

17.20 Introduction to American Politics

Writing Assignment 1 - Question 1

In the 2013 *Shelby County v. Holder* case, the Supreme Court ruled to invalidate the coverage formula of the Voting Rights Act of 1965. The coverage formula named areas of the United States that had to pass preclearance in order to change voting procedures. These areas were selected based on whether they had maintained tests or devices as prerequisites to voting and had low voter turnout in the 1960s and early 1970s (*Shelby County, Alabama v. Holder*, 2013). Chief Justice Roberts argued that since the voting conditions that were originally the cause of these measures did not reflect today's voting conditions, the coverage formula infringed on the states' rights. In Justice Ginsburg's dissent, she argued that "throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet (*Shelby County, Alabama v. Holder*, 2013)." In the years following *Shelby v. Holder*, many of the areas that were covered by the coverage formula passed restrictive and discriminatory voting laws, allowing people to "get soaked" once again. In most cases, those "getting soaked" are low-income and minority groups whose voices are not equally represented in democratic politics because of social and political factors. It is the duty of political institutions to "provide an umbrella" by ensuring that equal representation is maintained through representative laws and government.

Low income and minority groups in the United States seldom have a voice in collective action and interest groups. This is not a new issue, as Schattschneider argues in the mid-twentieth century that "the flaw in the pluralist heaven is that the heavenly chorus sings with

a strong upper-class accent. Probably about 90 percent of the people cannot get into the pressure system (Schattschneider, 1960).” His statement mirrors today’s conditions, in which most working class people are not able to get involved with collective action due to lack of time or economic restraints. There is a clear class bias in the pressure system which raises the question of whether the interests of all are represented equally in interest groups (Schattschneider, 1960).

Those of minority groups who are able to participate in interest groups still find themselves at a disadvantage. Intersectionality creates subgroups of advantaged and disadvantaged people, and advocacy groups are substantially less active when it comes to issues affecting disadvantaged groups than issues affecting more advantaged subgroups (Strolovitch, 2006). The issues of the advantaged are portrayed as affecting the majority, while the issues of the disadvantaged are downplayed. This is because the issues affecting the disadvantaged groups are seen as “controversial,” so interest groups choose to pursue issues more likely to result in success, which tend to be those of the advantaged (Strolovitch, 2006). If the issues affecting the disadvantaged are swept aside by the interest groups that are supposed to fight for them, their opinions won’t be represented and democratic institutions won’t know how important they are.

The unequal representation of minority groups is furthered by electoral geography and the creation of majority-minority districts. Although intended to promote minority representation in Congress, majority-minority districts often have the opposite effect. By concentrating minority voters in one district, the minority voters’ influence in the surrounding districts decreases. This means those running for election in the surrounding districts don’t have to advocate for the issues that affect minority voters, since they don’t depend on their vote to win. This decreases the overall support for minority-sponsored legislation. The ideal district to increase the number of minority officeholders and support for minority-sponsored legislation is one where the minority

voters are just shy of the majority (Cameron et al, 1996). In a district like this, minority candidates have a substantial chance of winning, and even if they don't, the politicians running for election will need to substantively represent the interests of the minority voters to win.

Restrictive voting policies also lead to unequal representation of minority voices. The number of states with these policies only increased after the *Shelby County v. Holder* decision. Voter-identification laws were advanced in many states, and voting laws that made it easier to register and to cast ballots were destroyed (Newkirk, 2018). These policies have been primarily affecting low-income people, people of color, and elderly people in the regions previously under preclearance (Newkirk, 2018). The decision to create a new coverage formula was left to Congress, who has not yet done so. This will only lead to the passing of more restrictive voting policies, as there is no longer any federal oversight of state and local voting laws (Newkirk, 2018).

To redress these inequalities and “provide an umbrella,” political institutions should uphold acts that prevent unequal representation policies, and actively encourage equal representation. A start to this would be Congress creating a new coverage formula so that states who passed restrictive voting laws can once again be under preclearance. States should not be able to pass strict voter registration laws that primarily target groups who are already unequally represented. It is not enough to “close the umbrella” once no discriminatory policies are being passed, the “umbrella” must remain open to continue to prevent discriminatory policies.

Some also argue that an increase in descriptive representation of minority groups will help redress the inequalities. While this can be helpful by creating a social meaning of a group's ability to rule (Mansbridge, 1999), there may be a trade-off. There isn't an essential identity that

all people who are part of a group share (Mansbridge, 1999). People who are part of the same group can have different political opinions or different issues that they view as important. Selecting a minority representative will increase descriptive representation, but might not increase substantive representation. Although having representation that reflects minority groups is important, it is also important to have representation that will argue for the interests of minority groups.

When cases like *Shelby County v. Holder* are decided, it's important for political institutions to take into consideration the voices of those who will be most affected. Many times, those who agree to "closing the umbrella," are those who won't get soaked without it because they have a raincoat. However, it leaves low-income and minority groups out in the rain. Starting with a new converge formula, political institutions must go back to working to ensure that everyone is equally represented and no one is left to get soaked.

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