

Disenfranchisement and Economic Inequality: Downstream Effects of *Shelby County v. Holder*

By ABHAY P. ANEJA AND CARLOS F. AVENANCIO-LEÓN*

The 1965 Voting Rights Act (VRA) is considered by many to be the most effective civil rights law ever passed (Brennan Center, 2018). The statute responded to the widespread intimidation and suppression of black voters, primarily in the South. With the right to vote, Martin Luther King, Jr. famously claimed, minorities can “vote out of office public officials who bar the doorway to decent housing, public safety, jobs and decent integrated education.” Numerous studies have shown how political empowerment can improve minorities’ lives on these and a host of other socioeconomic dimensions (see, e.g., Wright, 2013, on public safety, Aneja & Avenancio-León, 2018, on jobs, and Cascio & Washington, 2014, on education).

Despite the importance of political representation for the disadvantaged, the U.S. Supreme Court in 2013 struck a blow to minorities’ political voice by invalidating a core provision of the VRA in *Shelby County v. Holder*. Writing for the majority, Chief Justice John Roberts claimed that “[t]hings in the South have changed.” Given that minority participation rates had reached parity with whites, in the majority’s view, political discrimination was no longer the problem it had been previously and some of the VRA’s core protections were no longer needed. Others, however, expressed doubt regarding Roberts’ inference about the necessity of the VRA. In her dissenting opinion, Justice Ruth Bader Ginsberg argued that voting equality may exist *precisely because* of the VRA’s “prophylactic measures to prevent purposeful race discrimination.”

The *Shelby County* decision provides an

opportunity to consider how the *removal* of voting rights protection can affect downstream socioeconomic wellbeing. In an era of increasing income inequality, it is worth considering the role of minority political (dis)empowerment. We do so in this short study. We find that the removal of VRA protections has contributed to modest increases in income inequality, suggesting that protecting minorities’ right to vote guards against not only “backsliding” in the electoral arena but also in terms of minority welfare.

I. The 1965 Voting Rights Act

The VRA contains two primary enforcement provisions. Section 2 of the law applies nationwide and allows for citizens to file suit against the state for any election policy or practice that “result in a denial or abridgment of the right of any citizen...to vote on account of race.” Section 5, however, was considered the statute’s strongest provision and applied *only* to a set of states and counties deemed to be particularly egregious in terms of voting discrimination. These “covered” counties (primarily in the South and Southwest) were (1) required to obtain permission from the federal government before changing any voting practice, and (2) subject to oversight by federal election monitors to ensure no discrimination at the polls. *Shelby County* ended the force of Section 5 in covered jurisdictions.

II. Data & Empirical Specification

To examine the labor market effects of the *Shelby County* decision, we use data from the Current Population Survey (CPS) ASEC Supplement to obtain information about an adult’s earnings, worker status, and classification of worker into private or

* Aneja: UC Berkeley—Haas & Stanford—Law, aneja@berkeley.edu. Avenancio-León: Indiana University—Kelly & MIT—GCFP, cfavenan@mit.edu. Thanks to the Washington Center for Equitable Growth for support. Any errors and all opinions are our own.

public sector. In addition, we can identify new entrants into government employment by looking at a worker’s *previous* employment. We focus our analysis on adults working full-time and years between 2008 and 2017.¹

To examine the patterns of compensation across new public workers, we use a triple-difference specification similar to Cascio & Washington (2014). We define our county-level treatment, $T_{Shelby,t}$, as the interaction between a dummy indicating previous VRA coverage—that no longer applies at year t following *Shelby County*—and the pre-ruling proportion of black residents. Thus, $T_{Shelby,c,t} = 1(t > 2013) \times 1(VRA = 1) \times \%Black_{c,pre-Shelby}$.² Our estimating equation is:

$$(1) \quad Y_{ict} = \beta_0 + \beta_2 T_{Shelby,c,t} \times D_{Black,i} \\ + \beta_1 T_{Shelby,c,t} + \delta_{t,race} + \delta_{c,race} + \epsilon_{ict}$$

where $D_{Black,i}$ is a dummy indicating whether the individual is black, and $\delta_{t,race}, \delta_{c,race}$ are year-race and county-race fixed effects, respectively. The lower order interactions in the terms in $T_{Shelby,t}$ are absorbed in the fixed effects.

We restrict our analysis to counties reported on the CPS. This will not cause problems for state and federal public workers but it may introduce bias for local government employment in big cities. Because their hiring decisions may meaningfully differ from local governments in smaller cities, we exclude local workers from our analysis.

III. Voting Restrictions

For *Shelby County* to have had adverse effects on minority welfare, one would at an intermediate level expect minority political influence to be weakened. On September 12, 2018, the U.S. Commission on Civil Rights released a report documenting the several ways in which, after *Shelby County*,

¹We limit to people between ages 25 and 65 who work at least 40 weeks and more than 32 hours per week.

²The intuition for the interaction is that counties with greater minority population shares were counties where minorities could exercise more influence.

previously covered jurisdictions imposed new obstacles that are thought to hinder minority voter participation. These included “voter identification laws, voter roll purges, reductions in early voting, and polling place closures.” It is perhaps not surprising, then, that recent research suggests that ending the VRA protection led to a two percentage-point *reduction* in minority participation in previously covered jurisdictions (Ang, 2018).

IV. Labor Market Disparities in the Public Sector

A. Wages

We now consider briefly whether the removal of VRA protection also had downstream economic effects on minorities. Aneja & Avenancio-León (2018) document improvements in black workers’ position within the public sector after black voters’ protection via the VRA. *Shelby County* ended these voter protections. Our first set of results thus examines whether the removal of federal voter protection has the opposite effect—i.e., whether public sector wages were adversely affected by the removal of VRA coverage.³

Columns (1) through (4) show that ending VRA protection for previously-covered counties led to significant public-sector wage losses for blacks. Column (1) reports that, when we compare previously covered counties to all other counties, the removal of coverage increases the racial wage gap by 0.34 percentage points for each additional percentage-point increase in black population.

One potential source of bias is the presence of cultural, political, or economic differences between covered and uncovered counties that are correlated with labor market outcomes. To the extent these differences vary smoothly and not discretely at county and state lines, we can alleviate those concerns by estimating our main specification only along the borders of con-

³We also examine effects on hiring, which we omit from discussion due to space/time considerations. We find that the results are less robust.

Table 1—: Public Sector Wage Changes After *Shelby County*

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Full	Solid Dem	Ever Rep	Border	Border State	Border Federal	New Hires
$T_{Shelby} \times D_{Black}$	-0.34 (0.22)	-0.04 (0.27)	-0.65 (0.30)	-0.80 (0.33)	-0.29 (0.42)	-1.00 (0.31)	-1.56 (1.16)
T_{Shelby}	0.29 (0.10)	0.20 (0.13)	0.37 (0.16)	0.34 (0.15)	-0.04 (0.25)	0.34 (0.21)	1.16 (0.37)
Observations	17,367	12,065	5,302	4,278	1,089	3,182	1,226
Year \times Race FX	Yes						
County \times Race FX	Yes						

tiguous VRA and non-VRA states (Dube, Lester, & Reich, 2010). Column (4) shows that, along the border, the gap increase is stronger at .80 percentage points for each percent of black residents in the county. Another concern is that the publicly available CPS data identifies only those counties that are larger in size, which tend to over-represent Democrats. To mitigate that concern, in columns (2) and (3) we show results only for a subsample of solidly Democrat counties and counties that have been Republican in recent times.⁴ The effects when Republicans have held office are stronger than for the full sample with a white-black wage gap increase of .65 percentage points for each percent of black residents in the county compared to .04 for solidly Democrat counties.

B. New Hires' Wages

One may reasonably ask *how* weaker voting rights affect public sector wages. We believe that changes in overall public sector compensation are easier to make through new hires rather than changes to the conditions/composition of the current workforce. The role of new hiring in changing public sector composition, rather than workforce reductions, was pointed out several decades ago by Krisolov (1967). Krislov noted that workplace desegregation historically tended occur more during times of public sector growth than during periods of

contraction.⁵ As such, we further concentrate our analysis on recently hired workers, which we identify by examining a respondent's workplace industry in the previous year. The observed effects are again consistent with the hypothesis that removing VRA protection of minority voting rights may have eroded minorities' economic status within the workplace.

C. Federal Workers

In 1883 the Pendleton Act instituted a merit-based system to federal government workers that today is most-commonly applied through what is known as the "General Schedule." This approach means that positions are going to be classified according to a grade level within which all wages shall remain the same. Despite attempts to curb patronage and make employment in the federal government merit-driven, the Pendleton Act did not erase employment discrimination. For many decades, women and minorities were underrepresented in hiring especially at high grade level positions. Today, high-level positions remain occupied predominantly by white men. Despite most EEOC cases remaining confidential,⁶ the cases made public suggest that

⁵Salztein (1986) make a similar point regarding women's position in the public sector, and in related work, we also document that the combination of minority political influence under the VRA concurrent with the secular growth of government provided new opportunities for minority labor market gains (Aneja and Avenancio-Leon, 2018).

⁶EEOC proceedings are not opened to the public unless appealed and decided upon through court proceedings. Over 96% of decisions are affirmed.

⁴Which we define to be counties that voted predominantly with the Republican party for the three electoral cycles in our sample (2008, 2012, and 2016).

there yet remains discrimination within the federal government bureaucracy, and that one mechanism through which women and minorities face differential treatment is through hiring and promotions for higher grade positions. This claim was made, for example, in a case decided in 2006, in which the U.S. Mint in Denver settled a \$9 million claim to female employees who alleged widespread discrimination and retaliation. From 2009 through 2013, the average number of EEOC complaints by federal employees was above 15,000 per year. The large number of complaints, which at one year stood over 19,000, led Congress to enact the Notification and Federal Employee Antidiscrimination and Retaliation (No-FEAR) Act of 2002.

The General Schedule does institute some rigidity that might lead us to think that the scope for discriminatory labor market practices is limited. However, a common misperception is that all federal employees work under the General Schedule. The fact is that only 47.56% of federal employees occupy General Schedule (or related) positions and the other large standard federal pay system, the Federal Wage System, covers only around 7% of positions. This means that, as of 2009, 44.79% of federal workers fell outside the main federal pay systems (i.e. outside the General Schedule, the Federal Wage System, and the Senior Pay System). Furthermore, these positions, for which wage setting is not based on levels, exhibit lower representation of blacks, Hispanics, and women than the general schedule (EEOC 2009).

Addressing racial discrimination in federal employment has required both extended legal protections and the mobilization of activists. In Washington DC, for example, after Congress’ extension of the Civil Rights Act to public workers, the Washington Lawyers’ Committee established the Federal Sector Employment Project which worked with civil rights groups like the National Urban League to address the problems of discrimination faced by federal employees through litigation.

The Denver case and the Washington ef-

forts highlight the presence of both discriminatory practices and redressing efforts at the local level, even for federal workers. Indeed, given the decentralization of much of federal governance to various cities and states, even local-level political activism may shape the outcomes of the federal government. As such, it should not be surprising that minority voting power (or its reversal) would complement local enforcement efforts. Adding to the urgency of this problem, in recent years, federal employment has faced several institutional challenges that may increase the potential black-white disparities in public sector employment to reemerge—hiring was frozen in both 2010 and 2017, and partisan tensions over the funding of federal government obligations led to a pay sequestration in 2013. Given these various institutional dynamics, the potential weakening of minority political power brought about by *Shelby County* may have made government less responsive to minorities’ policy demands.

Table 2—: Private Sector Wage Changes After *Shelby*

	(1) Full	(2) Border	(3) Solid Dem	(4) Ever Rep
$T_{Shelby} \times D_{Many} \times D_{Black}$	-0.11 (0.17)	-0.49 (0.27)	0.21 (0.19)	-0.59 (0.27)
$T_{Shelby} \times D_{Few} \times D_{Black}$	0.06 (0.13)	0.04 (0.20)	0.21 (0.19)	-0.15 (0.17)
$T_{Shelby} \times D_{Black}$	0.19 (0.11)	0.12 (0.12)	0.02 (0.12)	0.33 (0.17)
Observations	147,481	21,840	95,072	52,409
Lower-Order Terms	Yes	Yes	Yes	Yes
Year \times Race FX	Yes	Yes	Yes	Yes
County \times Race FX	Yes	Yes	Yes	Yes

V. Labor Market Disparities in the Private Sector

Aneja & Avenancio-León (2018) document the large impact public sector labor practices have on local private sector wages. The intuition is that higher public sector wages improve the outside option of workers in the private sector leading to higher equilibrium wages. In this section, we test for similar effects on overall black wages by testing whether wages decline more in occupations with high number of public workers following the passage of *Shelby*.

Table 2 presents our results. Using the full sample, Column (1) shows that blacks

working in private-sector occupations with high percentage of public sector workers face, relative to black workers in private-sector occupations with less public-sector competition, an increase in the white-black wage gap—by .11 percentage points for each percent of county black residents. This estimate is not statistically significant. Nevertheless, in Column (2), when we focus our analysis on border county pairs, the effects on the white-black wage gap are much greater, showing a relative increase of .49 percentage points for each percent of county black residents. The increase when looking at ever-Republican counties is .59 percentage points. Collectively, these results suggest that, as Justice Ginsburg suspected, ending VRA protection may lead to backsliding on political and economic dimensions.

VI. Conclusion

Although only a few years have elapsed since the *Shelby County* decision, we are already starting to observe erosions in black Americans' socioeconomic status. Our preliminary results suggest that these losses are occurring due to reemerging differences in black-white wage differentials in the public sector, particularly for new hires. Consistent with the possibility of public sector spillovers to the private sector, we also observe an increase in the private sector wage gap for occupations where private firms faced more competition with government for workers. Further research will be needed to understand the source of these differentials, especially during the hiring process. Our findings suggest that perhaps Chief Justice Roberts should be slightly less optimistic about the state of democratic equality in the South.

REFERENCES

- Alesina, Alberto, and William Easterly.** 2000. "Redistributive Public Employment." *Journal of Urban Economics*, 219–241.
- Aneja, Abhay, and Carlos Avenancio-Leon.** 2018. "The Labor Market Effects of Minority Political Power: Evidence from the Voting Rights Act of 1965."
- Ang, Desmond.** 2018. "Do 40-Year-Old Facts Still Matter: Long-Run Effects of Federal Oversight under the Voting Rights Act." *American Economic Journal: Applied Economics*, forthcoming.
- Annual Report on the Federal Work Force.** United States Equal Employment Opportunity Commission. 2009 & 2013.
- Cascio, Elizabeth U, and Ebonya Washington.** 2014. "Valuing the Vote: The Redistribution of Voting Rights and State Funds Following the Voting Rights Act of 1965." *The Quarterly Journal of Economics*, 129(1): 1–55.
- Chay, Kenneth.** 1998. "The Impact of Federal Civil Rights Policy on Black Economic Progress: Evidence from the Equal Employment Opportunity Act of 1972." *Industrial and Labor Relations Review*, 51(4): 608–632.
- Donohue, John J., and James Heckman.** 1991. "Continuous Versus Episodic Change: The Impact of Civil Rights Policy on the Economic Status of Blacks." *Journal of Economic Literature*, 29(4): 1603–1643.
- Dube, Arindrajit, T. William Lester, and Michael Reich.** 2010. "Minimum Wage Effects Across State Borders: Estimates Using Contiguous Counties." *The Review of Economics and Statistics*, 92(4): 945–964.
- Fujiwara, Thomas.** 2015. "Voting Technology, Political Responsiveness, and Infant Health: Evidence From Brazil." *Econometrica*, 83(2): 423–464.
- How We Can Restore the Voting Rights Act.** Brennan Center. 2018.
- Krislov, Samuel.** 1967. *The Negro in Federal employment; the quest for equal opportunity.* University of Minnesota Press Minneapolis.
- Saltzstein, Grace Hall.** 1986. "Female Mayors and Women in Municipal Jobs." *American Journal of Political Science*, 30(1): 140–164.