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POLICY ARTICLE

Indian Country’s Voice: Recognizing, Respecting and Protecting Our Electoral Power

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Joe Biden won the 2020 Presidential Election. An ordinary fact and objectively unexceptional opening sentence instead represents a still contested issue in Arizona and the impetus for the influx of legislation targeting the voting rights of Americans across the country. President Biden won the electoral college in what his predecessor once described as a “massive landslide”¹ and became the first Democrat to carry Arizona since 1996 and just the second since 1948,² the year Native Americans in the state were extended the right to vote.³ After President Biden received greater than 81 million votes—seven million more than his opponent and the most votes ever cast for a Presidential candidate⁴—Republican lawmakers across the country introduced swaths of legislation that will make voting more burdensome with the effect of suppressing future turnout. Without impugning their intentions, the motivation is clear: keep Americans from the ballot box to maintain GOP control; or, more specifically, keep Americans who they don’t agree with (i.e. many members of the BIPOC community) from participating in our democracy. They even said so much themselves.⁵

The actions of lawmakers indicate that if the outcome of the 2020 Presidential Election had been a Republican victory, many partisan bills masquerading as ‘election integrity’ would likely have never been drafted. Further, we can say with absolute certainty that rhetoric about the security and validity of American elections would be radically different. Last fall, [AIPI highlighted the many barriers precluding Native American participation in our democracy](#), emphasizing the need to remain vigilant to safeguard our right to vote ahead of the 2020 election. With all that has transpired since then, including record voter turnout in Indian Country, our vigilance must persist as the right to vote is presently under attack across the United States. This article provides a cursory overview

¹ [Biden On Track For What Trump Once Called ‘Massive Landslide’ Electoral College Victory](#), Andrew Solender, Forbes, November 6, 2020.

² [Biden carries Arizona, flipping a longtime Republican stronghold](#), Dan Merica, CNN, November, 13, 2020.

³ See [Harrison v. Laveen](#) for more details.

⁴ [“Official 2020 presidential general election results”](#) (PDF). Federal Election Commission. February 1, 2021. Retrieved April 19, 2021.

⁵ In March 2021, Rep. John Kavanagh (R-Fountain Hills) opined that “everybody shouldn’t be voting” and we must “look at the quality of votes” in addition to the quantity (CNN, March 11). His argument, if he had one, appears to be that only ‘informed’ voters should be participating in our democracy. Setting aside the absurdity of this anti-democratic ideal, we must challenge what Mr. Kavanagh means when he uses words like “quality” and “uninformed” to refer to Arizona voters. Would he label an individual who still believes the 2020 election was ‘stolen’ despite irrefutable evidence to the contrary as “uninformed”? Or is that label reserved for voters who may disagree with his stance on abortion or immigration, to name but a few contentious issues? Participation in American democracy does not require eligible voters meet an artificial ‘quality’ standard and such rhetoric from lawmakers in 2021 is objectively dangerous and concerning.

of what has been taking place with regard to voting rights and the potential impacts on voters, especially those in Native American communities.

Indian Country Helps Turn the Political Tide in Arizona, Nationally

With accelerating demographic changes and increased civic participation in minority communities, Arizona transformed from a Republican stronghold to a ‘purple’, ‘toss-up’ state in just a few election cycles. Thus, as “one of the most pivotal states in the 2020 Presidential election,” multiple national and local Native organizations heightened their civic engagement efforts in Arizona.⁶ The Phoenix Indian Center’s ‘Get Out The Vote’ campaign encouraged Tribal citizens to “make [their] voice heard,” acting as an important resource directing individuals to their nearest voting locations and reminding them to bring all required identification.⁷ The National Urban Indian Family Coalition supported these efforts, helping the Phoenix Indian Center “deploy a comprehensive toolbox of civic engagement strategies” by canvassing urban communities with sizable Indigenous populations and handing out thousands of ‘goodie bags’ that provided crucial information.⁸

Attributable to these efforts and many others not highlighted, Indigenous participation soared in the 2020 election. Nearly 60,000 ballots were cast in Arizona precincts on the Navajo and Hopi reservations in 2020;⁹ less than 43,000 votes were cast in the same precincts for the 2016 election. While other factors, including greater access to the ballot,¹⁰ undoubtedly played a role in increasing voter turnout, the importance of national and local civic engagement campaigns cannot be overstated. The Havasupai and Hualapai reservations also experienced surges in voter turnout over 2016 totals, with ballots cast “overwhelmingly in support of [President] Biden,”¹¹ while “Tohono O’odham Nation...voters cast 98 percent of their [ballots] for the Biden-Harris ticket.”¹² Given President Biden won Arizona with a 10,457-vote margin, “Native Americans were among the difference makers who swung the race” in his favor.¹³

The Big Lie and GOP Efforts to Suppress the Vote

Weaponizing baseless claims of election fraud following their loss in the Presidential Election last November, Republican legislators across the country introduced more than 360 bills that would restrict access to the ballot.¹⁴ Baseless claims of election fraud—claims which nationally resulted in dozens of court cases, multiple recounts, one deadly insurrection, and zero evidence of widespread fraud—from elected GOP leaders began before the election even started¹⁵ and continue to this day. Here in Arizona, these claims, in combination with the remarkable inability and/or unwillingness of many of our state’s Republican lawmakers to accept the outcome of the 2020 Presidential Election, preclude any meaningful discussion on protecting the voting rights of all eligible Arizonans and inspire their legislation which targets that very right. The result is a plethora of bills targeting access to the ballot while charading under the guise of

⁶ [Democracy is Indigenous: Reclaiming Our Voice, Reclaiming Our Power](#). National Urban Indian Family Coalition (NUIFC), 2021, p. 12.

⁷ [‘Get Out The Vote’](#), Phoenix Indian Center, accessed May 11, 2021.

⁸ [Democracy is Indigenous: Reclaiming Our Voice, Reclaiming Our Power](#). NUIFC, 2021, p. 12.

⁹ [Native American votes helped secure Biden’s win in Arizona](#), Felicia Fonseca and Angeliki Kastanis, AP, November 19, 2020.

¹⁰ Arizona’s deadline for registration was extended for 10 days in October, affording an estimated 35,000 more citizens their opportunity to vote. See [Extension of registration deadline nets more than 35,000 new voters in Arizona](#), Andrew Oxford, AZ Central, October 28, 2020 for more details.

¹¹ [Native American votes helped secure Biden’s win in Arizona](#), AP, November 19, 2020.

¹² [Two Native Groups Launch Effort to Protect the Native Vote](#), Native News Online, April 2, 2021.

¹³ [Native American votes helped secure Biden’s win in Arizona](#), AP, November 19, 2020.

¹⁴ [Voting Laws Roundup: March 2021](#), Brennan Center for Justice, April 1, 2021.

¹⁵ [Timeline: What Trump Told Supporters For Months Before They Attacked](#), Steve Inskeep, NPR, February 8, 2021.

‘election integrity’, as certain Republican lawmakers propose and pursue solutions to a non-existent problem. It seems the real ‘problem’ for Republicans is that their candidate lost.

Although 47 states were subjected to this partisan assault on voting rights, only two—Texas and Georgia—saw more bills with restrictive provisions than Arizona.¹⁶ Despite our state boasting “some of the strongest election laws in the country,”¹⁷ Republican legislators introduced nearly two dozen bills that would change the rules following November’s loss.¹⁸ Some bills were too outlandish to receive floor votes; others were subtle enough to move through the Legislature. Perhaps the most ludicrous of those introduced this session was [House Bill 2720](#) which would have vested in the Legislature the power to select our state’s Presidential electors, ignoring the will of Arizona voters should they see fit. Introduced by Rep. Shawna Bolick (R-Glendale/Phoenix), HB2720 never received consideration in committee. Still, despite its nonsensical and undemocratic nature, Rep. Bolick’s bill is worth highlighting because it illustrates the depths to which elected Republican leaders will descend to subvert the legitimate results of an election they do not agree with.¹⁹ It represents an extreme from which other voter suppression measures will deviate as Republicans seek to restore a lost sense of ‘election integrity’ to Arizona, where “the problems that exist in other states simply don’t apply,” according to Governor Doug Ducey.²⁰

Beyond unsuccessful brazen efforts to overturn election results, Arizona Republican lawmakers found greater success passing bills that will remove eligible voters from the Permanent Early Voting List (PEVL) (SB1485), restrict voter education campaigns (HB2569) and eliminate the curing period for unsigned ballots (SB1003), among other measures. Masquerading as a restoration of ‘election integrity’, these bills subtly suppress future turnout by making voting more arduous and inaccessible, especially for geographically isolated, systemically underfunded communities and ESL citizens. It is worth reiterating that there is no dearth of integrity in Arizona’s elections. With the three aforementioned bills now signed into law, we must acknowledge Republican efforts to draft, garner support for, and defend their myriad voter suppression bills in debate as a coordinated attack on access to the ballot box in Arizona.

[Senate Bill 1003](#), introduced by Senator Michelle Ugenti-Rita (R-Scottsdale), was signed by Governor Ducey on May 7th, 2021. The bill “directly undermines” a 2019 court settlement wherein the state of Arizona acquiesced “to allow ... voters with mismatched or missing signatures on mail-in ballots five business days after election day to correct their ballot.”²¹ While SB1003 still affords voters with mismatched signatures the agreed upon five days to redress their mistake, voters who forget to add a signature will now only have until 7 p.m. on Election Day to rectify. As Navajo Nation leadership expressed in a press release in April 2021, this “places an extreme burden on Navajo voters [living] on the Nation.”²² Some residents of the Nation would need to travel hundreds of miles to a county seat to correct any ballot mistake, and now have one less week to do so; many rural Tribal communities across the state experience a similar reality. Given ballots with mismatched and/or missing signatures are not counted unless corrected, we must challenge why the Legislature felt the need to restrict opportunities to correct said mistakes. This

¹⁶ [Voting Laws Roundup: March 2021](#), Brennan Center for Justice, April 1, 2021.

¹⁷ Arizona Governor Doug Ducey (R), [Twitter](#), November 30, 2020.

¹⁸ [23 voter suppression bills in Arizona legislature](#), Bud Foster, KOLD, April 5, 2021.

¹⁹ The *legislative* depths Republican lawmakers will descend to. We must also acknowledge [the role Rep. Mark Finchem \(R-Oro Valley\) played in the January 6th insurrection](#).

²⁰ AZ Gov. Doug Ducey (R), [Twitter](#), November 30, 2020.

²¹ [Navajo Nation leaders urge Arizona Governor to veto voter suppression bill](#), Navajo Nation Office of the President and Vice President, April 30, 2021. Although the settlement was reached with the Navajo Nation, the new laws applied to all Arizona voters.

²² *Ibid.*

measure does nothing to improve the integrity of our elections, and instead disenfranchises eligible voters who forget a step in the extensive voting process. Moreover, this bill is an affront to the Navajo Nation and the United States District Court. When the Legislature was not protecting the voting rights of all eligible Navajo voters, the Nation took its cause to the courts and won; not even two years had passed until the very same Legislature stripped away those freshly protected rights. In Indigenous teachings, we understand that the words we use have meaning and power. By renegeing on a previous agreement with a sovereign nation, Republicans in the Arizona Legislature have demonstrated that the words they speak cannot be trusted.

After failing a floor vote thanks to a Republican “temper tantrum” in late April,²³ [Senate Bill 1485](#) eventually made its way to the governor’s desk on May 11th. In a video released just minutes after its passage, Governor Ducey announced that he had signed the legislation.²⁴ Introduced by Senator Ugenti-Rita (R-Scottsdale), SB1485 will purge eligible Arizona voters from the state’s (formerly) Permanent Early Voting List²⁵ should they fail to return their mail ballot for two consecutive election cycles (primary and general). Notably, Governor Ducey presented two conflicting versions of the bill,²⁶ claiming in his signing video that only Arizonans who fail to vote *entirely* will be removed from the list. In reality, Arizonans who fail to vote *early* in consecutive cycles will be purged. Given the PEVL was designed with checks in place to remove non-responsive voters (i.e. voters who may have moved or passed away) from the list, we must again question the bill sponsor’s intent. According to Pima County Recorder Gabriella Cázares-Kelly (Tohono O’odham), this bill “does nothing to actually benefit voters, secure our elections or support Recorder’s Offices” but rather represents “a hostile anti-voter tactic meant to confuse voters” after historic turnout.²⁷ Further, as legislators of color attempted to emphasize,²⁸ this facially-neutral law will disproportionately impact minority communities who experience additional challenges accessing the ballot box across the state. While SB1485 is a less egregious attempt to infringe upon the right to vote in Arizona than some of the proposed legislation drafted by Senator Ugenti-Rita’s Republican colleagues, it can be understood as little more than a calculated effort to suppress future turnout. Without improving the security or integrity of our elections, this new law will inevitably keep Arizonans from the polls by restricting access to a wildly popular method of voting. It is but another example of the “desperate desire of one party to game the system and hold onto power by erecting hurdles for voters of color and those with limited means,” according to House Democratic Leader Reginald Bolding, Jr. (D-Phoenix).²⁹

Crucially, a considerable majority of Arizonans support increasing access to the ballot. According to the 2020 Gallup Arizona Survey, about three-fourths of the state favors automatically registering Arizonans to vote when they apply for a driver’s license or state ID (77%) and sending all registered voters a mail-in ballot (73%); notably, “roughly two-thirds of Republicans support [these measures].”³⁰ In spite of this reality, elected Republicans continue their quest. [Senate Bill](#)

²³ [‘You want to see a temper tantrum?’: Arizona Republican sides with Democrats, blocks voting bill](#), Jane Timm, NBC, April 22, 2021.

²⁴ AZ Gov. Doug Ducey (R), [Twitter](#), May 11, 2021.

²⁵ The PEVL, established in a Republican-controlled legislature in 2007, enjoyed bipartisan support for many election cycles in Arizona and was often heralded as a model system for the rest of the country. Even prior to creation of the PEVL, Arizonans have been able to request a no-excuse mail ballot since 1991. ([A Timeline of Arizona’s Long History of Early Voting](#), Jessica Swarner, Copper Courier, October 13, 2020).

²⁶ We say conflicting because in his [news release from the signing](#), Gov. Ducey accurately describes the bill’s effect.

²⁷ Gabriella Cazares-Kelly (Pima County Recorder), [Twitter](#), April 20, 2021.

²⁸ [Senators Juan Mendez](#) (D-Tempe) and [Martín Quezada](#) (D-Phoenix) were silenced from speaking to the bill’s inequitable impact by Republican Senators abusing facially-neutral floor rules.

²⁹ [PRESS RELEASE: Leader Bolding Statement on Ducey Signing PEVL Purge Voter Suppression Bill](#), Arizona House Democrats, May 11, 2021.

³⁰ [‘The Arizona We Want: The Decade Ahead, Insights from the 2020 Gallup Arizona Survey’](#), Gallup, Center for the Future of Arizona, April 20, 2021. (p. 59)

[1713](#), introduced by Sen. Javan Mesnard (R-Chandler), would add extra steps to the vote-by-mail process, disproportionately disenfranchising Indigenous communities. Still awaiting a floor vote in the House, SB1713 would require mail voters to return a separate signed affidavit and provide additional identification, including date of birth, voter registration number, and proof of address. While these additional requirements may not add substantial hurdles for many mail voters in Phoenix or Chandler, they will inevitably trip up some and suppress future turnout by keeping eligible voters from participating. Further, because of physical isolation, poverty, language barriers, systemically inequitable civic engagement efforts, etc., Tribal communities would be especially impacted by this bill. “The requirement of adding additional identification that Navajo voters may not readily have on hand, adds a measure of difficulty to mail-in ballots,” said Navajo Nation President Jonathan Nez and Vice President Myron Lizer in another press release from April.³¹ In expressing their strong opposition to this bill and SB1485, Navajo Nation leadership challenged Arizona legislators “to visit the rural Native American communities, to understand how this bill could potentially impact voters,” adding “unless first-hand experience from state legislators is reported back to the Capitol, ... we cannot expect to be in agreement.”³² To date, Republican legislators have not made their way north to Window Rock, as the Navajo Nation and Arizona’s 21 other Tribes persistently await respectful engagement which provides a seat at the table.

Protecting Our Democracy, in Arizona and Washington

We appreciate that Tribal leaders continue to make their opposition to voter suppression measures public and urge them to continue this practice, even if their legitimate concerns may not reach a receptive Arizona Legislature. It has repeatedly been seen that Republicans have consistently abused their power this session to silence Democrats in committee,³³ chill public testimony,³⁴ and generally disregard decorum and process – whatever it takes to force legislation through. Still, when respected leaders—especially those representing sovereign nations—publicly oppose the actions of the State Legislature, it is influential, even if just to bring awareness to what is taking place.

Arizona Secretary of State Katie Hobbs (D) has vociferously opposed Republican efforts to enact new barriers to the state’s voting process, calling them “a repudiation of this country’s democratic principles.”³⁵ In further defense of democracy, Secretary Hobbs has also spoken out against the Republican ‘audit’³⁶ of the 2020 Presidential Election, receiving death threats and additional security detail as a result;³⁷ opposition to the ‘audit’ has been bipartisan, with Maricopa County Recorder Stephen Richer (R), elected to his office in 2020, joining the chorus of voices denouncing the process on May 15, 2021.³⁸ The Greater Phoenix League (GPL), a consortium of leading CEOs throughout the Valley, expressed their opposition to voter suppression legislation in April, calling Republican ‘election integrity’ efforts “misguided.”³⁹ Specifically protesting

³¹ [Navajo Nation opposes Arizona bills that would suppress Navajo voters](#), Navajo Nation Office of the President and Vice President, April 28, 2021.

³² Ibid.

³³ Dillon Rosenblatt (Arizona Capitol Times), [Twitter](#), March 24, 2021.

³⁴ Gabriella Cazares-Kelly (Pima County Recorder), [Twitter](#), April 20, 2021.

³⁵ [Op-ed: Voting rights under attack](#), AZ Secretary of State Katie Hobbs, AZ Big Media, March 1, 2021.

³⁶ The word ‘audit’ must be used very loosely to apply to what is taking place at the Arizona Veterans Memorial Coliseum. On May 13, [in response to a letter](#) from Arizona Senate President Karen Fann (R), Maricopa County Board of Supervisors Chairman Jack Sellers (R) explained: “The contractors hired by the Senate President are not auditors and they are not certified by the U.S. Elections Assistance Commission. It’s clearer by the day: the people hired by the Senate are in way over their heads. This is not funny; this is dangerous.” Chairman Sellers heads a board that comprises 80% Republican membership (4 of 5 Supervisors).

³⁷ [Ducey orders DPS protection for Secretary of State Katie Hobbs and her family following death threats](#), Joshua Bowling, AZ Central, May 7, 2021.

³⁸ [County recorder speaks out against Trump; other GOP leaders call out 'fantasy,' 'madness'](#), Carrie Watters, Jen Fifield, Andrew Oxford, AZ Central, May 16, 2021.

³⁹ [Disenfranchising Voters is not "Election Reform"](#), Greater Phoenix League, April 2, 2021.

SB1485, SB1593 (now dead), and SB1713 in a letter shared with members of the Arizona Legislature, the GPL described the legislation as “attempts at voter suppression cloaked as reform – plain and simple.”⁴⁰ While the GPL’s efforts to prevent the passage of bad legislation may ultimately prove futile, they signal a business community that is, at a minimum, aware of and responsive to threats to our democratic ideals; the potential ramifications of this are plentiful.⁴¹

In Washington, Democrats in Congress are hoping to enact legislation ensuring all eligible Americans are able to access the ballot box in future Federal elections, an agenda any supporter of democracy ought to be firmly behind. As President Biden explained in an executive order from March, “it is the responsibility of the Federal Government to ... enable all eligible Americans to participate in our democracy.”⁴² While Congressional Democrats have taken steps to fulfill their responsibilities, passing the [For the People Act of 2021](#) in the House in March,⁴³ the legislation faces an insurmountable 60-vote hurdle to overcome the Senate filibuster, a procedure “closely intertwined with anti-civil-rights efforts in the [chamber] for more than a century.”⁴⁴ Considering the present-day makeup of the Republican party—replete with members who voted to overturn the results of the 2020 election following the insurrection on January 6⁴⁵—and zero Republicans voted with the Democrats to pass the bill through the House,⁴⁶ it is extremely unlikely that ten GOP Senators will cross the aisle in favor of this legislation, effectively killing the bill upon arrival. Without reform at the Federal level protecting access to the ballot across the country, many underserved communities are in jeopardy of being disenfranchised.

After SB1003 and SB1485 were signed by Governor Ducey, leaders of the Navajo Nation expressed their disappointment, categorizing the governor’s actions as “belittling to all 22 Arizona Tribes.”⁴⁷ “The voting power of the Navajo people changed the outcome of the 2020 election in the state of Arizona and certain groups did not like it,” explained President Nez.⁴⁸ “We have to stand together and push back on these voting measures that are clearly designed to favor certain groups,” he added.⁴⁹ There is no better way to fight back against voter suppression measures than to vote. We have experienced first-hand the power of the Native vote in Arizona; we must sustain that power in pursuit of equality and justice for Tribal communities, matters too long ignored in the American polity. Ultimately, supporters of equal representation in our democracy cannot rely on the elected leaders presently holding office to maintain or increase access to the ballot box, but instead wield the power of the vote to replace them with leaders who will. Crucially, this is not to forget the work of Democratic legislators vehemently defending voting rights today, but rather to emphasize that they are currently outnumbered in many states, including here in Arizona.

After executing wildly successful voter education and outreach campaigns in the midst of a global pandemic, Native organizations and Tribal communities across the country are acutely aware of how to best engage Indigenous voters. These leaders must be creative and proactive in their responses to restrictive legislation, ensuring infringement upon access to the ballot is neutralized wherever possible. Further, equipped with extra time to gear-up, fresh knowledge to

⁴⁰ Ibid.

⁴¹ See ‘[MLB moving All-Star Game to Denver’s Coors Field](#)’, Pat Graham (AP), April 5, 2021, as an example.

⁴² [Executive Order on Promoting Access to Voting](#), President Joseph Biden, The White House, March 7, 2021.

⁴³ [House passes sweeping voting rights bill over GOP opposition](#), Brian Slodysko, Associated Press, March 3, 2021.

⁴⁴ [The history of the filibuster as ‘Jim Crow relic’](#), Louis Jacobson, PolitiFact, August 4, 2020.

⁴⁵ [The Republicans who voted to overturn the election](#), edited by: Soyoung Kim, Brian Thevenot and Jon McClure, Reuters, February 4, 2021.

⁴⁶ [House passes sweeping voting rights bill over GOP opposition](#), Brian Slodysko, AP, March 3, 2021.

⁴⁷ [Arizona Governor signs two voter suppression bills that disproportionately impact Navajo voters](#), Navajo Nation Office of the President and Vice President, May 11, 2021.

⁴⁸ Ibid.

⁴⁹ Ibid.

draw from, and a motivated and empowered base of voters to inspire, civic engagement efforts should emphasize how hard Tribes have worked to obtain and protect the right to vote. With all the work that has come before, it is our duty, our responsibility, to “stand together and push back” by making our voices heard at the ballot box;⁵⁰ we will see you there.

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⁵⁰ Ibid.