

## Voting Rights and The Million Man March: The Problem of Restoration of Voting Rights for Ex-Convicts/Felons

*Hanes Walton, Jr., Professor of Political Science, University of Michigan & Simone Green, Ph.D. Candidate in Political Science at Howard University, and intern, National Coalition on Black Voter Participation.*

Voting rights for African Americans which were given by the 15th Amendment but usurped by the Era of Disfranchisement in the eleven states of the Old Confederacy was restored somewhat by the Voting Rights Act of 1965 and its subsequent renewals. Specifically, it was a diverse and motley group of voting rights activists, that labored since the Era of Disfranchisement—1891 to 1901—which kept the need to redress the denial of voting rights to people of color on the nation's legislative, executive and judicial agenda until the culminating March on Selma, Alabama in 1965. This March, led by Reverend Martin Luther King, Jr., forced President Lyndon B. Johnson to sponsor this legislation. The Supreme Court upheld the Voting Rights Act (VRA) as constitutional in the *South Carolina v. Katzenbach* case. (1) The VRA came under attack in the period 1980-1992 from the Presidencies of Ronald Reagan and George Bush. The Justice Departments of both Presidents took action against, voting rights activists as they attempted to extend the implementation of the VRA in Alabama and Mississippi. (2)

The passing of the Voting Rights Act placed the Justice Department, in the role originally played by advocates of African American voting rights. Needless to say, the federal government and its agencies never fulfilled the role it had acquired under the 15th Amendment, and didn't fulfill the mandate given it under the VRA. (3) But perhaps the greatest failure of all was that it engendered in the African American community the notion that the government would be a viable protector of the Community's hard earned voting rights. This had the effect of demobilizing voting rights activists. Except for a few lawyers and the traditional civil rights organization like the NAACP'S League Defense Fund, the activism in the streets, highways and byways ceased. (4) This was indeed a major mistake. For with the arrival of the Reagan, Bush and Clinton presidencies, new denials of voting rights for the African American community once again flared up despite a constitutional amendment and a new congressional statute.

### **The Re-Emergence of Voting Rights Activism**

The first scholars to record this re-emergence of recent voting rights activism was Professor Leslie B. McLemore and Mary Coleman when they analyzed Reverend Jesse Jackson's Southern Crusade in Mississippi in 1983. (5) Although Mississippi was a focal point, the movement took place in all of the eleven southern States. And in Mississippi, Jackson had the Attorney General for Civil Rights to join him in a protest march in that State. But upon leaving the State, the Attorney General refused to follow-up on his promises to the Crusade leaders and followers.

Hence, the next major organizational effort came with the call for the Million man March. The planners and organizers of the March indicated that one of the community development features of the March would be its registration of March participants to vote. (6) And in order to achieve this goal, the organizers enlisted the help of the National Coalition on Black voter Participation organization. In their own words, it is an organization "... dedicated to increasing black voter registration and turnout and to eradicating barriers to full political participation for African Americans." (7) On August 9, 1995, NCBVP sent a fax to each of the fifty State Board of Elections requesting "...information on your state's voting laws as they pertain to ex-convicts; specifically what steps are necessary to reinstate an ex-offender's right to vote" it is the responses from 35 states that constitute the data base for this study. The voting rights activism of the March with assistance from NCBVP illuminated another problem facing the African American community. With so many African Americans in jail and prison, particularly males, upon their release, they face a morass of laws, rules, regulations and guidelines to have their civil and voting rights restored. As will be shown, the jailing of African Americans, not only takes them out of society, it places a new burden on their voting potential.

## **The Procedures at the State Level for Restoration of Voting Rights**

Table 1 presents information on whether a person loses his or her right to vote as a consequence of a felony conviction. It also includes which agencies are in charge of restoration of voting rights, a summary of the procedures needed if a pardon is not granted and if there is also a time requirement. Although the NCBVP request went to all of the fifty states, by the time of the deadline for this article 35 had responded.

Of the 35 states, only three (Maine, Utah and Vermont) do not deprive a citizen of his/her voting rights if they are convicted of a felony. All of these states have low African American populations. Two of the 35 states, (Arkansas and West Virginia) have no clear cut statute that delineate the steps necessary to reinstate an offender's voting rights. The State of Washington has a statute about the restoration of civil rights but not one about the restoration of voting rights. Of these three states, only Arkansas has a sizable African American population. In these states, it would be necessary for the county registration board to seek an opinion from the State Attorney General.

It is also noted in this column the two means required for restoration. First, a pardon of the offense means nearly an automatic reinstatement but not necessarily. If a pardon is not obtained, then it become necessary for the offender to serve until the end of his/her sentence and then follow a series of steps with specific state agencies to get restoration. The most demanding state is Mississippi. Mississippi's Constitution requires that: "The legislature may, by a two-thirds vote of both houses, of all members elected, restore the right of suffrage to any person disqualified by reason of crime; but the reasons therefor shall be spread upon the journals and the vote shall be yeas and nays."

Three states require restoration explicitly from the Governor's office. Virginia's law requires that: "... the granting of clemency is solely at the discretion of the Governor." Iowa requires an application from the Governor's office which will be reviewed by the Parole Board and letters of recommendation from six individuals as well as a two year time period. And in Wyoming, an ex-offender, in order to have his voting rights restored, "... must initiate the process by requesting an application form from the Governor's office, filling out the form, having it notarized and returning it to the Attorney General's office. The Attorney General reviews the application and sends it on to the Governor's office for final determination."

When the Governor's office and/or the Office of Executive Clemency is not involved most states rely upon their Pardon and Parole boards. Below the state level, there are county and local election commissions and boards as the restoration agencies. But one state, Indiana, permits the restoration of voting rights but not office holding rights. None of the other 34 states under review have such a requirement.

Finally, there is not only a set of procedures to be followed in most states, there is the additional time requirement. Delaware, Texas and Iowa requires a waiting period of 2 years, Kansas 1 year, Virginia 9 months to a year and several states 30 day periods. But Oklahoma is quite different from the rest of the states in terms of a time requirement. One's wait must equal the amount of time of the sentence. If the sentence was ten years, the wait must be 10 years. Hence, in these states, an ex-offender must serve not only his/her sentence but an additional one before getting their voting rights back. In Iowa, the application for restoration of the right to vote is a detailed 45 item questionnaire. it requires extensive explanation about why the right to vote should be restored.

Overall, Table 1 reveals a panoply of agencies, procedures and time requirements. In the final analysis, ex-offenders must surmount a number of obstacles to restore their voting rights. comprehensive and systematic voter registration drives cannot be conducted without an appreciation of these realities. Voting rights activists, at the individual and organizational levels, now face a new challenge as a consequence of the jailing of so many males in the African American community. The restoration of voting rights are now required by the majority of states before voter

registration can take place. Thus, race continues to be a burden in the exercise of civic rights in this democratic society.

(1) Hanes Walton, Jr., *The Political Philosophy of Martin Luther King, Jr.*, (Connecticut: Greenwood Publishers, 1971) and David Garrow, *Protest at Selma: Martin Luther King and the Voting Rights Act of 1965* (Connecticut: Yale University Press, 1978).

(2) Steven Lawson, *Running for Freedom: Civil Rights and Black Politics in America Since 1941* (Philadelphia: Temple University Press, 1991), pp.237-260. And Hanes Walton, Jr. *African American Politics and Power: The Political Context Variable* (New York: Columbia University Press, 1996)

(3) See Frank Parker, *Black Votes Count: Political Empowerment in Mississippi after 1965* (Chapel Hill: University of North Carolina Press, 1990) and Lorn Foster (ed) *The Voting Rights Act: Consequences and Implications* (New York: Praeger Publishers, 1985)

(4) For a discussion of the endless problems faced by the organizational activists see Lani Guinier, *The Tyranny of the Majority: Fundamental Fairness in Representative Democracy* (New York: Free Press, 1994) and Ralph Gomes & Linda Faye Williams (ed) *From Exclusion to Inclusion: The Long Struggle for African American Political Power* (Connecticut: Greenwood Publishers, 1992)

(5) Leslie B. McLemore & Mary D. Coleman, "The Jesse Jackson Campaign and the Institutionalization of Grass-Roots Politics: A Comparative Perspective," in Hanes Walton, Jr., (ed) *Black Politics and Black Political Behavior: A Linkage Analysis* (Connecticut: Praeger Publishers, 1995), pp. 49-60.

(6) See Hanes Walton, Jr., "Public Policy Responses to the Million Man March," *THE BLACK SCHOLAR* VOL. 25 (Fall, 1995), pp. 17-19.

(7) National Coalition on Black Voter Participation, *Invest in Our Future: 1994 Annual Report* (Washington, D.C.: National Coalition on Black Voter Participation, 1994), p.1.