2018. Due to cost and a lack of necessary information, these states were eliminated for inclusion in the case study. Each state was analyzed separately to determine the impact of the VRA on changes in substantive and procedural voting and election laws.

Data collection was performed between June and July of 2019.

3.1 Working Hypothesis & Reasoning

H1: *As the percentage of in-migrating minority citizens increases by county per year between 2011 and 2015 (X), the percentage of minority registered voters by county per year between 2016 and 2018 will decrease (Y).*

Models for White, Black, and Latinx communities were treated with time-series multivariate regression analysis to determine if there is a stronger impact of post-*Shelby County* election and voter law enforcement on destabilized and growing minority populations than on destabilized and growing White populations. Written as another way, the hypothesis which identifies the relationship between dependent and independent variables of interest can be expressed in a simplified version of Model 1 as such:

Equation 1 Simple Regression Model 1

$$\text{Model 1a: Voter Registration}_i = \beta_0 - \beta_1 \text{ demographic in-migration}_i + \varepsilon_i$$

This model will continue to evolve over four iterations to evaluate other effects of impact of other compounding variables.

Because of the 1975 VRA inclusive expansion to cover language minorities like the Latinx community, Asian Americans, Native Americans, Hawaiian/Pacific Islanders, the models captured certain subsets of the population as variables based on available data in both North Carolina and Alabama. Models treated each race and nationality as a separate independent and dependent variable set to examine the effect of voter registration laws on increasing populations of minorities. In order to compare the impact of post-*Shelby County* procedural and substantive policies on minorities, it was necessary to compare the same impact on the White community. Models treated Black-only and Latinx-only communities due to low rates of equity historically and socio-economically, their relative size as the largest minority populations nationally, and availability of data from State Boards of Elections and the US Census Bureau. North Carolina

and Alabama did not report the same groups of minorities beyond of Black and Latinx. For the purposes of comparison, it was not possible to reliably compare other minority communities between the two states.

Table 8 Independent and Dependent Variables

<i>Variable</i>	<i>Race Specific/ Single Value</i>	<i>Description</i>	<i>Prediction of Relationship on Voter Registration</i>	<i>Source</i>
Independent Variable				
<i>Percentage County Population, Black</i>	Race Specific	Calculated by dividing Black population within a given county by the total county population for each year. Indicates the percentage county population that is identified at Black for each year from 2010 to 2018.	Relationship should have a positive correlation with voter registration, indicating that as the total county Black population increases, total county Black registered votes increases.	US Census Bureau Population Estimates for 2010 to 2018
<i>Percentage In-Migration, Black</i>	Race Specific	Indicates the estimated percentage Black in-migration to targeted counties between the years of 2011 and 2015.	Relationship should have a negative correlation with voter registration	US Census Bureau American Community Survey, In-migration by race 2011-2015
<i>Percentage County Population, Latinx</i>	Race Specific	Calculated by dividing Latinx population within a given county by the total county population for each year. Indicates the percentage county population that is identified at Latinx for each year from 2010 to 2017.	Relationship should have a positive correlation with voter registration, indicating that as the total county Latinx population increases, total county Latinx registered votes increases.	US Census Bureau Population Estimates for 2010 to 2017
<i>Percentage In-Migration, Latinx</i>	Race Specific	Indicates the estimated percentage Latinx in-migration to targeted counties between the years of 2011 and 2015.	Relationship should have a negative correlation with voter registration	US Census Bureau American Community Survey, In-migration by race 2011-2015
<i>Percentage County Population, White</i>	Race Specific	Calculated by dividing White population within a given county by the total county population for each year. Indicates the percentage county population that is identified at White for each year from 2010 to 2018.	Relationship should have a positive correlation with voter registration, indicating that as the total county White population increases, total county White registered votes increases.	US Census Bureau Population Estimates for 2010 to 2018
<i>Percentage In-Migration, White</i>	Race Specific	Indicates the estimated percentage White in-migration to targeted counties between the years of 2011 and 2015.	Relationship should have a positive correlation with voter registration, as voter registration laws hypothesized to have a neutral impact on White population.	US Census Bureau American Community Survey, In-migration by race 2011-2015
Dependent Variable				
<i>Percentage County Registered Voters, Black</i>	Race Specific	Calculated by dividing the Black registered voter population by the total county population for each year from 2010 to 2018. Indicates the percentage of the total county Black population that is registered to vote.	Not Applicable	Board of Elections, Alabama and North Carolina 2010 to 2018; US Census Bureau population Estimates for 2010 to 2018
<i>Percentage County Registered Voters, Latinx</i>	Race Specific	Calculated by dividing the Latinx registered voter population by the total county population for each year from 2010 to 2017. Indicates the percentage of the total county Latinx population that is registered to vote.	Not Applicable	Board of Elections, Alabama and North Carolina 2010 to 2018; US Census Bureau population Estimates for 2010 to 2018
<i>Percentage County Registered Voters, White</i>	Race Specific	Calculated by dividing the White registered voter population by the total county population for each year from 2010 to 2018. Indicates the percentage of the total county White population that is registered to vote.	Not Applicable	Board of Elections, Alabama and North Carolina 2010 to 2018; US Census Bureau population Estimates for 2010 to 2018

Alabama's Voter Registration Statistics provided several measures of registered citizens; the figures totaling active registrants were utilized in the study, as these were assumed to be voters who would not be required to vote provisionally at the poll booths due to frequent voting participation. Inactive voters are often signaled as in the process of being purged from poll books. In the case of both the dependent and independent variables, the percentage change for minority citizens will be collected as indicated in Table 8. In order to compare the effects of legislation and enforcement on each population within each state, there will be six individualized applications of the model to the Black communities in Alabama and North Carolina, the Latinx community in Alabama and North Carolina, and the White community in Alabama and North Carolina.

It is also necessary to compare the relative size of each demographic population within the county in 2015, as estimated by the US Census Bureau. These two measures contextualized the total minority community and the impact that minority in-migration had on that community both before and after *Shelby County*. Therefore, the new iteration of the Model 1 equation is:

Equation 2 Multivariate Regression Model 1

$$\text{Model 1b: Voter Registration}_i = \beta_0 - \beta_1 \text{ demographic population}_i + \beta_2 \text{ demographic in-migration}_i + \varepsilon_i$$

The model examined impact of varying substantive and procedural voter registration policies within each county on voter registration rates. The varying nature of these substantive and procedural policies were not isolated at the county to county level. Instead, the model tried to find evidence of variation in these policies through change of voter registration rates after *Shelby County*. For instance, municipalities could have provided less locales or operating hours to facilitate registering than other municipalities due to a wide variety of administrative reasons. Additionally, the geographic position relative to public transportation or centers of employment

theoretically could have impacted registration rates. (Gaskins & Iyer, 2012) Despite this, it is anticipated that as a population increases, the registration rates will also increase as voter registration suppression is theorized to only matter in communities in which destabilized and growing minority populations exist per Matthews and Prothro's research.

3.2 Confounding Variables

It is reasonable to assume that increasing minority populations would not be the only plausible influencing variable. The model features several additional confounding variables visible in Table 9. The model controlled for the impact of partisanship on substantive and procedural changes to voter registration policy through four different measures. Due to the strong overlap of race and party identification, often officials identify party identification as an alternate

Table 9 Confounding Variables

<i>Confounding Variable</i>	<i>Race Specific/ Single Value</i>	<i>Description</i>	<i>Prediction of Impact on Voter Registration</i>	<i>Source</i>
Average GOP Vote	Single Value	County wide GOP Election returns in the Presidential races of 2012 and 2016 are averaged by county.	Impact of <i>Average GOP Vote</i> at the county level should be positive for White Voters; negative for Black and Latinx	State Boards of Elections, North Carolina and Alabama
Post-Shelby County	Dummy Variable	A value of 1 was given for any year after but not including 2013. Indicates the rate of registration for each year since 2013.	Impact of <i>Post-Shelby</i> should be positive for White Voters; negative for Black and Latinx	Not applicable
Percentage X Population, Post-Shelby County	Interaction Variable Time Series	Variable measuring the total population of a targeted demographic (White, Black, and Latinx) for years after but not including 2013.	Impact of <i>Post-Shelby X Population</i> should be positive for White Voters; negative for Black and Latinx	<i>Percentage County Population X * Post-Shelby County</i>
Percentage X Population In-migration, Post Shelby County Presidential Year	Interaction Variable Time Series	Variable measuring the percentage in-migration (White, Black, and Latinx)	Impact of <i>Post-Shelby In-migration</i> should be positive for White Voters; negative for Black and Latinx	<i>Percentage County in-migration X * Post-Shelby County</i>
	Dummy Variable	A value of 1 was given for the presidential election years of 2012 and 2016 and a value of 0 was given for all other years.	Registration rates should decrease in advance of actions like pollbook purging immediately preceding national elections.	Not applicable
Midterm Year	Dummy Variable	A value of 1 was given for the midterm election years 2010, 2014, and 2018 and a value of 0 was given for all other years.	Registration rates should decrease in advance of actions like pollbook purging immediately preceding national elections	Not applicable
Square-Root Population	Single Value Time Series	Transformed raw Total County Population Data into square root to minimize the impact of population data outliers	Impact of <i>Square Root Population</i> should be positive for White Voters; negative for Black and Latinx	Square root of US Census Bureau count population estimates for 2010 to 2018

motivation to explain phenomenon surrounding elections and voting. For instance, partisan gerrymandering frequently divides voters based on perceived party identification using demographics like income, education, property value, gender, and race. As discussed above, race is a very strong indicator of when examining minority voters only. Therefore, the study examined the impact of partisan realities in each of these states to understand the effect of *Shelby County* on minority communities.

Due to the presence of partisan motivations to alter the voting and election environment so that parties can better predict outcomes in elections, the model required inclusion of a confounding variable as control. The model included the average Republican returns in 2012 and 2016 as these elections have the largest voter turnouts and were between 2010 and 2018. Identifying this variable separately from other omitted causal variables allowed a better model for analysis.

Therefore, the model equation continued to evolve as follows:

Equation 3 Multivariate Regression Model 1 with Control

$$\text{Model 1c: Voter Registration}_i = \beta_0 - \beta_1 \text{ demographic population}_i + \beta_2 \text{ demographic in-migration}_i + \beta_3 \text{ average GOP returns} + \varepsilon_i$$

Again, this model ran separate time-series multivariate regressions for White, Black, and Latinx voters to determine if there was any partisan association relative to each population grouping.

The model employed a dummy variable that isolated the relationships of populations for each demographic post-*Shelby County*. The model isolated how years after 2013 effected the voter registration rate. Additionally, the model transformed the dummy variable into two interaction variables intended to amplify the changing sizes of population and effect of demographic in-migration for the time periods immediately following *Shelby County* to look for

interaction that is sourced to this time period only. These post-*Shelby County* variables isolated effects of population and in-migration to determine if there is a difference in voter registration rated pre-and post-*Shelby County*.

Additional variable for years measured the effect of presidential and midterm elections on the voter registration rate to determine if voter registrations were different post-*Shelby County*. Finally, the model featured a transformed variable for total countywide population, which presented the value as a square root to minimize the impact of outliers. The full equation for Model 1 now looks like this:

Equation 4 Final Multivariate Regression Model 1

$$\begin{aligned} \text{Model 1d: Voter Registration}_i = & \beta_0 - \beta_1 \text{Demographic Population}_i + \beta_2 \text{Demographic In-} \\ & \text{migration}_i + \beta_3 \text{Post Shelby} + \beta_4 \text{Percent Demographic Population Post Shelby} + \beta_5 \text{Percent} \\ & \text{Demographic In-migration Post Shelby} + \beta_6 \text{average GOP returns} + \beta_7 \text{Presidential Year} + \beta_8 \\ & \text{Midterm Year} + \beta_9 \text{Square Root Population} + \varepsilon_i \end{aligned}$$

Data warranted a fifth model, as there was a possibility that the measure for partisanship absorbed the effects of the populations. This final model dropped the *Average GOP Returns* to create a better fit for the data. The model attempted to isolate the impact of population, both overall as the *demographic population* and in isolation as the *demographic in-migration*. This final equation looks like this:

Equation 5 Multivariate Regression Model 2

$$\begin{aligned} \text{Model 2: Voter Registration}_i = & \beta_0 - \beta_1 \text{Demographic Population}_i + \beta_2 \text{Demographic In-} \\ & \text{migration}_i + \beta_3 \text{Post Shelby} + \beta_4 \text{Percent Demographic Population Post Shelby} + \beta_5 \text{Percent} \\ & \text{Demographic In-migration Post Shelby} + + \beta_7 \text{Presidential Year} + \beta_8 \text{Midterm Year} + \beta_9 \\ & \text{Square Root Population} + \varepsilon_i \end{aligned}$$

3.3 Methods and Operationalization

The unit of study for the independent and dependent variables was counties in the states of North Carolina and Alabama. For the independent variable, the model estimated racial demographics illustrating *percentage in-migrating citizen* rates at the county level using racial demographic statistics by county in North Carolina and Alabama from the American Community Survey (ACS) Demographics and Housing Estimates from the US Census Bureau's County to County Migration Flow 2011-2015 data set. The model used this dataset to determine percentage increase in White, Black, and Latinx populations within each county over the covered time span. The model relied upon total county targeted demographic population collected from the ACS survey estimates for the years 2010-18, except for the Latinx community as there was no in-migration data for this community. ACS did not release information on county to county in-migration broken down by race often. The latest data set reported after *Shelby* is a five-year data set spanning from 2011-2015, last revised in June of 2018. The 2011-15 data set was the only data set that examines migration flows after the *Shelby* decision. In some cases, data was not available for all counties relating to in-migration rates. In those cases, variables were imputed from the difference in county racial population change between 2015 and 2010 and multiplying the resulting value by the average state in-migration value. The model assigned a binary value to the data to indicate imputed values as a dummy variable to test the fit of these imputed variables.

For the dependent variable, the model featured data on *percentage voter registration* from the Secretary of States' of Alabama and North Carolina voter registration database from 2010 to 2018. The model examined total county targeted demographic population from the ACS survey estimates for the years 2010-18, except for the Latinx community as there is no Latinx population by county data after 2017. This study defined minority citizens as Black and Latinx.

Finally, the model examined data examining White registration to compare the impact of substantive and procedural changes in voter registration laws and processes.

Data for the computation of *Average Republican vote* data was collected from the Secretary of States' of Alabama and North Carolina electoral results pages. The variable represents an average of the 2012 and 2016 Republican vote in each county.

In order to run a time-series analysis in which variables are clustered by counties, several additional variables were created. The model required a time-series multivariate analysis that separated Alabama and North Carolina to isolate differing relationships between the variables. The standard error was clustered on County, 100 in North Carolina and 67 in Alabama for each demographic modeling.

Chapter IV: Results & Discussion

This chapter seeks to determine whether there is a variation in voter registration data that can be explained by changing population rates in minority communities in Alabama and North Carolina. A brief exploration of the changing population sizes in both Alabama and North Carolina will be followed by an overview of the changing nature of voter registration for each of the targeted communities statewide as well as in the average county within each state. Finally, an evaluation of whether any variation can be explained by in-migration rates, relative community populations, and partisan outcomes between 2010 and 2018.

4.1 Surveying the Data

North Carolina's population grew by nearly 850,000 people over an eight-year time span, while Alabama's population increased in size by more than 100,000 people over the same time. These increases in population belie some shifting demographic concentrations within each state. Since the 2010 Census, both Alabama and North Carolina's Black, Latinx, and White populations attenuated, as shown in Table 10. The statistics provided were computed by dividing the total number of each demographic into the total population for each demographic in the targeted years using the ACS data sets for Alabama and North Carolina. Most notable in both states is the decline in the White population. The strength of Alabama's White population has decreased by approximately 1%, while North Carolina's White population strength decreased by nearly 4%. While both states have proven attractive to White, Black, and Latinx in-migrants, it has proven equally if not more attractive to in-migrants of other races.

Additionally, Table 10 reveals the relative proportion of in-migrants to each state between 2011 and 2015 by demographic. These figures mirror to some degree the demographics as a percentage of the population. Latinxs are moving to North Carolina in higher relative proportions in a manner that reflects the size of the population in 2018. Whites continue to move

to the state, but not at the same pace as Blacks are. This in part accounts for the loss in White population between 2010 and 2018 in both states. No demographic is moving to the state enough contribute to a positive gain in population for either state.

Table 10 Shifting Demographic Percentage Population, In-migration

	BLACK	LATINX	WHITE
DEMOGRAPHIC AS PERCENTAGE POPULATION, 2018			
ALABAMA	26.3% (-0.5%)	4% (-0.3%)	67.8% (-1.3%)
NORTH CAROLINA	20.8% (-1.4%)	8.8% (-0.8%)	66.8% (-3.8%)
DEMOGRAPHIC AS PERCENTAGE TOTAL IN-MIGRATION, 2011-2015			
ALABAMA (+692,299)	31.3%	4.8%	63.8%
NORTH CAROLINA (+1,476,793)	25.9%	10.4%	63.6%

Figures outside of parantheses is percentage of state population by race in 2018. Figures in parantheses is the total change in relative population size from 2010 to 2018.

Despite declines in relative population size, all three populations increased their percentage population registered to vote as demonstrated in Table 11. The statistics provided were computed by dividing the total number of voters in each demographic in the targeted years by the size of the total state population in the same years using the Alabama voter registration, North Carolina voter registration and ACS data sets respectively. There are many plausible reasons for this, ranging from get out the vote efforts by parties and special interest groups to increased interest in the backdrop of several years of contentious partisan rancor within the states and nationally. However, there is interest in the relative increase in the registered voting populations compared to the state population.

In Alabama, the Latinx community increased their voting population relative to the total state population by 0.32% between 2012 and 2018. Blacks increased their voting population relative to state population by 2.32% over the same time. Whites increased their voting population 4.89% over this time span. In other words, when looking at the total population, the

White population overall is shrinking while increasing its share of the registered voters in Alabama in a manner that is disproportionate to the Black and Latinx communities.

Table 11 Percentage State Populations as Registered Voters by Race, 2012-2018

	2012	2013	2014	2015	2016	2017	2018
Alabama							
Percent State Population, Registered Black Voters	14.20	16.09	15.87	15.84	16.31	17.39	16.52
Percent State Population, Registered Latinx Voters	0.25	0.34	0.34	0.38	0.45	0.57	0.57
Percent State Population, Registered White Voters	39.39	42.12	41.31	41.35	43.13	46.48	44.28
North Carolina							
Percent State Population, Registered Black Voters	14.11	14.68	14.73	14.18	14.47	14.53	14.71
Percent State Population, Registered Latinx Voters	0.93	1.14	1.20	1.21	1.40	1.62	1.77
Percent State Population, Registered White Voters	46.85	46.38	46.51	44.48	45.56	45.53	46.03

There is plausible explanation for this. Referring to Table 5 on page 33, the types of substantive changes to Alabama election law since 2010 has consistently constricted; types of substantive policies that facilitate voters for minorities have become more restrictive. Due to highly visible political contests like the Presidential election of 2016 and the Senatorial election featuring Republican candidate Roy Moore, interest in voting may have increased. However, the registration is not equal across all demographics. While it is inconclusive that these policies have impeded voting registration for minorities, there is a possibility for some correlation.

This correlation may be more credible upon considering North Carolina's history. Table 3 on page 31 indicates that between 2013 and 2016, some of the most restrictive voting and election policies were rolled out by the legislature in VIVA, only to be challenged and overturned by *NAACP v NC* in 2016. These policies correlate with an interesting blip in rates of

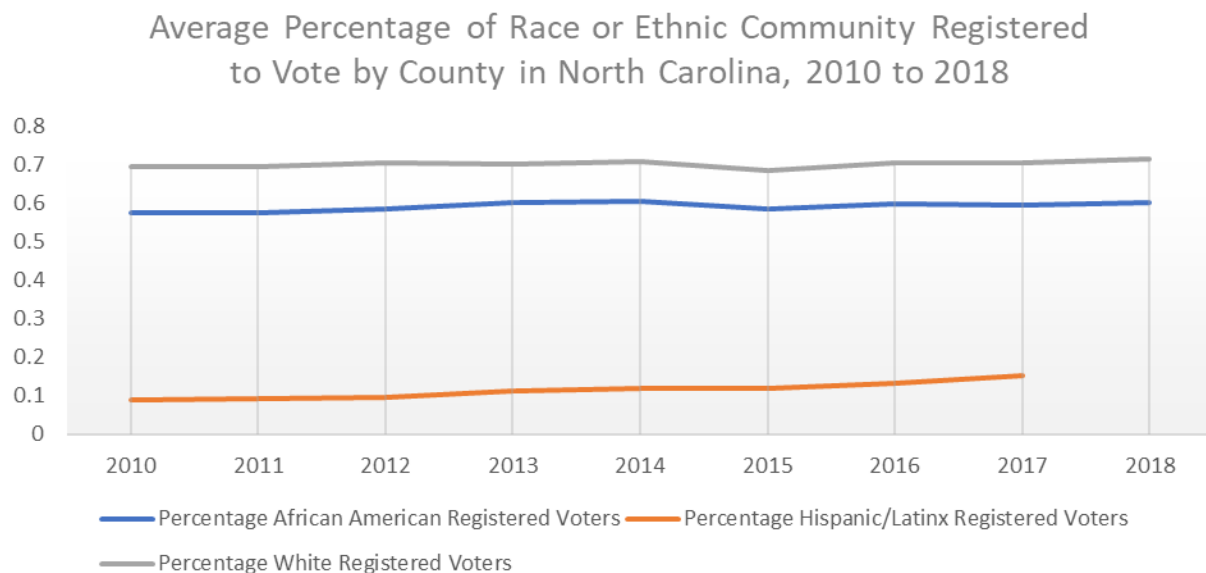
voter registration relative to the total state population. Between 2013 and 2016, Latinx voter registration relative to the state population increased by 0.07%, while Black and White voting registration relative to the state population fell by 0.05% and 1.9% respectively. There is a possibility that White voter registration rates relative to the state population were obstructed by VIVA, but this all occurred during a general loss in the relative size of the White population overall within the state between 2010 and 2018, a figure that once again totaled almost 4% at the same time. Once VIVA was terminated, the White voter registration relative to the state population rebounded to a loss of just 0.82% between 2010 and 2018. This figure is of interest given the relative loss of population strength for Whites. Certainly, the termination of VIVA assisted the Black and Latinx community. Given that these two communities share of the voting strength gained 0.6% and 0.8% respectively over the same eight years despite losses in relative size of the state population. The addition of 0.01% in a state of 10,000,000 translates to the addition of 1,000 voters, which given the relative concentration of minority communities, this can mean big changes in state elections.

4.2 A Closer Look: Effects of Substantive Changes in North Carolina

By examining the average North Carolinian voter registration rates for racial or ethnic communities over the years in question, a similar pattern emerges. Figure 3 examines percentage registration for North Carolina. Between these years, both Black and White voter registration rates grew over the time period in question. It is notable that the Latinx community grew the most. This can be attributable to North Carolina Board of Election's addition of a question collecting Latinx ethnicity as recently as 2002. The question is posed as an optional question, which according to Democracy North Carolina may contribute to underreporting (Gutierrez-Gunter & Hall, 2012). Over time, North Carolinians with Hispanic or Latinx ethnicity may be

new voters registering for the first time or old voters adjusting their voter registration demographic information to reflect nationality. As reflected in Figure 4, Latinx voters increased by 6% over the time period in question while Black and White voters increased by 3% and 2% respectively. For the most part, the data reflects a pretty consistent rise in average registration rates, except for one noticeable dip in 2015 for Blacks and White voters.

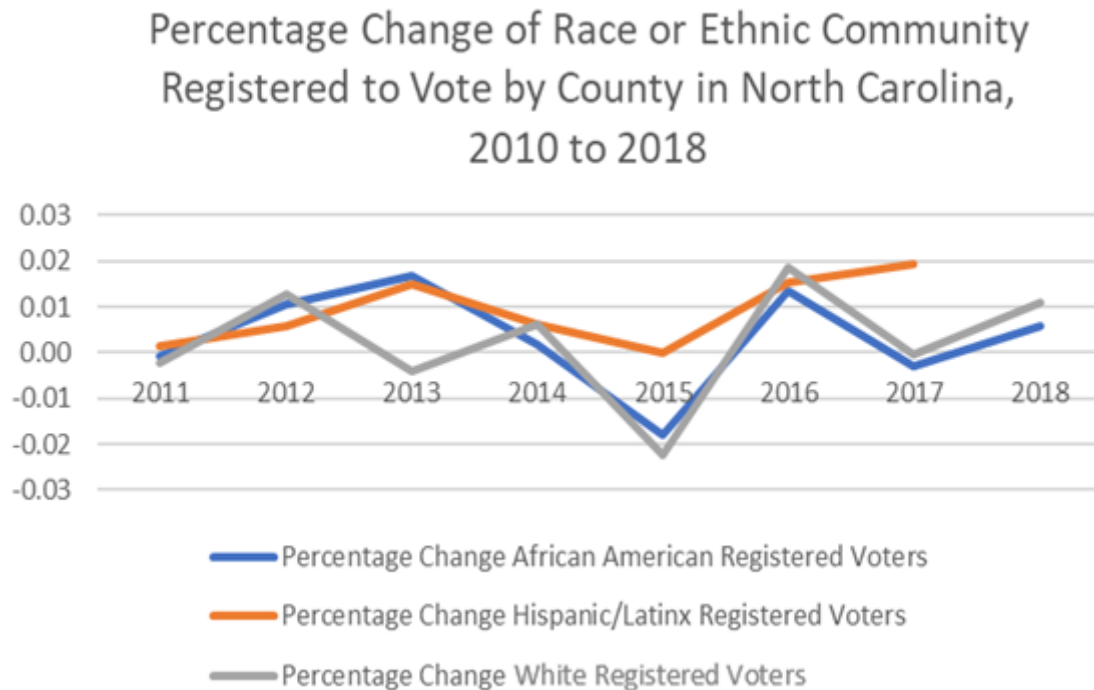
Figure 3 Average Percentage of Race or Ethnic Community Registered to Vote by County in North Carolina, 2010 to 2018



Closer examination of voter registration percentage change from year to year that is of particular interest. In North Carolina, all three demographics indicate declines in average voter registration rates between 2013 and 2016, coinciding with the passage and subsequent challenge to VIVA. Blacks saw the biggest average decline, going from 1% growth to -2% growth between 2013 and 2015. This decline in the average number of registered voters per county translated to an average -1.6% change in average registered voters for Blacks and a -2% change in average registered voters for Whites between 2012 and 2015. In other words, this was a decrease of 22,576 Black voters and 103,034 White voters between 2012 and 2015. These rates did eventually recover and exceed registration rates in 2016 and 2017, around the same time that

VIVA was struck down and before the North Carolina state legislature passed similar reformatted legislation in 2018.

Figure 4 Percentage Change of Race or Ethnic Community Registered to Vote by County in North Carolina, 2010 to 2018



4.3 A Closer Look: Effects of Procedural Changes in Alabama

Alabama shows a different pattern of behavior, looking at the same treatment of the data presented in Figure 5. Between 2010 and 2018, there was a 9% increase in average voter registration for Black and Latinx communities. Whites saw a 7% increase over the same time period. All of this occurred during highly publicized and partisan elections, ranging from the national presidential elections of Presidents Barack Obama and Donald Trump, respectively. State elections during this time period continued to generate national and local interest with the highly publicized 2017 US Senate special election featuring Roy Moore. However, Figure 6

indicates a troubling trend. Corresponding with the purging of voter poll books that occurred after the May 2017 voter registration information, the impact to voter registration rates is clear. Black and White communities experienced deep losses to the average registered voter figures, with Blacks losing on average 6% and Whites losing 10%. While data reflecting the impact to the Latinx community is incomplete, it is reasonable to conclude that the impact will resemble the impact to the Black and White communities.

Figure 5 Average Percentage of Race or Ethnic Community Registered to Vote by County in Alabama, 2010 to 2018

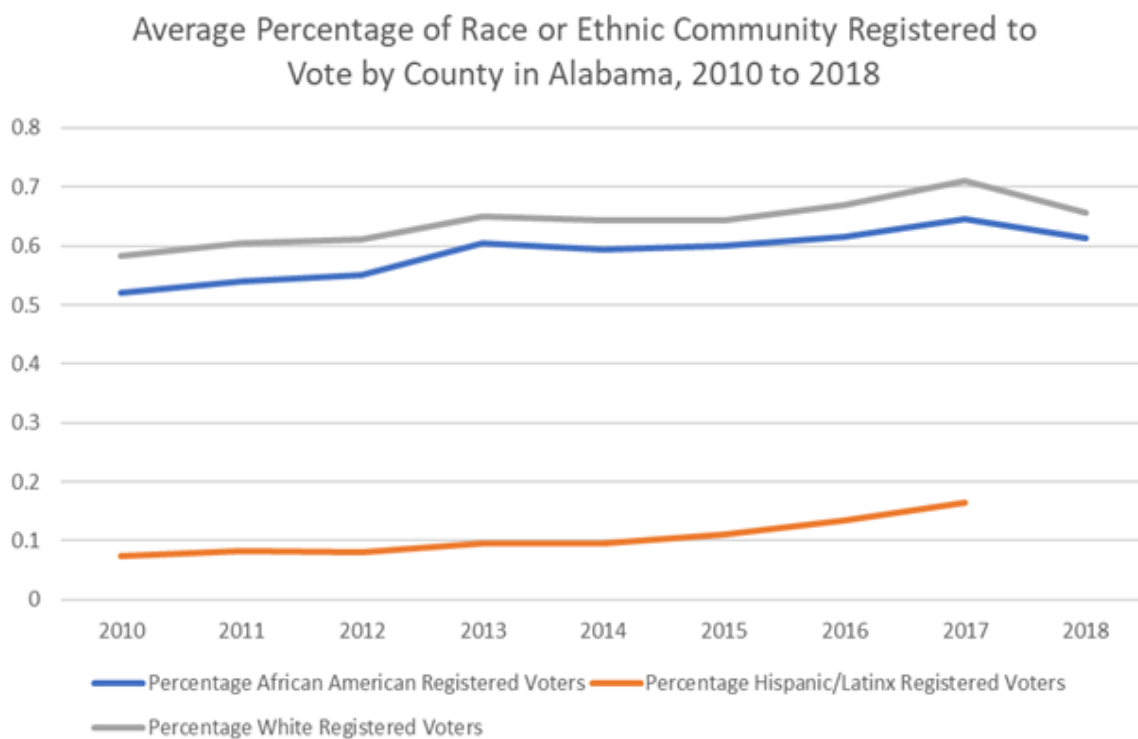


Table 12 elaborates on the shifting demographic realities between 2017 and 2018. Black registered voters statewide fell by 40,498 voters during this time period. The Black voter strength shrunk by 3% in one year, while the relative Black community population grew by 6/100ths of a percent. During the same period, Whites fell off the books by 101,489 voters. This resulted in a decrease of the White voting population comparatively by 7%. The US Census Bureau estimates statewide population change between 2017 and 2018 for Whites at a loss of nearly 4,000 or a

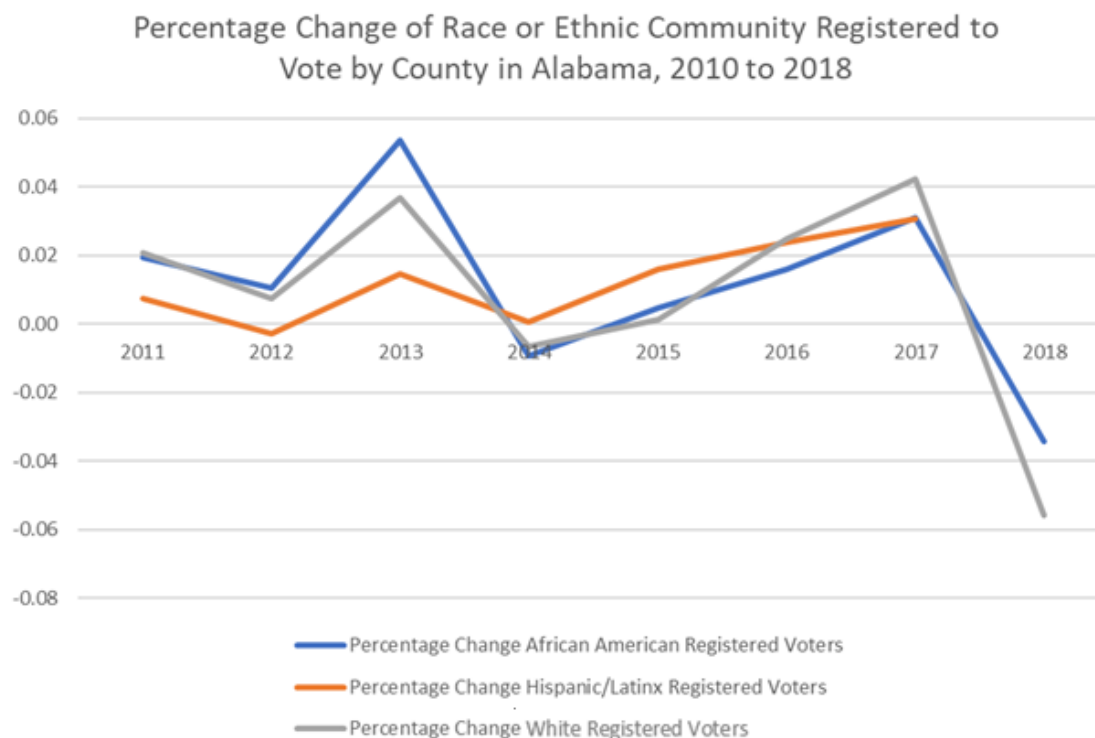
reduction in the size of the White community statewide by almost 3%. There appears to be an association between voter purging, Voter ID laws, and other substantive and procedural changes that impact voter registration rates had a direct impact on the voting strength of these communities.

Table 12 Difference between Population and Voter Registration, 2017-2018

	2017-2018 CHANGE VOTER REGISTRATION	2017-2018 CHANGE POPULATION
TOTAL BLACK CHANGE (PERCENT AA CHANGE STATEWIDE)	-40,498 (-.030)	+3,795 (.00006)
TOTAL WHITE CHANGE (PERCENT C CHANGE STATEWIDE)	-101,489 (-.078)	-3,820 (-.00253)

These percentage changes have lasting impacts on elections as the pool of prospective voters evaporates in the face of substantive and procedural changes to voting registration laws. Testimony before the Alabama Advisory Committee to the US Commission on Civil Rights highlighted concerns that poll book purges targeted minority voters. Bernard Smelton of the NAACP testified that his organization “received several complaints [in 2017] by individuals whose names were removed from the rolls but had voted previously in the primary election in 2017. All of a sudden, their names were removed from the rolls” (Alabama Advisory Committee to the U.S. Commission on Civil Rights, 2018). Statistically evidenced missing voters corroborate allegations that voters were removed from poll books, but it appears that more Whites were removed than Blacks, but by a small margin. Decisions to strike voters in the name of election security or to enhance the reliability of election outcomes by making requirements at the time of registration more onerous impact more than just voters on the known margins of eligible voters.

Figure 6 Percentage Change of Race or Ethnic Community Registered to Vote by County in Alabama, 2010 to 2018



Alabama had uneven administrative changes in laws between 2010 and 2018. In particular, several rural, poverty-stricken, and mostly Black counties experienced a further decrease in access to facilities providing photo-IDs, as testified before the US Commission on Civil Rights. Brock Boone of the ACLU Stated that “not only did Alabama enact voter ID laws, but then the State of Alabama made it more difficult to obtain a photo ID, in particular a driver's license, by closing 31 county driver's license offices, including every county in which 70 percent or more of the population is black.” Of note is the dip in percentage change for voter registration in 2013. The Black community suffered the greatest decrease in percentage change, losing steam in growing the percentage of registered voters in the state by -6%. It is of worth noting that the while Alabama passed the Voter ID law in 2011, they did not enforce the law until after the *Shelby County* in 2013 (Alabama Advisory Committee to the U.S. Commission on Civil Rights, 2018). Fluctuations in voter registration rates continued beyond the 2013 loss that warrant further

investigation. While the data in Figure 6 shows the White community experiencing a sharper decline especially between 2017 and 2018, but the White community is also the only community that is shrinking in its relative size. Some of the impact of the substantive and procedural election changes may be masked by an increasing Black community.

Elaborating further on the impact of substantive changes to majority minority counties requires breaking out counties with the highest relative Black populations. These counties also experienced the most negative changes to voter registration facilities. Figure 4 on page 32 shows the relative access that citizens had to facilities issuing Voter IDs. The statistics provided were computed by dividing the total number of voters in each demographic in the targeted years by the size of the total state population in the same years using the Alabama and ACS data sets respectively. These eleven counties are above the state average in relative size of the Black population and below average in the relative size of the Latinx and White population.

Table 13 Counties Targeted by DMV Closure; Registration as Percentage of State Population 2012 to 2018

COUNTY	2012			2018			PERCENT CHANGE		
	Black	Latinx/ Latinx	White	Black	Latinx/ Latinx	White	Black	Latinx/ Latinx	White
Choctaw	27.5	0.01	35.1	33.2	0.04	41.9	5.7	0.03	6.8
Clarke	28.0	0.08	38.3	32.2	0.15	39.4	4.2	0.07	1.1
Greene	66.7	0.02	13.1	64.6	0.18	13.4	-2.1	0.16	0.3
Hale	44.1	0.07	29.2	44.6	0.08	29.9	0.5	0.01	0.7
Marengo	38.0	0.05	35.0	40.2	0.18	35.7	2.2	0.13	0.7
Monroe	26.8	0.10	36.3	29.2	0.13	38.5	2.4	0.03	2.2
Perry	58.1	0.12	21.8	60.1	0.12	21.5	2.0	0.00	-0.3
Pickens	27.8	0.02	36.6	27.6	0.09	35.9	-0.2	0.07	-0.7
Sumter	40.8	0.02	13.3	51.3	0.06	15.7	10.5	0.04	2.4
Washington	18.3	0.13	50.1	18.1	0.13	51.4	-0.2	0.00	1.3
Wilcox	55.0	0.04	20.0	56.6	0.04	21.2	1.6	0.00	1.2
State Average	14.2	0.25	39.4	16.5	0.57	44.3	2.3	0.32	4.9
Target Average	39.1	0.06	29.9	41.6	0.10	31.3	2.2	0.04	1.4

As shown in Table 13, the targeted eleven counties were one tenth off of the state average for percent change in relative size of registered voters statewide. Interesting of note is that White voter's percentage change relative size to the state population was three percentage points lower

than the state's average percentage change over the same time. The Latinx community again appears the most stunted by voter registration policies. They register at lower rates; in Alabama the Latinx community accounts for 4% of the population. Here, they are registering at 14% of their total population as displayed in Table 14, and the voter registration rates between 2012 to 2018 are nearly at a standstill at .04% in the targeted eleven counties. Statewide, the Latinx community fares little better, increasing their communities' relative percentage of the vote by three tenths of a percent between 2012 and 2018. This is in part attributable to the small relative size of the community and possible lack of citizenship status, but it does not rule out the possibility that substantive and procedural laws are impeding registration rates.

Table 14 Registered Voters and Total Population, 2018

	Black Registered	Black Total	Black Percent	Latinx Registered	Latinx Total	Latinx Percent	White Registered	White Total	White Percent
Alabama	807,475	1,287,167	62.7	27,837	198,375	14.0	2,266,064	3,317,702	68.3
North Carolina	1,528,423	2,159,427	70.7	183,813	914,792	20.1	4,779,632	6,937,466	68.9

In summation, data indicates that White populations are shrinking relative to Black and Latinx communities. Black and Latinx communities show signs of growth due to natural growth, more precise demographic information through registration changes, and in-migration. Furthermore, voter registration rates increased after *Shelby County*, but with some interesting variation. There are changes that correlate with the passage of substantive law that decrease the voter registration in North Carolina, as well as procedural changes in Alabama. The remaining question is whether there is any significant correlation to the variance between Black, Latinx, and White voter registration rates at the county level and a changing minority in-migration.

4.4 Modeling Changes in Voter Registration

The original model (Model 1) featured a variable measuring partisanship as an intervening variable. The alternative hypothesis theorized that partisanship, not in-migration, is a

better explanation for voter registration trends occurring in Alabama and North Carolina. The model produced results in which the partisan measure inconsistently impacted all populations. A negative statistically significant association emerged of $b_6 = -0.469$, $p < 0.05$ in Alabama's Black community, while no significant results emerged in North Carolina. Again, in Alabama's Latinx community a negative statistically significant association emerged of $b_6 = -0.051$, $p < 0.05$, while no significant results emerged in North Carolina. A negative statistically significant association emerged in North Carolina's White community of $b_6 = -0.494$, $p < 0.001$, while no significant results emerged in North Carolina. Given the lack of strong and consistent association, a second model (Model 2) dropping the partisan measure featured more consistent results for several variables across states for each population. Additionally, the fit for each model improved.

Several variables either did not show consistent statistical significance. The variable for *Post Shelby* meant to isolate the years after Shelby County, and the interaction variable produced a mixed result. Positive but inconsistent associations emerged from both models, with the most statistically significant result found in Alabama's Black community $b_3 = 0.042$, $p < 0.01$ and Alabama and North Carolina's Latinx community $b_3 = 0.075$, $p < 0.01$ and $b_3 = 0.025$, $p < 0.001$, respectively. There was no statistically significant relationship for the White community in either state. The mixed results indicate an some of the change in voter registration for these communities is slightly positive over time, but still not enough to prevent the retrogression experienced in these communities.

The variable intended to minimize the effect of statistical outliers, *Square Root Population*, did not elicit consistent results. The Latinx community in North Carolina and the Black community in Alabama are the only communities where the variable showed consistent associations with voter registration. The Black community experienced a statistically significant

negative association of $b_9 = -0.359$, $p < 0.01$ in Model 1 and $b_9 = -0.25$, $p < 0.05$. While the voter registration decreases given the relative size of the county population in Alabama, this association is not replicated in Alabama. In North Carolina, the Latinx community's voter registration are impacted differently when examined through the lens of relative population size. In both models, the voter registration rates were positively associated, with values of $b_9 = 0.244$, $p < 0.001$ in Model 1 and $b_9 = 0.222$, $p < 0.001$ in Model 2. While voter registrations are positively associated with increasing population sizes in North Carolina, this trend does not appear in Alabama. There was no statistically significant relationship for the White community in either state. Therefore, this variable does not consistently explain voter registration for both populations. As this value is intended to reduce the impact of statistical outliers, there is stronger evidence that This model did not find a significant association between county total population and county voter registration rates.

4.4.1 Overall Effects of Minority Population Measures

Models 1 and 2 were applied to six separate populations as reported in Table 15. These populations are Alabama's Black, Latinx, and White populations and North Carolina's Black, Latinx, and White populations for a total of 12 different results from time-series multivariate analysis. They are presented side by side for the purposes of comparison. Model 2 revealed some interesting changes in the effects of population on voter registration. In Model 1, the *Percentage Black Population* did not have similar effects on Black voter registration rates between Alabama and North Carolina. Alabama modeling revealed a negative association that was not statistically significant while North Carolina's model was a statistically significant positive association. The measure for partisanship made the model less robust and absorbed some of the impact of population between the two states. The biggest impact of removing the measure of partisanship

Table 15 Time-Series Multivariate Regression on Countywide Voter Registration by Race, 2010-2018

	ALABAMA		NORTH CAROLINA	
	Model 1	Model 2	Model 1	Model 2
	BLACK			
% Black Population	-0.043 (0.157)	0.340*** (0.054)	0.212* (0.084)	0.312*** (0.046)
% Black Population In-migration	-0.387 (0.219)	-0.375 (0.230)	-0.373* (0.177)	-0.338 (0.174)
Post Shelby	0.040** (0.015)	0.042** (0.015)	-0.006 (0.006)	-0.006 (0.006)
% Black Population, Post Shelby County	0.062** (0.022)	0.059** (0.022)	0.061*** (0.017)	0.060*** (0.017)
% Black Population In-migration, Post Shelby	0.033 (0.644)	0.012 (0.062)	0.035 (0.031)	0.034 (0.031)
Average GOP Vote	-0.469* (0.184)	--	-0.161 (0.107)	--
Presidential Year	-0.0187*** (0.002)	-0.018*** (0.002)	0.002* (0.001)	0.002* (0.001)
Midterm Year	-0.030*** (0.002)	-0.030*** (0.002)	0.003** (0.001)	0.003** (0.001)
Square Root Population	-0.359** (0.116)	-0.250* (0.098)	0.134 (0.096)	0.231* (0.112)
	N = 603 R ² = 0.55	N = 603 R ² = 0.52	N = 900 R ² = 0.36	N = 900 R ² = 0.34
	LATINX			
% Latinx Population	-0.480*** (0.127)	-0.610*** (0.132)	-0.293*** (0.079)	-0.282*** (0.0788)
% Latinx Population In-migration	0.125 (0.030)	0.017 (0.031)	0.216*** (0.064)	0.195** (0.065)
Post Shelby	0.075** (0.023)	0.075** (0.023)	0.025*** (0.005)	0.025*** (0.005)
% Latinx Population, Post Shelby County	-0.091 (0.173)	-0.084 (0.174)	0.050 (0.068)	0.051 (0.067)
% Latinx Population In-migration, Post Shelby	-0.182 (0.102)	-0.181 (0.102)	0.063 (0.052)	0.064 (0.052)
Average GOP Vote	-0.051* (0.025)	--	0.037 (0.035)	--
Presidential Year	-0.007* (0.003)	-0.007* (0.003)	-0.002*** (0.000)	-0.002*** (0.001)
Midterm Year	-0.026*** (0.003)	-0.027*** (0.003)	-0.018 (0.001)	-0.017*** (0.001)
Square Root Population	-0.009 (0.070)	0.12 (0.069)	0.244*** (0.059)	0.222*** (0.056)
	N = 536 R ² = 0.25	N = 536 R ² = 0.24	N = 800 R ² = 0.40	N = 800 R ² = 0.40
	WHITE			
% White Population	-0.201** (0.077)	-0.182*** (0.033)	0.334*** (0.047)	0.072 (0.041)
% White Population In-migration	-0.764*** (0.147)	-0.769*** (0.149)	-0.414 (0.212)	-0.039 (0.313)
Post Shelby	0.023 (0.014)	0.023 (0.014)	0.012 (0.012)	0.005 (0.013)
% White Population, Post Shelby County	0.037* (0.017)	0.037* (0.017)	-0.001 (0.011)	0.007 (0.012)
% White Population In-migration, Post Shelby	0.084 (0.060)	0.086 (0.060)	-0.058 (0.061)	-0.059 (0.056)
Average GOP Vote	0.022 (0.088)	--	-0.494*** (0.079)	--
Presidential Year	-0.013*** (0.001)	-0.013*** (0.001)	0.008*** (0.001)	0.009*** (0.001)
Midterm Year	-0.030*** (0.002)	-0.030*** (0.002)	0.010*** (0.001)	0.011*** (0.001)
Square Root Population	-0.013 (0.065)	-0.015 (0.064)	0.008 (0.097)	0.129 (0.108)
	N = 603 R ² = 0.51	N = 603 R ² = 0.51	N = 900 R ² = 0.42	N = 900 R ² = 0.06

Note: Coefficient (Standard Error). Standard Error adjusted for 67 and 100 clusters by county. Non-dummy variables with high levels of significance indicated as follows: *= $p < .05$, **= $p < .01$, ***= $p < .001$

is that in both states, the associations were statistically significant and positive. North Carolina's $b_1 = 0.312$, $p < 0.001$ and Alabama's $b_1 = 0.340$, $p < 0.001$ indicate that counties with larger Black populations have a much higher rate of voter registration despite laws that theoretically should have a negative impact. However, the interaction variable that isolates the effect *Percentage Black Population Post Shelby* on voter registration rates since Shelby County also show that there has been a significant decrease in the effectiveness of efforts to register voters in larger cities, as seen in Alabama's results $b_4 = 0.059$, $p < 0.01$ and North Carolina's results $b_4 = 0.060$, $p < 0.001$. Larger black populations in counties are more likely to overcome recent registration obstacles in election and voter law.

Models for the Latinx community were far more consistent and indicate that actions taken by Alabama and North Carolina impact these communities to a greater extent. These communities saw a statistically significant negative association between population size and voter registration rates. In Model 2, the variable *Percentage Latinx Population*'s association is $b_1 = -0.610$, $p < 0.001$ in Alabama and $b_1 = -0.282$, $p < 0.001$ in North Carolina. While the effect had a larger negative association in Alabama than North Carolina, these similar effects are negatively impacted in their voter registration rates. The data does not indicate why the Latinx community has a negative association while the Black community has a positive association, just that it exists. Determinations as to why the impact is different require additional research external to this model. Due to limitations in the data between the state registration data base and the US Census Bureau database, the relatively small Latinx population in both states, and issues with collecting and finding continuity in comparing self-reporting of the Latinx community, it is difficult to make meaningful interpretations of the data beyond the presence of a negative association.

White populations in Alabama and North Carolina do not appear to have any consistent pattern in the impacts of legislative changes on voter registration. Other than year, no one variable has a similar statistically significant impact on the White population in North Carolina and Alabama. However, Alabama does have a variable interest given the changes to execution of law in Alabama. The size of the *Percentage White Population* $b_1 = -0.182$, $p < 0.001$ does have a negative association on voter registration. The application of Model 2 to North Carolina's White population sees a decrease in statistical significance. Beyond that, North Carolina does not see a statistically significant association for this variable. There may be some indication that election and voter law enforcement impacts in a similar way to the Latinx Community. However, the degree to which election and voter law changes are impacting the significantly larger White community does not have a material effect on the White community's overall representation. Representation of other interests within the White community associated with socio-economic status, gender, or religion cannot be discerned from this model.

4.4.2 Overall Effects of Minority In-migration Measures

Recalling that the minority in-migration was the measure of population anticipated to have the most statistically significant negative associations, it is interesting that in-migration had mostly unremarkable impacts on voter registration in this model. In both the independent variables *Percentage In-Migration* and the interaction variable *Percentage In-migration Post Shelby*, there was no statistically significant association with *Voter Registration Rates* for almost any race or nationality. The interaction variable *Percent In-migration Post Shelby* had no statistically significant association for any racial or nationality groups across of any of the models.

The model presented two variables with a statistically significant association between in-migration and voter registration. In Model 2, Percentage *Latinx In-migration* $b_2 = 0.195$, $p < 0.01$ is one of these two variables. Considering that the question on nationality only recently appeared on North Carolina's voter registration form, this may not be as surprising. Latinx voters new to the state can indicate their nationality. It is difficult to theorize that there are networks at work looking to identifying Latinx eligible voters, new and old, as there is not a similar correlation with population size. If there were a network registering Latinx citizens, there may be a similar trend elsewhere in the model. However, there is not.

Additionally, Model 2's measure of Percentage *White In-migration* $b_2 = -0.769$, $p < 0.001$ in Alabama showed statistically significant associations, but was not replicated in North Carolina. This association is surprising, but perhaps reflects a lack of meaningful voter registration networks within communities that have significant increases in the White population due to in-migration. There is a possibility that obstructions that appear disproportionately in minority communities are also impacting White voters in communities experiencing high rates of in-migration. Given that Alabama is a mostly one-party state that mostly reflects White interests, networks aimed at registering White in-migrants may not be critical to continuing White hegemony. The association negates the Model 1 hypothesis outright, as the model demonstrates that there is a positive association, but only in North Carolina. There was not statistically significant association in Alabama for this variable. Because there is no consistency in minority groups, the Model 1 hypothesis must be rejected as a result. There can be other factors underlying the positive association, including the recent inclusion of a question on the voter registration form that identifies Latinx nationality.

Both models produce a statistically significant association for *Percentage White In-migration*. Specifically, Model 2 does have an impact on voter registration, but it is negative in both cases $b_2 = -0.769$, $p < 0.001$. In fact, the statistically significant negative association with *Percentage White In-migration* is particularly interesting as the degree to which the negative association is experienced in the in-migrating White community is pretty astounding. Furthermore, *Percentage White Population Post Shelby County* presented a final statistically significant value for Alabama $b_2 = -0.769$, $p < 0.001$. This is further cause to reject the H1 hypothesis. Given that the White community are generally more numerous than the in-migration rates for the Latinx community, this may be further evidence that changes in how voter registration is conducted in the state of Alabama causes retrogression, and the White community also has not invested in as many community based structures to increase voter registration rates.

4.4.3 Overall Effects of Time

The model did not show the anticipated negative association between destabilized and growing minority populations and voter registration rates. Therefore, it does not appear that retrogression within minority communities is due to the possible threat from in-migrant minority voters. Despite the rejection of the H1 hypothesis, the proven retrogression amongst minority populations can be attributed elsewhere. There is indication that while this function of population does not have an impact, the total size of the racial community's population does. There are indicators that show the Black community is not universally negatively impacted by changes in voter registration laws in either state, but this is not shared by the Latinx community and in the case of Alabama only, the White community. Recalling once again that larger Black communities in North Carolina and Alabama have a positive association with voter registration, smaller communities experience decreased rates of voter registration. Latinx communities

succumb to obstructions regardless of community size. While this does not support the thesis posited, the statistically significant associations with population warrant further inquiry.

Therefore, we turn to the effect of laws post-*Shelby County* overall, and in years in which there is a high stakes national election.

The model indicated statistically significant associations between *Percentage Black Population Post-Shelby* and *Voter Registration* in both Alabama and North Carolina. A significant trend emerges in Model 2 when reviewing Alabama's results $b_4 = 0.059$, $p < 0.01$ and North Carolina's results $b_4 = 0.060$, $p < 0.001$. While retrogression is happening post-*Shelby County*, larger countywide Black populations in Alabama and North Carolina can overcome laws that cobble voter registration efforts for other race or nationality communities. Further examination of the effect of time in Model 2 reveals additional stories of interest. In Alabama, variables measuring the association between *Voter Registration* and *Presidential Election Years* show a statistically significant negative association $b_7 = -0.018$, $p < 0.001$. The same trend is true in *Midterm years* $b_8 = -0.03$, $p < 0.01$. The Black community finds a decrease in countywide Black voter registration in the time leading up to each major national election, thereby decreasing overall representativeness of Alabama's Black community before major elections. North Carolina's Black community indicates a slightly positive statistically significant association between *Voter Registration* and *Presidential Election Years* $b_7 = 0.002$, $p < 0.05$. A similar trend is true for *Midterm Years* $b_8 = 0.003$, $p < 0.01$. While retrogression is occurring in both communities, in the time directly preceding a national election, the Black community in North Carolina overcomes voting registration obstacles. Those who live in counties with higher Black populations can overcome these trends, but retrogression is still occurring in advance of high stakes national elections. However, in neither state are these enough to avoid retrogression

in each community's registered voter population. These trends are mirrored in each state's White Population, with statistically significant negative associations in Alabama and statistically significant positive associations in North Carolina for both *Presidential Election Years* and *Midterm Years*. Returning to trends discussed above, this pattern reveals different realities for White hegemony in each state. White voters in the one-party state of Alabama have less political threat from minority populations in Alabama. Policies with disproportionate effects on minorities also impact White voters, but not in such a way that disrupts continue White political domination.

The model tells a different story for the Latinx community post-*Shelby County*. In North Carolina and Alabama in both *Presidential Election Years* and *Midterm Years* there are statistically significant negative associations between elections and voter registration. The model indicates a negative association with the Latinx community since *Shelby County* specifically in national election years, which shows that changes after the decision in election and voter law execution has negatively impacted the Latinx community. The Latinx community does not show the same statistically significant negative association. Curbing retrogression was the aim of preclearance, and in the intervening time since *Shelby County* in North Carolina only, Latinx voter registration rates retrogressed as states were un-encumbered by preemptive measures to prevent retrogression for minorities. The results of this variable warrant further investigation in other former preclearance states.

4.4.4 Effects of Partisan Measures

In Model 1, the variable measuring Republican Partisanship by county was inconsistently statistically significant between the three communities in Alabama and North Carolina, but not as significant as other variables presented. In North Carolina, the effect was statistically significant

only for the White community $b_6 = -0.494$, $p < 0.001$. This effect was seen nowhere else in North Carolina. Alabama's results were slightly different, with statistical significance for the Black community $b_6 = -0.469$, $p < 0.05$ and the Latinx community $b_6 = -0.051$, $p < 0.05$. Given the inconsistent effects of partisan measures on voter registration and the stronger and more consistent association with population, the variable for partisanship does not appear to have a reliable explanation for voter registration rates in the targeted communities. Therefore, Model 1 was retrofitted to drop the *Average GOP* variable.

Additionally, there was some concern that the correlation between controls for *Average GOP* vote and population were too closely correlated. Due to stronger associations with population, Model 2 removed the control for partisanship to see if this variable was obscuring the effects of the controls. Additionally, Model 1 does not appear to indicate that trends in voter registration in Alabama and North Carolina are significantly impacted by partisan measures.

There are several trends relating to population, partisanship, and demographics that speak to the thesis of the research. The next chapter seeks to do so.

Chapter V: Conclusion

Matthews and Prothro's original research enumerated the degree to which substantive voter registration law and procedural actions at the county levels obstructed Black voter registration. The research indicated a significant impediment that prevented the Black community from having any form of real representation in elected office. Therefore, significant legal and procedural blocks inhibited the betterment of the Black community. The passage of the VRA brought demonstrable change, as representation was protected against 'legal dodges and subterfuges' from inherently racist motivations of state legislatures. *Shelby County v Holder* (2013) truncated the effectiveness of the VRA by eliminating §4's triggers and bailout mechanisms, which enabled the preemptive intervention into discriminatory laws via preclearance. Since 2013, challenges to offending laws must run the gauntlet in the courts while enforcement could change representation and electoral strength of minority communities. Significantly, there is an indication that actions taken by Southern governments to alter the voting landscape are benefitting the predominantly White Republican party, as indicated in Figures 3 and 5. There is no question that Blacks are beginning to lose ground as more southern states adopt similar legislation as outlined in Table 6. In other words, Black voter registration may have crested.

Matthews and Prothro's research indicated that one of the most significant predictors of discriminatory substantive and procedural changes to election law was the presence of a growing minority population relative to the general population. Resurrecting this research, it was theorized that disproportionate southern minority population growth may be one way in which to evaluate the impact of legislative changes in Alabama and North Carolina. The hypothesis posited:

Using data from North Carolina and Alabama, two of the eleven states originally covered under the VRA's §4, do counties experiencing growth in minority populations translates into a decrease in registered Black and language minority voters after the termination of §4 of the VRA in *Shelby County* and the passage of substantive and procedural state voter registration laws that have the effect of curtailing minority voter registration?

Before turning to the conclusions of this research, it is important to consider the limitations of the research.

5.1 Limitations of Study

Primary limitations to the study are dependent upon the data sets used. There will be several limitations introduced into this research because of this reality. Specifically, the use of data from the American Communities Survey and the US Census Bureau introduces rough estimates on migration rates nationwide. The data produced does not indicate actual population changes within each county and only offers a basic illustration of the impact of migration patterns within counties. To illustrate the variance within this dataset, demographic population estimates by county published by the Census Bureau varied depending on which year's estimate was queued. Within the in-migration data set, there were several counties that did not contain any estimate. Values were imputed by finding the average in-migration rate for each demographic within each state. This average rate was multiplied by the difference between the reported 2015 population and the 2011 of the demographic in question. A dummy variable was created to indicate which variables were imputed. In sum, there were eighteen imputed Latinx American variables, eleven imputed Black variables, and two imputed White variables.

Furthermore, there were several instances in which the reported total number of registered citizens within a county was larger than the estimated population. This occurred in Clarke County, Alabama in 2016. In particular, the Latinx population was illogical as there were more registered Latinxs than residents. An imputation was made, which fell within the Census Bureau's margin of error. This imputation was the average of the reported values for the Latinx population between 2015 and 2017. Similarly, Greene County, Alabama had null values for their Latinx population between 2011 and 2012. The highest value for the margin of error was used.

Other considerations turn to the discrepancy between the Census Bureau, Alabama, and North Carolina on the reporting of ethnicity. Alabama's voter registration form collects race and ethnicity within the same section on their voter registration form. Registrants can only choose one option. Alabama consistently collected race and nationality since at least 1997, with evidence that Alabama collected information on nationality as early as 1964. The provision of nationality is optional, although optional provision is not clearly indicated on the present voter registration application (Hinton, 2019; Alabama Board of Registrars, 2019). (See Appendix A) North Carolina provides two separate points on the application to report race and ethnicity, and the provision of such information is optional. North Carolina did not begin collecting information on nationality until 2002 (Gutierrez-Gunter & Hall, 2012). (See Appendix B). This makes direct comparison between the states and the collection methodology of the US Census Bureau (which collects race alone and with ethnicity for all demographic categories) difficult to marry together. This can account for the unreliable results for Latinx voter registration in both states.

The study does not isolate the impact of access to registration (location and hours of voter registration offices) versus actual state regulatory requirements. Procedural decisions such as

availability of office hours, location, ease of access, and relative location to population centers cannot be ascertained in this data. These decisions illustrate disparate effects of state law. All that can be said is that over the time period in question, voter registration rates, in-migration, and population changes in the targeted populations are occurring at the same time as these changes. In no way can it be conclusively said that legislative and procedural changes have a direct impact based on the methodology utilized in this model.

Finally, this subject makes no examination of legal impact which effectively suppresses registered voters from voting, including Voter IDs, changes in electoral administration regulations, or other activities taken by states to regulate and possibly repress registered voters. These substantive and procedural changes happen after voter registration occurs, and this research in no way models the impact of these occurrences on the communities in question.

5.2 Conclusions

There was limited evidence that in-migration associated with decreasing Black or Latinx voter registration rates in either state. Once again, the Model 1 stated:

$$\begin{aligned} \text{Voter Registration}_i = & \beta_0 - \beta_1 \text{Demographic Population}_i + \beta_2 \text{Demographic In-migration}_i + \\ & \beta_3 \text{Post Shelby} + \beta_4 \text{Percent Demographic Population Post Shelby} + \beta_5 \text{Percent Demographic In-} \\ & \text{migration Post Shelby} + \beta_6 \text{average GOP returns} + \beta_7 \text{Presidential Year} + \beta_8 \text{Midterm Year} + \\ & \beta_9 \text{Square Root Population} + \varepsilon_i \end{aligned}$$

Certainly, the variation occurring for Black and Latinx voter registration can be best explained by using Model 2, in which the variable for partisanship was eliminated, as indicated below:

$$\begin{aligned} \text{Model 2: Voter Registration}_i = & \beta_0 - \beta_1 \text{Demographic Population}_i + \beta_2 \text{Demographic In-} \\ & \text{migration}_i + \beta_3 \text{Post Shelby} + \beta_4 \text{Percent Demographic Population Post Shelby} + \beta_5 \text{Percent} \end{aligned}$$

$$\text{Demographic In-migration Post Shelby} + \beta_7 \text{Presidential Year} + \beta_8 \text{Midterm Year} + \beta_9 \\ \text{Square Root Population} + \varepsilon_i$$

Neither model indicates that minority in-migration can explain variation in voter registration rates. Measures of in-migration did little to explain variation in Alabama and North Carolina and the H1 hypothesis found in Model 1 and Model 2 is rejected as well. In both states and in all models, the association between in-migration and voter registration rates is not statistically significant for the Black community and is only statistically significant in portions of the models for the White and Latinx community. This means that this model does not indicate increasing populations that may be unsettling partisan competitiveness in races are strongly associated with voter registration policy changes in North Carolina or Alabama. The model does not support the hypothesis, and therefore these model does not affirm the same trends seen in Matthews and Prothro.

Yet the data indicates that there is a retrogression in voter registration for Black, White, and Latinx communities, especially in advance of national elections. The model also indicates interesting associations between voter registration and relative population size. Matthews and Prothro's research concluded that policy efforts were targeted in locations where populations could make races more competitive in time. This model indicates something quite different.

Especially in the Latinx community, there is a real decrease in voter registration rates since *Shelby County*, and that decrease shows an association with the relative size of the population. As the Latinx community increases in size, there is a statistically significant and sizable negative correlation with decreasing voter registration rates. The model indicates that there is some credibility to the idea that the policy changes post *Shelby County* impact communities in a negative way. In both Alabama and North Carolina, construction and

enforcement of voter registration laws keep the Latinx community from successfully registering to vote. There is some evidence that this may be negatively impacting White communities in Alabama, but not to the same extent. The impact of such changes is one of retrogression.

However, it should be noted once again that there are real limitations to any conclusions drawn from either Model. First, the purpose of this research was not to investigate and test theories about Latinx representation. Certainly, the Latinx community interests are far less consistently aligned with Democrats. As indicated earlier, Latinx voter interests swirl around different dates of immigration to America, different nationalities, differing socio-economic status, and geographic cultural and historical differences. Thus, any impacts on this community do not express themselves in the same manner as the Black community. There is less unity in interests to represent throughout the Latinx community than in the Black Community.

Furthermore, data on the Latinx community presented problems. Due to inconsistencies in reporting data like in-migration rates, registration rates, and overall population, any assertion about the impact of laws comes with a caveat on interpretations of data. Despite these inconsistencies, the data indicates concerning trends for Latinx voters and on Latinx representation that warrants further focused research.

The same is not true for the Black community in either Alabama or North Carolina. In both states and in both models, the size of the Black community has a statistically significant positive association. This does not dismiss the idea that procedural and substantive changes to voter registration laws contribute to retrogression in the Black community. It does give credibility to the idea that the Black community's historical experience with disenfranchisement and the actions taken by parties and interest groups to register individuals within their

community despite the enactment of laws post *Shelby County* has overcome any retrogression, but by slim margins.

What is indisputable is that there are real measurable retrogressions in voter registration for the Black and Latinx communities in the age of third generation voter obstruction, specifically as it relates to voter registration. These models show statistically significant associations between the size of the respective community with the voter registration rates over time, with notably important impacts in the time periods directly preceding high-stakes national elections. For instance, larger Black communities can overcome the effect of procedural and substantive changes that may momentarily diminish the Black vote better than smaller communities. Yet moves to purge poll books and limit voter registration elicit a pattern that is effective at key times. The effect of reducing voter registration rates by a few percentages before high stakes elections provides critical evidence to rebut accusations of Black voter disenfranchisement while tailoring electoral wins by a few percentage points. Thus, the third generation of voter suppression both lives within the legal requirements for equality in elections and continues to guarantee electoral victories for the White community. It is here we may find the reality of representation for Black voters in the post-*Shelby County* legal landscape: sufficient representation to avoid federal intervention but never enough representation to result in right of action for Black voters.

Larger Latinx communities have not overcome the effect of these procedural and substantive changes. Once again, the effects of these laws indicates a real retrogression in representation as citizens are not able to overcome the obstacles at voter registration to even cross the threshold into a voter precinct. Yet, there is more work to be done in determining if this collateral damage to the Latinx community. Once again, the Latinx community is not as reliably

Democratic. Furthermore, there is the possibility of data limitations that restricts conclusions appropriate to the data. Yet by standard measures, retrogression is noticeably significant in the Latinx community.

To some degree, the White community has lost representation in the fall out of these procedural and substantive changes. The models' applicability indicates less fit for the data. Moreover, real political power within these states' federal and state representation is meaningful distant from the interests of the White community. Finally, in the model presented, the retrogressions cannot be explained via partisan measures. But in all demographic subsets, retrogression occurs for each demographic in advance of national elections as a result of procedural and substantive changes made to voter registration laws.

Chapter VI: Summary

Representation is a dream often chronicled in American history. Who votes with whom determines accountability of elected officials in our system of government and makes representatives more attuned to the desires of the people. It is the consent of the governed rooted in meaningful representation that is a cornerstone of American democracy, and the White majority has historically presided over the right to action with extreme interest.

A chimerical incantation, consent of the governed via representation flowed from the pens of the founding fathers onto the pages of the Declaration of Independence, the US Constitution, the Gettysburg Address, and from the mouths of women suffragettes, Black community leaders, and minors asked to die for their country. James Madison tethered the branch most likely to dissolve into demagoguery and tyranny, the House, to two-year terms punctuated by elections. In Federalist 37, he declared “the genius of Republican liberty, seems to demand on one side, not only that all power should be derived from the people; but, that those entrusted with it should be kept in dependence on the people, by a short duration of their appointments; and, that, even during this short period, the trust should be placed not in a few, but in a number of hands” (Madison, 2001). He went on to say in Federalist 57 that representatives “will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised” (Madison, Federalist 57, 2001). In the two hundred and thirty nine years since the seating of this dream in our federal government, it is a dream that has been forced into the living daylights through demands for suffrage for women, minorities, minors. To have a liberalist approach to descriptive representation in which each individual is represented equally independent of their legislature is the promise of democracy. However there is a real danger to democracy’s

sustainability when those chosen to represent are only held accountable to a select few classified on the basis of arbitrary biological classifications.

W.E.B. DuBois's declaration of a deceased democracy this exact sentiment. White hegemony subverts the promise of democracy, as economic and legal experiences of Black America is so different from White America. His sentiment speaks to the helplessness of a society built to disenfranchise then and today. Helplessness was counteracted by the VRA. In particular, the use of preclearance as regulation on state actions helped propel minority concerns into the halls of Congress, resurrecting the dream of representation. The VRA made, as Gouverneur Morris decried, the people king (Madison, Notes of Debates in the Federal Convention of 1787, 1987). Since *Shelby County*, state policy is challenged retroactively only. State action is causing retrogression in minority representation once again; the people are dethroned and democracy's vitality is at risk. In certain populations, real threats to substantive and descriptive representation hangs in the balance. Policy impacts in election and voting law and enforcement have real consequences that cripple equitable representation for all Americans. Furthermore, the right of action to translating interests into meaningful state and federal policies is retained by White communities across the nation.

Retrogressions in representation were guarded against under the VRA, while eliciting complaints that proportional representation may be the end goal of minority communities. Evidence presented shows the seeds of retrogression resown despite a short-term historical trend for Black communities to overcome some of these contrivances. Communities of color are experiencing retrogression, regardless of whether or not those communities are stable or growing. White population relative to total population is dwindling, and in its face the Republican party has clothed itself in election and voting policies that are race-neutral but show

evidence of impacting minority populations more than White populations, particularly the Latinx community. Of note is that some of these policies are impacting White voters on the margins, cutting slightly into the White majority in order to have a greater disproportionate impact on communities of color. This research indicates that contrivances decreasing representation show stronger associations between larger Latinx communities while larger Black communities are able to overcome such obstacles to voting possibly through community associations that drive their members to register. The Latinx community is the most impacted community, showing serious cuts into the community's active voter base. These contrivances obstruct representation in ways that cannot be justified by stating minority communities can overcome them through voter registration drives, community out reach, and other methods adopted by special interest groups within the Black community. As Adam's stated, state legislatures do not have the power to impress their will on minority community's right to representation.

Research supporting the removal of the VRA waved these concerns away. The *Shelby County* decision declared American to be post-racial and these concerns to be less presicent than the rights of communities to represent themselves. Yet *Shelby County* ignores the rights of individuals enshrined in the 14th and 15th Amendment in favor of a return to community based representation. Historically, this meant the cannibalization of minority community interests in favor of the majority. To declare that minority communities would be best represented and most competitive if the communities were integrated assumes American politics are beyond the very real drive for the accrual of power and resurces that plagued American politics for centuries. To believe that minorities can be adequately represented by the White community is a naïve dream blind to the continued de facto economic and cultural segregation that makes disenfranchisement

through race-neutral terms as alluring today as it was in 1956. The threat to the vitality of democracy is indeed as present today as it was when Du Bois first declared democracy dead.

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Appendix A: State of Alabama Voter Registration Form, NVRA-2

March, 2019

State of Alabama Mail-In Voter Registration Form NVRA-2 201903.20			
FOR USE BY U.S. CITIZENS ONLY ♦ FILL IN ALL BOXES ON THIS FORM ♦ PLEASE USE INK ♦ PRINT LEGIBLY			
You can use this form to: ▶ Register to vote in Alabama. ▶ Update your voter registration record, if you have changed your name or address.		To register to vote in the State of Alabama, you must: ▶ Be a citizen of the United States. ▶ Live in Alabama. ▶ Be at least 18 years of age on or before election day. ▶ Not have been convicted of a disqualifying felony, or if you have been convicted, you must have had your civil rights restored. ▶ Not have been declared "mentally incompetent" by a court.	
Deadline for submitting application: Voter registration and updating of voter records is closed during the 14 days prior to each election in Alabama.			
ID requested: You may send with this application a copy of valid photo identification. You will be required to present valid photo identification when you vote at your polling place or by absentee ballot, unless exempted by law. For more information, go to www.AlabamaVoterID.com or call the Elections Division: 800-274-8683.			
① Are you a citizen of the United States of America? ☐ Yes ☐ No		ATTENTION! If you answer "No" to either of these questions, do not complete this application.	
② Will you be 18 years of age on or before election day? ☐ Yes ☐ No			
③ Print Your Name: First _____ Middle _____ Last _____ Suffix _____		Alabama Driver's License or Non-Driver ID Number: STATE NUMBER	
④ Print Maiden Name / Former Name (if reporting a change of name) First _____ Middle _____ Last _____ Suffix _____		IF YOU HAVE NO ALABAMA DRIVER'S LICENSE OR ALABAMA NON-DRIVER ID NUMBER Last four digits of Social Security number:	
⑤ Date of Birth (mm/dd/yyyy) _____		⑥ Primary Telephone _____	
⑦ Email Address _____		☐ I do not have an Alabama driver's license or Alabama non-driver ID or a Social Security number.	
Addresses Current Old	⑧ Address where you live: (Do not use post office box) Home Address (include apartment or other unit number if applicable) City State ZIP		
	Address where you receive your mail: Mailing Address, if different from Home Address City State ZIP		
	Address where you were last registered to vote: (Do not use post office box) Former Address City County State ZIP		
⑨ Sex (check one) ☐ Female ☐ Male		⑪ Place of Birth City County State Country	
⑩ Race (check one) ☐ White ☐ Black ☐ Asian ☐ American Indian ☐ Hispanic ☐ Other		⑫ Map / Diagram If your home has no street number or name, please draw a map of where your house is located. Please include roads and landmarks.	
REGISTRARS USE ONLY DATE ☐ APPROVED ☐ DENIED (mm/dd/yyyy) County Pct _____ City Pct _____ Board member _____ Board member _____ Board member _____		⑬ Did you receive assistance? If you are unable to sign your name, who helped you fill out this application? Give name, address, and phone number (phone number is optional).	
		Voter Declaration - Read and Sign Under Penalty of Perjury	
		▶ I am a U.S. citizen ▶ I live in the State of Alabama ▶ I will be at least 18 years of age on or before election day ▶ I am not barred from voting by reason of a disqualifying felony conviction (The list of disqualifying felonies is available on the Secretary of State's web site at: sos.alabama.gov/mtfelonies) ▶ I have not been judged "mentally incompetent" in a court of law I solemnly swear or affirm to support and defend the constitution of the United States and the State of Alabama and further disavow any belief or affiliation with any group which advocates the overthrow of the governments of the United States or the State of Alabama by unlawful means and that the information contained herein is true, so help me God.	
		YOUR SIGNATURE DATE (mm/dd/yyyy)	
If you falsely sign this statement, you can be convicted and imprisoned for up to five years.			
The decision to register to vote is yours. If you decide to register to vote, the office at which you are submitting this application will remain confidential and will be used only for voter registration purposes. If you decline to register to vote, your decision will remain confidential and will be used only for voter registration purposes.			
John H. Merrill - Secretary of State Questions? Call the Elections Division at 1-800-274-8683 or 334-242-7210			

Appendix B: State of North Carolina Voter Registration Form, 06-w

June, 2018

06w



NORTH CAROLINA VOTER REGISTRATION APPLICATION (fields in red text are required) v2018.05

1 Indicate whether you are qualified to vote or preregister to vote based on U.S. citizenship and age.

Are you a citizen of the United States of America?

IF YOU CHECKED "NO" IN RESPONSE TO THIS CITIZENSHIP QUESTION, DO NOT SUBMIT THIS FORM. YOU ARE **NOT** QUALIFIED TO REGISTER OR PREREGISTER TO VOTE.

Will you be at least 18 years of age on or before election day?

Are you at least 16 years of age and understand that you must be 18 years of age on or before election day to vote?

IF YOU CHECKED "NO" IN RESPONSE TO BOTH OF THESE AGE QUESTIONS, DO NOT SUBMIT THIS FORM. YOU ARE **NOT** QUALIFIED TO REGISTER OR PREREGISTER TO VOTE.

2 Provide your full legal name.
(last name, first name and middle name)

Legal Last Name Suffix

Legal First Name

Middle Name

3 Provide your date of birth and identification information.

Date of Birth (MM/DD/YYYY) State or Country of Birth

NC Driver License or NC DMV ID Number Last Four Digits of Social Security Number

☐ Check if you do not have a driver license or Social Security number. State Voter Registration Number - Optional
(To locate, check "Voter Lookup" at www.ncsos.gov.)

4 Provide your residential address - where you physically live.
(Do not enter a P.O. Box or a mail drop location. Your address determines your voting districts.)

Address Number Street Name and Type

Address Line 2 (e.g., apartment, lot or unit number)

City State Zip Code

County Have you lived at this address for 30 or more days? If "No", date moved?

☐ Yes ☐ No

5 Provide a mailing address if you do not receive mail at your residential address.

Mailing Address Line 1

Mailing Address Line 2

Mailing Address Line 3

City State Zip Code

No Physical Address?
If you do not have an address, use the space to the right to illustrate where you normally live or sleep. Write in the names of the nearest crossroads (or streets). Draw an X on the map to show where you live or usually sleep.

IMPORTANT: You should also provide a valid mailing address above to permit the board of elections to send you a voter card.

NORTH ↑

6 Provide your demographic information (optional).

Gender ☐ Male ☐ Female Ethnicity ☐ Hispanic/Latino ☐ Not Hispanic/Latino

Race ☐ African American/Black ☐ American Indian/Alaska Native ☐ Asian ☐ Multiracial ☐ Native Hawaiian/Pacific Islander ☐ White ☐ Other

7 Provide your choice for political party affiliation.

Political Party Preference

☐ Democratic Party ☐ Republican Party ☐ Constitution Party ☐ Green Party ☐ Libertarian Party

☐ Unaffiliated (no affiliation) ☐ Other _____

If you select a party that is not recognized in North Carolina, you will be registered as Unaffiliated.

8 Complete if you are currently registered to vote in another NC county or in another state.
(This information will be used to cancel your previous voter registration in the other county or state.)

First Name Used in Last Registration Middle Name Used in Last Registration Last Name Used in Last Registration Suffix

Address Where You Were Last Registered City/State/Zip Code of Last Registration County of Last Registration

9 Provide your contact information (optional).
(This information is helpful if we need to contact you concerning your voter registration. This information may be disclosed as a public record.)

Area Code Phone Number Email Address Would you like to be contacted to be a poll worker?

☐ Yes ☐ No

10 Sign below to attest to your qualifications to vote.
FRAUDULENTLY OR FALSELY COMPLETING THIS FORM IS A CLASS I FELONY UNDER CHAPTER 163A OF THE NC GENERAL STATUTES.

I attest, under penalty of perjury, that in addition to having read and understood the contents of this form, that: (1) I am a United States citizen, as indicated above; (2) I am at least 18 years of age, or will be by the date of the general election; or I am at least 16 years old and understand that I must be at least 18 years old on the day of the general election to vote; I shall have been a resident of North Carolina, this county, and precinct for 30 days before the date of the election in which I intend to vote; (3) I will not vote in any other county or state after submission of this form and if I am registered elsewhere, I am canceling that registration at this time; and (4) I have not been convicted of a felony, or if I have been convicted of a felony, I have completed my sentence, including any probation.

X _____ _____

Signature Required Date