



## Supreme Court will revisit the Voting Rights Act

By: Raisa Camargo - December 27, 2012

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The New Year is likely to amass a wave of issues that will affect Latinos including a pending case in the Supreme Court that revisits a key provision of the Voting Rights Act (VRA).

In *Shelby County vs. Holder*, the Supreme Court justices will be deciding whether it makes sense to pursue section 5. The provision requires that lawmakers who want to enact changes to voting laws are obligated to seek permission from the federal government in states with a history of discrimination.

Advocates argue that without this key provision, federal judges would not have been able to block voter ID laws in Texas and South Carolina. It also voided district maps in Texas and prevented early voting in parts of Florida. Yet, critics claim the provision is outdated.

### **MALDEF cites cases where attempts on voting disenfranchisement exists**

Nina Perales, vice president of litigation at the Mexican American Legal Defense and Education Fund (MALDEF), submitted testimony to the Senate Judiciary Committee last week in a hearing on voting rights. She cited four cases where MALDEF claims lawmakers sought to disenfranchise Latino voters because of the changes in voting laws, which would have impacted these past elections.

The cases include state laws in Arizona that requires documentary proof of citizenship, Texas voter ID requirements, voter purges in Florida and Colorado and Texas redistricting maps.

“State practices that seek to “freeze in place” their current electorates and limit the entry of Latino voters can run afoul of federal law as well as the Constitution and are fundamentally undemocratic,” stated Perales.

Perales cites that following enactment of Arizona’s voting law to provide proof of citizenship known as Proposition 200, more than 30,000 individuals were rejected for voter registration. The Texas ID law seen as the strictest in the nation—because it permits fewer forms of ID for in-person voting—has not gone into effect she cites because a federal court in Washington D.C. concluded that it violated the federal Voting Rights Act.

The U.S. Department of Justice denied preclearance to SB 14 in part because the statistical analysis provided by Texas in the preclearance process showed that “Hispanic

registered voters are more than twice as likely as non-Hispanic registered voters to lack” a DPS-issued driver’s license or ID card, according to her testimony.

Yet, not everyone believes doing away with Section 5 is a burden to people of color.

### **The creation of majority-minority districts and the Voting Rights Act**

The Washington Post’s The Fix posed a different scenario in a blog one of its reporters wrote about. It indicated that the VRA runs contrary to its purpose. VRA’s purpose was to “break the grip of state disfranchisement.” Although a number of minority candidates are being elected, the WAPO reporter states that the practice is in a way preventing them from taking the “next step.”

The reason is because the candidates elected often appeal to a “very homogeneous electorate” that doesn’t exist in a statewide race. That’s one of the reasons why the GOP cultivates Latinos on a statewide level, wrote the Washington Post’s Aaron Blake, while referring to the Democratic party.

“... to build a more robust group of minority recruits, they would be better served to have more evenly drawn districts that include significant minority populations, but not necessarily a majority.”

Yet, others would argue, it depends on each case. The redistricting plans that were rejected in Texas were based on the grounds that “both plans reduced minority political strength and that the Congressional plan was purposefully discriminatory on the basis of race.” Without section 5, Texas legislators would have enacted their preferred congressional maps.

Perales argued in her testimony that the creation of Latino-majority districts was lacking. Despite the reason that Latinos constituted 65 percent of the state’s overall population growth in the past decade, Texas legislators did not increase the number of Latino majority districts, she stated.

### **Questioning whether VRA is outdated**

While the argument persists on whether majority-minority districts and section 5 of the Voting Rights Act run counter to its purpose, others question if VRA is out of touch with current demographic shifts.

There are two concepts the justices will be discussing with a decision likely to come in June. Whether the application of VRA has resulted in “extra-constitutional” authority that conflicts with the Act’s purpose and whether Section 2 and Section 5 can co-exist.

When the VRA was enacted, nine states in the south were targeted as areas that needed to seek preclearance. Yet, the plaintiff, Shelby County, Ala., argues that Alabama should no longer be held under the same rules considering that the state does not engage in voter discrimination.

“America is no longer a land where whites hold the levers of power and minority representation depends on extraordinary federal intervention,” according to an amicus brief argument filed by the Cato Institute—a nonpartisan think tank—in the Shelby County case.

Shelby county redrew one of its electoral maps. It allocated hundreds of white voters and decreased the number of black voters, from 70.9 percent to 29.5 percent. The Justice Department blocked the new maps and in July of this past year, Shelby County filed a lawsuit asking the Supreme Court Justices to rule Section 5 unconstitutional.

Civil rights advocates contest that striking down “pre-clearance” will weigh most heavily on populations of color including Latinos. It’s more than likely that the Hispanic population will boom in years to come. Hispanics will account for 40 percent of the growth in the eligible electorate in the U.S. between now and 2030, according to the Pew Hispanic Center.