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# No Vote, No Freedom: The Black Existential Problematization of Voter ID Laws

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No Vote, No Freedom: The Black Existential Problematization of Voter ID Laws

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of the requirement for the  
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Dickinson College

In Dedication to Edna B. Jones  
(1938-2012)

## Abstract

### *No Vote, No Freedom: Black Existential Problematization of United States Voter ID Laws*

For Blacks specifically, voting has been a tool used as a way to maintain freedom, address questions of their humanity, and to survive in an anti-Black racist nation. Because the opportunity to vote can be more significant to Blacks than other populations, when systematic disenfranchisement of Black people occurs, questions of Black existence naturally arise. Grounding my work in theories of Black existential philosophy, I argue that current voter ID laws are a reincarnation of past Black disenfranchising mechanisms and cause a Black existential crisis or Black philosophical currents concerned with freedom, existence, “humanness,” agency, and citizenship.

The project puts forth a philosophical framework for understanding the creation and effects of voter ID laws. These laws require a potential voter to present an acceptable form of identification (photo ID, driver’s license, utility bills, and Medicare/Medicaid cards, etc.) in order to successfully cast his/her ballot. While these laws may appear race-neutral, I argue otherwise. Studies show that Blacks are more than three times more likely than whites to not have “proper” identification, thus Blacks are disproportionately affected by these laws. Using a method called problematization, which by asking critical questions about a specific phenomenon can help one understand the ways that a phenomenon appears *and* the reasoning and discussion about said phenomenon, I argue voter ID laws deprive Blacks of a tool used to define their own existence. I posit this continued deprivation reveals that the US has only made cosmetic, not substantial, changes as it pertains to race.

## *Introduction*

Every year, especially every four years during presidential elections, Americans are bombarded with images concerning the importance of voting, an essential element to the American narrative of freedom, democracy, “liberty, and justice for all.” In 1938, addressing “teachers and patrons of American schools,” President Franklin D. Roosevelt stated, “Democracy cannot succeed unless those who express their choice are prepared to choose wisely...Upon our educational system must largely depend the perpetuity of those institutions upon which our freedom and our security rest.”<sup>1</sup> Twenty-seven years later, Lyndon B. Johnson, after signing the Voting Rights Act of 1965 said, “[T]he vote is the most powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men<sup>2</sup>.” Former Senator Hilary Clinton has stated, “Voting is the most precious right of every citizen, and we have a moral obligation to ensure the integrity of our voting process.”<sup>3</sup> Jesse Jackson, a prominent civil rights activist, included voting as a step towards true freedom and equality in the nation. He declared, “This is the next stage of our struggle. The first stage was to end slavery. The second stage was to end legal Jim Crow. The third stage was the right to vote. The fourth stage is access to capital”<sup>4</sup>. As these quotes show, the pillars of American society and ideals are dependent upon voting, and politicians and other prominent leaders argue that as (Americans) we have a moral obligation to vote. However, as American history has shown, there have been citizens of the United States

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<sup>1</sup> Franklin D. Roosevelt: "Message for American Education Week." September 27, 1938. Online by Gerhard Peters and John T. Woolley, The American Presidency Project. <http://www.presidency.ucsb.edu/ws/?pid=15545>.

<sup>2</sup> Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965. Volume II, entry 394, pp. 811-815. Washington, D. C.: Government Printing Office, 1966.

<sup>3</sup> Press Release of U.S. Senator Barbara Boxer. “Senators Clinton and Boxer, Representative Tubbs Jones And Others Unveil Major Election Reform Bill,” February 18, 2005

who have not had the equal ability to civically participate in the foundational values of this country.

In the United States, citizenship is to be contingent upon a person being considered worthy to vote by the state, and for this same person to be willing to vote. In other words, those who are both able *and* accepting of their “moral obligation” to vote are the “real” Americans. My thesis explores how the African-American populations’ status as citizens is called into question by recent legislation that has been passed in thirty-four states that requires citizens to show particular forms of identification in order to fulfill their “civic duty” of voting.<sup>5</sup> I will specifically explore the ways in which contemporary voter ID laws disproportionately affect and continue the American tradition of disenfranchising millions of Blacks. Throughout this project, I analyze these laws using Black existentialism, an Africana philosophical thought concerned with Black people’s existence and humanity. Thus, I argue, these laws perpetuate the “universal hatred of Black folk,” causing a Black existential crisis.

As the voluminous annals of American history reveal, the difference between the notion of American and Black American citizenship was established during the United States’ formative years. According to the Oxford English Dictionary, a “citizen” is “an inhabitant of a city or (often) of a town; especially: one possessing civic rights and privileges, a burgess or freeman of a city.” For centuries, Blacks who were imported to and born in this country were not free people; therefore, they were unentitled to the foundational rights of the nation—life, liberty, and

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<sup>4</sup> "Black Leaders Urge Economic Empowerment." NATIONALCLIPS. PeoplesWorld.org, 17 Mar. 2006. Web. <<http://www.peoplesworld.org/nationalclips-17451/>>.

<sup>5</sup> As of February 2014, 31 of these voter identification laws are in force. In Pennsylvania and Wisconsin, laws providing for identification requirements are not in effect due to court challenges. The other remaining thirty-two are: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Washington.

the pursuit of happiness. The denial of rights for Blacks was the intent of the “liberal” framers of the Constitution. The founders of the United States did not intend for the rights and privileges of white American citizens to apply to the Black “sub-human slave” inhabitants because perpetuating the white supremacist belief in black sub-humanity instead of Black humanness ensured the economic viability of the new nation through the system of slavery. The Supreme Court’s 1857 *Scott v. Sandford* ruling echoed this idea, as Chief Justice Roger Brooke Taney and the associate justices held that “[p]ersons of African descent cannot be, nor were ever intended to be, citizens under the United States Constitution” (Library of Congress). This Supreme Court opinion clearly articulates the conflation of Black with “un-American,” and conversely, white with American. This conflation, which persists today, is a fundamental concern in the Black existential crisis. In other words, because the colonists believed that Black existence was a threat to the desired white Puritan nation, they sought to expel, rehabilitate, or assimilate Black people, thus creating a staunchly anti-Black nation<sup>6</sup>.

Despite the passing of the 13<sup>th</sup> (1865) and 14<sup>th</sup> (1868) amendments, which legally abolished slavery and granted citizenship to all those born in this country, respectively, Blacks

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<sup>6</sup> During the height of the American Revolution era, the colonist delineated a clear dichotomization between “American-ness” and the English. Americans wanted to establish themselves as republicans and desired to separate themselves from the believed vice-filled lifestyle of the English. With deep roots in Puritan ideology, republicanism was meant to create moral and virtuous individuals that were able to govern themselves, both in terms of their lifestyles and government. It was meant to discourage the excessively luxurious lifestyle associated with the king of England. Being republicans would be the ideological separation that would complement the literal separation from England. After the United States had won its independence, the dominant national narrative writers had to decide whom and what was American. This however presented a conundrum for the leaders of the new United States. As Takaki puts it, “Americans had to determine what the relationship should be between nationality and race.” (Takaki 5) This enigma usually led many prominent Americans to express obvious contradictions. Trying to establish what “American” truly meant and looked like proved to be quite the challenge due to the “blots” in the United States. The Blacks and Native Americans were generally considered the blots in the U.S. The popular thinkers of the time struggled with deciding if these people of color should be expelled, or rehabilitated and assimilated into the newly formed country. Regardless of the decision, this challenge laid the groundwork for the stereotypes that would become engrained into the American framework. When it came to the people of color present in the country, it was believed that they were inherently un-republican. Takaki states, “Long before whites had declared their independence from England and sought to become republicans, English culture-makers and political leaders had associated [Blacks and Native Americans] with the instinctual life” (Takaki 11). Because republicanism was associated with self-control and civility, the “instinctual” characterization of Blacks and Native Americans automatically disqualified them from being considered a republican.

were still not granted all the rights a citizen was guaranteed because notions of white supremacy and Black inferiority still pervaded the thoughts of lawmakers. In other words, Blacks still did not have “full” citizenship. All forms of racial-segregation—disparities in wages for the same jobs as their white counterparts, disparities in the ability to access social and economic resources, and the systematic disenfranchisement of Blacks—evidenced their partial/second-class citizenship. Of all of these signifiers of second-class Black national identity, voting is particularly significant.

Voting is inextricably linked to both *de jure* and *de facto* citizenship. In 1781, one of the “founding fathers,” Samuel Adams, said, “Let each citizen remember at the moment he is offering his vote that he is not making a present or a compliment to please an individual--or at least that he ought not so to do; but that he is executing one of the most solemn trusts in human society for which he is accountable to God and his country” (Adams 1). For Adams, voting was a sacred privilege reserved only for citizens and reflected one’s trust in humanity. In 1788, Samuel Huntington, another signer of the *Declaration of Independence*, also supported this idea by saying, “But still the people themselves must be the chief support of liberty. While the great body of the freeholders (voters) is acquainted with the duties, which they owe to their God, to themselves, and to men, remain free. But if ignorance and depravity should prevail, they will inevitably lead to slavery and ruin” (Huntington, Connecticut Convention). Huntington affirmed Adams’ thought that voting was extremely consecrated because he and the other American colonists truly believed enfranchisement was the key to liberty and other democratic values. For these men, a voter represented the quintessential citizen, who had a deep responsibility to protect “freedom” through simply casting a ballot. Essentially, through countless speeches, the founding fathers developed the American narrative that predicates *true* citizenship on balloting.

However, not every inhabitant of the U.S. has had an equal chance to embody full citizenship. Historically and contemporarily, Blacks have been systematically robbed of the right of suffrage. Intimidation, grandfather clauses, literacy tests, poll taxes, and outright unconstitutional denial have been used to deter Blacks from casting their ballots. This consequently means they have been denied the status as a *de facto* citizen. Yet, Blacks have continuously pursued political enfranchisement as a means to obtain “full” citizenship in an anti-Black society. Therefore, for them, the struggle to vote was and is a struggle for freedom and for national belonging. This struggle continues, as civil rights activists and other citizens are fighting to prove the unconstitutionality of current voter ID laws.

### *Methodology*

As I will show, voter ID laws most negatively affect Black Americans and call into question their status as true, free, and liberated citizens. I argue that various aspects of voter ID laws perpetuate an existential crisis that has been in existence since the founding of this nation. In order to effectively illuminate how voter ID laws can be understood in terms of Black existential philosophy, I employ a method of what Brazilian educator Paulo Friere calls “problem-posing,” or problematization. In his staunch critique of “the banking concept of education,” Friere writes, “[Educators] must abandon the educational goal of deposit-making and replace it with the posing of the problems of men in their relations with the world” (Friere 66). In its original use, problematization was used as a pedagogical method to transform students from “containers” that are “filled” by teachers’ “knowledge” into “critical co-investigators in dialogue with the teacher” (Friere 68). In doing so, Friere writes, “knowledge at the level of the *doxa* is superseded by true knowledge, at the level of *logos*” (Friere 68). Here, *doxa* refers to the

acceptance of things in the ways in which they simply appear. This is contrary to logos, in which one understands the ways that a phenomenon appears, *and* the reasoning and discussion about said phenomenon.

While this project is not concerned with liberating pedagogy, problematization is still a useful method, as I am concerned with understanding voter ID laws at the level of logos. Problematization as a method typically occurs as a conversation in which simple, but critical questions are posed. The following questions are integral for the process:

- Who is making/creating the statement, idea, or circumstance in question? (In this case, the circumstance is the drafting and passing of voter ID laws)
- For whom is he or she making it?
- Why is this statement being made here, now?
- Whom does this statement benefit?
- Whom does it harm?

Answering these questions inherently necessitates an understanding superseding doxa. As I will detail throughout this discussion, the responses to these questions reveal that voter ID laws are not simply concerned with maintaining the integrity of the voting process, but are laws crafted by legislators to disenfranchise Blacks, arguably as a form of “Black backlash.”

Using the method of problematization, then, I begin with an historical analysis that ranges from 1865 to 1965, in order to detail the particular significance of voting for Black Americans and how disenfranchisement continues to cause an existential crisis of Black citizenry.

### *Historical Grounding of the Significance of Voting for Black Americans*

In April of 1865, at the Annual Meeting of the Massachusetts Anti-Slavery Society in Boston, Frederick Douglass spoke on the importance of voting for Black males. He states:

I am for the ‘immediate, unconditional, and universal’ enfranchisement of the black man, in every State in the Union. Without this, his liberty is a mockery; without this, you might as well almost retain the old name of slavery for his condition; for, in fact, if he is not the slave of the individual master, he is the slave of society, and holds his liberty as a privilege, not as a right. He is at the mercy of the mob, and has no means of protecting himself (Douglass 15).

Here, Douglass equates Black disenfranchisement with enslavement, as both occurrences call Blacks’ liberty, citizenship, and very humanity into question. I would be remiss if I did not acknowledge the patriarchal framework under which Fredrick Douglass was operating when he gave this speech. Patriarchy pervaded both Black and white notions of citizenship and therefore voting/enfranchisement. However, even during the time Douglass was advocating for the enfranchisement of Black men, Black women were simultaneously advocating for the enfranchisement of all Americans—Black women included. In 1867, Sojourner Truth gave a speech revealing that she had a similar view of voting as Douglass. However, she argued that “if colored men get their rights [to vote], and colored women not theirs, the colored men will be masters over the women, and it will be just as bad as it was before” (Sojourner Truth, First Annual Meeting of America Equal Rights Association). Thus, as Douglass equated the Black man’s disenfranchisement with enslavement, Truth equates the Black woman’s disenfranchisement and the Black man’s enfranchisement with enslavement, as this calls into question Black women’s liberty, citizenship, and very humanity. Therefore, it is clear that both

Black women and Black men had concern with the ability to vote because without it, they feared reoccupying the position and identity of a slave—a fear they fought tirelessly to shed.

Forty-five years later, after the Reconstruction Era came to a disappointing end, Ida B. Wells, continued to write about the significance of voting for Blacks and their very existence in the U.S. In her article entitled “How Enfranchisement Stops Lynching,” which was originally published in June 1910, she writes, “The flower of the nineteenth century civilization for the American people was the abolition of slavery, and the enfranchisement of all manhood. Here at last was squaring of practice with precept, with true democracy, with the Declaration of Independence and with the Golden Rule” (Wells 268). Moreover, she asserts, “The reproach and disgrace of the 20<sup>th</sup> century is that the whole of the American people have permitted a part to nullify this glorious achievement and to make the 14<sup>th</sup> and 15<sup>th</sup> amendment<sup>7</sup> playthings” (Wells 268). The 14<sup>th</sup> and 15<sup>th</sup> amendments were made “playthings” by virtue of the systematic lynching of Blacks in response to Black citizens exercising their right to vote. She goes on to state that, “the more complete the disenfranchisement, the more frequent and horrible has been the hangings, shootings, and burning” (Wells 268). Despite the growing violence enacted against Blacks, they continued to vote out of necessity. They voted to survive.

Nearly a century after Fredrick Douglass spoke about Black enfranchisement, and half a century after Wells spoke about survival, Black leaders continued talking about liberty as it pertained to voting. The famous Black Nationalist, Malcolm X, spoke of the significance of voting in his speech, “The Ballot or the Bullet.” In this speech, he likened the phrase “the ballot or the bullet” to the white American patriot Patrick Henry’s famous quote, “Give me liberty or give me death.” For Malcolm X, the ballot is liberty and the bullet is death. Here, Malcolm X revises American Revolutionary era rhetoric to show the congruity between white and Black

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<sup>7</sup> The 15<sup>th</sup> amendment was adopted in 1870

notions of the implications of political participation during their particular time periods. The right to liberty through political participation is so significant that without it, Malcolm X and Patrick Henry would choose death. However, Malcolm X asserts that the death he speaks of will be “reciprocal” (Malcom X 430).

As briefly evidenced above, voting was not simply a means to address the impartiality of Black citizenship, but also as a means to address the existential crisis spawned by their status as second-class citizenship—anti-Black racism. However, recent voter ID laws that have been drafted and passed since 1999 are essentially depriving millions of Blacks of a tool used to obtain freedom from a long history of oppression. This perennial deprivation, I argue, has caused Blacks to articulate new aspects of the same existential crisis. In other words, if it is understood that, for Blacks specifically, the struggle to be able to vote is a struggle for freedom, liberation from anti-Black racism, and national belonging, then it should also be understood that voter ID laws, by virtue of its disproportionate Black disenfranchisement, cause Black philosophical questions that are concerned with:

Freedom or thoughts of how a human being makes choices and takes responsibility for those choices; anguish, or extreme anxiety and distress, especially in response to the “Black situation”; embodied agency, or the ability to act in a world, as opposed to simply existing as a non-being; sociality, or the affirmation of a Black community or of Black individualism; and liberation, or the ability to do what one wants without constraints (Gordon, 2008 3).

Voter ID laws fundamentally calls into question a wide range of philosophical thoughts concerned with Black American citizenship and existence. As reflected above, I am most broadly concerned with voter ID laws whose details are to be described below.

### *Contemporary Voter ID Laws*

Simply put, voter ID laws require a potential voter to present an acceptable form of identification in order to successfully cast his/her ballot. Most often, a photo ID or driver's license is considered a valid proof of identification. Utility bills, debit cards, and Medicare/Medicaid cards, amongst other items, are also considered adequate in particular states such as Delaware, Florida, and Colorado, respectively. Thirty-four states have passed or are currently passing similar voter ID laws as a means to "prevent voter fraud" (National Conference of State Legislatures). Interestingly enough, however, one is more likely to be struck by lightning than to use a stolen identity to vote (Levitt 6). Most recently, a federal judge in Wisconsin struck down the state's voter ID law because "the evidence at trial established that virtually no voter impersonation occurs in Wisconsin. The defendants could not point to a single instance of known voter impersonation occurring in Wisconsin at any time in the recent past" (*Frank v. Walker*).

According to the National Conference of State Legislatures, voter ID laws can be separated into two main categories: strict and non-strict. States where there are "strict" laws in place completely bar those without the proper identification from voting or will allow citizens to cast a provisional ballot that would not be counted unless the voter provides the proper identification within a short period of time (National Conference of State Legislatures). "Non-strict" laws will allow a voter to cast their ballot if they sign an affidavit or if a poll worker can vouch for their identity. The strict and non-strict can be further divided into photo and non-photo; polling places will either require a specific form of identification with a photograph or not. Tennessee, for example, has a strict photo law set in place. The law requires voters "to

present one form of identification that bears the name and photograph of the voter” (Tennessee §2-7-112). This can come in the form of a Tennessee driver’s license, valid photo ID card issued by any state, valid U.S. passport, or a valid U.S. military ID with a photograph. If voters are unable to provide the required identification, “the voter will be entitled to vote by provisional ballot. The provisional ballot will only be counted if the voter provides evidence of identification to the administrator of election by the close of business on the second business day after the election” (Tennessee §2-7-112). One might argue that the provisional ballot provides a fair opportunity to vote; however, it is nearly impossible for someone to obtain official identification, such as a Tennessee driver’s license, in two days. Actually, it can take up to 20 business days for a replacement license to arrive in the mail<sup>8</sup>. Additionally, studies have shown that the large majority of provisional ballots are never counted, thus resulting in practical disenfranchisement (Piven et al xiv).

A study conducted by the Brennan Center for Justice shows that more than twenty-one million, or eleven percent, of the American population does not have government-issued identification. This statistic is influenced by socio-economic status, as “citizens with comparatively low incomes are less likely to possess documentation proving their citizenship” (“Citizens without Proof”). This proportion of citizens without proper identification significantly increases when looking at the Black American population, as twenty-five percent of Blacks do not have government-issued forms of identification. This is in comparison to eight percent of white voting- age citizens. The *Harvard Law Policy Review* reveals the implications of the lack of government-issued identification by finding that racial minorities were six to ten percent less likely to vote in states that adopted photo identification laws because of their lack of proper identification (de Alth 192). In the same vein, “Turning Back the Clock on Voting Rights,” a

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<sup>8</sup> <http://www.dmv.org/tn-tennessee/id-cards.php>

study conducted by Cathy Cohen and Jon Rogowski, shows that “because young people and lower-income people are also less likely to have photo identification, young people of color are likely to be disproportionately demobilized by these laws. Estimates indicate that overall levels of turnout among young people of color are likely to be reduced by large numbers” (Cohen and Rogowski 1). Therefore, voter ID laws potentially disenfranchise, literally, millions of voters who are overwhelmingly poor, Black, “citizens” who typically vote Democrat. This disparate systematic disenfranchisement is not by happenstance, but rather, is a political strategy that legislators (and “vigilantes”) have used since the Reconstruction Era. This strategy is known as the politics of demobilization and is reflected in voter ID laws.

#### *The Black Existential Crisis Caused by the Politics of Demobilization*

In *Keeping Down the Black Vote: Race and the Demobilization of American Voters* Frances Piven, Lorraine Minnite, and Margaret Groarke claim that political parties demobilize voters as much as, if not more so, than they mobilize them. This is done so that politicians can (re)create a particular political landscape, which, in turn, allows for the prevalence of specific social, political, and economic thoughts. Furthermore, since the post-Civil Rights era, these tactics have become much more covert and are accomplished by “legal and administrative subterfuge” (Piven, et. al 11). According to the authors, voter demobilization is an attractive political strategy because it, as opposed to mobilizing voters, prevents gaining new voters that “antagonize others in the party’s electoral coalition,” and it better satisfies a cost-risk analysis (Piven, et. al 16). I argue that current voter ID laws are tools of voter demobilization.

Richard McCormick and Martin Shefter relate that the populations that are most often the targets of voter suppression and demobilization are the “socially discordant” and/or those groups

that have agendas and demands politicians do not address. (Piven, et. al. 21). By virtue of their very existence in a society that simultaneously includes and purges them, Blacks generally embody this description of the socially discordant more than any other group. One is discordant with America's anti-Black racist society by simply existing as a Black being. This explains why Blacks are the population most negatively affected by voter ID laws. However, as previously mentioned, many Blacks take to the polls to insist that their identity as citizens be acknowledged.

Voter demobilization *is* and *has been* enacted consciously by politicians wishing to preserve “an identity relation between fact and value. The system is fact; it is ‘what is’. It is absolute. Whatever “is” is what ought to be and hence ought to have been. The inferior Other becomes a fundamental project for the establishment of the Superior Self whose superiority is a function of what *is*” (Gordon, 2008 70). Essentially, the system that Gordon describes inscribes the plight of the “inferior Other” (Blacks) as what has been, what is, and what ought to be. Furthermore, what is (the plight and demobilization of Blacks) is necessary to establish and sustain whites as superior. This system perpetuates every “face” of oppression that Iris Marion Young, former University of Chicago professor of political science, describes: exploitation, marginalization, powerlessness, cultural dominance, and violence. In essence, the system leads to the continuation of the notion that Blacks are second-class citizens, which consequently leads to Blacks being deprived of their rights, voting rights specifically, despite being citizens as deemed by the Constitution.

As history shows, this system seems to be most threatened when there are significant strides towards Blacks embodying “true” citizenship, specifically through enfranchisement. When particular legislation, such as the Civil Rights Act of 1866 and the Enforcement Acts of 1871, enfranchises Blacks and subsequently increases Black political participation is passed,

politicians opposing the legislation and voting “vigilantes” respond by widespread systematic demobilization efforts. In the 19<sup>th</sup> century, southern legislators attempted to recreate a system resembling slavery by passing a series of laws called Black Codes shortly after the emancipation of slaves.<sup>9</sup> Despite their efforts to renege their newly gained freedom, Black men enthusiastically went to the polls in unprecedented numbers.

During the Reconstruction Era (1863-1877), about 1,000 Black politicians were elected to public office throughout the nation (Foner xiv). The large influx of Black voters electing Black policy makers into the political landscape that was once completely white was an obvious threat to the “identity relation between fact and value” and greatly contributed to a political landscape Southern Democrats vehemently abhorred<sup>10</sup>. In order to systematically secure the success of the Southern wing of the Democratic Party and to “safeguard” the American political field from being “contaminated” by Black participation, the KKK and other voting vigilante groups devised violently barbaric intimidation tactics to achieve the goal.

Because the prevention of Black politicians was the main goal of the KKK, this fact undoubtedly contributed to the motivation of the heinous crimes they committed against Blacks. On August 25, 1867, with hopes that their citizenship and right to vote would be protected, a group of twenty-four Blacks sent a letter to the commander of the Third Military District requesting military protection from intimidating whites. After the “Union Republican Party held a Meeting which the Colored people of the County attended en mass,” the Klansmen brutally

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<sup>9</sup> The Britannica Encyclopedia defines Black Codes as: any of numerous laws enacted in the states of the former Confederacy after the American Civil War and intended to assure the continuance of white supremacy. Enacted in 1865 and 1866, the laws were designed to replace the social controls of slavery that had been removed by the Emancipation Proclamation and the Thirteenth Amendment to the Constitution.

<sup>10</sup> Furnifold Simmons, a staunch Democrat and party chairman, made a final plea to voters in an editorial in the *Raleigh News and Observer* five days before the state elections. An active participant in the White Supremacy Campaign that year, Simmons reemphasized the idea of "negro supremacy" in the editorial and called on all white citizens to vote for the Democratic Party, the true white man's party, on Election Day. The Democrats would subsequently win 93 of 118 seats in the House of Representatives for the North Carolina General Assembly on November 8, 1898” (North Carolina State University).

retaliated. The Blacks complained that “houses [were] broken open, windows smashed and doors broken down in the dead hours of the night, men rushing in, cursing and swearing and discharging their Pistols inside the house. Men [were] knocked down and unmercifully beaten” (Sterling 113). These are just two out of the numerous accounts of Blacks being terrorized by whites all for the sake of preventing Blacks from voting and running for office.

While white voter intimidation is not necessarily a law or policy perpetuating a Black existential crisis, it is a practice centered on the notion of Black demobilization. Voter intimidation tactics during the post-Reconstruction Era caused existential crises in terms of identity, anguish, and embodied responsibility and agency. Legislators, on the other hand, did construct Jim Crow laws as a means to demobilize Blacks. Jim Crow laws mandated legal racial segregation, and thus reinforced the second-class citizenship of Blacks and caused the majority of Blacks to be sequestered into ghettos, poor schools, and other decrepit facilities. Southern democrats began ratifying Jim Crow Laws beginning in the 1870s, and by 1910, ten out of the eleven former Confederate states ratified new state constitutions that effectively disenfranchised Blacks. Through poll taxes, literacy and comprehension tests, and grandfather clauses, legislatures successfully found a way to legally intimidate and prevent Blacks from voting. These new laws were even more successful than Black Codes and violent voter intimidation. By the early to mid-1900s, Black voter participation decreased over 65%, which meant Blacks virtually stopped voting (O’Malley).

It is important to note here that although the Constitution technically extended the right to vote to Black men (14<sup>th</sup> and 15<sup>th</sup> amendments) and to Black women (19<sup>th</sup> amendment), the political strategy of demobilization worked from the 1880s to about the 1950s when the modern Civil Rights Era began. After the passing of the Civil Rights and the Voting Rights Act of 1964

and 1965, respectively, Blacks continued to reject their status as second-class citizens that were deprived of their voting rights and were not actually protected by the 14<sup>th</sup> amendment. Civil Rights and Black Power leaders felt the best way to achieve this redefinition was through voting. Both non-violent integrationists and separatists who practiced self-defense recognized the significance of voting for the redefinition of Black citizenship. Dr. Martin Luther King, Jr is quoted as saying, “The central front is that of suffrage. If we in the South can win the right to vote, it will place in our hands more than an abstract right. It will give us the concrete tool with which we ourselves can correct injustice” (Lewis 179). Similarly, Stokely Carmichael asserts, “Political power seemed to be the key to self-determination, [and] it was also obvious that the key had been thrown down a deep well many years earlier. Disenfranchisement, maintained by racist terror, makes it impossible to talk about organizing for political Power in 1960 (Carmichael 704). He believed that in order for Blacks to be respected, they must first have access to voting. The Civil Rights and Black Power Movements successfully galvanized activists throughout the nation to register Black citizens who had fallen into the snare of demobilizing efforts. During the summer of 1964, SNCC (Student Nonviolent Coordinating Committee) organized Freedom Rides with hopes of registering as many Black Mississippians as possible.

Similar to the end of the Reconstruction Era, efforts to mobilize Black voters resulted in counter-efforts of demobilization. Law enforcement made arbitrary arrests and dozens of volunteers were beaten. However, unlike previous years, Blacks continued to strive towards full citizenship through voting. The tactics used to re-enfranchise Black voters, like the Freedom Rides, literally required sacrificing Black bodies, the physical manifestation of Black existence. Paradoxically, in order for Blacks to fight against demobilization and to authenticate their existence as an autonomously redefined citizen and human, they first had to be willing martyrs.

Those promoting Black voting had to ask a vexingly existential question: Is it worth having a physical existence without having freedom or true liberation? The Civil Rights Era was crucial in Black existential thought, especially as it pertained to voting. In order for Blacks to literally and figuratively “live,” (by means of enfranchisement) many had to experience literal death and social deaths. Although people are no longer dying physical deaths, those fighting against voter ID laws today are dying in a metaphoric sense.

Many Blacks “died” three times. Two out of the three deaths can be considered social deaths or when “[one] has no socially recognized existence outside of his master, he becomes a social non-person” (Patterson 5). While Orlando Patterson coined this definition of social death to describe enslaved Africans and African Americans, it could also be applied to Black Americans today. Blacks’ second-class citizenship likened them to colonial subjects and slaves who only had physical existences, not socially recognized existences. Therefore, with Patterson’s articulation of social death, we can conclude that social death was inherent to Black (physical) existence. In fact, they are all born socially dead. This is evidenced by the prevalence of Jim Crow and segregation, which prevented Blacks and whites from “*co-existing*” (people cannot co-exist, if one of the parties in question is non-existent). Another social death arises when one is ostracized by his or her society (Ouwkerk 2). Civil rights activists across racial lines were detested by the larger segregationist society, and were even deemed criminals. Hence, participation in the Civil Rights Movement necessitated the second social death. Finally, many activists served as literal martyrs who were killed in their fight to define their own existence. These moments of demobilization and Blacks’ response to demobilization helps to elucidate and problematize current demobilization tactics.

During the Reconstruction Era, the post-Reconstruction Era, and the Civil Rights and Black Power era, it is crucial to understand the political climate that prompted the creation of voter ID laws. In 1999, James Gilmore, Virginia's Republican governor, proposed legislation that would supposedly defend the integrity of democracy by requiring voters to present a valid form of identification at the polls. However, his reasoning for passing this law should raise concerns, as voter suppression relies on voter fraud allegations and the created perception that there is voter fraud occurring. Therefore, it is hard to believe that former Governor Gilmore proposed this law, which parallels other laws that disproportionately demobilize Blacks, simply because he was concerned about voter fraud. A more "logos" understanding of these laws can be found when consulting past political trends of demobilization and the political climate.

Although used to describe the disenfranchisement of Black Floridians during the 2000 presidential election, the political climate of the mid- to late-1990s helps develop a more plausible explanation for the creation of voter ID laws—a voter demobilization effort. The authors of *Keeping Down the Black Vote* write that two important political developments in Florida clarify the widespread disenfranchisement of Blacks during that election:

- 1) The bleak long-term prospect for Republican dominance of state politics given the demographic trends underway since the 1990s. And
- 2) The anti-Black policies of the newly elected Republican [Florida] governor, Jeb Bush stimulated a large and successful voter registration in 1999 among Blacks who feared the governor's brother, presidential candidate George W. Bush, would follow the same path. (Piven, et. al 138) Therefore, politicians, who were overwhelmingly Republican, created even more demobilizing tactics.

Essentially, because of the shifting political climate (in this case of the Virginia political climate), it behooved legislators to devise a strategy that would ensure the longevity of the Republican Party. In Virginia, governors have a one four-year term limit, which means that James Gilmore would no longer be governor after 2002. In attempts to pass on the governorship to yet another Republican in a state that, unpleasing to the Republicans, had a democratic majority in the House of Representatives, Gilmore resorted to a strategy of demobilization. As history has shown, this strategy worked in the past. Additionally, Gilmore was undoubtedly aware of the political situation in Florida, which spawned Blacks' mistrust of Republicans nation-wide. Aware that a presidential election was on the horizon, Gilmore used demobilization tactics to assist in the creation of a political landscape dominated by Republicans in both the executive and legislative branches.

What does it mean, existentially speaking, that race is indeed a factor in the execution of American "democracy"? The political demobilization of Black Americans speaks loudly to what is referred to as the American Tragic Flaw thesis, the idea that "full membership in the polity for African Americans was not only never intended, it is perhaps unattainable" (Bobo 21). Giving credibility to the Supreme Court's *Plessy v. Ferguson* ruling (1896), Thomas Jefferson is quoted as saying, "Nothing is more clearly written in the book of destiny than the emancipation of the blacks, and it is equally more certain, that the races would never live in a state of equal freedom under the same government, so insurmountable are the barriers which nature, habit, and opinion established between them" (Latrobe 164). Echoing this thought, Alexis de Tocqueville, a French statesman visiting the U.S. in the 19<sup>th</sup> century believed the creation and success of American democracy was contingent upon the "Negro servility" and the death of Native American populations (de Tocqueville 355). In other words, American democracy thrives on racism.

Charles Mills agrees when writing, “We live in a world which has been *foundationally shaped for the past five hundred years by the realities of European domination and the gradual consolidation of global white supremacy* (Mills 20). Similarly, critical race theorist Derrick Bell declares, “racism is an integral, permanent, and indestructible component of [American] society” (Bell ix).

The fact that democracy was and continues to be built on racism is problematic to say the least. If we understand that voter ID laws are simply a way to demobilize Black voters, then we should also understand that the politics of demobilization reinforce the notion that democracy was never intended to include Black Americans. This notion then calls into question the tangibility of democracy for Black people. Can democracy ever be a reality for Blacks or is it just an unrealistic ideal? Furthermore, those chosen as manifestations of democracy (elected officials) often actively seek or are complicit<sup>11</sup> in Black disenfranchisement in order to “preserve the integrity” of democracy. In that way, American democracy is very similar to the beginning of American history. For democracy to be achieved, much like the founding of the U.S., Blacks are simultaneously needed and subjugated. By virtue of being Black, in combination with occupying a low socioeconomic standing and an assumed voting pattern (Blacks voting democrat), Black Americans are not only often locked out of the democratic process, but also become victims of said process. One of the ways Blacks have sought to extend their freedom, survive in an anti-Black racist nation, and to redefine their plight is *legally* and systematically being taken away from them.

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<sup>11</sup> I note here that some politicians are complicit in the demobilization of Black citizens. This occurs due to the race-neutral nature of voter ID laws and politicians thinking uncritically about these laws. Additionally, some politicians remain ambivalent towards these laws because they feel they do not need the fights of those most affected by these laws or because they feel the “discordant” citizens might negatively affect their established voter base. (Piven, et al 14).

Voter ID laws and the politics of demobilization continue to call into question Blacks' liberty and freedom in the twenty-first century. With the inability of Black voting comes the inability to express liberty. When thinking about liberty, in Franz Fanon's terms, it is simply the ability to do what one wants without constraints<sup>12</sup> (Gordon 2008, 83). Therefore, with the removal of liberty, there is a literal and ontological (re)addition of constraints to Black existence. Blacks are forced to exist with political constraints constructed by the same powers that destroyed their liberty and forced them to live in constraints in the first place. Said differently, by virtue of their disenfranchisement, Blacks have no choice but to exist within a system that seeks to constrain them. The "system" (flawed democracy) in which Blacks are forced to exist is characterized by what Fanon calls sociogenesis, or that which is created or constructed by the social world (Gordon, 2008 84). When liberty is taken away, Blacks are forced to exist in a system constructed by a social world, which was built on racial inequalities and subsequently the believed inferiority of Blacks. Therefore, once disenfranchised and their liberty is destroyed, Blacks are symbolically re-rendered as slaves. In the movement from bondage to liberation, it would only make sense if "the subjects of liberation were able to affect the social world in which their identities have been forged" (Gordon 2008, 86). In other words, *true* liberation comes when those seeking liberation are able to change the society that subjugates them. Therefore, with the removal of liberty through disenfranchisement and with the addition of its subsequent constraints, Blacks are robbed of a tool they can use to vote to enact change in their society and

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<sup>12</sup> This analysis of Fanon's notions of liberty are based on his chapters "The Negro and Recognition" in *Black Skin, White Masks*. In these chapters, he differentiates freedom from liberty. He notes that while former slaves might be free, they are not necessarily liberated. He is careful not to conflate the two. He writes, "The upheaval [of slavery] reached the Negroes from without. The black man was acted upon. Values that had not been created by his actions, values that had not been born of the systolic tide of his blood, danced in a hued whirl round him. The upheaval did not make a difference in the Negro. He went from one way of life to another, but not from one life to another" (Fanon 171). Therefore, even with "freedom," one is not necessarily liberated from other forces that once made the slave un-free e.g. colonization of the mind, white supremacy, anti-Black society, etc.

consequently become liberated. Thus, voter ID laws cause an existential crisis centered on thoughts of liberation.

*Black Existential Crisis Caused by the Color-Blindness and Race-Neutrality of Voter ID Laws*

Color-blind or race-neutral laws, like current voter ID laws, do not necessitate race-neutral effects. On the contrary, race-neutral laws have in many cases perpetuated racism. As it pertains to voting laws specifically, race-neutral voting requirements do not take into account the residual effects of racism, but instead, exploits them. Therefore, many race-neutral policies have racially-biased outcomes. During the Jim Crow era, while racism was overtly expressed with staunch segregation policies, racism was concurrently covertly hidden in voting requirements as a way to mask our nation's most obvious contradiction<sup>13</sup>.

The racial contradiction of the U.S. is no secret and has been on the consciousness of American policy makers since the drafting of the U.S. Constitution. As time progressed, so did American legislators' treatment of this racial-equality inconsistency. Arguably, the first of these treatments was the emancipation of slaves. Fueled by logical and moral appeals to our nation's founding principles, mainly that of equality, abolitionists in the U.S. and Europe actively fought for emancipation, which finally occurred in 1865. It is important to note that although the emancipation of slaves slightly addressed America's racial contradiction, it did not bring about racial justice. In the same vein, Black Codes were another legal manifestation of the U.S.'s racial contradiction and were eventually struck down, since they violated the Constitution. Advocates for Black Codes could not reasonably argue in favor of these laws without being an obvious

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<sup>13</sup> When I refer to the United States' "contradiction," I am referring to a contradiction hinged upon race. Most simply, there is a "contradiction" because even though "equality" is a fundamental ideal in the American narrative, stark racial inequality persists.

supporter of the contradiction. Therefore, in terms of voting, Southern policy makers devised “race-neutral” laws that had the same intent of Black Codes—systematically bar Black citizens from voting.

Many former Confederate states ratified new state constitutions that effectively excluded Blacks from the political process. However, the legislatures made sure to make the bills appear “race-neutral” as a way to avoid their perpetuation of the racial contradiction obvious. As they had seen with Black Codes, if Black voter suppression was explicit, opposing legislators could easily question its constitutionality. Jim Crow laws regulating voting never explicitly mentioned race, but they greatly disproportionately demobilized Blacks because they took advantage of the condition of the majority of Blacks during this time, especially in the South. Poll taxes, for example, were successful because many southern Blacks lived in extreme poverty. This also effected poor whites. However, the grandfather clause, which allowed citizens to vote if they had ancestors who could vote before the Reconstruction Era, was the poor whites’ redeeming feature. Additionally, many Blacks were illiterate, and therefore had little chance of passing the literacy tests. Furthermore, white poll workers’ questions and decisions to bar Blacks from voting were oftentimes extremely subjective. Oral test questions included: Can you name all of Alabama’s 67 county judges; what is the date Oklahoma was admitted into the Union; or, how many bubbles in a bar of soap? (Caro x). If the potential voter answered even one question wrong, s/he was prevented from registering to vote. These new laws were even more successful than Black Codes and violent voter intimidation, and their unconstitutionality was harder to prove.

Although the new Jim Crow Era disenfranchising mechanisms appeared to be race-neutral, Blacks and other non-Black citizens were privy to its intended effects. On January 22,

1900, after a proposed amendment to the North Carolina Constitution was read, Senator Pritchard (white) had this to say:

It is evident that the framers of the 15<sup>th</sup> Amendment had but one object in view, and that was to embody in the Constitution of the U.S. a guarantee that there should be no discrimination on the part of any State against any class of people on account of race, color, or previous condition of servitude, was entitled to vote. All will admit that no one had the right while in such condition. There the proposed amendment to the North Carolina Constitution is as much in conflict with this clause of the 15<sup>th</sup> amendment as it would be with other portions of the amendment if it had declared that no one of African descent should be entitled to vote.

With the first few sentences of his rebuttal, it is clear that Senator Pritchard was keenly aware of the implications of the amendment to the North Carolina Constitution. He harkens the proposed law (which was seemingly a literacy requirement) to the days of slavery. In other words, the “race-neutral” laws, during this time, were intended to reinforce notions of white supremacy.

Unfortunately, covertly racist voting requirements did not end in the Jim Crow Era. Instead, they continue to exist today. John Lewis, SNCC leader turned Georgia congressional representative, called current voter ID laws, “Poll taxes by another name.” Governor Rick Perry, on the other hand, delegitimized the claim that voter ID laws are modern day poll taxes by saying, ‘Poll tax’ language is designed [only] to inflame passions and incite racial tensions” (Huffington Post). However, Lewis is justified in making this comparison for a few reasons. Firstly, similar to Jim Crow laws, voter ID laws utilize race-neutral language that, in fact, results in racially-biased outcomes. This demobilization technique had to be created and enforced within the parameters of the Constitution and without violating the modern culture of the U.S. As the

years after the signing of the Civil Rights Act passed, overt racism has become increasingly culturally taboo. It seems as though there is always a concern with “political correctness.” One might hear phrases such as “I don’t see color [someone’s race/ethnicity],” hence the term “color-blind.” Race is sociogenic, which subsequently means that racism is also determined by, and integral to, a society. In other words, as societies change and evolve, notions of race and racism will also evolve, but not necessarily disappear. Therefore, as particular forms of racism became illegal and culturally unacceptable, racism changed to survive in the newly changed society.

Secondly, voter ID laws are similar to poll taxes because they exploit the residual effects of racism. Those most likely affected by voter ID laws are those without the means to afford private transportation. Anyone who drives a car will be able to satisfy voter ID requirements, but those who do not are burdened with a costly barrier (poll tax) (Piven, et. al xiii). In short, voter ID laws affect poor people who are overwhelmingly more likely to be Black as 27.4 percent of Blacks are poor, compared to 9.9 percent of whites (U.S. Census 2010). Voter ID laws affect poor minorities whose plight is most likely a product of structural racism and the vicious cycle of poverty. Yet despite this fact, there are still “justifications” for these laws. Proponents of these laws argue that the laws were created not to demobilize a specific race, but to demobilize frauds, which was propelled by their being careful not to expose their support of the great American racial contradiction. Additionally, proponents argue that requirements to present identification should not be burdensome, as all citizens should have some form of government issued identification.<sup>14</sup>

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<sup>14</sup> When reading the majority opinion in the *Crawford v. Marion County* case, it is evident that the majority of the Supreme Court justices believe that getting a government -issued form of identification is not “burdensome”. The defendants presented this argument to the justices and lower level judges throughout the trial at the District Court, seventh Circuit Court of Appeals, and the Supreme Court.

Lastly, similar to literacy and oral tests, poll workers enforce voter ID laws at their own discretion and, either consciously or subconsciously, prevent Blacks from voting based on Black racialization. A study published in the *Quarterly Journal of Political Science* found that Blacks were nearly three times more likely than whites to be asked by poll workers to present their identification. The authors posit, “A plausible explanation is unconscious stereotyping or assumptions on the part of poll workers, the street level bureaucrats charged with administering election laws” (Cobb, et. al 23). The notion that racism is outdated fuels the idea that when Blacks do denounce a situation, laws, like voter ID regulations, or institutions as racist, s/he is playing the “race card,” making ungrounded claims of racism, or looking for an excuse for their failure. Color-blindness and the race-neutrality of contemporary laws set the stage for the advocates of voter ID laws.

Effective July 1, 2005, the state of Indiana enacted a law (SEA 483) “requiring citizen voters to present government issued photo identification” (Crawford v. Marion County). Petitions from multiple people and organizations challenged the constitutionality of the law, claiming that the law put an unnecessary burden on particular vulnerable population—the elderly, poor minorities, and the physically disabled. Eventually, the case made it to the Supreme Court, where the justices held that the law was not unconstitutional. Their decision was based on a variety of reasons. The majority argued, “Even rational restrictions on the right to vote are invidious if they are unrelated to voter qualifications. However, ‘even handed restrictions’ protecting the ‘integrity and reliability of the electoral process itself’ satisfy Harper’s standard” (Crawford v. Marion County). Here, the justices argued that protecting the integrity of democracy trumps voting restrictions that one might consider unfair. Interestingly, history shows that “protecting the integrity of democracy” has been used as a justification to devise laws that

limit Black citizens' direct participation in the political process. Since the Reconstruction era, "techniques that target minorities for vote suppression are usually justified as necessary to promote the 'integrity' of the electoral process, a formulation that makes dirty politics seem clean" (Piven, et al 164). Furthermore, the majority of the Court felt that the questionably unfair law was justified because, "Indiana had particular reason to be concerned with voter fraud even though there was no evidence of in-person impersonation" (Crawford v. Marion County). However, as had been mentioned previously, there is no strong evidence of voter fraud. Furthermore, even with the few instances of voter fraud, there have never been enough fraudulent votes to sway the results of an election.

The Court also stated, "The relevant burdens here are those imposed on eligible voters who lack photo identification cards that comply with SEA 483. Because Indiana's cards are free, the inconvenience of going to the Bureau of Motor Vehicles, gathering required documents, and posing for a photograph does not qualify as a substantial burden on most voters' right to vote, or represent a significant increase over the usual burdens of voting" (Crawford v. Marion County). Essentially, the justices held that because the required IDs are free, everyone should be able to obtain said identification. However, they did not take into account a person's ability to get to the DMV or gather the "required documents." Voting is a right, and should therefore be as simple as possible. Even the slightest disparity in the ability to access the polls is problematic and should be ruled unconstitutional.

They go on say, the "Petitioners bear a heavy burden of persuasion in seeking to invalidate SEA 483 in all its applications." More simply put, the Plaintiffs did not sufficiently convince the Court of the voter ID laws unconstitutionality because it *appears* that the law is generally fair. Lastly, the majority argues, "Valid neutral justifications for a nondiscriminatory

law, such as SEA 483, should not be disregarded simply because partisan interests may have provided one motivation for the votes of individual legislators” (*Crawford v. Marion County*). With this statement, the Supreme Court pardoned the politics of demobilization, which as shown above, is one of the main aspects of voter ID laws that cause an existential crisis.

The Court held that voter ID laws are not unconstitutional because of the fact that getting to the DMV, filling out paperwork for a free photo ID is not an unreasonable and is a (race) neutral burden. Furthermore, the burden is reasonable because its intent is to protect the integrity of the democratic process (I have already discussed the problematics with this assertion). Moreover, the upholding justices write, “The different ways in which Indiana’s law affects different voters are not more than different impacts of the single burden that the law uniformly imposes on all voters... This is a generally applicable, nondiscriminatory voting regulation” (*Crawford v. Marion County*). This decision strongly parallels the notions that the claims of voter ID laws being discriminatory are unfounded (minimization of racism) and that because getting an ID is an “reasonable” requirement for all citizens, those who do not have the ID should just try harder so they too can vote (abstract liberalism).

The minimization of racism and abstract liberalism, terms coined by Edward Bonilla-Silva, lead to troubling claims. For example, in his opinion of the *Crawford v. Marion County* case, Justice Scalia writes, “Weighing the burden of a nondiscriminatory voting law upon each voter and concomitantly requiring exceptions for vulnerable voters would effectively turn back decades of equal protection jurisprudence” (*Crawford v. Marion County*). In other words, Justice Scalia believes that even though “whiteness<sup>15</sup>,” as opposed to the essence of “vulnerable

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<sup>15</sup> I have decided to give additional information about this because, typically, whiteness is not racialized. However, according to Robert Westley, in his article, “White Normativity and the Racial Rhetoric of Equal Protection,” “current hegemonic interpretations of equal protection have led to the racialization of white Americans in a historically unprecedented way. In other words, the equal protection rhetoric that places affirmative action in

populations” (“Blackness”) has always enjoyed protection of the law, denouncing voter ID laws calls into question the white’s equal protection guaranteed by the Constitution. Therefore, it can be argued that Black Americans opposing these laws are problems by virtue of being the manifestation of America’s contradiction *and* because they serve as a threat to white’s first-class citizenship.

In a similar vein of the increasing minimization of racism, five years after the *Crawford v. Marion County* ruling, the Supreme Court found that Section 4 of the Voting Rights Act of 1965 (VRA) was unconstitutional.<sup>16</sup> The Court held Section 4 of the VRA was not only unconstitutional as it violated state’s sovereignty, but it was simply unnecessary in our supposed contemporary racially copasetic moment. They write, “Nearly 50 years later, things have changed dramatically. Largely because of the Voting Rights Act, [v]oter turnout and registration rates in covered jurisdictions now approach parity. Blatantly discriminatory evasions of federal decrees are rare. And minority candidates hold office at unprecedented levels” (*Shelby County v. Holder*). No doubt, President Barak Obama’s election to office influenced this statement. Staying true to racism minimizing form, the majority claimed, “[The] formula based on 40-year-old facts [has] no logical relation to the present day” (*Shelby County v. Holder*). The majority of the Supreme Court justices believed that the justification for striking down a portion of a law that sought to protect Black enfranchisement hinged upon the notion that racism is no longer a problem in the electorate process. Despite numerical evidence that voter ID laws impact more Blacks than any other population, they held the history of systematic disenfranchisement is

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jeopardy and questions its constitutionality, concurrently displaces whiteness from a position of normativity by racializing it.” (quoted in Gordon 2000, 92). This racialization of whiteness is not necessarily harmful as it is for Blackness. In actuality, it benefits whiteness by helping to perpetuate white’s position at the top of the U.S.’s racial hierarchy.

<sup>16</sup> Section 4 of the VRA of 1965 essentially required certain states with a particular history of widespread Black disenfranchisement to get approval from the federal government before enacting a new voting law.

irrelevant in discussion of voting today. Furthermore, they argue that acknowledging the history of Black demobilization and highlighting voter ID laws' similarities to past disenfranchising mechanism is illogical.

The fact that these laws are technically race-neutral in a society that has supposedly transcended its racial contradiction opens up the door for its proponents to claim that critiques of the law are unfounded, even illogical. Advocates for these laws can even go as far as Justice Scalia did when he said that those claiming voter ID laws are a violation of the Voting Rights Act of 1965 are clinging onto a law "perpetuating racial entitlement". In response to Justice Scalia's statement, John Lewis expresses frustration, and thus begins to articulate an existential crisis centered on the anguish of invisibility, a particularly indicative dimension of Black American existence. Lewis states, "It appeared to me that several members of the Court didn't have a sense of the *history* (my emphasis added), what brought us to this point, and not just the legislative history and how it came about. They seem indifferent to why people fought so hard and so long to get the act passed in the first place, and they didn't see the need" (Berman). Voter ID laws are a "race-neutral" product of a supposedly race-neutral society that apparently suffers from historical amnesia. This metaphoric amnesia either erases history or denies the lingering effects and significance of this history, which contributes to the metaphoric erasure of Blacks.

The race-neutrality of voter ID laws in conjunction with the U.S.'s "color-blindness" leads to an active forgetting and denial of Black strides toward American citizenship, causing an existential crisis centered on the anguish of Black invisibility. History is ontologically significant (Hacking 20). It reflects and sustains a population's collective humanity and existence. It can also be considered a "coherent movement of events whose eventual culmination is the resolution of all conflicts and contradictions" (Gordon, 2008 15). When history is forgotten, so too are the

actors of said history; they become elusive temporal figures in a particular moment with no purpose and will eventually fade through time into the oblivion of the forgotten. The act of erasing/forgetting Black history was a significant part of the European colonial conquest project, and apparently continues today with proponents of voter ID laws. In order to justify the dehumanization of Blacks, which rendered them invisible, spawned their second-class citizenship, and their subsequent systematic disenfranchisement, colonists actively forgot Black history and denied its significance. Actively forgetting the historical moment(s) when Blacks asserted their demand to be included as American citizens parallels the colonists' active forgetting of the Africa's civilizations. If Black history is forgotten, and its significance denied, Blacks again become excluded from the national narrative, re-rendered the cause of contradiction, and become ontologically insignificant (invisible). Once re-rendered invisible, it is natural for Blacks to ponder the overarching Black existential question: "What am I to do in an anti-Black world?"

Unfortunately, not only do voter ID laws further this invisibility by disenfranchising them, but it also furthers the marginalization of Blacks by attributing the plight of Blacks to Blacks themselves, which can be assumed leads to an existential crisis premised on anguish and sociality. This is done by pointing to the liberalistic ideals of the nation and to the relative success of other Blacks. Even though the disproportionality of voter ID laws is irrefutable, the laws' race-neutrality makes it more difficult to articulate and prove that these laws specifically subjugate certain populations, namely Blacks. Therefore according to proponents of voter ID laws, if someone happens to be poor and Black, and a subsequent victim of voter ID laws, s/he only has her/himself to blame. As mentioned above, racist claims are written off as Blacks playing the "race card." Many citizens are aware of voter ID laws and its disproportionate Black

disenfranchisement. However, the belief that political discrimination based on race is virtually nonexistent causes a widespread delegitimizing of Black suffering. Thus, those affected by voter ID laws become both the perpetrator and victims of their plight. Society tells poor Blacks, they have made their beds, and now they must lie in them, which removes the burden of responsibility from societal structures. This then leads to Black existence becoming a cyclical self-inflicted sinkhole that collapses onto its self and that is further relegated to the margins of society...

Although many believe we live in a supposed post-racial society, Blacks still endure a process of racialization whose outcomes have remained relatively static throughout modern and post-modern history. Because of the notion that Blacks have characteristics essential to “Blackness,”<sup>17</sup> coupled with a “liberal” nation, Blacks are blamed for their falling victim to voter ID laws. Take Don Yelton’s view on voter ID laws, for example. In an interview with the Daily Show that almost immediately went viral after its release, Yelton claims, “the [North Carolina voter ID] law is going to kick the democrats in the butt...if the law hurts the whites, so be it. If it hurts a bunch of lazy Blacks that want the government to give them everything, so be it” (Daily Show). This statement reveals a couple of things about voter ID laws. Firstly, he clearly articulates the politics of demobilization. Secondly, and more importantly for this discussion, Yelton’s perspective reveals how there is an inherent difference of racialization between whites and Blacks, and how this racialization contributes to an apathetic stance of Black

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<sup>17</sup> Through the process of racialization, particular characteristics and images are seen as inherent and essential to “Blackness.” Even before Black people went through a process of racialization, black was associated with darkness and evilness. Therefore, when Europeans first beheld the dark complexion of sub-Saharan African skin especially, they assumed Africans were evil. Besides the economic benefits, Europeans continued to racialize Blacks as evil as a means to justify slavery. Because it was their “duty” to evangelize all over the world, slavery, they argued, would bring Black “savages” into a Christian nation, thus fulfilling their religious obligations. Additionally, Europeans racialized Africans as sub-human beasts. This was supposedly proven with phrenology. During the height in studies of phrenology, “scientists” held that the size and shape of Black people’s skulls “proved” their intellectual inferiority to whites and other characteristics such as laziness. Slave owners and proponents of slavery used phrenology and its findings to justify slavery and to continue the racialization of Blacks. The notions of Black laziness (amongst others stereotypes) are the same notions used to justify voter ID laws. Don Yelton, for example, held that the laziness of Blacks is the cause of their disenfranchisement, not the laws themselves.

disenfranchisement. In the latter part of his statement, Yelton acknowledges his apathy towards demobilization in general; but notice the difference in his statement about white citizens and Black citizens. He attributes an essential characteristic only to Blacks, revealing that whites do not go through a process of racialization. Thirdly, Blacks' racial essence, which in this case he states is laziness, is ultimately the cause of their disenfranchisement, not the voter ID laws themselves.

Using Black existential philosophy, we can theorize about how this racialization process, as reflected by voter ID law justifications, might contribute to a Black existential crisis. Being racialized as lazy and having blame shifted from an external force to an internal force is greatly existential, as it results in Blacks being constructed as effigies for laziness, which in turn leads to dehumanization and questions of Blacks' humanity. What does it mean when one is constantly told that s/he is responsible for her/his own destruction? The internalization of this notion "poses in the most fundamental way the problem of human negation of selfhood, agency, and autonomy of [Blacks] as human being" (Henry 29). Furthermore, Fanon postulates, "if [a Black person's] psychic structure is weak, one observes a collapse of the ego" (Fanon 132). When the Black ego collapses, so too does Blacks' abilities to resist racialization. This consequently causes a "damaged" psyche and the problems associated with it. At their very core, the problems include the existential crises of anguish and agency. The answer to the question, "What is to be done in an anti-Black racist society?" essentially leads to "destroying the source of the society's problem"—one who has a collapsed Black ego. Because the race-neutrality of voter ID laws has the ability to lead Blacks to internalizing the notion that they are the source of the racial ills of society, the only way to enact Black agency is to either attack their very own existence, or exist

in a perpetual nihilistic state where it is believed there is no reason to enact agency, unless one is willing to destroy oneself.

What is more is that there is an exploitation of Blacks' internalization of their racialization. Claude Steele and Jennifer Richeson write, "Persistent racial inequality creates a need in the larger society to understand the problem in ways that do not indict or blame that society. The presumption of a damaged Black psyche is a legitimizing myth that enables racial inequality to be explained in the ways that diminish the responsibility of mainstream society" (Steele and Richeson 670). In other words, racial inequality (disproportionately of voter ID disenfranchisement) is legitimated by virtue of the collapsed Black ego. This exploitation undoubtedly has the potential to cause a crisis of existential anguish. This exploitation also reveals how racialization remains static, or more appropriately morphs with the changing racial attitudes of a society. Gordon asserts, "Anti-Black racism calls for casual explanations and typifications that come to their conclusion, figuratively and literally, in the lynch mob trailing behind bloodhounds in pursuit of a Black body. The pursuit is Manichean in purpose; it is an effort to weed out pollution from the purity of whiteness" (Gordon, 1997 70). During the pre-Civil Rights Era, the racialization of Blacks *caused* their subjugation. In other words, Black subjugation occurred because Blacks contaminated whiteness. The very presence and existence of Blackness could contaminate whiteness, and in a nation ruled by hypo-descent categorization, this contamination was a heinous crime, sometimes even punishable by death. Currently however, the racialization of Blacks *explains* their subjugation, particularly in a color-blind society. It is important to note that the believed essences of Blackness only slightly changed, or not at all. Both pre- and post-Civil Rights era racialization constructed Blacks in opposition to American ideals, namely that of hard work. This means Blacks and "Blackness" were effigies of

laziness. Essentially, the apathetic attitudes of the current moment towards disenfranchisement result from the necessary exploitation of racialization.

The racialization of Blacks also contributes to the way voter ID laws are enforced at the polls. Because Black skin is racialized as “deviant and dishonest” (Dei and Kempf 10), researchers found strong evidence that poll workers consistently asked Black voters to show their identification at the polls more often than white voters (Cobb et al 1). This fact causes a crisis of anguish on one level and of embodied agency on the other. In terms of anguish, a Black person’s constitutional right to equal protection is called into question by virtue of his or her very own Black skin. Whether Blacks being asked to prove their identity is a result of conscious or subconscious racist thoughts, the fact still remains “the fundamental right to vote is implicated and race-specific official conduct is involved” (Cobb et al. 30). The anguish associated with this pattern of poll worker behavior rests on the fact that poll workers automatically assume that Blacks are deviant. This, therefore, could call into question their protection from further oppression, as guaranteed by the 14<sup>th</sup> amendment’s equal protection clause. In terms of embodied agency, because of the sociological trends the researchers discovered, Blacks are more likely to be robbed of their democratic agency simply because they are Black.

### *The Black Existential Crisis Caused by the “Disenfranchising Dance”*

In a slightly different stance, voter ID laws do not necessarily spawn a new existential crisis, but reaffirm the fear and despair caused by the fact that racial equality may be impossible. Any progress towards equality, liberation, and freedom just reinstates America’s racial hierarchy. Critical race theorist, Derrick Bell, who argues for “Racial Realism”, articulated this crisis. He argues, “Racial equality is, in fact, not a realistic goal”; it is essentially impossible (Bell 302).

Voter ID laws corroborate Bell's ideas of the impossibility of racial equality as they reflect a historical trend of a "disenfranchising dance," if you will. As alluded to throughout the historical groundings of this project, once Blacks make any significant strides towards positively addressing their existential crisis, legislation is drafted in order to push Blacks two steps back from their one step forward. This is what I deem the "Disenfranchising Dance." This happened after Emancipation with Black Codes; the striking down of Black Codes with Jim Crow laws; the destruction of Jim Crow laws with the Civil Rights legislation; and the Civil Rights legislation with current voter ID laws. Furthermore, as evidenced by the nature of the historical moments listed above, when legislators "assist" with Black "liberation," they in fact set in place mechanisms that more insidiously reverse or stagnate Black progress. This is evidenced by the nature of post-Civil Rights era color-blind racism. Today, many Black people recognize and dread legislation that is pushing them two steps back. As someone who participated in the March on Washington, Julian Bond recognizes that "[legislators] have just [caused an] enormous step backwards in voting rights" (Business Week). This crisis rests on the anguish that once Black progress is made, it will be replaced with a more sneaky form of racism—one that reinstates and strengthens America's racial hierarchy, and thus causes Black despair. Bell argues that the Civil Rights Movement did not serve to provide Blacks more equality, but instead opened the door for color-racism.

This realization is arguably, the most devastating existential crisis of them all. The answer to the overarching Black existential question of what can be done in an anti-Black racist world is: "very little." No matter what Blacks do, they will perpetually occupy a subjugated position in society. This is not to say, however, Blacks should stop striving to assert their humanity and their citizenship; racial realism is not a justification for Black nihilism. The access

to the ballot is still extremely existentially significant, as it can still be used as a tool to assert Black humanity and citizenship. We (subjugated populations) must continue to “resist oppression, even if that oppression is never overcome” (Bell 308). As evidenced by Douglass, Wells, Malcolm X, King, Carmichael, Lewis, and countless others, the ballot is still very useful in resisting oppression. Therefore, efforts to reverse voter ID laws is still important because the struggle to stop Black disenfranchisement and promote Black political participation is still vital for Black survival and liberation.

### *Conclusion*

When thinking about contemporary voter ID laws and their eerie similarities to past laws that resulted in the systematic disenfranchisement of Black people, we can really question if the U.S. has made any real solutions to the race problem, or if they have been cosmetic changes. The motivation for their creation and the surface-level race-neutrality of these voter ID laws are nearly exact replicas of laws of the 19<sup>th</sup> and early- to mid- 20<sup>th</sup> centuries, periods when the racial subjugation of Black people was evident and even celebrated. These laws, then and now, most simply serve as a tool to render Blacks as second-class citizens that lack all the rights a citizen ought to have. One might consider Alberta Curry, a Black woman, who, due to voter ID laws, is losing the rights she ought to enjoy as a citizen. Like many Blacks of her generation, Curry was born in 1935 at home without a birth certificate. Under North Carolina legislation, she might lose her ability to vote because she does not have the identification deemed appropriate by the state. Frustrated, she states during a CBS interview, “I don’t have no rights if I can’t vote.” It is clear that Curry’s thoughts reflect a concern that is centered on her status as a citizen as signaled by her concern with “rights.” In the U.S., one’s status as a citizen is reflected in the rights s/he holds *and* by the equal protection of these rights. However, despite legislation like the Voting Rights

Act of 1965 to protect Blacks' ability to vote, Curry's constitutional rights are slowly being taken away.

As we began to delve further into the history and effects of disenfranchising mechanisms like voter ID laws, we also began to think about these laws in terms of Black existential philosophy, since this philosophy is concerned with Black' existence in an anti-Black racist society like the U.S. Additionally, Black existential philosophy concerns itself with philosophical currents such as freedom. Augustine Carter, who similar to Curry, is an elderly Black woman who ran into trouble attempting to renew her photo ID before an election. When asked why the right to vote was so important, she responded, "It's important because anytime you take away the right for me to vote, that takes away my freedom, and if I don't have no freedom, that makes me a slave" (StoryofAmerica.org). Knowingly, or not, Augustine Carter's statement harkens back to the 19<sup>th</sup> century, thus articulating the historical thread of voting's significance in terms of Black existential philosophy. Like Frederick Douglass, voting is a signifier of freedom for Carter, and when it is taken away from her and other Blacks, they are in a sense, re-rendered slaves. While I argue throughout this paper that voting has a particular significance for Black Americans, there are Black Americans who consciously chose not to vote as a means to avoid becoming complicit in a flawed system. Additionally, as "Black thought" is not monolithic, not all Blacks experience an existential crisis in the same way. It is very reasonable for someone to not base his/her humanity on American notions of citizenship. However, I am justified in using Black existential philosophy to discuss the potential and to prove the existence of a Black existential crisis as perpetuated by voter ID laws.

Additionally, Black existential philosophy can help us to understand not just the disenfranchising effects, but also the nature of the laws themselves. The politics of

demobilization, voter ID laws' "race-neutrality," and the notion that voter ID laws are a device proving America's "Black disenfranchising dance" all have the potential to perpetuate a Black existential crisis as all the characteristics just listed, in some way, perpetuates Black subjugation. Although a full discussion of the ways in which race and law intersect in the nation are beyond the scope of this paper, voter ID laws are just one of the many laws that disproportionately affect Black people. These racialized laws, too, cause Blacks to raise existential questions of citizenship, identity, liberation, and democracy. In other words, despite their race-neutrality, the legal system continued to be a large perpetuator of America's racial contradiction.

The U.S. has gone to war in order to promote and protect "democracy." It is one of the nation's key principles. This very country was built on democratic ideals, which subsequently means that voting, the most integral part of democracy, is synonymous with "American." However, marginalized communities, namely poor, elderly, and Black, have been unable to vote, and are therefore not included in what it means to be an American. When locked outside of "American-ness," one faces extreme exclusion (invisibility) and subjugation. Therefore, in order to reverse and prevent this subjugation, Blacks have taken to the polls. Whether one affirms or denies the possibility of American racial equality, the fact remains that for Blacks specifically, voting has been a tool to assert their humanity and citizenship. Therefore, voter ID laws, by virtue of its intentional exclusion of Black suffrage, seek to suppress the efforts to assert Black humanity and citizenship. Lest we become complicit in the systematic subjugation of Blacks, Americans who embody the nation's true ideals of equality and liberty must begin and continue to fight against repressive voter ID legislation. Fortunately, there exist organizations like the NAACP and ACLU who have taken up the issue of voter ID laws. As shown throughout history, Black people and other supporters of civil rights have rallied against laws attempting to

disenfranchise Black people. These activists recognize that if there is no vote, there is no freedom.

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