

The United States of America's Compliance with the
International Covenant on Civil and Political Rights

Joint Submission by the Southern Poverty Law Center,
Alabama Forward and Florida Rising Together



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The Southern Poverty Law Center was founded in 1971 with the purpose of ensuring that the goals of the US civil rights movement would be realized for everyone. SPLC seeks to achieve its purpose through litigation, policy advocacy, education and community organizing, and is a catalyst for racial justice in the Southern US and beyond. SPLC also operates an internationally known Intelligence Project that tracks and exposes the activities of hate groups and other domestic extremists.

Alabama Forward is a statewide civic engagement network that brings together nonpartisan organizations to work on building power around progressive civic issues and movement toward greater freedom. Our goal is to inspire more than one million Alabamians – students, people of color, LGBTQ+ people and families struggling with poverty – to deeper civic engagement by 2031, including through maximizing their access to their right to vote. We provide technical assistance, education, mentoring and other resources, and \$800,000 in grant funding annually, to achieve these goals. We also work with legal organizations to realize lasting structural change, most notably in the recent Supreme Court redistricting decision in the case of *Allen v. Milligan*.

Florida Rising Together is a 501c3 organization dedicated to advancing economic and racial justice across the state by building power in historically marginalized communities. We believe that our government should work for all of us. Our communities won't be stopped by barriers, voter suppression, or attempts to take away our vote. We educate, register, and mobilize voters as one key way of holding politicians accountable and making our voices heard, as well as creating voter education campaigns and encouraging Black and Brown voter participation.

Voting Rights and Political Participation (arts. 25 and 26).

In its 2014 Concluding Observations on the fourth periodic report,ⁱ the Committee expressed concerns that “the persistence of state-level felon disenfranchisement laws, its disproportionate impact on minorities and the lengthy and cumbersome voting restoration procedures in states, [as well as] voter identification and other recently introduced eligibility requirements may impose excessive burdens on voters and result in de facto disenfranchisement of large numbers of voters, including members of minority groups.”

The List of Issues Prior to Reporting (LOIPR)ⁱⁱ requests:

- Updated information on measures adopted by the State party to encourage the review of state laws on felony disenfranchisement and the removal of lengthy and cumbersome voting restoration procedures.
- Comment on the prevalence of voter suppression measures, such as cuts to early voting and voter identification laws, which may impose an excessive burden on voters, especially those belonging to minority groups.
- Comment on the compatibility of the practice of drawing electoral boundaries with a view to influencing election outcomes with article 25 of the Covenant.
- Information on measures taken to prevent undue influence on the conduct of elections at the federal and state levels.

People of color in the US, and in particular Black, Latinx, and Native American residents, have faced and continue to face barriers to participation in representative democracy on an equal basis with their white counterparts. Barriers to the right to vote are now rapidly increasing and threaten to irreparably undermine US democracy. Following his most recent visit to the US, the UN Special Rapporteur on minority issues found that “effective protection of this fundamental human right is weak in the United States.”ⁱⁱⁱ

A. Laws Restricting Access to Voting.

While the US constitution has many provisions related to the right to vote, and Congress passed the Voting Rights Act in 1965 expressly to prohibit discrimination against Black citizens, states have been steadily weakening the meaning and enjoyment of those protections for Black and Brown citizens for over a decade. Since the 2013 US Supreme Court decision in *Shelby County, Alabama v. Holder*, which gutted Section 4(b) of the Voting Rights Act of 1965 (VRA) – a key provision requiring jurisdictions with a history of racial voting discrimination to obtain federal clearance to change voting laws – states have passed almost 100 new laws restricting voting access.^{iv} In 2021, the Supreme Court also severely undermined Section 2 of the VRA, which allows non-governmental plaintiffs to bring lawsuits challenging discriminatory voting practices.^v

In 2022, state legislatures introduced more than 400 restrictive voting bills and 150 election interference bills.^{vi} At least 23 were adopted in 12 states, including Alabama, Florida, Georgia, and Mississippi. In 2023, at least 14 states including Florida, Georgia, and Mississippi have enacted 20 additional restrictive and interference laws.^{vii} States are also passing laws that undermine election processes and allow for election subversion in direct response to the events of the 6

January 2021 insurrection at the US Capitol.^{viii} Although *Shelby County* left room for Congress to restore the protections of preclearance by updating the coverage formula, which would have prevented many of these laws from taking effect, Congress has failed to act. In January 2022, bills^{ix} that would have restored federal oversight in locations with a history of racial discrimination in voting, expanded opportunities to exercise the right to vote, provided protections from voter suppression, and enhanced election security were blocked from even receiving a vote in the Senate.^x

Recently adopted laws have made it more difficult to register to vote or receive an absentee or mail-in ballot,^{xi} restricted voting times or locations, and even banned and criminalized providing food or water to people waiting in long lines to vote. Some states closed or moved polling places, often with little notice, sowing confusion and requiring many voters to travel long distances to cast their ballots. This is particularly troublesome in the South, where public transportation is virtually non-existent in all but a handful of large cities. Between 2012 and 2018, Georgia closed 8% of its polling places and relocated 40%. One report showed these changes likely prohibited between 54,000 and 85,000 voters from casting ballots on Election Day in 2018, with Black voters 20% more likely to miss elections due to long distances.^{xii} Similar changes were made in Alabama, Florida, Louisiana and Mississippi.^{xiii} States also purged hundreds of thousands of eligible voters from their rolls, with many voters not learning their registration had been purged until they attempted to cast their vote.^{xiv} In Georgia, for example, then-Secretary of State Brian Kemp purged over half a million voters from the rolls in a single day, many only because they had not voted in prior elections. This action came amidst Kemp's campaign for governor, in which he was running against Stacey Abrams, a Democrat who was seeking to become the first Black female governor in US history.^{xv} Kemp defeated Abrams by a margin of just under 55,000 votes.

Typical of state voter suppression laws is Florida's Senate Bill 90.^{xvi} Restrictions on voting methods such as early and mail-in voting are direct attacks on voting access for people of color. Record turnout by Black and Latinx voters in 2020 was supported by their greater likelihood to use early and mail-in voting methods.^{xvii} Black voters used early in-person voting at a higher rate than did white voters,^{xviii} while Latinx voters made more use of voting by mail.^{xix} SB 90 also creates an election crime office – an “election police force” – specifically to investigate and prosecute allegations of election law violations and fraud, even though actual cases of election fraud are extremely rare.^{xx} Among the election-related activities that have been criminalized is so-called “ballot harvesting,” which will prevent volunteers from churches and community groups from collecting ballots from voters and delivering them to election offices or placing them in drop boxes.^{xxi} This is a process that has been heavily relied upon in Black communities, and especially by voters whose age or physical disability makes it difficult for them to deliver their own ballots.^{xxii} Threats of criminalization serve no legitimate purpose but are intended to intimidate voters and suppress their willingness to exercise their right to vote.

Voter ID laws have been adopted in 36 states using the baseless justification of preventing “voter fraud.”^{xxiii} Georgia and Mississippi are among those with the strictest laws. These laws disenfranchise large numbers of voters. For example, Alabama's secretary of state reported that about 20% of registered voters (half a million people) lacked driver's license or official state ID card, and estimated that only half of them had another qualifying form of identification.^{xxiv} Alabama made it harder to get one by closing 31 driver's license offices, mostly in an area of the

state with a high proportion of Black residents, only partially reversing the decision after a public outcry.

In Florida, Arizona, and Texas, new laws make it difficult or impossible for voting rights organizations to provide assistance in casting ballots. In Texas, monthly citizenship checks have purged eligible voters from rolls in error.^{xxv} Another provision of Texas law adding multiple layers of identification requirements for mail-in ballots resulted in tens of thousands of ballots being rejected.^{xxvi} The ballots of Black voters appear to have been rejected at a disproportionate rate.^{xxvii} Bans on 24-hour and drive through voting, which were used more heavily by people of color, are anticipated to suppress the Latinx vote.^{xxviii}

Litigation over voter suppression laws have met with mixed results. A federal district court in Florida issued a sweeping injunction prohibiting Florida from implementing many of the new measures contained in SB 90,^{xxix} finding they were adopted “with the intent to discriminate against Black voters.”^{xxx} It found the violations so egregious that it placed Florida under federal preclearance requirements for ten years and prohibited it from passing any law relating to drop boxes, line warming activities, or third party voter registration organizations without the court’s permission.^{xxxi} The district court recognized that “the right to vote, and the VRA particularly, are under siege” in the nation’s courts as well as in its state legislatures. Proving its point, the district court’s order was blocked on appeal, and most of the challenged provisions were reinstated.^{xxxii} In August 2023, a Georgia judge partially invalidated that state’s food and water restrictions but declined to block other parts of Georgia’s voter suppression law.^{xxxiii}

In March 2021, President Biden issued Executive Order 14019 on Promoting Access to Voting,^{xxxiv} which directed federal agencies to identify and implement “ways to expand citizens’ opportunities to register to vote and to obtain information about, and participate in, the electoral process.” Two years later, an analysis published by The Leadership Conference on Civil and Human Rights found that most agencies “had either made minimal progress on their initial strong commitments or [] left important opportunities on the table.”^{xxxv} A letter to the White House and ten federal agencies, signed by the SPLC Action Fund and numerous other civil society organizations, outlined recommendations for strengthening implementation of the Executive Order.^{xxxvi}

New threats to free and fair elections also increasingly come from far-right activists gaining or seeking to gain control of state and local election authorities.^{xxxvii} Between 2021 and 2022, 28 states – including Alabama, Mississippi, Georgia and Florida – passed legislation that interfered with the nonpartisan and fair administration of elections.^{xxxviii} The person already installed by far-right conservatives to oversee elections in Florida has expressed doubts about the 2020 election results.^{xxxix} Meanwhile, in Florida’s Miami-Dade County, individuals with ties to the Proud Boys hate group registered as poll workers.^{xl} In Georgia, a 2021 law allows for the replacement of county election boards if they don’t meet ill-defined performance standards, as determined by a three-person panel appointed by the partisan state board of election. Increasingly, election officials are facing a barrage of false allegations and threats – a 2022 Brennan Center survey found that 1 in 6 election officials had experienced threats.^{xli} Georgia election officials received harassing messages, including bomb threats, in the wake of the 2020 presidential election.

While election officials are facing harassment and threats of violence, election infrastructure is aging – in some places crumbling. Despite their foundational role running elections, across the Deep South these civil servants do not have the funding necessary to conduct safe, secure elections.^{xlii} Election infrastructure in the Deep South needs significant upfront investment to replace and repair aging systems, and funding to conduct ongoing maintenance and upgrades. States have a role to play in financing election administration in their jurisdictions, but especially in the Deep South, state governments are refusing to fulfill that responsibility, starving local election administration even as they have banned localities from accessing private funding from non-profits to fill the gap.^{xliii} According to the Election Infrastructure Initiative, it will cost the United States an estimated \$53 billion over 10 years to modernize the country’s election infrastructure; including more than \$ billion in the Deep South will need over \$6 billion.^{xliiv}

B. Redistricting.

The 2021 redistricting cycle was manipulated to consolidate power in one overwhelmingly white political party in Southern states, where a significant majority of people of color live, and elsewhere in the US. The weaponized gerrymandering of electoral districts has been among the most effective and consistent tactics used to disenfranchise voters of color in the South. State legislatures used the 2021 cycle to dilute the voting power of Black and other racial minority groups, who represent a majority of US population growth since the last redistricting cycle. At least 74 lawsuits were filed in 27 US states challenging new district maps as either racially discriminatory or as partisan gerrymandering,^{xlv} which often has a racially disparate impact even if not intentionally based on racial motivations.

Black Alabama voters challenged new district maps that use both “packing” and “cracking” to dilute their vote – many Black voters are packed into a single district, and the remainder cracked among multiple districts to prevent them from swaying elections in all but a single district. In a forceful opinion,^{xlvi} a three-judge panel held that plaintiffs were substantially likely to win on their claims that the new maps were racially discriminatory, ordering Alabama to draw new maps to correct this inequity, but the US Supreme Court put the order on hold,^{xlvii} allowing the discriminatory district maps to remain in place for the 2022 elections. Although Alabama is 27% Black, Black voters are a majority in only one of the state’s seven districts, or just 14%.^{xlviii}

In June 2023, the Supreme Court upheld the lower court’s ruling that held Alabama’s maps denied Black voters a fair opportunity to elect candidates of their choice and ordered the state to draw a new map with two Black-majority districts – “or something close to it”.^{xlix} But Alabama continues to brazenly refuse to allow its Black citizens their rightful representation. In a special session of the legislature called in response to the Supreme Court’s ruling, state legislators refused to draw a second Black-majority district, or anything like it,^l leaving further litigation as the only way to address the problem. The three-judge panel overseeing the case has now rejected the Alabama legislature’s new maps and ordered a special master to present three alternative proposals by 25 September 2023, and has scheduled a hearing for 3 October.^{li} Alabama is, of course, appealing.^{lii}

Dragging litigation out long enough for racially gerrymandered maps to be used again in 2024 litigation may well be the central strategy. Following the Alabama decision, litigation continues in a number of other states.^{liii} A stay was lifted in Louisiana, where state legislators drew five out of

six majority-white districts despite a state population that is one-third Black.^{liv} The 5th Circuit has now scheduled argument for October to decide whether it should continue hearing the pending appeal that had been stayed, or send the case back to the district court for further litigation (the outcome favored by the state).^{lv}

In Texas, Black, Latinx and Asian voters, along with civil rights organizations and the Department of Justice, are challenging cracking and packing that resulted in increased white voting power despite most of the population growth being non-white. White people are the majority of eligible voters in 60% of newly drawn districts but accounted for less than 40% of population growth, and two new Congressional seats Texas gained after the recent census were gerrymandered to create white majority districts, despite the percentage of white voters in Texas having decreased. Half of the population growth in Texas was Latinx.^{lvi} The Texas litigation continues to be delayed while state lawmakers work largely in secret on drawing new maps.^{lvii} A trial has not yet been scheduled.

A federal district court set a September 2023 trial date for litigation over Georgia's congressional and legislative districts. Like in Alabama, plaintiffs are seeking one additional majority-Black congressional district. The court had allowed Georgia's discriminatory districts to be used in the 2022 elections, finding that the election date was too close to allow them to be changed.^{lviii}

In Florida, the third most populous US state, Governor Ron DeSantis usurped the authority of the state legislature in 2021 and drew new state legislative maps that cut Black congressional representation in half. His plan also orchestrated a state legislative map that would ensure Republicans 20 of the state's 28 districts. State legislative elections in Florida are often decided by fractions of a percentage point. Instead of drawing its own maps, the legislature abdicated that responsibility and passed the Governor's plans.

In April 2022, Florida Rising and its co-plaintiffs Equal Ground Education Fund, Black Voters Matter Capacity Institute and League of Women Voters of Florida filed a lawsuit challenging the discriminatory maps as violative of Florida's state constitution. In September 2023, a state court held that the maps drawn by Gov. DeSantis violated Article III, § 20 of the state constitution by diminishing the ability of north Florida voters to elect a congressional representative of their choice and prohibited their use in future elections.^{lix} Florida is appealing, and the court's order is stayed.

Given that congressional maps in several of the most populous states in the US are being challenged in litigation, correcting discriminatory gerrymandered districts could determine control of Congress in 2024^{lx} – and might well have changed the outcome in 2022 if the litigation had not been delayed.

These attacks on black representation have unfortunately permeated many local redistricting processes. In 2022, Florida Rising and three other civil rights groups and individual plaintiffs sued the city of Jacksonville, Florida for racially gerrymandering its district maps. After proceedings lasting more than a year, the court ruled that by packing Black voters into only four out of 19 districts – the city had reduced their influence in neighboring districts for decades. The court also ordered the city to use a plaintiff-drawn map for all future elections until redistricting takes place again after the next census.

C. Disenfranchisement of Voters with Felony Convictions.

The UN Human Rights Committee has observed that the right to vote “lies at the heart of democratic government based on the consent of the people,” and restrictions must be “objective and reasonable,” and not based on discrimination.^{lxi} In many US states, people convicted of many felony offenses are automatically deprived of the right to vote, with no consideration of individual circumstances. Nationally, 4.6 million citizens who are no longer incarcerated are denied the right to vote due to a criminal conviction; nearly half of that population resides in the Deep South. Data estimates by The Sentencing Project as of 2022^{lxii} illustrate the racially disparate impact of these laws, which have the most disproportionate impact in southern states:

State	Voting Age Population	Total Disenfr.	% Disenfr.	Black Voting Age Pop	Total Black Disenfr.	% Black Disenfr.
Alabama	3,709,180	318,681	8.59%	974,304	143,557	14.73%
Florida	15,296,734	1,150,944	7.52%	2,194,488	291,811	12.78%
Georgia	7,482,329	234,410	3.13%	2,412,882	124,858	5.17%
Louisiana	3,467,869	52,073	1.50%	1,092,970	32,865	3.01%
Mississippi	2,238,133	239,209	10.69%	822,633	129,495	15.74%

Such disparities are potentially outcome determinative in elections. In the 2018 election for governor in Georgia, white Republican Brian Kemp defeated Black Democrat Stacey Abrams by a margin of only about 1.4%.^{lxiii} In the 2020 Presidential election, official counts showed former-President Trump won Florida by about 3%; President Biden won Georgia by only 0.23%.^{lxiv}

Many US jurisdictions extend the denial of voting rights for persons convicted of felony offenses long past sentences imposed by a court – sometimes effectively for life.^{lxv} SPLC recently won a major victory in Mississippi, where the Fifth Circuit Court of Appeals held that the state’s lifetime voting ban for people with disqualifying felony convictions who have completed their sentences is cruel and unusual punishment in violation of the Eighth Amendment of the U.S. Constitution.^{lxvi} This ruling should result in the restoration of voting rights for tens of thousands of Mississippians, although it is being appealed.^{lxvii} But even where bars based on felony conviction are eased, far-right politicians find ways to prevent people from voting. Voters in Florida approved a law to automatically restore voting rights to about 1.4 million disenfranchised voters in 2018. In 2019, the Florida legislature passed a new law prohibiting the newly re-enfranchised (disproportionately people of color) from voting until they paid all court-related debt,^{lxviii} which can amount to many thousands of dollars and act as a lifetime bar. In a lawsuit challenging the Florida law, plaintiffs (including two Black women represented by SPLC) argued the law was an unconstitutional poll tax. Although a district court struck down the law as unconstitutional, a federal appeals court first stayed and then overturned the ruling and reinstated the law.^{lxix} The US Supreme Court refused to step in.^{lxx}

Further discouraging formerly incarcerated people to regain their voting rights in Florida is the establishment of the Office of Elections Crimes and Security, whose ostensible purpose is to investigate allegations of voter fraud. In August 2022, twenty individuals were arrested for having voted or attempted to vote despite having convictions that made them ineligible for restoration. Those arrested said they were not aware they were not eligible, and a number of them had been cleared to vote by local election officials who were in a much better position to know.^{lxxi}

Suggested questions for the US:

- What measures is the White House taking to encourage the passage of comprehensive legislation protecting the right to vote, especially for people of color?
- How does the White House plan to ensure that localities have sufficient, sustained federal funding necessary to shore up crumbling election infrastructure and administer secure, accessible elections in the face of rising threats?
- What steps is the White House taking to ensure federal agencies subject to Executive Order 14019 are doing everything they can to promote access to voter registration and voting among their eligible constituents?
- How is the Department of Justice employing its enforcement capacity to ensure no eligible voter is prevented from casting a ballot that counts in violation of federal law and the U.S. Constitution?

Suggested recommendations:

- Adopt legislation to restore and strengthen the Voting Rights Act of 1965, including updated preclearance requirements that cover states with a demonstrated history of discrimination in voting practices.
- Adopt legislation providing national standards for federal election administration to ensure that all eligible voters are able to cast their vote and have it counted, and to ensure that partisan gerrymandering does not render their votes meaningless.
- Abolish the disenfranchisement of citizens based on criminal convictions.
- Immediately restore voting rights to formerly incarcerated citizens without imposing other restrictions that prevent them from exercising such rights.
- Increase funding to state and local jurisdictions for election administration to modernize and effectively carry out elections.
- Increase funding and other resources for federal agencies to engage in activities designed to increase voter registration and protect access to voting rights, including those contemplated by Executive Order 14109.^{lxxii}
- Increase funding to the Department of Justice to carry out investigation of discriminatory voting practices and enforcement of voting rights laws.
- Invite nonpartisan international election observers to monitor upcoming elections and provide full access necessary to facilitate their activities and the preparation of comprehensive reports.

ⁱ CCPR/C/USA/CO/4 (23 April 2014) at para. 4(b)-(d).

ⁱⁱ LOIPR at paras 2-3.

ⁱⁱⁱ [Report of the Special Rapporteur on minority issues, Fernand de Varennes, on his visit to the United States of America](#), 14 March 2022, at 6.

^{iv} [A Decade-Long Erosion: The Impact of the Shelby County Decision on the Political Participation and Representation of Black People and Other People of Color in the Deep South](#), *Southern Poverty Law Center*, June 2023; [States Have Added Nearly 100 Restrictive Laws Since SCOTUS Gutted the Voting Rights Act 10 Years Ago](#), *Brennan Center*, 23 June 2023.

^v *Brnovich v. Democratic National Committee*, 594 U.S. ____ (2021).

^{vi} [Voting Laws Roundup: December 2022](#), Brennan Center, 19 December 2022.

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- xii *Id.* at 7.
- xiii *Id.* at 8.
- xiv *Id.* at 8-9.
- xv *A Decade Long Erosion*, *supra*, at 7-8.
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- xx [Florida Senate Passes Voting Bill to Create Election Crimes Agency](#), New York Times, 4 March 2022.
- xxi [Florida lawmakers approve an elections police force, the first of its kind in the U.S.](#), Washington Post, March 9, 2022.
- xxii [Voters with Disabilities Face New Ballot Restrictions Ahead of Midterms](#), Pew Stateline, 12 April 2022.
- xxiii *A Decade Long Erosion*, *supra*, note xxx, at 7.
- xxiv *Id.*
- xxv [Texas' renewed voter citizenship review is still flagging citizens as "possible non-US citizens,"](#) Texas Tribune, 17 December 2021.
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- xxvii [Mail Ballot Rejections Surge in Texas, With Signs of a Racial Gap](#), New York Times, 18 March 2022.
- xxviii [Latino Communities on the Front Lines of Voter Suppression](#), Brennan Center, 14 January 2022.
- xxix [Final Order Following Bench Trial](#), *League of Women Voters v. Lee*, United States District Court for the Northern District of Florida, 31 March 2022.
- xxx *Final Order*, *passim*.
- xxxi The court invoked a lesser known preclearance provision of the VRA – section 3(c) – known as “bail in.”
- xxxii [Order of the Court](#), *League of Women Voters v. Florida Secretary of State*, US Court of Appeals for the Eleventh Circuit, 6 May 2022.
- xxxiii [Judge partially strikes down Georgia ban on giving voters food and water in polling lines](#), CNN, 18 August 2023.
- xxxiv The White House, [Executive Order on Promoting Access to Voting](#), 7 March 2021.
- xxxv [Strengthening Democracy: A Progress Report on Federal Agency Action to Promote Access to Voting](#), The Leadership Conference on Civil and Human Rights, 2 March 2023.
- xxxvi [Letter to President Biden and agency heads](#), 2 March 2023.
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- xli *Id.*
- xlii *Id.* at 15-16.
- xliiii *Id.* at 16.
- xliv *Id.*
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- ^{liii} [Many redistricting redos pending, but '24 election outlook unclear](#), Roll Call, 25 July 2023.

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