



**Testimony of
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**For Shadow Hearing on “The State of Voting Rights and Elections”
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Introduction

The Asian American electorate is one of growth – in numbers and relevance as a political community. Unfortunately, the community has yet to fully exercise its political power, in part due to barriers at the ballot box being erected precisely because of this growing potential power. The long history of discrimination against Asian Americans, including the denial of rights held by U.S. citizens such as the right to vote, continue to be visited on the community. Racist laws barring Asian Americans from entering or staying in the country, owning land, or voting, among other exclusionary laws, were often based on the perception and fear of Asian Americans as “outsiders” and “perpetual foreigners,” and the accompanying perceived political threat to the status quo. The rise in xenophobic rhetoric, and resultant policies and activities, will likely worsen because of the ongoing demographic shifts across the nation. As one of the fastest growing racial or ethnic groups for over the last several decades, Asian Americans are becoming more politically visible and viable across the country, which is resulting in ongoing and persistent anti-Asian sentiments, political attacks on Asian American candidates and voters, and voting policies that erect barriers rather than expand access for Asian American voters to the ballot. To continue to protect voting rights for Asian Americans in the future, Congress must pass laws that increase access to the ballot box, including restoring, modernizing and strengthening the Voting Rights Act (VRA).

Organizational Information

Asian Americans Advancing Justice – AAJC (Advancing Justice – AAJC) is a national 501 (c)(3) nonprofit founded in 1991 in Washington, D.C. Advancing Justice – AAJC’s mission is to advance the civil and human rights for Asian Americans and to build and promote a fair and equitable society for all. Advancing Justice – AAJC fights for our civil rights through education, litigation, and public policy advocacy, empowering our communities by bringing local and national constituencies together and ensuring Asian Americans are able to participate fully in our democracy.

Advancing Justice – AAJC is a member of Asian Americans Advancing Justice (Advancing Justice), a national affiliation of five civil rights nonprofit organizations that joined together in 2013 to promote a fair and equitable society for all by working for civil and human rights and empowering Asian Americans and Pacific Islanders and other underserved communities. The Advancing Justice affiliation is comprised of Advancing Justice – Southern California located in Los Angeles, Advancing Justice – AAJC located in Washington, D.C., Advancing Justice – Chicago, and Advancing Justice – Atlanta.

Advancing Justice – AAJC’s Community Partners Network enhances our voting rights advocacy by elevating community voices and providing insight into the issues facing our diverse community. This collaboration of over 300 community-based organizations in 38 states¹ and the District of Columbia helps to further our reach and strengthen our understanding of the communities we represent across issue areas.

In particular, Advancing Justice – AAJC works to eliminate barriers Asian Americans face in participating in our nation's political process. This includes defending and enforcing the Voting Rights Act (VRA), improving election systems, and providing analysis of Asian American electoral participation. In addition to poll monitoring and voter protection efforts across the country, Advancing Justice – AAJC, in partnership with APIAVote, has run a multilingual Asian election protection hotline (888-API-VOTE) that provides in language assistance to voters who have questions about the election process or are experiencing problems while trying to vote. Advancing Justice – AAJC has engaged in ongoing efforts to address the disastrous *Shelby County* decision, and played a key role in collaboration with other civil rights groups during the reauthorization of the Voting Rights Act in 2006,

Additionally, through our litigation program, Advancing Justice – AAJC influences key civil rights issues that have significant impact on Asian Americans and immigrant communities, both in the courts and through technical assistance for our Community Partners. We pursue impact litigation in federal courts, file amicus briefs (including in cases before the U.S. Supreme Court), and engage with the broader racial and social justice coalition to strategically advance key issues. We have actively engaged in impact litigation and amicus work to protect Asian American voters.

The Asian American Electorate

The Asian American population is a fast-growing segment of America. The 2020 Census shows that there are over 24.0 million Asian Americans in the U.S., with a national growth

¹ The states in which we have Community Partners are Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin.

rate of 38.6% between 2010 to 2020.² At the same time, Asian Americans made up 7.2% of the total population.³ During this decade, the Asian American population continued its fast pace of growth, with 12.8% growth (compared to 2.6% for the total population).⁴ Despite often being viewed as homogenous, Asian Americans are in fact quite diverse, including over forty detailed subgroups for which the Census Bureau provided data for the 2020 Census. The previous decade showed that the Asian Indian alone population became the largest Asian alone population, growing by over 50% to almost 4.4 million between 2010 and 2020.⁵ The next largest Asian alone groups and their population change from 2010 to 2020 are⁶:

Chinese, except Taiwanese alone, 4,128,718 (up 31.6%).

Filipino alone, 3,076,108 (up 20.4%).

Vietnamese alone, 1,951,746 (up 26.0%).

Korean alone, 1,508,575 (up 6.0%).

Japanese alone, 741,544 (down 3.2%).

Every detailed Asian alone group experienced growth over the last decade except for the Japanese alone population and the Laotian alone population; however, their alone or in any combination populations increased by 20.6% and 9.5%, respectively. At the same time, the fastest growing Asian alone as well as Asian alone or in any combination group among those with populations of 50,000 or more in 2010 was the Nepalese population, which increased over 250%.⁷

² Author's calculation based on U.S. Census Bureau Redistricting Data (PL 94-171) Table P1: Race from the 2010 (national at <https://data.census.gov/cedsci/table?q=table%20p1&tid=DECENNIALPLNAT2010.P1> and states at <https://data.census.gov/cedsci/table?g=0100000US%240400000&y=2010&d=DEC%20Redistricting%20Data%20%28PL%2094-171%29&tid=DECENNIALPL2010.P1&hidePreview=true> and) and the 2020 (<https://data.census.gov/cedsci/table?q=redistricting&g=0100000US,%240400000&tid=DECENNIALPL2020.P1&hidePreview=true>).

³ *Id.*

⁴ Calculations from the Census Bureau, Population Division, Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for the United States: April 1, 2020 to July 1, 2024 (NC-EST2024-SR11H), Release Date: June 2025, <https://www2.census.gov/programs-surveys/popest/tables/2020-2024/national/asrh/nc-est2024-sr11h.xlsx>.

⁵ Brittany Rico, Joyce Key Hahn, and Cody Spence, U.S. Census Bureau, America Counts Stories: Chinese, Except Taiwanese, Was The Largest Asian Alone or in Any Combination Group; Nepalese Population Grew Fastest (Sept. 21, 2023), <https://www.census.gov/library/stories/2023/09/2020-census-dhc-a-asian-population.html>.

⁶ *Id.* Looking at alone or in any combination data (whereby respondents chose an Asian response either as their only response option or in combination with another racial or Asian subgroup response option), the largest Asian subgroups in the 2020 Census are: Chinese, except Taiwanese (increasing 37.2%, to 5,205,461 in 2020), Asian Indian (49.8% to 4,768,846), Filipino (29.9% to 4,436,992), Vietnamese (32.0% to 2,293,392), Korean (16.6% to 1,989,519) and Japanese (20.6% to 1,586,652).

⁷ *Id.*

Where Asian Americans reside in the United States is also quite diverse, with the fast-growing pockets in non-traditional gateway communities. The top 10 fastest growing Asian American populations in the 2020 Census were in North Dakota, South Dakota, Nebraska, District of Columbia, North Carolina, Indiana, Texas, South Carolina, Montana and Utah (with growth rates ranging between 60.9% to 103.1%).⁸ The largest Asian American populations in the 2020 Census tended to be in more established communities. The states with the most Asian Americans are California (over 7.0 million), New York (2.2 million), Texas (1.8 million), New Jersey (1 million) and Washington (almost 940,000).⁹

The number of Asian American voters has also been growing, representing the fastest growing group of voters in the U.S. for about the past two decades.¹⁰ The number of eligible Asian American voters grew by 139% from almost five million in 2000 to over 11 million in 2020 (as compared to a growth rate of 121% for Latinos voters, 33% of Black voters and 7% of White voters).¹¹ Between 2020 and 2024, the Asian American electorate continued to be the fastest growing, with a growth rate of 15%, or about 2 million eligible voters, as compared to the 3% growth rate for all eligible voters.¹²

The growing Asian American electorate (i.e., eligible Asian American voters as represented by the citizen voting-age population) has the potential to influence election outcomes. For example, during the 2020 presidential election, the state-wide Asian American electorate was larger than the margin of victory in 10 states: Georgia, Arizona, Nevada, Wisconsin, North Carolina, Hawaii, Pennsylvania, Texas, Florida, and Michigan. In Alaska and Virginia, the Asian American electorates were 97% and 96% of the margins of victory, respectively.¹³ In the 2024 presidential election, the Asian American electorate in the state was larger than the margin of victory in 13 states: Nevada, Hawaii, New Jersey, Georgia, Wisconsin,

⁸ Author's calculation based on U.S. Census Bureau Redistricting Data (PL 94-171) Table P1: Race from the 2010 (national at <https://data.census.gov/cedsci/table?q=table%20p1&tid=DECENNIALPLNAT2010.P1> and states at <https://data.census.gov/cedsci/table?g=0100000US%240400000&y=2010&d=DEC%20Redistricting%20Data%20%28PL%2094-171%29&tid=DECENNIALPL2010.P1&hidePreview=true>) and the 2020 (<https://data.census.gov/cedsci/table?q=redistricting&g=0100000US,%240400000&tid=DECENNIALPL2020.P1&hidePreview=true>).

⁹ *Id.*

¹⁰ Abby Budiman, Pew Research Center, Asian Americans are the fastest-growing racial or ethnic group in the U.S. electorate (May 7, 2020), <https://www.pewresearch.org/short-reads/2020/05/07/asian-americans-are-the-fastest-growing-racial-or-ethnic-group-in-the-u-s-electorate/> ("Pew Fastest Growing").

¹¹ *Id.*

¹² Abby Budiman, Jeffrey S. Passel and Carlyne Im, Pew Research Center, Key facts about Asian American eligible voters in 2024 (Jan. 10, 2024), <https://www.pewresearch.org/short-reads/2024/01/10/key-facts-about-asian-american-eligible-voters-in-2024/>.

¹³ Internal analysis using Presidential election data from MIT Election Data and Science Lab, 2017, "U.S. President 1976–2020", <https://doi.org/10.7910/DVN/42MVDX>, Harvard Dataverse, V7, UNF:6:MkQHX147hJCgscG5lqK77g== [fileUNF] and voter turnout data from U.S. Census Bureau, "Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States: November 2020," 2020. Current Population Survey, Table 4b, 2020, accessed on March 18, 2024, <https://www2.census.gov/programs-surveys/cps/tables/p20/585/table04b.xlsx>.

Pennsylvania, Michigan, Virginia, Minnesota, California, New York, North Carolina, and New Hampshire. And again, two states approached the margin of victory: Illinois and Arizona had Asian American electorates that were 96% and 91% of the margins of victory in those states respectively.¹⁴

While the Asian American electorate has been increasing, it still has not fully exercised its political power. Participation rates of Asian American voters persistently trail that of White voters by double digits election after election (see chart and tables below).

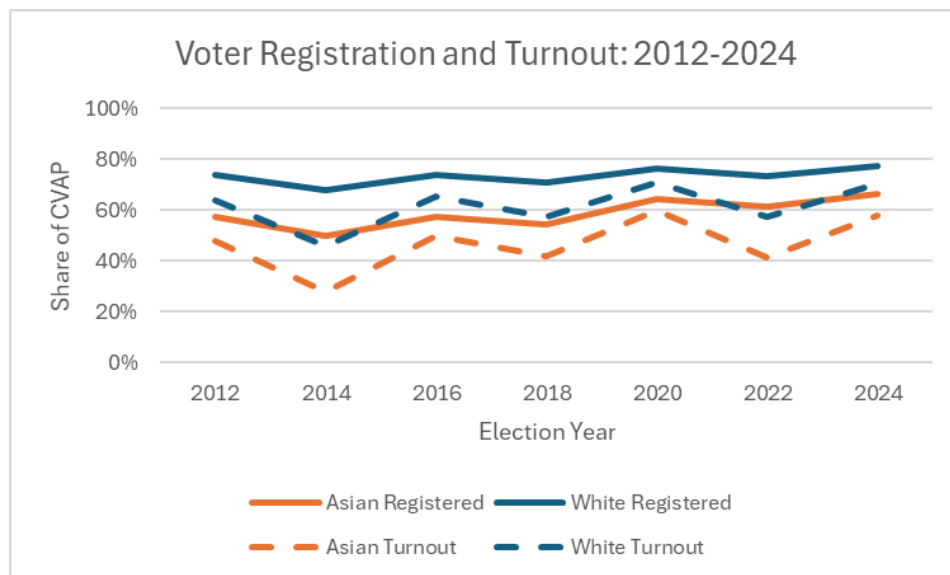


TABLE: Asian American v. Non-Hispanic White Political Participation: Presidential Elections¹⁵

Year/Race	% Registered	% Turnout
2024		
Asian American	66.2%	58.1%
White	77.7%	70.5%

TABLE: Asian American v. Non-Hispanic White Political Participation: Midterm Elections¹⁶

Year/Race	% Registered	% Turnout
2022		
Asian American	61.5%	41.5%
White	73.2%	57.6%

¹⁴ Internal analysis using Presidential election data from Federal Election Commission, <https://www.fec.gov/introduction-campaign-finance/election-results-and-voting-information/> and voter turnout data from U.S. Census Bureau, "Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States: November 2024," 2024. Current Population Survey, Table 4b, 2024, accessed on April 22, 2026, https://www2.census.gov/programs-surveys/cps/tables/p20/587/vote04b_2024.xlsx.

¹⁵ U.S. Census Bureau, "Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States," 2012, 2016, 2020, and 2024. Current Population Survey, Table 4b, 2012, 2016, 2020, 2024, accessed on April 21, 2026, <https://www.census.gov/topics/public-sector/voting/data/tables.html>.

¹⁶ U.S. Census Bureau, "Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States," 2014, 2018, and 2022. Current Population Survey, Table 4b, 2014, 2018, 2022, accessed on March 18, 2024, <https://www.census.gov/topics/public-sector/voting/data/tables.html>.

2020		
Asian American	64.5%	60.1%
White	76.5%	70.9%
2016		
Asian American	57.3%	49.8%
White	73.9%	65.3%
2012		
Asian American	57.3%	47.9%
White	73.7%	64.1%
Existing Gap		
2024	11.5%	12.4%
2020	12.0%	10.8%
2016	16.6%	15.5%
2012	16.4%	16.2%

2018		
Asian American	54.2%	41.7%
White	71.0%	57.5%
2014		
Asian American	50.0%	27.9%
White	68.1%	45.8%
Existing Gap		
2022	11.7%	16.1%
2018	16.8%	15.8%
2014	18.1%	17.9%

Barriers to Voting for Asian Americans

Discrimination and Anti-Asian Sentiments Against Asian Americans and Asian American Voters

Discrimination against Asian Americans has existed throughout the community’s history in the United States, including voting discrimination.¹⁷ From the mid-19th century with the arrival of Chinese workers on the West Coast¹⁸ and eventual scapegoating for the lack of economic opportunity,¹⁹ to the passage of the Chinese Exclusion Act of 1882,²⁰ Asian Americans have been seen as outsiders and are treated as perpetual foreigners regardless of their nativity. With the passage of the Immigration Act of 1924, “existing laws already excluded Asian immigrants from becoming naturalized citizens.”²¹ The law established a natural origins quota and prevented “Asians that were not already barred from entry,” (such

¹⁷ See Erika Lee, *The Making of Asian America: A History* (New York: Simon and Schuster, 2015), 3. See also, Hearing on “The Right Side of History: Protecting Voting Rights in America” Before the S. Judiciary Comm., 118th Cong. (March 12, 2024) (prepared statement of Asian Americans Advancing Justice | AAJC) (“AAJC Right Side”), <https://www.advancingjustice-aaajc.org/publication/right-side-history-protecting-voting-rights-america> (for a detailed accounting of the history of discrimination against Asian Americans).

¹⁸ Office of the Historian, “Chinese Immigration and the Chinese Exclusion Acts,” Milestones: 1866–1898, Milestones in the History of U.S. Foreign Relations (Foreign Service Institute, United States Department of State), accessed March 16, 2024, <https://history.state.gov/milestones/1866-1898/chinese-immigration>.

¹⁹ George Anthony Pepper, “Forbidden Families: Emigration Experiences of Chinese Women under the Page Law, 1875-1882,” *Journal of American Ethnic History* 6, no. 1 (Fall 1986): 28–46.

²⁰ The Chinese Exclusion Act was the first U.S. immigration law to bar an entire ethnic group, effectively prohibiting Chinese immigrants from entering the U.S. for about 60 years and barred anyone of Chinese descent from gaining citizenship. 22 Stat. 58, 47 Cong. Ch. 126. “Chinese Exclusion Act (1882),” Milestone Documents (Washington, DC: National Archives, January 17, 2023), <https://www.archives.gov/milestone-documents/chinese-exclusion-act>.

²¹Anti-Asian Laws and Policies,” National Park Service, May 27, 2025, <https://www.nps.gov/articles/000/anti-asian-laws-and-policies.htm>.

as the Japanese) from immigrating.²² These laws remained in effect until they were repealed beginning with the Repeal of Chinese Exclusion in 1943²³ and ending with the 1952 Immigration Act.²⁴ It was not until the passage of the Hart-Celler Act in 1965 that national origin quotas that disfavored Asian immigration were eliminated.²⁵ Asian Americans who were in country prior to these exclusionary laws being passed were denied the right to naturalize,²⁶ the ability to own land,²⁷ and thus left without the ability to vote.

The history of discrimination against Asian Americans is not a relic of the past, but rather an ongoing offense that impacts the lives of Asian Americans today.²⁸ Similarly, the false stereotype of Asian Americans as “outsiders,” “aliens,” and “perpetual foreigners,”²⁹ which has served as a basis for much of the historical discrimination, is still prevalent today. A 2025 survey found that Asian Americans reported the highest percentage of experiencing at least one form of “everyday discrimination” per month because of their race or ethnicity (compared to 50% Black, 44% Latino, and 16% White), with the most “typical” type of

²² Anti-Asian Laws and Policies,” National Park Service, May 27, 2025, <https://www.nps.gov/articles/000/anti-asian-laws-and-policies.htm>.

²³ Office of the Historian, “Repeal of the Chinese Exclusion Act, 1943,” Milestones: 1937-1945, Milestones in the History of U.S. Foreign Relations (Foreign Service Institute, United States Department of State), accessed April 23, 2026, <https://history.state.gov/milestones/1937-1945/chinese-exclusion-act-repeal>.

²⁴ Office of the Historian, “The Immigration and Nationality Act of 1952 (The McCarran-Walter Act),” Milestones: 1945-1952, Milestones in the History of U.S. Foreign Relations (Foreign Service Institute, United States Department of State), accessed April 23, 2026, <https://history.state.gov/milestones/1945-1952/immigration-act>.

²⁵ “Overturning Exclusion, Limiting Immigration,” History, Art & Archives United States House of Representatives, <https://history.house.gov/Exhibitions-and-Publications/APA/Historical-Essays/Exclusion-to-Inclusion/Overturning-Exclusion-Limiting-Immigration/>.

²⁶ Marian L. Smith, “Race, Nationality, and Reality: INS Administration of Racial Provisions in U.S. Immigration and Nationality Law Since 1898,” *Prologue Magazine*, Summer 2002, <https://www.archives.gov/publications/prologue/2002/summer/immigration-law-1>.

²⁷ See AAJC Right Side for further detailing on this topic.

²⁸ See AAJC Right Side for further detailing of how discrimination currently affects Asian Americans.

²⁹ See, e.g., Claire Jean Kim, “The Racial Triangulation of Asian Americans,” *Politics & Society* 27, no. 1 (March 1999): 105–38, describing history of whites perceiving Asian Americans as foreign and therefore politically ostracizing them. Racial stereotyping of Asian Americans reinforces an image of Asian Americans as “different,” “foreign,” and the “enemy,” leading to stigmatization of Asian Americans, heightened racial tension, and increased discrimination. Spencer K. Turnbull, “Wen Ho Lee and the Consequences of Enduring Asian American Stereotypes,” *UCLA Asian Pacific American Law Journal* 7, no. 1 (2001): 72–87; Terri Yuh-lin Chen, “Hate Violence as Border Patrol: An Asian American Theory of Hate Violence,” *Asian Law Journal* 7, no. 1 (January 2000): 74–75, <https://doi.org/10.15779/Z38VP22>; Cynthia Kwei Yung Lee, “Beyond Black and White: Racializing Asian Americans in a Society Obsessed with O.J.,” *Hasting Women’s Law Journal* 6, no. 2 Seeing the Elephant (June 1, 1995): 165, 181; Note, “Racial Violence against Asian Americans,” *Harvard Law Review* 106, no. 8 (1993): 1926–43, <https://doi.org/10.2307/1341790>; see also Thierry Devos and Mahzarin R. Banaji, “American = White?,” *Journal of Personality and Social Psychology* 88, no. 3 (2005): 447–66, <https://doi.org/10.1037/0022-3514.88.3.447>, documenting empirical evidence of implicit beliefs that Asian Americans are not “American.”

discrimination being “one of assumed foreignness”.³⁰ Birthplace had essentially no effect on the presumed foreignness of Asian Americans – 53% of U.S.-born and 56% of foreign-born Asian Americans experienced assumptions of being foreign. In contrast, a foreign-born White American is 10 times more likely (44%/4%) than a native-born White American of being identified (correctly) as foreign-born. A foreign-born Latino American is 1.7 times more likely (32%/55%) and a foreign-born Black American is 2.8 times more likely (25%/70%) than their native-born counterparts of being identified (correctly) as foreign-born. Asian Americans are the only group where a native-born member is just as likely as a foreign-born member to be identified (incorrectly) as foreign-born.³¹

Another manifestation of this stereotype is seen in the growth of xenophobic backlash against immigrants.³² Hate crimes against Asian Americans for being a person of color or a perceived unwanted immigrant are a result of this discrimination.³³ Starting in the early 2020s, harassment and violence directed toward Asian Americans exponentially increased because they were wrongly blamed for the COVID-19 pandemic.³⁴ In the most recent FBI reporting of hate crimes statistics for 2024, despite a modest decline from the number of hate incidents reported in 2023, “the number remains significantly elevated, nearly three times higher than the pre-pandemic average between 2013 and 2018. This persistent increase underscores the enduring impact of pandemic-era xenophobia and the continued vulnerability of Asian American communities.”³⁵

The 2024 election cycle also stoked anti-Asian sentiments and hate incidents. Advancing Justice – AAJC’s report, “Anti-Asian Hate in 2024: Analysis and Recommendations for Change” noted the following events:

³⁰ Vivien BY Leung and Sam Collitt, Committee of 100 and NORC at the University of Chicago, State of Chinese Americans Survey 2025 Where are You Really From? (March 2026), available for download at <https://www.committee100.org/our-work/state-of-chinese-americans-survey/>.

³¹ *Id.*

³² See “Confronting Discrimination in the Post-9/11 Era: Challenges and Opportunities Ten Years Later” (Washington, DC: Department of Justice, October 19, 2011), https://www.justice.gov/sites/default/files/crt/legacy/2012/04/16/post911summit_report_2012-04.pdf, at 4, noting that the FBI reported a 1,600 percent increase in anti-Muslim hate crime incidents in 2001.

³³ See, e.g., *id.*, at 7-9 discussing numerous incidents of post-9/11 hate crimes prosecuted by the DOJ.

³⁴ Terry Tang, Associated Press, Asian Americans and Pacific Islanders are still targets of hatred 5 years after pandemic surge (March 28, 2025), <https://www.ap.org/news-highlights/spotlights/2025/asian-americans-and-pacific-islanders-are-still-targets-of-hatred-5-years-after-pandemic-surge/>. See also, Asian Americans Advancing Justice, “PACAANHPI: Response to Belonging, Inclusion, Anti-Asian Hate, Anti-Discrimination; Data Disaggregation; Immigration and Citizenship Status; and Language Access Subcommittees’ Questions,” (Washington, DC, February 28, 2024), <https://www.advancingjustice-aaajc.org/publication/pacaanhpi-response-belonging-inclusion-anti-asian-hate-anti-discrimination-data>.

³⁵ Asian Americans Advancing Justice | AAJC, Anti-Asian Hate in 2024: Analysis and Recommendations for Change (Nov. 2025), <https://www.advancingjustice-aaajc.org/sites/default/files/2025-11/Anti-Asian%20Hate%20in%202024%20Report.pdf>.

“March–April: Presidential campaigns ramped up anti-China messaging, including claims of espionage, border infiltration, and criticism of Chinese tech firms. Disinformation portraying Chinese migrants as national security threats proliferated. Debates around Diversity, Equity, Inclusion, and Accessibility (DEIA) policies intensified, indirectly targeting Asian American representation.

May: The political spotlight on South Asians grew, with Vice President Kamala Harris and Usha Vance (wife of Republican Vice-Presidential candidate JD Vance) facing racist and sexist attacks. Far-right commentators continued to target Indian American candidates with derogatory remarks. TAAF’s STAATUS Index revealed that 41% of Asian Americans feared physical attacks due to their identity.

June–August: The visibility of Kamala Harris and Usha Vance further fueled xenophobic narratives. Stop AAPI Hate reported that online hate against South Asians doubled, with extremist spaces recording over 46,000 slurs. August saw a peak in threats of violence, with Stop AAPI Hate documenting 973 incidents, 75% of which targeted South Asians.

November: Donald Trump’s victory in the presidential election triggered a 66% surge in anti-Asian slurs online, according to Stop AAPI Hate. The post-election climate saw intensified xenophobic narratives and renewed targeting of Asian communities.”³⁶

These anti-Asian sentiments, as well as the pervasive “perpetual foreigner” stereotype, create a hostile environment for voters and candidates and have impaired Asian Americans’ ability to fully participate in the political process. Over many election cycles, we have seen verbal attacks against Asian American voters and candidates at all levels of office, negative political ads falsely targeting “Asia” as an enemy to the United States, and racial appeals whereby images of candidates of color are manipulated to trigger negative stereotypes. There have been attempts by private citizens to challenge Asian American voters and their right to vote simply for being Asian American. Asian American candidates have been mocked and subjected to racial slurs during their campaigns.³⁷ We can expect these ongoing attacks against Asian American candidates and voters will continue as anti-Asian sentiments continue to exist, such as those seen during the 2024 election cycle as noted above, likely eroding political participation by Asian Americans.

Another result of this backlash and attendant xenophobic rhetoric is that Asian Americans are avoiding interacting with governments (including when it comes to voting) due to a heightened fear of immigration enforcement. Even Asian Americans who are here lawfully

³⁶ *Id.*

³⁷ See AAJC Right Side for detailed examples of political attacks on Asian American candidates and voters.

may have legitimate concerns about being targets or scapegoats for the government. The Brookings Institution noted that “[t]he actions of ICE agents and statements from the Trump administration have radically shifted several societal norms, [including] eroding law enforcement transparency, diminishing accountability for due process violations, and undermining public trust by forcing residents to prove they belong in the United States.”³⁸ Fears about aggressive ICE enforcement activities are effecting families’ willingness to engage in essential activities, such as visiting a doctor, going to work, sending children to school, driving a car, and even attending religious services.³⁹ Placing the burden on citizens to provide Documentary Proof of Citizenship (DPOC) coupled with fears of ICE detention regardless of citizenship will likely drive people, already skittish about engaging in everyday activities, away from going to the polls out of concern for their and their family’s safety. This only underscores the importance of having a robust mail-in voting infrastructure, which I discuss in more detail below.

Anti-Immigrant Purpose and Effect of Documentary Proof of Citizenship Requirements

Efforts to create onerous DPOC requirements are, in essence, aimed at naturalized citizens (i.e., immigrants), which makes voting more difficult for them. These requirements harm everyone, and especially naturalized citizens because they often either do not have their certificates of naturalization or lack ready access to them.⁴⁰ Some documents often allowed for DPOC purposes are simply not available to naturalized voters. For example, a birth certificate would not work for a naturalized voter, as they, by definition, would not have been born in the U.S. Naturalized voters also face additional fees to obtain a replacement Certificate of Naturalization, which currently requires \$555 and takes around 8.5 to 11 months to process.⁴¹ A passport, which can cost a minimum of \$130 and take four

³⁸ Gabriel R. Sanchez and Rashawn Ray, Brookings Institute, ICE is disrupting societal norms and democratic ideals (Mar. 30, 2026), <https://www.brookings.edu/articles/ice-is-disrupting-societal-norms-and-democratic-ideals/>.

³⁹ Dulce Gonzalez and Hamutal Bernstein, Urban Institute, Escalating Immigration Policies Threaten California Immigrant Families (May 29, 2025), <https://www.urban.org/urban-wire/escalating-immigration-policies-threaten-california-immigrant-families>.

⁴⁰ Reasons for not having or having access to certificates of naturalization include: these documents were not meant to be utilized for ready access like a driver's license or passport might be; they might be in the home of another family member, kept in safe deposit boxes, or home storage; and subsequently lost, destroyed, or stolen. Additionally, there would be no recourse (or record) for those whose documents were issued prior to 1956 and which were subsequently destroyed or lost as record keeping before 1956 did not have robust backup copies. U.S. Citizenship and Immigration Services, History of the Certificate of Naturalization (1906-1956), Last Reviewed/Updated: 02/05/25, <https://www.uscis.gov/about-us/our-history/stories-from-the-archives/history-of-the-certificate-of-naturalization-1906-1956#:~:text=Many%20%E2%80%9COLD%20Law%E2%80%9D%20Certificates%20of,biographical%20information%20or%20security%20features.&text=Courts%20did%20not%20keep%20copies,administration%20of%20the%20naturalization%20laws>.

⁴¹ See U.S. Department of Homeland Security, Our Fees Chart, <https://www.uscis.gov/forms/our-fees> (documenting the filing fee) (last visited February 11, 2025); U.S. Citizenship and Immigration Services, Check Case Processing Times, <https://egov.uscis.gov/processing-times/> (check for most current processing time by form) (last visited February 11, 2025).

to six weeks to get,⁴² and requires a certificate of naturalization or citizenship.⁴³ These onerous requirements impose undue obstacles on lawful voters, especially naturalized citizens. DPOC requirements disproportionately affect Asian Americans due to the community's high rates of immigration and naturalization. Almost 3 in 4 of Asian American adults are born outside of the U.S. (74.4%) and 47.6% have naturalized, compared to 4.6% of Whites who were born outside the U.S. and 3.2% of White adults who have naturalized.⁴⁴ In fact, Asian Americans are the only major racial or ethnic group where naturalized citizens comprise a majority of its eligible voters.⁴⁵

Advancing Justice – AAJC has litigated cases challenging DPOC efforts, including in Arizona and against the current Administration. In Arizona, Advancing Justice – AAJC sued Arizona on behalf of Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition, challenging H.B. 2492 and H.B. 2243, two state laws that, in concert, attempted to establish various citizenship and “proof” requirements for voting. Moreover, the laws facilitated swift voter cancellations and the creation of an “anyone-can-accuse” investigation system that refers accused voters who are unable to provide onerous evidence of citizenship to criminal investigations. Specifically, they do this by (1) making it harder to register to vote, (2) chilling voters from registering to vote, (3) cancelling already-registered voters for certain elections for failure to provide documentary proof of citizenship, and (4) commanding county recorders to arbitrarily investigate and cancel accused voters who are unable to provide onerous evidence of citizenship within 35 days of being accused of not being a U.S. citizen—and then refer them to the county attorneys and the attorney general for criminal investigation.

Because Asian Americans and Native Hawaiians Pacific Islanders (NHPIs) comprise a large proportion of naturalized citizens in Arizona and the populations are rapidly increasing, the requirements imposed by H.B. 2492 and H.B. 2243 on naturalized citizens could have had a disproportionately negative impact on voter registrations by AANHPIs. Ultimately, Advancing Justice – AAJC, along with others, was able to secure a victory striking down some of the worst provisions of both laws. As a result of the litigation, federal form voters who don't provide documentary proof of citizenship *will* be able to vote in *all* federal elections, not just congressional elections. Voters, including AANHPIs (in Arizona, over 60% of whom are naturalized), will not be forced to disclose their place of birth or required

⁴² U.S. Department of State, Travel. State. Gov, <https://travel.state.gov/content/travel/en/passports.html>.

⁴³ For a full list of acceptable documents, see <https://travel.state.gov/content/travel/en/passports/how-apply/citizenship-evidence.html>.

⁴⁴ Author's calculations based on U.S. Census Bureau, Table B05003D: Sex By Age By Nativity And Citizenship Status (Asian Alone), 2023 American Community Survey 1-Year Estimates, <https://data.census.gov/table/ACS1Y2023.B05003D?t=Native+and+Foreign-Born> and U.S. Census Bureau, Table B05003H: Sex By Age By Nativity And Citizenship Status (White Alone, Non-Hispanic), 2023 American Community Survey 1-Year Estimates, [https://data.census.gov/table/ACS1Y2023.B05003H?q=B05003H:+Sex+by+Age+by+Nativity+and+Citizenship+Status+\(White+Alone,+Not+Hispanic+or+Latino\)](https://data.census.gov/table/ACS1Y2023.B05003H?q=B05003H:+Sex+by+Age+by+Nativity+and+Citizenship+Status+(White+Alone,+Not+Hispanic+or+Latino)).

⁴⁵ Pew Fastest Growing.

to prove their citizenship when accused of not being American. Finally, voters can't be systematically removed from voter rolls within 90 days of a federal election. Although the outcome in this case did not go as far as it should in protecting Arizona voters, it struck several key provisions of H.B. 2492 and H.B. 2243.⁴⁶ The 9th Circuit largely affirmed the lower court's ruling in favor of plaintiffs, with the intent claims remanded,⁴⁷ and multiple petitions for review are now pending before the U.S. Supreme Court.⁴⁸

Advancing Justice – AAJC, along with coalition partners, also challenged the March 25, 2025 Executive Order titled Preserving and Protecting the Integrity of American Elections. The lawsuit challenges the Executive Order's directive that the U.S. Election Assistance Commission (EAC) require documents proving citizenship to register using the federal form as an overreach of presidential power, including the counterintuitive fact that the Executive Order does not include a U.S. birth certificate as an acceptable proof of citizenship. The plaintiffs allege that the directive is a violation of the separation of powers doctrine because the president cannot set election laws; only Congress and the states have such authority. The plaintiffs also allege that the order is illegal because the president does not have the authority to mandate the EAC to implement a requirement for eligible American citizens to show a passport or other citizenship document in order to register to vote. This is because the EAC is an independent agency over which the president has no authority, and because such a show-your-papers requirement would violate the National Voter Registration Act.

The DC District Court permanently blocked a provision of President Trump's March 2025 anti-voting Executive Order. The Executive Order sought to add a requirement to show a passport or similar document proving citizenship when registering to vote with the federal voter registration form that would disproportionately impact voters of color.⁴⁹ The decision grants summary judgment to the plaintiffs, finding that the President lacks the authority to unilaterally alter election procedures — powers that rest with Congress and the states. The ruling makes permanent the preliminary injunction issued in the case in April 2025,⁵⁰ and reaffirms a foundational principle of American democracy: no president can violate the separation of powers to change our elections and erect barriers that disenfranchise eligible voters.

⁴⁶ Asian Americans Advancing Justice | AAJC, "Opinion in *Mi Familia Vota et al v. Fontes et al Arizona Case*," Legal Brief (Washington, DC, March 1, 2024), <https://www.advancingjustice-aajc.org/publication/opinion-mi-familia-vota-et-al-v-fontes-et-al-arizona-case>.

⁴⁷ See <https://www.brennancenter.org/sites/default/files/2025-03/opinion-february-25-2025.pdf?inline=1>

⁴⁸ See https://prod-static.gop.com/media/documents/RNC_v_MFV_Cert_Petition_1771528066.pdf?utm_medium=email&utm_source=ncl_amplify&utm_campaign=260219-rnc_urges_supreme_court_to_protect_arizona_voters_by_enforcing_commonsense_proof_of_citizenship_la&utm_content=ncl-a5jjBpgcNs&_nlid=a5jjBpgcNs&_nhids=ncp95Tv0sN1ls

⁴⁹ See <https://assets.aclu.org/live/uploads/2025/10/MSJ-Opinion.pdf>.

⁵⁰ See https://assets.aclu.org/live/uploads/2025/04/2025-04-24-Memorandum-Opinion-dckt-104_0-1.pdf

Restrictions on Vote by Mail Opportunities

Vote by mail opportunities have been increasing and expanding across the nation. While all states allow voters to vote by mail/absentee with an eligible excuse for not being able to vote in person on Election Day, many states allow all voters to vote by mail regardless of an excuse. In fact, as of 2025, “two-thirds of the states and Washington, D.C., have ‘no-excuse absentee’ voting or automatically send mail ballots, which means any voter can request an absentee/mail ballot without providing an excuse, and eight states mail all voters a ballot.”⁵¹ According to MIT’s Election Data and Science Lab, “extending VBM options increases turnout modestly in midterm and presidential elections but may increase turnout more in primaries, local elections, and special elections. This modest increase likely comes in two ways: by bringing marginal voters into the electorate and by retaining voters who might otherwise drop out of the electorate.”⁵²

For certain communities, vote by mail has been particularly popular, such as Asian Americans who vote by mail at higher rates than other demographics. In the November 2024 election, for example, among Asian American voters, 46.5% chose to vote by mail—a higher rate as compared to Latino voters (33.7%), non-Latino White voters (28.6%), and Black voters (19.0%).⁵³ These data points are supported by polling results that similarly show nearly half of Asian American voters (46%) preferring to vote by mail or drop their ballot off, instead of voting in-person.⁵⁴ Polling conducted by Asian Americans Advancing Justice-AAJC before the 2022 midterm elections showed that two-in-three Asian Americans chose to vote absentee or early.⁵⁵ The fact that one-in-six Asian American voters in 2022 felt threatened while voting further underscores the importance of having vote by mail as an option.⁵⁶ Polling also shows that higher rates of young Asian American voters in the 2020 election reported using vote-by-mail at higher rates (46% of young Asian American

⁵¹ National Conference of State Legislatures, Report: Voting Outside the Polling Place: Absentee, All-Mail and Other Voting at Home Options (Updated Aug. 1, 2025), <https://www.ncsl.org/elections-and-campaigns/voting-outside-the-polling-place>.

⁵² MIT Election Data + Science Lab, Voting by mail and absentee voting (Last Updated Feb. 28, 2024), <https://electionlab.mit.edu/research/voting-mail-and-absentee-voting>.

⁵³ U.S. Census Bureau, Table 14. Method of Voting, By Selected Characteristics: November 2024, Current Population Survey, https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww2.census.gov%2Fprograms-surveys%2Fcps%2Ftables%2Fp20%2F587%2Fvote14_2024.xlsx&wdOrigin=BROWSELINK.

⁵⁴ Asian Americans Advancing Justice | AAJC, Asian and Pacific Islander American Vote, AAPI Data, and AARP, 2024 Asian American Voter Survey (July 10, 2024), <https://www.advancingjustice-aajc.org/publication/2024-asian-american-voter-survey>.

⁵⁵ Asian Americans Advancing Justice | AAJC, Asian Americans in the 2022 Midterm Elections: Findings From the 2022 National Poll of Asian American Non-Voters and Voters (May 31, 2023), <https://www.advancingjustice-aajc.org/sites/default/files/2023/06/2022%20AsAm%20Voter%20Experience%20Report.pdf> (prepared by Taeku Lee, Bae Family Professor of Government, Harvard University).

⁵⁶ *Id.*

voters ages 18-29), compared to 30% of young Latino voters, 27% of young White voters, and 21% of young Black voters⁵⁷.

Unfortunately, vote by mail policies are currently under attack, with Asian Americans being disproportionately harmed due to our community's outsized use of the practice. The Brennan Center for Justice found that since the 2020 election, 27 states enacted 52 laws restricting mail voting.⁵⁸ Prior to the 2024 presidential election, “[i]n a backlash to the expansion of voting by mail in 2020, more than half of the 63 new restrictive laws in effect for the 2024 election curtail access to mail voting.”⁵⁹ These restrictions to vote by mail included shortening the period to request a mail ballot, tightening the deadline for returning a mail ballot, and removing flexibility for officials to accept late-arriving mail ballots.⁶⁰ 2025 saw continued attacks on vote by mail, with at least 7 states passing 8 laws restricting mail voting.

Among the attacks on the ability to vote by mail are laws that prohibit election officials from counting mail ballots received after Election Day, except, sometimes, for military and overseas voters' ballots. Ohio, Kansas, North Dakota, and Utah passed such laws in 2025, despite previously allowing mail ballots postmarked by Election Day to be counted so long as they were received within a set period after Election Day.⁶¹ There are currently 30 states that allow at least some ballots received after Election Day to count. These more expansive counting of mail ballots are being challenged in the courts, including in a case before the Supreme Court.⁶²

A recent Executive Order issued on March 31, 2026, “Ensuring Citizenship Verification and Integrity in Federal Elections,” is another attack on the ability to vote by mail. Advancing Justice – AAJC, along with other coalition partners, filed a lawsuit challenging this Executive Order as “an illegal and dangerous attempt by the Trump administration to eliminate accessible voting options and subvert our democracy by seizing control of election administration from the states and Congress. If implemented, it would disenfranchise

⁵⁷ Peter de Guzman, Center for Information & Research on Civic Learning and Engagement, Tufts Tisch College, Mail-In Voting Is Critical to Young Asian Americans' Voter Participation (Sept. 21, 2022), <https://circle.tufts.edu/latest-research/mail-voting-critical-young-asian-americans-voter-participation>.

⁵⁸ Brennan Center for Justice, State Voting Laws Roundup: 2025 in Review (Updated April 23, 2026), <https://www.brennancenter.org/our-work/research-reports/state-voting-laws-roundup-2025-review> (“Brennan 2025 Roundup”).

⁵⁹ Brennan Center for Justice, Voting Laws Roundup: September 2024 (Sept. 26, 2024), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-september-2024>.

⁶⁰ *Id.*

⁶¹ Brennan 2025 Roundup.

⁶² *Watson v. Republican National Committee* is currently before the Supreme Court. At issue in this case is whether state laws allowing mail ballots sent by Election Day to be counted if they arrive shortly afterward (i.e., grace periods) are preempted by federal “Election Day” statutes. Ballot receipt grace periods are used in roughly 30 states – a bad ruling could potentially make it harder for military, overseas, and other mail voters to have their ballots counted. See *Watson v. Republican National Committee (Election Law)*, SCOTUSblog, <https://www.scotusblog.com/cases/watson-v-republican-national-committee/>.

eligible voters across the nation.”⁶³ The Executive Order “targets the transmission and receipt of mail-in ballots ... direct[ing] federal agencies to develop unreliable federal citizenship-verification mechanisms and transmit[ing] such information to the states. It further improperly directs the independent United States Postal Service (“USPS”) to create its own list of approved mail voters and to treat certain ballots as ineligible for delivery based on whether voters are included in this federally created list of enrolled voters... In effect, the Order seeks to interpose a federal screening regime between voters and the ballot box by empowering a federal mail carrier to withhold certain voters’ ballots. In doing so, the Order displaces the roles that the Constitution and federal law assign to the states and Congress to regulate elections and to USPS as a neutral, nondiscriminatory carrier of the mail.”⁶⁴

Language Barrier to Ballot Access

The eventual, and still fairly recently, elimination of exclusionary immigration policies regarding Asian Americans means that immigration has driven the growth of today’s Asian American population today – where almost two out of three Asian Americans are born outside of the U.S.⁶⁵ As a result, almost three out of every four Asian Americans speak a language other than English at home and almost one in three Asian Americans are limited English proficient (LEP)⁶⁶– that is, have some difficulties with the English language.⁶⁷

As a majority immigrant community, Asian Americans can face a language barrier when trying to exercise their right to vote. According to the American Community Survey (ACS) in 2024, of the 322 million people in the United States over the age of five, 74 million people, or 23%, speak a language other than English at home.⁶⁸ The top three categories are Spanish, other Indo-European (which includes South Asian languages, such as Gujarati, Hindi, Urdu and Bengali), and Asian and Pacific Islander languages, at 45 million, 13.0 million and 11.9 million people, respectively. The top spoken languages are Spanish with

⁶³ See Joint Press Release at <https://www.advancingjustice-aaajc.org/press-release/voting-rights-groups-challenge-executive-order-mail-ballots-illegal-interference> and Complaint at <https://www.advancingjustice-aaajc.org/publication/mail-voting-eo-complaint-league-women-voters-et-al-v-donald-trump-et-al>.

⁶⁴ See https://www.advancingjustice-aaajc.org/sites/default/files/2026-04/01_Complaint.pdf

⁶⁵ Author’s calculation based on U.S. Census Bureau, 2024 ACS 1 Year Estimates, Table B16005D: Nativity by Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over (Asian Alone), <https://data.census.gov/cedsci/table?q=ACSST1Y2024.B16005D&tid=ACSST1Y2024.B16005D&hidePreview=true>.

⁶⁶ *Id.*

⁶⁷ The current definition of LEP is persons who speak English less than “very well.” The Census Bureau has determined that most respondents overestimate their English proficiency and therefore, those who answer other than “very well” are deemed LEP. See H.R. Rep. No. 102-655, at 8 (1992), *as reprinted in* 1992 U.S.C.C.A.N. 766, 772.

⁶⁸ U.S. Census Bureau, Table S1601: Language Spoken at Home, American Community Survey, ACS 1-Year Estimates Subject Tables (accessed on Apr 21, 2026), <https://data.census.gov/table/ACSST1Y2024.S1601?t=Language+Spoken+at+Home>.

45 million speakers, Chinese with 3.7 million, Tagalog with 1.9 million, Vietnamese with 1.6 million, and Arabic with 1.5 million.⁶⁹

The voting process in the US is complicated and can be overwhelming, even for voters fluent in English. Trying to understand how to access the ballot for citizens (e.g., the election process, registration process, etc.) whose first language is not English is even more difficult. Not only are there a vast array of laws related to the voting process, but they differ from state to state, and sometimes even within states. Additionally, for some eligible LEP voters, the country they immigrated from may have vastly different democratic and voting systems. Without proper language assistance and/or guidance, it can be daunting for LEP voters to even begin the process to vote.

Furthermore, the complexity of voting materials makes voting even more challenging for voters with language barriers.⁷⁰ For example, a Pew study of ballots between 1997 to 2007 found that “[t]he 46 states assessed ranged from a 9th-grade to a 27th-grade reading level ... with an average statewide ballot measure coming in at a 17th-grade reading level. In other words, in order to properly understand the average ballot measure, it is best to have at least a year of graduate school under your belt.”⁷¹ This remains the case today, with a recent study of 2025 ballots showing that “the ballot language for the 30 statewide ballot measures in nine states in 2025 is written at an average reading level of 21, equivalent to a doctorate degree, and the highest level since 2017 ... This is an increase from 2024, which had an average of 16 years of education (bachelor’s degree) and 19 years of education (graduate school level) in 2023.”⁷² The complex English used for the voting process makes it difficult for LEP voters to understand and participate, which can likely be compounded by higher levels of illiteracy rates, whether in English or another language. Other aspects of ballots, such as design, can also potentially compound the issue of unnecessarily complex English on ballots, making the voting process more difficult for LEP voters.⁷³

⁶⁹ U.S. Census Bureau, Table B16001: Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, American Community Survey, ACS 1-Year Estimates Detailed Tables (accessed on Apr 22, 2026), <https://data.census.gov/table/ACSDT1Y2024.B16001?t=Language+Spoken+at+Home>.

⁷⁰ Pew, Are Your State's Ballots Difficult to Understand? (Oct. 25, 2011), <https://www.pew.org/en/research-and-analysis/articles/2011/10/25/are-your-states-ballots-difficult-to-understand>.

⁷¹ *Id.*

⁷² Victoria Antram, Ballotpedia, 2025 statewide ballot measures written at the highest reading level, equivalent to a doctorate degree, since Ballotpedia started tracking in 2017 (Oct. 20, 2025), <https://news.ballotpedia.org/2025/10/20/2025-statewide-ballot-measures-written-at-the-highest-reading-level-equivalent-to-a-doctorate-degree-since-ballotpedia-started-tracking-in-2017/>. See also, Valerie Richardson, The Washington Times, Report finds state ballot initiatives require college-graduate reading level (Oct. 29, 2024), <https://www.washingtontimes.com/news/2024/oct/29/report-finds-state-ballot-initiatives-require-coll/>.

⁷³ See Advancing Justice | AAJC’s amicus brief in *Kim v. Hanlon*, the (successful) challenge to the bizarre NJ ballot design, discussing the effects of the problematic ballot design for LEP Asian American voters, <https://cdn.sanity.io/files/irohafc/production/e6febbb67ca5a0f247f3ca2a5e9cb0156924b603.pdf>. See also, Center for Civic Design for analysis and recommendations related to voting and ballot design and

Finally, LEP voters can still face difficulties and discrimination when attempting to cast a ballot at the polls. LEP voters can encounter hostile poll workers who are suspicious of LEP voters and/or poll workers who are not aware of or well-versed in language assistance laws. There have been incidents of voters being denied language assistance at the polls, either through the lack of language assistance being provided when there is a legal obligation to do so under Section 203 of the VRA or through the denial of an LEP voter's right to an assistor of their choice under Section 208 of the VRA.⁷⁴

Voting Rights for the Future

Asian Americans are growing in numbers and in political salience. This growth – seen as a threat to the status quo – is being met with resistance, as evidenced by the barriers discussed above. History has shown that “the pockets of most determined efforts to restrict minority voting rights were areas of the country where racial/ethnic groups made up a larger than average share of the population” because that is when “they will be more likely to have substantial influence on election outcomes.”⁷⁵

These efforts to silence and suppress Asian American voters must be combatted with legislative efforts to restore, modernize and strengthen voting rights protections for voters of color. The Voting Rights Act of 1965 (VRA), which has been a powerful tool to protect Asian Americans from discrimination and increase the community's access to the ballot over the decades, has been weakened the wake of harmful and short-sighted decisions by the Supreme Court, including *Shelby County v. Holder*, 570 U.S. 2 (2013) (*Shelby County*) more than a decade ago. Voter suppression laws have proliferated since the *Shelby County* decision. A decade after the decision found at least 29 states passing 94 restrictive voting laws, with most still in effect.⁷⁶ Of those laws, “[a]t least 29 laws were passed in 11 states that had been subject to preclearance, either in whole or in part, at the time *Shelby*

language assistance (<https://civicdesign.org/topics/language/>; <https://www.slideshare.net/slideshow/language-assistance-through-design/76875267>).

⁷⁴ See Hearing on “Voting in America: The Potential for Voter ID Laws, Proof-of-Citizenship Laws, and Lack of Multi-Lingual Support To Interfere with Free and Fair Access to the Ballot” Before the H. Subcomm. on Elections of the H. Administration Comm., 117th Cong. (May 24, 2021) (prepared statement of Terry Minnis), <https://docs.house.gov/meetings/HA/HA08/20210524/112670/HHRG-117-HA08-Wstate-MinnisT-20210524.pdf>; Hearing on “Voting Rights and Election Administration in America” Before the H. Subcomm. on Elections of the H. Administration Comm., 117th Cong. (Oct. 17, 2019) (prepared statement of John C. Yang), <https://www.advancingjustice-aaajc.org/publication/house-testimony-hearing-voting-rights-and-election-administration-america>.

⁷⁵ Hearing on “The Need to Enhance the Voting Rights Act: Practice-Based Coverage” Before the H. Subcomm. on the Constitution, Civil Rights, and Civil Liberties of the H. Judiciary Comm., 117th Cong. (July 27, 2021) (prepared statement of Professor Bernard L. Fraga) (“B. Fraga Testimony”), <http://docs.house.gov/meetings/JU/JU10/20210727/113962/HHRG-117-JU10-Wstate-FragaB-20210727.pdf>.

⁷⁶ Jasleen Singh and Sara Carter, Brennan Center for Justice, States Have Added Nearly 100 Restrictive Laws Since SCOTUS Gutted the Voting Rights Act 10 Years Ago (Jun 23, 2023), <https://www.brennancenter.org/our-work/analysis-opinion/states-have-added-nearly-100-restrictive-laws-scotus-gutted-voting-rights>.

County was decided. In other words, if not for the Supreme Court’s decision, approximately one-third of the restrictive laws passed in the last 10 years would have been subject to pre-approval by the Justice Department or a panel of federal judges, and many of them may have been barred from implementation. Indeed, several of those laws were later struck down or enjoined as racially discriminatory.”⁷⁷

To protect the voting rights of Asian Americans in the future, Asian American voters need the John R. Lewis Voting Rights Advancement Act (JLVRAA). JLVRAA recognizes that a legislative solution to the *Shelby County* decision must include both a substitute coverage formula for jurisdictions based on a history of voting discrimination and a mechanism that also addresses the needs of emerging communities of color that face discrimination. Specifically, those currently in power are seeking to silence Asian Americans’ political influence. Section 5 preclearance has served, and must continue to serve, a powerful role in addressing voting discrimination conducted by persistent and perpetually bad actors with a history of engaging in voting discrimination.

This history-based coverage formula must be complemented today by a mechanism that addresses the needs of emerging minority populations, with the most rapidly growing racial, ethnic, and language-minority communities occurring in jurisdictions where they were not previously in significant numbers.⁷⁸ Recognizing that certain practices have historically been utilized to silence an emerging community’s political voice exactly at the moment when they become numerous enough to acquire political relevance, JLVRAA would address this issue through practice-based preclearance. This would require preclearance review (performed by either the Department of Justice or the federal District Court in Washington, D.C.) prior to implementation of certain suspect practices where it would be most likely to be used in a discriminatory fashion.⁷⁹ Practice-based preclearance is particularly important for Asian American communities that are growing rapidly in numerous different cities and counties, and where they are beginning to emerge as a potential political power. This growth in numbers and power can lead to fear of and resentment toward Asian Americans by those in power, resulting in the hampering of Asian Americans in exercising their right to vote free of harassment and discrimination.⁸⁰

⁷⁷ *Id.*

⁷⁸ See Nicholas Jones et al., “2020 Census Illuminates Racial and Ethnic Composition of the Country,” *America Counts: Stories* (Washington, DC: United States Census Bureau, August 21, 2021), <https://www.census.gov/library/stories/2021/08/improved-race-ethnicity-measures-reveal-united-states-population-much-more-multiracial.html>.

⁷⁹ See Asian Americans Advancing Justice | AAJC, Mexican American Legal Defense and Educational Fund (MALDEF), and National Association of Latino Elected and Appointed Officials Educational Fund (NALEO), “Practice-Based Preclearance: Protecting Against Tactics Persistently Used to Silence Minority Communities’ Votes,” Report (Washington, DC, November 5, 2019), <https://www.advancingjustice-ajjc.org/report/practice-based-preclearance>. Note that practice-based preclearance could only apply in areas where history-based preclearance coverage is not in effect.

⁸⁰ For a more detailed accounting of practice-based preclearance, see testimonies from: “Legislative Proposals to Strengthen the Voting Rights Act,” U.S. Congress, Hearings before the House Judiciary Subcommittee on Constitution, Civil Rights, and Civil Liberties, 116th Congress, October 17, 2019,

In addition to restoring and strengthening Section 5 as described above, a fully restored and modernized VRA is one that would also address the disappointing Supreme Court decision in *Brnovich v. DNC*. The JLVRAA not only addresses both *Shelby County* and *Brnovich v. DNC*, it also provides important provisions around public notice and transparency, federal observers and other facets of the VRA. Finally, it reaffirms the private right of action under the VRA. The JLVRAA seeks to restore and strengthen the VRA, providing a more fulsome, forward-focused toolbox in our ongoing fight to combat voting discrimination.

<https://www.congress.gov/event/116th-congress/house-event/110084>; “The Need to Enhance the Voting Rights Act: Practice-Based Coverage,” U.S. Congress, Hearings before the House Judiciary Subcommittee on Constitution, Civil Rights, and Civil Liberties, 117th Congress, July 27, 2021, <https://democrats-judiciary.house.gov/calendar/eventsingle.aspx?EventID=4651>; U.S. Congress, Hearings before the Senate Judiciary Subcommittee on the Constitution, 117th Congress, September 22, 2021, <https://www.judiciary.senate.gov/committee-activity/hearings/restoring-the-voting-rights-act-combating-discriminatory-abuses>.