



**Statement of
Asian Americans Advancing Justice
For
Hearing on H.R. 1
“For the People: Our American Democracy”
The Committee on House Administration
U.S. House of Representatives
February 14, 2019**

Introduction

Asian Americans Advancing Justice (Advancing Justice) has worked for decades to preserve the voting rights for every eligible American while fighting against voter suppression tactics that impede Asian Americans’ access to the ballot box. Our work is in alignment with the policy stated in H.R. 1, For the People Act of 2019, under Division A that —

“(1) all eligible citizens of the United States should access and exercise their constitutional right to vote in a free, fair, and timely manner; and

(2) the integrity, security, and accountability of the voting process must be vigilantly protected, maintained, and enhanced in order to protect and preserve electoral and participatory democracy in the United States.”¹

We believe this bill has important provisions that will improve voting opportunities for millions of eligible Americans in communities of color, people with disabilities, and those who are limited-English proficient (LEP). At the same time, some provisions raise concerns that must be addressed and/or clarified. We offer this statement today to provide an Asian American perspective on some of the key provisions for our community that have the greatest impact. However, it should not be implied that if a provision from H.R. 1 is not included in this testimony that it is not one of interest or importance to us. There are many issues that must be addressed as the right to vote is the foundation of our democratic system. We stand ready to do all we can to ensure that all Americans have equal access to exercise this fundamental right. We ask that this statement be entered into the record.

¹ For the People Act of 2019, H.R. 1, 116th Congress § 1000 (2019).

Organizational/Affiliation Background

A national affiliation of five independent nonprofit organizations, Advancing Justice actively works to advocate for the civil and human rights of Asian Americans and other underserved communities to promote a fair and equitable society for all. The Advancing Justice affiliation is comprised of our nation's oldest Asian American legal advocacy center located in San Francisco (Advancing Justice – Asian Law Caucus), our nation's largest Asian American advocacy service organization located in Los Angeles (Advancing Justice – Los Angeles), the largest national Asian American policy advocacy organization located in Washington D.C. (Advancing Justice – AAJC), the leading Midwest Asian American advocacy organization (Advancing Justice – Chicago), and the Atlanta-based Asian American advocacy organization that serves one of the largest and most rapidly growing Asian American communities in the South (Advancing Justice – Atlanta). Collectively, Advancing Justice has been working to protect the voting rights of Asian Americans as well as expand access to the ballot box and eradicate barriers to the political process for Asian Americans. This work includes compliance with the Voting Rights Act (VRA) through engagement with local elections officials and poll monitoring, improving election systems at the state and federal level through legislative and administrative means, and providing analysis of Asian American electoral participation.

Asian Americans & Voting Overview

Asian Americans are the fastest growing racial/ethnic group between the 2000 Census and the 2010 Census with a growth rate of 46 percent.² There were over 17.3 million Asian Americans living in the United States, comprising 6 percent of the population in 2010.³ In 2017, there were over 22.1 million Asian Americans, for a growth rate of 27.7 percent since 2010.⁴ Additionally, the 2010 Census saw Asian American communities expanding from states with historically high concentrations of Asian Americans, such as New York and California, to states with more recently-established immigrant populations.⁵ For example, during the last decade, Asian American communities grew most rapidly in Nevada, Arizona, North Carolina, and Georgia, with Nevada's Asian American population more than doubling between 2000 and 2010.⁶

There has been a corresponding increase amongst Asian American voters. In 2016, there were over 10.2 million Asian American citizens over the age of eighteen.⁷ This represented a

² Asian Pacific American Legal Center & Asian American Justice Center, *A Community of Contrasts: Asian Americans in the United States: 2011* 7 (2011) [hereinafter *Community of Contrasts*].

³ *Id.* at 6.

⁴ U.S. Census Bureau, Table PEPALL5N Annual Estimates of the Resident Population by Sex, Single Year of Age, Race Alone or in Combination, and Hispanic Origin for the United States: April 1, 2010 to July 1, 2017, 2017 Population Estimates.

⁵ *Community of Contrasts* at 8.

⁶ *Id.*

⁷ U.S. Census Bureau, Table 2 Reported Voting and Registration, by Race, Hispanic Origin, Sex, and Age, for the United States: November 2016 (Asian Alone), Current Population Survey, November 2016.

record 2 million increase from the 2012 presidential election and a doubling of the growth of Asian American voting-age citizens between the 2008 and 2012 elections.⁸ Additionally, Asian American voters have doubled from about 2 million voters in 2000 to 5 million voters in 2016, representing about 3.7 percent of the total voting population.⁹ Reports have indicated that the Asian American electorate will grow by 107 percent between 2015 and 2040 as well as reach 5 percent of voters by 2025 and 10 percent of voters by 2044 across the nation.¹⁰ There has also been rapid growth in the civic infrastructure for Asian American communities, with the number of Asian American-serving organizations participating in National Voter Registration Day increasing from 154 to over 317 since 2012.¹¹ Finally, Asian Americans have been developing civic and political infrastructures, including a growing base of voters, donors, elected officials, appointees, and public policy advocates. Congressional candidates of Asian American descent increased to 32 in 2018, doubling the number since 2010, and ran for office in 16 different states, up from just 8 in 2014.¹² Additionally, 2018 saw a record number of Asian American candidates running for state legislative offices at 137 across almost half the states.¹³

However, voter discrimination, language barriers, lack of access to voter resources, and unfamiliarity with the voting process challenge Asian Americans' ability to reach their full potential when it comes to civic engagement. We have continually seen depressed voting participation rates for Asian Americans. The 2016 election saw only 56.3 percent of eligible Asian Americans registered compared to 73.9 percent of Whites and only 49 percent of eligible Asian Americans voting compared to 65.3 percent of Whites.¹⁴ This continues the trend of an approximately 15-20 percent gap in participation election after election between Asian Americans and White voters.¹⁵

The language barrier poses a great challenge and leads to depressed voter engagement. About one in three Asian Americans is LEP and has some difficulty with the English language.¹⁶ Over half – 57 percent – the Asian American electorate in 2016 was comprised of naturalized

⁸ See *id.* See also, U.S. Census Bureau, Table 2 Reported Voting and Registration, by Race, Hispanic Origin, Sex, and Age, for the United States: November 2012, Current Population Survey, November 2012.

⁹ APIAVote & AAPI Data, 2018 Asian American Voter Survey 3 (2018), <http://aapidata.com/wp-content/uploads/2018/10/2018-AA-Voter-Survey-report-Oct9.pdf> [hereinafter 2018 Survey].

¹⁰ See *Id.* See also, UCLA Center for the Study of Inequality and Asian Pacific American Institute for Congressional Studies, The Future Of Asian America In 2040: Asian American Electorate to Double (2015), <http://files.ctctcdn.com/7045d04e001/2276066d-6537-49b1-8ab2-c6a24972e04d.pdf>.

¹¹ 2018 Survey.

¹² Sono Shah & Sunny Shao, Here's what you need to know about AAPIs running for Congress in 2018, AAPI Data Blog (Oct. 23, 2018), <http://aapidata.com/blog/aapis-running-2018/>.

¹³ Mai Nguyen Do, In 2018, 70 percent of Asian American candidates won state legislative office, AAPI Data Blog (Dec. 13, 2018), <http://aapidata.com/blog/aa-state-leg-elections-2018/>.

¹⁴ See U.S. Census Bureau, Table 2 Reported Voting and Registration, by Race, Hispanic Origin, Sex, and Age, for the United States: November 2016 (Asian Alone), Current Population Survey, November 2016.

¹⁵ U.S. Census Bureau, Table A-1 Reported Voting and Registration by Race, Hispanic Origin, Sex and Age Groups: November 1964 to 2016; Current Population Survey, November 2016 and earlier years.

¹⁶ U.S. Census Bureau, Table B16005D: Nativity By Language Spoken At Home By Ability To Speak English For The Population 5 Years And Over (Asian Alone), 2017 American Community Survey 1-Year Estimates.

citizens.¹⁷ Voting can be an intimidating and complicated process, even for native English speakers. And for citizens whose first language is not English, the process is even more difficult to navigate. Voting materials such as ballot initiatives and voting booth directions often require at least a high school level education. Even worse, language minority voters are often denied much-needed and federally-required assistance at the polls.

Unfamiliarity with the political process is another obstacle facing Asian American voters, especially those who come from countries that do not have a democratic process or where political participation could lead to harm to the voter and their family. Immigration continues to be a strong driver of the growth of Asian American communities, with about two in three Asian Americans being foreign-born.¹⁸ In polling of likely Asian American voters for the 2014 elections, 67 percent said that they found the political process too complicated, compared to 54 percent of the national population. This is even more drastic when broken down between U.S.- and foreign-born Asian Americans, with 59 percent of U.S.-born and 70 percent of foreign-born Asian Americans feeling the same.¹⁹

Additional barriers to Asian American political participation are erected by voter suppression efforts. These efforts are often grounded in the continuous stereotyping of Asian Americans as “foreigners,” and thus, not worthy of full or equal participation in the electoral process. Discriminatory attitudes toward Asian Americans are prevalent in the political process, as evidenced by verbal attacks levied against Asian American candidates and voters, and political ads using racially discriminatory imagery or perceptions to malign candidates running for office. Efforts to suppress the vote, such as the use of restrictive voter photo ID laws, requiring proof of citizenship for voter registration, and voter purging practices, discourage and/or intimidate our communities from participating in the political process.

Restrictive voter ID provisions in which only a few specified government-issued photo IDs can be used to vote can be problematic for Asian Americans. According to one study, immigrant and minority voters are “consistently less likely to have” the required identification.²⁰ Obtaining the requisite government-issued photo IDs requires both time and some expense. In addition to the time and fees involved in obtaining one of these photo IDs, racial and ethnic minorities, including Asian Americans, do not have the same access to identification as Whites.²¹ According to one study, Asian Americans were over 20 percent less likely to have two forms of identification compared to Whites.²² For example, Asian Americans

¹⁷ U.S. Census Bureau, Table B05003D: Sex By Age By Nativity And Citizenship Status (Asian Alone), 2017 American Community Survey 1-Year Estimates.

¹⁸ Id.

¹⁹ APIAVote & Asian Americans Advancing Justice – AAJC, Left, Right, or Center? Asian American Voters in 2014 20-21 (2014), <https://www.advancingequality.org/report/left-right-or-center-asian-american-voters-2014>.

²⁰ Matt A. Barreto, et. al, Voter Id Requirements and the Disenfranchisements of Latino, Black And Asian Voters 1 (2007), https://www.brennancenter.org/sites/default/files/legal-work/63836ccea55aa81e4f_hlm6bhkse%281%29.pdf.

²¹ Id. at 16-17.

²² Id.

and immigrants were significantly less likely to have at least a driver’s license and one additional form of identification.²³ There are also considerable group differences for forms of *identification* that many considered very basic or accessible.²⁴ For example, Asian Americans were almost 24 percent less likely to have access to a recent bank statement. Additionally, in the case of family and multi-generational households, a living pattern Asian Americans and Pacific Islanders are more likely to engage in, bills may be solely in the name of the male head of household, leaving the other adults without proof of their residency in that house.²⁵ Asian American voters are 18 percent less likely to be able to produce a utility bill and 11 percent less likely to be able to produce a property tax bill that would contain their name.

Proof of citizenship requirements also disproportionately impact Asian Americans due to high rates of immigration and naturalization in the community. Acceptable documents to prove citizenship for this requirement generally include: any driver’s or non-driver’s ID that includes a notation that the person submitted proof of U.S. citizenship, a U.S. birth certificate, a U.S. passport or U.S. naturalization documents, certain tribal IDs, and other rare documents. The same difficulties noted regarding restrictive photo ID and access to documentation apply in this context. Additionally, foreign-born persons will not have some of these options available to them because of their place of birth. Foreign-born persons also face additional fees to obtaining a replacement Certificate of Naturalization, which currently requires \$555 and takes around 10 to 13 months to process.²⁶ Asian Americans will face greater barriers to registration than White, non-Hispanic voters under these laws as approximately 66.3 percent of Asian Americans are foreign-born and approximately 58 percent of those born outside of the U.S. have naturalized nationwide.²⁷

While not a new voter suppression tactic, voter purges have taken on importance in more recent times as a tool being used more and more often to suppress voters of color. A report by the Brennan Center found that “between the federal elections of 2014 and 2016, almost 4 million more names were purged from the rolls than in 2006-08,” with “more than twice the number of counties” purging more than 15 percent of their voters.²⁸ In addition to bad data and bad databases, voter purges have taken on a heightened suppressive impact as an increasing number of states are searching their voter rolls in an effort to identify alleged noncitizens registered to vote, with the “number of states with statutes specifically mandating

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ See U.S. Dep’t of Homeland Sec., Our Fees Chart, <https://www.uscis.gov/forms/our-fees> (documenting the filing fee); U.S. Citizenship and Immigration Services, Check Case Processing Times, <https://egov.uscis.gov/processing-times/> (check for most current processing time by form).

²⁷ U.S. Census Bureau, Table B05003D: Sex By Age By Nativity And Citizenship Status (Asian Alone), 2017 American Community Survey 1-Year Estimates.

²⁸ Jonathan Brater, Kevin Morris, Myrna Pérez, and Christopher Deluzio, Brennan Center for Justice, Purges: A Growing Threat to the Right to Vote (2018), https://www.brennancenter.org/sites/default/files/publications/Purges_Growing_Threat_2018.1.pdf.

searching for and removing noncitizens from the rolls [increasing] from two to six since 2008.²⁹ This has been coupled with an effort by several conservative activist groups to sue state and local jurisdictions in recent years to force them to aggressively purge their rolls.³⁰ These practices can have a disparate impact on Asian Americans who have higher rates of being naturalized and lower rates of voter participation.

H.R. 1 – Division A – Voting; Title I – Election Access

Subtitle A – Voter Registration Modernization

Online Voter Registration (Part 1) and Same Day Voter Registration (Part 3), Subtitle H – Early Voting, and Subtitle I – Voting by Mail

These provisions in H.R. 1 are particularly relevant to expanding access to the ballot for Asian American voters. For the 2016 election, of the eligible Asian Americans who did not vote, almost 2 in 5 (38.9%) decided not to for reasons that could be addressed by these provisions, such as being out of town, being too busy, or having a conflicting schedule.³¹ H.R. 1's provisions on same-day voter registration and early voting will help address issues around registration problems, inconvenience of voting on Election Day, and not being available on Election Day. These additional opportunities to register and vote will help address the lack of familiarity with the voting process for many of the newly naturalized voters who are voting for the first time.

Similarly, allowing for people to vote by mail (VBM) will help address not only issues around availability and convenience but can also allow voters that have some difficulty with English to take however long they need to fill out their ballots without making them feel rushed or self-conscious at the polls. It also allows more flexibility for them to ask for help from friends and relatives who may not be able to go with them to the polls. Our study in California found two-thirds (66%) of Asian Americans who voted in the November 2016 election (about 787,000) casted their votes using a VBM ballot, a rate higher than average (58%).³² Vietnamese, Chinese, Japanese, and Korean American voters had the highest rates of VBM mail ballot usage among Asian American ethnic groups.³³ At the same time, the details on VBM implementation are critical. For example, VBM ballots submitted by Asian Americans in California for the 2016 election were more likely to be rejected by county election officials at a rate 15 percent higher than average. Among Asian American ethnic groups, those that had higher LEP rates had higher

²⁹ Georgia, Iowa, Minnesota, and Tennessee join Texas and Virginia over this last decade in passing laws to require the removal of noncitizens from the rolls. Id.

³⁰ Id.

³¹ U.S. Census Bureau, Table 10 Reasons For Not Voting, By Selected Characteristics: November 2016, Current Population Survey, November 2016.

³² Asian Americans Advancing Justice – CA, Asian Americans face higher than average vote-by-mail ballot rejection rates in California, August 17 Issue Brief (2017), <https://www.advancingjustice-alc.org/wp-content/uploads/2017/08/issuebrief-vbm-FINAL.pdf>.

³³ Id.

VBM ballot rejection rates.³⁴ Ensuring policies are enacted to address issues around postage, timeliness, and signature issues will go a long way to ensuring VBM meets its potential.³⁵

Finally, online voter registration that allows for registration and updates can increase access to voting for Asian Americans. Despite the fact that specific Asian American subgroups experience a digital divide, we know that overall the Asian American community is able to get online, with around 93.5 percent of Asian Americans connected at home.³⁶ In addition to the convenience factor of being able to register or update registration information online, online voter registration provides additional opportunities for voters to access language assistance. For example, California decided to offer their online registration application in 9 non-English languages – Spanish, Chinese, Hindi, Japanese, Khmer, Korean, Tagalog, Thai and Vietnamese – in order “to reach more people in the most common languages spoken in California homes.”³⁷ Additionally, as of December 2014, Arizona, Colorado, Connecticut, Illinois, Maryland, Nevada, New York, Oregon, and Washington offer online registration services in at least one other language besides English.³⁸ At a minimum, each state's online voter registration system needs to be available in (at least) every language covered by Section 203 in any county in that state.

Automatic Voter Registration (Part 2)

We recognize that efforts to create an automatic voter registration (AVR) system can result in hundreds of thousands of people being registered to vote and agree that it should be “the responsibility of government at every level to ensure that all eligible citizens are registered to vote.” However, we believe AVR efforts must be approached cautiously to avoid any unintended harm, especially for those who are accidentally caught in the system. By transferring responsibility for voter registration from citizens to government officials, AVR may result in some non-citizens becoming registered to vote without ever having represented themselves as U.S. citizens. For example, many would generally consider U.S. passports to be reliable proof of their holders’ U.S. citizenship, but certain non-citizen nationals – such as American Samoans – may hold valid passports without gaining eligibility to vote in state and federal elections. Another example of how a non-citizen could be accidentally added through AVR would be clerical mistakes that result in, for example, the checking of a box next to “U.S. passport” instead of the box next to “foreign passport.” Such mistakes are inevitable where agency employees process documentation from millions of people annually.

³⁴ Id.

³⁵ See id. for specific policy recommendations on how to address the issues in CA’s VBM process to ensure Asian Americans no longer face higher rates of rejection of VBM ballots.

³⁶ U.S. Census Bureau, Table B28009D: Presence Of A Computer And Type Of Internet Subscription In Household (Asian Alone), 2017 American Community Survey 1-Year Estimates.

³⁷ Office of the California Secretary of State, “Bowen Upgrades Award-Winning Online Voter Registration Application, Adds 8 More Languages,” news release, April 21, 2014, <http://www.sos.ca.gov/administration/news-releases-and-advisories/2014-news-releasesand-advisories/db14-041>. See also, The Pew Charitable Trust, Online Voter Registration: Trends in development and implementation (2015), https://www.pewtrusts.org/~media/assets/2015/05/ovr_2015_brief.pdf [hereinafter Pew OVR Brief].

³⁸ Pew OVR Brief.

Under current law, noncitizens erroneously registered through AVR can incur negative immigration consequences through no fault of their own. Immigration law provides that making a false claim to U.S. citizenship is a federal felony regardless of whether it was done with knowledge that one is not a U.S. citizen and for voting-related purposes, 18 U.S.C. § 1015(f), or done willfully and for any purpose at all, 18 U.S.C. § 911. Furthermore, unauthorized voting is a separate offense under federal and, frequently, state law. Noncitizens are prohibited from voting in federal elections, 18 U.S.C. § 611, where liability is triggered if a person does the targeted act consciously, regardless of whether the person understands that the act is illegal. Immigration status-related consequences can occur both where there is a conviction and where no charges are filed, nor conviction obtained. As a result of erroneous registration through AVR, noncitizens can become ineligible for admittance to the United States, subject to removal once within the United States (i.e. deported), and vulnerable to failing to establish the requisite good moral character for purposes of attaining immigration status.

Because of the potential serious and severe consequences for noncitizens accidentally registered through AVR, we caution against the use of a look back component to a proposed AVR system – that is, a mechanism by which existing databases are used to automatically register voters through the use of a mailer for potential opt outs. The reality is these databases were not designed for this purpose, and the quality of data is likely inconsistent and poor across different databases, including with respect to citizenship and naturalization data. The use of these different databases increases the chance that noncitizens will be added to the rolls. Rather than having a look back and/or using mailers (which are likely not in any Asian languages) to provide notice for an opt out option, we have urged the use of an opt-out option during transactions with relevant agencies.

And while the bill takes steps forward in trying to protect ineligible persons who may accidentally get added to the voter rolls through no fault of their own, we remain concerned that these protections are not strong enough. First, protections should be written directly into immigration law in order to ensure no harm to noncitizens accidentally added to the voter rolls because of AVR. Second, there should be clear protections for anyone who is not eligible to vote but is registered through the AVR process and who votes on reliance of that registration. Any reasonable person would believe that they are eligible to vote if their own government tells them they are registered to vote. They should not be penalized for believing in their government.

At the same time, one positive aspect of the AVR provision in H.R. 1 is the recognition that modernizing is not enough on its own; rather there is a key need for public education to complement an automatic voter registration system in order to ensure success. Despite the persistent gap in voter participation, once properly engaged, Asian Americans vote at rates similar to non-Hispanic White voters. During the 2016 election, 87.2 percent of Asian Americans who were registered turned out to vote, compared to 88.3 percent of non-Hispanic Whites.³⁹

³⁹ See U.S. Census Bureau, Table 2 Reported Voting and Registration, by Race, Hispanic Origin, Sex, and Age, for the United States: November 2016, Current Population Survey, November 2016.

This parity is due primarily to the intensive engagement of groups that conduct Get out the Vote (GOTV) and voter mobilization campaigns to convince people to register and vote. Without a public education campaign, many people will be registered automatically without necessarily knowing why it's important to vote, where and when to vote, and what rights they have at the polls. It is also important, particularly for Asian American voters, that this education be done in a manner that is culturally and linguistically appropriate to meet the needs of the most marginalized communities and that encourages them to participate in our democratic process. Thus, there should also be a requirement for the public education and outreach to be culturally and linguistically-appropriate, along with the funds to support it.

*Removal of Registrants based on an Interstate Cross-Check and Similar Programs
(Part 4)*

We support stringent criteria for the removal of registrants from any official list of eligible voters based on information obtained from Interstate Cross-Check or any similar program. Programs that flag voters for removal using loose criteria or low procedural safeguards – such as a program that identifies possible repeat registration using only simply name-matching – would harm minority voters disproportionately. Asian Americans are susceptible for erroneous removals based on interstate cross-checks due to the fact that Asian Americans are significantly more likely than Whites to have a highly common last name. According to the Census Bureau, 13.4 percent of Asian Americans report one of the top 10 most common Asian surnames as compared to just 4.5 percent of Whites reporting one of the top 10 most common non-Hispanic White surnames.⁴⁰ Similarly, just 41 surnames cover a quarter of the Asian American population as compared to 319 surnames needed to cover one-quarter of the non-Hispanic White population.⁴¹ Between 2000 and 2010, Asian American and Native Hawaiians and Pacific Islanders represented 11 of top 15 fastest growing surnames, meaning this issue will only become more pressing in the future.⁴² A stringent set of criteria for evaluating voter registration, using multiple touchpoints, is a must.

Subtitle C – Prohibiting Voter Caging

Voter Challenges

We have seen the rising threat of voter challenges at the polls over the last decade, where it is used as a tool to intimidate and suppress voters of color, including Asian American voters. We have seen candidates calling for their supporters to sign up as observers on Election Day to allegedly help prevent non-existent “voter fraud.” Many state laws allow private individuals to challenge the right of other citizens to vote (often referred to as election observers or poll watchers). At the same time laws are clear that voter intimidation is illegal.

⁴⁰ Joshua Comenetz, “Frequently Occurring Surnames in the 2010 Census,” U.S. Census Bureau, October 2016, <https://www2.census.gov/topics/genealogy/2010surnames/surnames.pdf>.

⁴¹ Id.

⁴² Id. at Table 3.

Thus, poll watchers cannot target groups of voters for confrontation or harassment, “test” for voter competency, hover over voters or violate their right to a private ballot, block lines, or threaten or engage in violence. In addition to requiring personal knowledge documented in writing and subject to an oath under penalty of perjury that the challenger has a good faith factual basis for their challenge of ineligibility, H.R. 1 sets an important standard that challenges based on the race, ethnicity, or national origin (which includes language minority status) of the individual subject to the challenge are never a good faith factual basis for said challenge.

This provision is particularly important for Asian Americans. As new pockets of Asian Americans emerge and grow in new communities across the country, voter challenges are increasingly used against Asian Americans who are being stereotyped as “foreigners” and somehow “un-American” simply for how they look or how they sound. For example, in April 2005 in Washington State, a private citizen challenged the right to vote of more than one thousand people with what he called “foreign-sounding” names. He directed his scrutiny to voters with names that “have no basis in the English language” and “appear to be from outside the United States.” Meanwhile, he eliminated from his challenge the voters with names “that clearly sounded American-born, like John Smith, or Powell,” and ultimately targeted primarily Asian and Hispanic voters.⁴³ In another example from the 2004 primary elections in Bayou La Batre, Alabama, supporters of a white incumbent running against a Vietnamese American candidate intimidated Asian American voters. These supporters challenged the eligibility to vote of only Asian Americans at the polls, falsely accusing them of not being U.S. citizens. The losing incumbent rationalized his targeting because “We figured if they couldn’t speak good English, they possibly weren’t American citizens.” The Department of Justice found these challenges were racially motivated and prohibited those people from interfering in the general election.⁴⁴

H.R. 1 – Division A – Voting; Title 2 – Election Integrity

Subtitle A – Restore the VRA

We support H.R. 1’s acknowledgement of the need to address the problematic decision by the Supreme Court in *Shelby County v. Holder* and agree with the bill’s statement that “racial discrimination in voting is a clear and persistent problem.”⁴⁵ Asian American voters are among those suffering in the wake of the decision and are left particularly vulnerable as the Asian American voter population grows across the country. Previously-covered Section 5 jurisdictions in the South are where the Asian American population is growing particularly rapidly. Georgia and North Carolina are among the three fastest-growing Asian American populations from 2000

⁴³ Terry Ao Minnis & Mee Moua, Asian Americans Advancing Justice – AAJC, 50 Years of the Voting Rights Act: The Asian American Perspective (2015), <https://advancingjustice-aaajc.org/sites/default/files/2016-09/50-years-of-VRA.pdf>.

⁴⁴ Id.

⁴⁵ For the People Act of 2019, H.R. 1, 116th Congress § 2001(5) (2019).

to 2010.⁴⁶ In fact, five of the states covered in their entirety and another four states covered partially by Section 5 are among the top 20 states with the fastest-growing Asian American populations. The remaining covered states all experienced a growth in their Asian American populations.⁴⁷ When groups of minorities move into or outpace general population growth in an area, reactions to the influx of outsiders can result in racial tension.⁴⁸ As Asian American populations continue to increase rapidly, particularly in the South, levels of racial tension and discrimination against racial minorities can be expected to increase, including in the voting context.⁴⁹ Such discrimination creates an environment of fear and resentment toward Asian Americans, which jeopardizes Asian Americans' ability to exercise their right to vote free of harassment and discrimination.

The community's population growth will likely lead to increased efforts to undermine the political voice of Asian Americans similar to the recent and ongoing efforts to restrict access to the polls.⁵⁰ This trend has already become evident in relation to the growth of the Latino voting

⁴⁶ See Community of Contrasts.

⁴⁷ Id.

⁴⁸ See Gillian Gaynair, Demographic shifts helped fuel anti-immigration policy in Va., *The Capital* (Feb. 26, 2009) (noting that longtime residents of Prince William County, Virginia, perceived that their quality of life was diminishing as Latinos and other minorities settled in their neighborhoods); James Angelos, *The Great Divide*, N.Y. Times, Feb. 22, 2009 (describing ethnic tensions in Bellerose, Queens, New York, where the South Asian population is growing), http://www.nytimes.com/2009/02/22/nyregion/thecity/22froz.html?_r=3&pagewanted=1; Ramona E. Romero and Cristóbal Joshua Alex, Immigrants becoming targets of attacks, *The Philadelphia Inquirer*, Jan. 25, 2009 (describing the rise in anti-Latino violence where the immigration debate is heated in New York, Pennsylvania, Texas, and Virginia); Sara Lin, An Ethnic Shift is in Store, *L.A. Times*, Apr. 12, 2007, at B1 (describing protest of Chino Hill residents to Asian market opening in their community where 39% of residents were Asian), <http://articles.latimes.com/2007/apr/12/local/me-chinohills12>.

⁴⁹ In 2011, the growth of immigrant communities and rising anti-immigrant sentiment in Alabama led to the passage of H.B. 56, the toughest immigration enforcement law in the country. Also in 2011, state lawmakers in other southern states, including Georgia and South Carolina, launched efforts to deny the automatic right of citizenship to the U.S.-born children of undocumented immigrants. See Shankar Vedantam, State Lawmakers Taking Aim at Amendment Granting Birthright Citizenship, *Wash. Post*, Jan. 5, 2011, <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/05/AR2011010503134.html>; see also *United States v. Wong Kim Ark*, 169 U.S. 649 (1898) (holding Fourteenth Amendment grants U.S. citizenship to native-born children of alien parents). At the federal level, Alabama members of the U.S. House of Representatives co-sponsored legislation to enact this restriction. Birthright Citizenship Act of 2011, H.R. 140, 112th Cong. (2011). This bill was reintroduced in 2013 and co-sponsored again by Alabama Representatives, as well as legislators from Arizona, Georgia, and Texas. Birthright Citizenship Act of 2013, H.R. 140, 113th Cong., (2013).

⁵⁰ See Ari Berman, Texas Voter ID Law Discriminates Against Women, Students and Minorities, *The Nation* (Oct. 23, 2013), <http://www.thenation.com/blog/176792/texas-voter-id-law-discriminates-against-women-students-and-minorities#> (noting that Texas' voter ID law likely would have an extremely disproportionate impact on Hispanic voters); Emily Deruy, Could New Voter ID Laws Really Disenfranchise 10 Million Latinos?, *Fusion* (Sep. 24, 2012) (arguing that recent proof of citizenship and photo identification requirements and voter roll purges had the potential to disenfranchise millions of Latino voters); and Christopher Ingraham, Study finds strong evidence for discriminatory intent behind voter ID laws, *The Washington Post* (Jun. 3, 2014), <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/06/03/study-finds-strong-evidence-for-discriminatory-intent-behind-voter-id-laws/> (finding that state legislators who had supported voter ID laws were less likely to respond to emails sent from voters with Hispanic-sounding names).

population.⁵¹ Asian Americans are potential swing voters⁵² and are becoming numerous enough to make the difference in certain races, and they will be facing new, more aggressive tactics to minimize their political impact. Section 5 protections are needed now more than ever.

Unfortunately, the U.S. Supreme Court weakened the VRA in *Shelby County v. Holder* (“Shelby”). The Court ruled 5-4 that the formula used to determine Section 5 jurisdictions was based on “decades-old data and eradicated practices,” despite the extensive record confirming that these areas continued to commit acts of voting discrimination.⁵³ Thus, while the Court did not invalidate Section 5, it rendered it useless by invalidating the formula that determined what jurisdictions were required to submit voting changes for preclearance. But at the same time, the Court recognized that “no one doubts” that voting discrimination still exists, and invited Congress to pass legislation with a modernized formula.⁵⁴ Since the Court invalidated the key enforcement provision of the Act in 2013, voting discrimination has become harder to stop. In states, counties, and cities across the country, legislators pushed through laws designed to make it harder for minorities to vote. Congress must restore the VRA and we look forward to working with Congress on this effort.

Conclusion

As the fastest growing racial/ethnic group in America, Asian Americans have experienced numerous opportunities for and challenges to political participation and civic engagement. These new Americans often emigrate from countries with very different government systems and traditions of civic engagement, with many facing language as well as cultural barriers. They often lack an adequate understanding of the history and current conditions of race relations in the United States, or of its economic development and divides. Yet they increasingly recognize that there is both a right and responsibility to participate in our democratic system and engage in civic institutions. Too often excluded from the decision-making of government entities at the national, state and local levels, Asian Americans recognize that we have a significant stake in participating in the public dialogue concerning resource allocation decisions, regulations, investments in schools, and economic redevelopment, and must be politically engaged. Components of H.R. 1 would help expand access to the political process and assist Asian Americans in having their voices heard.

⁵¹ Mexican American Legal Defense and Educational Fund, National Association of Latino Elected and Appointed Officials, and National Hispanic Leadership Agenda, *Latinos and the VRA: A Modern Fix for Modern-Day Discrimination 3*, https://www.maldef.org/wp-content/uploads/2019/01/Latinos_and_the_VRA.pdf.

⁵² See 2018 Survey.

⁵³ *Shelby County v. Holder*, 570 U.S. 529 (2013).

⁵⁴ *Id.*