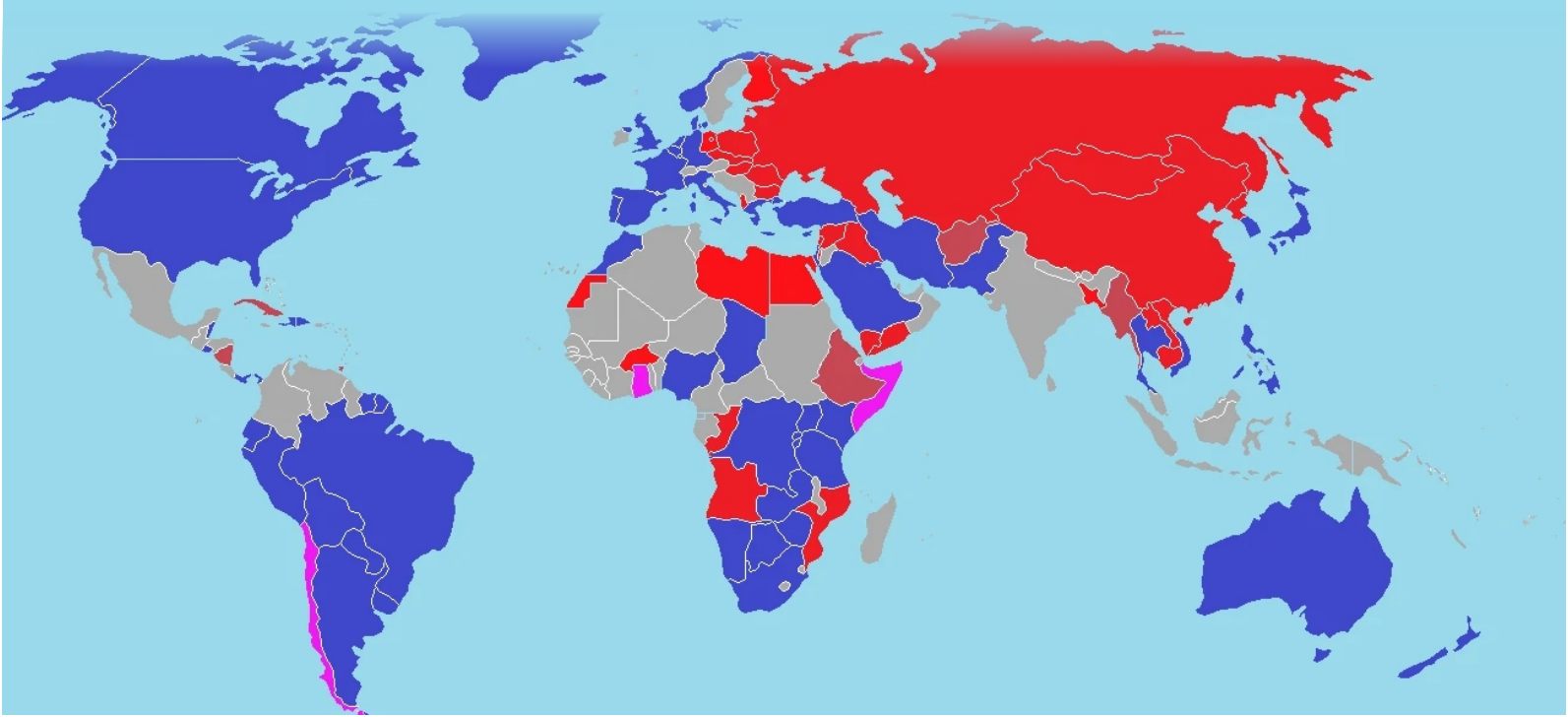


Encyclopedia of Western Countries 1945–1980

Volume 1

Edgar Hamilton



**ENCYCLOPEDIA OF
WESTERN COUNTRIES
1945-1980
VOLUME 1**

**ENCYCLOPEDIA OF
WESTERN COUNTRIES
1945–1980
VOLUME 1**

Edgar Hamilton



Encyclopedia of Western Countries: 1945–1980, Volume 1
by Edgar Hamilton

Copyright© 2022 BIBLIOTEX

www.bibliotex.com

All rights reserved. No part of this book may be reproduced or used in any manner without the prior written permission of the copyright owner, except for the use brief quotations in a book review.

To request permissions, contact the publisher at info@bibliotex.com

Ebook ISBN: 9781984668592



Published by:

Bibliotex

Canada

Website: www.bibliotex.com

Contents

Chapter 1	Sexual Revolution.....	1
Chapter 2	Middle Class—North America: 1945–1980	24
Chapter 3	Civil Rights Act of 1964—North America: 1945–1980.....	36
Chapter 4	Voting Rights Act of 1965.....	67
Chapter 5	Vietnam War	120

Chapter 1

Sexual Revolution

The **sexual revolution**, also known as a time of **sexual liberation**, was a social movement that challenged traditional codes of behavior related to sexuality and interpersonal relationships throughout the United States and the developed world from the 1960s to the 1980s. Sexual liberation included increased acceptance of sex outside of traditional heterosexual, monogamous relationships (primarily marriage). The normalization of contraception and the pill, public nudity, pornography, premarital sex, homosexuality, masturbation, alternative forms of sexuality, and the legalization of abortion all followed.

Previous sexual revolutions

Several other periods in Western culture have been called the "first sexual revolution", to which the 1960s revolution would be the second (or later). The term "sexual revolution" itself has been used since at least the late 1920s. The term appeared as early as 1929; the book *Is Sex Necessary? Or, Why You Feel the Way You Do* by James Thurber and E. B. White, has a chapter titled "The Sexual Revolution: Being a Rather Complete Survey of the Entire Sexual Scene". According to Konstantin Dushenko, the term was in use in Russia in 1925.

When speaking of the sexual revolution, historians make a distinction between the first and the second sexual revolution.

In the first sexual revolution (1870–1910), Victorian morality lost its universal appeal. However, it did not lead to the rise of a "permissive society". Exemplary for this period is the rise and differentiation in forms of regulating sexuality.

Classics professor Kyle Harper uses the phrase "first sexual revolution" to refer to the displacement of the norms of sexuality in Ancient Rome with those of Christianity as it was adopted throughout the Roman Empire. Romans accepted and legalized prostitution, bisexuality, and pederasty. Male promiscuity was considered normal and healthy as long as masculinity was maintained, associated with being the penetrating partner. On the other hand, female chastity was required for respectable women, to ensure the integrity of family bloodlines. These attitudes were replaced by Christian prohibitions on homosexual acts and any sex outside marriage (including with slaves and prostitutes).

History professor Faramerz Dabhoiwala cites the Age of Enlightenment—approximately the 18th century—as a major period of transition in the United Kingdom. During this time, the philosophy of liberalism developed and was popularized, and migration to cities increased opportunities for sex and made enforcement of rules more difficult than in small villages. Sexual misconduct in the Catholic Church (called the "Whore of Babylon" by some Protestant critics) undermined the credibility of religious authorities, and the rise of urban police forces helped distinguish crime from sin. Overall, toleration increased for heterosexual sex outside marriage, including prostitution, mistresses, and pre-marital sex. Though these acts were still condemned by many as libertine, infidelity became more often a civil matter than a criminal offense

receiving capital punishment. The rate of out-of-wedlock births went from about 1% in 1650 to about 25% in 1800, with about 40% of brides being pregnant. Masturbation, homosexuality, and rape were generally less tolerated. Women went from being considered as lustful as men to passive partners, whose purity was important to reputation.

Commentators such as history professor Kevin F. White have used the phrase "first sexual revolution" to refer to the Roaring Twenties. Victorian Era attitudes were somewhat destabilized by World War I and alcohol prohibition in the United States. At the same time the women's suffrage movement obtained voting rights, the subculture of the flapper girl included pre-marital sex and "petting parties".

Formative factors

Indicators of non-traditional sexual behavior (e.g., gonorrhea incidence, births out of wedlock, and births to teenagers) began to rise dramatically in the mid to late 1950s. It brought about profound shifts in attitudes toward women's sexuality, homosexuality, pre-marital sexuality, and the freedom of sexual expression.

Psychologists and scientists such as Wilhelm Reich and Alfred Kinsey influenced the changes. As well, changing mores were both stimulated by and reflected in literature and films, and by the social movements of the period, including the counterculture, the women's movement, and the gay rights movement. The counterculture contributed to the awareness of

radical cultural change that was the social matrix of the sexual revolution.

The sexual revolution was initiated by those who shared a belief in the detrimental impact of sexual repression, a view that had previously been argued by Wilhelm Reich, D. H. Lawrence, Sigmund Freud, and the Surrealist movement.

The counterculture wanted to explore the body and mind, and free the personal self from the moral and legal sexual confines of modern America, as well as from the 1940s-50s morals in general. The sexual revolution of the 1960s grew from a conviction that the erotic should be celebrated as a normal part of life and not repressed by family, industrialized sexual morality, religion and the state.

The development of the birth control pill in 1960 gave women access to easy and reliable contraception. Another likely cause was a vast improvement in obstetrics, greatly reducing the number of women who died due to childbearing, thus increasing the life expectancy of women. A third, more indirect cause was the large number of children born in the 1940s and early 1950s all over the western world—the "Baby Boom Generation"—many of whom would grow up in relatively prosperous and safe conditions, within a middle class on the rise and with better access to education and entertainment than ever before. By their demographic weight and their social and educational background, they came to trigger a shift in society towards more permissive and informalized attitudes.

The discovery of penicillin led to significant reductions in syphilis mortality, which, in turn, spurred an increase in non-traditional sex during the mid to late 1950s.

There was an increase in sexual encounters between unmarried adults. Divorce rates were dramatically increasing and marriage rates were significantly decreasing in this time period. The number of unmarried Americans aged twenty to twenty-four more than doubled from 4.3 million in 1960 to 9.7 million in 1976. Men and women sought to reshape marriage by instilling new institutions of open marriage, mate swapping, swinging, and communal sex.

The Freudian school

Sigmund Freud of Vienna believed human behavior was motivated by unconscious drives, primarily by the libido or "Sexual Energy". Freud proposed to study how these unconscious drives were repressed and found expression through other cultural outlets. He called this therapy "psychoanalysis".

While Freud's ideas were sometimes ignored or provoked resistance within Viennese society, his ideas soon entered the discussions and working methods of anthropologists, artists and writers all over Europe, and from the 1920s in the United States. His conception of a primary sexual drive that would not be ultimately curbed by law, education or standards of decorum spelled a serious challenge to Victorian prudishness, and his theory of psychosexual development proposed a model for the development of sexual orientations and desires; children emerged from the Oedipus complex, a sexual desire towards their parent of the opposite sex. The idea of children having their parents as their early sexual targets were particularly shocking to Victorian and early 20th-century society.

According to Freud's theory, in the earliest stage of a child's psychosexual development, the oral stage, the mother's breast became the formative source of all later erotic sensation. Much of his research remains widely contested by professionals in the field, though it has spurred critical developments in the humanities.

Anarchist Freud scholars Otto Gross and Wilhelm Reich (who famously coined the phrase "Sexual Revolution") developed a sociology of sex in the 1910s to 1930s in which the animal-like competitive reproductive behavior was seen as a legacy of ancestral human evolution reflecting in every social relation, as per the Freudian interpretation, and hence the liberation of sexual behavior a mean to social revolution.

The role of mass media

Mead's Coming of Age in Samoa

The 1928 publication of anthropologist Margaret Mead's *Coming of Age in Samoa* brought the sexual revolution to the public scene, as her thoughts concerning sexual freedom pervaded academia. Mead's ethnography focused on the psychosexual development of adolescents in Samoa. She recorded that their adolescence was not, in fact, a time of "storm and stress" as Erikson's stages of development suggest, but that the sexual freedom experienced by the adolescents actually permitted them an easy transition from childhood to adulthood. Mead called for a change in the suppression of sexuality in America, and her work directly resulted in the advancement of the sexual revolution in the 1930s.

Mead's findings were later criticized by anthropologist Derek Freeman, who investigated her claims of promiscuity and conducted his own ethnography of Samoan society.

Kinsey and Masters and Johnson

In the late 1940s and early 1950s, Alfred C. Kinsey published two surveys of modern sexual behavior. In 1948 Alfred C. Kinsey and his co-workers, responding to a request by female students at Indiana University for more information on human sexual behavior, published the book *Sexual behavior in the Human Male*. They followed this five years later with *Sexual behavior in the Human Female*. These books began a revolution in social awareness of, and public attention given to, human sexuality.

It is said that public morality severely restricted open discussion of sexuality as a human characteristic, and specific sexual practices, especially sexual behaviors that did not lead to procreation. Kinsey's books contained studies about controversial topics such as the frequency of homosexuality, and the sexuality of minors aged two weeks to fourteen years. Scientists working for Kinsey reported data that led to the conclusion that people are capable of sexual stimulation from birth. Furthermore, Kinsey's method of researching sexuality differs significantly from today's methods. Kinsey would watch his research subjects engage in sexual intercourse, sometimes engaging with his subjects as well. He would also encourage his research team to do the same, and encouraged them to engage in intercourse with him, too.

These books laid the groundwork for Masters and Johnson's life work. A study called *Human Sexual Response* in 1966 revealed the nature and scope of the sexual practices of young Americans.

The Playboy culture

In 1953, Chicago resident Hugh Hefner founded *Playboy*, a magazine which aimed to target males between the ages of 21 and 45. The coverpage and nude centerfold in the first edition featured Marilyn Monroe, then a rising sex symbol. Featuring cartoons, interviews, short fiction, Hefner's "Playboy Philosophy" and unclothed female "Playmates" posing provocatively, the magazine became immensely successful.

In 1960, Hefner expanded Playboy Enterprises, opening the first Playboy Club in Chicago, which grew to a chain of nightclubs and resorts. The private clubs offered relaxation for members, who were waited on by Playboy Bunnies.

While Hefner claimed his company contributed to America's more liberal attitude towards sex, others believe he simply exploited it.

Erotic novels

In the United States in the years 1959 through 1966, bans on three books with explicit erotic content were challenged and overturned. This also occurred in the United Kingdom starting with the 1959 Obscene Publications Act and reaching a peak with the LCL court case.

Prior to this time, a patchwork of regulations (as well as local customs and vigilante actions) governed what could and could not be published. For example, the United States Customs Service banned James Joyce's *Ulysses* by refusing to allow it to be imported into the United States. The Roman Catholic Church's *Index Librorum Prohibitorum* carried great weight among Catholics and amounted to an effective and instant boycott of any book appearing on it. Boston's Watch and Ward Society, a largely Protestant creation inspired by Anthony Comstock, made "banned in Boston" a national by-word.

In 1959 Grove Press published an unexpurgated version of the 1928 novel *Lady Chatterley's Lover* by D. H. Lawrence. The U.S. Post Office confiscated copies sent through the mail. Lawyer Charles Rembar sued the New York City Postmaster, and won in New York and then on federal appeal.

Henry Miller's 1934 novel, *Tropic of Cancer*, had explicit sexual passages and could not be published in the United States; an edition was printed by the Obelisk Press in Paris and copies were smuggled into the United States. In 1961 Grove Press issued a copy of the work, and dozens of booksellers were sued for selling it. The issue was ultimately settled by the U.S. Supreme Court's 1964 decision in *Grove Press, Inc. v. Gerstein*.

In 1963 Putnam published John Cleland's 1750 novel *Fanny Hill*. Charles Rembar appealed a restraining order against it all the way to the U.S. Supreme Court and won. In *Memoirs v. Massachusetts*, 383 U.S. 413, the court ruled that sex was "a great and mysterious motive force in human life", and that its expression in literature was protected by the First Amendment.

By permitting the publication of *Fanny Hill*, the U.S. Supreme Court set the bar for any ban so high that Rembar himself called the 1966 decision "the end of obscenity". Only books primarily appealing to "prurient interest" could be banned. In a famous phrase, the court said that obscenity is "utterly without redeeming social importance"—meaning that, conversely, a work with any redeeming social importance or literary merit was arguably not obscene, even if it contained isolated passages that could "deprave and corrupt" some readers.

Nonfiction

The court decisions that legalized the publication of *Fanny Hill* had an even more important effect: freed from fears of legal action, nonfiction works about sex and sexuality started to appear more often. These books were factual and in fact, educational, made available in mainstream bookstores and mail-order book clubs to a mainstream readership, and their authors were guests on late-night talk shows. Earlier books such as *What Every Girl Should Know* (Margaret Sanger, 1920) and *A Marriage Manual* (Hannah and Abraham Stone, 1939) had broken the silence and, by the 1950s, in the United States, it had become rare for women to go into their wedding nights not knowing what to expect.

The open discussion of sex as pleasure, and descriptions of sexual practices and techniques, was revolutionary. There were practices which, perhaps, some had heard of. But many adults did not know for sure whether they were realities, or fantasies found only in pornographic books. The Kinsey report revealed that these practices were, at the very least, surprisingly

frequent. These other books asserted, in the words of a 1980 book by Dr. Irene Kassorla, that *Nice Girls Do — And Now You Can Too*.

In 1962, Helen Gurley Brown published *Sex and the Single Girl: The Unmarried Woman's Guide to Men, Careers, the Apartment, Diet, Fashion, Money and Men*.

In 1969 Joan Garrity, identifying herself only as "J.", published *The Way to Become the Sensuous Woman*, with information on exercises to improve the dexterity of one's tongue and how to have anal sex.

The same year saw the appearance of Dr. David Reuben's book *Everything You Always Wanted to Know About Sex* (*But Were Afraid to Ask)*. Despite the dignity of Reuben's medical credentials, this book was light-hearted in tone.

In 1970 the Boston Women's Health Collective published *Women and Their Bodies*, reissued a year later as *Our Bodies, Ourselves*). Though not an erotic treatise or sex manual, the book included frank descriptions of sexuality, and contained illustrations that could have caused legal problems just a few years earlier.

Alex Comfort's *The Joy of Sex: A Gourmet Guide to Love Making* appeared in 1972. In later editions, Comfort's exuberance was tamed in response to AIDS.

In 1975 Will McBride's *Zeig Mal! (Show Me!)*, written with psychologist Helga Fleischhauer-Hardt for children and their parents, appeared in bookstores on both sides of the Atlantic. Appreciated by many parents for its frank depiction of pre-

adolescent sexual discovery and exploration, it scandalized others and was pulled from circulation in the United States and some other countries. The book was followed in 1989 by *Zeig Mal Mehr!* ("Show Me More!").

Pornographic film

In 1969, *Blue Movie*, directed by Andy Warhol, was the first adult erotic film depicting explicit sex to receive wide theatrical release in the United States. The film helped inaugurate the "porno chic" phenomenon in modern American culture. According to Warhol, *Blue Movie* was a major influence in the making of *Last Tango in Paris*, starring Marlon Brando, and released a few years after *Blue Movie* was made.

In 1970, *Mona the Virgin Nymph* became the second film to gain wide release. The third, *Deep Throat*, despite being rudimentary by the standards of mainstream filmmaking, achieved major box office success, following mentions by Johnny Carson on *The Tonight Show*, and Bob Hope on television as well. In 1973, the far-more-accomplished (though still low-budget) *The Devil in Miss Jones* was the seventh-most-successful film of the year, and was well received by major media, including a favorable review by film critic Roger Ebert.

In 1976, *The Opening of Misty Beethoven* (based on the play *Pygmalion* by George Bernard Shaw) was released theatrically and is considered by Toni Bentley the "crown jewel" of "the golden age of porn."

By the mid-1970s and through the 1980s, newly won sexual freedoms were being exploited by big businesses looking to

capitalize on an increasingly permissive society, with the advent of public and hardcore pornography.

Explicit sex on screen and stage

Swedish filmmakers like Ingmar Bergman and Vilgot Sjöman contributed to sexual liberation with sexually themed films that challenged conservative international standards. The 1951 film *Hon dansade en sommar* (*She Danced One Summer AKA One Summer of Happiness*) displayed explicit nudity, including bathing in a lake.

This film, as well as Bergman's *Sommaren med Monika* (*The Summer with Monika*, 1951) and *Tystnaden* (*The Silence*, 1963), caused an international uproar, not least in the United States, where the films were charged with violating standards of decency. Vilgot Sjöman's film *I Am Curious (Yellow)*, also was very popular in the United States. Another of his films, *491*, highlighted homosexuality. *Kärlekens språk* (*The Language of Love*) was an informative documentary about sex and sexual techniques that featured the first real act of sex in a mainstream film.

From these films, the myth of "Swedish sin" (licentiousness and seductive nudity) arose. The image of "hot love and cold people" emerged, with sexual liberalism seen as part of the modernization process that, by breaking down traditional borders, would lead to the emancipation of natural forces and desires. In Sweden and nearby countries at the time, these films, by virtue of being made by directors who had established themselves as leading names in their generation, helped delegitimize the idea of habitually demanding that films should

avoid overtly sexual subject matter. The films eventually progressed the public's attitude toward sex, especially in Sweden and other northern European countries, which today tend to be more sexually liberal than others.

Normalization of pornography

The somewhat more open and commercial circulation of pornography was a new phenomenon. Pornography operated as a form of "cultural critique" insofar as it transgresses societal conventions. Manuel Castells claims that the online communities, which emerged (from the 1980s) around early bulletin-board systems, originated from the ranks of those who had been part of the counterculture movements and alternative way of life emerging out of the sexual revolution.

Lynn Hunt points out that early modern "pornography" (18th century) is marked by a "preponderance of female narrators", that the women were portrayed as independent, determined, financially successful (though not always socially successful and recognized) and scornful of the new ideals of female virtue and domesticity, and not objectification of women's bodies as many view pornography today. The sexual revolution was not unprecedented in identifying sex as a site of political potential and social culture. It was suggested that the interchangeability of bodies within pornography had radical implications for gender differences and that they could lose their meaning or at least redefine the meaning of gender roles and norms.

In 1971 *Playboy* stopped airbrushing pubic hair out of its centerfold picture spreads; this new addition caused the magazine to hit its all-time peak circulation of more than seven

million copies in 1972 and men started having more choices when it came to magazines.

In 1972 *Deep Throat* became a popular movie for heterosexual couples. The movie played all over America and was the first porn movie to earn a gross of a million dollars.

Pornography was less stigmatized by the end of the 1980s, and more mainstream movies depicted sexual intercourse as entertainment. Magazines depicting nudity, such as the popular *Playboy* and *Penthouse* magazines, won some acceptance as mainstream journals, in which public figures felt safe expressing their fantasies.

Some figures in the feminist movement, such as Andrea Dworkin, challenged the depiction of women as objects in these pornographic or "urban men's" magazines. Other feminists such as Betty Dodson went on to found the pro-sex feminist movement in response to anti-pornography campaigns.

In India, an organization named Indians For Sexual Liberties is advocating the legalization of the porn business in India. The organization's founder, Laxman Singh, questioned the reasoning behind deeming as illegal the depiction of legal acts.

Modern revolutions

The Industrial Revolution during the nineteenth century and the growth of science and technology, medicine and health care, resulted in better contraceptives being manufactured. Advances in the manufacture and production of rubber made possible the design and production of condoms that could be

used by hundreds of millions of men and women to prevent pregnancy at little cost. Advances in chemistry, pharmacology, and biology, and human physiology led to the discovery and perfection of the first oral contraceptives, popularly known as "the Pill."

All these developments took place alongside and combined with an increase in the world literacy and a decline in religious observance. Old values such as the biblical notion of "be fruitful and multiply" were cast aside as people continued to feel alienated from the past and adopted the lifestyles of progressive modernizing cultures.

Another contribution that helped bring about this modern revolution of sexual freedom were the writings of Herbert Marcuse and Wilhelm Reich, who took the philosophy of Karl Marx and similar philosophers.

"No-fault" unilateral divorce became legal and easier to obtain in many countries during the 1960s, 1970s, and 1980s.

The women's movement redefined sexuality, not in terms of simply pleasing men but recognizing women's sexual satisfaction and sexual desire. *The Myth of the Vaginal Orgasm* (1970) by Anne Koedt illustrates an understanding of a women's sexual anatomy including evidence for the clitoral orgasm, arguing against Freud's "assumptions of women as inferior appendage to man, and her consequent social and psychological role." The women's movement was able to develop lesbian feminism, freedom from heterosexual act, and freedom from reproduction. Feminist Betty Friedan published the *Feminine Mystique* in 1963, concerning the many frustrations

women had with their lives and with separate spheres which established a pattern of inequality.

The Gay Rights Movement started when the Stonewall Riots of 1969 crystallized a broad grass-roots mobilization. New gay liberationist gave political meaning to "coming out" by extending the psychological-personal process into public life. During the 1950s the most feared thing of the homosexual culture was "coming out", the homosexual culture of the 1950s did everything they could to help keep their sexuality a secret from the public and everyone else in their lives, but Alfred Kinsey's research on homosexuality alleged that 39% of the unmarried male population had had at least one homosexual experience to orgasm between adolescence and old age.

Feminism and sexual liberation

Coinciding with second-wave feminism and the women's liberation movement initiated in the early 1960s, the sexual liberation movement was aided by feminist ideologues in their mutual struggle to challenge traditional ideas regarding female sexuality and queer sexuality. Elimination of undue favorable bias towards men and objectification of women as well as support for women's right to choose her sexual partners free of outside interference or judgment were three of the main goals associated with sexual liberation from the feminist perspective. Since during the early stages of feminism, women's liberation was often equated with sexual liberation rather than associated with it. Many feminist thinkers believed that assertion of the primacy of sexuality would be a major step towards the ultimate goal of women's liberation, thus women

were urged to initiate sexual advances, enjoy sex and experiment with new forms of sexuality.

The feminist movements insisted and focused on the sexual liberation for women, both physical and psychological. The pursuit of sexual pleasure for women was the core ideology, which subsequently was to set the foundation for female independence. Although whether or not sexual freedom should be a feminist issue is currently a much-debated topic, the feminist movement overtly defines itself as the movement for social, political, and economic equality of men and women. Feminist movements are also involved the fight against sexism and since sexism is a highly complex notion, it is difficult to separate the feminist critique toward sexism from its fight against sexual oppression.

The feminist movement has helped create a social climate in which LGBT people and women are increasingly able to be open and free with their sexuality, which enabled a spiritual liberation of sorts with regards to sex. Rather than being forced to hide their sexual desires or feelings, women and LGBT people have gained and continue to gain increased freedom in this area. Consequently, the feminist movement to end sexual oppression has and continues to directly contribute to the sexual liberation movement.

Nevertheless, among many feminists, the view soon became widely held that, thus far, the sexual freedoms gained in the sexual revolution of the 1960s, such as the decreasing emphasis on monogamy, had been largely gained by men at women's expense. In *Anticlimax: A Feminist Perspective on the Sexual Revolution*, Sheila Jeffreys asserted that the sexual

revolution on men's terms contributed less to women's freedom than to their continued oppression, an assertion that has both commanded respect and attracted intense criticism. In the late 1970s and early 1980s, feminist sex wars broke out due to disagreements on pornography, on prostitution, and on BDSM, as well as sexuality in general.

Contraception

As birth control became widely accessible, men and women began to have more choice in the matter of having children than ever before. The 1916 invention of thin, disposable latex condoms for men led to widespread affordable condoms by the 1930s; the demise of the Comstock laws in 1936 set the stage for the promotion of available effective contraceptives such as the diaphragm and cervical cap; the 1960s introduction of the IUD and oral contraceptives for women gave a sense of freedom from barrier contraception. The Catholic Church under Pope Paul VI (1968) published *Humanae vitae* (Of Human Life), which was a declaration that banned the use of artificial contraception. Churches allowed for the rhythm method, which was a natural method of regulating fertility that pushed men and women to take advantage of the "natural cycles" of female fertility, during which women were "naturally infertile." The opposition of Churches (e.g. *Humanae vitae*) led people who felt alienated from or not represented by religion to form parallel movements of secularization and exile from religion. Women gained much greater access to birth control in the *Griswold* "girls world" decision in 1965.

The 1965 Supreme Court case *Griswold v. Connecticut* ruled that the prohibition of contraception was unconstitutional on the grounds that it violated peoples' rights to marital privacy. In addition, in the 1960s and 1970s, the birth control movement advocated for the legalization of abortion and large scale education campaigns about contraception by governments. The *Griswold v. Connecticut* case and subsequent birth control movements created a precedent for later cases granting rights to birth control for unmarried couples (*Eisenstadt v. Baird*, 1972), rights to abortion for any woman (*Roe v. Wade*, 1973), and the right to contraception for juveniles (*Carey v. Population Services International*, 1977). The *Griswold* case was also influential in and cited as precedent for landmark cases dealing with the right to homosexual relations (*Lawrence v. Texas*, 2003) and the right to same-sex marriage (*Obergefell v. Hodges*, 2015).

Free love

Free love is a social movement that accepts all forms of love. The movement's initial goal was to separate the state from sexual matters such as marriage, birth control, and adultery. It stated that such issues were the concern of the people involved, and no one else.

Free love continued in different forms throughout the 1970s and into the early 1980s, but its more assertive manifestations ended abruptly (or at least disappeared from public view) in the mid-1980s when the public first became aware of AIDS, a deadly sexually-transmitted disease.

Non-marital sex

Premarital sex, heavily stigmatized for some time, became more widely accepted. The increased availability of birth control (and the legalization of abortion in some places) helped reduce the chance that pre-marital sex would result in unwanted children. By the mid-1970s the majority of newly married American couples had experienced sex before marriage.

Central to the change was the development of relationships between unmarried adults, which resulted in earlier sexual experimentation reinforced by a later age of marriage. On average, Americans were gaining sexual experience before entering into monogamous relationships. The increasing divorce rate and the decreasing stigma attached to divorce during this era also contributed to sexual experimentation. By 1971, more than 75% of Americans thought that premarital sex was acceptable, a threefold increase from the 1950s, and the number of unmarried Americans aged twenty to twenty-four more than doubled from 1960 to 1976. Americans were becoming less and less interested in getting married and settling down and as well less interested in monogamous relationships. In 1971, 35% of the country said they thought marriage was obsolete.

The idea of marriage being outdated came from the development of casual sex between Americans. With the development of the birth control pill and the legalization of abortion in 1973, there was little threat of unwanted children out of wedlock. Also, during this time every known sexually transmitted disease was readily treatable.

Swinger clubs were organizing in places ranging from the informal suburban home to disco-sized emporiums that offered a range of sexual possibilities with multiple partners. In New York City in 1977, Larry Levenson opened Plato's Retreat, which eventually shut down in 1985 under regular close scrutiny by public health authorities.

Legacy

Fraenkel (1992) believes that the "sexual revolution", which the West supposedly experienced in the late 1960s, is a misconception/misnomer, and that sex is never actually enjoyed freely as such, being rather *observed* in all fields of culture: a stance adopted toward human behavior referable to the concept of "repressive desublimation". According to this concept or interpretation (first evolved by Marxist philosopher Herbert Marcuse), the 'sexual revolution' would be an instance of a conservative force masquerading under the guise of liberation - a force sapping energies (here sexual) which would otherwise be available for a true social critique of a given behavior - and thus an impediment to any real political change which might emancipate the individual from "totalitarian democracy". (See also Bread and circuses, False consciousness and Frankfurt School). Put baldly, the pursuit of "sexual freedom" may be construed as a distraction from the pursuit of *actual* freedom.

Allyn argues that the sexual optimism of the 1960s waned with the economic crises of the 1970s, the massive commercialization of sex, increasing reports of child exploitation, disillusionment with the counter-culture and the

New Left, and a combined left-right backlash against sexual liberation as an ideal. The discovery of herpes escalated anxieties rapidly and set the stage for the nation's panicked response to AIDS.

Among radical feminists, the view soon became widely held that, thus far, the sexual freedoms gained in the sexual revolution of the 1960s, such as the decreasing emphasis on monogamy, had been largely gained by men at women's expense. In *Anticlimax: A Feminist Perspective on the Sexual Revolution*, Sheila Jeffreys asserted that the sexual revolution on men's terms contributed less to women's freedom than to their continued oppression, an assertion that has both commanded respect and attracted intense criticism. In the late 1970s and early 1980s, feminist sex wars broke out due to disagreements on pornography, on prostitution, and on BDSM, as well as sexuality in general.

Although the rate of teenage sexual activity is hard to record, the prevalence of teenage pregnancy in developed nations such as Canada and the UK have seen a steady decline since the 1990s. For example, in 1991 there were 61.8 children born per 1,000 teenage girls in the United States. By 2013, this number had declined to 26.6 births per 1,000 teenage girls.

Women and men who lived with each other without marriage sought "palimony" equal to the alimony. Teenagers assumed their right to a sexual life with whomever they pleased, and bathers fought to be topless or nude at beaches.

Chapter 2

Middle Class—North America: 1945–1980

The **middle class** is a class of people in the middle of a social hierarchy. Its usage has often been vague whether defined in terms of occupation, income, education or social status. The definition by any author is often chosen for political connotations. Modern social theorists—and especially economists—have defined and re-defined the term "middle class" in order to serve their particular social or political ends.

Within capitalism, *middle-class* initially referred to the *bourgeoisie*; as distinct from the nobility, then with the further differentiation of classes as capitalist societies developed to the degree where the 'capitalist' became the new ruling class, the term came instead to be synonymous with *petite bourgeoisie*.

The common measures of what constitutes middle class vary significantly among cultures. On the one hand, the term can be viewed primarily in terms of socioeconomic status. One of the narrowest definitions limits it to those in the middle fifth of the nation's income ladder. A wider characterization includes everyone but the poorest 20% and the wealthiest 20%. Some theories like "Paradox of Interest", use decile groups and wealth distribution data to determine the size and wealth share of the middle class.

In modern American vernacular, the term *middle class* is most often used as a self-description by those persons whom academics and Marxists would otherwise identify as the working class, which are below both the upper class and the true middle class, but above those in poverty. This leads to considerable ambiguity over the meaning of the term *middle class* in American usage. Sociologists such as Dennis Gilbert and Joseph Kahl see this American self-described middle class (working class) as the most populous class in the United States.

In 1977 Barbara Ehrenreich and her then husband John defined a new class in the United States as "salaried mental workers who do not own the means of production and whose major function in the social division of labor ... [is] ... the reproduction of capitalist culture and capitalist class relations;" the Ehrenreichs named this group the "professional-managerial class".

There has been significant global middle-class growth over time. In February 2009, *The Economist* asserted that over half of the world's population belonged to the middle class, as a result of rapid growth in emerging countries. It characterized the middle class as having a reasonable amount of discretionary income, so that they do not live from hand-to-mouth as the poor do, and defined it as beginning at the point where people have roughly a third of their income left for discretionary spending after paying for basic food and shelter.

History and evolution of the term

The term "middle class" is first attested in James Bradshaw's 1745 pamphlet *Scheme to prevent running Irish Wools to France*. Another phrase used in early modern Europe was "the middling sort".

The term "middle class" has had several, sometimes contradictory, meanings. Friedrich Engels saw the category as an intermediate social class between the nobility and the peasantry in late-feudalist society. While the nobility owned much of the countryside, and the peasantry worked it, a new *bourgeoisie* (literally "town-dwellers") arose around mercantile functions in the city. In France, the middle classes helped drive the French Revolution. This "middle class" eventually overthrew the ruling monarchists of feudal society, thus becoming the new ruling class or bourgeoisie in the new capitalist-dominated societies.

The modern usage of the term "middle-class", however, dates to the 1913 UK Registrar-General's report, in which the statistician T.H.C. Stevenson identified the middle class as those falling between the upper-class and the working-class. The middle class includes: professionals, managers, and senior civil servants. The chief defining characteristic of membership in the middle-class is control of significant human capital while still being under the dominion of the elite upper class, who control much of the financial and legal capital in the world.

Within capitalism, "middle-class" initially referred to the *bourgeoisie*; later, with the further differentiation of classes as capitalist societies developed, the term came to be synonymous with the term *petite bourgeoisie*. The boom-and-bust cycles of capitalist economies result in the periodic (and more or less temporary) impoverisation and proletarianisation of much of the *petite bourgeois* world, resulting in their moving back and forth between working-class and petite-bourgeois status. The typical modern definitions of "middle class" tend to ignore the fact that the classical *petite-bourgeoisie* is and has always been the owner of a small-to medium-sized business whose income is derived almost exclusively from the employment of workers; "middle class" came to refer to the combination of the labour aristocracy, professionals, and salaried, white-collar workers.

The size of the middle class depends on how it is defined, whether by education, wealth, environment of upbringing, social network, manners or values, etc. These are all related, but are far from deterministically dependent. The following factors are often ascribed in the literature on this topic to a "middle class:"

- Achievement of tertiary education.
- Holding professional qualifications, including academics, lawyers, chartered engineers, politicians, and doctors, regardless of leisure or wealth.
- Belief in *bourgeois* values, such as high rates of house ownership, delayed gratification, and jobs that are perceived to be secure.
- Lifestyle. In Great Britain, social status has historically been linked less directly to wealth than

in the United States, and has also been judged by such characteristics as accent (Received Pronunciation and U and non-U English), manners, type of school attended (state or private school), occupation, and the class of a person's family, circle of friends and acquaintances.

In the United States, by the end of the twentieth century, more people identified themselves as middle-class than as lower or "working" class (with insignificant numbers identifying themselves as upper-class). The Labour Party in the UK, which grew out of the organised labour movement and originally drew almost all of its support from the working-class, reinvented itself under Tony Blair in the 1990s as "New Labour", a party competing with the Conservative Party for the votes of the middle-class as well as those of the Labour Party's traditional group of voters – the working-class. Around 40% of British people consider themselves to be middle class, and this number has remained relatively stable over the last few decades.

Marxism

Marxism defines social classes according to their relationship with the means of production. The "middle class" is said to be the class below the ruling class and above the proletariat in the Marxist social schema and is synonymous with the term "petite-" or "petty-bourgeoisie". Marxist writers have used the term in two distinct but related ways. In the first sense, it is used for the bourgeoisie (the urban merchant and professional class) that arose between the aristocracy and the proletariat in

the waning years of feudalism in the Marxist model. V. I. Lenin stated that the "peasantry ... in Russia constitute eight- or nine-tenths of the petty bourgeoisie". However, in modern developed countries, Marxist writers define the *petite bourgeoisie* as primarily comprising (as the name implies) owners of small to medium-sized businesses, who derive their income from the exploitation of wage-laborers (and who are in turn exploited by the "big" bourgeoisie i.e. bankers, owners of large corporate trusts, etc.) as well as the highly educated professional class of doctors, engineers, architects, lawyers, university professors, salaried middle-management of capitalist enterprises of all sizes, etc. – as the "middle class" which stands between the ruling capitalist "owners of the means of production" and the working class (whose income is derived solely from hourly wages).

Pioneer 20th century American Marxist theoretician Louis C. Fraina (Lewis Corey) defined the middle class as "the class of independent small enterprisers, owners of productive property from which a livelihood is derived". From Fraina's perspective, this social category included "propertied farmers" but not propertyless tenant farmers. Middle class also included salaried managerial and supervisory employees but not "the masses of propertyless, dependent salaried employees. Fraina speculated that the entire category of salaried employees might be adequately described as a "new middle class" in economic terms, although this remained a social grouping in which "most of whose members are a new proletariat."

Professional-managerial class

In 1977 Barbara Ehrenreich and her then husband John defined a new class in the United States as "salaried mental workers who do not own the means of production and whose major function in the social division of labor ... [is] ... the reproduction of capitalist culture and capitalist class relations;" the Ehrenreichs named this group the "professional-managerial class". This group of middle-class professionals is distinguished from other social classes by their training and education (typically business qualifications and university degrees), with example occupations including academics and teachers, social workers, engineers, managers, nurses, and middle-level administrators. The Ehrenreichs developed their definition from studies by André Gorz, Serge Mallet, and others, of a "new working class," which, despite education and a perception of themselves as middle class, were part of the working class because they did not own the means of production, and were wage earners paid to produce a piece of capital. The professional-managerial class seeks higher rank status and salary and tend to have incomes above the average for their country.

Recent global growth

It is important to understand that modern definitions of the term "middle class" are often politically motivated and vary according to the exigencies of political purpose which they were conceived to serve in the first place as well as due to the multiplicity of more- or less-scientific methods used to

measure and compare "wealth" between modern advanced industrial states (where poverty is relatively low and the distribution of wealth more egalitarian in a relative sense) and in developing countries (where poverty and a profoundly unequal distribution of wealth crush the vast majority of the population). Many of these methods of comparison have been harshly criticised; for example, economist Thomas Piketty, in his book *Capital in the Twenty-First Century*, describes one of the most commonly used comparative measures of wealth across the globe – the Gini coefficient – as being an example of "synthetic indices ... which mix very different things, such as inequality with respect to labor and capital, so that it is impossible to distinguish clearly among the multiple dimensions of inequality and the various mechanisms at work."

In February 2009, *The Economist* asserted that over half the world's population now belongs to the middle class, as a result of rapid growth in emerging countries. It characterized the middle class as having a reasonable amount of discretionary income, so that they do not live from hand-to-mouth as the poor do, and defined it as beginning at the point where people have roughly a third of their income left for discretionary spending after paying for basic food and shelter. This allows people to buy consumer goods, improve their health care, and provide for their children's education. Most of the emerging middle class consists of people who are middle class by the standards of the developing world but not the developed one, since their money incomes do not match developed country levels, but the percentage of it which is discretionary does. By this definition, the number of middle-class people in Asia exceeded that in the West sometime around 2007 or 2008.

The Economist's article pointed out that in many emerging countries, the middle class has not grown incrementally but explosively. The point at which the poor start entering the middle class by the millions is alleged to be the time when poor countries get the maximum benefit from cheap labour through international trade, before they price themselves out of world markets for cheap goods. It is also a period of rapid urbanization, when subsistence farmers abandon marginal farms to work in factories, resulting in a several-fold increase in their economic productivity before their wages catch up to international levels. That stage was reached in China some time between 1990 and 2005, when the Chinese "middle class" grew from 15% to 62% of the population and is just being reached in India now.

The Economist predicted that surge across the poverty line should continue for a couple of decades and the global middle class will grow exponentially between now and 2030. Based on the rapid growth, scholars expect the global middle class to be the driving force for sustainable development. This assumption, however, is contested (see below).

As the American middle class is estimated by some researchers to comprise approximately 45% of the population, *The Economist's* article would put the size of the American middle class below the world average. This difference is due to the extreme difference in definitions between *The Economist's* and many other models.

In 2010, a working paper by the OECD asserted that 1.8 billion people were now members of the global "middle class". Credit Suisse's Global Wealth Report 2014, released in October 2014,

estimated that one billion adults belonged to the "middle class," with wealth anywhere between the range of \$10,000–\$100,000.

According to a study carried out by the Pew Research Center, a combined 16% of the world's population in 2011 were "upper-middle income" and "upper income".

An April 2019 OECD report said that the millennial generation is being pushed out of the middle class throughout the Western world.

Russia

In 2012, the "middle class" in Russia was estimated as 15% of the whole population. Due to sustainable growth, the pre-crisis level was exceeded. In 2015, research from the Russian Academy of Sciences estimated that around 15% of the Russian population are "firmly middle class", while around another 25% are "on the periphery".

China

Since the beginning of the 21st century, China's middle class has grown by significant margins. According to the Center for Strategic and International Studies, by 2013, some 420 million people, or 31%, of the Chinese population qualified as middle class. Based on the World Bank definition of middle class as those having with daily spending between \$10 to \$50 per day, nearly 40% of the Chinese population were considered middle class as of 2017.

India

Estimates vary widely on the number of middle-class people in India. According to *The Economist*, 78 million of India's population are considered middle class as of 2017, if defined using the cutoff of those making more than \$10 per day, a standard used by the India's National Council of Applied Economic Research. If including those with incomes \$2 – \$10 per day, the number increases to 604 million. This was termed by researchers as the "new middle class". Measures considered include geography, lifestyle, income, and education. The World Inequality Report in 2018 further concluded that elites (i.e. the top 10%) are accumulating wealth at a greater rate than the middle class, that rather than growing, India's middle class may be shrinking in size.

Africa

According to a 2014 study by Standard Bank economist Simon Freemantle, a total of 15.3 million households in 11 surveyed African nations are middle-class. These include Angola, Ethiopia, Ghana, Kenya, Mozambique, Nigeria, South Sudan, Sudan, Tanzania, Uganda and Zambia. In South Africa, a report conducted by the Institute for Race Relations in 2015 estimated that between 10%–20% of South Africans are middle class, based on various criteria. An earlier study estimated that in 2008 21.3% of South Africans were members of the middle class.

A study by EIU Canback indicates 90% of Africans fall below an income of \$10 a day. The proportion of Africans in the \$10–

\$20 middle class (excluding South Africa), rose from 4.4% to only 6.2% between 2004 and 2014. Over the same period, the proportion of "upper middle" income (\$20–\$50 a day) went from 1.4% to 2.3%.

According to a 2014 study by the German Development Institute, the middle class of Sub-Saharan Africa rose from 14 million to 31 million people between 1990 and 2010.

Latin America

According to a study by the World Bank, the number of Latin Americans who are middle class rose from 103m to 152m between 2003 and 2009.

Chapter 3

Civil Rights Act of 1964—North America: 1945–1980

The **Civil Rights Act of 1964** (Pub.L. 88-352, 78 Stat. 241, enacted July 2, 1964) is a landmark civil rights and labor law in the United States that outlaws discrimination based on race, color, religion, sex, national origin, and later sexual orientation and gender identity. It prohibits unequal application of voter registration requirements, racial segregation in schools and public accommodations, and employment discrimination. The act "remains one of the most significant legislative achievements in American history".

Initially, powers given to enforce the act were weak, but these were supplemented during later years. Congress asserted its authority to legislate under several different parts of the United States Constitution, principally its power to regulate interstate commerce under Article One (section 8), its duty to guarantee all citizens equal protection of the laws under the Fourteenth Amendment, and its duty to protect voting rights under the Fifteenth Amendment.

The legislation had been proposed by President John F. Kennedy in June 1963, but it was opposed by filibuster in the Senate. After Kennedy was assassinated on November 22, 1963, President Lyndon B. Johnson pushed the bill forward. The United States House of Representatives passed the bill on February 10, 1964, and after a 54-day filibuster, it passed the

United States Senate on June 19, 1964. The final vote was 290–130 in the House of Representatives and 73–27 in the Senate. After the House agreed to a subsequent Senate amendment, the Civil Rights Act was signed into law by President Johnson at the White House on July 2, 1964.

Background

Reconstruction and New Deal era

In the 1883 landmark *Civil Rights Cases*, the United States Supreme Court had ruled that Congress did not have the power to prohibit discrimination in the private sector, thus stripping the Civil Rights Act of 1875 of much of its ability to protect civil rights.

In the late 19th and early 20th century, the legal justification for voiding the Civil Rights Act of 1875 was part of a larger trend by members of the United States Supreme Court to invalidate most government regulations of the private sector, except when dealing with laws designed to protect traditional public morality.

In the 1930s, during the New Deal, the majority of the Supreme Court justices gradually shifted their legal theory to allow for greater government regulation of the private sector under the commerce clause, thus paving the way for the Federal government to enact civil rights laws prohibiting both public and private sector discrimination on the basis of the commerce clause.

Civil Rights Act of 1957

The Civil Rights Act of 1957, signed by President Dwight D. Eisenhower on September 9, 1957, was the first federal civil rights legislation since the Civil Rights Act of 1875. After the Supreme Court ruled school segregation unconstitutional in 1954 in *Brown v. Board of Education*, Southern Democrats began a campaign of "massive resistance" against desegregation, and even the few moderate white leaders shifted to openly racist positions. Partly in an effort to defuse calls for more far-reaching reforms, Eisenhower proposed a civil rights bill that would increase the protection of African American voting rights.

Despite having a limited impact on African-American voter participation, at a time when black voter registration was just 20%, the Civil Rights Act of 1957 did establish the United States Commission on Civil Rights and the United States Department of Justice Civil Rights Division. By 1960, black voting had increased by only 3%, and Congress passed the Civil Rights Act of 1960, which eliminated certain loopholes left by the 1957 Act.

1963 Kennedy civil rights bill

The 1964 bill was first proposed by United States President John F. Kennedy in his Report to the American People on Civil Rights on June 11, 1963. Kennedy sought legislation "giving all Americans the right to be served in facilities which are open to the public—hotels, restaurants, theaters, retail stores, and

similar establishments"—as well as "greater protection for the right to vote."

Kennedy delivered this speech in the aftermath of the Birmingham campaign and the growing number of demonstrations and protests throughout the southern United States. He was moved to action following the elevated racial tensions and wave of African-American protests in the spring of 1963. In late July, according to a *New York Times* article, Walter Reuther, president of the United Auto Workers, warned that if Congress failed to pass Kennedy's civil rights bill, the country would face another civil war.

After the March on Washington for Jobs and Freedom, on August 28, 1963, the organizers visited Kennedy to discuss the civil rights bill. Roy Wilkins, A. Philip Randolph, and Walter Reuther attempted to persuade him to support a provision establishing a Fair Employment Practices Commission that would ban discriminatory practices by all federal agencies, unions, and private companies.

Emulating the Civil Rights Act of 1875, Kennedy's civil rights bill included provisions to ban discrimination in public accommodations and enable the U.S. Attorney General to join in lawsuits against state governments that operated segregated school systems, among other provisions. But it did not include a number of provisions deemed essential by civil rights leaders, including protection against police brutality, ending discrimination in private employment, or granting the Justice Department power to initiate desegregation or job discrimination lawsuits.

Legislative history

House of Representatives

On June 11, 1963, President Kennedy met with Republican leaders to discuss the legislation before his television address to the nation that evening. Two days later, Senate Minority Leader Everett Dirksen and Senate Majority Leader Mike Mansfield both voiced support for the president's bill, except for provisions guaranteeing equal access to places of public accommodations. This led to several Republican Representatives drafting a compromise bill to be considered. On June 19, the president sent his bill to Congress as it was originally written, saying legislative action was "imperative". The president's bill went first to the House of Representatives, where it was referred to the Judiciary Committee, chaired by Emanuel Celler, a Democrat from New York. After a series of hearings on the bill, Celler's committee strengthened the act, adding provisions to ban racial discrimination in employment, providing greater protection to black voters, eliminating segregation in all publicly owned facilities (not just schools), and strengthening the anti-segregation clauses regarding public facilities such as lunch counters. They also added authorization for the Attorney General to file lawsuits to protect individuals against the deprivation of any rights secured by the Constitution or U.S. law. In essence, this was the controversial "Title III" that had been removed from the 1957 Act and 1960 Act. Civil rights organizations pressed hard for this provision because it could be used to protect peaceful

protesters and black voters from police brutality and suppression of free speech rights.

Kennedy called the congressional leaders to the White House in late October 1963 to line up the necessary votes in the House for passage. The bill was reported out of the Judiciary Committee in November 1963 and referred to the Rules Committee, whose chairman, Howard W. Smith, a Democrat and staunch segregationist from Virginia, indicated his intention to keep the bill bottled up indefinitely.

Johnson's appeal to Congress

The assassination of United States President John F. Kennedy on November 22, 1963, changed the political situation. Kennedy's successor as president, Lyndon B. Johnson, made use of his experience in legislative politics, along with the bully pulpit he wielded as president, in support of the bill. In his first address to a joint session of Congress on November 27, 1963, Johnson told the legislators, "No memorial oration or eulogy could more eloquently honor President Kennedy's memory than the earliest possible passage of the civil rights bill for which he fought so long."

Judiciary Committee chairman Celler filed a petition to discharge the bill from the Rules Committee; it required the support of a majority of House members to move the bill to the floor. Initially, Celler had a difficult time acquiring the signatures necessary, with many Representatives who supported the civil rights bill itself remaining cautious about violating normal House procedure with the rare use of a

discharge petition. By the time of the 1963 winter recess, 50 signatures were still needed.

After the return of Congress from its winter recess, however, it was apparent that public opinion in the North favored the bill and that the petition would acquire the necessary signatures. To avert the humiliation of a successful discharge petition, Chairman Smith relented and allowed the bill to pass through the Rules Committee.

Lobbying efforts

Lobbying support for the Civil Rights Act was coordinated by the Leadership Conference on Civil Rights, a coalition of 70 liberal and labor organizations. The principal lobbyists for the Leadership Conference were civil rights lawyer Joseph L. Rauh Jr. and Clarence Mitchell Jr. of the NAACP.

Passage in the Senate

Johnson, who wanted the bill passed as soon as possible, ensured that it would be quickly considered by the Senate. Normally, the bill would have been referred to the Senate Judiciary Committee, which was chaired by James O. Eastland, a Democrat from Mississippi, whose firm opposition made it seem impossible that the bill would reach the Senate floor. Senate Majority Leader Mike Mansfield took a novel approach to prevent the bill from being kept in limbo by the Judiciary Committee: initially waiving a second reading immediately after the first reading, which would have sent it to the Judiciary Committee, he took the unprecedented step of giving the bill a

second reading on February 26, 1964, thereby bypassing the Judiciary Committee, and sending it to the Senate floor for debate immediately.

When the bill came before the full Senate for debate on March 30, 1964, the "Southern Bloc" of 18 southern Democratic Senators and lone Republican John Tower of Texas, led by Richard Russell, launched a filibuster to prevent its passage. Russell proclaimed, "We will resist to the bitter end any measure or any movement which would tend to bring about social equality and intermingling and amalgamation of the races in our [Southern] states."

Strong opposition to the bill also came from Senator Strom Thurmond, who was still a Democrat at the time: "This so-called Civil Rights Proposals [sic], which the President has sent to Capitol Hill for enactment into law, are unconstitutional, unnecessary, unwise and extend beyond the realm of reason. This is the worst civil-rights package ever presented to the Congress and is reminiscent of the Reconstruction proposals and actions of the radical Republican Congress."

After the filibuster had gone on for 54 days, Senators Mansfield, Hubert Humphrey, Mike Mansfield, Everett Dirksen, and Thomas Kuchel introduced a substitute bill that they hoped would overcome it by combining a sufficient number of Republicans as well as core liberal Democrats. The compromise bill was weaker than the House version as to the government's power in regulating the conduct of private business, but not weak enough to make the House reconsider it.

Senator Robert Byrd ended his filibuster in opposition to the bill on the morning of June 10, 1964, after 14 hours and 13

minutes. Up to then, the measure had occupied the Senate for 60 working days, including six Saturdays. The day before, Democratic Whip Hubert Humphrey, the bill's manager, concluded that he had the 67 votes required at that time to end the debate and the filibuster. With six wavering senators providing a four-vote victory margin, the final tally stood at 71 to 29. Never before in its entire history had the Senate been able to muster enough votes to defeat a filibuster on a civil rights bill, and only once in the 37 years since 1927 had it agreed to cloture for any measure.

The most dramatic moment during the cloture vote came when Senator Clair Engle was wheeled into the chamber. Suffering from terminal brain cancer, unable to speak, he pointed to his left eye, signifying his affirmative "Aye" vote when his name was called. He died seven weeks later.

On June 19, the compromise bill passed the Senate by a vote of 73–27, quickly passed through the conference committee, which adopted the Senate version of the bill, then was passed by both houses of Congress and signed into law by Johnson on July 2, 1964.

Vote totals

Totals are in *Yea–Nay* format:

- The original House version: 290–130 (69–31%)
- Cloture in the Senate: 71–29 (71–29%)
- The Senate version: 73–27 (73–27%)
- The Senate version, as voted on by the House: 289–126 (70–30%)

By party

The original House version:

- Democratic Party: 152–96 (61–39%)
- Republican Party: 138–34 (80–20%)

Cloture in the Senate:

- Democratic Party: 44–23 (66–34%)
- Republican Party: 27–6 (82–18%)

The Senate version:

- Democratic Party: 46–21 (69–31%)
- Republican Party: 27–6 (82–18%)

The Senate version, voted on by the House:

- Democratic Party: 153–91 (63–37%)
- Republican Party: 136–35 (80–20%)

By region

Note that "Southern", as used here, refers to members of Congress from the eleven states that had made up the Confederate States of America in the American Civil War. "Northern" refers to members from the other 39 states, regardless of the geographic location of those states.

The House of Representatives:

- Northern: 281–32 (90–10%)
- Southern: 8–94 (8–92%)

The Senate:

- Northern: 72–6 (92–8%)
- Southern: 1–21 (5–95%) – Ralph Yarborough of Texas was the only Southerner to vote in favor in the Senate

By party and region

The House of Representatives:

- Southern Democrats: 8–83 (9–91%) – four Representatives from Texas (Jack Brooks, Albert Thomas, J. J. Pickle, and Henry González), two from Tennessee (Richard Fulton and Ross Bass), Claude Pepper of Florida and Charles L. Weltner of Georgia voted in favor
- Southern Republicans: 0–11 (0–100%)
- Northern Democrats: 145–8 (95–5%)
- Northern Republicans: 136–24 (85–15%)

Note that four Representatives voted *Present* while 12 did not vote.

The Senate:

- Southern Democrats: 1–20 (5–95%) – only Ralph Yarborough of Texas voted in favor
- Southern Republicans: 0–1 (0–100%) – John Tower of Texas, the only Southern Republican at the time, voted against
- Northern Democrats: 45–1 (98–2%) – only Robert Byrd of West Virginia voted against
- Northern Republicans: 27–5 (84–16%) – Norris Cotton (NH), Barry Goldwater (AZ), Bourke Hickenlooper (IA), Edwin Mechem (NM), and Milward Simpson (WY) voted against

Aspects

Women's rights

Just one year earlier, the same Congress had passed the Equal Pay Act of 1963, which prohibited wage differentials based on sex. The prohibition on sex discrimination was added to the Civil Rights Act by Howard W. Smith, a powerful Virginia Democrat who chaired the House Rules Committee and who strongly opposed the legislation. Smith's amendment was passed by a teller vote of 168 to 133. Historians debate Smith's motivation, whether it was a cynical attempt to defeat the bill by someone opposed to civil rights both for blacks and women, or an attempt to support their rights by broadening the bill to include women. Smith expected that Republicans, who had included equal rights for women in their party's platform since 1944, would probably vote for the amendment. Historians

speculate that Smith was trying to embarrass northern Democrats who opposed civil rights for women because the clause was opposed by labor unions. Representative Carl Elliott of Alabama later claimed "Smith didn't give a damn about women's rights", as "he was trying to knock off votes either then or down the line because there was always a hard core of men who didn't favor women's rights", and the *Congressional Record* records that Smith was greeted by laughter when he introduced the amendment.

Smith asserted that he was not joking and he sincerely supported the amendment. Along with Representative Martha Griffiths, he was the chief spokesperson for the amendment. For twenty years, Smith had sponsored the Equal Rights Amendment (with no linkage to racial issues) in the House because he believed in it. He for decades had been close to the National Woman's Party and its leader Alice Paul, who had been a leading figure in winning the right to vote for women in 1920, was co-author of the first Equal Rights Amendment, and a chief supporter of equal rights proposals since then. She and other feminists had worked with Smith since 1945 trying to find a way to include sex as a protected civil rights category and felt now was the moment. Griffiths argued that the new law would protect black women but not white women, and that was unfair to white women. Black feminist lawyer Pauli Murray wrote a supportive memorandum at the behest of the National Federation of Business and Professional Women. Griffiths also argued that the laws "protecting" women from unpleasant jobs were actually designed to enable men to monopolize those jobs, and that was unfair to women who were not allowed to try out for those jobs. The amendment passed with the votes of Republicans and Southern Democrats. The final law passed

with the votes of Republicans and Northern Democrats. Thus, as Justice William Rehnquist explained in *Meritor Savings Bank v. Vinson*, "The prohibition against discrimination based on sex was added to Title VII at the last minute on the floor of the House of Representatives [...] the bill quickly passed as amended, and we are left with little legislative history to guide us in interpreting the Act's prohibition against discrimination based on 'sex.'"

Desegregation

One of the most damaging arguments by the bill's opponents was that once passed, the bill would require forced busing to achieve certain racial quotas in schools. Proponents of the bill, such as Emanuel Celler and Jacob Javits, said that the bill would not authorize such measures. Leading sponsor Senator Hubert Humphrey (D-MN) wrote two amendments specifically designed to outlaw busing. Humphrey said, "if the bill were to compel it, it would be a violation [of the Constitution], because it would be handling the matter on the basis of race and we would be transporting children because of race." While Javits said any government official who sought to use the bill for busing purposes "would be making a fool of himself," two years later the Department of Health, Education and Welfare said that Southern school districts would be required to meet mathematical ratios of students by busing.

Aftermath

Political repercussions

The bill divided and engendered a long-term change in the demographic support of both parties. President Kennedy realized that supporting this bill would risk losing the South's overwhelming support of the Democratic Party. Both Attorney General Robert F. Kennedy and Vice President Johnson had pushed for the introduction of the civil rights legislation. Johnson told Kennedy aide Ted Sorensen that "I know the risks are great and we might lose the South, but those sorts of states may be lost anyway." Senator Richard Russell, Jr. later warned President Johnson that his strong support for the civil rights bill "will not only cost you the South, it will cost you the election". Johnson, however, went on to win the 1964 election by one of the biggest landslides in American history. The South, which had five states swing Republican in 1964, became a stronghold of the Republican Party by the 1990s.

Although majorities in both parties voted for the bill, there were notable exceptions. Though he opposed forced segregation, Republican 1964 presidential candidate, Senator Barry Goldwater of Arizona, voted against the bill, remarking, "You can't legislate morality." Goldwater had supported previous attempts to pass civil rights legislation in 1957 and 1960 as well as the 24th Amendment outlawing the poll tax. He stated that the reason for his opposition to the 1964 bill was Title II, which in his opinion violated individual liberty and states' rights. Democrats and Republicans from the Southern

states opposed the bill and led an unsuccessful 83-day filibuster, including Senators Albert Gore, Sr. (D-TN) and J. William Fulbright (D-AR), as well as Senator Robert Byrd (D-WV), who personally filibustered for 14 hours straight.

Continued resistance

There were white business owners who claimed that Congress did not have the constitutional authority to ban segregation in public accommodations. For example, Moreton Rolleston, the owner of a motel in Atlanta, Georgia, said he should not be forced to serve black travelers, saying, "the fundamental question [...] is whether or not Congress has the power to take away the liberty of an individual to run his business as he sees fit in the selection and choice of his customers". Rolleston claimed that the Civil Rights Act of 1964 was a breach of the Fourteenth Amendment and also violated the Fifth and Thirteenth Amendments by depriving him of "liberty and property without due process". In *Heart of Atlanta Motel v. United States* (1964), the Supreme Court held that Congress drew its authority from the Constitution's Commerce Clause, rejecting Rolleston's claims.

Resistance to the public accommodation clause continued for years on the ground, especially in the South. When local college students in Orangeburg, South Carolina, attempted to desegregate a bowling alley in 1968, they were violently attacked, leading to rioting and what became known as the "Orangeburg massacre." Resistance by school boards continued into the next decade, with the most significant declines in black-white school segregation only occurring at the end of the 1960s and the start of the 1970s in the aftermath of the *Green*

v. County School Board of New Kent County (1968) court decision.

Later impact on LGBT rights

In June 2020, the U.S. Supreme Court ruled in three cases (*Bostock v. Clayton County*, *Altitude Express, Inc. v. Zarda*, and *R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Commission*) that Title VII of the Civil Rights Act, which barred employers from discriminating on the basis of sex, also barred employers from discriminating on the basis of sexual orientation or gender identity. Afterward, USA Today stated that in addition to LGBTQ employment discrimination, "[t]he court's ruling is likely to have a sweeping impact on federal civil rights laws barring sex discrimination in education, health care, housing and financial credit." On June 23, 2020, *Queer Eye* actors Jonathan Van Ness and Bobby Berk praised the Civil Right Act rulings, which Van Ness called "a great step in the right direction." But both of them still urged the United States Congress to pass the proposed Equality Act, which Berk claimed would amend the Civil Rights Act so it "would really extend healthcare and housing rights".

Titles

Title I—voting rights

This title barred unequal application of voter registration requirements. Title I did not eliminate literacy tests, which

acted as one barrier for black voters, other racial minorities, and poor whites in the South or address economic retaliation, police repression, or physical violence against nonwhite voters. While the Act did require that voting rules and procedures be applied equally to all races, it did not abolish the concept of voter "qualification". It accepted the idea that citizens do not have an automatic right to vote but would have to meet standards beyond citizenship. The Voting Rights Act of 1965 directly addressed and eliminated most voting qualifications beyond citizenship.

Title II—public accommodations

Outlawed discrimination based on race, color, religion, or national origin in hotels, motels, restaurants, theaters, and all other public accommodations engaged in interstate commerce; exempted private clubs without defining the term "private".

Title III—desegregation of public facilities

Prohibited state and municipal governments from denying access to public facilities on grounds of race, color, religion, or national origin.

Title IV—desegregation of public education

Enforced the desegregation of public schools and authorized the U.S. Attorney General to file suits to enforce said act.

Title V—Commission on Civil Rights

Expanded the Civil Rights Commission established by the earlier Civil Rights Act of 1957 with additional powers, rules, and procedures.

Title VI—nondiscrimination in federally assisted programs

Prevents discrimination by programs and activities that receive federal funds. If a recipient of federal funds is found in violation of Title VI, that recipient may lose its federal funding.

General

This title declares it to be the policy of the United States that discrimination on the ground of race, color, or national origin shall not occur in connection with programs and activities receiving Federal financial assistance and authorizes and directs the appropriate Federal departments and agencies to take action to carry out this policy. This title is not intended to apply to foreign assistance programs. Section 601 – This section states the general principle that no person in the United States shall be excluded from participation in or otherwise discriminated against on the ground of race, color, or national origin under any program or activity receiving Federal financial assistance.

Section 602 directs each Federal agency administering a program of Federal financial assistance by way of grant, contract, or loan to take action pursuant to rule, regulation, or

order of general applicability to effectuate the principle of section 601 in a manner consistent with the achievement of the objectives of the statute authorizing the assistance. In seeking the effect compliance with its requirements imposed under this section, an agency is authorized to terminate or to refuse to grant or to continue assistance under a program to any recipient as to whom there has been an express finding pursuant to a hearing of a failure to comply with the requirements under that program, and it may also employ any other means authorized by law. However, each agency is directed first to seek compliance with its requirements by voluntary means.

Section 603 provides that any agency action taken pursuant to section 602 shall be subject to such judicial review as would be available for similar actions by that agency on other grounds. Where the agency action consists of terminating or refusing to grant or to continue financial assistance because of a finding of a failure of the recipient to comply with the agency's requirements imposed under section 602, and the agency action would not otherwise be subject to judicial review under existing law, judicial review shall nevertheless be available to any person aggrieved as provided in section 10 of the Administrative Procedure Act (5 U.S.C. § 1009). The section also states explicitly that in the latter situation such agency action shall not be deemed committed to unreviewable agency discretion within the meaning of section 10. The purpose of this provision is to obviate the possible argument that although section 603 provides for review in accordance with section 10, section 10 itself has an exception for action "committed to agency discretion," which might otherwise be carried over into section 603. It is not the purpose of this

provision of section 603, however, otherwise to alter the scope of judicial review as presently provided in section 10(e) of the Administrative Procedure Act.

Executive Order

The December 11, 2019 executive order on combating antisemitism states: "While Title VI does not cover discrimination based on religion, individuals who face discrimination on the basis of race, color, or national origin do not lose protection under Title VI for also being a member of a group that shares common religious practices. Discrimination against Jews may give rise to a Title VI violation when the discrimination is based on an individual's race, color, or national origin. It shall be the policy of the executive branch to enforce Title VI against prohibited forms of discrimination rooted in antisemitism as vigorously as against all other forms of discrimination prohibited by Title VI." The order specifies that agencies responsible for Title VI enforcement shall "consider" the (non-legally binding) working definition of antisemitism adopted by the International Holocaust Remembrance Alliance (IHRA) on May 26, 2016, as well as the IHRA list of Contemporary Examples of Anti-Semitism, "to the extent that any examples might be useful as evidence of discriminatory intent".

Title VII—equal employment opportunity

Title VII of the Act, codified as Subchapter VI of Chapter 21 of title 42 of the United States Code, prohibits discrimination by covered employers on the basis of race, color, religion, sex, or national origin (see 42 U.S.C. § 2000e-2). Title VII applies to

and covers an employer "who has fifteen (15) or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year" as written in the Definitions section under 42 U.S.C. §2000e(b). Title VII also prohibits discrimination against an individual because of their association with another individual of a particular race, color, religion, sex, or national origin, such as by an interracial marriage. The EEO Title VII has also been supplemented with legislation prohibiting pregnancy, age, and disability discrimination (*see* Pregnancy Discrimination Act of 1978, Age Discrimination in Employment Act, Americans with Disabilities Act of 1990).

In very narrowly defined situations, an employer is permitted to discriminate on the basis of a protected trait if the trait is a bona fide occupational qualification (BFOQ) reasonably necessary to the normal operation of that particular business or enterprise. To make a BFOQ defense, an employer must prove three elements: a direct relationship between the trait and the ability to perform the job; the BFOQ's relation to the "essence" or "central mission of the employer's business", and that there is no less restrictive or reasonable alternative (*United Automobile Workers v. Johnson Controls, Inc.*, 499 U.S. 187 (1991) 111 S.Ct. 1196). BFOQ is an extremely narrow exception to the general prohibition of discrimination based on protected traits (*Dothard v. Rawlinson*, 433 U.S. 321 (1977) 97 S.Ct. 2720). An employer or customer's preference for an individual of a particular religion is not sufficient to establish a BFOQ (*Equal Employment Opportunity Commission v. Kamehameha School—Bishop Estate*, 990 F.2d 458 (9th Cir. 1993)).

Title VII allows any employer, labor organization, joint labor-management committee, or employment agency to bypass the "unlawful employment practice" for any person involved with the Communist Party of the United States or of any other organization required to register as a Communist-action or Communist-front organization by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.

There are partial and whole exceptions to Title VII for four types of employers:

- Federal government; (the proscriptions against employment discrimination under Title VII are now applicable to certain federal government offices under 42 U.S.C. Section 2000e-16)
- Federally recognized Native American tribes;
- Religious groups performing work connected to the group's activities, including associated education institutions;
- Bona fide nonprofit private membership organizations

The Bennett Amendment is a US labor law provision in Title VII that limits sex discrimination claims regarding pay to the rules in the Equal Pay Act of 1963. It says an employer can "differentiate upon the basis of sex" when it compensates employees "if such differentiation is authorized by" the Equal Pay Act.

The Equal Employment Opportunity Commission (EEOC), as well as certain state fair employment practices agencies (FEPAs), enforce Title VII (see 42 U.S.C. § 2000e-4). The EEOC

and state FEPAs investigate, mediate, and may file lawsuits on employees' behalf. Where a state law contradicts federal law, it is overridden. Every state except Arkansas and Mississippi maintains a state FEPA (see EEOC and state FEPA directory). Title VII also provides that an individual can bring a private lawsuit. They must file a complaint of discrimination with the EEOC within 180 days of learning of the discrimination or they may lose the right to file suit. Title VII applies only to employers who employ 15 or more employees for 20 or more weeks in the current or preceding calendar year (42 U.S.C. § 2000e#b).

Administrative precedents

In 2012, the EEOC ruled that employment discrimination on the basis of gender identity or transgender status is prohibited under Title VII. The decision held that discrimination on the basis of gender identity qualified as discrimination on the basis of sex whether the discrimination was due to sex stereotyping, discomfort with a transition, or discrimination due to a perceived change in the individual's sex. In 2014, the EEOC initiated two lawsuits against private companies for discrimination on the basis of gender identity, with additional litigation under consideration. As of November 2014, Commissioner Chai Feldblum is making an active effort to increase awareness of Title VII remedies for individuals discriminated against on the basis of sexual orientation or gender identity.

On December 15, 2014, under a memorandum issued by Attorney General Eric Holder, the United States Department of

Justice (DOJ) took a position aligned with the EEOC's, namely that the prohibition of sex discrimination under Title VII encompassed the prohibition of discrimination based on gender identity or transgender status. DOJ had already stopped opposing claims of discrimination brought by federal transgender employees. The EEOC in 2015 reissued another non-binding memo, reaffirming its stance that sexual orientation was protected under Title VII.

In October 2017, Attorney General Jeff Sessions withdrew the Holder memorandum. According to a copy of Sessions' directive reviewed by *BuzzFeed News*, he stated that Title VII should be narrowly interpreted to cover discrimination between "men and women". Sessions stated that as a matter of law, "Title VII does not prohibit discrimination based on gender identity per se." Devin O'Malley, on behalf of the DOJ, said, "the last administration abandoned that fundamental principle [that the Department of Justice cannot expand the law beyond what Congress has provided], which necessitated today's action." Sharon McGowan, a lawyer with Lambda Legal who previously served in the Civil Rights division of DOJ, rejected that argument, saying "[T]his memo is not actually a reflection of the law as it is—it's a reflection of what the DOJ wishes the law were" and "The Justice Department is actually getting back in the business of making anti-transgender law in court." But the EEOC did not change its stance, putting it at odds with the DOJ in certain cases.

Title VIII—registration and voting statistics

Required compilation of voter-registration and voting data in geographic areas specified by the Commission on Civil Rights.

Title IX—intervention and removal of cases

- For the prohibition of sex discrimination in federally funded education programs and activities, see Title IX of the Education Amendments Act of 1972.

Title IX made it easier to move civil rights cases from U.S. state courts to federal court. This was of crucial importance to civil rights activists who contended that they could not get fair trials in state courts.

Title X—Community Relations Service

Established the Community Relations Service, tasked with assisting in community disputes involving claims of discrimination.

Title XI—miscellaneous

Title XI gives a defendant accused of certain categories of criminal contempt in a matter arising under title II, III, IV, V, VI, or VII of the Act the right to a jury trial. If convicted, the

defendant can be fined an amount not to exceed \$1,000 or imprisoned for not more than six months.

Major amendments

Equal Employment Opportunity Act of 1972

Between 1965 and 1972, Title VII lacked any strong enforcement provisions. Instead, the Equal Employment Opportunity Commission was authorized only to investigate external claims of discrimination. The EEOC could then refer cases to the Justice Department for litigation if reasonable cause was found. The EEOC documented the nature and magnitude of discriminatory employment practices, the first study of this kind done.

In 1972, Congress passed the Equal Employment Opportunity Act. The Act amended Title VII and gave EEOC authority to initiate its own enforcement litigation. The EEOC now played a major role in guiding judicial interpretations of civil rights legislation. The commission was also permitted for the first time to define "discrimination," a term excluded from the 1964 Act.

United States Supreme Court cases

Title II case law

***Heart of Atlanta Motel, Inc. v. United States* (1964)**

- After the Civil Rights Act of 1964 was passed, the Supreme Court upheld the law's application to the private sector, on the grounds that Congress has the power to regulate commerce between the States. The landmark case *Heart of Atlanta Motel v. United States* established the law's constitutionality, but did not settle all the legal questions surrounding it.

Title VI case law

***Lau v. Nichols* (1974)**

- In the 1974 case *Lau v. Nichols*, the Supreme Court ruled that the San Francisco school district was violating non-English speaking students' rights under the 1964 act by placing them in regular

classes rather than providing some sort of accommodation for them.

Phillips v. Martin Marietta Corp.

(1971)

- In *Phillips v. Martin Marietta Corp.*, a 1971 Supreme Court case about the Act's gender provisions, the Court ruled that a company could not discriminate against a potential female employee because she had a preschool-age child unless it did the same with potential male employees. A federal court overruled an Ohio state law that barred women from obtaining jobs that required the ability to lift 25 pounds and required women but not men to take lunch breaks. In *Pittsburgh Press Co. v. Pittsburgh Commission on Human Relations*, the Supreme Court decided that printing separate job listings for men and women is illegal, ending that practice at the country's newspapers. The United States Civil Service Commission ended the practice of designating federal jobs "women only" or "men only."

Bostock v. Clayton County (2020) and

Altitude Express, Inc. v. Zarda (2020)

On June 15, 2020, in *Bostock v. Clayton County*, the Supreme Court ruled 6-3 that Title VII protections against workplace

discrimination on the basis of sex apply to discrimination against LGBT individuals. In the opinion, Justice Neil Gorsuch wrote that a business that discriminates against homosexual or transgender individuals is discriminating "for traits or actions it would not have questioned in members of a different sex." Thus discrimination against homosexual and transgender employees is a form of sex discrimination, which is forbidden under Title VII.

Bostock was consolidated with *Altitude Express, Inc. v. Zarda*. Before the Supreme Court's intervention, there was a split in the circuit courts, including these two cases as well as *Evans v. Georgia Regional Hospital* in the Eleventh Circuit.

Influence

Americans with Disabilities Act of 1990

The Americans with Disabilities Act of 1990—which has been called "the most important piece of federal legislation since the Civil Rights Act of 1964"—was influenced both by the structure and substance of the previous Civil Rights Act of 1964. The act was arguably of equal importance, and "draws substantially from the structure of that landmark legislation [Civil Rights Act of 1964]". The Americans with Disabilities Act paralleled its landmark predecessor structurally, drawing upon many of the same titles and statutes. For example, "Title I of the ADA, which bans employment discrimination by private employers on the basis of disability, parallels Title VII of the Act". Similarly, Title III of the Americans with Disabilities Act, "which proscribes discrimination on the basis of disability in public

accommodations, tracks Title II of the 1964 Act while expanding upon the list of public accommodations covered." The Americans with Disabilities Act extended "the principle of nondiscrimination to people with disabilities", an idea unsought in the United States before the passage of the Civil Rights Act of 1964. The Act also influenced later civil rights legislation, such as the Voting Rights Act of 1965 and the Civil Rights Act of 1968, aiding not only African Americans, but also women.

Chapter 4

Voting Rights Act of 1965

The **Voting Rights Act of 1965** is a landmark piece of federal legislation in the United States that prohibits racial discrimination in voting. It was signed into law by President Lyndon B. Johnson during the height of the civil rights movement on August 6, 1965, and Congress later amended the Act five times to expand its protections. Designed to enforce the voting rights guaranteed by the Fourteenth and Fifteenth Amendments to the United States Constitution, the Act sought to secure the right to vote for racial minorities throughout the country, especially in the South. According to the U.S. Department of Justice, the Act is considered to be the most effective piece of federal civil rights legislation ever enacted in the country. It is also "one of the most far-reaching pieces of civil rights legislation in U.S. history."

The act contains numerous provisions that regulate elections. The act's "general provisions" provide nationwide protections for voting rights. Section 2 is a general provision that prohibits every state and local government from imposing any voting law that results in discrimination against racial or language minorities. Other general provisions specifically outlaw literacy tests and similar devices that were historically used to disenfranchise racial minorities. The act also contains "special provisions" that apply to only certain jurisdictions. A core special provision is the Section 5 preclearance requirement, which prohibits certain jurisdictions from implementing any change affecting voting without receiving preapproval from the

U.S. attorney general or the U.S. District Court for D.C. that the change does not discriminate against protected minorities. Another special provision requires jurisdictions containing significant language minority populations to provide bilingual ballots and other election materials.

Section 5 and most other special provisions apply to jurisdictions encompassed by the "coverage formula" prescribed in Section 4(b). The coverage formula was originally designed to encompass jurisdictions that engaged in egregious voting discrimination in 1965, and Congress updated the formula in 1970 and 1975. In *Shelby County v. Holder* (2013), the U.S. Supreme Court struck down the coverage formula as unconstitutional, reasoning that it was no longer responsive to current conditions. The court did not strike down Section 5, but without a coverage formula, Section 5 is unenforceable. The jurisdictions which had previously been covered by the coverage formula massively increased the rate of voter registration purges after the Shelby decision. Research shows that the Act successfully and massively increased voter turnout and voter registrations, in particular among blacks. The Act has also been linked to concrete outcomes, such as greater public goods provision (such as public education) for areas with higher black population shares, and more members of Congress who vote for civil rights-related legislation.

Background

As initially ratified, the United States Constitution granted each state complete discretion to determine voter qualifications for its residents. After the Civil War, the three Reconstruction

Amendments were ratified and limited this discretion. The Thirteenth Amendment (1865) prohibits slavery "except as a punishment for crime"; the Fourteenth Amendment (1868) grants citizenship to anyone "born or naturalized in the United States" and guarantees every person due process and equal protection rights; and the Fifteenth Amendment (1870) provides that "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." These Amendments also empower Congress to enforce their provisions through "appropriate legislation".

To enforce the Reconstruction Amendments, Congress passed the Enforcement Acts in the 1870s. The acts criminalized the obstruction of a citizen's voting rights and provided for federal supervision of the electoral process, including voter registration. However, in 1875 the Supreme Court struck down parts of the legislation as unconstitutional in *United States v. Cruikshank* and *United States v. Reese*. After the Reconstruction Era ended in 1877, enforcement of these laws became erratic, and in 1894, Congress repealed most of their provisions.

Southern states generally sought to disenfranchise racial minorities during and after Reconstruction. From 1868 to 1888, electoral fraud and violence throughout the South suppressed the African-American vote. From 1888 to 1908, Southern states legalized disenfranchisement by enacting Jim Crow laws; they amended their constitutions and passed legislation to impose various voting restrictions, including literacy tests, poll taxes, property-ownership requirements, moral character tests, requirements that voter registration

applicants interpret particular documents, and grandfather clauses that allowed otherwise-ineligible persons to vote if their grandfathers voted (which excluded many African Americans whose grandfathers had been slaves or otherwise ineligible). During this period, the Supreme Court generally upheld efforts to discriminate against racial minorities. In *Giles v. Harris* (1903), the court held that regardless of the Fifteenth Amendment, the judiciary did not have the remedial power to force states to register racial minorities to vote.

Prior to the enactment of the Voting Rights Act of 1965 there were several efforts to stop the disenfranchisement of black voters by Southern states,. Besides the above-mentioned literacy tests and poll taxes other bureaucratic restrictions were used to deny them the right to vote. African Americans also "risked harassment, intimidation, economic reprisals, and physical violence when they tried to register or vote. As a result, very few African Americans were registered voters, and they had very little, if any, political power, either locally or nationally." In the 1950s the Civil Rights Movement increased pressure on the federal government to protect the voting rights of racial minorities. In 1957, Congress passed the first civil rights legislation since Reconstruction: the Civil Rights Act of 1957. This legislation authorized the attorney general to sue for injunctive relief on behalf of persons whose Fifteenth Amendment rights were denied, created the Civil Rights Division within the Department of Justice to enforce civil rights through litigation, and created the Commission on Civil Rights to investigate voting rights deprivations. Further protections were enacted in the Civil Rights Act of 1960, which allowed federal courts to appoint referees to conduct voter

registration in jurisdictions that engaged in voting discrimination against racial minorities.

Although these acts helped empower courts to remedy violations of federal voting rights, strict legal standards made it difficult for the Department of Justice to successfully pursue litigation. For example, to win a discrimination lawsuit against a state that maintained a literacy test, the Department needed to prove that the rejected voter-registration applications of racial minorities were comparable to the accepted applications of whites. This involved comparing thousands of applications in each of the state's counties in a process that could last months. The Department's efforts were further hampered by resistance from local election officials, who would claim to have misplaced the voter registration records of racial minorities, remove registered racial minorities from the electoral rolls, and resign so that voter registration ceased. Moreover, the Department often needed to appeal lawsuits several times before the judiciary provided relief because many federal district court judges opposed racial minority suffrage. Thus, between 1957 and 1964, the African-American voter registration rate in the South increased only marginally even though the Department litigated 71 voting rights lawsuits. Efforts to stop the disfranchisement by the Southern states had achieved only modest success overall and in some areas had proved almost entirely ineffectual, because the "Department of Justice's efforts to eliminate discriminatory election practices by litigation on a case-by-case basis had been unsuccessful in opening up the registration process; as soon as one discriminatory practice or procedure was proven to be unconstitutional and enjoined, a new one would be

substituted in its place and litigation would have to commence anew."

Congress responded to rampant discrimination against racial minorities in public accommodations and government services by passing the Civil Rights Act of 1964. The act included some voting rights protections; it required registrars to equally administer literacy tests in writing to each voter and to accept applications that contained minor errors, and it created a rebuttable presumption that persons with a sixth-grade education were sufficiently literate to vote. However, despite lobbying from civil rights leaders, the Act did not prohibit most forms of voting discrimination. President Lyndon B. Johnson recognized this, and shortly after the 1964 elections in which Democrats gained overwhelming majorities in both chambers of Congress, he privately instructed Attorney General Nicholas Katzenbach to draft "the goddamndest, toughest voting rights act that you can". However, Johnson did not publicly push for the legislation at the time; his advisers warned him of political costs for vigorously pursuing a voting rights bill so soon after Congress had passed the Civil Rights Act of 1964, and Johnson was concerned that championing voting rights would endanger his Great Society reforms by angering Southern Democrats in Congress.

Following the 1964 elections, civil rights organizations such as the Southern Christian Leadership Conference (SCLC) and the Student Nonviolent Coordinating Committee (SNCC) pushed for federal action to protect the voting rights of racial minorities. Their efforts culminated in protests in Alabama, particularly in the city of Selma, where County Sheriff Jim Clark's police force violently resisted African-American voter registration efforts.

Speaking about the voting rights push in Selma, James Forman of SNCC said: "Our strategy, as usual, was to force the U.S. government to intervene in case there were arrests—and if they did not intervene, that inaction would once again prove the government was not on our side and thus intensify the development of a mass consciousness among blacks. Our slogan for this drive was 'One Man, One Vote.'"

In January 1965, Martin Luther King Jr., James Bevel, and other civil rights leaders organized several peaceful demonstrations in Selma, which were violently attacked by police and white counter-protesters. Throughout January and February, these protests received national media coverage and drew attention to the issue of voting rights. King and other demonstrators were arrested during a march on February 1 for violating an anti-parade ordinance; this inspired similar marches in the following days, causing hundreds more to be arrested. On February 4, civil rights leader Malcolm X gave a militant speech in Selma in which he said that many African Americans did not support King's nonviolent approach; he later privately said that he wanted to frighten whites into supporting King. The next day, King was released and a letter he wrote addressing voting rights, "Letter From A Selma Jail", appeared in *The New York Times*.

With the nation paying increasing attention to Selma and voting rights, President Johnson reversed his decision to delay voting rights legislation, and on February 6, he announced he would send a proposal to Congress. However, he did not reveal the proposal's content or when it would come before Congress.

On February 18 in Marion, Alabama, state troopers violently broke up a nighttime voting-rights march during which officer James Bonard Fowler shot and killed young African-American protester Jimmie Lee Jackson, who was unarmed and protecting his mother. Spurred by this event, and at the initiation of Bevel, on March 7 SCLC and SNCC began the first of the Selma to Montgomery marches, in which Selma residents intended to march to Alabama's capital, Montgomery, to highlight voting rights issues and present Governor George Wallace with their grievances. On the first march, demonstrators were stopped by state and county police on horseback at the Edmund Pettus Bridge near Selma. The police shot tear gas into the crowd and trampled protesters. Televised footage of the scene, which became known as "Bloody Sunday", generated outrage across the country. A second march was held on March 9, which became known as "Turnaround Tuesday". That evening, three white Unitarian ministers who participated in the march were attacked on the street and beaten with clubs by four Ku Klux Klan members. The worst injured was Reverend James Reeb from Boston, who died on Thursday, March 11.

In the wake of the events in Selma, President Johnson, addressing a televised joint session of Congress on March 15, called on legislators to enact expansive voting rights legislation. He concluded his speech with the words "we shall overcome", a major anthem of the civil rights movement. The Voting Rights Act of 1965 was introduced in Congress two days later while civil rights leaders, now under the protection of federal troops, led a march of 25,000 people from Selma to Montgomery.

Legislative history

Efforts to eliminate discriminatory election practices by litigation on a case-by-case basis by the United States Department of Justice had been unsuccessful and existing federal anti-discrimination laws were not sufficient to overcome the resistance by state officials to enforcement of the 15th Amendment. Against this backdrop Congress came to the conclusion that a new comprehensive federal bill was necessary to break the grip of state disfranchisement. The United States Supreme Court explained this in *South Carolina v. Katzenbach* (1966) with the following words:

In recent years, Congress has repeatedly tried to cope with the problem by facilitating case-by-case litigation against voting discrimination. The Civil Rights Act of 1957 authorized the Attorney General to seek injunctions against public and private interference with the right to vote on racial grounds. Perfecting amendments in the Civil Rights Act of 1960 permitted the joinder of States as parties defendant, gave the Attorney General access to local voting records, and authorized courts to register voters in areas of systematic discrimination. Title I of the Civil Rights Act of 1964 expedited the hearing of voting cases before three-judge courts and outlawed some of the tactics used to disqualify Negroes from voting in federal elections. Despite the earnest efforts of the Justice Department and of many federal judges, these new laws have done little to cure the problem of voting discrimination. [...] The previous legislation has proved ineffective for a number of reasons. Voting suits are unusually onerous to prepare, sometimes requiring as many as 6,000 man-hours spent combing through

registration records in preparation for trial. Litigation has been exceedingly slow, in part because of the ample opportunities for delay afforded voting officials and others involved in the proceedings. Even when favorable decisions have finally been obtained, some of the States affected have merely switched to discriminatory devices not covered by the federal decrees, or have enacted difficult new tests designed to prolong the existing disparity between white and Negro registration. Alternatively, certain local officials have defied and evaded court orders or have simply closed their registration offices to freeze the voting rolls. The provision of the 1960 law authorizing registration by federal officers has had little impact on local maladministration, because of its procedural complexities.

In *South Carolina v. Katzenbach* (1966) the Supreme Court also held that Congress had the power to pass the Voting Rights Act of 1965 under its Enforcement Powers stemming from the Fifteenth Amendment:

Congress exercised its authority under the Fifteenth Amendment in an inventive manner when it enacted the Voting Rights Act of 1965. First: the measure prescribes remedies for voting discrimination which go into effect without any need for prior adjudication. This was clearly a legitimate response to the problem, for which there is ample precedent under other constitutional provisions. See *Katzenbach v. McClung*, 379 U. S. 294, 379 U. S. 302-304; *United States v. Darby*, 312 U. S. 100, 312 U. S. 120-121. Congress had found that case-by-case litigation was inadequate to combat widespread and persistent discrimination in voting, because of the inordinate amount of time and energy required to overcome the obstructionist tactics

invariably encountered in these lawsuits. After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims. [...]

Second: the Act intentionally confines these remedies to a small number of States and political subdivisions which, in most instances, were familiar to Congress by name. This, too, was a permissible method of dealing with the problem. Congress had learned that substantial voting discrimination presently occurs in certain sections of the country, and it knew no way of accurately forecasting whether the evil might spread elsewhere in the future. In acceptable legislative fashion, Congress chose to limit its attention to the geographic areas where immediate action seemed necessary. *See McGowan v. Maryland*, 366 U. S. 420, 366 U. S. 427; *Salsburg v. Maryland*, 346 U. S. 545, 346 U. S. 550-554. The doctrine of the equality of States, invoked by South Carolina, does not bar this approach, for that doctrine applies only to the terms upon which States are admitted to the Union, and not to the remedies for local evils which have subsequently appeared. *See Coyle v. Smith*, 221 U. S. 559, and cases cited therein.

Original bill

Senate

The Voting Rights Act of 1965 was introduced in Congress on March 17, 1965, as S. 1564, and it was jointly sponsored by Senate majority leader Mike Mansfield (D-MT) and Senate minority leader Everett Dirksen (R-IL), both of whom had worked with Attorney General Katzenbach to draft the bill's

language. Although Democrats held two-thirds of the seats in both chambers of Congress after the 1964 Senate elections, Johnson worried that Southern Democrats would filibuster the legislation because they had opposed other civil rights efforts. He enlisted Dirksen to help gain Republican support. Dirksen did not originally intend to support voting rights legislation so soon after supporting the Civil Rights Act of 1964, but he expressed willingness to accept "revolutionary" legislation after learning about the police violence against marchers in Selma on Bloody Sunday. Given Dirksen's key role in helping Katzenbach draft the legislation, it became known informally as the "Dirksenbach" bill. After Mansfield and Dirksen introduced the bill, 64 additional senators agreed to cosponsor it, with a total 46 Democratic and 20 Republican cosponsors.

The bill contained several special provisions that targeted certain state and local governments: a "coverage formula" that determined which jurisdictions were subject to the Act's other special provisions ("covered jurisdictions"); a "preclearance" requirement that prohibited covered jurisdictions from implementing changes to their voting procedures without first receiving approval from the U.S. attorney general or the U.S. District Court for D.C. that the changes were not discriminatory; and the suspension of "tests or devices", such as literacy tests, in covered jurisdictions. The bill also authorized the assignment of federal examiners to register voters, and of federal observers to monitor elections, to covered jurisdictions that were found to have engaged in egregious discrimination. The bill set these special provisions to expire after five years.

The scope of the coverage formula was a matter of contentious congressional debate. The coverage formula reached a jurisdiction if (1) the jurisdiction maintained a "test or device" on November 1, 1964 and (2) less than 50 percent of the jurisdiction's voting-age residents either were registered to vote on November 1, 1964 or cast a ballot in the November 1964 presidential election. This formula reached few jurisdictions outside the Deep South. To appease legislators who felt that the bill unfairly targeted Southern jurisdictions, the bill included a general prohibition on racial discrimination in voting that applied nationwide. The bill also included provisions allowing a covered jurisdiction to "bail out" of coverage by proving in federal court that it had not used a "test or device" for a discriminatory purpose or with a discriminatory effect during the 5 years preceding its bailout request. Additionally, the bill included a "bail in" provision under which federal courts could subject discriminatory non-covered jurisdictions to remedies contained in the special provisions.

The bill was first considered by the Senate Judiciary Committee, whose chair, Senator James Eastland (D-MS), opposed the legislation with several other Southern senators on the committee. To prevent the bill from dying in committee, Mansfield proposed a motion to require the Judiciary Committee to report the bill out of committee by April 9, which the Senate overwhelmingly passed by a vote of 67 to 13. During the committee's consideration of the bill, Senator Ted Kennedy (D-MA) led an effort to amend the bill to prohibit poll taxes. Although the Twenty-fourth Amendment—which banned the use of poll taxes in federal elections—was ratified a year earlier, Johnson's administration and the bill's sponsors did

not include a provision in the voting rights bill banning poll taxes in *state* elections because they feared courts would strike down the legislation as unconstitutional. Additionally, by excluding poll taxes from the definition of "tests or devices", the coverage formula did not reach Texas or Arkansas, mitigating opposition from those two states' influential congressional delegations. Nonetheless, with the support of liberal committee members, Kennedy's amendment to prohibit poll taxes passed by a 9-4 vote. In response, Dirksen offered an amendment that exempted from the coverage formula any state that had at least 60 percent of its eligible residents registered to vote or that had a voter turnout that surpassed the national average in the preceding presidential election. This amendment, which effectively exempted all states from coverage except Mississippi, passed during a committee meeting in which three liberal members were absent. Dirksen offered to drop the amendment if the poll tax ban were removed. Ultimately, the bill was reported out of committee on April 9 by a 12-4 vote without a recommendation.

On April 22, the full Senate started debating the bill. Dirksen spoke first on the bill's behalf, saying that "legislation is needed if the unequivocal mandate of the Fifteenth Amendment ... is to be enforced and made effective, and if the Declaration of Independence is to be made truly meaningful." Senator Strom Thurmond (R-SC) retorted that the bill would lead to "despotism and tyranny", and Senator Sam Ervin (D-NC) argued that the bill was unconstitutional because it deprived states of their right under Article I, Section 2 of the Constitution to establish voter qualifications and because the bill's special provisions targeted only certain jurisdictions. On May 6, Ervin offered an amendment to abolish the coverage

formula's automatic trigger and instead allow federal judges to appoint federal examiners to administer voter registration. This amendment overwhelmingly failed, with 42 Democrats and 22 Republicans voting against it. After lengthy debate, Ted Kennedy's amendment to prohibit poll taxes also failed 49-45 on May 11. However, the Senate agreed to include a provision authorizing the attorney general to sue any jurisdiction, covered or non-covered, to challenge its use of poll taxes. An amendment offered by Senator Robert F. Kennedy (D-NY) to enfranchise English-illiterate citizens who had attained at least a sixth-grade education in a non-English-speaking school also passed by 48-19. Southern legislators offered a series of amendments to weaken the bill, all of which failed.

On May 25, the Senate voted for cloture by a 70-30 vote, thus overcoming the threat of filibuster and limiting further debate on the bill. On May 26, the Senate passed the bill by a 77-19 vote (Democrats 47-16, Republicans 30-2); only senators representing Southern states voted against it.

House of Representatives

Emanuel Celler (D-NY), Chair of the House Judiciary Committee, introduced the Voting Rights Act in the House of Representatives on March 19, 1965, as H.R. 6400. The House Judiciary Committee was the first committee to consider the bill. The committee's ranking Republican, William McCulloch (R-OH), generally supported expanding voting rights, but he opposed both the poll tax ban and the coverage formula, and he led opposition to the bill in committee. The committee eventually approved the bill on May 12, but it did not file its

committee report until June 1. The bill included two amendments from subcommittee: a penalty for private persons who interfered with the right to vote and a prohibition of all poll taxes. The poll tax prohibition gained Speaker of the House John McCormack's support. The bill was next considered by the Rules Committee, whose chair, Howard W. Smith (D-VA), opposed the bill and delayed its consideration until June 24, when Celler initiated proceedings to have the bill discharged from committee. Under pressure from the bill's proponents, Smith allowed the bill to be released a week later, and the full House started debating the bill on July 6.

To defeat the Voting Rights Act, McCulloch introduced an alternative bill, H.R. 7896. It would have allowed the attorney general to appoint federal registrars after receiving 25 serious complaints of discrimination against a jurisdiction, and it would have imposed a nationwide ban on literacy tests for persons who could prove they attained a sixth-grade education. McCulloch's bill was co-sponsored by House minority leader Gerald Ford (R-MI) and supported by Southern Democrats as an alternative to the Voting Rights Act. The Johnson administration viewed H.R. 7896 as a serious threat to passing the Voting Rights Act. However, support for H.R. 7896 dissipated after William M. Tuck (D-VA) publicly said he preferred H.R. 7896 because the Voting Rights Act would legitimately ensure that African Americans could vote. His statement alienated most supporters of H.R. 7896, and the bill failed on the House floor by a 171-248 vote on July 9. Later that night, the House passed the Voting Rights Act by a 333-85 vote (Democrats 221-61, Republicans 112-24).

Conference committee

The chambers appointed a conference committee to resolve differences between the House and Senate versions of the bill. A major contention concerned the poll tax provisions; the Senate version allowed the attorney general to sue states that used poll taxes to discriminate, while the House version outright banned all poll taxes. Initially, the committee members were stalemated. To help broker a compromise, Attorney General Katzenbach drafted legislative language explicitly asserting that poll taxes were unconstitutional and instructed the Department of Justice to sue the states that maintained poll taxes. To assuage concerns of liberal committee members that this provision was not strong enough, Katzenbach enlisted the help of Martin Luther King Jr., who gave his support to the compromise. King's endorsement ended the stalemate, and on July 29, the conference committee reported its version out of committee. The House approved this conference report version of the bill on August 3 by a 328-74 vote (Democrats 217-54, Republicans 111-20), and the Senate passed it on August 4 by a 79-18 vote (Democrats 49-17, Republicans 30-1). On August 6, President Johnson signed the Act into law with King, Rosa Parks, John Lewis, and other civil rights leaders in attendance at the signing ceremony.

Amendments

Congress enacted major amendments to the Act in 1970, 1975, 1982, 1992, and 2006. Each amendment coincided with an impending expiration of some or all of the Act's special provisions. Originally set to expire by 1970, Congress

repeatedly reauthorized the special provisions in recognition of continuing voting discrimination. Congress extended the coverage formula and special provisions tied to it, such as the Section 5 preclearance requirement, for five years in 1970, seven years in 1975, and 25 years in both 1982 and 2006. In 1970 and 1975, Congress also expanded the reach of the coverage formula by supplementing it with new 1968 and 1972 trigger dates. Coverage was further enlarged in 1975 when Congress expanded the meaning of "tests or devices" to encompass any jurisdiction that provided English-only election information, such as ballots, if the jurisdiction had a single language minority group that constituted more than five percent of the jurisdiction's voting-age citizens. These expansions brought numerous jurisdictions into coverage, including many outside of the South. To ease the burdens of the reauthorized special provisions, Congress liberalized the bailout procedure in 1982 by allowing jurisdictions to escape coverage by complying with the Act and affirmatively acting to expand minority political participation. In addition to reauthorizing the original special provisions and expanding coverage, Congress amended and added several other provisions to the Act. For instance, Congress expanded the original ban on "tests or devices" to apply nationwide in 1970, and in 1975, Congress made the ban permanent. Separately, in 1975 Congress expanded the Act's scope to protect language minorities from voting discrimination. Congress defined "language minority" to mean "persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage." Congress amended various provisions, such as the preclearance requirement and Section 2's general prohibition of discriminatory voting laws, to prohibit discrimination against language minorities. Congress also enacted a bilingual

election requirement in Section 203, which requires election officials in certain jurisdictions with large numbers of English-illiterate language minorities to provide ballots and voting information in the language of the language minority group. Originally set to expire after 10 years, Congress reauthorized Section 203 in 1982 for seven years, expanded and reauthorized it in 1992 for 15 years, and reauthorized it in 2006 for 25 years. The bilingual election requirements have remained controversial, with proponents arguing that bilingual assistance is necessary to enable recently naturalized citizens to vote and opponents arguing that the bilingual election requirements constitute costly unfunded mandates.

Several of the amendments responded to judicial rulings with which Congress disagreed. In 1982, Congress amended the Act to overturn the Supreme Court case *Mobile v. Bolden* (1980), which held that the general prohibition of voting discrimination prescribed in Section 2 prohibited only *purposeful* discrimination. Congress responded by expanding Section 2 to explicitly ban any voting practice that had a discriminatory *effect*, regardless of whether the practice was enacted or operated for a discriminatory purpose. The creation of this "results test" shifted the majority of vote dilution litigation brought under the Act from preclearance lawsuits to Section 2 lawsuits. In 2006, Congress amended the Act to overturn two Supreme Court cases: *Reno v. Bossier Parish School Board* (2000), which interpreted the Section 5 preclearance requirement to prohibit only voting changes that were enacted or maintained for a "retrogressive" discriminatory purpose instead of any discriminatory purpose, and *Georgia v. Ashcroft* (2003), which established a broader test for determining whether a redistricting plan had an impermissible

effect under Section 5 than assessing only whether a minority group could elect its preferred candidates. Since the Supreme Court struck down the coverage formula as unconstitutional in *Shelby County v. Holder* (2013), several bills have been introduced in Congress to create a new coverage formula and amend various other provisions; none of these bills have passed.

Provisions

The act contains two types of provisions: "general provisions", which apply nationwide, and "special provisions", which apply to only certain states and local governments. Most provisions are designed to protect the voting rights of racial and language minorities. The term "language minority" means "persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage." The act's provisions have been colored by numerous judicial interpretations and congressional amendments.

General provisions

General prohibition of discriminatory

voting laws

Section 2 prohibits any jurisdiction from implementing a "voting qualification or prerequisite to voting, or standard, practice, or procedure ... in a manner which results in a denial

or abridgement of the right ... to vote on account of race," color, or language minority status. The Voting Rights Acts (VRA) Section 2 contains two separate protections against voter discrimination for laws which in contrast to Section 5 of the VRA are already in effect. The first protection is a prohibition of intentional discrimination based on race or color in voting. The second protection is a prohibition of election practices that result in the denial or abridgment of the right to vote based on race or color. If the violation of the second protection is intentional, then this violation is also a violation of the Fifteenth Amendment. The Supreme Court has allowed private plaintiffs to sue to enforce these prohibitions. In *Mobile v. Bolden* (1980), the Supreme Court held that as originally enacted in 1965, Section 2 simply restated the Fifteenth Amendment and thus prohibited only those voting laws that were *intentionally* enacted or maintained for a discriminatory purpose. In 1982, Congress amended Section 2 to create a "results" test, which prohibits any voting law that has a discriminatory effect irrespective of whether the law was intentionally enacted or maintained for a discriminatory purpose. The 1982 amendments stipulated that the results test does not guarantee protected minorities a right to proportional representation. In *Thornburg v. Gingles* (1986) the United States Supreme Court explained with respect to the 1982 amendment for section 2 that the "essence of a Section 2 claim is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in the opportunities enjoyed by black and white voters to elect their preferred representatives." The United States Department of Justice declared that section 2 is not only a permanent and nationwide-applying prohibition against discrimination in voting to any voting standard, practice, or procedure that

results in the denial or abridgement of the right of any citizen to vote on account of race, color, or membership in a language minority group, but also a prohibition for state and local officials to adopt or maintain voting laws or procedures that purposefully discriminate on the basis of race, color, or membership in a language minority group.

The United States Supreme Court expressed its views regarding Section 2 and its amendment from 1982 in *Chisom v. Roemer* (1991). Under the amended statute, proof of intent is no longer required to prove a § 2 violation. Now plaintiffs can prevail under § 2 by demonstrating that a challenged election practice has resulted in the denial or abridgement of the right to vote based on color or race. Congress not only incorporated the results test in the paragraph that formerly constituted the entire § 2, but also designated that paragraph as subsection (a) and added a new subsection (b) to make clear that an application of the results test requires an inquiry into "the totality of the circumstances." Section 2(a) adopts a results test, thus providing that proof of discriminatory intent is no longer necessary to establish any violation of the section. Section 2(b) provides guidance about how the results test is to be applied. There is a statutory framework to determine whether a jurisdiction's election law violates the general prohibition from Section 2 in its amended form:

Section 2 prohibits voting practices that "result[] in a denial or abridgment of the right * * * to vote on account of race or color [or language-minority status]," and it states that such a result "is established" if a jurisdiction's "political processes * * * are not equally open" to members of such a group "in that [they] have less opportunity * * * to participate in the political

process and to elect representatives of their choice.” 52 U.S.C. 10301. [...] Subsection (b) states in relevant part: A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

The Office of the Arizona Attorney general stated with respect to the framework to determine whether a jurisdiction's election law violates the general prohibition from Section 2 in its amended form and the reason for the adoption of Section 2 in its amended form:

To establish a violation of amended Section 2, the plaintiff must prove, “based on the totality of circumstances,” that the State’s “political processes” are “not equally open to participation by members” of a protected class, “in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” § 10301(b). That is the “result” that amended Section 2 prohibits: “less *opportunity* than other members of the electorate,” viewing the State’s “political processes” as a whole. The new language was crafted as a compromise designed to eliminate the need for direct evidence of discriminatory intent, which is often difficult to obtain, but without embracing an unqualified “disparate impact” test that would invalidate many legitimate voting procedures. S. REP. NO. 97–417, at 28-29, 31-32, 99 (1982)

In *Brnovich v. Democratic National Committee* (2021) the United States Supreme Court introduced the means to review Section 2 challenges. The non-binding slip opinion stated in its Syllabus section in this regard that "The Court declines in these cases to announce a test to govern all VRA [Section 2] challenges to rules that specify the time, place, or manner for casting ballots. It is sufficient for present purposes to identify certain guideposts that lead to the Court's decision in these cases." The Court laid out these guideposts used to evaluate the state regulations in context of Section 2, which included: the size of the burden created by the rule, the degree which the rule deviates from past practices, the size of the racial imbalance, and the overall level of opportunity afforded voters in considering all election rules.

When determining whether a jurisdiction's election law violates the general prohibition from Section 2 of the VRA, courts have relied on factors enumerated in the Senate Judiciary Committee report associated with the 1982 amendments ("Senate Factors"), including:

- The history of official discrimination in the jurisdiction that affects the right to vote;
- The degree to which voting in the jurisdiction is racially polarized;
- The extent of the jurisdiction's use of majority vote requirements, unusually large electoral districts, prohibitions on bullet voting, and other devices that tend to enhance the opportunity for voting discrimination;
- Whether minority candidates are denied access to the jurisdiction's candidate slating processes, if any;

- The extent to which the jurisdiction's minorities are discriminated against in socioeconomic areas, such as education, employment, and health;
- Whether overt or subtle racial appeals in campaigns exist;
- The extent to which minority candidates have won elections;
- The degree that elected officials are unresponsive to the concerns of the minority group; and
- Whether the policy justification for the challenged law is tenuous.

The report indicates not all or a majority of these factors need to exist for an electoral device to result in discrimination, and it also indicates that this list is not exhaustive, allowing courts to consider additional evidence at their discretion.

Section 2 prohibits two types of discrimination: "vote denial", in which a person is denied the opportunity to cast a ballot or to have their vote properly counted, and "vote dilution", in which the strength or effectiveness of a person's vote is diminished. Most Section 2 litigation has concerned vote dilution, especially claims that a jurisdiction's redistricting plan or use of at-large/multimember elections prevents minority voters from casting sufficient votes to elect their preferred candidates. An at-large election can dilute the votes cast by minority voters by allowing a cohesive majority group to win every legislative seat in the jurisdiction. Redistricting plans can be gerrymandered to dilute votes cast by minorities by "packing" high numbers of minority voters into a small number of districts or "cracking" minority groups by placing

small numbers of minority voters into a large number of districts.

In *Thornburg v. Gingles* (1986), the Supreme Court used the term "vote dilution through submergence" to describe claims that a jurisdiction's use of an at-large/multimember election system or gerrymandered redistricting plan diluted minority votes, and it established a legal framework for assessing such claims under Section 2. Under the *Gingles* test, plaintiffs must show the existence of three preconditions:

- The racial or language minority group "is sufficiently numerous and compact to form a majority in a single-member district";
- The minority group is "politically cohesive" (meaning its members tend to vote similarly); and
- The "majority votes sufficiently as a bloc to enable it ... usually to defeat the minority's preferred candidate."

The first precondition is known as the "compactness" requirement and concerns whether a majority-minority district can be created. The second and third preconditions are collectively known as the "racially polarized voting" or "racial bloc voting" requirement, and they concern whether the voting patterns of the different racial groups are different from each other. If a plaintiff proves these preconditions exist, then the plaintiff must additionally show, using the remaining Senate Factors and other evidence, that under the "totality of the circumstances", the jurisdiction's redistricting plan or use of at-large or multimember elections diminishes the ability of the minority group to elect candidates of its choice.

Subsequent litigation further defined the contours of these "vote dilution through submergence" claims. In *Bartlett v. Strickland* (2009), the Supreme Court held that the first *Gingles* precondition can be satisfied *only* if a district can be drawn in which the minority group comprises a majority of voting-age citizens. This means that plaintiffs cannot succeed on a submergence claim in jurisdictions where the size of the minority group, despite not being large enough to comprise a majority in a district, is large enough for its members to elect their preferred candidates with the help of "crossover" votes from some members of the majority group. In contrast, the Supreme Court has not addressed whether different protected minority groups can be aggregated to satisfy the *Gingles* preconditions as a coalition, and lower courts have split on the issue.

The Supreme Court provided additional guidance on the "totality of the circumstances" test in *Johnson v. De Grandy* (1994). The court emphasized that the existence of the three *Gingles* preconditions may be insufficient to prove liability for vote dilution through submergence if other factors weigh against such a determination, especially in lawsuits challenging redistricting plans. In particular, the court held that even where the three *Gingles* preconditions are satisfied, a jurisdiction is unlikely to be liable for vote dilution if its redistricting plan contains a number of majority-minority districts that is proportional to the minority group's population size. The decision thus clarified that Section 2 does not require jurisdictions to maximize the number of majority-minority districts. The opinion also distinguished the proportionality of majority-minority districts, which allows minorities to have a proportional *opportunity* to elect their candidates of choice,

from the proportionality of election *results*, which Section 2 explicitly does not guarantee to minorities.

An issue regarding the third *Gingles* precondition remains unresolved. In *Gingles*, the Supreme Court split as to whether plaintiffs must prove that the majority racial group votes as a bloc specifically because its members are motivated to vote based on racial considerations and not other considerations that may overlap with race, such as party affiliation. A plurality of justices said that requiring such proof would violate Congress's intent to make Section 2 a "results" test, but Justice White maintained that the proof was necessary to show that an electoral scheme results in *racial* discrimination. Since *Gingles*, lower courts have split on the issue.

Although most Section 2 litigation has involved claims of vote dilution through submergence, courts also have addressed other types of vote dilution under this provision. In *Holder v. Hall* (1994), the Supreme Court held that claims that minority votes are diluted by the small size of a governing body, such as a one-person county commission, may not be brought under Section 2. A plurality of the court reasoned that no uniform, non-dilutive "benchmark" size for a governing body exists, making relief under Section 2 impossible. Another type of vote dilution may result from a jurisdiction's requirement that a candidate be elected by a majority vote. A majority-vote requirement may cause a minority group's candidate of choice, who would have won the election with a simple plurality of votes, to lose after a majority of voters unite behind another candidate in a runoff election. The Supreme Court has not addressed whether such claims may be brought under Section 2, and lower courts have reached different conclusions on the

issue. In addition to claims of vote dilution, courts have considered vote denial claims brought under Section 2. The Supreme Court, in *Richardson v. Ramirez* (1974), held that felony disenfranchisement laws cannot violate Section 2 because, among other reasons, Section 2 of the Fourteenth Amendment permits such laws. A federal district court in Mississippi held that a "dual registration" system that requires a person to register to vote separately for state elections and local elections may violate Section 2 if the system has a racially disparate impact in light of the Senate Factors. Starting in 2013, lower federal courts began to consider various challenges to voter ID laws brought under Section 2.

Specific prohibitions

The act contains several specific prohibitions on conduct that may interfere with a person's ability to cast an effective vote. One of these prohibitions is prescribed in Section 201, which prohibits any jurisdiction from requiring a person to comply with any "test or device" to register to vote or cast a ballot. The term "test or device" is defined as literacy tests, educational or knowledge requirements, proof of good moral character, and requirements that a person be vouched for when voting. Before the Act's enactment, these devices were the primary tools used by jurisdictions to prevent racial minorities from voting. Originally, the Act suspended tests or devices temporarily in jurisdictions covered by the Section 4(b) coverage formula, but Congress subsequently expanded the prohibition to the entire country and made it permanent. Relatedly, Section 202 prohibits jurisdictions from imposing any "durational residency requirement" that requires persons to have lived in the

jurisdiction for more than 30 days before being eligible to vote in a presidential election.

Several further protections for voters are contained in Section 11. Section 11(a) prohibits any person acting under color of law from refusing or failing to allow a qualified person to vote or to count a qualified voter's ballot. Similarly, Section 11(b) prohibits any person from intimidating, harassing, or coercing another person for voting or attempting to vote. Two provisions in Section 11 address voter fraud: Section 11(c) prohibits people from knowingly submitting a false voter registration application to vote in a federal election, and Section 11(e) prohibits voting twice in a federal election.

Finally, under Section 208, a jurisdiction may not prevent anyone who is English-illiterate or has a disability from being accompanied into the ballot box by an assistant of the person's choice. The only exceptions are that the assistant may not be an agent of the person's employer or union.

Bail-in

Section 3(c) contains a "bail-in" or "pocket trigger" process by which jurisdictions that fall outside the coverage formula of Section 4(b) may become subject to preclearance. Under this provision, if a jurisdiction has racially discriminated against voters in violation of the Fourteenth or Fifteenth Amendments, a court may order the jurisdiction to have future changes to its election laws preapproved by the federal government. Because courts have interpreted the Fourteenth and Fifteenth Amendments to prohibit only intentional discrimination, a

court may bail in a jurisdiction only if the plaintiff proves that the jurisdiction enacted or operated a voting practice to purposely discriminate.

Section 3(c) contains its own preclearance language and differs from Section 5 preclearance in several ways. Unlike Section 5 preclearance, which applies to a covered jurisdiction until such time as the jurisdiction may bail out of coverage under Section 4(a), bailed-in jurisdictions remain subject to preclearance for as long as the court orders. Moreover, the court may require the jurisdiction to preclear only particular types of voting changes. For example, the bail-in of New Mexico in 1984 applied for 10 years and required preclearance of only redistricting plans. This differs from Section 5 preclearance, which requires a covered jurisdiction to preclear all of its voting changes.

During the Act's early history, Section 3(c) was little used; no jurisdictions were bailed in until 1975. Between 1975 and 2013, 18 jurisdictions were bailed in, including 16 local governments and the states of Arkansas and New Mexico. Although the Supreme Court held the Section 4(b) coverage formula unconstitutional in *Shelby County v. Holder* (2013), it did not hold Section 3(c) unconstitutional. Therefore, jurisdictions may continue to be bailed-in and subjected to Section 3(c) preclearance. In the months following *Shelby County*, courts began to consider requests by the attorney general and other plaintiffs to bail in the states of Texas and North Carolina, and in January 2014 a federal court bailed in Evergreen, Alabama. A more narrow bail-in process pertaining to federal observer certification is prescribed in Section 3(a). Under this provision, a federal court may certify a non-covered

jurisdiction to receive federal observers if the court determines that the jurisdiction violated the voting rights guaranteed by the Fourteenth or Fifteenth Amendments. Jurisdictions certified to receive federal observers under Section 3(a) are not subject to preclearance.

Special provisions

Coverage formula

Section 4(b) contains a "coverage formula" that determines which states and local governments may be subjected to the Act's other special provisions (except for the Section 203(c) bilingual election requirements, which fall under a different formula). Congress intended for the coverage formula to encompass the most pervasively discriminatory jurisdictions. A jurisdiction is covered by the formula if:

- As of November 1, 1964, 1968, or 1972, the jurisdiction used a "test or device" to restrict the opportunity to register and vote; and
- Less than half of the jurisdiction's eligible citizens were registered to vote on November 1, 1964, 1968, or 1972; or less than half of eligible citizens voted in the presidential election of November 1964, 1968, or 1972.

As originally enacted, the coverage formula contained only November 1964 triggering dates; subsequent revisions to the law supplemented it with the additional triggering dates of November 1968 and November 1972, which brought more

jurisdictions into coverage. For purposes of the coverage formula, the term "test or device" includes the same four devices prohibited nationally by Section 201—literacy tests, educational or knowledge requirements, proof of good moral character, and requirements that a person be vouched for when voting—and one further device defined in Section 4(f)(3): in jurisdictions where more than five percent of the citizen voting age population are members of a single language minority group, any practice or requirement by which registration or election materials are provided only in English. The types of jurisdictions that the coverage formula applies to include states and "political subdivisions" of states. Section 14(c)(2) defines "political subdivision" to mean any county, parish, or "other subdivision of a State which conducts registration for voting."

As Congress added new triggering dates to the coverage formula, new jurisdictions were brought into coverage. The 1965 coverage formula included the whole of Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, and Virginia; and some subdivisions (mostly counties) in Arizona, Hawaii, Idaho, and North Carolina. The 1968 coverage resulted in the partial coverage of Alaska, Arizona, California, Connecticut, Idaho, Maine, Massachusetts, New Hampshire, New York, and Wyoming. Connecticut, Idaho, Maine, Massachusetts, and Wyoming filed successful "bailout" lawsuits, as also provided by section 4. The 1972 coverage covered the whole of Alaska, Arizona, and Texas, and parts of California, Florida, Michigan, New York, North Carolina, and South Dakota.

The special provisions of the Act were initially due to expire in 1970, and Congress renewed them for another five years. In

1975, the Act's special provisions were extended for another seven years. In 1982, the coverage formula was extended again, this time for 25 years, but no changes were made to the coverage formula, and in 2006, the coverage formula was again extended for 25 years.

Throughout its history, the coverage formula remained controversial because it singled out certain jurisdictions for scrutiny, most of which were in the Deep South. In *Shelby County v. Holder* (2013), the Supreme Court declared the coverage formula unconstitutional because the criteria used were outdated and thus violated principles of equal state sovereignty and federalism. The other special provisions that are dependent on the coverage formula, such as the Section 5 preclearance requirement, remain valid law. However, without a valid coverage formula, these provisions are unenforceable.

Preclearance requirement

Section 5 requires that covered jurisdictions receive federal approval, known as "preclearance", before implementing changes to their election laws. A covered jurisdiction has the burden of proving that the change does not have the purpose or effect of discriminating on the basis of race or language minority status; if the jurisdiction fails to meet this burden, the federal government will deny preclearance and the jurisdiction's change will not go into effect. The Supreme Court broadly interpreted Section 5's scope in *Allen v. State Board of Election* (1969), holding that any change in a jurisdiction's voting practices, even if minor, must be submitted for preclearance. The court also held that if a jurisdiction fails to

have its voting change precleared, private plaintiffs may sue the jurisdiction in the plaintiff's local district court before a three-judge panel. In these Section 5 "enforcement actions", a court considers whether the jurisdiction made a covered voting change, and if so, whether the change had been precleared. If the jurisdiction improperly failed to obtain preclearance, the court will order the jurisdiction to obtain preclearance before implementing the change. However, the court may not consider the merits of whether the change should be approved.

Jurisdictions may seek preclearance through either an "administrative preclearance" process or a "judicial preclearance" process. If a jurisdiction seeks administrative preclearance, the attorney general will consider whether the proposed change has a discriminatory purpose or effect. After the jurisdiction submits the proposed change, the attorney general has 60 days to interpose an objection to it. The 60-day period may be extended an additional 60 days if the jurisdiction later submits additional information. If the attorney general interposes an objection, then the change is not precleared and may not be implemented. The attorney general's decision is not subject to judicial review, but if the attorney general interposes an objection, the jurisdiction may independently seek judicial preclearance, and the court may disregard the attorney general's objection at its discretion. If a jurisdiction seeks judicial preclearance, it must file a declaratory judgment action against the attorney general in the U.S. District Court for D.C. A three-judge panel will consider whether the voting change has a discriminatory purpose or effect, and the losing party may appeal directly to the Supreme Court. Private parties may intervene in judicial preclearance lawsuits.

In several cases, the Supreme Court has addressed the meaning of "discriminatory effect" and "discriminatory purpose" for Section 5 purposes. In *Beer v. United States* (1976), the court held that for a voting change to have a prohibited discriminatory effect, it must result in "retrogression" (backsliding). Under this standard, a voting change that causes discrimination, but does not result in *more* discrimination than before the change was made, cannot be denied preclearance for having a discriminatory effect. For example, replacing a poll tax with an equally expensive voter registration fee is not a "retrogressive" change because it causes equal discrimination, not more. Relying on the Senate report for the Act, the court reasoned that the retrogression standard was the correct interpretation of the term "discriminatory effect" because Section 5's purpose is " 'to insure that [the gains thus far achieved in minority political participation] shall not be destroyed through new [discriminatory] procedures' ". The retrogression standard applies irrespective of whether the voting change allegedly causes vote denial or vote dilution.

In 2003, the Supreme Court held in *Georgia v. Ashcroft* that courts should not determine that a new redistricting plan has a retrogressive effect solely because the plan decreases the number of minority-majority districts. The court emphasized that judges should analyze various other factors under the "totality of the circumstances", such as whether the redistricting plan increases the number of "influence districts" in which a minority group is large enough to influence (but not decide) election outcomes. In 2006, Congress overturned this decision by amending Section 5 to explicitly state that "diminishing the ability [of a protected minority] to elect their

preferred candidates of choice denies or abridges the right to vote within the meaning of" Section 5. Uncertainty remains as to what this language precisely means and how courts may interpret it. Before 2000, the "discriminatory purpose" prong of Section 5 was understood to mean *any* discriminatory purpose, which is the same standard used to determine whether discrimination is unconstitutional. In *Reno v. Bossier Parish (Bossier Parish II)* (2000), the Supreme Court extended the retrogression standard, holding that for a voting change to have a "discriminatory purpose" under Section 5, the change must have been implemented for a *retrogressive* purpose. Therefore, a voting change intended to discriminate against a protected minority was permissible under Section 5 so long as the change was not intended to increase existing discrimination. This change significantly reduced the number of instances in which preclearance was denied based on discriminatory purpose. In 2006, Congress overturned *Bossier Parish II* by amending Section 5 to explicitly define "purpose" to mean "any discriminatory purpose."

Federal examiners and observers

Until the 2006 amendments to the Act, Section 6 allowed the appointment of "federal examiners" to oversee certain jurisdictions' voter registration functions. Federal examiners could be assigned to a covered jurisdiction if the attorney general certified that

- The Department of Justice received 20 or more meritorious complaints that the covered jurisdiction

denied its residents the right to vote based on race or language minority status; or

- The assignment of federal examiners was otherwise necessary to enforce the voting rights guaranteed by the Fourteenth or Fifteenth Amendments.

Federal examiners had the authority to register voters, examine voter registration applications, and maintain voter rolls. The goal of the federal examiner provision was to prevent jurisdictions from denying protected minorities the right to vote by engaging in discriminatory behavior in the voter registration process, such as refusing to register qualified applicants, purging qualified voters from the voter rolls, and limiting the hours during which persons could register. Federal examiners were used extensively in the years following the Act's enactment, but their importance waned over time; 1983 was the last year that a federal examiner registered a person to vote. In 2006, Congress repealed the provision.

Under the Act's original framework, in any jurisdiction certified for federal examiners, the attorney general could additionally require the appointment of "federal observers". By 2006, the federal examiner provision was used solely as a means to appoint federal observers. When Congress repealed the federal examiner provision in 2006, Congress amended Section 8 to allow for the assignment of federal observers to jurisdictions that satisfied the same certification criteria that had been used to appoint federal examiners.

Federal observers are tasked with observing poll worker and voter conduct at polling places during an election and observing election officials tabulate the ballots. The goal of the

federal observer provision is to facilitate minority voter participation by deterring and documenting instances of discriminatory conduct in the election process, such as election officials denying qualified minority persons the right to cast a ballot, intimidation or harassment of voters on election day, or improper vote counting. Discriminatory conduct that federal observers document may also serve as evidence in subsequent enforcement lawsuits. Between 1965 and the Supreme Court's 2013 decision in *Shelby County v. Holder* to strike down the coverage formula, the attorney general certified 153 local governments across 11 states. Because of time and resource constraints, federal observers are not assigned to every certified jurisdiction for every election. Separate provisions allow for a certified jurisdiction to "bail out" of its certification.

Bailout

Under Section 4(a), a covered jurisdiction may seek exemption from coverage through a process called "bailout." To achieve an exemption, a covered jurisdiction must obtain a declaratory judgment from a three-judge panel of the District Court for D.C. that the jurisdiction is eligible to bail out. As originally enacted, a covered jurisdiction was eligible to bail out if it had not used a test or device with a discriminatory purpose or effect during the 5 years preceding its bailout request. Therefore, a jurisdiction that requested to bail out in 1967 would have needed to prove that it had not misused a test or device since at least 1962. Until 1970, this effectively required a covered jurisdiction to prove that it had not misused a test or device since before the Act was enacted five years earlier in

1965, making it impossible for many covered jurisdictions to bail out. However, Section 4(a) also prohibited covered jurisdictions from using tests or devices in any manner, discriminatory or otherwise; hence, under the original act, a covered jurisdiction would become eligible for bailout in 1970 by simply complying with this requirement. But in the course of amending the Act in 1970 and 1975 to extend the special provisions, Congress also extended the period of time that a covered jurisdiction must not have misused a test or device to 10 years and then to 17 years, respectively. These extensions continued the effect of requiring jurisdictions to prove that they had not misused a test or device since before the Act's enactment in 1965.

In 1982, Congress amended Section 4(a) to make bailout easier to achieve in two ways. First, Congress provided that if a state is covered, local governments in that state may bail out even if the state is ineligible to bail out. Second, Congress liberalized the eligibility criteria by replacing the 17-year requirement with a new standard, allowing a covered jurisdiction to bail out by proving that in the 10 years preceding its bailout request:

- The jurisdiction did not use a test or device with a discriminatory purpose or effect;
- No court determined that the jurisdiction denied or abridged the right to vote based on racial or language minority status;
- The jurisdiction complied with the preclearance requirement;
- The federal government did not assign federal examiners to the jurisdiction;

- The jurisdiction abolished discriminatory election practices; and
- The jurisdiction took affirmative steps to eliminate voter intimidation and expand voting opportunities for protected minorities.

Additionally, Congress required jurisdictions seeking bailout to produce evidence of minority registration and voting rates, including how these rates have changed over time and in comparison to the registration and voting rates of the majority. If the court determines that the covered jurisdiction is eligible for bailout, it will enter a declaratory judgment in the jurisdiction's favor. The court will retain jurisdiction for the following 10 years and may order the jurisdiction back into coverage if the jurisdiction subsequently engages in voting discrimination.

The 1982 amendment to the bailout eligibility standard went into effect on August 5, 1984. Between that date and 2013, 196 jurisdictions bailed out of coverage through 38 bailout actions; in each instance, the attorney general consented to the bailout request. Between that date and 2009, all jurisdictions that bailed out were located in Virginia. In 2009, a municipal utility jurisdiction in Texas bailed out after the Supreme Court's opinion in *Northwest Austin Municipal Utility District No. 1 v. Holder* (2009), which held that local governments that do not register voters have the ability to bail out. After this ruling, jurisdictions succeeded in at least 20 bailout actions before the Supreme Court held in *Shelby County v. Holder* (2013) that the coverage formula was unconstitutional.

Separate provisions allow a covered jurisdiction that has been certified to receive federal observers to bail out of its certification alone. Under Section 13, the attorney general may terminate the certification of a jurisdiction if 1) more than 50 percent of the jurisdiction's minority voting age population is registered to vote, and 2) there is no longer reasonable cause to believe that residents may experience voting discrimination. Alternatively, the District Court for D.C. may order the certification terminated.

Bilingual election requirements

Two provisions require certain jurisdictions to provide election materials to voters in multiple languages: Section 4(f)(4) and Section 203(c). A jurisdiction covered by either provision must provide all materials related to an election—such as voter registration materials, ballots, notices, and instructions—in the language of any applicable language minority group residing in the jurisdiction. Language minority groups protected by these provisions include Asian Americans, Hispanics, Native Americans, and Native Alaskans. Congress enacted the provisions to break down language barriers and combat pervasive language discrimination against the protected groups.

Section 4(f)(4) applies to any jurisdiction encompassed by the Section 4(b) coverage formula where more than five percent of the citizen voting age population are members of a single language minority group. Section 203(c) contains a formula that is separate from the Section 4(b) coverage formula, and therefore jurisdictions covered solely by 203(c) are not subject

to the Act's other special provisions, such as preclearance. The Section 203(c) formula encompasses jurisdictions where the following conditions exist:

- A single language minority is present that has an English-illiteracy rate higher than the national average; and
- Either:
 - The number of "limited-English proficient" members of the language minority group is at least 10,000 voting-age citizens or large enough to comprise at least five percent of the jurisdiction's voting-age citizen population; or
 - The jurisdiction is a political subdivision that contains an Indian reservation, and more than five percent of the jurisdiction's American Indian or Alaska Native voting-age citizens are members of a single language minority and are limited-English proficient.

Section 203(b) defines "limited-English proficient" as being "unable to speak or understand English adequately enough to participate in the electoral process". Determinations as to which jurisdictions satisfy the Section 203(c) criteria occur once a decade following completion of the decennial census; at these times, new jurisdictions may come into coverage while others may have their coverage terminated. Additionally, under Section 203(d), a jurisdiction may "bail out" of Section 203(c) coverage by proving in federal court that no language minority group within the jurisdiction has an English illiteracy rate that is higher than the national illiteracy rate. After the 2010 census, 150 jurisdictions across 25 states were covered under

Section 203(c), including statewide coverage of California, Texas, and Florida.

Impact

After its enactment in 1965, the law immediately decreased racial discrimination in voting. The suspension of literacy tests and the assignments of federal examiners and observers allowed for high numbers of racial minorities to register to vote. Nearly 250,000 African Americans registered in 1965, one-third of whom were registered by federal examiners. In covered jurisdictions, less than one-third (29.3 percent) of the African American population was registered in 1965; by 1967, this number increased to more than half (52.1 percent), and a majority of African American residents became registered to vote in 9 of the 13 Southern states. Similar increases were seen in the number of African Americans elected to office: between 1965 and 1985, African Americans elected as state legislators in the 11 former Confederate states increased from 3 to 176. Nationwide, the number of African American elected officials increased from 1,469 in 1970 to 4,912 in 1980. By 2011, the number was approximately 10,500. Similarly, registration rates for language minority groups increased after Congress enacted the bilingual election requirements in 1975 and amended them in 1992. In 1973, the percent of Hispanics registered to vote was 34.9 percent; by 2006, that amount nearly doubled. The number of Asian Americans registered to vote in 1996 increased 58 percent by 2006.

After the Act's initial success in combating tactics designed to deny minorities access to the polls, the Act became

predominately used as a tool to challenge racial vote dilution. Starting in the 1970s, the attorney general commonly raised Section 5 objections to voting changes that decreased the effectiveness of racial minorities' votes, including discriminatory annexations, redistricting plans, and election methods such as at-large election systems, runoff election requirements, and prohibitions on bullet voting. In total, 81 percent (2,541) of preclearance objections made between 1965 and 2006 were based on vote dilution. Claims brought under Section 2 have also predominately concerned vote dilution. Between the 1982 creation of the Section 2 results test and 2006, at least 331 Section 2 lawsuits resulted in published judicial opinions. In the 1980s, 60 percent of Section 2 lawsuits challenged at-large election systems; in the 1990s, 37.2 percent challenged at-large election systems and 38.5 percent challenged redistricting plans. Overall, plaintiffs succeeded in 37.2 percent of the 331 lawsuits, and they were more likely to succeed in lawsuits brought against covered jurisdictions.

By enfranchising racial minorities, the Act facilitated a political realignment of the Democratic and Republican parties. Between 1890 and 1965, minority disenfranchisement allowed conservative Southern Democrats to dominate Southern politics. After Johnson signed the Act into law, newly enfranchised racial minorities began to vote for liberal Democratic candidates throughout the South, and Southern white conservatives began to switch their party registration from Democrat to Republican en masse. These dual trends caused the two parties to ideologically polarize, with the Democratic Party becoming more liberal and the Republican Party becoming more conservative. The trends also created

competition between the two parties, which Republicans capitalized on by implementing the Southern strategy. Over the subsequent decades, the creation of majority-minority districts to remedy racial vote dilution claims also contributed to these developments. By packing liberal-leaning racial minorities into small numbers of majority-minority districts, large numbers of surrounding districts became more solidly white, conservative, and Republican. While this increased the elected representation of racial minorities as intended, it also decreased white Democratic representation and increased the representation of Republicans overall. By the mid-1990s, these trends culminated in a political realignment: the Democratic Party and the Republican Party became more ideologically polarized and defined as liberal and conservative parties, respectively; and both parties came to compete for electoral success in the South, with the Republican Party controlling most of Southern politics.

Research shows that the Act successfully and massively increased voter turnout and voter registration, in particular among blacks. The act has also been linked to concrete outcomes, such as greater public goods provision (such as public education) for areas with higher black population shares and more members of Congress who vote for civil rights-related legislation. A 2016 study in the *American Journal of Political Science* found "that members of Congress who represented jurisdictions subject to the preclearance requirement were substantially more supportive of civil rights-related legislation than legislators who did not represent covered jurisdictions." A 2013 *Quarterly Journal of Economics* study found that the Act boosted voter turnout and increases in public goods transfers from state governments to localities with higher black

population. A 2018 study in *The Journal of Politics* found that Section 5 of the 1965 Voting Rights Act "increased black voter registration by 14–19 percentage points, white registration by 10–13 percentage points, and overall voter turnout by 10–19 percentage points. Additional results for Democratic vote share suggest that some of this overall increase in turnout may have come from reactionary whites." A 2019 study in the *American Economic Journal* found that preclearance substantially increased turnout among minorities, even as far as to 2012 (the year prior to the Supreme Court ruling ending preclearance). The study estimates that preclearance led to an increase in minority turnout of 17 percentage points. A 2020 study found that the jurisdictions which had previously been covered by preclearance massively increased the rate of voter registration purges after the 2013 United States Supreme Court *Shelby County v. Holder* decision in which the "coverage formula" in Section 4b of the VRA that determined which jurisdictions had to presubmit changes in their election policies for federal approval was struck down.

Constitutionality

Voter eligibility provisions

Early in the Act's enforcement history, the Supreme Court addressed the constitutionality of several provisions relating to voter qualifications and prerequisites to voting. In *Katzenbach v. Morgan* (1966), the court upheld the constitutionality of Section 4(e). This section prohibits jurisdictions from administering literacy tests to citizens who attain a sixth-grade

education in an American school in which the predominant language was Spanish, such as schools in Puerto Rico. Although the court had earlier held in *Lassiter v. Northampton County Board of Elections* (1959) that literacy tests did not violate the Fourteenth Amendment, in *Morgan* the court held that Congress could enforce Fourteenth Amendment rights—such as the right to vote—by prohibiting conduct it deemed to interfere with such rights, even if that conduct may not be independently unconstitutional. After Congress created a nationwide ban on all literacy tests and similar devices in 1970 by enacting Section 201, the court upheld the ban as constitutional in *Oregon v. Mitchell* (1970).

Also in *Oregon v. Mitchell*, the Supreme Court addressed the constitutionality of various other provisions relating to voter qualifications and prerequisites to voting. The court upheld Section 202, which prohibits every state and local government from requiring people to live in their borders for longer than 30 days before allowing them to vote in a presidential election. Additionally, the court upheld the provision lowering the minimum voting age to 18 in federal elections, but it held that Congress exceeded its power by lowering the voting age to 18 in state elections; this precipitated the ratification of the Twenty-sixth Amendment the following year, which lowered the voting age in all elections to 18. The court was deeply divided in *Oregon v. Mitchell*, and a majority of justices did not agree on a rationale for the holding.

Section 2 results test

The constitutionality of Section 2, which contains a general prohibition on discriminatory voting laws, has not been

definitively explained by the Supreme Court. As amended in 1982, Section 2 prohibits any voting practice that has a discriminatory effect, irrespective of whether the practice was enacted or is administered for the purpose of discriminating. This "results test" contrasts with the Fourteenth and Fifteenth Amendments, both of which directly prohibit only purposeful discrimination. Given this disparity, whether the Supreme Court would uphold the constitutionality of Section 2 as appropriate legislation passed to enforce the Fourteenth and Fifteenth Amendments, and under what rationale, remains unclear.

In *Mississippi Republican Executive Opinion v. Brooks* (1984), the Supreme Court summarily affirmed, without a written opinion, a lower court's decision that 1982 amendment to Section 2 is constitutional. Justice Rehnquist, joined by Chief Justice Burger, dissented from the opinion. They reasoned that the case presented complex constitutional issues that warranted a full hearing. When making later decisions, the Supreme Court is more likely to disregard a previous judgment if it lacks a written opinion, but for lower courts the Supreme Court's unwritten summary affirmances are as binding as are Supreme Court judgments with written opinions. Partially due to *Brooks*, the constitutionality of the Section 2 results test has since been unanimously upheld by lower courts.

The case *Brnovich v. Democratic National Committee* (2021) evaluated the applicability of Section 2 in the wake of the decision of *Shelby*. The Democratic National Committee asserted a set of Arizona election laws and policies were discriminatory towards Hispanics and Native Americans under VRA's Section 2. While lower courts upheld the election laws,

an *en banc* Ninth Circuit reversed the decision and found these laws to be in violation of Section 2. The Arizona law was upheld by the Supreme Court after it introduced the means to review Section 2 challenges.

During oral arguments on March 2, 2021, Michael Carvin, an attorney representing the Arizona Republican party, was asked by justice Amy Coney Barrett what interest the party had in defending the Arizona voting restrictions, to which Carvin replied, "Because it puts us at a competitive disadvantage relative to Democrats."

Coverage formula and preclearance

The Supreme Court has upheld the constitutionality of the Section 5 preclearance requirement in three cases. The first case was *South Carolina v. Katzenbach* (1966), which was decided about five months after the Act's enactment. The court held that Section 5 constituted a valid use of Congress's power to enforce the Fifteenth Amendment, reasoning that "exceptional circumstances" of pervasive racial discrimination, combined with the inadequacy of case-by-case litigation in ending that discrimination, justified the preclearance requirement. The court also upheld the constitutionality of the 1965 coverage formula, saying that it was "rational in both practice and theory" and that the bailout provision provided adequate relief for jurisdictions that may not deserve coverage.

The Supreme Court again upheld the preclearance requirement in *City of Rome v. United States* (1980). The court held that because Congress had explicit constitutional power to enforce the Reconstruction Amendments "by appropriate legislation",

the Act did not violate principles of federalism. The court also explicitly upheld the "discriminatory effect" prong of Section 5, stating that even though the Fifteenth Amendment directly prohibited only intentional discrimination, Congress could constitutionally prohibit unintentional discrimination to mitigate the risk that jurisdictions may engage in intentional discrimination. Finally, the court upheld the 1975 extension of Section 5 because of the record of discrimination that continued to persist in the covered jurisdictions. The court further suggested that the temporary nature of the special provisions was relevant to Section 5's constitutionality.

The final case in which the Supreme Court upheld Section 5 was *Lopez v. Monterey County (Lopez II)* (1999). In *Lopez II*, the court reiterated its reasoning in *Katzenbach* and *Rome*, and it upheld as constitutional the requirement that covered local governments obtain preclearance before implementing voting changes that their parent state required them to implement, even if the parent state was not itself a covered jurisdiction.

The 2006 extension of Section 5 was challenged before the Supreme Court in *Northwest Austin Municipal Utility District No. 1 v. Holder* (2009). The lawsuit was brought by a municipal water district in Texas that elected members to a water board. The District wished to move a voting location from a private home to a public school, but that change was subject to preclearance because Texas was a covered jurisdiction. The District did not register voters, and thus it did not appear to qualify as a "political subdivision" eligible to bail out of coverage. Although the court indicated in dicta (a non-binding part of the court's opinion) that Section 5 presented difficult constitutional questions, it did not declare Section 5

unconstitutional; instead, it interpreted the law to allow any covered local government, including one that does not register voters, to obtain an exemption from preclearance if it meets the bailout requirements.

In a 5–4 decision in *Shelby County v. Holder* (2013), the Supreme Court struck down Section 4(b) as unconstitutional. The court reasoned that the coverage formula violates the constitutional principles of "equal sovereignty of the states" and federalism because its disparate treatment of the states is "based on 40 year-old facts having no logical relationship to the present day", which makes the formula unresponsive to current needs. The court did not strike down Section 5, but without Section 4(b), no jurisdiction may be subject to Section 5 preclearance unless Congress enacts a new coverage formula. After the decision, several states that were fully or partially covered—including Texas, Mississippi, North Carolina, and South Carolina—implemented laws that were previously denied preclearance. This prompted new legal challenges to these laws under other provisions unaffected by the court's decision, such as Section 2. Research has shown that the coverage formula and the requirement of preclearance substantially increased turnout among racial minorities, even as far as the year before *Shelby County*. Some jurisdictions that had previously been covered by the coverage formula increased the rate of voter registration purges after *Shelby County*.

Racial gerrymandering

While Section 2 and Section 5 prohibit jurisdictions from drawing electoral districts that dilute the votes of protected minorities, the Supreme Court has held that in some

instances, the Equal Protection Clause of the Fourteenth Amendment prevents jurisdictions from drawing district lines to favor protected minorities. The court first recognized the justiciability of affirmative "racial gerrymandering" claims in *Shaw v. Reno* (1993). In *Miller v. Johnson* (1995), the court explained that a redistricting plan is constitutionally suspect if the jurisdiction used race as the "predominant factor" in determining how to draw district lines. For race to "predominate", the jurisdiction must prioritize racial considerations over traditional redistricting principles, which include "compactness, contiguity, [and] respect for political subdivisions or communities defined by actual shared interests." If a court concludes that racial considerations predominated, then the redistricting plan is considered "racially gerrymandered" and must be subjected to strict scrutiny, meaning that the redistricting plan will be upheld as constitutional only if it is narrowly tailored to advance a compelling state interest. In *Bush v. Vera* (1996), a plurality of the Supreme Court assumed that complying with Section 2 or Section 5 constituted compelling interests, and lower courts have allowed only these two interests to justify racial gerrymandering.

Chapter 5

Vietnam War

The **Vietnam War** (Vietnamese: *Chiến tranh Việt Nam*), also known as the **Second Indochina War**, was a conflict in Vietnam, Laos, and Cambodia from 1 November 1955 to the fall of Saigon on 30 April 1975. It was the second of the Indochina Wars and was officially fought between North Vietnam and South Vietnam. North Vietnam was supported by the Soviet Union, China, and other communist allies; South Vietnam was supported by the United States, South Korea, the Philippines, Australia, Thailand, and other anti-communist allies. The war, considered a Cold War-era proxy war by some, lasted 19 years, with direct U.S. involvement ending in 1973, and included the Laotian Civil War and the Cambodian Civil War, which ended with all three countries becoming communist in 1975.

The conflict emerged from the First Indochina War between the French and the communist-led Viet Minh. After the French quit attempted recolonization of Indochina in 1954, the US assumed financial and military support for the South Vietnamese state. The Việt Cộng, also known as *Front national de libération du Sud-Viêt Nam* or *NLF* (the National Liberation Front), a South Vietnamese common front under the direction of North Vietnam, initiated a guerrilla war in the south. North Vietnam had also invaded Laos in the mid-1950s in support of insurgents, establishing the Ho Chi Minh Trail to supply and reinforce the Việt Cộng. U.S. involvement escalated under President John F. Kennedy through the MAAG program, from just under a thousand military advisors in 1959 to 23,000 in

1964. By 1963, the North Vietnamese had sent 40,000 soldiers to fight in South Vietnam.

In the Gulf of Tonkin incident in early August 1964, a U.S. destroyer was alleged to have clashed with North Vietnamese fast attack craft. In response, the U.S. Congress passed the Gulf of Tonkin Resolution and gave President Lyndon B. Johnson broad authority to increase American military presence in Vietnam. Johnson ordered the deployment of combat units for the first time and increased troop levels to 184,000. The People's Army of Vietnam (PAVN) (also known as the North Vietnamese Army or NVA) engaged in more conventional warfare with U.S. and South Vietnamese forces. Despite little progress, the United States continued a significant build-up of forces. U.S. Secretary of Defense Robert McNamara, one of the principal architects of the war, began expressing doubts of victory by the end of 1966. U.S. and South Vietnam forces relied on air superiority and overwhelming firepower to conduct search and destroy operations, involving ground forces, artillery, and airstrikes. The U.S. also conducted a large-scale strategic bombing campaign against North Vietnam and Laos. North Vietnam was backed by the USSR and the People's Republic of China.

With the VC and PAVN mounting large-scale offensives in the Tet Offensive throughout 1968, U.S. domestic support for the war began fading. The Army of the Republic of Vietnam (ARVN) expanded following a period of neglect after Tet and was modeled after U.S. doctrine. The VC sustained heavy losses during the Tet Offensive and subsequent U.S.-ARVN operations in the rest of 1968, losing over 50,000 men. The CIA's Phoenix Program further degraded the VC's membership and

capabilities. By the end of the year, the VC insurgents held almost no territory in South Vietnam, and their recruitment dropped by over 80% in 1969, signifying a drastic reduction in guerrilla operations, necessitating increased use of PAVN regular soldiers from the north. In 1969, North Vietnam declared a Provisional Revolutionary Government in South Vietnam in an attempt to give the reduced VC a more international stature, but the southern guerrillas from then on were sidelined as PAVN forces began more conventional combined arms warfare. By 1970, over 70% of communist troops in the south were northerners, and southern-dominated VC units no longer existed. Operations crossed national borders: North Vietnam used Laos as a supply route early on, while Cambodia was also used starting in 1967; the route through Cambodia began to be bombed by the U.S. in 1969, while the Laos route had been heavily bombed since 1964. The deposing of the monarch Norodom Sihanouk by the Cambodian National Assembly resulted in a PAVN invasion of the country at the request of the Khmer Rouge, escalating the Cambodian Civil War and resulting in a U.S.-ARVN counter-invasion.

In 1969, following the election of U.S. President Richard Nixon, a policy of "Vietnamization" began, which saw the conflict fought by an expanded ARVN, with U.S. forces sidelined and increasingly demoralized by domestic opposition and reduced recruitment. U.S. ground forces had largely withdrawn by early 1972 and support was limited to air support, artillery support, advisers, and materiel shipments. The ARVN, buttressed by said U.S. support, stopped the first and largest mechanized PAVN offensive during the Easter Offensive of 1972. The offensive resulted in heavy casualties on both sides and the failure of the PAVN to subdue South Vietnam, but the ARVN

itself failed to recapture all territory, leaving its military situation difficult. The Paris Peace Accords of January 1973 saw all U.S. forces withdrawn; the Case–Church Amendment, passed by the U.S. Congress on 15 August 1973, officially ended direct U.S. military involvement. The Peace Accords were broken almost immediately, and fighting continued for two more years. Phnom Penh fell to the Khmer Rouge on 17 April 1975 while the 1975 Spring Offensive saw the capture of Saigon by the PAVN on 30 April; this marked the end of the war, and North and South Vietnam were reunified the following year.

The scale of fighting was enormous. By 1970, the ARVN was the world's fourth largest army, and the PAVN was not far behind with approximately one million regular soldiers. The war exacted an enormous human cost: estimates of the number of Vietnamese soldiers and civilians killed range from 966,000 to 3 million. Some 275,000–310,000 Cambodians, 20,000–62,000 Laotians, and 58,220 U.S. service members also died in the conflict, and a further 1,626 remain missing in action.

The Sino-Soviet split re-emerged following the lull during the Vietnam War. Conflict between North Vietnam and its Cambodian allies in the Royal Government of the National Union of Kampuchea, and the newly formed Democratic Kampuchea began almost immediately in a series of border raids by the Khmer Rouge, eventually escalating into the Cambodian–Vietnamese War. Chinese forces directly invaded Vietnam in the Sino-Vietnamese War, with subsequent border conflicts lasting until 1991. The unified Vietnam fought insurgencies in all three countries. The end of the war and resumption of the Third Indochina War would precipitate the

Vietnamese boat people and the larger Indochina refugee crisis, which saw millions of refugees leave Indochina (mainly southern Vietnam), an estimated 250,000 of whom perished at sea. Within the U.S, the war gave rise to what was referred to as Vietnam Syndrome, a public aversion to American overseas military involvements, which together with the Watergate scandal contributed to the crisis of confidence that affected America throughout the 1970s.

Names

Various names have been applied to the conflict. *Vietnam War* is the most commonly used name in English. It has also been called the *Second Indochina War* and the *Vietnam Conflict*.

Given that there have been several conflicts in Indochina, this particular conflict is known by its primary protagonists' names to distinguish it from others. In Vietnamese, the war is generally known as *Kháng chiến chống Mỹ* (Resistance War Against America), but less formally as 'Cuộc chiến tranh Mỹ' (The American War). It is also called *Chiến tranh Việt Nam* (The Vietnam War).

Background

The primary military organizations involved in the war were the United States Armed Forces and the Army of the Republic of Vietnam, pitted against the People's Army of Vietnam (PAVN) (commonly called the North Vietnamese Army, or NVA, in English-language sources) and the National Front for the

Liberation of South Vietnam (NLF, more commonly known as the Viet Cong (VC) in English language sources), a South Vietnamese communist guerrilla force.

Indochina had been a French colony from late 19th century to mid-20th century. When the Japanese invaded during World War II, the Viet Minh, a Communist-led common front under the leadership of Ho Chi Minh, opposed them with support from the US, the Soviet Union and China. They received some Japanese arms when Japan surrendered. On V-J Day, September 2, Ho Chi Minh proclaimed in Hanoi the establishment of the Democratic Republic of Vietnam (DRV). The DRV ruled as the only civil government in all of Vietnam for 20 days, after the abdication of Emperor Bảo Đại, who had governed under the Japanese rule. On 23 September 1945, French forces overthrew the local DRV government, and declared French authority restored. The French gradually retook control of Indochina. Following unsuccessful negotiations, the Viet Minh, then initiated an insurgency against French rule. Hostilities escalated into the First Indochina War (beginning in December 1946).

By the 1950s, the conflict had become entwined with the Cold War. In January 1950, China and the Soviet Union recognized the Viet Minh's Democratic Republic of Vietnam, based in Hanoi, as the legitimate government of Vietnam. The following month the United States and Great Britain recognized the French-backed State of Vietnam in Saigon, led by former Emperor Bảo Đại, as the legitimate Vietnamese government. The outbreak of the Korean War in June 1950 convinced many Washington policymakers that the war in Indochina was an

example of communist expansionism directed by the Soviet Union.

Military advisors from the People's Republic of China (PRC) began assisting the Viet Minh in July 1950. PRC weapons, expertise, and laborers transformed the Viet Minh from a guerrilla force into a regular army. In September 1950, the United States created a Military Assistance and Advisory Group (MAAG) to screen French requests for aid, advise on strategy, and train Vietnamese soldiers. By 1954, the United States had spent \$1 billion in support of the French military effort, shouldering 80 percent of the cost of the war.

During the Battle of Dien Bien Phu (1954), U.S. carriers sailed to the Gulf of Tonkin and the U.S. conducted reconnaissance flights. France and the United States also discussed the use of three tactical nuclear weapons, although reports of how seriously this was considered and by whom are vague and contradictory. According to then-Vice President Richard Nixon, the Joint Chiefs of Staff drew up plans to use small tactical nuclear weapons to support the French. Nixon, a so-called "hawk" on Vietnam, suggested that the United States might have to "put American boys in". President Dwight D. Eisenhower made American participation contingent on British support, but the British were opposed. Eisenhower, wary of involving the United States in a land war in Asia, decided against military intervention. Throughout the conflict, U.S. intelligence estimates remained sceptical of France's chance of success.

On 7 May 1954, the French garrison at Dien Bien Phu surrendered. The defeat marked the end of French military

involvement in Indochina. At the Geneva Conference, the French negotiated a ceasefire agreement with the Viet Minh, and independence was granted to Cambodia, Laos, and Vietnam.

Transition period

At the 1954 Geneva peace conference, Vietnam was temporarily partitioned at the 17th parallel. Ho Chi Minh had wished to continue the war in the south, but was restrained by his Chinese allies who convinced him that he could win control by electoral means. Under the terms of the Geneva Accords, civilians were allowed to move freely between the two provisional states for a 300-day period. Elections throughout the country were to be held in 1956 to establish a unified government. Around one million northerners, mainly minority Catholics, fled south, fearing persecution by the communists. This followed an American psychological warfare campaign, designed by Edward Lansdale for the Central Intelligence Agency (CIA), which exaggerated anti-Catholic sentiment among the Viet Minh and which falsely claimed the US was about to drop atomic bombs on Hanoi. The exodus was coordinated by a U.S.-funded \$93 million relocation program, which included the use of the Seventh Fleet to ferry refugees. The northern, mainly Catholic refugees gave the later Ngô Đình Diệm regime a strong anti-communist constituency. Diệm staffed his government's key posts mostly with northern and central Catholics.

In addition to the Catholics flowing south, over 130,000 "Revolutionary Regroupees" went to the north for

"regroupment", expecting to return to the south within two years. The Viet Minh left roughly 5,000 to 10,000 cadres in the south as a base for future insurgency. The last French soldiers left South Vietnam in April 1956. The PRC completed its withdrawal from North Vietnam at around the same time.

Between 1953 and 1956, the North Vietnamese government instituted various agrarian reforms, including "rent reduction" and "land reform", which resulted in significant political oppression. During the land reform, testimony from North Vietnamese witnesses suggested a ratio of one execution for every 160 village residents, which extrapolated resulted in an initial estimation of nearly 100,000 executions nationwide. Because the campaign was concentrated mainly in the Red River Delta area, a lower estimate of 50,000 executions became widely accepted by scholars at the time. However, declassified documents from the Vietnamese and Hungarian archives indicate that the number of executions was much lower than reported at the time, although likely greater than 13,500. In 1956, leaders in Hanoi admitted to "excesses" in implementing this program and restored a large amount of the land to the original owners.

The south, meanwhile, constituted the State of Vietnam, with Bảo Đại as Emperor and Ngô Đình Diệm (appointed in July 1954) as his prime minister. Neither the United States government nor Ngô Đình Diệm's State of Vietnam signed anything at the 1954 Geneva Conference. With respect to the question of reunification, the non-communist Vietnamese delegation objected strenuously to any division of Vietnam, but lost out when the French accepted the proposal of Viet Minh delegate Phạm Văn Đồng, who proposed that Vietnam eventually be

united by elections under the supervision of "local commissions". The United States countered with what became known as the "American Plan", with the support of South Vietnam and the United Kingdom. It provided for unification elections under the supervision of the United Nations, but was rejected by the Soviet delegation. The United States said, "With respect to the statement made by the representative of the State of Vietnam, the United States reiterates its traditional position that peoples are entitled to determine their own future and that it will not join in any arrangement which would hinder this". U.S. President Dwight D. Eisenhower wrote in 1954:

"I have never talked or corresponded with a person knowledgeable in Indochinese affairs who did not agree that had elections been held as of the time of the fighting, possibly eighty percent of the population would have voted for the Communist Ho Chi Minh as their leader rather than Chief of State Bảo Đại. Indeed, the lack of leadership and drive on the part of Bảo Đại was a factor in the feeling prevalent among Vietnamese that they had nothing to fight for."

• —

According to the *Pentagon Papers*, however, from 1954 to 1956 "Ngô Đình Diệm really did accomplish miracles" in South Vietnam: "It is almost certain that by 1956 the proportion which might have voted for Ho—in a free election against Diệm—would have been much smaller than eighty percent." In 1957, independent observers from India, Poland, and Canada representing the International Control Commission (ICC) stated that fair, unbiased elections were not possible, with the ICC

reporting that neither South nor North Vietnam had honored the armistice agreement.

From April to June 1955, Diệm eliminated any political opposition in the south by launching military operations against two religious groups: the Cao Đài and Hòa Hảo of Ba Cụt. The campaign also focused on the Bình Xuyên organized crime group, which was allied with members of the communist party secret police and had some military elements. The group was ultimately defeated in April following a battle in Saigon. As broad-based opposition to his harsh tactics mounted, Diệm increasingly sought to blame the communists.

In a referendum on the future of the State of Vietnam on 23 October 1955, Diệm rigged the poll supervised by his brother Ngô Đình Nhu and was credited with 98.2 percent of the vote, including 133% in Saigon. His American advisors had recommended a more "modest" winning margin of "60 to 70 percent." Diệm, however, viewed the election as a test of authority. Three days later, he declared South Vietnam to be an independent state under the name Republic of Vietnam (ROV), with himself as president. Likewise, Ho Chi Minh and other communist officials always won at least 99% of the vote in North Vietnamese "elections".

The domino theory, which argued that if one country fell to communism, then all of the surrounding countries would follow, was first proposed as policy by the Eisenhower administration. John F. Kennedy, then a U.S. senator, said in a speech to the American Friends of Vietnam: "Burma, Thailand, India, Japan, the Philippines and obviously Laos and

Cambodia are among those whose security would be threatened if the Red Tide of Communism overflowed into Vietnam."

Diệm era, 1954–1963

Rule

A devout Roman Catholic, Diệm was fervently anti-communist, nationalist, and socially conservative. Historian Luu Doan Huynh notes that "Diệm represented narrow and extremist nationalism coupled with autocracy and nepotism." Most Vietnamese people were Buddhist, and they were alarmed by Diệm's actions, like his dedication of the country to the Virgin Mary.

Beginning in the summer of 1955, Diệm launched the "Denounce the Communists" campaign, during which suspected communists and other anti-government elements were arrested, imprisoned, tortured, or executed. He instituted the death penalty against any activity deemed communist in August 1956. The North Vietnamese government claimed that, by November 1957, over 65,000 individuals were imprisoned and 2,148 were killed in the process. According to Gabriel Kolko, 40,000 political prisoners had been jailed by the end of 1958.

In May 1957, Diệm undertook a ten-day state visit to the United States. President Eisenhower pledged his continued support, and a parade was held in Diệm's honor in New York City. Although Diệm was publicly praised, Secretary of State

John Foster Dulles privately conceded that Diệm had to be backed because they could find no better alternative.

Insurgency in the South, 1954–1960

Between 1954 and 1957, the Diệm government succeeded in preventing large-scale organized unrest in the countryside. In April 1957, insurgents launched an assassination campaign, referred to as "extermination of traitors". Seventeen people were killed in an attack at a bar in Châu Đốc in July and in September a district chief was killed with his family on a highway. By early 1959, however, Diệm had come to regard the (increasingly frequent) violence as an organized campaign and implemented Law 10/59, which made political violence punishable by death and property confiscation. There had been some division among former Viet Minh whose main goal was to hold the elections promised in the Geneva Accords, leading to "wildcat" activities separate from the other communists and anti-GVN activists. Douglas Pike estimated that insurgents carried out 2,000 abductions, and 1,700 assassinations of government officials, village chiefs, hospital workers and teachers from 1957 to 1960. Violence between the insurgents and government forces increased drastically from 180 clashes in January 1960 to 545 clashes in September.

In September 1960, COSVN, the southern communist headquarters, gave an order for a full scale coordinated uprising in South Vietnam against the government and 1/3 of the population was soon living in areas of communist control. In December 1960, the Viet Cong was formally created with the intent of uniting all anti-GVN insurgents, including non-communists. It was formed in Memot, Cambodia, and directed

through COSVN. According to the *Pentagon Papers*, the Viet Cong "placed heavy emphasis on the withdrawal of American advisors and influence, on land reform and liberalization of the GVN, on coalition government and the neutralization of Vietnam." The identities of the leaders of the organization often were kept secret.

Support for the VC was driven by peasant resentment of Diem's reversal of land reforms in the countryside. Most of the population lived in countryside villages and strongly supported the reforms. In areas they controlled, the Viet Minh had confiscated large private landholdings, reduced rents and debts, and leased communal lands, mostly to the poorer peasants. Diem brought the landlords back to the villages. People who were farming land they had held for years now had to return it to landlords and pay years of back rent. This rent collection was enforced by the South Vietnamese army. Marilyn B. Young wrote that "The divisions within villages reproduced those that had existed against the French: 75 percent support for the NLF, 20 percent trying to remain neutral and 5 percent firmly pro-government".

North Vietnamese involvement

- In March 1956, southern communist leader Lê Duẩn presented a plan to revive the insurgency entitled "The Road to the South" to the other members of the Politburo in Hanoi; however, as both China and the Soviets opposed confrontation at this time, Lê Duẩn's plan was rejected. Despite this, the North Vietnamese leadership approved tentative measures

to revive the southern insurgency in December 1956. This decision was made at the 11th Plenary Session of the Lao Dong Central Committee. Communist forces were under a single command structure set up in 1958. In May 1958, North Vietnamese forces seized the transportation hub at Tchepone in Southern Laos near the demilitarized zone between North and South Vietnam. The North Vietnamese Communist Party approved a "people's war" on the South at a session in January 1959, and, in May, Group 559 was established to maintain and upgrade the Ho Chi Minh trail, at this time a six-month mountain trek through Laos. On July 28, North Vietnamese and Pathet Lao forces invaded Laos, fighting the Royal Lao Army all along the border. Group 559 was headquartered in Na Kai, Houaphan province in northeast Laos close to the border. About 500 of the "regroupees" of 1954 were sent south on the trail during its first year of operation. The first arms delivery via the trail was completed in August 1959. In April 1960, North Vietnam imposed universal military conscription for adult males. About 40,000 communist soldiers infiltrated the south from 1961 to 1963.

Kennedy's escalation, 1961–1963

In the 1960 U.S. presidential election, Senator John F. Kennedy defeated incumbent Vice President Richard M. Nixon. Although Eisenhower warned Kennedy about Laos and Vietnam, Europe and Latin America "loomed larger than Asia

on his sights." In April 1961, Kennedy approved the Bay of Pigs Invasion and that invasion failed. In June 1961, he bitterly disagreed with Soviet premier Nikita Khrushchev when they met in Vienna to discuss key U.S.–Soviet issues. Only 16 months later, the Cuban Missile Crisis (16–28 October 1962) played out on television worldwide. It was the closest the Cold War came to escalating into a full-scale nuclear war, and the U.S. raised the readiness level of Strategic Air Command (SAC) forces to DEFCON 2.

The Kennedy administration remained essentially committed to the Cold War foreign policy inherited from the Truman and Eisenhower administrations. In 1961, the U.S. had 50,000 troops based in South Korea, and Kennedy faced four crisis situations: the failure of the Bay of Pigs Invasion that he had approved on 4 April, settlement negotiations between the pro-Western government of Laos and the Pathet Lao communist movement in May ("Kennedy sidestepped Laos, whose rugged terrain was no battleground for American soldiers."), the construction of the Berlin Wall in August, and the Cuban Missile Crisis in October. Kennedy believed that yet another failure to gain control and stop communist expansion would irreparably damage U.S. credibility. He was determined to "draw a line in the sand" and prevent a communist victory in Vietnam. He told James Reston of *The New York Times* immediately after his Vienna summit meeting with Khrushchev, "Now we have a problem making our power credible and Vietnam looks like the place."

Kennedy's policy toward South Vietnam assumed that Diệm and his forces had to ultimately defeat the guerrillas on their own. He was against the deployment of American combat

troops and observed that "to introduce U.S. forces in large numbers there today, while it might have an initially favorable military impact, would almost certainly lead to adverse political and, in the long run, adverse military consequences." The quality of the South Vietnamese military, however, remained poor. Poor leadership, corruption, and political promotions all played a part in weakening the ARVN. The frequency of guerrilla attacks rose as the insurgency gathered steam. While Hanoi's support for the Viet Cong played a role, South Vietnamese governmental incompetence was at the core of the crisis.

One major issue Kennedy raised was whether the Soviet space and missile programs had surpassed those of the United States. Although Kennedy stressed long-range missile parity with the Soviets, he was also interested in using special forces for counterinsurgency warfare in Third World countries threatened by communist insurgencies. Although they were originally intended for use behind front lines after a conventional Soviet invasion of Europe, Kennedy believed that the guerrilla tactics employed by special forces such as the Green Berets would be effective in a "brush fire" war in Vietnam.

Kennedy advisors Maxwell Taylor and Walt Rostow recommended that U.S. troops be sent to South Vietnam disguised as flood relief workers. Kennedy rejected the idea but increased military assistance yet again. In April 1962, John Kenneth Galbraith warned Kennedy of the "danger we shall replace the French as a colonial force in the area and bleed as the French did." Eisenhower's put 900 advisors in Vietnam,

and by November 1963, Kennedy had put 16,000 American military personnel in Vietnam.

The Strategic Hamlet Program was initiated in late 1961. This joint U.S.–South Vietnamese program attempted to resettle the rural population into fortified villages. It was implemented in early 1962 and involved some forced relocation and segregation of rural South Vietnamese into new communities where the peasantry would be isolated from the Viet Cong. It was hoped these new communities would provide security for the peasants and strengthen the tie between them and the central government. However, by November 1963 the program had waned, and it officially ended in 1964.

On 23 July 1962, fourteen nations, including China, South Vietnam, the Soviet Union, North Vietnam and the United States, signed an agreement promising to respect the neutrality of Laos.

Ousting and assassination of Ngô Đình

Diệm

The inept performance of the ARVN was exemplified by failed actions such as the Battle of Ấp Bắc on 2 January 1963, in which a small band of Viet Cong won a battle against a much larger and better-equipped South Vietnamese force, many of whose officers seemed reluctant even to engage in combat. During the battle the South Vietnamese had lost 83 soldiers and 5 US war helicopters serving to ferry ARVN troops that had been shot down by Vietcong forces, while the Vietcong forces had lost only 18 soldiers. The ARVN forces were led by Diệm's

most trusted general, Huỳnh Văn Cao, commander of the IV Corps. Cao was a Catholic who had been promoted due to religion and fidelity rather than skill, and his main job was to preserve his forces to stave off coup attempts; he had earlier vomited during a communist attack. Some policymakers in Washington began to conclude that Diệm was incapable of defeating the communists and might even make a deal with Ho Chi Minh. He seemed concerned only with fending off coups and had become more paranoid after attempts in 1960 and 1962, which he partly attributed to U.S. encouragement. As Robert F. Kennedy noted, "Diệm wouldn't make even the slightest concessions. He was difficult to reason with ..."

Historian James Gibson summed up the situation:

Strategic hamlets had failed ... The South Vietnamese regime was incapable of winning the peasantry because of its class base among landlords. Indeed, there was no longer a 'regime' in the sense of a relatively stable political alliance and functioning bureaucracy. Instead, civil government and military operations had virtually ceased. The National Liberation Front had made great progress and was close to declaring provisional revolutionary governments in large areas.

Discontent with Diệm's policies exploded in May 1963 following the Huế Phật Đản shootings of nine unarmed Buddhists protesting against the ban on displaying the Buddhist flag on Vesak, the Buddha's birthday. This resulted in mass protests against discriminatory policies that gave privileges to the Catholic Church and its adherents over the Buddhist majority. Diệm's elder brother Ngô Đình Thục was the Archbishop of Huế and aggressively blurred the separation between church and state. Thục's anniversary celebrations occurred shortly before

Vesak had been bankrolled by the government, and Vatican flags were displayed prominently. There had also been reports of Catholic paramilitaries demolishing Buddhist pagodas throughout Diệm's rule. Diệm refused to make concessions to the Buddhist majority or take responsibility for the deaths. On 21 August 1963, the ARVN Special Forces of Colonel Lê Quang Tung, loyal to Diệm's younger brother Ngô Đình Nhu, raided pagodas across Vietnam, causing widespread damage and destruction and leaving a death toll estimated to range into the hundreds.

- U.S. officials began discussing the possibility of a regime change during the middle of 1963. The United States Department of State wanted to encourage a coup, while the Defense Department favored Diệm. Chief among the proposed changes was the removal of Diệm's younger brother Nhu, who controlled the secret police and special forces, and was seen as the man behind the Buddhist repression and more generally the architect of the Ngô family's rule. This proposal was conveyed to the U.S. embassy in Saigon in Cable 243.

The CIA contacted generals planning to remove Diệm and told them that the United States would not oppose such a move nor punish the generals by cutting off aid. President Diệm was overthrown and executed, along with his brother, on 2 November 1963. When Kennedy was informed, Maxwell Taylor remembered that he "rushed from the room with a look of shock and dismay on his face." Kennedy had not anticipated Diệm's murder. The U.S. ambassador to South Vietnam, Henry Cabot Lodge, invited the coup leaders to the embassy and

congratulated them. Ambassador Lodge informed Kennedy that "the prospects now are for a shorter war". Kennedy wrote Lodge a letter congratulating him for "a fine job".

Following the coup, chaos ensued. Hanoi took advantage of the situation and increased its support for the guerrillas. South Vietnam entered a period of extreme political instability, as one military government toppled another in quick succession. Increasingly, each new regime was viewed by the communists as a puppet of the Americans; whatever the failings of Diêm, his credentials as a nationalist (as Robert McNamara later reflected) had been impeccable.

U.S. military advisors were embedded at every level of the South Vietnamese armed forces. They were however criticized for ignoring the political nature of the insurgency. The Kennedy administration sought to refocus U.S. efforts on pacification- which in this case was defined as countering the growing threat of insurgency- and "winning over the hearts and minds" of the population. The military leadership in Washington, however, was hostile to any role for U.S. advisors other than conventional troop training. General Paul Harkins, the commander of U.S. forces in South Vietnam, confidently predicted victory by Christmas 1963. The CIA was less optimistic, however, warning that "the Viet Cong by and large retain de facto control of much of the countryside and have steadily increased the overall intensity of the effort".

Paramilitary officers from the CIA's Special Activities Division trained and led Hmong tribesmen in Laos and into Vietnam. The indigenous forces numbered in the tens of thousands and they conducted direct action missions, led by paramilitary

officers, against the Communist Pathet Lao forces and their North Vietnamese supporters. The CIA also ran the Phoenix Program and participated in Military Assistance Command, Vietnam – Studies and Observations Group (MAC-V SOG), which was originally named the Special Operations Group, but was changed for cover purposes.

Johnson's escalation, 1963–1969

President Kennedy was assassinated on 22 November 1963. Vice President Lyndon B. Johnson had not been heavily involved with policy toward Vietnam; however, upon becoming president, Johnson immediately focused on the war. On 24 November 1963, he said, "the battle against communism ... must be joined ... with strength and determination." Johnson knew he had inherited a rapidly deteriorating situation in South Vietnam, but he adhered to the widely accepted domino theory argument for defending the South: Should they retreat or appease, either action would imperil other nations beyond the conflict. Some have argued that the policy of North Vietnam was not to topple other non-communist governments in South East Asia.

The military revolutionary council, meeting in lieu of a strong South Vietnamese leader, was made up of 12 members. This council was headed by General Dương Văn Minh, whom Stanley Karnow, a journalist on the ground, later recalled as "a model of lethargy". Lodge, frustrated by the end of the year, cabled home about Minh: "Will he be strong enough to get on top of things?" Minh's regime was overthrown in January 1964 by General Nguyễn Khánh. There was also persistent instability in

the military, however, as several coups—not all successful—occurred in a short period of time.

Gulf of Tonkin incident

On 2 August 1964, USS *Maddox*, on an intelligence mission along North Vietnam's coast, allegedly fired upon and damaged several torpedo boats that had been stalking it in the Gulf of Tonkin. A second attack was reported two days later on USS *Turner Joy* and *Maddox* in the same area. The circumstances of the attacks were murky. Lyndon Johnson commented to Undersecretary of State George Ball that "those sailors out there may have been shooting at flying fish."

An undated NSA publication declassified in 2005 revealed that there was no attack on 4 August.

- The second "attack" led to retaliatory airstrikes, and prompted Congress to approve the Gulf of Tonkin Resolution on 7 August 1964. The resolution granted the president power "to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression" and Johnson would rely on this as giving him authority to expand the war. In the same month, Johnson pledged that he was not "committing American boys to fighting a war that I think ought to be fought by the boys of Asia to help protect their own land".

The National Security Council recommended a three-stage escalation of the bombing of North Vietnam. Following an attack on a U.S. Army base in Pleiku on 7 February 1965, a

series of airstrikes was initiated, Operation Flaming Dart, while Soviet Premier Alexei Kosygin was on a state visit to North Vietnam. Operation Rolling Thunder and Operation Arc Light expanded aerial bombardment and ground support operations. The bombing campaign, which ultimately lasted three years, was intended to force North Vietnam to cease its support for the Viet Cong by threatening to destroy North Vietnamese air defenses and industrial infrastructure. It was additionally aimed at bolstering the morale of the South Vietnamese. Between March 1965 and November 1968, *Rolling Thunder* deluged the north with a million tons of missiles, rockets and bombs.

Bombing of Laos

Bombing was not restricted to North Vietnam. Other aerial campaigns, such as Operation Barrel Roll, targeted different parts of the Viet Cong and PAVN infrastructure. These included the Ho Chi Minh trail supply route, which ran through Laos and Cambodia. The ostensibly neutral Laos had become the scene of a civil war, pitting the Laotian government backed by the US against the Pathet Lao and its North Vietnamese allies.

Massive aerial bombardment against the Pathet Lao and PAVN forces were carried out by the US to prevent the collapse of the Royal central government, and to deny the use of the Ho Chi Minh Trail. Between 1964 and 1973, the U.S. dropped two million tons of bombs on Laos, nearly equal to the 2.1 million tons of bombs the U.S. dropped on Europe and Asia during all of World War II, making Laos the most heavily bombed country in history relative to the size of its population.

The objective of stopping North Vietnam and the Viet Cong was never reached. The Chief of Staff of the United States Air Force Curtis LeMay, however, had long advocated saturation bombing in Vietnam and wrote of the communists that "we're going to bomb them back into the Stone Age".

The 1964 Offensive

Following the Gulf of Tonkin Resolution, Hanoi anticipated the arrival of US troops and began expanding the Viet Cong, as well as sending increasing numbers of North Vietnamese personnel southwards. At this phase they were outfitting the Viet Cong forces and standardising their equipment with AK-47 rifles and other supplies, as well as forming the 9th Division. "From a strength of approximately 5,000 at the start of 1959 the Viet Cong's ranks grew to about 100,000 at the end of 1964 ... Between 1961 and 1964 the Army's strength rose from about 850,000 to nearly a million men." The numbers for U.S. troops deployed to Vietnam during the same period were much lower: 2,000 in 1961, rising rapidly to 16,500 in 1964. During this phase, the use of captured equipment decreased, while greater numbers of ammunition and supplies were required to maintain regular units. Group 559 was tasked with expanding the Ho Chi Minh trail, in light of the near constant bombardment by US warplanes. The war had begun to shift into the final, conventional warfare phase of Hanoi's three-stage protracted warfare model. The Viet Cong was now tasked with destroying the ARVN and capturing and holding areas; however, the Viet Cong was not yet strong enough to assault major towns and cities.

In December 1964, ARVN forces had suffered heavy losses at the Battle of Bình Giã, in a battle that both sides viewed as a watershed. Previously, the VC had utilised hit-and-run guerrilla tactics. At Binh Gia, however, they had defeated a strong ARVN force in a conventional battle and remained in the field for four days. Tellingly, South Vietnamese forces were again defeated in June 1965 at the Battle of Đồng Xoài.

American ground war

On 8 March 1965, 3,500 U.S. Marines were landed near Da Nang, South Vietnam. This marked the beginning of the American ground war. U.S. public opinion overwhelmingly supported the deployment. The Marines' initial assignment was the defense of Da Nang Air Base. The first deployment of 3,500 in March 1965 was increased to nearly 200,000 by December. The U.S. military had long been schooled in offensive warfare. Regardless of political policies, U.S. commanders were institutionally and psychologically unsuited to a defensive mission.

General William Westmoreland informed Admiral U. S. Grant Sharp Jr., commander of U.S. Pacific forces, that the situation was critical. He said, "I am convinced that U.S. troops with their energy, mobility, and firepower can successfully take the fight to the NLF (Viet Cong)". With this recommendation, Westmoreland was advocating an aggressive departure from America's defensive posture and the sidelining of the South Vietnamese. By ignoring ARVN units, the U.S. commitment became open-ended. Westmoreland outlined a three-point plan to win the war:

- Phase 1. Commitment of U.S. (and other free world) forces necessary to halt the losing trend by the end of 1965.
- Phase 2. U.S. and allied forces mount major offensive actions to seize the initiative to destroy guerrilla and organized enemy forces. This phase would end when the enemy had been worn down, thrown on the defensive, and driven back from major populated areas.
- Phase 3. If the enemy persisted, a period of twelve to eighteen months following Phase 2 would be required for the final destruction of enemy forces remaining in remote base areas.

The plan was approved by Johnson and marked a profound departure from the previous administration's insistence that the government of South Vietnam was responsible for defeating the guerrillas. Westmoreland predicted victory by the end of 1967. Johnson did not, however, communicate this change in strategy to the media. Instead he emphasized continuity. The change in U.S. policy depended on matching the North Vietnamese and the Viet Cong in a contest of attrition and morale. The opponents were locked in a cycle of escalation. The idea that the government of South Vietnam could manage its own affairs was shelved. Westmoreland and McNamara furthermore touted the body count system for gauging victory, a metric that would later prove to be flawed.

The American buildup transformed the South Vietnamese economy and had a profound effect on society. South Vietnam was inundated with manufactured goods. Stanley Karnow noted that "the main PX [Post Exchange], located in the Saigon

suburb of Cholon, was only slightly smaller than the New York Bloomingdale's ..."

Washington encouraged its SEATO allies to contribute troops. Australia, New Zealand, Thailand and the Philippines all agreed to send troops. South Korea would later ask to join the Many Flags program in return for economic compensation. Major allies, however, notably NATO nations Canada and the United Kingdom, declined Washington's troop requests.

The U.S. and its allies mounted complex search and destroy operations, designed to find enemy forces, destroy them, and then withdraw, typically using war helicopters. In November 1965, the U.S. engaged in its first major battle with the PAVN, the Battle of Ia Drang. The operation was the first large scale helicopter air assault by the U.S., and first to employ Boeing B-52 Stratofortress strategic bombers in a tactical support role. These tactics continued in 1966–1967 with operations such as Masher, Thayer, Attleboro, Cedar Falls and Junction City. However, the PAVN/VC insurgents remained elusive and demonstrated great tactical flexibility. By 1967, the war had generated large-scale internal refugees, numbering nearly 2.1 million in South Vietnam, with 125,000 people evacuated and rendered homeless during Operation Masher alone, which was the largest search and destroy operation in the war up to that point. Operation Masher would have negligible impact, however, as the PAVN/VC returned to the province just four months after the operation ended. Despite the continual conductance of major operations, which the Viet Cong and PAVN would typically evade, the war was characterised by smaller-unit contacts or engagements. Up to the war's end, the Viet Cong and PAVN would initiate 90% of large firefights, of

which 80% were clear and well-planned operations, and thus the PAVN/Viet Cong would retain strategic initiative despite overwhelming US force and fire-power deployment. The PAVN/Viet Cong had furthermore developed strategies capable of countering U.S. military doctrines and tactics (see NLF and PAVN battle tactics).

- Meanwhile, the political situation in South Vietnam began to stabilise with the coming to power of prime minister Air Marshal Nguyễn Cao Kỳ and figurehead chief of state, General Nguyễn Văn Thiệu, in mid-1965 at the head of a military junta. This ended a series of coups that had happened more than once a year. In 1967, Thiệu became president with Ky as his deputy, after rigged elections. Although they were nominally a civilian government, Ky was supposed to maintain real power through a behind-the-scenes military body. However, Thiệu outmanoeuvred and sidelined Ky by filling the ranks with generals from his faction. Thiệu was also accused of murdering Ky loyalists through contrived military accidents. Thiệu, mistrustful and indecisive, remained president until 1975, having won a one-candidate election in 1971. The Johnson administration employed a "policy of minimum candor" in its dealings with the media. Military information officers sought to manage media coverage by emphasizing stories that portrayed progress in the war. Over time, this policy damaged the public trust in official pronouncements. As the media's coverage of the war and that of the Pentagon diverged, a so-called credibility gap developed. Despite Johnson and Westmoreland publicly

proclaiming victory and Westmoreland stating that the "end is coming into view", internal reports in the *Pentagon Papers* indicate that Viet Cong forces retained strategic initiative and controlled their losses. Viet Cong attacks against static US positions accounted for 30% of all engagements, VC/PAVN ambushes and encirclements for 23%, American ambushes against Viet Cong/PAVN forces for 9%, and American forces attacking Viet Cong emplacements for only 5% of all engagements.

Tet Offensive

In late 1967, the PAVN lured American forces into the hinterlands at Đắk Tô and at the Marine Khe Sanh combat base in Quảng Trị Province, where the U.S. fought a series of battles known as The Hill Fights. These actions were part of a diversionary strategy meant to draw US forces towards the Central Highlands. Preparations were underway for the *General Offensive, General Uprising*, known as Tet Mau Than, or the Tet Offensive, with the intention of Văn Tiến Dũng for forces to launch "direct attacks on the American and puppet nerve centers—Saigon, Huế, Danang, all the cities, towns and main bases..." Le Duan sought to placate critics of the ongoing stalemate by planning a decisive victory. He reasoned that this could be achieved through sparking a general uprising within the towns and cities, along with mass defections among ARVN units, who were on holiday leave during the truce period.

The Tet Offensive began on 30 January 1968, as over 100 cities were attacked by over 85,000 VC/PAVN troops, including assaults on key military installations, headquarters, and

government buildings and offices, including the U.S. Embassy in Saigon. U.S. and South Vietnamese forces were initially shocked by the scale, intensity and deliberative planning of the urban offensive, as infiltration of personnel and weapons into the cities was accomplished covertly; the offensive constituted an intelligence failure on the scale of Pearl Harbor. Most cities were recaptured within weeks, except the former imperial capital of Huế in which PAVN/Viet Cong troops captured most of the city and citadel except the headquarters of the 1st Division and held on in the fighting for 26 days. During that time, they had executed approximately 2,800 unarmed Huế civilians and foreigners they considered to be enemy's spies. In the following Battle of Huế American forces employed massive firepower that left 80 percent of the city in ruins. Further north, at Quảng Trị City, the ARVN Airborne Division, the 1st Division and a regiment of the US 1st Cavalry Division had managed to hold out and overcome an assault intended to capture the city. In Saigon, Viet Cong/PAVN fighters had captured areas in and around the city, attacking key installations and the neighbourhood of Cholon before US and ARVN forces dislodged them after three weeks. During one battle, Peter Arnett reported an infantry commander saying of the Battle of Bến Tre (laid to rubble by U.S. attacks) that "it became necessary to destroy the village in order to save it."

During the first month of the offensive, 1,100 Americans and other allied troops, 2,100 ARVN and 14,000 civilians were killed. By the end of the first offensive, after two months, nearly 5,000 ARVN and over 4,000 U.S. forces had been killed and 45,820 wounded. The U.S. claimed 17,000 of the PAVN and Viet Cong had been killed and 15,000 wounded. A month later a second offensive known as the May Offensive was launched;

although less widespread, it demonstrated the Viet Cong were still capable of carrying out orchestrated nationwide offensives. Two months later a third offensive was launched, the Phase III Offensive. The PAVN's own official records of their losses across all three offensives was 45,267 killed and 111,179 total casualties. By then it had become the bloodiest year of the war up to that point. The failure to spark a general uprising and the lack of defections among the ARVN units meant both war goals of Hanoi had fallen flat at enormous costs.

Prior to Tet, in November 1967, Westmoreland had spearheaded a public relations drive for the Johnson administration to bolster flagging public support. In a speech before the National Press Club he said a point in the war had been reached "where the end comes into view." Thus, the public was shocked and confused when Westmoreland's predictions were trumped by the Tet Offensive. Public approval of his overall performance dropped from 48 percent to 36 percent, and endorsement for the war effort fell from 40 percent to 26 percent." The American public and media began to turn against Johnson as the three offensives contradicted claims of progress made by the Johnson administration and the military.

At one point in 1968, Westmoreland considered the use of nuclear weapons in Vietnam in a contingency plan codenamed Fracture Jaw, which was abandoned when it became known to the White House. Westmoreland requested 200,000 additional troops, which was leaked to the media, and the subsequent fallout combined with intelligence failures caused him to be removed from command in March 1968, succeeded by his deputy Creighton Abrams.

On 10 May 1968, peace talks began between the United States and North Vietnam in Paris. Negotiations stagnated for five months, until Johnson gave orders to halt the bombing of North Vietnam. At the same time, Hanoi realized it could not achieve a "total victory" and employed a strategy known as "talking while fighting, fighting while talking", in which military offensives would occur concurrently with negotiations.

Johnson declined to run for re-election as his approval rating slumped from 48 to 36 percent. His escalation of the war in Vietnam divided Americans into warring camps, cost 30,000 American lives by that point and was regarded to have destroyed his presidency. Refusal to send more U.S. troops to Vietnam was also seen as Johnson's admission that the war was lost. As Secretary of Defense Robert McNamara noted, "the dangerous illusion of victory by the United States was therefore dead."

Vietnam was a major political issue during the United States presidential election in 1968. The election was won by Republican party candidate Richard Nixon who claimed to have a secret plan to end the war.

Vietnamization, 1969–1972

Nuclear threats and diplomacy

U.S. president Richard Nixon began troop withdrawals in 1969. His plan to build up the ARVN so that it could take over the defense of South Vietnam became known as "Vietnamization". As the PAVN/VC recovered from their 1968 losses and

generally avoided contact, Creighton Abrams conducted operations aimed at disrupting logistics, with better use of firepower and more cooperation with the ARVN. On 27 October 1969, Nixon had ordered a squadron of 18 B-52s loaded with nuclear weapons to race to the border of Soviet airspace to convince the Soviet Union, in accord with the madman theory, that he was capable of anything to end the Vietnam War. Nixon had also sought détente with the Soviet Union and rapprochement with China, which decreased global tensions and led to nuclear arms reduction by both superpowers; however, the Soviets continued to supply the North Vietnamese with aid.

Hanoi's war strategy

In September 1969, Ho Chi Minh died at age seventy-nine. The failure of Tet in sparking a popular uprising caused a shift in Hanoi's war strategy, and the Giáp-Chinh "Northern-First" faction regained control over military affairs from the Lê Duẩn-Hoàng Văn Thái "Southern-First" faction. An unconventional victory was sidelined in favor of a strategy built on conventional victory through conquest. Large-scale offensives were rolled back in favour of small-unit and sapper attacks as well as targeting the pacification and Vietnamization strategy. In the two-year period following Tet, the PAVN had begun its transformation from a fine light-infantry, limited mobility force into a high-mobile and mechanised combined arms force.

U.S. domestic controversies

The anti-war movement was gaining strength in the United States. Nixon appealed to the "silent majority" of Americans who he said supported the war without showing it in public. But revelations of the 1968 My Lai Massacre, in which a U.S. Army unit raped and killed civilians, and the 1969 "Green Beret Affair", where eight Special Forces soldiers, including the 5th Special Forces Group Commander, were arrested for the murder of a suspected double agent, provoked national and international outrage.

In 1971, the *Pentagon Papers* were leaked to *The New York Times*. The top-secret history of U.S. involvement in Vietnam, commissioned by the Department of Defense, detailed a long series of public deceptions on the part of the U.S. government. The Supreme Court ruled that its publication was legal.

Collapsing U.S. morale

Following the Tet Offensive and the decreasing support among the U.S. public for the war, U.S. forces began a period of morale collapse, disillusionment and disobedience. At home, desertion rates quadrupled from 1966 levels. Among the enlisted, only 2.5% chose infantry combat positions in 1969–1970. ROTC enrollment decreased from 191,749 in 1966 to 72,459 by 1971, and reached an all-time low of 33,220 in 1974, depriving U.S. forces of much-needed military leadership.

Open refusal to engage in patrols or carry out orders and disobedience began to emerge during this period, with one notable case of an entire company refusing orders to engage or carry out operations. Unit cohesion began to dissipate and focused on minimising contact with Viet Cong and PAVN. A practice known as "sand-bagging" started occurring, where units ordered to go on patrol would go into the country-side, find a site out of view from superiors and rest while radioing in false coordinates and unit reports. Drug usage increased rapidly among U.S. forces during this period, as 30% of U.S. troops regularly used marijuana, while a House subcommittee found 10–15% of U.S. troops in Vietnam regularly used high-grade heroin. From 1969 on, search-and-destroy operations became referred to as "search and evade" or "search and avoid" operations, falsifying battle reports while avoiding guerrilla fighters. A total of 900 fragging and suspected fragging incidents were investigated, most occurring between 1969 and 1971. In 1969, field-performance of the U.S. Forces was characterised by lowered morale, lack of motivation, and poor leadership. The significant decline in U.S. morale was demonstrated by the Battle of FSB Mary Ann in March 1971, in which a sapper attack inflicted serious losses on the U.S. defenders. William Westmoreland, no longer in command but tasked with investigation of the failure, cited a clear dereliction of duty, lax defensive postures and lack of officers in charge as its cause.

On the collapse of U.S. morale, historian Shelby Stanton wrote:

In the last years of the Army's retreat, its remaining forces were relegated to static security. The American Army's decline was readily apparent in this final stage. Racial incidents, drug

abuse, combat disobedience, and crime reflected growing idleness, resentment, and frustration... the fatal handicaps of faulty campaign strategy, incomplete wartime preparation, and the tardy, superficial attempts at Vietnamization. An entire American army was sacrificed on the battlefield of Vietnam.

ARVN taking the lead and U.S. ground-force withdrawal

Beginning in 1970, American troops were withdrawn from border areas where most of the fighting took place and instead redeployed along the coast and interior. US casualties in 1970 were less than half of 1969 casualties after being relegated to less active combat. While US forces were redeployed, the ARVN took over combat operations throughout the country, with casualties double US casualties in 1969, and more than triple US ones in 1970. In the post-Tet environment, membership in the South Vietnamese Regional Force and Popular Force militias grew, and they were now more capable of providing village security, which the Americans had not accomplished under Westmoreland.

In 1970, Nixon announced the withdrawal of an additional 150,000 American troops, reducing the number of Americans to 265,500. By 1970, Viet Cong forces were no longer southern-majority, as nearly 70% of units were northerners. Between 1969 and 1971 the Viet Cong and some PAVN units had reverted to small unit tactics typical of 1967 and prior instead of nationwide grand offensives. In 1971, Australia and New Zealand withdrew their soldiers and U.S. troop count was further reduced to 196,700, with a deadline to remove another

45,000 troops by February 1972. The United States also reduced support troops, and in March 1971 the 5th Special Forces Group, the first American unit deployed to South Vietnam, withdrew to Fort Bragg, North Carolina.

Cambodia

Prince Norodom Sihanouk had proclaimed Cambodia neutral since 1955, but permitted the PAVN/Viet Cong to use the port of Sihanoukville and the Sihanouk Trail. In March 1969 Nixon launched a massive secret bombing campaign, called Operation Menu, against communist sanctuaries along the Cambodia/Vietnam border. Only five high-ranking congressional officials were informed of Operation Menu.

In March 1970, Prince Sihanouk was deposed by his pro-American prime minister Lon Nol, who demanded that North Vietnamese troops leave Cambodia or face military action. Lon Nol began rounding up Vietnamese civilians in Cambodia into internment camps and massacring them, provoking harsh reactions from both the North Vietnamese and South Vietnamese government. North Vietnam invaded Cambodia at the request of the Khmer Rouge following negotiations with deputy leader Nuon Chea. In April–May 1970, many North Vietnamese forces entered Cambodia in response to the call for help addressed to Vietnam by Nuon Chea. Nguyen Co Thach recalls: "Nuon Chea has asked for help and we have liberated five provinces of Cambodia in ten days." U.S. and ARVN forces launched the Cambodian Campaign to attack PAVN and Viet Cong bases. A counter-offensive later that year as part of Operation Chenla II by the PAVN would recapture most of the border areas and decimate most of Lon Nol's forces.

The invasion of Cambodia sparked nationwide U.S. protests as Nixon had promised to deescalate the American involvement. Four students were killed by National Guardsmen in May 1970 during a protest at Kent State University in Ohio, which provoked further public outrage in the United States. The reaction to the incident by the Nixon administration was seen as callous and indifferent, reinvigorating the declining anti-war movement. The U.S. Air Force continued to heavily bomb Cambodia in support of the Cambodian government as part of Operation Freedom Deal.

Laos

Building up on the success of ARVN units in Cambodia, and further testing the Vietnamization program, the ARVN were tasked to launch Operation Lam Son 719 in February 1971, the first major ground operation aimed directly at attacking the Ho Chi Minh trail by attacking the major crossroad of Tchepone. This offensive would also be the first time the PAVN would field-test its combined arms force. The first few days were considered a success but the momentum had slowed after fierce resistance. Thiệu had halted the general advance, leaving armoured divisions able to surround them. Thieu had ordered air assault troops to capture Tchepone and withdraw, despite facing four-times larger numbers. During the withdrawal the PAVN counterattack had forced a panicked rout. Half of the ARVN troops involved were either captured or killed, half of the ARVN/US support helicopters were downed by anti-aircraft fire and the operation was considered a fiasco, demonstrating operational deficiencies still present within the ARVN. Nixon and Thieu had sought to use this event to show-case victory

simply by capturing Tchepone, and it was spun off as an "operational success".

Easter Offensive and Paris Peace Accords, 1972

Vietnamization was again tested by the Easter Offensive of 1972, a massive conventional PAVN invasion of South Vietnam. The PAVN quickly overran the northern provinces and in coordination with other forces attacked from Cambodia, threatening to cut the country in half. U.S. troop withdrawals continued, but American airpower responded, beginning Operation Linebacker, and the offensive was halted.

The war was central to the 1972 U.S. presidential election as Nixon's opponent, George McGovern, campaigned on immediate withdrawal. Nixon's National Security Advisor, Henry Kissinger, had continued secret negotiations with North Vietnam's Lê Đức Thọ and in October 1972 reached an agreement. President Thieu demanded changes to the peace accord upon its discovery, and when North Vietnam went public with the agreement's details, the Nixon administration claimed they were attempting to embarrass the president. The negotiations became deadlocked when Hanoi demanded new changes. To show his support for South Vietnam and force Hanoi back to the negotiating table, Nixon ordered Operation Linebacker II, a massive bombing of Hanoi and Haiphong 18–29 December 1972. Nixon pressured Thieu to accept the terms of the agreement or else face retaliatory military action from the U.S.

On 15 January 1973, all U.S. combat activities were suspended. Lê Đức Thọ and Henry Kissinger, along with the PRG Foreign Minister Nguyễn Thị Bình and a reluctant President Thiệu, signed the Paris Peace Accords on 27 January 1973. This officially ended direct U.S. involvement in the Vietnam War, created a ceasefire between North Vietnam/PRG and South Vietnam, guaranteed the territorial integrity of Vietnam under the Geneva Conference of 1954, called for elections or a political settlement between the PRG and South Vietnam, allowed 200,000 communist troops to remain in the south, and agreed to a POW exchange. There was a sixty-day period for the total withdrawal of U.S. forces. "This article", noted Peter Church, "proved... to be the only one of the Paris Agreements which was fully carried out." All US forces personnel were completely withdrawn by March 1973.

U.S. exit and final campaigns, 1973–1975

In the lead-up to the ceasefire on 28 January, both sides attempted to maximize the land and population under their control in a campaign known as the War of the flags. Fighting continued after the ceasefire, this time without US participation, and continued throughout the year. North Vietnam was allowed to continue supplying troops in the South but only to the extent of replacing expended material. Later that year the Nobel Peace Prize was awarded to Kissinger and Thọ, but the North Vietnamese negotiator declined it saying that a true peace did not yet exist.

On 15 March 1973, Nixon implied the US would intervene again militarily if the North launched a full offensive, and Secretary of Defense James Schlesinger re-affirmed this position during his June 1973 confirmation hearings. Public and congressional reaction to Nixon's statement was unfavorable, prompting the U.S. Senate to pass the Case-Church Amendment to prohibit any intervention.

PAVN/VC leaders expected the ceasefire terms would favor their side, but Saigon, bolstered by a surge of U.S. aid received just before the ceasefire went into effect, began to roll back the Viet Cong. The PAVN/VC responded with a new strategy hammered out in a series of meetings in Hanoi in March 1973, according to the memoirs of Trần Văn Trà. With U.S. bombings suspended, work on the Ho Chi Minh trail and other logistical structures could proceed unimpeded. Logistics would be upgraded until the North was in a position to launch a massive invasion of the South, projected for the 1975–1976 dry season. Trà calculated that this date would be Hanoi's last opportunity to strike before Saigon's army could be fully trained. The PAVN/VC resumed offensive operations when the dry season began in 1973, and by January 1974 had recaptured territory it lost during the previous dry season.

Within South Vietnam, the departure of the US military and the global recession that followed the 1973 oil crisis hurt an economy that was partly dependent on U.S. financial support and troop presence. After two clashes that left 55 ARVN soldiers dead, President Thieu announced on 4 January 1974, that the war had restarted and that the Paris Peace Accords were no longer in effect. This was despite there being over

25,000 South Vietnamese casualties during the ceasefire period.

- The success of the 1973–1974 dry season offensive inspired Trà to return to Hanoi in October 1974 and plead for a larger offensive the next dry season. This time, Trà could travel on a drivable highway with regular fueling stops, a vast change from the days when the Ho Chi Minh trail was a dangerous mountain trek. Giáp, the North Vietnamese defence minister, was reluctant to approve of Trà's plan since a larger offensive might provoke U.S. reaction and interfere with the big push planned for 1976. Trà appealed over Giáp's head to first secretary Lê Duẩn, who approved of the operation. Trà's plan called for a limited offensive from Cambodia into Phước Long Province. The strike was designed to solve local logistical problems, gauge the reaction of South Vietnamese forces, and determine whether the U.S. would return.

At the start of 1975, the South Vietnamese had three times as much artillery and twice the number of tanks and armoured cars as the PAVN. They also had 1,400 aircraft and a two-to-one numerical superiority in combat troops over the PAVN/VC. However, the rising oil prices meant that much of this could not be used, and the rushed nature of Vietnamization, intended to cover the US retreat, saw a lack of spare parts, ground-crew and maintenance personnel, rendering most of the equipment given inoperable. Gerald Ford took over as U.S. president on 9 August 1974 after President Nixon resigned due to the Watergate scandal and Congress cut financial aid to

South Vietnam from \$1 billion a year to \$700 million. Congress also voted in further restrictions on funding to be phased in through 1975 and to culminate in a total cutoff in 1976.

On 13 December 1974, North Vietnamese forces attacked Phước Long. Phuoc Binh, the provincial capital, fell on 6 January 1975. Ford desperately asked Congress for funds to assist and re-supply the South before it was overrun. Congress refused. The fall of Phuoc Binh and the lack of an American response left the South Vietnamese elite demoralized.

The speed of this success led the Politburo to reassess its strategy. It was decided that operations in the Central Highlands would be turned over to General Văn Tiến Dũng and that Pleiku should be seized, if possible. Before he left for the South, Dũng was addressed by Lê Duẩn: "Never have we had military and political conditions so perfect or a strategic advantage as great as we have now."

Campaign 275

On 10 March 1975, General Dung launched Campaign 275, a limited offensive into the Central Highlands, supported by tanks and heavy artillery. The target was Buôn Ma Thuột, in Đắk Lắk Province. If the town could be taken, the provincial capital of Pleiku and the road to the coast would be exposed for a planned campaign in 1976. The ARVN proved incapable of resisting the onslaught, and its forces collapsed on 11 March. Once again, Hanoi was surprised by the speed of their success. Dung now urged the Politburo to allow him to seize Pleiku immediately and then turn his attention to Kon Tum. He argued that with two months of good weather remaining until

the onset of the monsoon, it would be irresponsible to not take advantage of the situation.

President Thiệu, a former general, was fearful that his forces would be cut off in the north by the attacking communists; Thieu ordered a retreat, which soon turned into a bloody rout. While the bulk of ARVN forces attempted to flee, isolated units fought desperately. ARVN general Phu abandoned Pleiku and Kon Tum and retreated toward the coast, in what became known as the "column of tears".

On 20 March, Thieu reversed himself and ordered Huế, Vietnam's third-largest city, be held at all costs, and then changed his policy several times. As the PAVN launched their attack, panic set in, and ARVN resistance withered. On 22 March, the PAVN opened the siege of Huế. Civilians flooded the airport and the docks hoping for any mode of escape. As resistance in Huế collapsed, PAVN rockets rained down on Da Nang and its airport. By 28 March 35,000 PAVN troops were poised to attack the suburbs. By 30 March 100,000 leaderless ARVN troops surrendered as the PAVN marched victoriously through Da Nang. With the fall of the city, the defense of the Central Highlands and Northern provinces came to an end.

Final North Vietnamese offensive

With the northern half of the country under their control, the Politburo ordered General Dung to launch the final offensive against Saigon. The operational plan for the Ho Chi Minh Campaign called for the capture of Saigon before 1 May. Hanoi wished to avoid the coming monsoon and prevent any redeployment of ARVN forces defending the capital. Northern

forces, their morale boosted by their recent victories, rolled on, taking Nha Trang, Cam Ranh and Da Lat.

On 7 April, three PAVN divisions attacked Xuân Lộc, 40 miles (64 km) east of Saigon. For two bloody weeks, severe fighting raged as the ARVN defenders made a last stand to try to block the PAVN advance. On 21 April, however, the exhausted garrison was ordered to withdraw towards Saigon. An embittered and tearful president Thieu resigned on the same day, declaring that the United States had betrayed South Vietnam. In a scathing attack, he suggested that Kissinger had tricked him into signing the Paris peace agreement two years earlier, promising military aid that failed to materialize. Having transferred power to Trần Văn Hương on 21 April, he left for Taiwan on 25 April. After having appealed unsuccessfully to Congress for \$722 million in emergency aid for South Vietnam, President Ford had given a televised speech on 23 April, declaring an end to the Vietnam War and all U.S. aid.

By the end of April, the ARVN had collapsed on all fronts except in the Mekong Delta. Thousands of refugees streamed southward, ahead of the main communist onslaught. On 27 April 100,000 PAVN troops encircled Saigon. The city was defended by about 30,000 ARVN troops. To hasten a collapse and foment panic, the PAVN shelled Tan Son Nhut Airport and forced its closure. With the air exit closed, large numbers of civilians found that they had no way out.

Fall of Saigon

Chaos, unrest, and panic broke out as hysterical South Vietnamese officials and civilians scrambled to leave Saigon.

Martial law was declared. American helicopters began evacuating South Vietnamese, U.S. and foreign nationals from various parts of the city and from the U.S. embassy compound. Operation Frequent Wind had been delayed until the last possible moment, because of U.S. Ambassador Graham Martin's belief that Saigon could be held and that a political settlement could be reached. Frequent Wind was the largest helicopter evacuation in history. It began on 29 April, in an atmosphere of desperation, as hysterical crowds of Vietnamese vied for limited space. Frequent Wind continued around the clock, as PAVN tanks breached defenses near Saigon. In the early morning hours of 30 April, the last U.S. Marines evacuated the embassy by helicopter, as civilians swamped the perimeter and poured into the grounds.

On 30 April 1975, PAVN troops entered the city of Saigon and quickly overcame all resistance, capturing key buildings and installations. A tank from the 304th Division crashed through the gates of the Independence Palace at 11:30 am local time and the Viet Cong flag was raised above it. President Dương Văn Minh, who had succeeded Huong two days earlier, surrendered to Colonel Bùi Tín.

Opposition to U.S. involvement, 1964–1973

- During the course of the Vietnam War a large segment of the American population came to be opposed to U.S. involvement in Southeast Asia. Public opinion steadily turned against the war

following 1967 and by 1970 only a third of Americans believed that the U.S. had not made a mistake by sending troops to fight in Vietnam. Early opposition to U.S. involvement in Vietnam drew its inspiration from the Geneva Conference of 1954. American support of Diệm in refusing elections was seen as thwarting the democracy America claimed to support. John F. Kennedy, while senator, opposed involvement in Vietnam. Nonetheless, it is possible to specify certain groups who led the anti-war movement at its peak in the late 1960s and the reasons why. Many young people protested because they were the ones being drafted, while others were against the war because the anti-war movement grew increasingly popular among the counterculture. Some advocates within the peace movement advocated a unilateral withdrawal of U.S. forces from Vietnam. Opposition to the Vietnam War tended to unite groups opposed to U.S. anti-communism and imperialism, and for those involved with the New Left, such as the Catholic Worker Movement. Others, such as Stephen Spiro, opposed the war based on the theory of Just War. Some wanted to show solidarity with the people of Vietnam, such as Norman Morrison emulating the self-immolation of Thích Quảng Đức.

High-profile opposition to the Vietnam War increasingly turned to mass protests in an effort to shift U.S. public opinion. Riots broke out at the 1968 Democratic National Convention during protests against the war. After news reports of American military abuses, such as the 1968 My Lai Massacre, brought

new attention and support to the anti-war movement, some veterans joined Vietnam Veterans Against the War. On 15 October 1969, the Vietnam Moratorium attracted millions of Americans. The fatal shooting of four students at Kent State University in 1970 led to nationwide university protests. Anti-war protests declined after the signing of the Paris Peace Accords and the end of the draft in January 1973, and the withdrawal of American troops from Vietnam in the months following.

Involvement of other countries

Pro-Hanoi

2,000 years of Chinese-Vietnamese enmity and hundreds of years of Chinese and Russian mutual suspicions were suspended when they united against us in Vietnam.

- — *Richard Holbrooke, 1985*

China

In 1950, China extended diplomatic recognition to the Democratic Republic of Vietnam and sent heavy weapons, as well as military advisers led by Luo Guibo to assist the Viet Minh in its war with the French. The first draft of the 1954 Geneva Accords was negotiated by French prime minister Pierre Mendès France and Chinese Premier Zhou Enlai who, seeing U.S. intervention coming, urged the Viet Minh to accept a partition at the 17th parallel.

China's support for North Vietnam when the U.S. started to intervene included both financial aid and the deployment of hundreds of thousands of military personnel in support roles. In the summer of 1962, Mao Zedong agreed to supply Hanoi with 90,000 rifles and guns free of charge. Starting in 1965, China sent anti-aircraft units and engineering battalions to North Vietnam to repair the damage caused by American bombing, man anti-aircraft batteries, rebuild roads and railroads, transport supplies, and perform other engineering works. This freed North Vietnamese army units for combat in the South. China sent 320,000 troops and annual arms shipments worth \$180 million. The Chinese military claims to have caused 38% of American air losses in the war. China claimed that its military and economic aid to North Vietnam and the Viet Cong totaled \$20 billion (approx. \$143 billion adjusted for inflation in 2015) during the Vietnam War. Included in that aid were donations of 5 million tons of food to North Vietnam (equivalent to North Vietnamese food production in a single year), accounting for 10–15% of the North Vietnamese food supply by the 1970s.

Sino-Soviet relations soured after the Soviets invaded Czechoslovakia in August 1968. In October, the Chinese demanded North Vietnam cut relations with Moscow, but Hanoi refused. The Chinese began to withdraw in November 1968 in preparation for a clash with the Soviets, which occurred at Zhenbao Island in March 1969.

In 1967, the Chinese government launched a secret military program named "Project 523". which intended to find a treatment for malaria to provide the assistance to the PAVN who suffered malaria. As a result, Chinese scientist Youyou Tu

and her collaborators discovered artemisinin. Tu was awarded the Nobel Prize in 2015 for her contribution on the anti-malaria treatment.

The Chinese also began financing the Khmer Rouge as a counterweight to North Vietnam at this time. China "armed and trained" the Khmer Rouge during the civil war and continued to aid them for years afterward. The Khmer Rouge launched ferocious raids into Vietnam in 1975–1978. When Vietnam responded with an invasion that toppled the Khmer Rouge, China launched a brief, punitive invasion of Vietnam in 1979.

Soviet Union

Soviet ships in the South China Sea gave vital early warnings to PAVN/VC forces in South Vietnam. The Soviet intelligence ships would pick up American B-52 bombers flying from Okinawa and Guam. Their airspeed and direction would be noted and then relayed to COSVN, North Vietnam's southern headquarters. Using airspeed and direction, COSVN analysts would calculate the bombing target and tell any assets to move "perpendicularly to the attack trajectory." These advance warnings gave them time to move out of the way of the bombers, and, while the bombing runs caused extensive damage, because of the early warnings from 1968 to 1970 they did not kill a single military or civilian leader in the headquarters complexes.

The Soviet Union supplied North Vietnam with medical supplies, arms, tanks, planes, helicopters, artillery, anti-aircraft missiles and other military equipment. Soviet crews

fired Soviet-made surface-to-air missiles at U.S. F-4 Phantoms, which were shot down over Thanh Hóa in 1965. Over a dozen Soviet soldiers lost their lives in this conflict. Following the dissolution of the Soviet Union in 1991, Russian officials acknowledged that the Soviet Union had stationed up to 3,000 troops in Vietnam during the war.

Some Russian sources give more specific numbers: Between 1953 and 1991, the hardware donated by the Soviet Union included 2,000 tanks, 1,700 APCs, 7,000 artillery guns, over 5,000 anti-aircraft guns, 158 surface-to-air missile launchers, and 120 helicopters. During the war, the Soviets sent North Vietnam annual arms shipments worth \$450 million. From July 1965 to the end of 1974, fighting in Vietnam was observed by some 6,500 officers and generals, as well as more than 4,500 soldiers and sergeants of the Soviet Armed Forces. In addition, Soviet military schools and academies began training Vietnamese soldiers—in all more than 10,000 military personnel.

The KGB had also helped develop the signals intelligence (SIGINT) capabilities of the North Vietnamese, through an operation known as Vostok (also known as Phương Đông, meaning "Orient" and named after the Vostok 1). The Vostok program was a counterintelligence and espionage program. These programs were pivotal in detecting and defeating CIA and South Vietnamese commando teams sent into North Vietnam, as they were detected and captured. The Soviets helped the Ministry of Public Security recruit foreigners within high-level diplomatic circles among the Western-allies of the US, under a clandestine program known as "B12,MM" which produced thousands of high-level documents for nearly a

decade, including targets of B-52 strikes. In 1975, the SIGINT services had broken information from Western US-allies in Saigon, determining that the US would not intervene to save South Vietnam from collapse.

Czechoslovakia

The Czechoslovak Socialist Republic was a member of the Warsaw Pact and sent significant aid to North Vietnam, both prior to and after the Prague Spring. The Czechoslovakian government created committees which sought to not only promote and establish peace, but also to promote victory for Viet Cong and PAVN forces. Czech-made equipment and military aid would increase significantly following the Prague Spring. Czechoslovakia continued to send tens of thousands of Czech-made rifles as well as mortar and artillery throughout the war. In general, Czechoslovakia was aligned with European leftist movements, and there were simultaneous protests demonstrating against the Soviet intervention in Prague and the US intervention in Vietnam.

Cooperation with Czechoslovakia on the development of North Vietnamese air capabilities began as early as 1956. Czechoslovak instructors and trainers instructed the Vietnam People's Air Force (VPAF) in China and helped them develop a modernised air force, with the Czech-built Aero Ae-45 and Aero L-29 Delfín alongside Zlín Z 26 aircraft utilised significantly for training, and regarded as preferential to Soviet-built Yakovlev Yak-3 as training aircraft.

North Korea

As a result of a decision of the Korean Workers' Party in October 1966, in early 1967, North Korea (officially known as Democratic People's Republic of Korea) sent a fighter squadron to North Vietnam to back up the North Vietnamese 921st and 923rd Fighter Squadrons defending Hanoi. The North Koreans stayed through 1968, and 200 pilots were reported to have served. In addition, at least two anti-aircraft artillery regiments were sent as well.

Cuba

The contributions to North Vietnam by the Republic of Cuba under Fidel Castro have been recognized several times by representatives of the Democratic Republic of Vietnam. Castro mentioned in his discourses the Batallón Girón (Giron Battalion) as comprising the Cuban contingent that served as military advisors during the war. In this battalion, the Cubans were aided by Nguyễn Thị Định, founding member of the Viet Cong, who later became the first female major general in the PAVN.

There are numerous allegations by former U.S. prisoners of war that Cuban military personnel were present at North Vietnamese prison facilities during the war and that they participated in torture activities. Witnesses to this include Senator John McCain, the 2008 U.S. presidential candidate and a former Vietnam prisoner of war, according to his 1999 book *Faith of My Fathers*.

Other Eastern Bloc countries

The Ministry of Public Security of Vietnam (*Bộ Công An*) states that there was special interest towards the Stasi of East Germany in establishing an intelligence and security apparatus, particularly since the Stasi was well-regarded and considered as "industrial, modern, and (with a) scientific working-style". In official Vietnamese language histories on the Vietnamese Ministry of Public Security, the assistance provided by the Soviet and East German intelligence services to Vietnam is usually rated as the most important within the socialist bloc. East Germany had also provided a substantial amount of aid to help North Vietnam duplicate "Green Dragon" identity cards, which were created by Saigon in order to identify North Vietnamese combatants and were difficult to duplicate.

East German authorities had also begun providing material and technical aid to help develop and modernise the North Vietnamese economy and military. In addition, East Germany had also vigorously denounced the US war effort, and had reaped significant international and diplomatic standing as a result of its anti-war campaigns.

Romania was also among primary supporters of North Vietnam during the war in political, economic and military terms. Contemporarily, the Eastern Bloc country was also known for its role in the mediation activities in the mid-1960s, resulting in what became known as the "Trinh Signal" in January 1967, in which Hanoi accepted the possibility of negotiation with Washington.

Bulgaria committed their charge-free military and economic supplies to North Vietnam in a bilateral agreement signed in 1972. Bulgarian military aid had already been provided to the latter since 1967. Similar conducts was undertaken by Hungary, which was reaffirmed in mutual visits of Hungary and North Vietnam in 1972 and 1973. Hungary also expressed their support through their representatives at the International Commission of Control and Supervision, a body established to supervise the implementation of the Paris Peace Accords.

Pro-Saigon

As South Vietnam was formally part of a military alliance with the US, Australia, New Zealand, France, the UK, Pakistan, Thailand and the Philippines, the alliance was invoked during the war. The UK, France and Pakistan declined to participate, and South Korea and Taiwan were non-treaty participants.

South Korea

On the anti-communist side, South Korea (a.k.a. the Republic of Korea, ROK) had the second-largest contingent of foreign troops in South Vietnam after the United States. In November 1961, President Park Chung-hee proposed South Korean participation in the war to John F. Kennedy, but Kennedy disagreed as they were not SEATO treaty members. On 1 May 1964, Lyndon Johnson agreed to permit South Korean participation under the Many Flags Program in return for monetary compensation. The first South Korean troops began arriving in 1964 and large combat formations began arriving a year later. The ROK Marine Corps dispatched their 2nd Marine

Brigade, while the ROK Army sent the Capital Division and later the 9th Infantry Division. In August 1966, after the arrival of the 9th Division, the Koreans established a corps command, the Republic of Korea Forces Vietnam Field Command, near I Field Force at Nha Trang.

State Department reports publicly questioned the usefulness of ROK forces in the conflict, as they have "appeared to have been reluctant to undertake offensive operations, and are only useful in guarding a small sector of the populated area". State department reports furthermore state that ROK forces engaged in systemic, well-organised corruption in diverting US-equipment, and that actual security was often provided by South Vietnamese Regional Forces, which lacked organic firepower and heavy artillery but served as a buffer between Korean units and the PAVN/VC. In addition, a RAND author conducting studies in South Vietnam in 1970 alleged that ROK forces had a "deliberate, systematic policy of committing atrocities", prompting civilians to leave ROK-controlled sectors. The conduct of ROK forces often emboldened and strengthened the Viet Cong, adding ranks from an otherwise neutral population and undermining efforts to defeat the insurgency overall.

Approximately 320,000 South Korean soldiers were sent to Vietnam, each serving a one-year tour of duty. Maximum troop levels peaked at 50,000 in 1968, however all were withdrawn by 1973. About 5,099 South Koreans were killed and 10,962 wounded during the war. South Korea claimed to have killed 41,000 Viet Cong. The United States paid South Korean soldiers 236 million dollars for their efforts in Vietnam, and South Korean GNP increased five-fold during the war.

Thailand

Thai Army formations, including the Royal Thai Volunteer Regiment (Queen's Cobras) and later the Royal Thai Army Expeditionary Division (Black Panthers), saw action in South Vietnam between 1965 and 1971. Thai forces saw much more action in the covert war in Laos between 1964 and 1972, though Thai regular formations there were heavily outnumbered by the irregular "volunteers" of the CIA-sponsored Police Aerial Reconnaissance Units or PARU, who carried out reconnaissance activities on the western side of the Ho Chi Minh trail.

Australia and New Zealand

Australia and New Zealand, close allies of the United States and members of the SEATO and the ANZUS military cooperation treaty, sent ground troops to Vietnam. Both nations had gained experience in counterinsurgency and jungle warfare during the Malayan Emergency and World War II, and their governments subscribed to the domino theory. New Zealand was, however, a reluctant participant. Officials expected a foreign intervention to fail, were concerned that they would be supporting a corrupt regime, and did not want to further stretch their country's small military (which was already deployed to Malaysia). In the end, though, a desire to prove their commitment to the ANZUS alliance and discourage an American withdrawal from Southeast Asia necessitated a military commitment. Australia began by sending advisors to Vietnam in 1962, and combat troops were committed in 1965.

New Zealand began by sending a detachment of engineers and an artillery battery, later sending special forces and regular infantry, which were attached to Australian formations. Australia's peak commitment was 7,672 combat troops and New Zealand's 552. Around 50,190 Australian personnel were involved during the war, of which 521 were killed and more than 3,000 wounded. Approximately 3,500 New Zealanders served in Vietnam, with 37 killed and 187 wounded. Most Australians and New Zealanders served in the 1st Australian Task Force in Phước Tuy Province.

Australia, with decades of experience from both the Malayan Emergency and its AATTV role in 1962, recognised the necessity of a true counter-insurgency, which relied on providing village-level security, establishing civilian trust and economic incentives and improving ARVN capabilities. This brought Australian commanders into conflict with Westmoreland's conventional attrition warfare approach, since Australian ground forces were required to follow US doctrine. Nevertheless, Australian forces were generally the most capable at counter-insurgency, and they helped to train Regional Forces despite being under significant doctrinal constraints.

Philippines

Some 10,450 Filipino troops were dispatched to South Vietnam and primarily supported medical and other civilian pacification projects. These forces operated under the designation A or Philippine Civic Action Group-Vietnam. The naval base at Subic Bay was used for the U.S. Seventh Fleet from 1964 until

the end of the war in 1975. Subic Bay and Clark Air Base achieved maximum functionality during the war, as well as supporting an estimated 80,000 locals in allied tertiary businesses that ranged from shoe making to prostitution.

Taiwan

Beginning in November 1967, Taiwan secretly operated a cargo transport detachment to assist the United States and South Vietnam. Taiwan also provided military training units for the South Vietnamese diving units, later known as the Lien Doi Nguoi Nhai (LDMN) or "Frogman unit" in English. Military commandos from Taiwan were captured by North Vietnamese forces three times trying to infiltrate North Vietnam.

Neutral and non-belligerent nations

Canada

Contributor to the three-nation monitoring-force, the International Control Commission (ICC/ICSC) [1954–1973] and, briefly, its successor: the International Commission for Control and Supervision (ICCS) [1973-1973]. Officially, Canada did not have state-sanctioned combat involvement in the Vietnam War, and diplomatically, it was "non-belligerent", though the sympathies of the state and many of its citizens were well-understood by both sides. The *Vietnam War* entry in *The Canadian Encyclopedia* asserts that Canada's record on the truce commissions was a pro-Saigon partisan one.

Poland

Contributor to the three-nation monitoring-force, the International Control Commission (ICC/ICSC) [1954–1973] and its successor: the International Commission for Control and Supervision (ICCS) [1973–1975]. The Polish People's Republic had played a substantive role in brokering and serving as an intermediary for peace-talks between Hanoi and Saigon, as part of a delegation under the International Control Commission established under the Geneva Accords. Recent evidence has emerged that Poland played an early role in attempting to broker talks between Ngô Đình Nhu and the Diem regime and Hanoi in 1963 in an effort to prevent the expansion of the war, given that Polish representatives were the only communist nation present in Saigon and had acted as a broker and representative for Hanoi.

Spain

President Johnson had asked the Spanish *Caudillo* Francisco Franco to contribute a military contingent to the war effort. After lengthy debate between his ministers, Franco took the advice of veteran General Agustín Muñoz Grandes. Franco was even more cautious in committing himself to the US cause and finally decided to send a medical team of around thirty people, and under strict secrecy. The first group of medical soldiers, including four doctors, seven nurses and one officer in charge of military supplies, arrived in Vietnam in 1966 and worked at Truong Cong Dinh hospital in the Gò Công district. From 1966

to 1971 three other groups, totalling nearly 100 Spaniards, worked at the hospital.

Brazil

Brazil, under a U.S.-backed military regime, officially supported the United States' position in South Vietnam and contributed a medical team and supplies to the country. It was the only Latin American country with a presence in the region.

United Front for the Liberation of Oppressed Races (FULRO)

The ethnic minority peoples of South Vietnam, like the Montagnards (Degar) in the Central Highlands, the Hindu and Muslim Cham, and the Buddhist Khmer Krom, were actively recruited in the war. There was an active strategy of recruitment and favorable treatment of Montagnard tribes for the Viet Cong, as they were pivotal for control of infiltration routes. Some groups had split off and formed the United Front for the Liberation of Oppressed Races (French: *Front Uni de Lutte des Races Opprimées*, acronym: FULRO) to fight for autonomy or independence. FULRO fought against both the South Vietnamese and the Viet Cong, later proceeding to fight against the unified Socialist Republic of Vietnam after the fall of South Vietnam.

During the war, the South Vietnamese president Ngo Dinh Diem began a program to settle ethnic Vietnamese Kinh on

Montagnard lands in the Central Highlands region. This provoked a backlash from the Montagnards, some joining the Viet Cong as a result. The Cambodians under both the pro-China King Sihanouk and the pro-American Lon Nol supported their fellow co-ethnic Khmer Krom in South Vietnam, following an anti-ethnic Vietnamese policy. Following Vietnamization many Montagnard groups and fighters were incorporated into the Vietnamese Rangers as border sentries.

War crimes

A large number of war crimes took place during the Vietnam War. War crimes were committed by both sides during the conflict and included rape, massacres of civilians, bombings of civilian targets, terrorism, the widespread use of torture, and the murder of prisoners of war. Additional common crimes included theft, arson, and the destruction of property not warranted by military necessity.

South Vietnamese, Korean and American

In 1968, the Vietnam War Crimes Working Group (VWCWG) was established by the Pentagon task force set up in the wake of the My Lai Massacre, to attempt to ascertain the veracity of emerging claims of war crimes by U.S. armed forces in Vietnam, during the Vietnam War period.

Of the war crimes reported to military authorities, sworn statements by witnesses and status reports indicated that 320 incidents had a factual basis. The substantiated cases included 7 massacres between 1967 and 1971 in which at least

137 civilians were killed; seventy eight further attacks targeting non-combatants resulting in at least 57 deaths, 56 wounded and 15 sexually assaulted; and 141 cases of U.S. soldiers torturing civilian detainees or prisoners of war with fists, sticks, bats, water or electric shock. Journalism in the ensuing years has documented other overlooked and uninvestigated war crimes involving every army division that was active in Vietnam, including the atrocities committed by Tiger Force. Rummel estimated that American forces committed around 5,500 democidal killings between 1960 and 1972, from a range of between 4,000 and 10,000 killed.

U.S. forces established numerous free-fire zones as a tactic to prevent Viet Cong fighters from sheltering in South Vietnamese villages. Such practice, which involved the assumption that any individual appearing in the designated zones was an enemy combatant that could be freely targeted by weapons, is regarded by journalist Lewis M. Simons as "a severe violation of the laws of war". Nick Turse, in his 2013 book, *Kill Anything that Moves*, argues that a relentless drive toward higher body counts, a widespread use of free-fire zones, rules of engagement where civilians who ran from soldiers or helicopters could be viewed as Viet Cong and a widespread disdain for Vietnamese civilians led to massive civilian casualties and endemic war crimes inflicted by U.S. troops. One example cited by Turse is Operation Speedy Express, an operation by the 9th Infantry Division, which was described by John Paul Vann as, in effect, "many Mỹ Lais". A report by *Newsweek* magazine suggested that at least 5,000 civilians may have been killed during six months of the operation, and there were approximately 748 recovered weapons and an

official US military body count of 10,889 enemy combatants killed.

R.J. Rummel estimated that 39,000 were killed by South Vietnam during the Diem-era in democide from a range of between 16,000 and 167,000 South Vietnamese civilians; for 1964 to 1975, Rummel estimated 50,000 people were killed in democide, from a range of between 42,000 and 128,000. Thus, the total for 1954 to 1975 is 81,000, from a range of between 57,000 and 284,000 deaths caused by South Vietnam. Benjamin Valentino attributes possibly 110,000–310,000 "counter-guerrilla mass killings" of non-combatants to U.S. and South Vietnamese forces during the war. An estimated 26,000 to 41,000 civilian members of the PRG/Viet Cong termed "VC Infrastructure" were killed during the Phoenix Program, by US and South Vietnamese intelligence and security, with an unknown number being innocent civilians.

Torture and ill-treatment were frequently applied by the South Vietnamese to POWs as well as civilian prisoners. During their visit to the Con Son Prison in 1970, U.S. congressmen Augustus F. Hawkins and William R. Anderson witnessed detainees either confined in minute "tiger cages" or chained to their cells, and provided with poor-quality food. A group of American doctors inspecting the prison in the same year found many inmates suffering symptoms resulting from forced immobility and torture. During their visits to transit detention facilities under American administration in 1968 and 1969, the International Red Cross recorded many cases of torture and inhumane treatment before the captives were handed over to South Vietnamese authorities. Torture was conducted by the South Vietnamese government in collusion with the CIA.

South Korean forces were also accused of war crimes. One documented event was the Phong Nhị and Phong Nhất massacre where the 2nd Marine Brigade reportedly killed between 69 and 79 civilians on 12 February 1968 in Phong Nhị and Phong Nhất village, Điện Bàn District, Quảng Nam Province. South Korean forces are also accused of perpetrating other massacres, namely: Bình Hòa massacre, Binh Tai Massacre and Hà My massacre.

North Vietnamese and Viet Cong

Ami Pedahzur has written that "the overall volume and lethality of Viet Cong terrorism rivals or exceeds all but a handful of terrorist campaigns waged over the last third of the twentieth century", based on the definition of terrorists as a non-state actor, and examining targeted killings and civilian deaths which are estimated at over 18,000 from 1966 to 1969. The US Department of Defense estimates the VC/PAVN had conducted 36,000 murders and almost 58,000 kidnappings from 1967 to 1972, c. 1973. Statistics for 1968–1972 suggest that "about 80 percent of the terrorist victims were ordinary civilians and only about 20 percent were government officials, policemen, members of the self-defence forces or pacification cadres." Benjamin Valentino attributes 45,000–80,000 "terrorist mass killings" of non-combatants to the Viet Cong during the war. Viet Cong tactics included the frequent mortaring of civilians in refugee camps, and the placing of mines on highways frequented by villagers taking their goods to urban markets. Some mines were set only to go off after heavy vehicle passage, causing extensive slaughter aboard packed civilian buses.

Notable Viet Cong atrocities include the massacre of over 3,000 unarmed civilians at Huế during the Tet Offensive and the killing of 252 civilians during the Đắk Sơn massacre. 155,000 refugees fleeing the final North Vietnamese Spring Offensive were reported to have been killed or abducted on the road to Tuy Hòa in 1975. According to Rummel, PAVN and Viet Cong troops killed 164,000 civilians in democide between 1954 and 1975 in South Vietnam, from a range of between 106,000 and 227,000 (50,000 of which were reportedly killed by shelling and mortar on ARVN forces during the retreat to Tuy Hoa). North Vietnam was also known for its abusive treatment of American POWs, most notably in Hỏa Lò Prison (aka the *Hanoi Hilton*), where torture was employed to extract confessions.

Women

American nurses

American women served on active duty performing a variety of jobs. Early in 1963, the Army Nurse Corps (ANC) launched Operation Nightingale, an intensive effort to recruit nurses to serve in Vietnam. First Lieutenant Sharon Lane was the only female military nurse to be killed by enemy gunfire during the war, on 8 June 1969. One civilian doctor, Eleanor Ardel Vietti, who was captured by Viet Cong on 30 May 1962, in Buôn Ma Thuột, remains the only American woman unaccounted for from the Vietnam War.

Although a small number of women were assigned to combat zones, they were never allowed directly in the field of battle.

Unlike the men, the women who served in the military were solely volunteers. They faced a plethora of challenges, one of which was the relatively small number of female soldiers. Living in a male-dominated environment created tensions between the sexes. By 1973, approximately 7,500 women had served in Vietnam in the Southeast Asian theater. American women serving in Vietnam were subject to societal stereotypes. To address this problem, the ANC released advertisements portraying women in the ANC as "proper, professional and well protected." This effort to highlight the positive aspects of a nursing career reflected the feminism of the 1960s–1970s in the United States. Although female military nurses lived in a heavily male environment, very few cases of sexual harassment were ever reported.

Vietnamese soldiers

- Unlike the American women who went to Vietnam, both South and North Vietnamese women were enlisted and served in combat zones. Women were enlisted in both the PAVN and the Viet Cong, many joining due to the promises of female equality and a greater social role within society. Some women also served for the PAVN and Viet Cong intelligence services. The deputy military commander of the Viet Cong, was a female general, Nguyễn Thị Định. All-female units were present throughout the entirety of the war, ranging from front-line combat troops to anti-aircraft, scout and reconnaissance units. Female combat squads were present in the Cu Chi theatre. They also fought in the Battle of Hue. In

addition, large numbers of women served in North Vietnam, manning anti-aircraft batteries, providing village security and serving in logistics on the Ho Chi Minh trail. Other women were embedded with troops on the front-lines, serving as doctors and medical personnel. Đặng Thùy Trâm became renowned after her diary was published following her death. The Foreign Minister for the Viet Cong and later the PRG was also a woman, Nguyễn Thị Bình. In South Vietnam, many women voluntarily served in the ARVN's Women's Armed Force Corps (WAFC) and various other Women's corps in the military. Some, like in the WAFC, served in combat with other soldiers. Others served as nurses and doctors in the battlefield and in military hospitals, or served in South Vietnam or America's intelligence agencies. During Diệm's presidency, his sister-in-law Madame Nhu was the commander of the WAFC. Many women joined provincial and voluntary village-level militia in the People's Self-Defense Force especially during the ARVN expansions later in the war.

During the war more than one million rural people migrated or fled the fighting in the South Vietnamese countryside to the cities, especially Saigon. Among the internal refugees were many young women who became the ubiquitous "bar girls" of wartime South Vietnam, "hawking her wares—be that cigarettes, liquor, or herself" to American and allied soldiers. American bases were ringed by bars and brothels.

8,040 Vietnamese women came to the United States as war brides between 1964 and 1975. Many mixed-blood Amerasian

children were left behind when their American fathers returned to the United States after their tour of duty in South Vietnam; 26,000 of them were permitted to immigrate to the United States in the 1980s and 1990s.

Journalists

Women also played a prominent role as front-line reporters in the conflict, directly reporting on the conflict as it occurred. A number of women volunteered on the North Vietnamese side as embedded journalists, including author Lê Minh Khuê embedded with PAVN forces, on the Ho Chi Minh trail as well as on combat fronts. A number of prominent Western journalists were also involved in covering the war, with Dickey Chapelle being among the first as well as the first American female reporter killed in a war. The French-speaking Australian journalist Kate Webb was captured along with a photographer and others by the Viet Cong in Cambodia and travelled into Laos with them; they were released back into Cambodia after 23 days of captivity. Webb would be the first Western journalist to be captured and released, as well as cover the perspective of the Viet Cong in her memoir *On The Other Side*. Another French-speaking journalist, Catherine Leroy, was briefly captured and released by North Vietnamese forces during the Battle of Huế, capturing some famous photos from the battles that would appear on the cover of *Life Magazine*.

Black servicemen

The experience of American military personnel of African ancestry during the Vietnam War had received significant attention. For example, the website "African-American Involvement in the Vietnam War" compiles examples of such coverage, as does the print and broadcast work of journalist Wallace Terry whose book *Bloods: An Oral History of the Vietnam War by Black Veterans* (1984), includes observations about the impact of the war on the black community in general and on black servicemen specifically. Points he makes on the latter topic include: the higher proportion of combat casualties in Vietnam among African American servicemen than among American soldiers of other races, the shift toward and different attitudes of black military careerists versus black draftees, the discrimination encountered by black servicemen "on the battlefield in decorations, promotion and duty assignments" as well as their having to endure "the racial insults, cross-burnings and Confederate flags of their white comrades"—and the experiences faced by black soldiers stateside, during the war and after America's withdrawal.

Civil rights leaders protested the disproportionate casualties and the overrepresentation in hazardous duty and combat roles experienced by African American servicemen, prompting reforms that were implemented beginning in 1967–68. As a result, by the war's completion in 1975, black casualties had declined to 12.5% of US combat deaths, approximately equal to percentage of draft-eligible black men, though still slightly higher than the 10% who served in the military.

Weapons

- During the early stages of the war, the Viet Cong mainly sustained itself with captured arms; these were often of American manufacture or were crude, makeshift weapons used alongside shotguns made of galvanized pipes. Most arms were captured from poorly defended ARVN militia outposts. In 1967, all Viet Cong battalions were reequipped with arms of Soviet design such as the AK-47 assault rifle, carbines and the RPG-2 anti-tank weapon. Their weapons were principally of Chinese or Soviet manufacture. In the period up to the conventional phase in 1970, the Viet Cong and PAVN were primarily limited to 81 mm mortars, recoilless rifles, and small arms and had significantly lighter equipment and firepower in comparison with the US arsenal. They relied on ambushes, superior stealth, planning, marksmanship, and small-unit tactics to face the disproportionate US technological advantage.

After the Tet Offensive, many PAVN units incorporated light tanks such as the Type 62 Type 59 tank., BTR-60, Type 60 artillery, amphibious tanks (such as the PT-76) and integrated into new war doctrines as a mobile combined-arms force. The PAVN started receiving experimental Soviet weapons against ARVN forces, including MANPADS 9K32 Strela-2 and anti-tank missiles, 9M14 Malyutka. By 1975, they had fully transformed from the strategy of mobile light-infantry and using the people's war concept used against the United States.

The US service rifle was initially the M14. The M14 was a powerful, accurate rifle, but it was heavy, hard-recoiling, and especially unwieldy in jungle fighting, as it was unsuited for the combat conditions, often suffering from feed failure. It was gradually replaced by the M16 rifle, designed by Eugene Stoner, between 1964 and 1970. When first deployed, the M16 also suffered from a propensity to jam in combat, leaving the soldier defenseless and potentially killing him. According to a congressional report, the jamming was not related to operator error or to an inherent flaw in the rifle, but instead due to a change in the gunpowder to be used in the rifle's cartridges, which led to rapid powder fouling of the action and failures to extract or feed cartridges. This decision, made after "inadequate testing", proved that "the safety of soldiers was a secondary consideration." The issue was solved in early 1968 with the issuance of the M16A1, featuring a chrome-plated bore, which reduced fouling, and the introduction of a cleaner-burning powder. Incorporating features from the German FG-42 and MG-42, the U.S. replaced their earlier M1919 Browning in most roles with the M60 machine gun, including on helicopters where it was used for suppressive fire. While its issues were not as severe as they were in the M14 or M16, the M60 still could fail to fire at crucial times – spent casings could get stuck inside of the chamber, meaning the barrel would have to be replaced before it could fire again.

The AC-130 "Spectre" Gunship and the UH-1 "Huey" gunship were used frequently during the war. The AC-130 was a heavily armed ground-attack aircraft variant of the C-130 Hercules transport plane, while the Huey is a military helicopter powered by a single, turboshaft engine; approximately 7,000 UH-1 aircraft saw service in Vietnam. The U.S. heavily

armored, 90 mm M48A3 Patton tank saw extensive action during the Vietnam War, and over 600 were deployed with US Forces. Ground forces also had access to B-52 and F-4 Phantom II and other aircraft to launch napalm, white phosphorus, tear gas, chemical weapons, precision-guided munition and cluster bombs.

Radio communications

The Vietnam War was the first conflict where U.S. forces had secure voice communication equipment available at the tactical level. The National Security Agency ran a crash program to provide U.S. forces with a family of security equipment, codenamed NESTOR, fielding 17,000 units initially; eventually 30,000 units were produced. However, limitations of the units, including poor voice quality, reduced range, annoying time delays and logistical support issues, led to only one unit in ten being used. While many in the U.S. military believed that the Viet Cong and PAVN would not be able to exploit insecure communications, interrogation of captured communication intelligence units showed they could understand the jargon and codes used in real time and were often able to warn their side of impending U.S. actions.

Extent of U.S. bombings

The U.S. dropped over 7 million tons of bombs on Indochina during the war, more than triple the 2.1 million tons of bombs the U.S. dropped on Europe and Asia during all of World War II and more than ten times the amount dropped by the U.S. during the Korean War. 500 thousand tons were dropped on

Cambodia, 1 million tons were dropped on North Vietnam, and 4 million tons were dropped on South Vietnam. On a per capita basis, the 2 million tons dropped on Laos make it the most heavily bombed country in history; *The New York Times* noted this was "nearly a ton for every person in Laos." Due to the particularly heavy impact of cluster bombs during this war, Laos was a strong advocate of the Convention on Cluster Munitions to ban the weapons, and was host to the First Meeting of States Parties to the convention in November 2010.

Former U.S. Air Force official Earl Tilford has recounted "repeated bombing runs of a lake in central Cambodia. The B-52s literally dropped their payloads in the lake." The Air Force ran many missions of this kind to secure additional funding during budget negotiations, so the tonnage expended does not directly correlate with the resulting damage.

Aftermath

Events in Southeast Asia

- On 2 July 1976, North and South Vietnam were merged to form the Socialist Republic of Vietnam. Despite speculation that the victorious North Vietnamese would, in President Nixon's words, "massacre the civilians there [South Vietnam] by the millions," there is a widespread consensus that no mass executions took place. However, in the years following the war, a vast number of South Vietnamese were sent to re-education camps where many endured torture, starvation, and disease while

being forced to perform hard labor. According to Amnesty International Report 1979, this figure varied considerably depend on different observers: "[...] included such figures as "50,000 to 80,000" (*Le Monde*, 19 April 1978), "150,000" (Reuters from Bien Hoa, 2 November 1977), "150,000 to 200,000" (*Washington Post*, 20 December 1978), and "300,000" (Agence France Presse from Hanoi, 12 February 1978)." Such variations may be because "Some estimates may include not only detainees but also people sent from the cities to the countryside." According to a native observer, 443,360 people had to register for a period in re-education camps in Saigon alone, and while some of them were released after a few days, others stayed there for more than a decade. Between 1975 and 1980, more than 1 million northerners migrated south to regions formerly in the Republic of Vietnam, while, as part of the New Economic Zones program, around 750,000 to over 1 million southerners were moved mostly to uninhabited mountainous forested areas.

Gabriel García Márquez, a Nobel Prize winning writer, described South Vietnam as a "False paradise" after the war, when he visited in 1980: "The cost of this delirium was stupefying: 360,000 people mutilated, a million widows, 500,000 prostitutes, 500,000 drug addicts, a million tuberculous and more than a million soldiers of the old regime, impossible to rehabilitate into a new society. Ten percent of the population of Ho Chi Minh City was suffering from serious venereal diseases when the war ended, and there were 4 million illiterates throughout the South." The US used its

security council veto to block Vietnam's recognition by the United Nations three times, an obstacle to the country receiving international aid.

By 1975, the North Vietnamese had lost influence over the Khmer Rouge. Phnom Penh, the capital of Cambodia, fell to the Khmer Rouge on 17 April 1975. Under the leadership of Pol Pot, the Khmer Rouge would eventually kill 1–3 million Cambodians out of a population of around 8 million, in one of the bloodiest genocides in history.

The relationship between Vietnam and Democratic Kampuchea (Cambodia) escalated right after the end of the war. In response to the Khmer Rouge taking over Phu Quoc on 17 April and Tho Chu on 4 May 1975 and the belief that they were responsible for the disappearance of 500 Vietnamese natives on Tho Chu, Vietnam launched a counterattack to take back these islands. After several failed attempts to negotiate by both sides, Vietnam invaded Democratic Kampuchea in 1978 and ousted the Khmer Rouge, who were being supported by China, in the Cambodian–Vietnamese War. In response, China invaded Vietnam in 1979. The two countries fought a brief border war, known as the Sino-Vietnamese War. From 1978 to 1979, some 450,000 ethnic Chinese left Vietnam by boat as refugees or were expelled.

The Pathet Lao overthrew the monarchy of Laos in December 1975, establishing the Lao People's Democratic Republic under the leadership of a member of the royal family, Souphanouvong. The change in regime was "quite peaceful, a sort of Asiatic 'velvet revolution'"—although 30,000 former officials were sent to reeducation camps, often enduring harsh

conditions for several years. The conflict between Hmong rebels and the Pathet Lao continued in isolated pockets.

Unexploded ordnance, mostly from U.S. bombing, continues to detonate and kill people today and has rendered much land hazardous and impossible to cultivate. According to the Vietnamese government, ordnance has killed some 42,000 people since the war officially ended. In Laos, 80 million bombs failed to explode and remain scattered throughout the country. According to the government of Laos, unexploded ordnance has killed or injured over 20,000 Laotians since the end of the war and currently 50 people are killed or maimed every year. It is estimated that the explosives still remaining buried in the ground will not be removed entirely for the next few centuries.

Over 3 million people left Vietnam, Laos, and Cambodia in the Indochina refugee crisis after 1975. Most Asian countries were unwilling to accept these refugees, many of whom fled by boat and were known as boat people. Between 1975 and 1998, an estimated 1.2 million refugees from Vietnam and other Southeast Asian countries resettled in the United States, while Canada, Australia, and France resettled over 500,000. China accepted 250,000 people. Of all the countries of Indochina, Laos experienced the largest refugee flight in proportional terms, as 300,000 people out of a total population of 3 million crossed the border into Thailand. Included among their ranks were "about 90 percent" of Laos's "intellectuals, technicians, and officials." An estimated 200,000 to 400,000 Vietnamese boat people died at sea, according to the United Nations High Commissioner for Refugees.

Effect on the United States

Views on the war

In the post-war era, Americans struggled to absorb the lessons of the military intervention. As General Maxwell Taylor, one of the principal architects of the war, noted, "First, we didn't know ourselves. We thought that we were going into another Korean War, but this was a different country. Secondly, we didn't know our South Vietnamese allies... And we knew less about North Vietnam. Who was Ho Chi Minh? Nobody really knew. So, until we know the enemy and know our allies and know ourselves, we'd better keep out of this kind of dirty business. It's very dangerous." President Ronald Reagan coined the term "Vietnam Syndrome" to describe the reluctance of the American public and politicians to support further military interventions abroad after Vietnam. According to a 2004 Gallup poll, 62 percent of Americans believed it was an unjust war. US public polling in 1978 revealed that nearly 72% of Americans believed the war was "fundamentally wrong and immoral." Nearly a decade later, the number fell to 66%. In the past three decades, surveys have consistently shown that only around 35% of Americans believe that the war was fundamentally wrong and immoral. When surveyed in 2000, one third of Americans believed that the war was a noble cause.

Failure of the war is often placed at different institutions and levels. Some have suggested that the failure of the war was due to political failures of U.S. leadership. The official history of the United States Army noted that "tactics have often seemed to exist apart from larger issues, strategies, and objectives. Yet

in Vietnam the Army experienced tactical success and strategic failure... success rests not only on military progress but on correctly analysing the nature of the particular conflict, understanding the enemy's strategy, and assessing the strengths and weaknesses of allies. A new humility and a new sophistication may form the best parts of a complex heritage left to the Army by the long, bitter war in Vietnam."

Others point to a failure of U.S. military doctrine. Secretary of Defense Robert McNamara stated that "the achievement of a military victory by U.S. forces in Vietnam was indeed a dangerous illusion." The inability to bring Hanoi to the bargaining table by bombing also illustrated another U.S. miscalculation, and demonstrated the limitations of U.S. military abilities in achieving political goals. As Army Chief of Staff Harold Keith Johnson noted, "if anything came out of Vietnam, it was that air power couldn't do the job." Even General William Westmoreland admitted that the bombing had been ineffective. As he remarked, "I still doubt that the North Vietnamese would have relented." U.S. Secretary of State Henry Kissinger wrote in a secret memo to President Gerald Ford that "in terms of military tactics, we cannot help draw the conclusion that our armed forces are not suited to this kind of war. Even the Special Forces who had been designed for it could not prevail."

Hanoi had persistently sought unification of the country since the Geneva Accords, and the effects of U.S. bombings had negligible impact on the goals of the North Vietnamese government. The effects of U.S. bombing campaigns had mobilised the people throughout North Vietnam and mobilised international support for North Vietnam due to the perception

of a super-power attempting to bomb a significantly smaller, agrarian society into submission.

The Vietnam War POW/MIA issue, concerning the fate of U.S. service personnel listed as missing in action, persisted for many years after the war's conclusion. The costs of the war loom large in American popular consciousness; a 1990 poll showed that the public incorrectly believed that more Americans lost their lives in Vietnam than in World War II.

Cost of the war

Between 1953 and 1975, the United States was estimated to have spent \$168 billion on the war (equivalent to \$1.4 trillion in 2020). This resulted in a large federal budget deficit. Other figures point to \$138.9 billion from 1965 to 1974 (not inflation-adjusted), 10 times all education spending in the US and 50 times more than housing and community development spending within that time period. General record-keeping was reported to have been sloppy for government spending during the war. It was stated that war-spending could have paid off every mortgage in the US at that time, with money leftover.

More than 3 million Americans served in the Vietnam War, some 1.5 million of whom actually saw combat in Vietnam. James E. Westheider wrote that "At the height of American involvement in 1968, for example, 543,000 American military personnel were stationed in Vietnam, but only 80,000 were considered combat troops." Conscription in the United States had been controlled by the president since World War II, but ended in 1973.

As of 2013, the U.S. government is paying Vietnam veterans and their families or survivors more than \$22 billion a year in war-related claims.

Impact on the U.S. military

- By the war's end, 58,220 American soldiers had been killed, more than 150,000 had been wounded, and at least 21,000 had been permanently disabled. The average age of the U.S. troops killed in Vietnam was 23.11 years. According to Dale Kueter, "Of those killed in combat, 86.3 percent were white, 12.5 percent were black and the remainder from other races." Approximately 830,000 Vietnam veterans suffered some degree of posttraumatic stress disorder (PTSD). Vietnam veterans suffered from PTSD in unprecedented numbers, as many as 15.2% of Vietnam veterans, because the U.S. military had routinely provided heavy psychoactive drugs, including amphetamines, to American servicemen, which left them unable to process adequately their traumas at the time. An estimated 125,000 Americans left for Canada to avoid the Vietnam draft, and approximately 50,000 American servicemen deserted. In 1977, United States president Jimmy Carter granted a full and unconditional pardon to all Vietnam-era draft dodgers with Proclamation 4483. As the Vietnam War continued inconclusively and became more unpopular with the American public, morale declined and disciplinary problems grew among American

enlisted men and junior, non-career officers. Drug use, racial tensions, and the growing incidence of fragging—attempting to kill unpopular officers and non-commissioned officers with grenades or other weapons—created severe problems for the U.S. military and impacted its capability of undertaking combat operations. By 1971, a U.S. Army colonel writing in the *Armed Forces Journal* declared: "By every conceivable indicator, our army that now remains in Vietnam is in a state approaching collapse, with individual units avoiding or having refused combat, murdering their officers and non-commissioned officers, drug-ridden, and dispirited where not near mutinous....The morale, discipline, and battle-worthiness of the U.S. Armed Forces are, with a few salient exceptions, lower and worse than at any time in this century and possibly in the history of the United States." Between 1969 and 1971 the U.S. Army recorded more than 900 attacks by troops on their own officers and NCOs with 99 killed.

The Vietnam War called into question the U.S. Army doctrine. Marine Corps general Victor H. Krulak heavily criticised Westmoreland's attrition strategy, calling it "wasteful of American lives... with small likelihood of a successful outcome." In addition, doubts surfaced about the ability of the military to train foreign forces. Furthermore, throughout the war there was found to be considerable flaws and dishonesty by officers and commanders due to promotions being tied to the body count system touted by Westmoreland and McNamara. And behind the scenes Secretary of Defense McNamara wrote

in a memo to President Johnson his doubts about the war: "The picture of the world's greatest superpower killing or seriously injuring 1,000 noncombatants a week, while trying to pound a tiny backward nation into submission on an issue whose merits are hotly disputed, is not a pretty one."

Ron Milam has questioned the severity of the "breakdown" of the U.S. armed forces, especially among combat troops, as reflecting the opinions of "angry colonels" who deplored the erosion of traditional military values during the Vietnam War. Although acknowledging serious problems, he questions the alleged "near mutinous" conduct of junior officers and enlisted men in combat. Investigating one combat refusal incident, a journalist declared, "A certain sense of independence, a reluctance to behave according to the military's insistence on obedience, like pawns or puppets...The grunts [infantrymen] were determined to survive...they insisted of having something to say about the making of decisions that determined whether they might live or die." The morale and discipline problems and resistance to conscription were important factors leading to the creation of an all-volunteer military force by the United States and the termination of conscription. The last conscript was inducted into the army in 1973. The all-volunteer military moderated some of the coercive methods of discipline previously used to maintain order in military ranks.

Effects of U.S. chemical defoliation

One of the most controversial aspects of the U.S. military effort in Southeast Asia was the widespread use of chemical defoliants between 1961 and 1971. They were used to defoliate large parts of the countryside to prevent the Viet Cong from

being able to hide their weapons and encampments under the foliage. These chemicals continue to change the landscape, cause diseases and birth defects, and poison the food chain.

Agent Orange and similar chemical substances used by the U.S. have also caused a considerable number of deaths and injuries in the intervening years, including among the US Air Force crews that handled them. Scientific reports have concluded that refugees exposed to chemical sprays while in South Vietnam continued to experience pain in the eyes and skin as well as gastrointestinal upsets. In one study, ninety-two percent of participants suffered incessant fatigue; others reported monstrous births. Meta-analyses of the most current studies on the association between Agent Orange and birth defects have found a statistically significant correlation such that having a parent who was exposed to Agent Orange at any point in their life will increase one's likelihood of either possessing or acting as a genetic carrier of birth defects. The most common deformation appears to be spina bifida. There is substantial evidence that the birth defects carry on for three generations or more. In 2012, the United States and Vietnam began a cooperative cleaning up of the toxic chemical on part of Danang International Airport, marking the first time Washington has been involved in cleaning up Agent Orange in Vietnam.

Vietnamese victims affected by Agent Orange attempted a class action lawsuit against Dow Chemical and other U.S. chemical manufacturers, but the District Court dismissed their case. They appealed, but the dismissal was cemented in February 2008 by the Court of Appeals for the Second Circuit. As of 2006, the Vietnamese government estimates that there are over

4,000,000 victims of dioxin poisoning in Vietnam, although the United States government denies any conclusive scientific links between Agent Orange and the Vietnamese victims of dioxin poisoning. In some areas of southern Vietnam, dioxin levels remain at over 100 times the accepted international standard.

The U.S. Veterans Administration has listed prostate cancer, respiratory cancers, multiple myeloma, Diabetes mellitus type 2, B-cell lymphomas, soft-tissue sarcoma, chloracne, porphyria cutanea tarda, peripheral neuropathy and spina bifida in children of veterans exposed to Agent Orange.

Casualties

Estimates of the number of casualties vary, with one source suggesting up to 3.8 million violent war deaths in Vietnam for the period 1955 to 2002. A detailed demographic study calculated 791,000–1,141,000 war-related deaths during the war for all of Vietnam, for both military and civilians. Between 195,000 and 430,000 South Vietnamese civilians died in the war. Extrapolating from a 1969 US intelligence report, Guenter Lewy estimated 65,000 North Vietnamese civilians died in the war. Estimates of civilian deaths caused by American bombing of North Vietnam in Operation Rolling Thunder range from 30,000 to 182,000. A 1975 US Senate subcommittee estimated nearly 1.4 million civilians casualties between 1965 and 1974, including 415,000 deaths, and attributed over half as resulting from US and South Vietnamese military action.

The military forces of South Vietnam suffered an estimated 254,256 killed between 1960 and 1974 and additional deaths from 1954 to 1959 and in 1975. Other estimates point to

higher figures of 313,000 casualties. The official US Department of Defense figure was 950,765 PAVN/VC forces killed in Vietnam from 1965 to 1974. Defense Department officials believed that these body count figures need to be deflated by 30 percent. Guenter Lewy asserts that one-third of the reported "enemy" killed may have been civilians, concluding that the actual number of deaths of PAVN/VC military forces was probably closer to 444,000.

According to figures released by the Vietnamese government there were 849,018 military deaths on the PAVN/VC side during the war. The Vietnamese government released its estimate of war deaths for the more lengthy period of 1955 to 1975. This figure includes battle deaths of Vietnamese soldiers in the Laotian and Cambodian Civil Wars, in which the PAVN was a major participant. Non-combat deaths account for 30 to 40% of these figures. However, the figures do not include deaths of South Vietnamese and allied soldiers. It is unclear whether the Vietnamese government figures includes the 300-330,000 PAVN/VC missing in action.

US reports of "enemy KIA", referred to as body count were thought to have been subject to "falsification and glorification", and a true estimate of PAVN/VC combat deaths may be difficult to assess, as US victories were assessed by having a "greater kill ratio". It was difficult to distinguish between civilians and military personnel on the Viet Cong side as many persons were part-time guerrillas or impressed labourers who did not wear uniforms and civilians killed were sometimes written off as enemy killed because high enemy casualties was directly tied to promotions and commendation.

Between 275,000 and 310,000 Cambodians were estimated to have died during the war including between 50,000 and 150,000 combatants and civilians from US bombings. 20,000–62,000 Laotians also died, and 58,281 U.S. military personnel were killed, of which 1,584 are still listed as missing as of March 2021.

In popular culture

The Vietnam War has been featured extensively in television, film, video games, music and literature in the participant countries. In Vietnam, one notable film set during Operation Linebacker II was the film *Girl from Hanoi* (1975) depicting war-time life in Hanoi. Another notable work was the diary of Đặng Thùy Trâm, a Vietnamese doctor who enlisted in the Southern battlefield, and was killed at the age of 27 by US forces near Quảng Ngãi. Her diaries were later published in Vietnam as *Đặng Thùy Trâm's Diary (Last Night I Dreamed Of Peace)*, where it became a best-seller and was later made into a film *Don't Burn (Đừng Đốt)*. In Vietnam the diary has often been compared to *The Diary of Anne Frank* and both are used in literary education. Another Vietnamese film produced was *The Abandoned Field: Free Fire Zone (Cánh đồng hoang)* in 1979 which weaves the narrative of living on the ground in a US "free-fire zone" as well as perspectives from US helicopters.

In American popular culture, the "Crazy Vietnam Veteran", who was suffering from post-traumatic stress disorder, became a common stock character after the war.

One of the first major films based on the Vietnam War was John Wayne's pro-war *The Green Berets* (1968). Further

cinematic representations were released during the 1970s and 1980s, some of the most noteworthy examples being Michael Cimino's *The Deer Hunter* (1978), Francis Ford Coppola's *Apocalypse Now* (1979), Oliver Stone's *Platoon* (1986) – based on his service in the U.S. Army during the Vietnam War, Stanley Kubrick's *Full Metal Jacket* (1987). Other Vietnam War films include *Hamburger Hill* (1987), *Casualties of War* (1989), *Born on the Fourth of July* (1989), *The Siege of Firebase Gloria* (1989), *Forrest Gump* (1994), *We Were Soldiers* (2002) and *Rescue Dawn* (2007).

The war also influenced a generation of musicians and songwriters in Vietnam and the United States, both anti-war and pro/anti-communist. The band Country Joe and the Fish recorded *The "Fish" Cheer/I-Feel-Like-I'm-Fixin'-to-Die Rag* in 1965, and it became one of the most influential anti-Vietnam protest anthems. Many songwriters and musicians supported the anti-war movement, including Pete Seeger, Joan Baez, Bob Dylan, Peggy Seeger, Ewan MacColl, Barbara Dane, The Critics Group, Phil Ochs, John Lennon, John Fogerty, Nina Simone, Neil Young, Tom Paxton, Jimmy Cliff and Arlo Guthrie. The modern classical composer George Crumb composed a string quartet, a threnody, regarding the war in 1970 titled *Black Angels*.

Myths

Myths play a central role in the historiography of the Vietnam War, and have become a part of the culture of the United States. Much like the general historiography of the war, discussion of myth has focused on U.S. experiences, but

changing myths of war have also played a role in Vietnamese and Australian historiography.

Recent scholarship has focused on "myth-busting", attacking the previous orthodox and revisionist schools of American historiography of the Vietnam War. This scholarship challenges myths about American society and soldiery in the Vietnam War.

Kuzmarov in *The Myth of the Addicted Army: Vietnam and the Modern War on Drugs* challenges the popular and Hollywood narrative that US soldiers were heavy drug users, in particular the notion that the My Lai massacre was caused by drug use. According to Kuzmarov, Richard Nixon is primarily responsible for creating the drug myth.

Michael Allen in *Until The Last Man Comes Home* also accuses Nixon of myth making, by exploiting the plight of the League of Wives of American Prisoners in Vietnam and the National League of Families of American Prisoners and Missing in Southeast Asia to allow the government to appear caring as the war was increasingly considered lost. Allen's analysis ties the position of potential missing or prisoner Americans into post-war politics and recent presidential elections, including the Swift boat controversy in US electoral politics.

Commemoration

On 25 May 2012, President Barack Obama issued a proclamation of the commemoration of the 50th Anniversary of the Vietnam War. On 10 November 2017, President Donald

Trump issued an additional proclamation commemorating the 50th Anniversary of the Vietnam War.