

Democracy in Danger S1E10 Voting Blocked

Will Hitchcock [00:00:03] Hello, I'm Will Hitchcock.

Siva Vaidhyanathan [00:00:04] And I'm Siva Vaidhyanathan.

Will Hitchcock [00:00:05] And from the University of Virginia's Deliberative Media Lab, this is Democracy in Danger.

Siva Vaidhyanathan [00:00:12] Will, if there's one thing that we can all agree is the bedrock of democracy, it has to be the right to vote. Government by the people doesn't mean a whole lot of the people can't express their will, can't choose their leaders. But, of course, the history of voting rights in America is spotty at best.

Will Hitchcock [00:00:32] Spotty is one word for it. I mean, it's easy to forget that the right to vote was not enshrined in the U.S. Constitution.

Siva Vaidhyanathan [00:00:39] It still isn't.

Will Hitchcock [00:00:41] The states were left to decide who could vote, and most of them limited voting to white property owning men. I mean, it would take a civil war, untold bloodshed to abolish slavery, and then with the 15th Amendment to guarantee suffrage to freed slaves. And that was in 1870.

Siva Vaidhyanathan [00:01:01] And it wasn't until 1920. In fact, one hundred years ago that women gained the right to vote throughout the country and that took the 19th Amendment.

Will Hitchcock [00:01:11] But the devil is always in the details and from the Jim Crow era onward. We've seen all sorts of nefarious efforts to undermine black voting rights. I mean, everything from poll taxes to literacy tests. More recently, as we discussed with Elizabeth Hinton on an earlier episode, the way that mass incarceration is also a form of disenfranchisement.

Siva Vaidhyanathan [00:01:32] You know, we we thought we had solved a lot of these problems way back in 1965, when Congress passed and President Johnson signed the Voting Rights Act. And the Voting Rights Act directly addressed a lot of the more blatant obstacles to voting that powers that be set up in this country. And right now, in 2020, we're witnessing a brazen attempt to sabotage mail in voting with bogus assertions about fraud at a moment when mail in voting might be essential to help limit the spread of coronavirus. And the federal government seems to be committed to gutting the U.S. Postal Service, actually ripping mailboxes out of the ground to make it harder for citizens to cast their ballots.

Will Hitchcock [00:02:17] It's infuriating. And I feel so much rage about this issue. And I have a feeling that our guest today is going to tell us a few things that's going to make us feel even angrier about where we are on this matter. We're joined today by Carol Anderson, a professor of African-American studies at Emory University. She's the author of many influential books, including *White Rage: The Unspoken Truth of Our Racial Divide* and most recently, *One Person No Vote: How Voter Suppression is Destroying Our Democracy*. Carol, welcome to Democracy in Danger.

Carol Anderson [00:02:51] Thank you so much for having me.

Will Hitchcock [00:02:53] Well, your book on the history of voter suppression in America, it came out in 2018. And I'm just guessing...There was something about the 2016 election in particular that made you want to write this book? (laughter)

Carol Anderson [00:03:08] Are you clairvoyant? What is this?

Will Hitchcock [00:03:12] I'm just taking a stab here!

Carol Anderson [00:03:13] So actually what happened was that the pundits were saying, wow, you know, black folks just didn't show up. Oh, well, you know, they didn't show up because they weren't feelin' Hillary because, you know, she's Hillary because actually, you know, she's not Obama. She's Hillary. And black voter turnout had gone down by seven percent from the 2012 election. But this was the first presidential election in 50 years without the protection of the Voting Rights Act. I don't know how we can miss that. That's one of those like key variables. And so I set out to expose the magic trick. To expose how voter suppression works from the rhetoric to the policies to the implementation. Once you know how the trick is done, it's no longer mystifying. You're no longer in, awe. You no longer think, oh, OK. And I want us to be in that space so that when we hear these folks talking about they're here to protect democracy, we know what questions to ask. And we know what the answers must be.

Siva Vaidhyanathan [00:04:29] Well, Carol, that the dark arts of voter suppression has deep history and we know some of the basic outlines of it. You mentioned the 1965 Voting Rights Act. Let's go back before that, though, I think I would love to hear a primer on all of the classic methods of voter suppression, the sorts of strategies, devices, laws, restrictions, norms, threats that kept people, mostly black people, from voting before 1965.

Carol Anderson [00:05:00] Oh, you have so hit my wheelhouse. And I'm going to take us to the Mississippi Plan of 1890 because we had the 15th Amendment in 1870. That said, the state shall not abridge the right to vote on account of race, color or previous condition of servitude. African Americans - African-American men were registering to vote at just these enormous levels, 80 to 90 percent voter registration rates in the South. And as a massive economic downturn hit the United States, poor whites and poor blacks began to work together politically to change the power structure in the U.S. so that policymakers weren't just trying to figure out how to siphon off all of the dollars to the uber rich. Well, the Mississippi state legislature looked at and said, lord, we've got to stop this. And they came up with the Mississippi Plan of 1890 because they didn't want black people to vote. But the 15th Amendment makes it really hard to write a law saying we don't want black people to vote. So they said, wait, wait, wait, wait. We've got this. We know how to do this. We're gonna take the societally imposed conditions on African-Americans and make those conditions the access to the ballot box. And we're going to make it all sound legitimate. And so they created a series of policies. One was the poll tax. The language said democracy is expensive. You know, you've got all these elections. You have to have people taking the ballots, counting the ballots, places for the ballots to be. I mean, all of it, all of it is. And so if you really believed in democracy, you would be willing to pay a small fee, a poll tax, to ensure that democracy ran smoothly. So you see right there in that rhetorical device, it puts the onus for valuing democracy on the individual and not on the state to run free and fair elections. First thing. Then the second thing in that is that after centuries of unpaid labor, followed by the Black Codes, after the Civil War which

reinstalled slavery by another name, then followed by sharecropping, the access to income that the poll tax required was just impossible. And also because the poll tax required payment and cash for sharecroppers who were paid later in the year, they didn't have cash when the poll tax was due. The poll tax, while sounding nominal, is just a small fee actually amounted to two to six percent of a Mississippi farm family's annual income well.

Will Hitchcock [00:07:52] And on top of that, there's literacy tests of various creative kinds. Right?

Carol Anderson [00:07:57] Exactly. I call it legislative evil genius because it said: OK, if the poll tax doesn't get them the literacy test will. If the literacy test doesn't get them the grandfather clause will. If the grandfather clause doesn't get them the good character clause will. If the good character clause doesn't give them the understanding clause will. So the Mississippi plan is made up of a multitude of different policies.

Will Hitchcock [00:08:19] You excavate this so lucidly in your book, and it reads like a parallel universe in which these kinds of things just seem so vulgar, so obvious, so coarse. And yet, as you point out, were enormously effective. But so carry us up to you know, we get a good, you know, 80 years of this and the 1965 Voting Rights Act comes along and you write, it's a seismic shift in American history. Just remind us, like, why 1965? Why did this happen then? And what was the key? Innovative, you know, dimension of this of this new law?

Carol Anderson [00:08:53] Absolutely. We had an incredible civil rights movement which was designed to break Jim Crow. And one of the major organizing principles of the civil rights movement was the right to vote. In some counties in Alabama, Mississippi and Georgia, you had zero percent of African-Americans registered to vote. Zero. In Dallas County, where Selma is, was .07 percent of age eligible African-Americans were registered to vote. They had been mobilizing for years. And finally, we get this cataclysm on the Edmund Pettus Bridge. We see the images, the beating, the tear gas, the horses trampling over nonviolent protesters. And the cameras are rolling. That footage from Bloody Sunday was so powerful that ABC cut into its movie of the week to show the images. It began to destabilize the narrative of America as a democracy because the people began to see, oh, my God, this is what happens when people are just trying to register to vote. That and then the subsequent bludgeoning death of Reverend James Reeb in Selma led to the Voting Rights Act of 1965. What made that piece of legislation so landmark was that it preempted the implementation of racist voter laws. You had to have what they called preclearance. So it said if fewer than 50 percent of your age eligible adults are registered to vote, any voting law that you try to implement has to first be approved by the U.S. Department of Justice or by the federal courts. Preclearance worked. Just to give you an example, in early 1960, only five percent of age eligible black Mississippians were registered to vote. Five percent in Mississippi. Two years after the Voting Rights Act, it was almost 60 percent. That's a game changer.

Will Hitchcock [00:11:09] That is a seismic shift, as you rightly say. An incredible shift.

Siva Vaidhyanathan [00:11:14] So how effective was the Voting Rights Act? I mean, after 1965? Were things good? I mean, were things significantly, measurably better? And how do we end up where we are today after that moment where, you know, we thought as a country where we're taking this problem seriously.

Carol Anderson [00:11:35] So the Voting Rights Act was so good that it immediately had the crosshairs put on it because it was a threat to the political power of white supremacy. South Carolina came after it immediately saying the Voting Rights Act violated states rights. They're trying to have black registrants do the literacy test, which the Voting Rights Act outlawed. And the Supreme Court said no, the Voting Rights Act is good law and you need to get in line. So then Mississippi and Virginia came after. OK, so we're not trying to do a literacy test. We're just trying to do these little tweaks. That's all...just these little tweaks. Like positions like the superintendent of education that used to be an elected position, we just want to appoint them now. Well, the Supreme Court said not today, son. The Voting Rights Act goes not only for the big stuff, but also for the subtle stuff. The right to vote is important and it shall not be messed with. But there were these reauthorizations in every reauthorization you would see on one hand, the franchise being expanded. So by 1975, they are including language so that if you have language minorities, then the ballots need to be in those languages as well. This is a good thing. This is opening up the vibrancy of American democracy. So how did Barack Obama get into the White House? There were a sizable number of whites who voted for him, not the majority, but he had an incredible ground game and brought millions of new voters, registered them and got him to the polls. They were overwhelmingly African-American, Hispanic, Asian American, the young and the poor. That would become the hit list for voter suppression.

Will Hitchcock [00:13:38] So, Carol, the 2016 election was the first presidential election in which the Voting Rights Act of 1965 did not fully apply. Is that right?

Carol Anderson [00:13:49] Absolutely. And it was lethal to American democracy. The U.S. Supreme Court gutted the Voting Rights Act in a five/four decision. Chief Justice John Roberts said, well, you know, racism is no longer a thing like it was in the 1960s. And so it's not really clear that this Voting Rights Act is up to date with our current conditions. You know, we've got all of these black elected officials. We have all of these Hispanic elected officials. How can racism really be operating in 2013? How can that be? Well, you can only ask that question if you ignore the evidence. To say racism is no longer a thing, that means you have to ignore the vitriol that rained down on Obama. You have to ignore the over 700 proposed changes to voting laws that the DOJ had to block. But that's where we are right now.

Siva Vaidhyanathan [00:14:45] Well, Carol, even before 2013, before the Shelby County vs. Holder case, there had been a long term campaign by Republicans at the state level to introduce voter I.D. requirements so that, you know, you have to show some sort of state issued I.D. and, you know, every state has a little bit different. I know that in Texas, a student I.D. won't work for you, but a concealed carry permit will work for you - that's official enough, even though both are issued by state institutions. Right. So, you know, voter I.D. often get presented with that magic trick that you explained before, this idea that it's completely reasonable expectation in today's world where so many transactions demand certification of identity and the presentation of an I.D.. You know, ever since 2001, we have been expected to show our I.D. even when traveling within the country on an airplane, which, you know, is probably not that kosher constitutionally. But no one's ever successfully challenged it. If so many people think that voter I.D. is a reasonable burden on people. What do we respond to that? Like, how do we say, you know, it might not be that reasonable, it might be a bigger problem.

Carol Anderson [00:16:00] And it is a bigger problem because, one, its foundation is a lie. It was born out of that 2000 election out of Missouri where you had the board of election illegally purged almost 50,000 thousand voters from the rolls. And when they went to vote,

their names aren't on the rolls and were sent down to the board of elections. And it's just in the most scholarly term, a hot mess. And so the Democrats sued in order to keep the polls open longer because people who were trapped for hours in the board of elections trying to get this mess straightened out. The judge agreed and said, OK, keep the polls open until 10pm. Republicans swooped in immediately after that ruling and got a higher court judge to rule that to shut the polls down. So the polls closed at 7:45pm. So the Republicans said, well, it had to happen because they were committing voter fraud. They had dead people on the rolls. They had dogs on the rolls. They had people voting from vacant lots coming in and using addresses over and over and over again. And so we had to stop it because of voter fraud. Voter fraud. Voter fraud. The St. Louis Post-Dispatch, I love local journalism, investigated every one of those claims and just blew them out of the water. Nevertheless, you repeated enough times it becomes the truth. And so Senator Kit Bond took that lie into Congress. And so as Congress is trying to figure out how to restore the American people's faith in our election system, after the debacle in Florida, Kit Bond inserted the lie of voter fraud and the need for voter I.D. in federal law. So you get the reality of the mess in Florida then paired up with the lie of voter fraud in federal law, and then that becomes the basis. So Indiana used that to create a voter I.D. law. Now, Indiana could not point to one case of voter fraud, but the way that the laws were written it was clear that it discriminated against those who did not have certain types of government issued photo I.D. And who were discriminated against were poor people and African-Americans. And this is what we see repeatedly with these voter I.D. laws. In North Carolina, north Carolina's voter I.D. law, the 4th Circuit said you have targeted African-Americans with almost surgical precision. You talked about Texas, for instance, Texas's voter I.D. law, which was implemented two hours after *Shelby County v. Holder* in denying the student I.D. as a government issued photo I.D., 40 percent of students in state colleges and universities in Texas are Hispanic or African-American.

Will Hitchcock [00:19:07] I mean, it's a dazzling array of sinister techniques. And, you know, we're in it again. Right? Here we are. It's 2020. We're coming up to another presidential election. And it's not just the states, it's not just localities in the south that are doing all this, we have the president of the United States beginning a major assault on voting by mail, using the claim - falsely - that there is massive fraud in voting by mail. So it sounds like this is a new trick. But as you say, this is something that has been used again and again and again to legitimate all kinds of restrictions.

Carol Anderson [00:19:42] Right. I mean, that's what Mississippi did in 1890. The Mississippi Plan was predicated, it said, on clearing up corruption at the ballot box, ensuring the integrity of our elections. So, you know, Mark Twain is apocryphal but says history may not repeat itself, but a sho' do rhyme. We are in the rhymes. In Pennsylvania - because of the pandemic Pennsylvania is really pushing for mail in ballots and drop boxes. Right? And you have the Trump regime coming in and suing the state of Pennsylvania, claiming massive, rampant voter fraud in mail, in ballots. And so the judge said, show me, document it. And so in a five hundred and twenty four page document, there's nothing there. There's no legitimate proof of massive, rampant voter fraud. They can't find the case. It's not there, but it becomes part of the stage craft of ruling by fear. If you can engage people in fear that their way of life is under assault. They're being threatened. Then they're willing to cede some of their rights, some of their own authority in order to be protected. We're protecting you. We're protecting the integrity of the ballot box. We're keeping you safe. We're keeping our democracy safe. But you have to ask the next question.

Will Hitchcock [00:21:16] Right.

Siva Vaidhyanathan [00:21:17] So at this moment, though, right? 2020. We have a highly motivated voters really fired up for both parties. Right. And there seems to be a lot of negative partisanship. And it's really hard to imagine an argument that reminds people that fairness is also supposed to be part of our way of life. Right. Supposed to be part of our creed as Americans. But you've pointed out in your work that organization by highly motivated citizens can make a difference. Can push forward in some pretty significant ways. What can we expect? What can we hope for? Not just in 2020, not just in the next few weeks. Well, can we hope for over the next decade, what should we be doing as citizens? What should we be focusing on? And who is leading the fight?

Carol Anderson [00:22:07] It takes an engaged citizenry. One of the things that we're seeing, we're seeing civil society just mobilize and organize and fight for this democracy, doing what I called the heavy lifting of democracy. Organizations like the NAACP Legal Defense Fund, like the ACLU, like Fair Fight, like Vote Riders, like Black Voters Matter, like Voto Latino, like the Native American Rights Fund. All of them mobilizing in their communities, registering folks to vote. Speaking to the issues, asking what do you want and how is that tied into the vote? And that is the game changer. That is why we're seeing record turnout rates despite the pandemic, despite the voter suppression that is happening. I think one of the things we're going to see is that continued engagement of the citizenry because there is a sense of how this nation is hanging by a thread right now. Seeing how government works. So what were the implications of extreme partisan gerrymandering after the 2010 election that put us in this point? How can we not do this again where we are silencing the voices? That's why I think we saw the ballot initiatives dealing with felony disenfranchisement, dealing with nonpartisan redistricting commissions. I'm seeing an engagement and I'm seeing youth, young adults really say, "Uh uh, y'all messed up!" Because the issue of climate change is so real. So I'm seeing engagement and in a sense that democracy can not run on its own. And what I firmly believe is that as this regime has systematically debased and degraded the institutions of democracy, what has not been debased and degraded has been the American people.

Will Hitchcock [00:24:16] That's heartening. Well, Carol Anderson, thank you so much for joining us today on Democracy in Danger.

Carol Anderson [00:24:22] Thank you so much for having me. Siva and Will. Thank you.

Siva Vaidhyanathan [00:24:37] You know, Carol didn't quite illuminate the catch 22 that we face, but I think it's pretty clear to us. Because of voter suppression, it's going to be that much harder in 2020, maybe 2022, maybe 2024 to change the American political power structure enough to reinvigorate the Voting Rights Act of 1965 to reinvigorate the spirit of universal suffrage. And so we're swimming upstream here, right? We're working against a very powerful set of currents, judicial currents, legislative currents, fear among white voters all over the country that they may be losing power. Status anxiety, which we've seen time and time again, invigorates people to work against the very principles of democracy.

Will Hitchcock [00:25:30] You know, I I agree with that, Siva. And I also was struck by Carol's sense of the presence of injustice in our country over so long, but also her sense that we're going to win. And I just take two pieces of data that she gave us. One, the Bloody Sunday, March of 1965 on the Edmund Pettus Bridge when John Lewis and others were beaten and beaten savagely. The result of that was to galvanize the country. And the other second data point was the way in which the Supreme Court under John Roberts, was able to legitimate, essentially removing controls against voter suppression by saying,

hey, we're not racist anymore. He has been conned or he is conning us into believing that systemic racism doesn't exist. No, we're all progressive's now. Not none of us sees color. We're all just happy post-racial Americans. And nothing could be further from the truth. And in fact, that whole theory has been exploded just in this last summer once again.

Siva Vaidhyanathan [00:26:34] Right. Right. The other thing I sensed, and this was I think something was pretty clear when she talked about all the different institutions and organizations and devoted people who have a clear focus in mind right now and into the future to make sure once again that all Americans are going to have a chance to vote. When she walked through those organizations, it struck me that some of them are taking an explicitly legal path to addressing some of these challenges. Others are taking an explicitly electoral path. Others are working in the realm of public opinion. So this multi front attack - this is a strong model, one we've had for more than 150 years, and one that occasionally we let slip and atrophy a little bit. And we might have done that, right? We might have done that. We might have been so comforted after 1965 that we finally had an operational democracy in this country that we took it for granted. We let it slip and we let the forces that are allied against democracy to play this magic trick that she described. And I love that phrase. This magic trick. And we keep falling for it.

Will Hitchcock [00:27:43] We're falling for the magic trick. But it seems to me that the the array of magic tricks is starting to wear really thin. And the fact of the matter is that what's happening in the summer 2020 is not magic at all. It's clumsy and it's visible and it's obvious. And I think it is the sheer brazenness with which these activities are being undertaken. I mean, when you're ripping blue mailboxes out of the ground, you know, it doesn't take a great deal of theorizing to understand something fishy is going on. And I think that sense of outrage is what fundamentally will fuel these many organizations who have been toiling too often in the shadows to gain some sunlight and maybe some support, as we all recognize that our actual right to vote is being threatened.

Siva Vaidhyanathan [00:28:35] That's all we have this time on Democracy in Danger. Next week, we'll talk about the role of digital technology in supporting and threatening democratic practice. We'll be speaking with Oxford media scholar Phil Howard.

Phil Howard [00:28:49] We have learned that this stuff is powerful, but I don't believe that we've learned that we need to change the regulations. And one of the challenges of living in a democracy is that most politicians will not vote for more regulations on politicians.

Will Hitchcock [00:29:04] In the meantime, your vote matters here on Democracy in Danger. We want to hear from you. Tweet at us at @UVAMediaLab or visit our home page at medialab.virginia.edu/democracyindanger.

Siva Vaidhyanathan [00:29:18] You can listen to all of our episodes on Stitcher, on Spotify, on Apple podcast, Google podcasts, or wherever you get your audio. And don't miss the special bonus episode we're posting this month in partnership with the Texas Tribune Festival to find out more and sign up for the festival. Visit festival.texastribune.org.

Will Hitchcock [00:29:39] Democracy in Danger is produced by Robert Armengol with help from Jennifer Ludovici. Our interns are Kara Peters and Denzel Mitchell.

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Will Hitchcock [00:30:05] And I'm Will Hitchcock. And we'll see you here next time.