



10 YEARS OF IMPACT: LESSONS FROM STATE INFRASTRUCTURE FUND POST-SHELBY

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INTRODUCTION

The Voting Rights Act of 1965 (VRA) is one of the most significant legislative achievements of the civil rights era. Enacted to dismantle the systemic disenfranchisement of Black voters and other marginalized communities, the VRA allowed the federal government to intervene where states and localities had erected discriminatory barriers to the ballot box. Central to its enforcement was Section 5, which required jurisdictions with histories of racial discrimination in voting to seek federal approval—known as "preclearance"—before changing their election laws or practices. This provision provided an important safeguard for voting rights and protected against voter suppression tactics under the guise of administrative or legal reform.

In 2013, the U.S. Supreme Court's decision in *Shelby County v. Holder* delivered a devastating blow to the VRA. The Court's 5-4 ruling effectively nullified the preclearance formula, asserting that it was outdated and that, while racial discrimination in voting still existed, it no longer warranted federal oversight provided by Section 5 of the VRA. Justice Ruth Bader Ginsburg's dissent strongly countered these points. She famously wrote, "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."¹

Over the decades, the VRA had been reauthorized with overwhelming majorities in Congress, most recently in 2006 when it passed the Senate 98-0 and the House 390-33. This near-unanimous backing reflected a widespread recognition of the Act's role in combating racial discrimination in voting. For those less attuned to the growing conservative legal challenges to federal oversight of elections, the decision to gut a cornerstone of the VRA seemed to come out of nowhere despite years of political and judicial momentum building against it.

The decision dealt an immediate and catastrophic blow to voting rights. Within hours, states began enacting restrictive voting measures, including aggressive voter roll purges, strict voter ID requirements, racially discriminatory redistricting, and other suppressive tactics. These changes quickly undermined the hard-won progress achieved by grassroots pro-democracy organizations and civil rights leaders, leaving communities—especially those with significant Black, Indigenous,

¹ Ginsburg, R. B. (2013). *Shelby County v. Holder*, 570 U.S. 529 (2013) (Ginsburg, J., dissenting). Retrieved from <https://supreme.justia.com/cases/federal/us/570/529/>

and People of Color (BIPOC) populations—once again vulnerable to widespread voter suppression.²

This report examines how the *Shelby County v. Holder* decision reshaped the voting rights and democracy ecosystem over the past decade. In particular, it focuses on the responses by pro-democracy organizations and philanthropic institutions, including the Shelby Response Fund and State Infrastructure Fund (SIF), to mitigate harm and address the challenges the decision posed. The Shelby Response Fund is a donor collaborative initiative founded in 2013 by voting rights funders to mitigate growing threats in the voting field resulting from the *Shelby* decision. SRF brings together litigators, communications experts, and organizers to align strategies and restore voting rights protections across the nation. This report also analyzes the Shelby Response Fund's (SRF) impact, which was later integrated into SIF's voting rights portfolio, on the broader field. Finally, it examines the challenges and opportunities pro-democracy funders and organizations anticipate in the coming years.

INITIAL SHIFTS IN THE VOTING RIGHTS ECOSYSTEM IN THE WAKE OF *SHELBY CO. V. HOLDER* (2013)

In the immediate aftermath of the *Shelby* decision, grassroots organizations, voter engagement groups, voting rights lawyers, and funders faced the urgent challenge of coordinating a collective response to the anticipated surge in restrictive voting laws. Without the safeguard of preclearance, advocates recognized the necessity of developing new strategies to counteract proposed restrictions. Several major shifts identified included:

- **More Expansive Litigation Strategies:** Organizations involved in the Shelby Response Fund created the Voting Rights Working Group, also known as the Litigation Collaborative. This group implemented more coordinated legal strategies that allowed for a more scaled impact.
- **Enhanced Collaboration Between Movement Lawyers and Grassroots Organizations:** Civic engagement groups, state and local grassroots organizations, and voting rights legal organizations worked more closely to respond to the rapidly changing voting rights laws.
- **Expansion of Voting Rights:** Funders and organizations that had not formerly concentrated on voting rights expanded their focus in response to the widespread impact of the decision. While voting rights and civic engagement had previously been seen as more siloed areas, they became more integrated under a larger pro-democracy ecosystem post-*Shelby*.

² Brennan Center for Justice. (2018, August 6). *The effects of Shelby County v. Holder*. Brennan Center for Justice. Retrieved from <https://www.brennancenter.org/our-work/research-reports/effects-shelby-county-v-holder>; Southern Poverty Law Center. (2023, June 26). *A decade after Shelby, the harm to voting rights remains*. Southern Poverty Law Center. Retrieved from <https://www.splcenter.org/news/2023/06/26/shelby-decision-did-decade-harm-voting-rights>; and NAACP Legal Defense and Educational Fund. (n.d.). *The impact of Shelby County v. Holder*. NAACP Legal Defense and Educational Fund. Retrieved from <https://www.naacpldf.org/shelby-county-v-holder-impact/>

A Shift Toward Litigation

Litigation became one of the dominant strategies adopted by organizations and coalitions in the post-*Shelby* era. Recognizing the need for collaboration across Southern states and jurisdictions, the Shelby Response Fund helped seed grants to form the Voting Rights Working Group (VRWG), then led by ten prominent legal organizations. The VRWG serves as a hub to coordinate litigation strategies, develop legal theories, exchange best practices and recommendations, and learn from key losses and wins. The working group, also referred to as the Litigation Collaborative, still operates over ten years later, with eleven coalition members working to prevent or deter discriminatory voting practices across the country.³ The Litigation Collaborative was primarily established as a defensive strategy rather than a proactive effort in the wake of Section 5 being gutted. As one grantee interviewee shared, “The Voting Rights Working Group was created in recognition that there would be a greater need for litigation to try to maintain some semblance of order, particularly in the Southern states.”

The collaboration within the Voting Rights Working Group yielded three significant benefits. First, as organizations initiated more litigation to challenge new restrictions in states like Texas and Arizona, this collective effort “increased the number of [problem] jurisdictions that could be sued—or at least threatened by litigation—and introduced greater efficiency,” according to one of our interviewees. Second, it streamlined processes to reduce filing similar lawsuits on the same legal bases in the same jurisdiction, minimizing redundancy amongst litigators. Creative consultation among the working group enabled litigators to develop legal theories and strategies across Southern states and jurisdictions, minimizing tactical errors by sharing best practices among coalition members. Third, the collaboration facilitated more regular access for movement and grassroots organizations to legal expertise, ensuring that robust legal strategies and resources supported community-driven efforts.

The Mexican American Legal Defense Fund (MALDEF) brought a lawsuit against the city of Pasadena, Texas, in 2014, that proved litigation could be a successful strategy for voting rights advocates in the post-*Shelby* era. Then-mayor Johnny Isbell capitalized on the immediate aftermath of the *Shelby* decision and announced that Pasadena, no longer subject to preclearance under the federal VRA, would shift from eight single-member council districts to six, with two “at-large” districts. The sole purpose of this shift was to prevent the growing Latino community from occupying a majority of the city council seats. By January 2017, the U.S. District Court ruled that the city’s new election system violated the VRA, and Pasadena was required to revert to eight single-member council districts.⁴ The decision was the first victory against a local jurisdiction previously subject to preclearance.

³ Brennan Center for Justice. (2020). 2020 Elections Voting Rights Working Group Election Protection Litigation Summary. *Brennan Center.org*. <https://www.brennancenter.org/our-work/research-reports/2020-elections-voting-rights-working-group-election-protection-litigation>

⁴ MALDEF. (2017). Federal Court Rules Pasadena, Texas Violated Voting Rights Act. *Maldef.org*. <https://www.maldef.org/2017/01/federal-court-rules-pasadena-texas-violated-voting-rights-act/>

Increased Collaboration between Litigators and Movement Organizations

Recognizing that threats to voting rights were prevalent at both state and local levels, advocates became clear very early on that structures were needed to connect local grassroots organizations—that can track and identify more local threats—to national litigation and other resources. Also, given the scale and speed of voter suppression policies post-*Shelby*, it was also important to develop a voting rights ecosystem that connected litigators with grassroots and movement organizations. The Southern Leadership for Voter Engagement (SOLVE) network was one structure created after *Shelby* to help support and connect local organizations. SOLVE convenes more than 50 organizations and 100 affiliates to promote community-led voting rights initiatives across the South. The network concentrated on grassroots mobilization and community engagement to address specific regional challenges. This localized strategy was particularly pertinent in the Southern states, where the immediate impacts of the *Shelby* decision were most acutely felt. By concentrating efforts in these areas, organizations aimed to mitigate the adverse effects of the ruling and safeguard voting rights for vulnerable populations.

Both the Litigation Collaborative and convening spaces created by SIF, helped strengthen working relationships between litigation organizations and grassroots organizations. The Collaborative began serving as a legal arm of the voting rights movement. One grantee partner explains,

“By putting [the Litigation Collaborative] together, it put them in a coalition. It almost forced them to adopt certain movement strategies and ideologies, like pooling resources and disseminating information. Whereas our base as grassroots organizers is the community, their base is us [grassroots organizations]. They were the first line of contact when it was time to go into litigation or when a bill was being put forth, and we were able to talk directly to the litigation group. That coalition [Litigation Collaborative] became the legal movement arm, kind of how the NAACP and LDF were in the 60s.”

The litigation infrastructure and coordinated ecosystem between legal organizations and grassroots organizations continue to be important pieces of the voting rights infrastructure built out of the *Shelby* Response Fund, which has since evolved into SIF’s Voting Rights portfolio.

Voting Rights and Civic Engagement Fields Intersect

Before the *Shelby* decision, voting rights organizations—primarily focused on policy and legal advocacy—operated largely independently from civic engagement groups that concentrated on voter mobilization and education. This separation often resulted in fragmented efforts to enhance voter participation and protect voting rights. The *Shelby* ruling necessitated a more unified approach. As one funder noted, “You can’t focus on participation without also worrying about barriers to participation.” This realization prompted a strategic shift: increasing voter participation required not only mobilization efforts but also proactive measures to dismantle emerging obstacles to voting.

In the aftermath of *Shelby*, the distinction between legal advocacy and voter engagement became

less pronounced. Organizations recognized that they needed to integrate their strategies to combat restrictive voting laws and promote participation effectively. This holistic approach involved legal entities collaborating with grassroots groups to address both the systemic barriers imposed by new legislation and the practical challenges faced by voters. This shift to frame voting rights into a more expansive democratic ecosystem that includes redistricting, census organizing, and civic engagement remains part of the modern pro-democracy movement over ten years after *Shelby*.

THE ROLE OF PHILANTHROPY: LESSONS FROM THE POST-*SHELBY* ERA

We identified several significant shifts within the voting rights and philanthropic ecosystem following the *Shelby* decision. Both interviewees and reports indicate that funders responded swiftly after the 2013 ruling. While the decision surprised many in the broader field who were not closely tracking voting rights litigation, funders quickly mobilized. Three notable developments include:

- **Rapid and Innovative Fund Structures:** Philanthropic organizations swiftly established the collaborative Shelby Response Fund to address emerging voting rights challenges. Some individuals we interviewed suggested that this type of fund structure was a fairly new strategy used in the philanthropic ecosystem.
- **Expanded Focus on the South:** Recognizing the disproportionate impact of the *Shelby* decision on Southern states, funders increased investments in this historically underfunded region to support state and local voting rights initiatives.
- **Increased Use of Multi-Year Unrestricted Grant Funding:** Funders adopted multi-year, unrestricted grants to provide sustained and flexible support, enabling organizations to adapt to evolving challenges in the voting rights landscape.

Rapid and Innovative Fund Structures

Several major voting rights funders, including the MacArthur Foundation, Open Society Foundations, Ford Foundation, and the Carnegie Corporation, recognized the need for a streamlined funding infrastructure—one that allowed funders to grant directly and consistently to in-state groups—which led to the establishment of the Shelby Response Fund, created to protect voting rights in states previously covered under Section 5 of the Voting Rights Act. The Shelby Response Fund was initially housed at NEO Philanthropy’s State Infrastructure Fund. The Shelby Response Fund has since evolved into SIF’s more expansive voting rights portfolio. Grassroots organizations interviewees acknowledged that the swiftness of the funder communities’ actions and their engagement of grantees in strategy development helped mitigate the harm of what was a serious attack on voting rights. One grantee explained, “Funders were clearly prepared to address the moment. I definitely know that they were talking amongst themselves. They were also talking with the [Voting Rights Working] group. . .being able to pull this collaborative together was a huge testament to their engagement, their commitment, and their recognition of the importance of this issue.”

The SRF's goal was to resource litigation, grassroots voter mobilization, and communication efforts throughout the most impacted states. While this type of rapid response funder collaboration may seem more commonplace now, it was a relatively new and innovative strategy when the Shelby Response Fund was established in 2013. Speaking to the groundbreaking nature of the Shelby Response Fund, one funding partner shared, "there were fortunately a number of voting rights lawyers in our community and great organizations like the Brennan Center and Leadership Conference that were ready to lean in and sound the alarm. But it was a different time in philanthropy – that muscle was not yet built around collaborative 'leaning in' structures. In a way, the Shelby Response Fund helped make that happen."

Beyond the core function of distributing resources quickly to the field, the Shelby Response Fund had three other major benefits identified through our research. First, it enabled funders, who previously viewed litigation as prohibitively expensive or complex, to invest in legal strategies by pooling resources and sharing risks. Additionally, it provided a framework for national funders, who were not traditionally equipped to support state or local organizations, to extend their impact more effectively. Furthermore, SRF allowed those not primarily focused on voting rights—but who recognized that voter suppression could adversely affect their areas of interest—to contribute meaningfully without altering their core institutional strategies or portfolios.

Expansion into the South

The *Shelby* decision disproportionately affected Southern states and localities, making them particularly vulnerable to new voting restrictions.⁵ In response, philanthropic organizations increased investments in the South, addressing, to some degree, the region's historical underfunding in voting rights initiatives. A recent analysis by the Johnson Institute for Philanthropy found that overall giving to the southeast region of the United States increased by 51% between 2014 and 2019.⁶ While this increase is a notable improvement, especially given the long-standing underinvestment in the region, the ongoing scale of need in the South signifies the importance of additional investments.⁷

⁵ Perez, D. (2024, October 1). *Rooted in racism: Voter suppression in the U.S.* Economic Policy Institute. Retrieved from <https://www.epi.org/publication/rooted-racism-voter-suppression>; and Southern Poverty Law Center. (2023, June 25). *A decade-long erosion: The impact of the Shelby County decision on the political participation and representation of Black people and other people of color in the Deep South.* <https://www.splcenter.org/shelby-county-decision-report>

⁶ Johnson Center for Philanthropy. (2023). *A wake-up call for investing in the South.* <https://johnsoncenter.org/blog/a-wake-up-call-for-investing-in-the-south>

⁷ National Committee for Responsive Philanthropy & Grantmakers for Southern Progress. (2017). *As the South grows.* <https://philanthropynewsdigest.org/features/commentary-and-opinion/thoughts-on-as-the-south-grows>

Increased Use of Multi-Year Unrestricted Grants

By providing multi-year, flexible funding rather than short-term grants—often held behind an obstacle of extensive applications—philanthropy enables local groups to adapt quickly to new laws and political circumstances in their states and communities. Underlying this approach is the recognition that local organizations deeply engaged in state voting developments are the most adept at countering and responding to changes in voting legislation, yet the lack of capital undermines this comparative advantage. The ability to pivot and quickly respond to the dynamic and changing voting rights landscape became even more important post-*Shelby*. Organizations need the ability to update programs, voter education content, and strategies quickly as laws change. With the ensured stability in funding over multi-year grants and contracts, grassroots organizations can respond effectively without the same financial restraints that would otherwise hinder them.⁸

Furthermore, multi-year investments allowed groups to develop longer-term strategies rather than rely solely on the traditional boom-and-bust model of philanthropy, which emphasized funding during election seasons with limited resources devoted to off-cycles. This meant that groups could develop long-term political advocacy strategies in their state legislatures, mobilize communities to monitor local election commissions and courts as additional restrictions rolled in and combat voter roll purges throughout the year. The shift toward litigation also made the need for multi-year funding even more important because, in part, because of the multi-year nature of most legal cases. The Shelby Response Fund's commitment to long-term funding allowed the Voting Rights Working Group to develop complex legal strategies and take on time-consuming redistricting and other legal battles.⁹

THE LASTING IMPACT OF THE SHELBY RESPONSE FUND AND STATE INFRASTRUCTURE FUND

The Shelby Response Fund and SIF have impacted the voting rights and democracy field over the past ten years in clear and measurable ways. Since its establishment, SIF has raised over \$192 million and provided funding to more than 140 grassroots organizations across 17 states, focusing much of its funding efforts on bolstering and buttressing BIPOC voter engagement. SIF's grantees, through the Shelby Response Fund and SIF's subsequent voting rights portfolio, have successfully filed over 200 voting rights cases since 2020 alone, often earning rulings that push back harmful attempts at voter disenfranchisement. In our interviews with grantee partners and peer funders, we also learned that *how* SIF does its grantmaking is as important as *what* it supports and funds. SIF's commitment to inclusive and trust-based philanthropic models, capacity, and infrastructure investments, as well as bridging connections across the broader democracy field, are also part of the fund's long-term impact.

⁸ Mackinnon, A., & Jaffe, N. (2020). The strategic value of trust-based philanthropy. *Stanford Social Innovation Review*. Retrieved from <https://ssir.org/articles/entry/trust-based-philanthropy-strategic#>

⁹ Grantee Interviewee

Inclusive and Trust-Based Philanthropy

Grantee partners interviewed for this report indicated that SIF has been a leader in driving a trust-based philanthropic model in the voting rights and democracy funder community. The goal of trust-based grantmaking is to center equitable, transparent, and mutually supportive relationships between funders and grantees while reducing strict oversight and extensive reporting requirements of grantees. The dynamic nature of the voting rights legal and policy landscape has actually necessitated funders to use a more trust-based philanthropic approach to be effective. One grantee partner said,

“Funders were forced to operate in a trust-based philanthropy model....‘You all are on the ground, tell us what you see and tell us what you need.’ Some of the funders kept that model—the State Infrastructure Fund is one of them. I think some of the other funders have kind of reverted back to ‘we don't know if that's what you really need’ or ‘we're stepping out of that trusting the on-the-ground voice and investing in the work’ [mindset]. . . I think trust-based philanthropy and collaborative funding models with organizations can really help us sustain the movement.”

Grantees also viewed SIF staff as thought partners and movement leaders. One grantee shared:

“Because of the way, they show up in the space as funders, as thought partners, [and] as a movement partner. They don't just look at it like, oh, this grantee is just part of my portfolio. They're always introducing you to other funders. As I've gotten to know the folks over at SIF—I think because most of them were organizers before they became funders—it is evident in how they show up in the spaces. So their investments in organizations like mine, that focus on narrative and messaging, their investments in coalition spaces, or their investments in pro-democracy organizations [are] critical to hold the line to build out the pro-democracy infrastructure of our state.”

The Shelby Response Fund and SIF's continued work through the voting rights portfolio illustrate the importance of responding to priorities set directly by on-the-ground groups, avoiding a top-down mechanism that spotlights national organizations over in-state efforts.

Lasting and Long-Term Infrastructure

SIF has played a pivotal role in strengthening the voting rights and civic engagement ecosystem using a more comprehensive approach to capacity and infrastructure building. Even beyond the work of the Litigation Collaborative, SIF has impacted the broader ecosystem in several important ways.

First, SIF ensured that state and local groups had the support they needed to sustain their grassroots organizing and advocacy efforts. Not only through their own grants but also as funder

organizers in the broader field, SIF leveraged its position to amplify the importance of grantmaking to local organizations and pursue a more comprehensive grantmaking strategy. Beyond operational and reporting support, SIF also prioritized the well-being of movement leaders, offering access to wellness resources, de-escalation, other capacity-building trainings, and community-building spaces that all helped foster resilience within the field.

The Power of Convening and Community

The importance of convening and resourcing coordinated spaces throughout the voting rights ecosystem cannot be overstated. We've already written about SIF's impact through the increased integration between voting rights litigation groups, civic engagement organizations, and funders into a broader democracy ecosystem. The first Annual Voting Rights Convening, held in Charlotte, NC, in January 2015 for grantee organizations and others involved in this voting rights, had a significant impact in two additional ways: (1) by creating a community between litigation organizations and movement organizations; and (2) by supporting cross-organizational narrative strategies.

The Shelby Response Fund played a pivotal role in fostering collaboration and strengthening relationships across the voting rights ecosystem. By convening experts from across the country, the SRF facilitated coordinated strategies for protecting voting rights and provided grantees with opportunities to learn about challenges in different regions and how others successfully addressed them. These convenings have become a permanent part of SIF's program... The benefit of creating these gatherings is not just what is exchanged at the moment but the relationships that organizations and individuals can tap into outside of those spaces. One grantee explained, "[SIF] had a lot of convenings where they brought people together from other states to talk about what they are doing [and] how they want to tackle certain things. That was very helpful to have interstate connectivity, to understand some of the programs that they have done that we could adopt and vice versa. . . you get to meet people [and] build relationships. You can call [them] and say I have this issue [and ask] how would you handle it."

These dynamic spaces where organizations, from litigators to movement leaders, can connect, share insights, learn from one another, and create community are an important part of creating a strong voting rights and democracy ecosystem.

The Shelby Response Fund also invested in public narrative and communication strategies that provided grantees with tools for communication efforts, such as op-eds and press releases. For these communication strategies to be successful, gaps between litigation and grassroots organizing needed to be bridged. While SRF supported litigators in coordinating strategies for high-stakes legal battles, it also helped those organizations establish connections with grassroots organizations. This collaboration enabled a more unified approach to countering attacks on voting rights, combining legal expertise with community-driven communication strategies. By

aligning legal action with grassroots advocacy, SRF helped elevate public awareness and build a collective resistance to the erosion of voting rights.

Funding a Holistic Approach to Voting Rights

One of SIF's key successes through the development of the Shelby Response Fund and subsequent voting rights portfolio is the emphasis on funding litigation efforts and grassroots organizing as interwoven strategies. An interviewee highlighted that the post-*Shelby* era illustrated the pressing need to connect the dots between voting rights litigation and civic engagement. Civic engagement groups cannot mobilize voters if barriers are continuously erected to block their participation, but increased participation is required to advocate for new, more expansive laws in their place—a simultaneous and integrated strategy is essential.

THREATS AND OPPORTUNITIES FOR VOTING RIGHTS AND DEMOCRACY IN THE YEARS AHEAD¹⁰

In our interviews with funders, legal advocates, and organizers, we identified key opportunities and barriers facing the field in the coming years. Three types of threats emerged from these conversations. The first was a set of shifts to democratic institutions and public media. Several participants noted, for example, that the combination of increasingly hostile courts and the expansion of mis- and disinformation in the media poses a major threat to voting rights. Second, interviewees specified policy threats—such as proof-of-citizenship laws and attacks on fair redistricting practices—as particularly dangerous to the field moving forward. Finally, many of the interviewees suggested that a serious threat to voting rights and democracy comes from more rooted and systemic drivers, such as growing racialized political rhetoric and the framing of voting rights as a partisan issue rather than a fundamental bedrock of democracy. Despite these threats, however, interviewees identified pockets of opportunity for funders and grassroots organizations alike in the years ahead. Both investing in legislative advocacy at the state and local level and increasing representation of BIPOC leaders in senior-level and philanthropic voting rights positions were named as key strategies to improve the field as we navigate a tough climate.

Hostile Courts and Increasing Complex Litigation Strategies

In the absence of a preclearance provision to prevent states from implementing discriminatory policies, state legislators were (and are) willing to take larger risks in passing restrictive voter suppression laws throughout the Southern states and beyond. One interviewee shared that it seems the courts have been more willing to “defer to these legislative actors” and are no longer

¹⁰ Most issues identified during our discussions about threats and opportunities were more long-term and systemic problems that would be relevant under any political context. However, we should note that most of our interviews occurred prior to the United States 2024 presidential elections. And given the 2024 presidential election was largely described as a measure of the future of democracy, some responses about threats and opportunities may have been different if they occurred after the 2024 elections. In fact, there were some particular threats that were shared during interviews conducted after the 2024 elections.

“scrutinizing in the way they used to.” The appellate courts, who formerly served as a bulwark against these discriminatory practices, have shifted in their willingness to hear from the types of plaintiff groups normally represented by the Litigation Collaborative unless they present clear “smoking gun evidence,” which is increasingly more difficult to obtain. For example, in states like Texas, where state legislatures claim to have a colorblind attitude toward political maps, the absence of voter registration data related to race makes the burden of proving discriminatory intent almost impossible.¹¹ Under section 5 of the VRA, the burden would have been placed on the state to prove the lack of disparate impact on BIPOC voters. In the post-*Shelby* era, voting rights litigators face an uphill battle in an increasingly complex climate to demonstrate clear evidence that will withstand legal scrutiny. While litigation is becoming an even more difficult path, participants universally agreed that investments in litigation strategies and capacity remain important. In fact, some suggested that there needs to be more investments in building a pipeline of movement lawyers who can continue to engage and lead these fights in the future.

The Conflation of Voting Rights with Partisan Politics

Several interviewees emphasized the challenge posed by the conflation of voting rights with partisan politics over the last decade. Associating the advancement of voting rights with the Democratic Party agenda has made it more difficult to motivate Republican legislators, especially in states with supermajority Republican power, to seek bipartisan solutions. One interviewee said,

“There’s something to be said about [voting rights] having deepened the political divide—the polarization—in this country. This dynamic has, unfortunately, polarized the issue of voting rights into a partisan divide. *Shelby County [v. Holder]* accelerated that to the extent it was already going to happen and wipe[d] the slate clean of history. That facilitates the environment that we find ourselves in today, where you have people really attacking the voting rights like it’s a partisan issue.”

Since 2013, efforts led by Democratic attorneys like Eric Holder, the former U.S. Attorney General, and Marc Elias, a prominent attorney for the Democratic party, have framed redistricting and other voting rights policies as a partisan effort, which some think has fed into the narrative that voting rights is a partisan issue.¹² One interviewee suggested that “putting a partisan label on voting rights undermines the law and undermines those of us who approach litigation under the Voting Rights Act from a nonpartisan, race-focused way.” As a result, Republicans who dominate state legislatures throughout the South increasingly view the Voting Rights Act as a Democratic tool and are, therefore, more motivated to dismantle it. Even further, several interviewees mentioned that the funding that often gets directed towards some of these national think tanks and law firms diverts resources away from in-state groups who have decades of experience conducting

¹¹ Ura, Alex. (2021). Republicans say Texas’ new political maps are “race blind.” To some voters of color, that translates as political invisibility. *The Texas Tribune*.

<https://www.texastribune.org/2021/10/20/texas-redistricting-race-discrimination/>

¹² Altimeri, Daniel. (2023). Redistricting lawsuits could shape the 2024 battle for House control. *Roll Call*.
<https://rollcall.com/2023/01/30/redistricting-lawsuits-could-shape-the-2024-battle-for-house-control/>

nonpartisan and race-focused litigation practices. Prior to 2013, the Voting Rights Act was reauthorized multiple times with wide bipartisan support. It is not clear if the United States can get back to that time, but repositioning the issue as a nonpartisan rights and democracy issue would help create a more viable path to reform.

Racialized Rhetoric and Polarization

Racist narratives and rhetoric have become disturbingly normalized in U.S. elections and media, shaping public discourse in ways that perpetuate harmful stereotypes and exclusion. These narratives are often left unchallenged, with the anti-democratic side dismissing their damaging repercussions on marginalized communities and the democratic process. This normalization has created a dangerous expectation that racially driven narratives are simply part of the political landscape rather than a threat to democracy. Countering this trend requires deliberate efforts to expose and dismantle these narratives and the underlying ideologies that fuel them. One participant puts it clearly, “We are in this space where people are fine saying things, and it’s become normalized. We’re numb to the things we’re hearing about democracy and about other people who live in this country. It becomes very easy for you to take away rights from them, which is happening. That is a huge concern going forward.” Countering this trend requires deliberate efforts to expose and deconstruct these narratives and the underlying ideologies that fuel them, which is a problem that extends well beyond the voting rights landscape.

RECOMMENDATIONS FOR THE PATH FORWARD

The future of voting rights requires a critical examination of the systems built to oppress and undermine the political power of BIPOC voters. Threats to democracy are shaped not only by policy but also by ideologies. While this task is daunting, opportunities still exist. Below, we share several recommendations based on opportunities identified through this research project.

Invest In and Trust State and Local Organizations to Lead

As the federal courts and legislative branches become even more intractable, it will be increasingly important to look toward the states for proactive voting rights opportunities. In certain geographies, state and local government structures might be more amenable to pro-democracy advocacy agendas. Furthermore, state and local organizations hold the expertise to design and drive strategy within their states. To fully leverage opportunities at the state and local level, further investments will be needed in the grassroots advocacy infrastructure and development of state and local voting rights policy agendas and campaigns.

Employ Multi-Year Grantmaking Strategies to Sustain Democracy

The collaborative model illustrated by the Shelby Response Fund’s annual funding infrastructure is a critical example of the power and impact of consistent annual grantmaking that supports

both national infrastructure and state-level capacity. While SIF's structure does not permit it to make multi-year grants, its consistent annual funding and its work to organize other donors toward multi-year funding provided critical support to grantee partners. Grantee partners shared that their efforts were bolstered by the flexibility of funding from SIF and other funders in the democracy space. Given the constantly shifting voting rights legal and policy landscape, it is important that funders continue to create pathways for multi-year funding whenever possible. By committing to multi-year support, funders allow organizations to adapt to anti-voter laws and policies quickly, defend against suppressive legislation through year-round advocacy, and proactively support election administration and election protection measures.

Support New Laws and Innovations Across the Voting Rights Landscape

In recent years, national voting rights organizations have prioritized the revitalization of the VRA through the John Lewis Voting Rights Advancement Act, which would reintroduce the crucial preclearance provision decimated by *Shelby* and strengthen legal protections against discriminatory voting policies and practices.¹³ Both funders and grantee partners alike voiced the critical importance of reintroducing this bill at the federal level to garner support.

Others, however, pointed out innovative voting rights victories happening at the state level, naming Minnesota, New Mexico, and Michigan as examples. All three states have passed comprehensive voting rights reforms over the last few state legislative sessions, some of which include automatic voter registration, updates to same-day voter registration, and enhanced legal protections against discriminatory practices. Multiple interviewees shared a hope that funders would continue investing in state-led innovations that center updated technology to improve voter registration and participation in addition to defending voter protections.

Funding efforts to reverse harmful rulings, like the decision in *Citizens United v. Federal Election Commission (2010)*, could also help to weaken the anti-voter movement's capacity to move restrictive policies. The *Citizens United* decision allowed corporations and super PACs led by billionaires to provide unrestricted independent expenditures to political campaigns.

Given the rising partisan divide surrounding voting rights at both the state and federal levels, some organizations have devoted resources to strengthening election administration as a bipartisan practice. Instead of only interacting with election officials to bring lawsuits against discriminatory practices, several interviewees recommended supporting election administration programs to both strengthen the security of elections and re-establish voting rights as a bipartisan issue.

¹³ Brennan Center for Justice. (2023). The John R. Lewis Voting Rights Advancement Act. *Brennan Center.org*
<https://www.brennancenter.org/our-work/research-reports/john-r-lewis-voting-rights-advancement-act>

Double Down to Defend Democracy

In the wake of the 2024 general elections, in which President-elect Donald Trump regained the White House, and Republicans secured majorities in both the U.S. Senate and House of Representatives, organizers and advocates are preparing for significant legal and legislative battles ahead. The development of the Shelby Response Fund provided an example of collaborative funding that can serve as a model for other funders to support in-state litigation and grassroots efforts. Philanthropy has a unique and critical role to play in providing flexible, trust-based funding to on-the-ground organizations to support voting rights litigation in the years to come.

Furthermore, the roots of the challenges facing democracy and voting rights cannot be solved with policy reform but rather narrative and ideological shifts. It is worth considering that large-scale narrative and relational organizing might be necessary to begin shifting the United States toward a more inclusive multiracial democracy.

CONCLUSION

In the decade since *Shelby County v. Holder*, the voting rights landscape has undergone significant challenges, particularly for communities of color across the South. As organizers, lawyers, and funders look to the next era in the movement for voting rights, it is important that we reflect on these challenges to inform our path forward. Funders like SIF, through the Shelby Response Fund, and other major foundations mitigated *Shelby's* impact by forming collaborative funding structures, implementing trust-based philanthropy models, and fostering connections between litigators and grassroots organizations to fight back against large-scale voter suppression. These structures fortified communities and regions across the country from some of the worst outcomes of *Shelby* and can serve as examples for defensive battles to come. As we face a new administration, an increasingly polarized partisan divide, a rise in radicalized rhetoric, and an uncertain landscape in the federal courts system, it is important that funders double down in their efforts to resource the voting rights infrastructure and defend our democracy.

APPENDIX A

Literature Review Sources

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APPENDIX B

Quotes from Interviews

This appendix contains quotes from SIF grantee and funder interviews organized by report sections for clarity.

Initial Shifts in the Voting Rights Ecosystem in the Wake of *Shelby Co. v. Holder* (2013)

1. “We were aghast, extraordinarily concerned, and upset about it. [We] thought it was horrifically ahistorical. . . I think most of us think that the way that the late Justice Ginsburg described the issue in her dissent: ‘You don’t throw out the umbrella just because you’re not getting wet.’ Unfortunately, we would see a deluge following within hours. We started to see people come out and take advantage of the hole left by the *Shelby County* decision.” (Grantee Interviewee)
2. “When we focus on the places that have the worst histories of records on voting rights, it feels like you’re under attack and as an organization that does mostly litigation, especially [because] the courts are a difficult place to be right now when it comes to protecting voting rights. . . it definitely feels like we’re a little on the back foot and a little on the playing defense and trying to hold the line in hopes that we can move the ball forward when the opportunity comes.” (Grantee Interviewee)
3. “So the strategy really shifted after *Shelby*. We’re not going to have increased participation if these states are going to pass these laws and are able to pass laws that are going to stop people from participating. . . it really did make people think they’re part of the same strategy, increased participation means that there aren’t barriers, which means that if people are trying to erect barriers, we’ve got to try to figure out some way to lessen the effects of those barriers or to make sure that they can’t erect those barriers at all. It definitely did change folks’ strategy. I think it became the way that people really think about the whole thing; it became more of a holistic thought around participation, around voter engagement, around the right to vote and freedom to vote.” (Funder Interviewee)

The Role of Philanthropy: Lessons from the Post-*Shelby* Era

4. “We recognized the leaders and resourced the groups. The important groups were funded, but they brought a new sense of urgency and demand for strategy. . . People began to understand that this landscape had been completely reset and there was going to be a new level of engagement required. People stepped up over time and the good thing about having the collaborative [is] that they spoke [about] issues directly to the funders that gave confidence towards these kind of investments.” (Funder Interviewee)

The Lasting Impact of the Shelby Response Fund and State Infrastructure Fund

5. “. . . also coming out of the coordination efforts, we've been able to team up with different organizations like ACLU in Montana in particular and challenged very harmful restrictive laws there. We've now teamed up with the Lawyers Committee in Arizona and Nebraska on different restrictive measures as well. In North Dakota, we've been able to team up with folk . . . being able to coordinate and bring in expertise from other organizations and they can also add capacity to our efforts, I think has been really powerful.” (Grantee Interviewee)
6. “[Because of] the creation of the coalition, we've been able to increase our capacity. We have anywhere from 6 to 10 attorneys working on voting rights issues. Back when I started, there were two of us. An increase in our internal capacity and the overarching coordination amongst Native communities across the country has opened our eyes to what the issues are, the barriers native people face, and how we can go about addressing those. We've been able to focus on some of the legislation side of things with the Nevada Native American Voting Rights Act and how we can address some of the structural barriers through legislation. . . we've also been able to increase our capacity to litigate in different places on different issues. Redistricting was a big one. We have that expertise or capacity previously, and we're able to bring the coordination aspect to redistricting, which was really powerful this cycle for us as well.” (Grantee Interviewee)
7. “[When] we created the Shelby Response Fund, funders could join and pool resources to support voting rights litigation groups who could coordinate their lawsuits on behalf of voters in states that were previously covered by section five of the Voting Rights Act. Lawyers and local organizers started to work together in states on voter suppression in ways that they hadn't done before. We tried to make the voting rights folks [and] litigators work with the mobilizers and the advocates all together so that there was as much help as possible in the challenges and in the expansions of voting rights going forward.” (Funder Interview)
8. “When Alabama went to the Supreme Court, we funded them to bring bus loads of people to demonstrate in front of the Supreme Court not because we thought that would matter to the Supreme Court, but because it would generate media coverage. It's not just about the Democrats [and] it's not just about Republicans because litigators and their plaintiff clients are under certain limitations about what they could talk about. You need groups that can talk about things, and you need to create an echo chamber so that it actually permeates the public consciousness. The need was to make sure the Supreme Court, particularly the chief justice, understood that this was a civil rights matter that would affect his legacy. . . ” (Funder Interview)

Threats and Opportunities for Voting Rights and Democracy in the Years Ahead

Opportunities: Stronger legislative coordination and grassroots advocacy

9. "There could be a moment to turn down the partisan temperature on election administration issues and voting issues. Trump won significantly. And for a very long time, it's been an article of faith that the more people who vote, the better Democrats will do. That underlies a lot of this work, and it underlies a lot of the opposition from Republicans. When the dust clears, and we see how many people sat at home and sat out this election, maybe there's still truth to that. I think that, in some weird ways, Trump has singularly tested that hypothesis and should make people question it. That might provide an opening to improve some election administration in some places." (Grantee Interviewee)
10. "One of the initial calls for the Shelby Response Fund was to get a new Voting Rights Act in place. In my perspective, it failed the first time in the legislation because the national groups failed to adequately talk with the state and local groups. . . You can never get civil rights or progressive legislation passed if your stakeholders are split. . . You have to make sure that you're including people when you're shaping the legislation and doing enough education for people to understand why there are compromises because there always has to be compromises. . . One of the challenges with grassroots [organizing] is, in order to organize, you need to go all out. But to actually get legislation passed, you have to be willing to compromise." (Funder Interviewee)

Opportunities: Increase BIPOC voices at decision-making and funding levels

11. "Center Black folks [and] Black-led organizations. . . We perpetuate certain power dynamics that we're trying to tear down. In order to center that, that looks like some power being transferred. . . when you look at [who's] on the ground. . . you see a lot of people of color. When you look at my level, the ED level, the decision-making level, the funding level, you don't see that. . . When the issues that we're targeting directly and disproportionately impact communities of color, we have an opportunity here in our movement to center the lived experiences and perspectives of the folks that we're supposed to be fighting for." (Grantee Interviewee)
12. "For the Latino community, opportunities come because of growth, which is accented [in] every census. But those opportunities are such that they really extend throughout the decade. . . Our efforts are around expanding because of the growth of the Latino population, accounting for 51% of the nation's total growth in the last census. The opportunities are ones we've already seen and continue to see from growth of the Latino population. . . The Latino community is there and has been there [and] the Latino community is growing large [and] concentrated. Opportunities to create districts where

Latino-preferred candidates can be elected are constant and are an expected and growing element of the foreseeable future.” (Grantee Interviewee)

Threats: Barriers to Voting and Voter Suppression Tactics

13. “Proof of citizenship for voter registration, [and] the move to unnecessarily indoctrinate noncitizen voting right in the states where it’s already illegal to vote in state and federal elections. I think the offshoot related to it is there has been a lot of whether it’s voter challenges or efforts to purge voters. A lot of that is often driven by this idea that non-citizens are voting, which we know is not true. . .when I say that is a big threat, it’s not only gross in the fact that it is attacking immigrant communities and is based on this idea that immigrants are of lesser value. There’s also the fact that they are also attacking people who are now naturalized citizens, or getting caught up in this fervor. . .” (Grantee Interviewee)
14. Redistricting is a big one. Part of the reason is because we haven’t as a community really put an emphasis on that until this last cycle, where we had the coordinated effort, but it was limited to certain states just because of capacity. We saw within those states that there were efforts to dilute and gerrymander the maps [and] reduce the power. I think it’s something we think is happening more often than we know about and but hadn’t had the capacity to address it. When we have been able to address it, we’ve seen either the ability to create new minority-majority districts and then get native people elected in those districts or being successful in litigation. . .” (Grantee Interviewee)

Threats: Underlying systemic issues

15. “The last ten years have seen an increase in partisan litigation under the Voting Rights Act, and that has been to the detriment of the national effort. This is particularly on the Democratic side. Their failure to recognize that putting a partisan label on voting rights litigation undermines the law and undermines those of us who are approaching the issues in litigation under the Voting Rights Act from a very non-partisan, race-focused way. That has made it more challenging as more people see the Voting Rights Act as somehow a Democratic Party tool, it’s a danger for us and an ongoing one that we continue as a group [and] on the nonprofit side to grapple with. The funding that goes to Mark Elias or Eric Holder is also a diversion of funding from the groups that have done this over decades and decades from a nonprofit, race-focused perspective and nonpartisan.” (Grantee Interviewee)
16. “We’re normalizing all this [racist rhetoric]. The anti-democracy side are trying to play it off like what are you talking about...we’re in an alternate reality now... we are in this space

where people are fine saying things, and it's become normalized. We're numb to the things we're hearing about democracy and about other people who live in this country. It becomes very easy for you to take away rights from them, which is happening. That is a huge concern going forward. . ." (Funder Interviewee)

List of Interviewees

Funders

Allison Barlow, Philanthropy Consultant
Erica Teasley Linnick, State Infrastructure Fund, NEO Philanthropy
Geri Mannion, Carnegie Corporation
Karen Narasaki, Census Equity Initiative
Laleh Ispahani, Open Society Foundations

Grantees

Anneshia Hardy, Alabama Values
Helen Butler, Georgia Coalition for the People's Agenda
Jeff Loperfido, Southern Coalition for Social Justice
Matthew Campbell, Native American Rights Fund
Mimi Marziani, Formerly of the Texas Civil Rights Project
Terry Ao Minnis, Asian Americans Advancing Justice - AAJC
Thomas Saenz, Mexican American Legal Defense & Educational Fund
Prentiss Haney, Formerly of Ohio Organizing Collaborative
Sophia Lin Lakin, American Civil Liberties Union