

# Opinion: The Supreme Court should seize the chance to strike down voter discrimination

Opinion by Nina Perales

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***Each week, In Theory takes on a big idea in the news and explores it from a range of perspectives. This week we're talking about "one person, one vote." Need a primer? Catch up here.***

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Texas has a long history of voting discrimination against racial minorities. As Supreme Court rulings invalidated the Texas white primaries in 1944, the poll tax in 1966 and Texas's system of multi-member state House districts in 1973, Texas turned to redistricting to dilute minority voting strength.

The federal Voting Rights Act is the bulwark against unfair redistricting in Texas. Nationwide, the Voting Rights Act prohibits discrimination on the basis of race and, for certain jurisdictions with a history of voting discrimination (including Texas), until 2013 it required federal preapproval of voting-related changes. In every decade since the 1970s, courts or the U.S. Justice Department have relied on the Voting Rights Act to block one or more unjust statewide redistricting plans enacted in Texas.

In 2006, the Supreme Court used the Voting Rights Act to invalidate a Texas congressional redistricting plan because the Legislature took away West Texas Latino voters' opportunity to elect their preferred candidate by removing 100,000 Latinos from their congressional district. Most recently, Texas's 2011 redistricting plans for congressional and state House districts were preliminarily blocked under the Voting Rights Act. Their fate remains in the hands of a federal court.

**[*Other perspectives: Thought immigration reform was unlikely? 'One person, one vote' could make things worse.*]**

As minority voters in Texas work to close the historical gap in political participation — relying on federal courts to make slow but steady progress in redistricting — fringe activists from the conservative Project on Fair Representation have filed the *Evenwel v. Abbott* case in order to neutralize the Voting Rights Act. If their plan for mandatory unequal population in redistricting prevails, Latino and other minority voters will be punished for living in areas with relatively more children and fewer registered voters.

*Evenwel* seeks to impose a radical new rule for redistricting across the country. Since the U.S. Supreme Court prohibited extreme population deviations across districts more than 50 years ago, states have ensured that the voting districts they draw comprise roughly the same number of people. Texas state Senate districts are drawn in compliance with that rule, yet this lawsuit alleges that those districts are unconstitutional.

The core of the plaintiffs' argument in *Evenwel v. Abbott* is that legislative districts should not be drawn to equalize population. Instead, the plaintiffs say that children and other non-voters should not be counted when district lines are drawn, which would result in dramatic variations of population across districts.

In Texas, the winners would be rural voters, whose districts would shrink in population, increasing per capita resources and concentrating the attention of elected officials on fewer constituents. The losers would be voters in Houston, Dallas and south Texas, who would be pushed into overstuffed districts of up to a million residents.

The plaintiffs claim that they want equality for voters, but their solution would create dramatic inequality for voters depending on the communities in which they live. Some reside in areas that are rural, older, whiter and more middle-class. Others live in areas that are urban, younger and racially and economically diverse. The proposed new vision to count only eligible voters (rather than total population) when redistricting would shift legislative districts wholesale from one region of the state to another and would shift political power out of cities to rural areas in a way we haven't seen since the Supreme Court struck down that practice in 1964.

Cities are centers of commerce, culture and innovation — the lifeblood of a state. In Texas, Houston is home to 25 Fortune 500 corporations. The Dallas metropolitan area is the fourth-largest employment center in the nation, with more than 3 million jobs. South and West Texas, which would also lose legislative seats, are home to the largest inland ports along the U.S.-Mexico border — billions of dollars in goods cross annually. Today, two-thirds of Texans live in major metropolitan areas. *Evenwel's* extreme departure from the equal population districting rule would strip legislative seats from some of the most vibrant and populous parts of Texas.

But the more insidious side of the *Evenwel* story is the one related to Texas's changing demographics.

After the Civil War, our nation eliminated the shameful three-fifths clause in the Constitution and ensured that all individuals are counted for political representation. Texas received four new congressional seats in 2010 because of its population growth. The plaintiffs in the "one person, one vote" case do not seek to give up those districts, only to change the rules so that districts are drawn to disfavor the people — Latinos and others — who contributed most to Texas growth. The Supreme Court should use *Evenwel v. Abbott* to guarantee equality for all voters, regardless of their race or the communities in which they live.

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