

The Washington Post

‘One person, one vote’: A primer

Robert Gebelhoff

October 19, 2015

The state of Texas has 31 Senate districts, drawn along lines of total population and each holding about 811,000 residents. But when it comes to the number of people in each district actually able to vote, there are wide disparities. In one rural district outside Dallas, nearly three-quarters of its citizens are voting-eligible, but in the neighboring urban district, that number drops to less than half due to a large non-citizen and immigrant population.

The disparities in Texas are at the heart of *Evenwel v. Abbott*, a hotly contested lawsuit regarding the long-held constitutional principle called “one person, one vote.” The case, scheduled to be argued before the Supreme Court in December, involves two voters, Sue Evenwel and Edward Pfenninger, who argue that using total population to draw voting districts gives more weight to those voters who live in districts with fewer eligible voters and dilutes the voting power of others. They contend that district population should take into account only the number of registered or eligible voters residing within those districts. Their opponents say the current system is fair and gives a voice to people who cannot vote by making sure there is someone who can represent them.

The Supreme Court established “one person, one vote” in a series of cases in the early 1960s overturning flagrant cases of malapportionment. At the time, there were instances of small towns — even small groups of people — holding the same voting powers as large cities due to urban-rural population disparities. Invoking the principles laid down by the 14th Amendment, the court ruled that all citizens should have an equal legislative representation. In 1964, the Supreme Court ruled that states should draw districts based on population so that political power could be evenly shared. “One person, one vote” has become a bedrock concept for American democracy — described by Chief Justice Earl Warren in a 1968 meeting with reporters as one of the most important accomplishments during his tenure.

However, the court never detailed how states should implement this important concept, leaving it open to interpretation. The *Evenwel* case could be the chance for the court to offer more guidance on what “one person, one vote” should look like. Most states use total census populations — including both citizens and non-citizens — to draw their districts, so a decision in favor of the plaintiffs would be ground-breaking. Districts across the country would have to be redrawn, and experts say such a ruling would give a sizable boost to Republicans, since non-citizens are more likely to be liberal.

On the practical side of the case, there's a question of whether drawing districts on the basis of citizens would be feasible. The U.S. Census Bureau doesn't collect data on citizen counts in its decennial survey, and some experts argue that it's already difficult to get perfect information on people who immigrated illegally.

The case also touches on the tension surrounding growing Hispanic populations, particularly in Southern states and in urban areas. These populations are much younger and have larger percentages of non-citizens compared with the rest of the country. For that reason, some people have criticized the *Evenwel* plaintiffs as targeting the Hispanic community.

Overall, the case is a question of fairness with a tension between two values: "equality in representation" and "equality in the electorate." How should we balance those values, and who should be counted as states divvy up their systems of representation?

Over the next few days, we'll hear from:

Nathaniel Persily, professor at Stanford Law School,

Ilya Shapiro, senior fellow at Cato Institute,

Rick Pildes, constitutional law professor at New York University,

Nina Perales, vice president of litigation at Mexican American Legal Defense and Education Fund,

Peter Morrison, founding director of Rand Corp.'s Population Research Center,

Aaron Blake, political writer for The Post's The Fix.