# K I R W A N

# INSTITUTE

# "Despite many differences, human destinies are intertwined."

- from the Kirwan Institute Mission Statement



An update of activities from the Kirwan Institute for the Study of Race and Ethnicity

# Fall/Winter 2004

### ABOUT THE INSTITUTE

The Kirwan Institute for the Study of Race and Ethnicity is a university-wide interdisciplinary research institute. Its goal is to deepen our understanding of the causes of and solutions to racial and ethnic disparities and hierarchies. This includes an explicit focus on Ohio and the United States, but also the Americas and our larger global community. Our primary focus is to increase general understanding that, despite many differences, human destinies are intertwined. Thus, the Institute explores and illustrates both our diversity and common humanity in real terms.

The Institute brings together a diverse and creative group of scholars and researchers from various disciplines to focus on the histories, present conditions, and the future prospects of racially and ethnically marginalized people. Informed by real-world needs, its work strives to meaningfully impact policies and practices.

The Institute also focuses on the interrelatedness of race and ethnicity with other factors, such as gender, class, and culture, and how these are embedded in structures and systems. Collaboration with other institutions and organizations around the world and ongoing relationships with real people, real communities, and real issues are a vital part of its work.

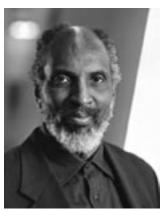
The Institute employs many approaches to fulfilling its mission: original research, publications, comparative analyses, surveys, convenings, and conferences. It is part of a rich intellectual community and draws upon the insight and energy of the faculty and students at Ohio State.

While the Institute focuses on marginalized racial and ethnic communities, it understands that these communities exist in relation to other communities and that fostering these relationships deepens the possibility of change. It is the sincere hope and goal of all of us that the Institute gives transformative meaning to both our diversity and our common humanity.

# **Executive Notes**

n this issue of UPdate, we turn our attention to the upcoming presidential election. Even in the simple act of casting a ballot, race matters. Through various UPdate articles, we take a look at voting through a racial lens. "Election

Law and Civil Rights in 2004" by Research Assistants Soma Mandal, Lauren Hill and Stephen Menendian and the "Q&A" section by Research Associate Becky Millard examine how our right to vote is or is not protected by the United States Constitution. In "Uncertain State of Election Reform," Moritz College of Law Assistant Professor Daniel Tokaji discusses the Help America Vote Act, a new law that purports to ensure better counting of votes. Senior Attorney for Advancement Project, Edward Hailes, describes one of Advancement Project's voter protection initiatives. We also UPdate you on current Kirwan Institute research projects, our new staff members, and the Kirwan Institute small grant program and fellowship.



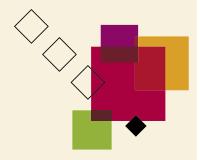
Professor john a. powell

This presidential election is critical as our nation must address new and old pressing issues. There is obviously the issue of national security. But there are other issues that remain central to the well-being of the country and our marginalized communities. These include but are not limited to education, housing, criminal justice, health, our fiscal structure, jobs, and the environment. All of these issues are being impacted and reframed by globalization. Not only are these issues important, but they are also interrelated; they affect us not just at the national level but also in our very neighborhoods and homes. If we are to seriously participate in framing any of these issues, broad-based civil and political participation is critical. However, marginalized communities often do not participate in political processes for a number of reasons. For one, they are often encouraged not to participate. Our society has had a history of trying to keep certain groups out. One only has to think of the poll tax, literacy tests, and the white primary¹ as examples. And when those groups are allowed to participate uninhibited, it is often begrudgingly. Even with these oppressive tactics behind us there are new barriers set before us—barriers like felony disenfranchisement.

Most scholars agree that voting participation would increase substantially if two key initiatives were enacted: same-day registration and conducting federal elections on a national holiday or during the weekend. Whenever these possibilities are raised, there are always reasons given to maintain the status quo. One reason that is not mentioned but is certainly a major consideration is that these changes might bring marginalized populations into the voting booths in greater numbers.

There are many other reasons that political participation is too low from marginalized communities. Many people do not believe that the two dominant parties offer meaningful alternatives, or that things will change. Others feel that the structure of our electoral system, with its Electoral College and winner-take-all process, hurts people of color. While these are all issues that require attention and possibly change, they do not excuse us from participating in the system as it is currently structured as we work to make things better.

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Changes will not occur by sitting on the sideline. It is critical that we get civically involved. Voting is an important part of civic involvement.

Of course, voting by itself is not a cure for all societal ills, but without voting there is virtually no chance of building a society that is fair to all citizens. What is at stake is not just this election—as important as it is—or just our schools or our neighborhoods. At stake is our future and our active membership in society.

# Remember that the last day to register to vote in Ohio is October 4!

In Ohio you can register to vote at the following locations:

- The office of the Secretary of State of Ohio
- The Secretary of State Client Services Center, 30 East Broad Street, Columbus
- The board of elections office in your county (It is always listed in the phone book under "Government Offices County.")
- Any Ohio Bureau of Motor Vehicles office or BMV registrar
- Any public or vocational school
- Public libraries
- Your county treasurer's office

Also, make sure that wherever you register to vote they send your information to the correct board of elections. If you reside in a state other than Ohio, please check the voting registration dates and rules of your state.

Get involved and vote!

Sincerely,

Professor john a. powell **Executive Director** 

www.rra.dst.tx.us/c\_t/history1/ WHITE%20PRIMARY.cfm.

# The Uncertain State of Election Reform: Look for These Problems in 2004

### Professor Daniel P. Tokaji Moritz College of Law

n estimated 4 million to 6 million votes were lost in the 2000 election, due to faulty voting equipment, registration errors, and polling place mistakes. The Help America Vote Act of 2002 (HAVA) purported to deal with these problems and promised major changes in the way that elections are conducted within the United States. It remains to be seen, however, whether this promise will be fulfilled.

One of the most important things the new law does is to provide funding for the replacement of antiquated voting equipment like the infamous hanging chad punch card. HAVA also includes a requirement that, by 2006, each polling place have at least one accessible voting unit that will allow people with visual impairments and other disabilities to vote independently. In addition, HAVA requires that voting equipment provide alternative language accessibility for those whose first language is not English.

Unfortunately, many states will still be using unreliable and inaccessible equipment in 2004. In Ohio, an estimated 70 percent of citizens will vote using the same punch card ballots that caused so many problems in 2000—and that have an especially negative impact on people of color. In Hamilton County, for example, punch cards result in at least five times as many "overvotes" in African American precincts as they do in non-African American precincts. In effect, the use of the punch card constitutes a form of institutional racism, effectively denying the votes of many people of color. When counties move to more reliable voting technology, the racial gap in uncounted votes is reduced considerably and, according to one recent study, is eliminated almost completely.

Another HAVA provision designed to minimize the number of lost votes is its requirement that all jurisdictions institute "provisional voting." The U.S. Commission on Civil Rights found that countless eligible voters, many of them people of color, were wrongly prevented from voting in Florida's 2000 election due to registration errors. Under the new law, voters whose names don't appear on the rolls must be allowed to cast conditional ballots, which will be counted if they are later determined eligible.

Some civil rights advocates are nevertheless concerned that there will be disparities in the way that HAVA is implemented, which could result in voting rights being denied in the coming election. Among the potential problems are:

# (1) Inconsistencies in the application of HAVA's ID requirement.

Under HAVA, some first-time voters who registered by mail after January 1, 2003, will be required to

present photo identification or other proof of address at the polling place. There's



a real danger that voters who aren't subject to this requirement will nevertheless be asked to show ID. In addition, there may well be a lack of clarity as to what counts as an acceptable form of identification. The discretion exercised by poll workers could lead to inconsistencies between counties and possibly to racial discrimination.

# (2) Inconsistencies in counting provisional ballots.

While HAVA's provisional voting requirement offers the possibility of avoiding lost votes due to registration foul-ups, there is evidence of confusion among election officials responsible for implementing this requirement. Some counties are taking the position that provisional ballots won't be counted unless voters present ID, contrary to the law's intent. In addition, there are open questions as to whether provisional ballots will be counted where voters mistakenly go to the wrong precinct. As this article goes to press, it appears that the Ohio Secretary of State has provided very limited guidance to counties in how the provisional voting requirement should be implemented, leading to a substantial possibility that there will be disparities between counties.

## (3) Registration errors and misinformation.

HAVA requires that mail-in registration forms include boxes, indicating that the voter is a citizen and at least 18 years old. But what happens if the voter neglects to check the box? It's quite possible that many people who believed they were registered will be left off the rolls and prevented from voting. There's also the problem of people being purged from voting rolls erroneously or denied the right to register on the ground that they're former felons, despite the fact that, in Ohio and other states, those who have completed their sentences have the right to vote.

The 2000 election laid bare the deficiencies in the infrastructure of the United States' democracy. While election reform was clearly needed, the devil is in the details. There's good reason to be concerned that those details will be the source of new problems—and more violations of the right to vote—in this year's election.

For more information on the Help America Vote Act, please visit www.sos.state.oh.us/sos/hava/ index.html and click on the link titled Legislation.



Ohio suffragette rally

he Association of Community Organizations for Reform Now (ACORN), the nation's largest community organization of low and moderate income families, is currently heading the Immigrant Vote 2004 campaign, a voting drive and registration forum focused on the immigrant vote in the United States. Individuals can volunteer to participate in voter registration drives at the Columbus chapter and must attend an orientation. For further information regarding ACORN and their other campaigns and activities, contact the local Columbus chapter or visit the ACORN web site at www.acorn.org.

Election Law @ Moritz, located at The Ohio State University Moritz College of Law, presents current information on laws that govern federal, state, and local elections. The Election Law @ Moritz web site contains an online reference guide that highlights current election law as well as more specific voting, candidate, and campaign issues. Election Law @ Moritz also provides up-to-date weekly news articles and commentary on voting rights, disenfranchisement, and campaign issues. Visit moritzlaw.osu.edu/election law.

The NAACP Voter Empowerment Program is a campaign that aims to empower the African American community by increasing participation and awareness of political processes in federal, state, and local elections. In addition, the NAACP Voter Empowerment Program provides support services to local and state NAACP chapters to support this program in every facet. The national web site contains a downloadable voter registration form at www.naacp.org/work/voter/voter\_empowerment.shtml.

**Rolling Thunder**, a division of the Gamaliel Foundation's Get Out The Vote Campaign (GOTV), is presenting a series of 26 mass educational meetings that will mobilize 67,000 people across the country from July to October 2004. Local meeting dates and locations are listed in the "UPcoming Events" section on page 12. or visit www.gamaliel.org.

**Vote Explosion!** is a Columbus, Ohio, based nonpartisan volunteer grassroots initiative dedicated to voting awareness and registration. Vote Explosion! plans to register as many people as possible by the Ohio October 4 registration deadline. Their web site contains information on how to register, as well as how to volunteer for Vote Explosion!. The site also contains links that may be useful for voters specifically in the city of Columbus and in the state of Ohio. Find them online at **www.vote-explosion.org.** 

**ElectionOhio** is an informational web site that contains links to board of elections information for all counties, voter registration forms, election calendars, election news, voters' guides, and more. The site also has a link to live election results at **www.electionohio.com**.

# voter information

Additional web sites containing voter information:

- Smart Voter www.smartvoter.org
- The Center for Voting and Democracy www.fairvote.org
- Project Vote Smart www.vote-smart.org
- Your Vote Matters www.yourvotematters.org has a voter registration form
- People for the American Way www.pfaw.org/pfaw/general/default.aspx?oid=15275 has Ohio's Voting Bill of Rights
- American Civil Liberties Union www.aclu.org look under the Issues menu for voting rights
- National Voting Rights Institute www.nvri.org
- Official web site of Secretary of State Kenneth Blackwell www.state.oh.us/sos/
- 2004 Presidential Election (official web site) www.presidentialelection.com
- Politics.com www.politics.com

# Election Law and Civil Rights in 2004

Lauren Hill, Soma Mandal, and Stephen Menendian

rior to the 1965 Voting Rights Act, several methods were employed to limit black voting and political power. Much like Jim Crow and other laws denying women, illiterates, immigrants, and the poor from voting, improper purging and the denial of democratic right has occurred in recent times. Similar to the poll tax, literacy test, grandfather clause, the use of multiple ballots, and physical intimidation, deceptive methods are still used today to suppress the minority vote.<sup>2</sup> The history of voting rights illustrates the reality that the law is not enough to protect actual processes of voting.

In the 2000 presidential election, millions of Americans cast ballots that no one counted. Half of the rejected ballots were cast by African Americans who constitute only 12 percent of the electorate.<sup>3</sup> The U.S. Civil Rights Commission concluded that, of the 179,855 ballots invalidated by Florida officials, 53 percent were cast by black voters. In Florida, a black citizen was 10 times as likely to have a vote rejected as a white voter.<sup>4</sup> Civil Rights Commissioner Christopher Edley, recently appointed dean of Boalt Hall School of Law at U.C. Berkeley, took the Florida study nationwide. His team discovered the disturbing fact that what occurred in Florida was not atypical but occurred nationwide.

# Purging of Registration Lists and Minorities<sup>5</sup>

During the 2000 presidential election, there was mass confusion in Florida over which precincts voters were to vote in. Explosive population growth had led to the creation of new precincts and split up older precincts that voters had utilized for years. The latest census data reveals that blacks and Latinos are far more likely than whites to move because of impoverishment. As a result, they are less likely to know the correct precinct in which to vote after a recent move.

# Felony Disenfranchisement<sup>6</sup>

According to The Sentencing Project, a criminal justice research and advocacy group, more than 4 million Americans nationwide, nearly half of whom are black men, are unable to vote because of laws that bar felons. With the exception of Vermont and Maine, which allow incarcerated people to vote, every state has some voting restrictions for felons. Some laws, including Florida's, date all the way back to Reconstruction, and state rules for granting clemency vary widely. In Ohio, felons are automatically restored the right to vote upon release. While incarcerated, citizens have the right to vote unless convicted of a felony. Upon release of conviction for a felony, a person regains the right to vote after re-registering, even if the person is on probation or parole. The failure to reinstate an ex-felon's right to vote in states such as Florida not only harms the minority community politically but also induces a psychology of alienation and unsuccessful integration back into society.

#### **Multilingual Voting Instructions**

Federal law requires ballots to be printed in two languages in any county in which voting-age citizens with English-language deficiencies make up at least 5 percent of the population. The Department of Justice is currently investigating possible violations of the federal Voting Rights Act, under which several Florida counties are mandated to provide bilingual assistance because of a repeated history of discriminating against immigrant voters. "The failure to provide proper language support resulted in widespread voter disenfranchisement of possibly several thousand Spanish-speaking voters in Central Florida," the U.S. Commission on Civil Rights concluded in a study designed to identify voting irregularities in the 2000 presidential election. Furthermore, the tone with which officers present voting requirements may instill hesitation in Latino and new citizen immigrants from participating in the American democratic process.

# **Know Your Rights** as a **Voter**

The last day to register to vote in Ohio is October 4, 2004. Check your secretary of state's web site for details on voting requirements in your state.

- If you have moved within the same precinct or changed your name, you have the right to vote at that same assigned polling place.
- If your name is not on the list of registered voters or you are a first-time voter who registered by mail and you do not have identification and you did not include a copy of your identification with your application, you have the right to vote by provisional ballot.<sup>11</sup>
- If you have moved from one precinct to another within the same county or moved from one precinct to another and changed your name, you have the right to vote at the polling place in the precinct in which you currently live, at a site designated by the board of elections or by an absentee ballot.<sup>12</sup>
- If you have moved to a different county, you have the right to vote at a site designated by the board of elections or by an absentee ballot if you are unable to appear in person.<sup>13</sup>
- You have the right to vote without presenting any identification after the election officials have verified your signature. 14 Voters who are subject to the ID requirement have the right to cast a provisional ballot in these circumstances. Others have a right to cast a regular ballot without having to show identification.
- In Ohio, if you make a mistake and "spoil" your paper ballot, you have the right to receive another ballot and vote. You cannot receive more than three ballots.<sup>15</sup>

For more information, please visit moritzlaw.osu.edu/electionlaw/procedures\_rules01.html.



# **Current Kirwan Institute Projects: A Selected List**

#### Lauren Hill and Soma Mandal, Summer Research Assistants

# Chicago Opportunity Mapping

Opportunity structures in the Chicago region are analyzed by the quality of school systems, transit, jobs, daycare, and prevalence of crime and pollution. Identifying regions with the highest concentration of opportunity can be used to help advocacy groups push for affordable housing to assist low-income/marginalized groups of people in those regions.

#### Joint Center Disparity Project

The Kirwan Institute is collaborating with the Joint Center for Political and Economic Studies in an effort to establish one location to house data on racial and ethnic groups across the United States. This database will organize currently scattered information in order to assist community groups and researchers working to alleviate racial disparity connect to valuable resources and key information.

#### Southern Equity Project

The institute advocates regionalism, the idea that the region will cooperate and share resources so that more equitable outcomes are produced as well as a unified vision for all the communities within the region. By observing regionalism in the

Southern United States, a regionally and racially unique area, distinct problems of impoverished communities can be more accurately outlined.

## The Impact of Mass Incarceration

In conjunction with The Ohio State University's Criminal Justice Research Center, the Kirwan Institute is studying "the effects of incarceration levels of violent and property crime for local communities in Columbus, Ohio."

#### Resource Guides

The institute is dedicated to compiling a list of resources related to diversity made available for researchers, advocacy groups, policymakers, etc. Current projects include The Ohio State University Diversity Resource Guide and the institutes database.

#### Structural Racism Initiative

The Kirwan Institute is helping to organize a caucus of stakeholders focused around defining structural racism, understanding the ways in which it operates, and organizing to dismantle it. The sponsors of the caucus are the Institute on Race and Poverty, the Kirwan

Institute for the Study of Race and Ethnicity, The Civil Rights Project at Harvard, Aspen Roundtable, and the Philanthropic Initiative for Racial Equity.

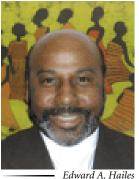
The goals of the caucus are: (1) To identify and bring together those who of us who are working on structural racism; (2) To pool our research and refine our understandings of structural racism; (3) To determine what is missing from our research; (4) To devise ways to make transparent to the average American the reality and harms of structural racism; and (5) To effect policy change that will dismantle structural racism.

# Analyzing Housing Needs in Franklin County, Ohio, At the Request of Building Responsibility, Equity, and Dignity (BREAD)

The Kirwan Institute is identifying housing needs and burdens by various income levels, race, and family status within neighborhoods in Franklin County. The data collected will provide better insight into the quantifiable need for affordable housing throughout the

# Advancement Project: Clearing the Path to Just Democracy

# Edward A. Hailes, Senior Attorney



Advancement Project is a democracy and justice action group that works with communities seeking to build a fair and just multiracial democracy in America. Using law, public policy, and strategic communications, Advancement

Project acts in partnership with local communities to advance universal opportunity, equity, and access for those left behind in America. www.advancement project.org/mission.html

fixed in advance of the general election. We call this campaign Clearing the Path to Just Democracy.

Through Clearing the Path, we want to transform election practices and clear the obstacles that have prevented far too many citizens from civic participation. "We want to transform election practices and clear the obstacles that have prevented far too many citizens

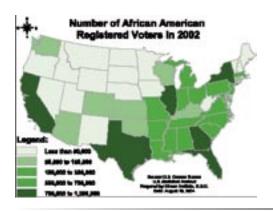
from civic participation. We began this work early in

2004, by researching and explicating the Byzantine tangle of local, state, and federal election laws that create new barriers in several states and counties with sordid histories of structural disenfranchisement. We also began monitoring the conduct of presidential primary elections to pinpoint trouble spots. Most importantly, we began networking about this issue with our many colleagues involved in the labor-intensive fieldwork of nonpartisan voter registration efforts. With them, we began to build collaborative relationships that would create an early warning system to alert us of potential problems in registration processing, polling place preparation, voter intimidation schemes, and myriad other systemic failures that threaten to prevent citizens from voting or preclude their

s the country prepares for the 2004 election, we at Advancement Project are determined to prevent what occurred during the 2000 presidential election in Florida. In the aftermath of the 2000 election, we documented the egregious violations of democracy, especially their devastating impact on communities of color and immigrants in Florida. Our subsequent report, America's Modern Poll Tax, locates the causes and consequences of mass structural disenfranchisement that pervades the current voting system. This year, we are operationalizing the lessons we have learned by scrutinizing election preparations so that problems—including inexplicably slow processing of voter registration forms, haphazardly trained officials, frequently relocated polling

places, and reckless purging of voter rolls—can be identified and

votes being correctly tallied. Photo of original 1914 Franklin County Ohio petition in support of women's suffrage



# **African American Voters in 2002:**

More than 14.3 million African Americans were registered to vote in the U.S. in 2002. The largest number of African American voters in 2002 were found in California, Texas, Georgia, Florida, Illinois, and New York.

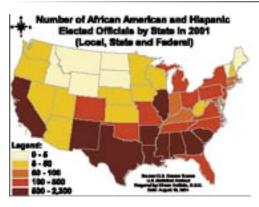
Source: U.S. Census Bureau. Voting statistics from 2002 current population survey.



# **Hispanic Voters in 2002:**

Over 8.2 million Hispanic voters were registered in the United States in 2002. Almost half of all registered Hispanic voters were found in California and Texas in 2002.

Source: U.S. Census Bureau. Voting statistics from 2002 current population survey.



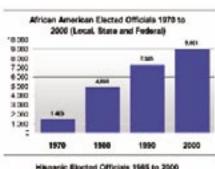
# African American and Hispanic Elected Officials:

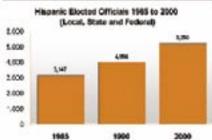
There were over 14,000 African American and Hispanic elected officials in the United States in 2001. As seen in this map, the largest number African American and Hispanic elected officials in the nation are found in the South.

Source: U.S. Census Bureau, 2002 and 2003 U.S. Statistical Abstract



- Over 14 million African Americans and 8 million Hispanics were registered to vote in 2002
- There were more than 14,000 African American and Hispanic elected officials in 2001
- The disparity between
   African Americans and
   whites in voter participation
   has declined from 18% to 1%
   between 1964 and 2000

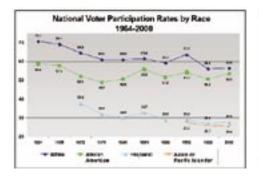


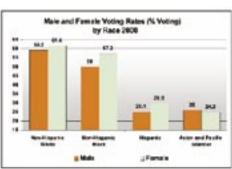


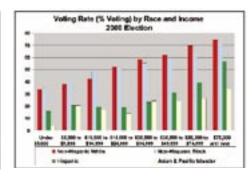
The number of African American and Hispanic elected officials has increased substantially in recent decades. The number of African American elected officials has increased by more than 500% since 1970. The number of Hispanic elected officials has grown by 65% between 1985 and 2000.

Source: U.S. Census Bureau. 2002 and 2003 U.S. Statistical Abstract

# Who Votes in the United States?







Voter participation rates for both whites and African Americans were very similar in 2000 with 56% of whites and 53% of African Americans voting in the presidential election. Voting participation rates for Hispanic and Asian or Pacific Islanders in the 2000 election were half the rates of whites and African Americans.

Source: U.S. Census Bureau. Voting statistics from 1964-2002 current population survey.

Voter participation is higher among female voters for whites, African Americans, and Hispanics. The widest disparity between male and female voters is among African Americans.

Source: U.S. Census Bureau. Voting statistics from 2000 current population survey.

Voting participation is higher among wealthier households of all races. Voting participation rates for households earning more than \$75,000 were over 70% for whites and African Americans and over 50% for Hispanics.

Source: U.S. Census Bureau. Voting statistics from 2000 current population survey.

# **Q&A** on Our Constitutional Voting Rights

Becky Millard, Research Associate



What are our rights concerning voting, and what protects people of color from being discriminated against at the polls?

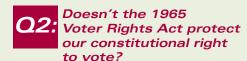
Between 1957 and 1965, Congress began actively protecting the voting rights of people of color through the passage of six major federal voting rights initiatives, including the Civil Rights Acts of 1957 and 1960, and the Voting Rights Acts of 1965, and its subsequent amendments. <sup>17</sup> The Voting Rights Act of 1965, considered one of the most effective civil rights laws ever enacted, expanded the

political participation of people of color

through both increased voter registration as

well as greater political representation. The passage of the act grew from both public protest, such as the legendary march from Selma to Montgomery, Alabama, led by Dr. Martin Luther King Jr., and private political negotiation. It immediately outlawed the worst Jim Crow laws affecting voter rights including poll taxes at large elections 18, gerrymandering, ballot security schemes, literacy tests, and other discriminatory requirements designed to suppress and silence the black vote, particularly in the South (Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia). 19 Although significant gains have been made by the passage of the Voting Rights Act of 1965, there is increasing concern that it has not done enough to ensure the affirmative right to vote for everyone, particularly people of color. The act was once thought to be the key to gaining universal suffrage regardless of race, but over time this ideal has eroded and has been replaced by the reality of our flawed and discriminatory voting system. Issues such as felony disenfranchisement, racial gerrymandering, and more subtle forms of discrimination, such as the prevalence of voting registration and equipment problems concentrated in poor communities and communities of color, are still prevalent, which leaves individuals and groups with anything but the democratic ideal of "one person, one vote."

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A2:

Contrary to popular belief, there is no explicit or fundamental right to vote in the Constitution.

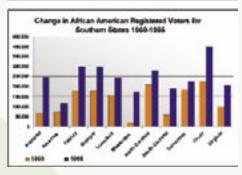
Some have argued that there are provisions of the Constitution that should be read to grant such constitutional protection, but this has not be done up to this point. The 15th Amendment to the Constitution does not allow voting to be denied because of one's race, still this is not an affirmative grant of the right to vote. Although the Voting Rights Act appears to grant universal suffrage, the extension of voting privileges to all adults, without distinction as to race, sex, belief, or social status, <sup>20</sup> the name of the act is somewhat misleading. Rather than protecting voter rights, it actually is a nondiscrimination in voting act. In fact, all of the amendments to the Constitution dealing with the right to vote are phrased negatively rather than positively: They prevent the states from disenfranchising individuals on particular grounds (e.g., gender, race), but they do not directly confer the right to vote on anyone.<sup>21</sup> Although this distinction may seem subtle and somewhat irrelevant, in 2000, it was proven to be anything but.

Perhaps the distinction is best illustrated by a quote from the majority opinion of the 2000 Supreme Court case *Bush vs. Gore*. The court asserted that "the individual citizen

has no federal constitutional right to vote for electors for the president of the United States."<sup>22</sup> In essence, American citizens have no constitutional right to vote; instead, it is a state right. Fifty states and the District of Columbia, 3,067 counties, and thousands of municipalities administer their own election system under state law.<sup>23</sup> Perhaps all of this would not have the significance it does had we not all been witness to the disastrous effects of this fragmented system nearly four years ago. According to a joint study by the California Institute of Technology and Massachusetts Institute of Technology, somewhere between 4 million and 6 million votes were not counted in the 2000 presidential election due to problems with ballots, equipment, registration, or the polling place.24

Without a constitutional right to vote, there is no protection against these widespread voting failures, no protection against permanent felony disenfranchisement, and for the nearly 600,000 Washington D.C. residents, there is no right to political representation in Congress. Alexander vs. Mineta justified this lack of political representation in our nation's capital by stating that our Constitution "does not protect the right of all citizens to vote but rather the right of all qualified citizens to vote."<sup>25</sup> Perhaps it is no coincidence that if D.C. residents were able to vote, this would create the first U.S. Senate district with a black majority.

# African American Votor Registration States (3. Stephenors) for Structure States 1956-1979



# Impact of the Voting Rights Act of 1965:

The number of African American voters and voter registration rates in Southern states increased dramatically after the Voting Rights Act of 1965. The number of African American registered voters increased by almost 600% in Mississippi and more than 200% in Alabama between 1960 and 1966. African American voter registration in Mississippi increased from 5% in 1956 to 59% in 1976.

Sources: U.S. Department of Justice, U.S. Census Bureau and "Analyzing Elections" by Rebecca Morton. NYU. Forthcoming Publication. Many are hesitant to add another amendment to the Constitution because of the widespread belief that our vote is protected by the 15th, 19th, and 26th amendments, but as we have seen, that protection only extends so far without the affirmative right to vote codified in the Constitution. There are so many fronts on which we are fighting for voting equality for all Americans: disenfranchisement, discrimination at the polls, and the other examples we have seen and will see throughout this issue of UPdate, but without the backing of a constitutional amendment, there can be no unified, collective movement to overcome these barriers. Constitutions are used to define human rights. The American democratic ideal has traveled around the world. In fact, the constitutions of at least 135 nations explicitly guarantee the right to vote and to be represented at all levels of government. Every new constitution adopted over the last three decades places the right to vote at its center<sup>26</sup>; the United States is one of only 11 electoral democracies, along with countries such as Azerbaijan, Chechnya, and Indonesia, that does not guarantee the affirmative right to vote in the fundamental governing document<sup>27</sup>. The Rev. Jesse Jackson Jr. has recognized

this constitutional deficit and is attempting to remedy it through the proposed amendment H.J. RES.28<sup>28</sup>. This Voting Rights Amendment is a nonpartisan, non-ideological, and non-programmic amendment seeking to advance the central democratic ideal of universal voting. Although important, fighting for electoral reform legislation is too narrow without the Constitution behind these efforts. Adding an amendment could help shape a new civil rights movement to work toward fully implementing universal suffrage. Our human rights in America are defined by our Constitution. The right to vote, and to have one's vote counted, is as fundamental a right as we have in a democracy. We must recognize that something is amiss when we are constitutionally given the right to a gun but not to vote. As a nation, we need to embrace the very meaning of democracy and inscribe our voting rights into our Constitution. This will give us a foundation from which to remedy our voting inequalities in order to equalize the voting process and guarantee that every vote really does count. Only then will we have a government of, by, and for the people—all of the people. Questions contained in this section are chosen by our staff to address a particular topic as it relates to our work at the institute. If you have a question you would like to

submit for consideration, please e-mail **QandA@kirwaninstitute.org**.

# Post Doctoral Fellowship Program

# Kirwan Institute for the Study of Race and Ethnicity

he Kirwan Institute for the Study of Race and Ethnicity is a university-wide interdisciplinary research institute. Established in 2002, its goal is to deepen our understanding of the causes of and solutions to racial and ethnic disparities and hierarchies and to support policy changes to address these issues. This includes an explicit focus on Ohio and the United States, but also the Americas as a whole and our larger global community. The institute explores and illustrates both our diversity and common humanity with a strong commitment to justice and fairness structurally and individually.

Academic qualification for the fellow position is a doctorate degree. In addition to academic qualifications, the fellow must demonstrate understanding of the institute's mission to alleviate problems created at the intersection of race and ethnicity and possess relevant research and writing skills. Preferred qualifications include evidence of initiative in seeking out and pursuing actions to accomplish goals and objectives as well as the ability to work as a member of a team and independently, accomplish timelines, handle multiple work assignments, and demonstrate commitment to high quality performance. The fellow's workload will be approximately:

- 35% new and ongoing research and writing for publications
- 15% coordinating institute programs, projects, and events
- 15% directing the work of research associates and interns
- 15% representing the institute to constituents, policy makers, and the general public
- 10% management tasks related to institute operations
- 10% special assignments

Appointment is for one to two years. The fellowship will work under the supervision of the executive director. Many initiatives will be team events, where the fellow will be expected to lead and contribute as an active team member. Where appropriate, the fellow will also consult with members of the advisory board, project working groups, individual consults, and community/policy leaders.

Position(s) may be full time with an annual equivalent salary based on education/ experience plus applicable fringe benefits. For more information, please e-mail Tara I. McCoy at mccoy.266@osu.edu.

# Kirwan Institute Small Grant Program

In the spirit of promoting research and knowledge in the many variables of race and ethnicity, the Kirwan Institute for the Study of Race and Ethnicity has incorporated a small grants program for Ohio State faculty and students. The program supports work focused on marginalized racial and ethnic groups in the United States and abroad. The award may be used for research, convenings, travel, and other appropriate purposes determined within the discretion of the review committee. There will be a balance of awards made to junior pre-tenure and senior faculty, as well as work in Ohio, the United States, and the international community.

All proposals are reviewed by a committee consisting of members from the Ohio State University faculty along with the director of the Kirwan Institute. For more information, please visit our web site at **kirwaninstitute.org**.

#### Footnotes

- <sup>2</sup> See generally www.wsws.org/articles/2001apr2001/flor-a09.shtml (for an excellent analysis of the parallels between historical voting rights struggles and the current obstacles).
- <sup>3</sup> U.S. Commission on Civil Rights, *Election Readiness Briefing Paper*, (2004) at www.usccr.gov/pubs/pubsndx.htm.
- Greg Palast, *The Best Democracy Money Can Buy*, 37 (2002). Florida's Gadsden County has the highest percentage of black voters in the state—and the highest spoilage rate. One in eight votes cast there in 2000 was never counted. Many voters wrote in "Al Gore." Optical reading machines rejected these because "Al" is a "stray mark." By contrast, in neighboring Tallahassee, the capital, vote spoilage was nearly zip; every vote counted. In Tallahassee's white- majority county, voters placed their ballots directly into optical scanners. If they added a stray mark, they received another ballot with instructions to correct it.
- See moritzlaw.osu.edu/electionlaw/eligibility\_rules01.html for an overview of the legal framework.
- <sup>6</sup> See moritzlaw.osu.edu/electionlaw/eligibility\_felon.html.
- <sup>7</sup> See www.sentencingproject.org/issues\_03.cfm.
- 8 §§ 2961.01, 3503.21
- <sup>9</sup> U.S. Commission on Civil Rights, *Voting Irregularities in Florida During the 2000 Presidential Election*, (2002), at www.usccr.gov/pubs/vote2000/report/ch9.htm.
- 10 § 3503.16 (B)(1)
- 11 § 3503.16 (C)
- 12 §§ 3503.16 (B)(2), (G)
- 13 §§ 3503.16 (C), (G)
- 14 O.R.C. § 3505.18
- 15 § 3505.23
- <sup>16</sup> john a. powell, Ruth D. Peterson, Lauren J. Krivo, Paul E. Bellair, and Kecia Johnson. The Impact of Mass Incarceration on Crime on Columbus, OH (2004).
- Whitby, Kenny. (1997). The Color of Representation: Congressional Behavior and Black Interests. Ann Arbor, MI: University of Michigan Press.
- <sup>18</sup> In an at large election, candidates run in larger geographical areas, for example county-wide rather than in separate, smaller districts; the winner then represents the entire county. Particularly in the South, white voters were often the majority, typically electing only whites and therefore negating the black vote. With the passage of the Voting Rights Act, southern cities, counties, and states were ordered to divide at-large districts into smaller, separate districts.
- 19 www.aclu.org/VotingRights/VotingRightsMain.cfm.
- <sup>20</sup> Universal suffrage. In Wikipedia, the Free Encyclopedia. en.wikipedia.org/wiki/universal\_suffrage
- <sup>21</sup> Keyssar, Alexander. (2003). "Shoring Up the Right to Vote for President: A Modest Proposal." Political Science Quarterly, 118 (2), 181-190. www.psqonline.org.
- <sup>22</sup> Bush vs. Gore, 531 U.S. 98, 104 (2000).
- <sup>23</sup> Capitol Hill Press Releases, April 2, 2004. "Fighting for a 'Right to Vote' Constitutional Amendment: Resurrecting Dr. King's Dream and Completing the Nation's Unfinished Business." Harvard University speech by the Rev. Jesse L. Jackson, Saturday, April 3, 2004.
- <sup>24</sup> web.mit.edu/newsoffice/nr/2001/voting2.html.
- <sup>25</sup> Alexander vs. Daley, on appeal sub non Alexander vs. Mineta, No. 99-2062. (2000).
- <sup>26</sup> Milchen, J. (Sept. 2001). A Missing Foundation for Democracy: The Right to Vote. ReclaimDemocracy.org, www.reclaimedmocracy.org/political\_reform/right\_to\_Vote.html.
- <sup>27</sup> Capitol Hill Press Releases, April 2, 2004. "Fighting for a 'Right To Vote' Constitutional Amendment: Resurrecting Dr. King's Dream and Completing the Nation's Unfinished Business." Harvard University speech by the Rev. Jesse L. Jackson Saturday, April 3, 2004.
- <sup>28</sup> Press release. (March 5, 2003). "Jackson Introduces Constitutional Amendments." www.jessejacksonjr.com/issues/i0303056616.html.

## **New Staff Members**



#### **Barbara Carter**

Barbara Carter is an office associate at the Kirwan Institute. She previously worked for Franklin County Jobs and Family Services in the finance department. She also works part time for Amethyst, Inc., a nonprofit social service agency. She is an avid reader and

loves watching movies in her spare time.



## Julie Nielsen

Julie Nielsen is a development officer at the Kirwan Institute. She spent the previous five years at the Institute on Race and Poverty at the University of Minnesota Law School, where she directed the organization's development and administrative efforts and

served as interim director during its recent leadership transition. Nielsen's previous experiences include working with American Indian students and their families in public schools, serving on numerous public school advisory committees, and evaluating initiatives aimed at improving outcomes for low-income students and students of color. She recently co-authored a chapter on cultural competence in *New Directions for Evaluation* (summer 2004). Nielsen is currently working on her Ph.D. in educational policy and administration, with an emphasis on evaluation studies and policy research from the University of Minnesota.



# Thomas L. Rudd

Thomas L. Rudd will serve as a senior researcher for Kirwan Institute beginning October 2004. A native of White Plains, N.Y., Rudd received a bachelor of science in sociology and a master of science in higher education, student affairs, from Iowa State

University where he served as graduate assistant for Minority Student Affairs in the Office of the Dean of Students. He has pursued doctoral study in educational policy and leadership at The Ohio State University. Rudd comes to the Kirwan Institute from the professional staff of the Ohio Board of Regents where he directed the department of state grants and scholarships and most recently served as director of student financial access in the division of educational linkages and access. In 2002, Rudd developed "The Access Pathway," a research-based conceptual model that identifies and analyzes the system resources needed to transport an individual successfully from preschool through high school, into college and the world of work. The Access Pathway Model can be viewed at www.ohioaccess.org. Rudd is married and has three children. His wife, Dr. Nancy A. Rudd, is an associate professor in the College of Human Ecology at The Ohio State University, and two of his children are currently enrolled at Ohio State.



# Dr. Wendy G. Smooth

In addition to her work at the Kirwan Institute, Dr. Wendy G. Smooth also holds an appointment as an assistant professor of public policy in the Department of Women's Studies. Smooth conducts research and teaches in the field of American public policy with

specialties in women and politics, racial politics, and state and local politics and policy. Currently, she is working on her first book, entitled *Perceptions of Power and Influence: The Impact of Race and Gender on Legislative Influence*, which focuses on African American women elected to state legislatures across the country and examines the conditions under which they are most effective in representing their communities. Smooth argues that the race and gender of a legislature and these perceptions ultimately shape the policy outputs of state legislatures.

Prior to joining the faculty of Ohio State, Smooth was a member of the political science department faculty at the University of Nebraska-Lincoln, served as senior research associate at the Center for Women Policy Studies in Washington, D.C., and worked for the Maryland Legislative Black Caucus.

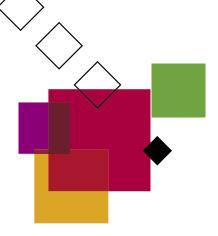
After earning her bachelor of science degree in political science from Xavier University of Louisiana, Smooth went on to earn both her master's of science and doctorate degrees in government and politics from the University of Maryland in College Park, Maryland.



## Dr. Ming Shi Trammel

Dr. Ming Shi Trammel is a senior researcher at the Kirwan Institute. A native of Bronx, N.Y., she received her doctorate in educational psychology from Howard University. Her research interests include the socio-emotional and academic development

of African American girls, the impact of religiosity and fatherhood on youth development, and the effects of out-of-school time on the academic achievement of minority youth. Trammel has participated as a research fellow at the Forum for Youth Investment, American Youth Policy Forum, and Columbia University. In addition to her fellowship experiences, she has taught graduate courses in psychology and multicultural counseling. Her most recent published work is entitled, *Finding Fortune in 13 Out-of-School Time Programs*.



#### **Book Review**



## Marguerite Spencer, Senior Researcher

Whitewashing Race: The Myth of a Color-Blind Society Michael K. Brown, Martin Carnoy, Elliott Currie, Troy Duster, David B. Oppenheimer, Marjorie M. Shultz, and David Wellman Berkeley: University of California Press (2003)

merica is divided over the legacy of the civil rights movement and the meaning of race. According to a

group labeled "racial realists," America has made great progress in rectifying racial injustice in the past 35 years. To them, the civil rights revolution was successful in eradicating racism. What vestiges of racial inequalities remain are linked not to white racism but to the moral and cultural failure of lethargic blacks to take advantage of opportunities created by this revolution (1). If it wasn't for black hopelessness/ helplessness, the identity politics of black nationalists and the misguided

advocacy of white liberals, race would virtually disappear as a political and social issue (8). Nonetheless, racial realists claim that the United States is rapidly becoming a color-blind society with little need or justification for affirmative action or race-conscious policies (2).

The purpose of *Whitewashing Racism: The* Myth of a Color-Blind Society is to expose the flaws of racial reasoning. Its authors utilize an interdisciplinary, collaborative approach to derail the movement and propose a theory that focuses on eliminating cumulative and durable racial inequalities (32). They argue that whites have "hoarded" and accumulated opportunities, while blacks and other racial groups have disaccumulated them. As they write, "[o]nly when the diverging fates of black and white Americans are considered together-within the same analytic framework—will it be possible to move beyond the current stale debate over how to transform the American color line" (22). While they concede from the outset that they are limiting their focus to blacks

and whites, they do so, not to diminish the racialized situations of nonwhites, but because whiteness in this nation has always been measured by its social distance from blackness (x).

Drawing upon both liberal works such as Jim Sleeper's Liberal Racism (1997), as well as conservative ones such as Dinesh D'Souza's The End of Racism (1995), Tamar Jacoby's Someone Else's House (1998), Shelby Steele's A Dream Deferred (1999), and Stephen and Abigail Thernstrom's America in Black and White: One Nation Indivisible (1997), the authors delineate the emergence of racial realism from the backlash against the Great Society through the Reagan-Bush revolution and on into the present day (1). These works give realism an "appearance of scholarly heft and intellectual legitimacy" and draw upon principles like fairness to attract support from the general public (5), but their accounts are largely individualistic and ahistorical. They focus primarily on the specific intentions and choices of individuals rather than on the collective actions of groups, the role of intermediary institutions and the cumulative effects of inequalities (17). Rather, the authors of Whitewashing Racism argue, racism is best described as "a sense of group position based on the accumulation of racial advantage" (32).

In the body of their book, the authors examine the persistence of inequality in labor markets, education, the criminal justice system, and politics, drawing very different conclusions than do racial realists (65). For example, diverging white and black economic fortunes during and after World War II were not simply the result of individual triumphs and failures but were constructed by federal housing policies, veterans' readjustment benefits, tax write-offs, and other forms of social protection provided whites (79). Unlike realists claim, the educational advancement of blacks following the civil rights movement did not ensure equality in the market. Although

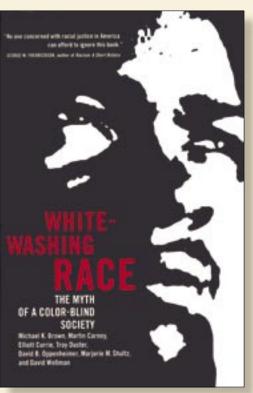
much progress was made in the '50s and '60s, by 1980 college-educated black workers were once again at a distinct disadvantage (80).

While education is touted by realists as the means to escape poverty and racial inequality, expanding opportunities through affirmative measures is anathematized. According to realists, the main reason black wages and income lag behind those of whites is that their cognitive abilities are weak. If black students do not merit admission to colleges and their numbers drop, so be it (104). What realists refuse to acknowledge, however, is that by reducing black and Latino access to higher education in a global and high-tech economy, there will only be increased social costs in the future (130).

Disparities in the criminal justice system reflect these increased social costs. While racial realists draw upon studies from the '70s and '80s, which conclude that race was not important in shaping offenders' trajectories in the system, the authors utilize more recent research suggesting that discrimination still operates prior to, during, and after arrests

(140). Finally, the authors closely examine affirmative action in employment and voting rights, making the claim that the continued use of civil rights law does not betray a color-blind principle as racial realists cry (163) but is necessary to "make America what America must become" as James Baldwin argues (251).

Unfortunately, white Americans of good will fail to acknowledge durable racial inequality or too quickly accept the individual explanation when inequality is brought into view. This is not surprising, given our individualist culture that fails to examine institutions, as well as our understanding of racism as a process located in individuals. Racial realists remind us repeatedly that the color line of the Jim Crow era has been apparently erased, while ignoring non-psychological forms of racism (224). For them, explanations of racial disparities rely upon retooled biological explanations, or no less pejorative claims of cultural and behavioral deficits (225). But race matters for different reasons. As the authors so aptly put it, "[i]f we are to face up to race instead of whitewashing it, we must begin by acknowledging a fundamental reality: Race is a



#### **Book Review** (continued)

relationship, not a set of characteristics that one can ascribe to one group or another" (228). It is a system of power and exclusion that disempowers black and Latino communities with little chance for them to accumulate opportunities.

The authors conclude by outlining some tasks for challenging today's racism. First, they call for a change in public discourse, moving away from our color-blind versus color-conscious debate to candid deliberation on how to remedy our racialized arrangements (228). Second, they set out principles for social action and examples of specific policies aimed at increasing the ability of individuals and communities to accumulate economic resources (229). Although the authors do not wish to be alarmist, they do wish to call readers to pay attention to the changing nature of racial hierarchy and the role of institutional arrangements. Despite the racial realists' attempt at lulling us into a color-blind position, the struggle is not yet over. As Dr. Martin Luther King, Jr. observes,

[t]he black revolution is much more than a struggle for the rights of Negroes. It is forcing America to face all its interrelated flaws—racism, poverty, militarism, and materialism. It is exposing evils that are rooted deeply in the whole structure of our society. It reveals systemic rather than superficial flaws and suggests that radical reconstruction of society itself is the real issue to be faced.

By dispelling the myths of racial realism, the authors of *Whitewashing Racism* propel us forward in this transformative effort.



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For questions or comments about this publication, please contact Kirwan UPdate editor, Mellody Parchia, at (614) 292-2634 or by e-mail at parchia.1@osu.edu.

# **UPcoming Events**

# The Kirwan Institute October 19, 2004

The Kirwan Institute, College of Humanities, Moritz College of Law, and College of Social and Behavioral Sciences will host the Kirwan Racial Equity Colloquium, featuring Georgetown University Law Professor Sheryll D. Cashin, author of *The Failures* of Integration: How Race and Class Are



*Undermining the American Dream.* For more information, please call (614) 292-2634 or visit our web site at **kirwaninstitute.org**.

# Fund for an OPEN Society

*Building Blocks for Inclusive Communities* national conference October 21 – 23, 2004

A national conference on creating communities of choice for all people: racially and ethnically integrated, economically thriving, with excellent schools for all children. *Building Blocks for Inclusive Communities*, "provides the opportunity for community leaders, fair housing advocates, elected officials, school administrators and school/community liaisons, human relations specialists, and lenders—in short, everyone with a stake in healthy, diverse communities—to share best practices, learn from the latest research, and build personal networks." For more information, call (215) 546-0511 or visit www.opensoc.org.

#### **Gamaliel Foundation**

Rolling Thunder meeting dates and locations in Ohio. See page 3 for more information or visit **www.gamaliel.org**.

September 30...... Cincinnati October 9...... Cleveland October 10....... Youngstown

# The John Glenn Institute

The John Glenn Institute will be presenting a lecture in the series Odyssey 2000+ New Issues for a New Century with Wendy Kopp, the founder and director of Teach for America. Kopp's senior thesis project as a Princeton University student has developed into a program that has impacted over 1.75 million students.

Wendy Kopp Thursday, October 7 4 p.m.

Weigel Hall

Free and open to the public Reserved seating required Please call (614) 688-3206, ext. 1 or e-mail glennininstitute@admin.ohio-state.edu by October 1.

For more information about this lecture or the John Glenn Institute, please visit **www.glenninstitute.org**.