Voting Rights and the Resilience of Black Turnout *

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Abstract

The Voting Rights Act increased turnout among Black voters, which then, in turn, generated economic benefits for Black communities. In *Shelby County v. Holder* (2013), the Supreme Court invalidated the enforcement mechanism responsible for these improvements, prompting concerns that states with histories of discriminatory election practices would respond by suppressing Black turnout. I estimate the effect of the *Shelby* decision on the racial composition of the electorate using triple-difference comparisons of validated turnout data from the Cooperative Congressional Election Study. The data suggest that the *Shelby* decision did not widen the Black-White turnout gap in states subject to the ruling.

Keywords: voting rights, racial turnout gap, voter suppression

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By reshaping the electorate, episodes of mass enfranchisement can induce policy changes that affect economic outcomes. For example, the enfranchisement of women in the United States during the early twentieth century prompted significant increases in public health spending which then decreased child mortality (Miller 2008). Similarly, the *de facto* enfranchisement of less-educated Brazilians expanded access to public health care services which then increased utilization among uneducated mothers and improved infant health (Fujiwara 2015). Mass disenfranchisement exhibits comparable effects—the imposition of poll taxes and literacy tests on Black voters in the Southern United States after Reconstruction reduced the allocation of public goods in Black communities (Naidu 2012), for example. Such episodes are consistent with models of distributive politics wherein politicians elicit and sustain support through redistributing public resources toward specific constituencies (Cox and Mccubbins 1986; Lindbeck and Weibull 1987).

The restoration of voting rights for Black Americans during the civil rights movement further illustrates that changes in the composition of the electorate influence policy. Through the elimination of poll taxes, literacy tests, and other discriminatory election policies, the Voting Rights Act of 1965 and its subsequent revisions produced lasting differential increases in voter registration and turnout among Black Americans (Ang 2019; Filer et al. 1991; Fresh 2018). In addition to increasing the number of Black local elected officials (Bernini et al. 2018), the increases in Black turnout associated with the Voting Rights Act also increased support for civil rights legislation among members of Congress (Schuit and Rogowski 2017). The economic consequences of these changes included the reallocation of public resources toward historically underserved Black school districts (Cascio and Washington 2014), a reduction in the Black-White wage gap (Avenancio-León and Aneja 2019), and lower Black arrest rates in counties with elected sheriffs and a high concentration of Black voters (Facchini et al. 2020).

Most of the political and economic consequences of the Voting Rights Act are attributable to an enforcement mechanism known as preclearance. Preclearance required state and local jurisdictions identified by a coverage formula to secure federal approval for any election-related policy change.[1] The formula identified "covered" jurisdictions as those with histories of literacy

[1] *Allen v. State Board of Elections*, 393 U.S. 544 (1969).

tests or significant racial or linguistic disparities in voting. To secure federal approval, a covered jurisdiction had to demonstrate that the policy change would not restrict voting rights based on race or membership in a language minority group. If federal authorities withheld approval, then the jurisdiction could not legally implement the proposed change. Between 1965 and 2013, federal authorities received 556,268 proposals—over 11,000 per year—for election-related policy changes in covered jurisdictions.[2] At issue, then, is that the preclearance coverage formula was invalidated by the Supreme Court of the United States, in *Shelby County v. Holder* (2013). In this way, what is known as "the *Shelby* decision" ended 48 years of direct preclearance oversight provided by the Voting Rights Act. Previously covered jurisdictions can now adopt new election policies *without* federal approval.

A primary concern is that the removal of preclearance enabled, and continues to enable, officials in previously covered jurisdictions to suppress voting for political advantage. While White voters in covered jurisdictions lean Republican, Black voters exhibit strong and enduring support for Democrats (Kuriwaki 2020). All else being equal, a differential increase in the cost of voting for prospective Black voters would likely benefit Republican candidates. Political conditions at the time of the ruling were favorable to selectively manipulating the costs of voting—Republicans held the governorship and both houses of the legislature in 12 out of 15 states with covered jurisdictions.[3]

The *Shelby* decision appears to have prompted previously covered jurisdictions to adopt policies that increase the cost of voting, and perhaps differentially for prospective Black voters. Hours after the ruling, the Attorney General of Texas announced that "the State's voter ID law will take effect immediately".[4] Likewise, state election officials in Alabama and Mississippi quickly implemented strict voter identification laws that had either failed to secure federal approval before *Shelby* or were under review at the time of the ruling.[5] Other covered states,

[2] US Department of Justice. 2015. "Section 5 Changes by Type and Year." August 6. https://www.justice.gov/crt/section-5-changes-type-and-year-2. Accessed on December 29, 2020.

[3] Ballotpedia. "State government trifectas, pre-2014." https://ballotpedia.org/State_government_trifectas#State_government_trifectas.2C_pre-2014. Accessed on November 25, 2020.

[4] Brennan Center for Justice. 2018. "The Effects of *Shelby County v. Holder*." August 6. https://www.brennancenter.org/our-work/policy-solutions/effects-shelby-county-v-holder. Accessed on February 4, 2021.

[5] Brennan Center for Justice. 2019. "New Voting Restrictions in America." November 19. https://www.brennancenter.org/new-voting-restrictions-america. Accessed on November 25, 2020.

such as North Carolina, also enacted voter identification laws with additional restrictions on early voting and registration (US Commission on Civil Rights 2018). A federal court later held that North Carolina's election policy changes "target African Americans with almost surgical precision."[6] However, not all election policy changes in covered jurisdictions after *Shelby* were blocked by the courts. Covered states were more likely than uncovered states to purge voters of color from voter rolls (Brater et al. 2018; Feder and Miller 2020) and covered counties were more likely than uncovered counties to close polling places, though not in North Carolina (Shepherd et al. 2020).[7] The proliferation of election-related policy changes in covered jurisdictions suggests that preclearance oversight was binding.

Given the response of covered jurisdictions after the ruling, fears that *Shelby* could attenuate or even reverse the effects of the Voting Rights Act are well-founded. However, the worst-case scenario presupposes a change in the composition of the electorate, for which there is little existing evidence. To this end, I consider whether the removal of preclearance decreased turnout among eligible Black voters relative to White voters. Using data from a national election survey covering six federal elections (2008-2018), I estimate the effect of preclearance removal in a triple-difference design that compares the Black-White gap in voter turnout across covered and uncovered states, before and after the end of preclearance. The data suggest that the removal of preclearance requirements did not significantly reduce the relative turnout of eligible Black voters in previously covered states. If anything, Black turnout appears to have *increased* relative to White turnout in covered jurisdictions during the 2016 presidential election.

1 Background

1.1 The Voting Rights Act

For its profound impact on the political participation and representation of Black Americans, the Voting Rights Act is often billed as "the most successful piece of civil rights legislation

[6] *North Carolina State Conference of the NAACP v. McCrory*, 831 F.3d 204 (2016).

[7] Arthur, Rob, and Allison McCann. 2018. "How the Gutting of the Voting Rights Act Led to Hundreds of Closed Polls." *Vice News*, October 16. https://news.vice.com/en_us/article/kz58qx/how-the-gutting-of-the-voting-rights-act-led-to-closed-polls.

ever adopted" by Congress.[8] Before the Voting Rights Act was passed in 1965, many states required prospective Black voters to pass literacy tests and pay poll taxes before voting.[9] States with these barriers to voting exhibited vast racial disparities in voter registration and turnout (US Commission on Civil Rights 2018). The Voting Rights Act and its subsequent revisions would ameliorate those disparities by banning the use of literacy tests, providing the legal framework to challenge poll taxes and other discriminatory policies through litigation, and requiring federal approval of new state and local election policies in jurisdictions with histories of discrimination.

Before *Shelby*, litigation and preclearance were the primary enforcement mechanisms of the Voting Rights Act. Litigation targeted previously enacted election policies, and overturning a policy through this channel required plaintiffs to demonstrate that the policy was intended to discriminate or that it exhibited discriminatory effects (Ho 2017). In contrast, preclearance targeted policies before implementation. Covered jurisdictions had to demonstrate to the US Attorney General (or, alternatively, the US District Court for the District of Columbia) that each proposed policy change was free of both discriminatory intent and discriminatory effects. A crucial distinction for the research design I outline in Section 2 is that preclearance enforcement was limited to covered states before *Shelby*, whereas the right to litigate applied, and continues to apply, nationally.

The extant literature on the Voting Rights Act leverages the coverage formula to identify causal effects of preclearance oversight on voter registration, turnout, and political representation. Using difference-in-differences variation in preclearance coverage within North Carolina, Fresh (2018) shows that preclearance generated large increases in voter registration and turnout rates in covered counties after the Voting Rights Act was enacted. Similarly, Ang (2019) leverages the expansion of preclearance coverage in the 1975 renewal of the Voting Rights Act and finds that preclearance produced lasting increases in the turnout rates of newly covered states and counties. Supplemental results from survey data suggest

[8] US Department of Justice. 2015. "Introduction to Federal Voting Rights Laws." August 6. https://www.justice.gov/crt/introduction-federal-voting-rights-laws-1. Accessed on December 29, 2020.

[9] Literacy tests and poll taxes disenfranchised a broad class of otherwise eligible voters, but grandfather clauses re-enfranchised those whose ancestors were eligible to vote before the passage of the 15th Amendment, which guaranteed universal male suffrage. Few, if any, citizens of color had voting rights before the 15th Amendment was ratified, so grandfather clauses almost exclusively exempted White citizens from literacy tests and poll taxes.

that the increases in overall turnout were driven by differential increases in voting among citizens of color. To document the effects of the Voting Rights Act on representation in local government, Bernini et al. (2018) exploit triple-difference variation in preclearance exposure within states of the former Confederacy. They show that preclearance increased the number of Black local elected officials in relatively Black counties. Using data on congressional roll-call votes and difference-in-differences variation in preclearance coverage, Schuit and Rogowski (2017) demonstrate that members of Congress who represented covered jurisdictions were more likely to support civil rights legislation after 1965 than those who represented uncovered jurisdictions. Taken together, the evidence suggests that the Voting Rights Acts—and preclearance in particular—increased the political participation and representation of Black Americans.

Changes in political participation and representation among well-defined socioeconomic groups with distinct policy preferences can trigger changes in the distribution of public resources. For example, the re-enfranchisement of relatively poor, Black voters in the South appears to have increased government spending on redistributive welfare programs (Husted and Kenny 1997). Other quasi-experimental research identifies additional downstream consequences of the Voting Rights Act. Using a triple-difference design that leverages within-state variation in racial composition and the use of literacy tests, Cascio and Washington (2014) show that the abolition of literacy tests in the South increased state transfers to predominately Black school districts. Using a similar research design, Facchini et al. (2020) find that preclearance decreased Black arrest rates for non-felony offenses in covered counties with elected sheriffs and a high concentration of Black voters. To identify the effects of enfranchisement on labor market disparities, Avenancio-León and Aneja (2019) use a triple-difference design that compares racial differences in labor market outcomes within covered counties to those within neighboring uncovered counties. They find that preclearance increased the relative wages of Black workers through additional government employment opportunities and enhanced anti-discrimination protections. Through re-enfranchisement and increased representation, the Voting Right Act generated substantial economic benefits for Black Americans.

1.2 *Shelby County v. Holder*

On June 25, 2013, the Supreme Court ruled in a 5-4 decision that the coverage formula governing preclearance is unconstitutional. In an oft-cited passage of his majority opinion, Chief Justice Roberts argued that the coverage formula is "based on 40-year-old facts having no logical relation to the present day," and thus violates equal sovereignty of the states. Moreover, he argued that preclearance was "intended to be temporary," but Congress repeatedly renewed these sections without major revisions, most recently in 2006.[10] While the court did not rule on the constitutionality of preclearance itself, the invalidation of the coverage formula rendered preclearance unenforceable. Congress has since failed to enact new coverage formula that would comply with the *Shelby* decision and restore preclearance oversight.

After the ruling, previously covered states enacted a variety of election reforms.[11] Beyond new legislation, the *Shelby* decision also triggered an increase in voter list maintenance activity—which can remove (or "purge") otherwise eligible voters from registration lists—and may have prompted the closure of polling places. Using a difference-in-differences design, Feder and Miller (2020) estimate that voter purge rates increased in covered counties after *Shelby*, corroborating the findings of a Brennan Center report that documented a differential increase in purge rates in covered states (Brater et al. 2018). An analysis of polling place data by *Vice News* documents that polling place closures were more common in covered counties than in uncovered counties after *Shelby*.[12] In contrast, Shepherd et al. (2020) find no systematic change in polling place locations within North Carolina, a state with covered and uncovered counties.[13]

The existing literature has yet to establish whether the *Shelby* decision suppressed turnout among citizens of color. Ang (2019) provides a preliminary difference-in-differences analysis of the impact of *Shelby* on turnout. An event study of county election returns suggests that the

[10] *Shelby County v. Holder*, 570 U.S. 529 (2013).

[11] Fuller, Jaime. 2014. "How has voting changed since *Shelby County v. Holder*?" *Washington Post*, July 7. https://www.washingtonpost.com/news/the-fix/wp/2014/07/07/how-has-voting-changed-since-shelby-county-v-holder/?utm%7B_%7Dterm=.0e6ef3dabd32.

[12] Arthur, Rob, and Allison McCann. 2018. "How the Gutting of the Voting Rights Act Led to Hundreds of Closed Polls." *Vice News*, October 16. https://news.vice.com/en_us/article/kz58qx/how-the-gutting-of-the-voting-rights-act-led-to-closed-polls.

[13] In a cross-sectional difference-in-differences comparison, registered Black voters in covered counties were no more likely than registered White voters to experience a change in polling place location during the 2016 election.

difference in turnout between covered and uncovered counties decreased in 2016 relative to the difference in 2012, and event studies of self-reported turnout from the Current Population Survey (CPS) voter supplement suggest that this decrease was concentrated among citizens of color. However, those event studies also show that turnout was differentially increasing in covered jurisdictions before 2012, illustrating the difficulty of isolating the causal impact of *Shelby*. Using regression discontinuity and difference-in-differences comparisons of counties within North Carolina, Gibson (2020) finds no evidence that *Shelby* reduced turnout rates in covered counties, either overall or among specific racial subgroups. The data, however, foreclose on the ability to measure the consequences of statewide policy changes that affect uncovered counties.[14]

In contrast to Ang (2019) and Gibson (2020), I focus on relative, rather than absolute, turnout. That is, I measure the impact of *Shelby* on the Black-White turnout gap as opposed to the impact on Black turnout or White turnout alone. Changes in absolute turnout can provide important signals about the health of democratic institutions (e.g., a *Shelby*-induced reduction in voter turnout among citizens of any race could indicate an erosion of voting rights), but, as previously discussed, models of distributive politics predict that changes in relative turnout bring about changes in the distribution of public resources. Moreover, focusing on relative turnout facilitates a research design that is robust to differential trends in absolute turnout rates between covered and uncovered states before *Shelby*.

2 Data and research design

2.1 Preclearance coverage

Preclearance coverage provides a source of identifying variation for estimating the impact of *Shelby* on the composition of the electorate. Figure 1 illustrates preclearance coverage when the coverage formula was invalidated in 2013.[15]

[14] The state legislature of North Carolina was also subject to preclearance, so statewide policy changes would apply to voting procedures in both covered and uncovered counties.

[15] US Department of Justice. 2020. "Jurisdictions Previously Covered by Section 5." September 11. https://www.justice.gov/crt/jurisdictions-previously-covered-section-5. Accessed on December 29, 2020.

Fully covered states were explicitly identified by the coverage formula. Before 2013, all state and local authorities responsible for running or overseeing elections in fully covered states were required to secure preclearance for any policy change related to elections.[16] With the exception of Alaska and Arizona, most fully covered states were located in the South.

Partially covered states were not explicitly identified by the coverage formula, but each had at least one local jurisdiction subject to preclearance. The presence of a covered jurisdiction in an otherwise uncovered state effectively extended coverage to the state government, as a statewide policy change would likely affect voting in the covered jurisdiction. Before 2013, state officials overseeing elections in partially covered states were required to obtain preclearance for any election policy change, but most local officials—namely those in uncovered jurisdictions—were not. For example, Michigan had two covered townships. A statewide voter identification law would require voters in those townships to provide identification as a precondition to voting, which would necessitate federal approval for the policy. In contrast, local officials in Wayne County, Michigan—an otherwise uncovered jurisdiction—could move polling places or change voting hours without federal approval.

Uncovered states were not identified by the coverage formula and had no covered local jurisdictions. Neither state nor local officials overseeing elections in these states were required to obtain preclearance for election policy changes before the *Shelby* decision. While the West, Midwest, and Northeast census regions contained most uncovered states, there were seven uncovered states in the South. In the analyses that follow, I use voters in uncovered states as a control group to estimate the effect of *Shelby* on the composition of voters in fully covered and partially covered states. Given the differences in the intensity of preclearance oversight, I estimate separate effects for fully covered and partially covered states.

2.2 Turnout data

Measuring changes in relative turnout among Black and White voters requires data on turnout by race, but official election returns do not typically publish race-specific turnout rates. For this reason, I use repeated cross sections from the Cooperative Congressional Election Study

[16] Some counties in Virginia—a fully covered state—had "bailed out" of coverage before *Shelby*, which exempted them from preclearance requirements, but most counties were subject to preclearance.

(CCES; Kuriwaki 2020), a large-sample survey of the voting-age population administered after presidential and midterm elections. Each weighted cross section provides a representative sample of eligible voters within each state.

Unlike the November CPS and other national election surveys, the CCES validates self-reported turnout against state voter files to correct for the tendency of respondents to over-report their political participation; only those with a verified record of voting are counted as having voted. As a result, implied turnout rates from validated CCES turnout data are closer to actual state turnout rates derived from official election returns. Relying on validated turnout also sidesteps the potential for differential overreporting that coincides with exposure to the *Shelby* decision. The extent of overreporting in the CPS, for example, varies over time and across states (McDonald 2021), and may also vary by race (Ansolabehere et al. 2021).[17]

CCES data are available for each presidential and midterm election since 2006, but I discard observations from the 2006 midterm election because the validation of self-reported turnout against voter files was inconsistent across states in 2006 (Grimmer et al. 2018). I also discard observations from Virginia before 2012, as validation was unavailable there in 2008 and 2010 (Ansolabehere 2010, 2012). The resulting sample consists of 35,322 non-Hispanic Black and 239,597 non-Hispanic White respondents from six federal elections (2008–2018).

I present absolute turnout rates, expressed as the percentage of adults who cast a ballot, for Black and White voters in Panels A and B of Figure 2. Black turnout was lower in covered states than in uncovered states before *Shelby* and the same is true of White turnout during presidential elections. While Black turnout rates decreased between the 2012 and 2016 presidential elections, this decrease was less pronounced in uncovered states than in covered states. Similarly, in midterm elections, the increase in Black turnout from the 2010 election to 2014 and 2018 was more pronounced in covered states than in uncovered states. Turnout rates also decreased among White voters between the 2012 and 2016 elections, though the decrease was somewhat less pronounced in uncovered states. In midterm elections, White turnout

[17] To the extent that overreporting varies by race within states over time, triple-difference comparisons of self-reported turnout could confound the effects of the *Shelby* decision with coincident changes in overreporting. Nevertheless, I provide estimates using CPS self-reports in the Online Appendix. As with data from the CCES, data from the CPS do not support the claim that *Shelby* caused significant reductions in relative turnout among Black voters in previously covered states.

increased in uncovered states from 2010 to 2018, but remained constant in fully covered states. Difference-in-differences comparisons of absolute turnout rates in covered and uncovered states before and after *Shelby* would suggest that the *Shelby* decision is associated with an increase in Black turnout and a decrease in White turnout.

I turn to relative turnout, expressed as the difference between Black and White turnout rates, in Panel C of Figure 2. Negative turnout differentials throughout the sample period indicate that the White turnout rate exceeded the Black turnout rate during each election. Turnout differentials decreased between the 2008 and 2012 presidential elections and continued to decrease in uncovered states during the 2016 election. In covered states, however, turnout differentials did not meaningfully change between the 2012 and 2016 presidential elections. In other words, relative to the change in uncovered states, the Black-White turnout gap narrowed in covered states after *Shelby*. A relative narrowing of the turnout gap is less evident in midterm elections, though there is little indication that the gap widened in covered states after *Shelby*. Both patterns survive further scrutiny in Section 3.

2.3 Empirical strategy

Naïve before-and-after comparisons of turnout in covered states may confound the effects of *Shelby* with other factors that affect turnout rates across elections, such as the presence of Black candidates for state or federal office (Washington 2006), differences in *ex ante* expectations about the closeness of elections (Bursztyn et al. 2017), or changes in media consumption (Gentzkow 2006; DellaVigna and Kaplan 2007; Gerber et al. 2009). Similarly, cross-sectional comparisons of covered states with uncovered states may confound the effects of *Shelby* with preexisting differences in turnout, as turnout rates were lower in fully covered states than in uncovered states before *Shelby*. Even difference-in-differences comparisons could confound differential trends in turnout rates between covered and uncovered states—evident in Panel B of Figure 2—with the impact of *Shelby*.

To isolate the causal effect of *Shelby* on the relative turnout of Black Americans, I employ a triple-difference design that leverages within-state variation in preclearance coverage. Specifically, I compare the Black-White turnout differential within covered states to the

differential within uncovered states, before and after the *Shelby* decision. I execute this comparison by estimating

$$\begin{aligned} \text{Turnout}_{irst} = \beta\ &\text{Black}_{ir} \times \text{fully covered}_s \times \mathit{Shelby}_t \\ &+ \delta\ \text{Black}_{ir} \times \text{partially covered}_s \times \mathit{Shelby}_t \\ &+ \alpha_{rs} + \alpha_{rt} + \alpha_{st} + X_{irst}^{'}\Gamma + \varepsilon_{irst}\ , \end{aligned} \tag{1}$$

where Turnout_{irst} is an indicator equal to one if respondent i of race r voted in state s during election t or zero if the respondent did not vote. Race-by-state fixed effects (α_{rs}) absorb time-invariant factors that affect the turnout of Black or White voters within each state. Race-by-year fixed effects (α_{rt}) absorb election-specific characteristics that affect turnout among all Black voters or all White voters across the country. State-by-year fixed effects (α_{st}) absorb election-specific characteristics that affect turnout among all voters within each state, such as the presence of a Senate race in a midterm election. Respondent controls ($X_{irst}^{'}$) adjust for differences in turnout by age and gender. Each treatment interaction consists of a race indicator, a coverage indicator, and a post-treatment indicator.[18] The race indicator (Black_{ir}) equals one if respondent i identified as Black or zero if the respondent identified as White. Coverage indicators (fully covered_s and $\text{partially covered}_s$) equal one if state s was covered before *Shelby* or zero if the state was uncovered. The post-treatment indicator (Shelby_t) equals one if election t was held after 2013 or zero if the election was held before 2013. The triple-difference parameters (β and δ) capture the effect of *Shelby* on the relative turnout of eligible Black voters in fully covered and partially covered states after 2013. Following the conservative approach of Cameron and Miller (2015), I make inferences using cluster-robust standard errors that account for clustering at the state level.

A causal interpretation of $\hat{\beta}$ and $\hat{\delta}$ rests on two main assumptions. The first assumption asserts common trends—that is, conditional on the full set of fixed effects and respondent controls, the Black-White turnout differential in covered states would have evolved similarly to the differential in uncovered states had the Supreme Court upheld the coverage formula. The second assumption asserts that consequences of the *Shelby* decision did not spill over into

[18] Fixed effects absorb all lower-order terms.

uncovered states. While both assumptions are fundamentally untestable, I nevertheless gauge the plausibility of common trends by estimating an event study analog of Equation 1:

$$\begin{aligned} \text{Turnout}_{irst} = &\sum_{\tau \neq 2012} \beta_\tau \, \text{Black}_{ir} \times \text{fully covered}_s \times \mathbb{1}(t = \tau)_\tau \\ &+ \sum_{\tau \neq 2012} \delta_\tau \, \text{Black}_{ir} \times \text{partially covered}_s \times \mathbb{1}(t = \tau)_\tau \\ &+ \alpha_{rs} + \alpha_{rt} + \alpha_{st} + X_{irst}^{'}\Gamma + \varepsilon_{irst} \, , \end{aligned} \tag{2}$$

where β_τ represents the difference in Black-White turnout differentials between fully covered states and uncovered states in year τ relative to the difference in 2012 and δ_τ represents the difference between partially covered states and uncovered states. Estimates of β_τ or δ_τ that deviate from zero for elections before *Shelby* would suggest that covered and uncovered states do not share common trends in turnout differentials. If both identifying assumptions hold, then estimates of β_τ or δ_τ for elections after *Shelby* help illustrate how the effects of the decision have evolved over time.

3 Results

3.1 Relative turnout

Estimates of the event study coefficients from Equation 2 lend support to the plausibility of common trends between covered and uncovered states. In Figure 3, for instance, the differences in Black-White turnout differentials between fully covered states and uncovered states during the 2008 and 2010 elections are indistinguishable from the difference in 2012 at conventional significance levels ($p = 0.477$ in 2008 and $p = 0.562$ in 2010). The same is true of the relative differences in Black-White turnout differentials between partially covered states and uncovered states ($p = 0.89$ in 2008 and $p = 0.671$ in 2010). Furthermore, all four pre-2012 coefficients are jointly indistinguishable from zero ($F = 0.9$, $p = 0.463$). Taken together, these tests fail to reject common trends between covered and uncovered states before *Shelby*.

Rather than diminishing the Black share of the electorate, *Shelby* appears to have done the opposite—positive-signed event study estimates after *Shelby* suggest that, if anything, Black

turnout increased relative to White turnout within covered states. The estimate of the 2016 event study coefficient for fully covered states, for example, indicates that the difference in relative turnout among eligible Black voters between fully covered and uncovered states was 7.7 percentage points higher ($p = 0.019$), on average, in 2016 than in 2012. For partially covered states, the average relative increase between the 2012 and 2016 elections is similar in magnitude, though indistinguishable from zero at conventional significance levels (5.9 percentage points, $p = 0.103$). Estimates for the 2014 and 2018 midterm elections, while positive-signed, are smaller in magnitude and statistically insignificant. In any case, Black turnout does not appear to have decreased any more than White turnout within covered states after *Shelby*.

In Table 1, I present estimates of the effect of *Shelby* on relative turnout from triple-difference specifications based on Equation 1. Baseline estimates in column (1) suggest that, on average, *Shelby* had a positive effect on the relative turnout of Black voters in fully covered states (4.9 percentage-point increase, $p = 0.035$) and in partially covered states (3.8 percentage-point increase, $p = 0.001$). In other words, the *Shelby* decision is associated with a decrease in the Black-White turnout gap in favor of Black voters. While the estimates attenuate with the addition of controls for age and gender in column (2), they remain positive and statistically significant at the 10-percent level. The inclusion of state-by-race time trends in column (3) serves to probe whether the positive results are artifacts of differential trends within states. Although the increase in standard errors renders the triple-difference coefficients indistinguishable from zero, the point estimates remain positive and are somewhat larger in magnitude than those in column (1). Like the event study in Figure 3, the estimates in columns (1)–(3) indicate that *Shelby* is not associated with a differential decrease in Black turnout.

The pattern of event study coefficients in Figure 3 suggest that the effects of the *Shelby* decision differ by election type. I explore this possibility in further detail in columns (4)–(6) of Table 1. Estimates from the preferred specification in column (5) indicate that the increases documented in the first three specifications mask differences between presidential and midterm elections. In presidential elections, the *Shelby* decision increased Black turnout relative to White turnout by 7.5 percentage points ($p < 0.001$), on average, in fully covered states and 5.2 percentage points ($p = 0.047$), on average, in partially covered states. These increases represent

a full reduction of the Black-White turnout gap that existed in fully covered states during the 2012 presidential election and a 52-percent reduction of the gap that existed in partially covered states. In midterm elections, however, *Shelby* had no significant effect on the relative turnout of Black voters in fully covered states (1.9 percentage points, $p = 0.479$) or partially covered states (1.9 percentage points, $p = 0.238$). Although the inclusion of race-by-state time trends in column (6) reduces precision, the triple difference estimates remain positive and the coefficient for fully covered states in presidential elections remains statistically distinguishable from zero at the 5-percent level. Across several specifications, the data are inconsistent with the notion that the *Shelby* decision enabled previously covered states to reshape the electorate by differentially excluding Black citizens from voting in federal elections.

3.2 Absolute turnout

Shelby appears to have increased the relative turnout of Black voters in covered states during the 2016 presidential election. To explore whether this increase was the result of an increase in Black turnout or a decrease in White turnout (or both), I estimate difference-in-differences event studies of absolute turnout using data from presidential elections.

The results in Figure 4 provide suggestive evidence that (i) the increase in relative turnout in fully covered states was primarily a consequence of a reduction in absolute turnout among White voters, rather than an increase in absolute turnout among Black voters, and (ii) the increase in relative turnout in partially covered states was primarily a consequence of an increase in absolute turnout among Black voters, rather than a reduction in absolute turnout among White voters. The trajectory of the event study estimates in Panel A show that Black turnout was increasing in fully covered states relative to Black turnout in uncovered states before *Shelby*, and this differential trend continued after the ruling. The estimates in Panel B show that White turnout was also differentially increasing in fully covered states before *Shelby*, but this differential trend did not continue after the ruling. Rather, there was a differential decrease in White turnout during the 2016 election. A generous interpretation of the estimates suggests that the *Shelby* had little influence on trends in absolute turnout for Black voters, but reversed the upward trend in absolute turnout for White voters. Conversely, the trajectory

of the coefficients for partially covered states suggest that *Shelby* had little influence on a downward trend in absolute turnout for White voters, but reversed a downward trend in absolute turnout for Black voters.

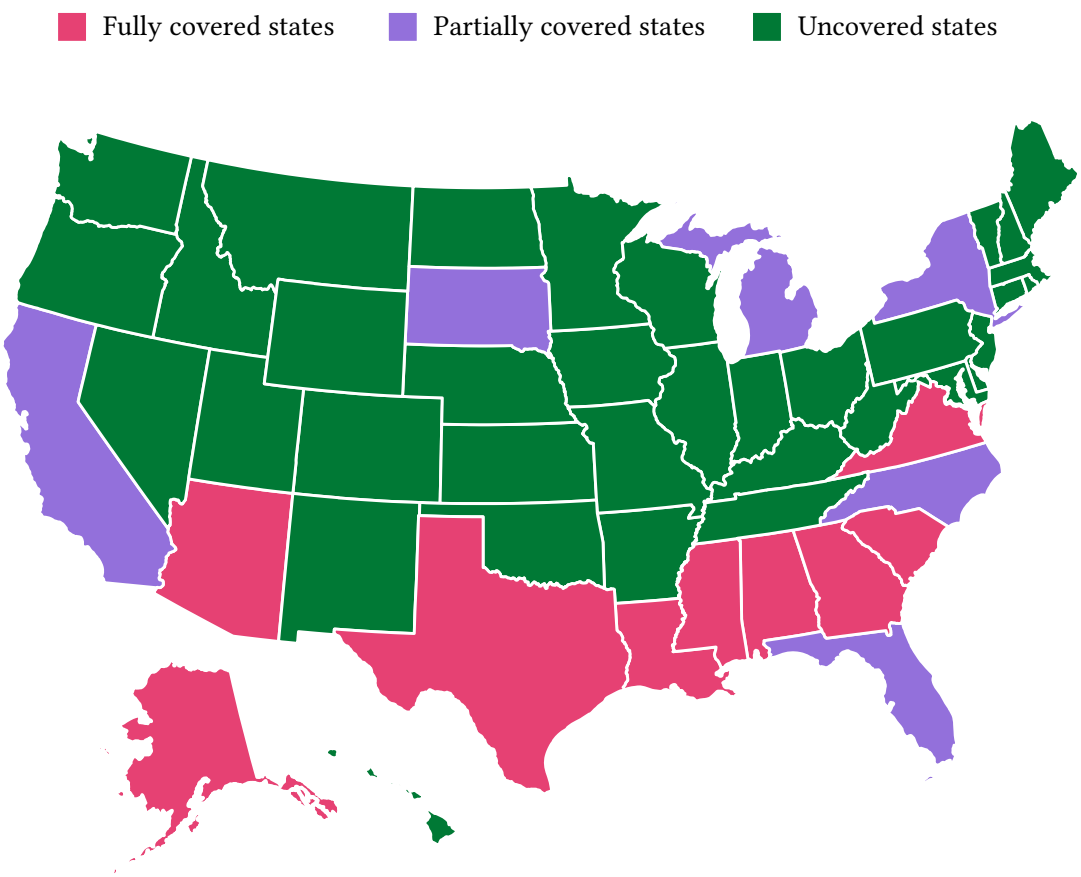
4 Conclusion

As part of his argument against the constitutionality of preclearance coverage, Chief Justice Roberts cited data from the November CPS as evidence that the Black-White turnout gap had diminished—or even reversed—in covered states since the Voting Rights Act was enacted. Researchers have documented, however, that self-reported CPS turnout data masks significant racial disparities in voting (Ansolabehere et al. 2021). Validated turnout data from the CCES, for example, show that significant racial gaps in turnout existed in covered states before *Shelby* and have since continued to exist.

Despite well-founded fears to the contrary, the *Shelby* decision does not appear to have widened the turnout gap between Black and White voters in previously covered states. Triple-difference comparisons of validated turnout suggest that *Shelby* had little effect on the turnout gap during the first three federal elections after the decision, and may have even increased the relative turnout of Black voters in covered states during the 2016 election. These results are consistent with an accumulating body of evidence that suggests that voters mobilize in response to increases in the cost of voting when those increases are perceived as threats to the franchise (Valentino and Neuner 2017; Biggers and Smith 2020; Cantoni and Pons 2019).

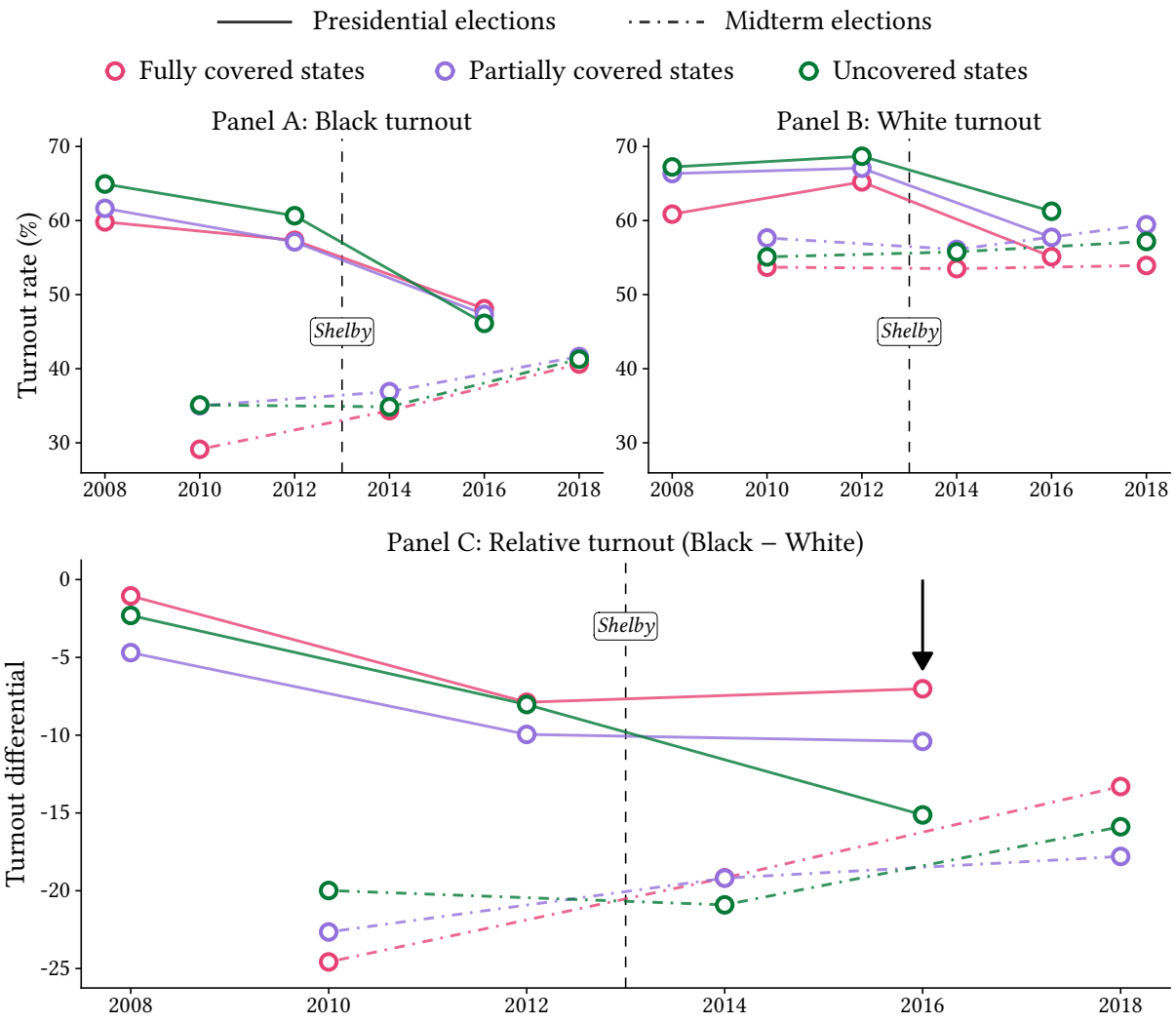
The resilience of Black turnout in previously covered states suggests that *Shelby* is unlikely to trigger a sweeping reversal of the economic gains secured through the Voting Rights Act. That said, voters of color continue to experience systematic barriers to voting (Chen et al. 2020), and the removal of preclearance coverage is associated with an increase in wage disparities in some localities (Aneja and Avenancio-León 2019). While the data do not support the notion that the *Shelby* decision differentially reduced Black turnout in federal elections, questions remain about its impact on state and local elections, which could pose important consequences for the provision of public resources and the enforcement of anti-discrimination laws.

Figure 1: Preclearance coverage



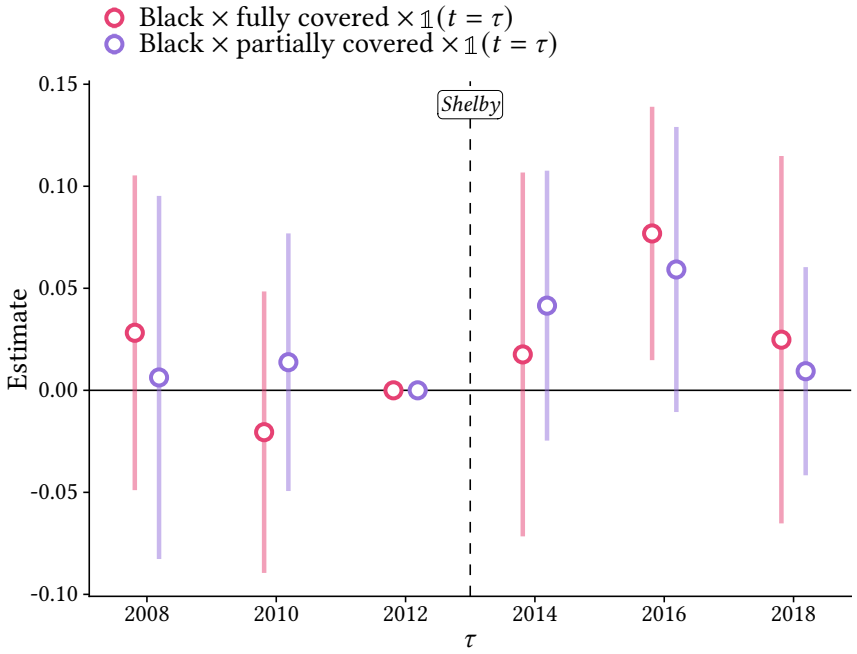
Notes: Preclearance coverage at the time of the *Shelby* decision. Before *Shelby*, all state and local authorities within fully covered states were required to obtain federal approval before changing any election policy. All state authorities within partially covered states were required to obtain federal approval, but most local authorities were not. State and local authorities within uncovered states were not required to obtain federal approval. The need for federal approval in covered states ended after the Supreme Court invalidated the coverage formula in 2013.

Figure 2: Voter turnout by race and preclearance coverage



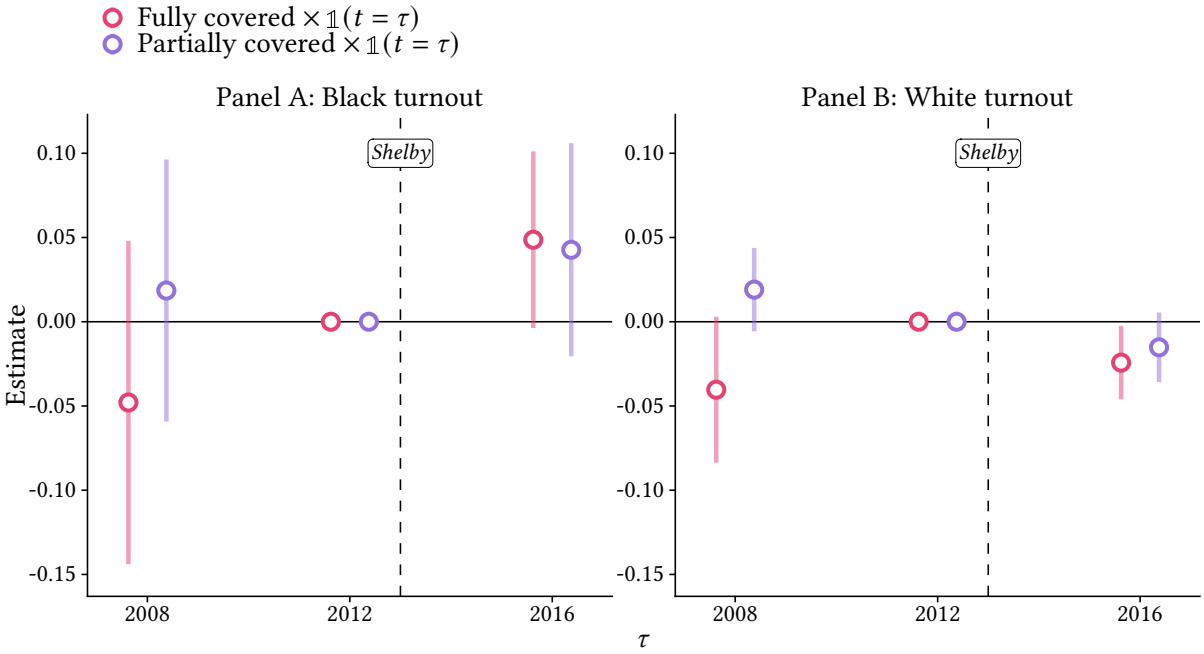
Notes: Implied turnout rates derived from weighted averages of validated turnout responses of those in the analysis sample. The analysis sample consists of all Black and White CCES respondents, excluding those surveyed in Virginia during the 2008 presidential election and the 2010 midterms.

Figure 3: Event study of the effect of *Shelby v. Holder* on relative turnout



Notes: OLS estimates of event study coefficients from Equation 2. The single regression model contains race-by-state fixed effects, race-by-year fixed effects, state-by-year fixed effects, and controls for gender, age, and age squared. The sample includes Black and White respondents from six federal elections (2008–2018), weighted using CCES-provided sampling weights. Vertical bars outline pointwise 95% confidence intervals that are robust to clustering at the state level.

Figure 4: Event study of the effect of *Shelby v. Holder* on absolute turnout



Notes: OLS estimates of event study coefficients from the difference-in-differences analog of Equation 2. The regression model—estimated separately by race—contains state fixed effects, year fixed effects, a gubernatorial contest indicator, a Senate contest indicator, and controls for gender, age, and age squared. Each sample includes respondents from six federal elections (2008–2018), weighted using CCES-provided sampling weights. Vertical bars outline pointwise 95% confidence intervals that are robust to clustering at the state level.

Table 1: Effect of *Shelby v. Holder* on relative turnout

	Turnout					
	(1)	(2)	(3)	(4)	(5)	(6)
Black × fully covered × *Shelby*	0.049**	0.037*	0.052			
	(0.022)	(0.021)	(0.046)			
Black × fully covered × *Shelby* × presidential				0.089***	0.075***	0.089**
				(0.020)	(0.019)	(0.043)
Black × fully covered × *Shelby* × midterm				0.029	0.019	0.032
				(0.028)	(0.027)	(0.051)
Black × partially covered × *Shelby*	0.038***	0.030**	0.057			
	(0.011)	(0.012)	(0.042)			
Black × partially covered × *Shelby* × presidential				0.066***	0.052**	0.080
				(0.025)	(0.026)	(0.052)
Black × partially covered × *Shelby* × midterm				0.024	0.019	0.046
				(0.014)	(0.016)	(0.041)
Observations	274,919	274,919	274,919	274,919	274,919	274,919
Effective observations (race × state × year)	598	598	598	598	598	598
Race × state fixed effects	✓	✓	✓	✓	✓	✓
Race × year fixed effects	✓	✓	✓	✓	✓	✓
State × year fixed effects	✓	✓	✓	✓	✓	✓
Demographic controls		✓	✓		✓	✓
Race × state time trends			✓			✓

Notes: OLS estimates of triple-difference coefficients from Equation 1. Fixed effects absorb all lower-order terms. Demographic controls include gender, age, and age squared. The sample includes Black and White respondents from six federal elections (2008–2018), weighted using CCES-provided sampling weights. Standard errors (in parentheses) are robust to clustering at the state level. * $p < 0.1$, ** $p < 0.05$, and *** $p < 0.01$.

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