

ANALYSIS

Supreme Court Hammers Away at Democracy

With its latest gerrymandering decision, the Court is creating a political system primed for distortion and deeper division.



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[Voting & Elections](#)

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The 2026 election will take place in a political system that is divided,

discordant, flagrantly gerrymandered, and marked by widening racial discrimination. Thank Chief Justice John Roberts and his colleagues on the Supreme Court. And the supermajority of highly activist justices seems poised, even eager, to make things appreciably worse.

In 2019, in *Rucho v. Common Cause*, the Court refused to adopt any

standard to police partisan gerrymandering, and it even prevented federal courts from hearing that claim. Fast-forward through a census, six years of line-drawing, and a flurry of lawsuits, and predictably, our democracy has become much less fair.

Redistricting is supposed to take place once a decade, after the census. In fact, that's why the census is written into the Constitution. But earlier this year, Texas abruptly drew new congressional maps in a gambit to squeeze out five extra seats for Republicans. It was in the middle of the decade and at the behest of someone who doesn't live there (President Trump) — and all at the expense of Black and Latino voters. Even though 95 percent of population growth in the state came from those communities, the map's main feature was fewer districts where those voters can elect their preferred candidates.

Bad, right? A panel of three federal judges agreed, temporarily blocking the map from being used in the upcoming election until a full trial could be held. Texas first resisted allegations of a partisan gerrymander, then insisted it was actually acting at the behest of the Justice Department for racial reasons, then said it was, in fact, a partisan power grab. ("I don't see race. Just Democrats.") Talk about a Texas two-step! Amid these gyrations, the court found it illegal.

Enter the Supreme Court. Last week it blocked the lower court's ruling, thus allowing the election to go forward with freshly gerrymandered maps. It's yet another brazen use of the [shadow docket](#) [\[link-4\]](#) — the Court's supposed emergency docket (with limited briefing and no oral argument) — to hand Trump a win with only a few sentences of explanation.

Where does that leave things? The Texas seat grab set off a partisan arms race across the country. Furious Democrats acted. California voters overwhelmingly supported drawing new Democratic-leaning congressional districts there to counter the GOP gains in Texas. Republicans in Indiana and Florida are moving to redraw lines, while Democrats in Illinois, Maryland, and Virginia aim to do the same.

With all this headbutting, the gerrymander war of 2025 could turn out to be close to a wash in partisan terms. Moreover, voters may have their own ideas. If Democrats win big, as recent races have suggested is possible, the gerrymander might produce extra GOP losses. (The technical term for this, believe it or not, is a “dummymander.”)

All that sound and fury, in short, might signify . . . not exactly nothing, but not a decisive partisan gain.

That’s where the next big intervention by the Supreme Court would come in. And its impact could well be even more dramatic — and if possible, more harmful.

The Court seems poised to demolish the effectiveness of what’s left of the Voting Rights Act. Two weeks ago, in *Louisiana v. Callais*, it heard arguments about whether the law’s Section 2 remains constitutional. For decades, that provision effectively barred states, particularly in the South, from enacting maps that dilute or cancel out the voting power of racial minorities. As our [friend-of-the-court brief](#) [link-5] pointed out, the provision has transformed both Congress and legislative bodies across the country. And the disparity in registration rates between white and Black voters dropped from nearly 30 percentage points in the early 1960s to 8 percentage points just a decade later. Now the justices

seem ready to wreck Section 2 if not strike it down entirely.

This would not only mark a shameful retreat from federal action to protect racial equality and fair representation. It could have a dramatic and specific impact: A bad ruling, especially early, could be followed by another wave of redistricting in coming months, maybe even in time for the 2026 election.

As my colleague Kareem Crayton [writes](#) [\[link-6\]](#), “The argument invites a return to the era when race was a barrier to entry for political representation — the cruel and painful experience of political exclusion that made passage of the Voting Rights Act necessary in the first place.”

Nate Cohn of *The New York Times* has [crunched the numbers](#) [\[link-7\]](#) and predicts that an extreme Supreme Court ruling could allow Republican states to eliminate

between 6 and 12 districts currently held by Democrats. That would be a margin larger than the House majority either party has had in recent years.

When politicians pick voters — whether based on race or politics — instead of the other way around, our elections become less fair and less democratic. The country would slide toward even greater division and balkanization. Republican voters in Massachusetts (where there are no Republican members of Congress even though Trump won 37 percent of the vote) have no party representation in Congress, while Democrats in Texas (where Kamala Harris won 42 percent) would have only about 7 of the state’s 38 seats. John Adams famously said that the legislature must be an “exact portrait of the people at large.” The current portrait doesn’t bear much of a resemblance.

So what’s the answer?

There must, above all, be national standards that apply to red states and blue states alike. The Constitution gives Congress that power. It should enact national redistricting rules that would ban partisan gerrymandering, bar mid-decade redistricting, and ensure fair representation for voters across the country. In 2022, it almost did: [The Freedom to Vote Act](#) [\[link-8\]](#) would have banned mid-decade redistricting and set other standards. And the [John R. Lewis Voting Rights Advancement Act](#) [\[link-9\]](#) would have strengthened protections against racially discriminatory maps. Both came achingly close to enactment.

And then the ideologues on the Supreme Court should stop

meddling in elections. Over the past 15 years, the Court demolished campaign finance rules in *Citizens United*, wrecked the Voting Rights Act starting in *Shelby County*, and gave ex-presidents vast and unprecedented immunity from prosecution for crimes committed in office — thus ensuring no legal accountability for candidate, now president, Trump.

In a season when it seems increasingly clear that the justices plan to hand President Trump even more power, inexcusable rulings and interventions in partisan politics will leave a very sour taste for many voters. The Supreme Court itself, increasingly, will become an issue in American politics. That's as it should be.

Links

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link-5: friend-of-the-court brief <https://www.brennancenter.org/media/14376/download/brennan-center-for-justice-amicus-curiae-brief-9.3.25.pdf?inline=1>

link-6: writes <https://www.brennancenter.org/our-work/analysis-opinion/bizarro-take-14th-amendment-voting-rights-act>

link-7: crunched the numbers <https://www.nytimes.com/2025/10/15/upshot/supreme-court-voting-rights-gerrymander.html>

link-8: The Freedom to Vote Act <https://www.brennancenter.org/our-work/research-reports/freedom-vote-act>

link-9: John R. Lewis Voting Rights Advancement Act <https://www.brennancenter.org/our-work/research-reports/john-r-lewis-voting-rights-advancement-act>