



# Voting Rights are Human Rights

International law and U.S. obligations to protect voting rights

## Universal Declaration of Human Rights (1948)

Article 21

- Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- Everyone has the right of equal access to public service in his country
- The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

## International Covenant on Civil and Political Rights (ICCPR) (ratified by U.S. in 1992)

Article 25

- Every citizen shall have the right and the opportunity... without unreasonable restrictions:
- To take part in the conduct of public affairs, directly or through freely chosen representatives;
- To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- To have access, on general terms of equality, to public service in his country.

## American Declaration on the Rights and Duties of Man (1948)

Article XX

- Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.

## Convention on the Elimination of All Forms of Racial Discrimination (CERD) (ratified by U.S. in 1994)

Article 5

- ...States Parties undertake... to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:
- ...(c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service

## Organization for Security and Cooperation in Europe (OSCE) Commitments (Copenhagen Document) (1990)

(The U.S. is a participating State of the OSCE along with 55 other countries in Europe, Asia, and North America.)

- The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government. The participating States will accordingly respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes...





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International recognition of U.S. failure to live up to voting rights obligations

## Human Rights Committee Recommendations to the United States (2006)

- The Committee is concerned that about **five million citizens cannot vote** due to a felony conviction, and that this practice has **significant racial implications**.... The Committee is of the view that general deprivation of the right vote for persons who have received a felony conviction, and in particular those who are no longer deprived of liberty, do not meet the requirements of articles 25 of 26 of the Covenant, nor serves the rehabilitation goals of article 10 (3).
- The U.S. should: “adopt appropriate measures to **ensure that states restore voting rights** to citizens who have fully served their sentences and those who have been released on parole... review regulations relating to deprivation of votes for felony conviction to ensure that they always meet the reasonableness test of article 25... [and] assess the extent to which such regulations **disproportionately impact on the rights of minority groups**.”
- The Committee...remains concerned that **residents of the District of Columbia do not enjoy full representation** in Congress, a restriction which does not seem to be compatible with article 25 of the Covenant....[the U.S.] should ensure the right of residents of the District of Columbia to take part in the conduct of public affairs, directly or through freely chosen representatives.”

## Committee on the Elimination of Racial Discrimination Recommendations to the United States (2008)

- The Committee remains concerned about the **disparate impact** that existing felon disenfranchisement laws have on a large number of persons belonging to racial, ethnic and national minorities, in particular African American persons, who are disproportionately represented at every stage of the criminal justice system. The Committee notes with particular concern that in some states, individuals remain **disenfranchised even after the completion of their sentences** (art. 5 (c)).
- Taking into account the disproportionate impact that the implementation of disenfranchisement laws has on a large number of persons belonging to racial, ethnic and national minorities, **in particular African American persons**, the Committee recommends that the [U.S.] adopt all appropriate measures to ensure that the denial of voting rights is used only with regard to persons convicted of the most serious crimes, and that the right to vote is in any case automatically restored after the completion of the criminal sentence.

## Human Rights Council Universal Periodic Review (UPR) Recommendations (2010)

Recommendation originally proposed by Sweden, then incorporated into final recommendations for the United States, but only partially accepted by the U.S. government:

- Ensure the enjoyment of the right to vote both by persons deprived of their liberty and of persons who have completed their prison sentences

## Report of the UN Working Group of Experts on People of African Descent (2010)

- ...The members were informed that the **disenfranchisement of some voters was a structural issue that disproportionately affected people of African descent** and their ability to participate in public life and influence Government... Given the racial differences in incarceration rates, Americans of African descent constitute a disproportionately large percentage of this electorally disenfranchised population... In the United States, **nearly 10 percent of adult Americans of African descent are barred from voting** based on criminal convictions...
- The experts believe that two challenges from the past still linger: the remnants of slavery and electoral disenfranchisement... **At any given time, 5.3 million American citizens are denied the right to vote because of criminal convictions** and Americans of African descent constitute a disproportionately large percentage of this electorally disenfranchised population.