



How Redistricting Could Dampen The Political Power of Latinos

Elissa Nunez

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At first glance, the "one person, one vote" doctrine seems to preserve a core principle of the American political system: the idea that everyone's vote should be equal under law.

The rule, set in place by the Warren Court in the 1960s, intended to apportion equal numbers of people in each state legislative district. But the court never fully defined who counts as a "person," leaving most states to form their own interpretation--the total population would be counted, not just eligible voters.

This is the long-contested issue revived by *Evenwel v. Abbott*, a Texas redistricting case brought before the Supreme Court last week that could have a dramatic impact on the Latino community.

Should the Court decide only to count eligible voters in drawing districts, the standard would exclude approximately 55 percent of the Latino population, the ethnic group with the highest numbers of noncitizens and children in Texas, according to an amicus brief by the Leadership Conference on Civil and Human Rights. The case is the latest in a string of redistricting efforts in Latino-majority states, and has the capacity to diminish the political power of the fastest growing population in the country.

"If the Supreme Court were to overturn the prevailing interpretation of 'one person, one vote' in the *Evenwel* case, it would severely hurt Latino representation in a number of states," said Dave Wasserman, editor at the Cook Political Report. "The districts with the highest Latino populations are also the districts with the least number of eligible voters."

States redraw the boundaries of their congressional districts to account for population changes every 10 years, after the U.S. census is taken. Historically, both Democrats and Republicans have sought to alter the lines to their political advantage, setting off a number of lawsuits. But increasingly, redistricting efforts have become the subject of national focus.

"There's always been gerrymandering, but now it's being funded out of Washington, New York, and national groups who understand that they're controlling legislatures," said Michael Li, counsel for the Brennan Center's Democracy Program. "Both parties for the next cycle have already committed hundreds of millions of dollars to control state legislatures, to redraw lines ahead of the 2020 census."

New congressional maps that were drawn before the 2012 election were appealed in 22 states. Now, as the 2016 election approaches, state courts still must decide how to redraw district lines in five states.

Of these five states, the Texas case is the largest redistricting suit to be brought to the Supreme Court in recent years. Experts say *Evenwel* could have extensive effects on the political representation of Latinos not only in Texas, but also in states like Florida and Arizona. These states have a fast-growing Latino demographic of non-citizens and non-voters, the majority of which are children.

"The theory is that if *Evenwel* wins, the court will get an eraser and erase all the children," Li said. "Children tend to live in urban and suburban areas, so some of the fastest growing parts of the country actually would lose representation, and that includes both Democratic and Republican areas. It's happening in every state."

Challengers of the "one person, one vote" rule say the *Evenwel* case is merely an effort to correct a disparity among eligible voters in different districts. Ilya Shapiro, a senior fellow in constitutional studies at the Cato Institute who filed a brief in support of the plaintiffs in *Evenwel*, said this disparity arose in recent years due to increased immigration.

"For people who are eligible to vote, the idea is to make sure that each person's vote counts the same. This isn't about representing non-voters, whether in a majority-Latino district or otherwise," Shapiro said.

But Latino advocacy groups said a move to discount non-voters silences an entire constituency of Latinos who should be afforded fair representation.

Ben Monterroso, executive director of *Mi Familia Vota* Education Fund, said redistricting efforts like *Evenwel* would dramatically lower the democratic participation of tax-paying Latinos. Without proper representation, he said Latinos would be discounted in future census counts and elections.

"Only counting the voter population means that some people are more important than others just because they have the ability to vote," Monterroso said. "This is nothing more than an attempt to undermine the growth and political power of the Latino community."

In other states, concerns over representation and voting power has stirred up controversy in Latino majority districts. Nathaniel Persily, a Stanford law professor who specializes in redistricting and voting rights, said an increase in the share of the Latino population could leverage their power to elect representatives. This has held true for representatives like

Congresswoman Loretta Sanchez (D-California), who had an easier time maintaining her Congressional seat when her district was redrawn to include more Democrats and Latinos.

But Latinos don't always win in this political tug-of-war. Persily said that nearly every redistricting cycle has involved suits from Latinos asking that they receive the protections the law affords them.

In one Florida case, the state Supreme Court determined in July that a district was purposely redrawn by Republicans to compact minority voters between Jacksonville and Orlando. In Colorado, local leaders are saying a redistricting ballot measure submitted for the 2016 election violates the Voting Rights Act, which prohibits the diminishment of minority voting power.

"All of these cases are happening against the backdrop of the population boom that we're witnessing among Americans that happen to be Latino," said Maria Teresa Kumar, president and CEO of Voto Latino, a nonprofit organization focusing on empowerment of Latino millennials. "If you follow the map of who started filing obstructions at the voting booth, it happens to be the states where there is a large boom of a population that didn't exist before." And the trend of contested redistricting efforts continues in states like Maryland, Virginia and Arizona.

Kumar said that such efforts indicate a "strong effort to hold back the future."

The decision on the Evenwel case won't be known until next year, but the case has already brought a greater focus on redistricting cases across the country. With a presidential election right around the corner, any efforts to change district lines could directly impact the growing Latino electorate.

"It's important to understand that even small changes in districts can have a major political impact," Li said. "There is a growing willingness to take traditional political battles and fight them in the context of voting, and that includes redistricting."