

THE SUPREME COURT'S DISMANTLING OF THE VOTING RIGHTS ACT



INTRODUCTION: THE SECOND BLOW

On April 29, 2026, the Supreme Court dealt what may prove to be a fatal blow to what remained of the Voting Rights Act of 1965. In *Louisiana v. Callais*, the 6-3 conservative majority struck down Louisiana's congressional map—a map that had created a second majority-Black district precisely because lower courts had found the state's previous map violated Section 2 of the Voting Rights Act .

The Court's ruling did not merely reject one state's redistricting plan. It fundamentally rewrote how Section 2 of the Voting Rights Act—the last remaining federal shield against discriminatory voting practices—can be interpreted and applied. For the first time in over 40 years, the Supreme Court held that compliance with the Voting Rights Act is *not* automatically a compelling governmental interest that justifies race-conscious districting .

This decision, coming thirteen years after *Shelby County v. Holder* (2013) gutted the VRA's preclearance mechanism, completes a project that civil rights advocates have long feared: the systematic judicial dismantling of the most successful civil rights legislation in American history. From an inclusion perspective—grounded in diversity, equity, and inclusion principles—this decision is not merely wrong. It is a betrayal of the Constitution's promise, a denial of lived reality, and an active impediment to creating a multiracial democracy.

PART ONE: LEGAL BACKGROUND—THE TWO DECISIONS

SHELBY COUNTY V. HOLDER (2013): THE FIRST BLOW

What Was Struck Down: Section 4(b) of the Voting Rights Act—the coverage formula that determined which jurisdictions with histories of discrimination had to receive federal “preclearance” before changing voting laws.

The Court's Reasoning: Chief Justice John Roberts, writing for the 5-4 majority, declared that the coverage formula was based on “decades-old data” from the 1960s and 1970s. “Things have changed dramatically” in the covered jurisdictions, he wrote, pointing to narrowed voter registration and turnout gaps. The formula violated the “equal sovereignty” of states by treating some states differently from others.

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Justice Ginsburg's Dissent: In one of the most memorable dissents in modern Court history, Justice Ruth Bader Ginsburg wrote: "Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet" .

Immediate Effect: Within 24 hours of the decision, Texas announced it would implement its strict voter ID law that had previously been blocked . Other previously-covered jurisdictions rushed to follow suit.

LOUISIANA V. CALLAIS (APRIL 29, 2026): SECTION 2 GUTTED

What Was Struck Down: Louisiana's congressional map, which created a second majority-Black district. The map had been drawn after a federal judge in *Robinson v. Ardoin* held that the state's original map—which contained only one majority-Black district despite Louisiana being approximately one-third Black—likely violated Section 2 of the Voting Rights Act .

The Court's Reasoning: The majority opinion, whose precise authorship had not been disclosed in initial reporting, held that the Voting Rights Act did not require Louisiana to create an additional majority-minority district. Therefore, no "compelling interest" justified the state's use of race in drawing its map, making it an unconstitutional racial gerrymander. The opinion explicitly addressed a question the Court had "simply assumed for the sake of argument" for over 30 years: whether compliance with Section 2 of the Voting Rights Act can provide a compelling reason for race-based districting. The answer, the Court concluded, is no—at least not as Section 2 has traditionally been understood .

The Court articulated a new interpretation of Section 2 that dramatically narrows its reach. Under the majority's reading, a Section 2 violation requires evidence supporting "a strong inference that the State intentionally drew its districts to afford minority voters less opportunity because of their race" . This represents a seismic shift from the "effects test" that had governed Section 2 since 1982, which asked whether a voting practice *resulted* in discrimination regardless of intent.

Effect of the Decision:

Makes it significantly harder to create or maintain majority-minority districts

Threatens existing Black and Latino congressional representation nationwide

Shifts the legal standard from "does this suppress minority voting power?" to "did the state act with explicitly racist intent?"

Empowers states to dismantle districts previously understood as required by federal law

A report from voting advocacy groups found that a ruling in favor of Louisiana could secure an additional 19 safe Republican seats in the House of Representatives and cement GOP control "for at least a generation" .

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PART TWO: THE LEGAL FRAMEWORK THE COURT INVENTED

THE “EQUAL SOVEREIGNTY” DOCTRINE

In *Shelby County*, the Court invented a constitutional principle that appears nowhere in the text of the Constitution: “equal sovereignty” of the states. Chief Justice Roberts’s opinion quoted the Tenth Amendment as providing that “all powers not **specifically** granted to the Federal Government are reserved to the States” (emphasis added). But as legal scholar Aviam Soifer has pointed out, that is not what the Tenth Amendment actually says. The actual text reads: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to **the people**”.

This may seem like a minor quibble, but it reveals something fundamental about the Court’s approach. The word “specifically” does not appear in the Tenth Amendment. The Framers of the Bill of Rights deliberately rejected language that would have limited federal power to only those powers “expressly” delegated. Roberts’s alteration of the text serves a clear ideological purpose: to maximize states’ rights at the expense of federal civil rights enforcement.

THE “COLORBLINDNESS” PRINCIPLE

The Louisiana decision extends this logic into new territory. The Court’s framework assumes that the Constitution is “colorblind”—that any consideration of race, even to remedy discrimination, is presumptively unconstitutional unless it meets “strict scrutiny.” Under strict scrutiny, racial classifications are allowed only if they serve a “compelling governmental interest” and are “narrowly tailored” to achieve that interest.

The Court has long recognized two compelling interests that can justify race-conscious government action: “avoiding imminent and serious risks to human safety in prisons” and “remediating specific, identified instances of past discrimination that violated the Constitution or a statute”. The question in *Louisiana* was whether compliance with Section 2 of the Voting Rights Act should be added to this list. The Court’s answer was effectively no—or at least, not as Section 2 has been interpreted for decades.

THE “THINGS HAVE CHANGED” ARGUMENT

Both decisions rest on the empirical claim that racial discrimination in voting is largely a thing of the past. In *Shelby County*, Roberts pointed to narrowed registration gaps as evidence that “things have changed dramatically.” The Louisiana decision similarly cites “vast social change” that has occurred throughout the country and particularly in the South, which “have made great strides in ending entrenched racial discrimination”.

PART THREE: WHY THIS IS WRONG—THE DEI PERSPECTIVE

1. IT CONFUSES FORMAL EQUALITY WITH SUBSTANTIVE EQUITY

The Court’s logic is seductively simple: treat everyone the same regardless of race, and justice will follow. This is the logic of **formal equality**—the idea that fairness means identical treatment for all individuals.

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DEI frameworks distinguish between equality and **equity**. Equality means giving everyone the same thing. Equity means recognizing that people start from different places and providing what each needs to achieve fair outcomes. Consider a simple analogy: if two people have been running a race, but one has been forced to wear heavy ankle weights for most of the race, simply declaring at the halfway point that “the race is now fair” and removing everyone’s shoes does not create equity. The runner with the historical disadvantage cannot catch up without targeted remediation.

The Voting Rights Act was precisely such targeted remediation. For nearly a century after the 15th Amendment’s ratification, Southern states used every tool imaginable—literacy tests, poll taxes, grandfather clauses, white primaries, violence, economic intimidation—to prevent Black citizens from voting . The VRA was Congress’s attempt to remove those ankle weights. The Court’s “colorblind” approach declares the race over and the weights gone, ignoring the massive cumulative disadvantage that remains.

2. IT DENIES THE REALITY OF SYSTEMIC RACISM

The Court claims “things have changed” and that overt discrimination is largely gone. The evidence says otherwise.

In the decade after *Shelby County*: States previously covered by Section 5 preclearance enacted at least 20 laws restricting voting, including strict voter ID requirements, cuts to early voting, and aggressive voter purges . Between 2012 and 2018, 1,688 polling locations were closed in the 13 states previously covered by Section 5—nearly half of them in Texas alone .

These closures do not affect all communities equally. A Washington Post analysis found that Black voters were 20 percent more likely than white voters to miss an election because of poll closures. A one-mile increase in distance to a polling place reduced voter turnout in majority-minority districts by 19 percent, compared to just 5 percent in majority-white districts .

The Brennan Center has tracked that since *Shelby County* was decided, at least 29 states have passed 94 restrictive voting laws . This is not “things have changed.” This is discrimination adapting. As the NAACP Legal Defense Fund put it: “Multiple cases, including recently in *Allen v. Milligan*, have proven that racial discrimination still pervades our electoral process” .

The Louisiana decision’s new requirement that plaintiffs prove intentional discrimination makes an already difficult challenge nearly insurmountable. As the Washington Post noted, disparate impact is “difficult to prove, making Section 2 cases often expensive and unsuccessful” . The Court has effectively given states a playbook for discrimination: design “race-neutral” policies that predictably harm minority voters, then dare plaintiffs to prove the racially discriminatory intent behind each one.

3. IT WEAPONIZES “REVERSE DISCRIMINATION” AGAINST ACTUAL EQUITY

The Louisiana decision treats an effort to create a second majority-Black district—so that Black voters who are one-third of Louisiana’s population could have something closer to one-third of the state’s congressional representation—as a form of discrimination against white voters. This is perverse.

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Historical context matters. For more than 100 years after the 15th Amendment's ratification, Louisiana and other Southern states systematically prevented Black political participation. The 15th Amendment was ratified in 1870. Yet by 1940, only 3 percent of eligible Black voters in the South were registered. This did not happen by accident. It happened because states used poll taxes, literacy tests, grandfather clauses, violence, and economic intimidation to maintain white supremacy at the ballot box.

The Voting Rights Act of 1965 was the remedy for this 95-year campaign of disenfranchisement. The creation of majority-minority districts was one of the primary tools for making that remedy effective. Now the Court is telling us that the remedy is as bad as the original disease—that drawing a district where Black voters can actually elect their preferred candidate is equivalent to the systematic exclusion that preceded it.

This is like telling someone who has been locked out of their house for a century: “We’re finally letting you in, but if you ask for the key to a specific room that’s discrimination against the people who’ve been living here all along.”

4. IT IGNORES THAT POLITICAL POWER IS A ZERO-SUM GAME

Congressional districts are a fixed resource. Louisiana has 6 congressional seats. Decisions about how to draw those districts determine which communities get represented, which voices are heard, and whose interests are prioritized.

Louisiana is approximately 32 percent Black. Under a “race-neutral” map that follows traditional districting principles, Black voters have one of six seats—17 percent representation. Under the map the Court struck down, Black voters would have two of six seats—33 percent representation, much closer to their actual share of the population.

The Court’s opinion treats these two outcomes as equally legitimate, with the latter suspect because it “uses race.” But this ignores a fundamental question: Why should Black Louisianans, who are nearly one-third of the state, have only one-sixth of the representation? The answer the Court does not want to hear is that the current distribution of political power in Louisiana—and in many states—is the product of a century of intentional racial discrimination. “Race-neutral” districting in a state with racially segregated residential patterns and a history of vote dilution is not neutral at all. It encodes past discrimination into present political outcomes.

5. IT TREATS POLITICAL OUTCOMES AS NATURAL RATHER THAN CONSTRUCTED

The Court’s implicit assumption is that districts emerge “naturally” from race-neutral criteria like keeping communities together, following county lines, and maintaining compactness. But there is no such thing as race-neutral redistricting in a society shaped by decades of explicitly racist policies.

Consider what created Louisiana’s current residential patterns:

Redlining: From 1934 to 1968, the federal government explicitly designated Black neighborhoods as “hazardous” for mortgage insurance, systematically denying Black families access to homeownership and channeling them into segregated neighborhoods

Restrictive covenants: Private agreements barred people of color from white neighborhoods, enforced by courts until 1948

Highway construction: The federal interstate highway system deliberately routed highways through Black neighborhoods, destroying thriving communities and reinforcing segregation

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School segregation: Even after *Brown v. Board*, “white flight” to suburbs and discriminatory housing policies maintained segregated schools, which reinforced segregated neighborhoods

When a state draws districts “just following county lines” or “keeping communities together,” it is following lines that were *created by discrimination*. That is not neutral. It is embedding historical racism into the very structure of political representation. The Court’s colorblind framework cannot see this because it refuses to look at history.

6. IT EMPOWERS BAD-FAITH ACTORS

The pattern the Louisiana decision enables is now painfully predictable:

Step 1: A state with a history of racial discrimination in voting draws a congressional map that dilutes minority voting power

Step 2: Civil rights groups challenge the map under Section 2 of the Voting Rights Act

Step 3: A court (or the threat of litigation) orders the creation of majority-minority districts to remedy the violation

Step 4: The state appeals, now claiming that the remedial map is itself discriminatory because it “uses race”

Step 5: The Supreme Court agrees, striking down the remedy and calling it “reverse discrimination”

Step 6: The original discriminatory map stands

This is discrimination laundering. States with discriminatory intent can suppress minority voting power through “race-neutral” means, then use the Court’s colorblindness rhetoric to block any remedy. The Court has effectively given states a constitutional license to discriminate, provided they do so through proxies rather than explicit racial classifications.

7. IT UNDERMINES DEMOCRATIC LEGITIMACY

When large portions of the population cannot elect representatives who reflect their communities and interests, the legitimacy of representative democracy itself is undermined.

Consider current representation gaps:

Black Americans: 13.6% of population, approximately 11% of Congress

Latino Americans: 19.1% of population, approximately 10% of Congress

Asian Americans: 6.1% of population, approximately 3% of Congress

These gaps are not natural or inevitable. They are the result of voter suppression, gerrymandering, vote dilution, and at-large election systems that allow majority populations to dominate every seat. The Voting Rights Act was designed to close these gaps. The Louisiana decision will widen them.

The Declaration of Independence promises that governments derive “their just powers from the consent of the governed.” When entire communities are systematically denied the ability to elect representatives of their choice, their consent has not been given. It has been coerced.

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8. IT IGNORES THAT DESCRIPTIVE REPRESENTATION MATTERS

The Court's colorblind framework suggests that a white representative can represent Black constituents just as well as a Black representative. In theory, this is true. In practice, the evidence shows otherwise.

Research on descriptive representation demonstrates that when representatives share characteristics with their constituents:

Policy outcomes better reflect the interests of underrepresented communities

Political engagement among minority voters increases

Trust in government improves

Constituent service is more responsive

When Black representatives sponsor civil rights legislation at higher rates than white representatives, when Latino representatives champion immigration reform more consistently, when women representatives prioritize family leave and reproductive healthcare more frequently—these are not accidents. They are evidence that who represents us matters.

The Court's decision to strike down majority-minority districts is not just about numbers. It is about whether communities that have historically been excluded from political power will have effective representation on the issues that disproportionately affect their lives: criminal justice reform, economic opportunity, healthcare access, voting rights, and educational equity.

PART FOUR: THE DEEPER PATTERN—ORIGINALISM AS HISTORICAL REVISIONISM

WHAT THE COURT CLAIMS

The Court's conservative majority claims to be "originalist"—interpreting the Constitution as the Framers originally understood it. Applied to voting rights, this framework yields two claims: (1) the Framers didn't envision race-conscious remedies, and (2) colorblindness was the original intent.

THE HISTORICAL REALITY THE COURT IS ERASING

The Reconstruction Amendments were explicitly race-conscious. The 13th Amendment abolished slavery—an institution defined by race. The 14th Amendment guaranteed equal protection—passed specifically to protect formerly enslaved people. And the 15th Amendment is even more explicit:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

"The Congress shall have the power to enforce this article by appropriate legislation."

The Framers of these amendments were not colorblind. They were responding to the specific evil of race-based slavery and the systematic denial of voting rights to Black Americans. They deliberately gave Congress broad power to enforce these protections through "appropriate legislation"—not "narrowly tailored" or "race-neutral" legislation.

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What happened after ratification: The Supreme Court spent decades gutting these amendments. In *United States v. Reese* (1876), the Court struck down the Enforcement Act of 1870, holding that the 15th Amendment did not protect the right to vote but only prohibited explicit racial discrimination. In *The Civil Rights Cases* (1883), the Court struck down the Civil Rights Act of 1875. In *Plessy v. Ferguson* (1896), the Court enshrined “separate but equal.” In *Giles v. Harris* (1903), the Court effectively refused to protect Black voting rights at all.

The result: By 1940, only 3 percent of eligible Black voters in the South were registered. The 15th Amendment had been effectively nullified for 70 years.

The Voting Rights Act was Congress finally enforcing the 15th Amendment. After a century of nullification, Congress passed the Voting Rights Act of 1965. The results were dramatic:

Black voter registration in Mississippi: 6.7% (1965) → 59.8% (1967)

Black voter registration in Alabama: 19.3% (1965) → 51.6% (1967)

Black elected officials nationwide: approximately 100 (1965) → over 10,000 (2011)

The VRA worked. That is precisely why the Court is dismantling it.

THE PARALLEL IS EXACT

First Reconstruction (1865-1877):

Constitutional amendments guarantee rights

Federal enforcement begins

Progress is made

Supreme Court guts enforcement

States reimpose white supremacy through new mechanisms

100 years of Jim Crow follow

Second Reconstruction (1954-2013):

Brown v. Board, Civil Rights Act, Voting Rights Act pass

Federal enforcement begins

Progress is made

Supreme Court guts enforcement (*Shelby County* 2013, *Louisiana* 2026)

States reimpose voting restrictions through “race-neutral” means

The Court is not inventing new law. It is *repeating history*—specifically, the worst parts of American history when the judiciary abandoned its duty to protect constitutional rights.

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PART FIVE: THE REAL STAKES—WHAT WE ARE LOSING

1. POLITICAL POWER

Without strong Section 2 protections, there will be fewer majority-minority districts. Fewer majority-minority districts mean fewer Black and Latino representatives in Congress and state legislatures. Fewer representatives of color mean less advocacy for civil rights, voting rights, criminal justice reform, healthcare equity, and economic justice. The report finding that a ruling against Louisiana could add 19 safe Republican seats “for at least a generation” is a stark reminder that these decisions have direct partisan consequences .

2. POLICY OUTCOMES

When minority communities lack political representation, policies that affect their lives become less responsive to their needs. Voting rights restoration becomes harder to pass. Voter suppression becomes normalized. Criminal justice reform stalls. Mass incarceration continues. Economic inequality grows. School funding remains inequitable. Resegregation accelerates. The connection between descriptive representation and substantive policy outcomes is not theoretical—it is well-documented and real.

3. DEMOCRATIC LEGITIMACY

When large populations cannot elect representatives of their choice, the government loses the consent of the governed. We are already seeing this: states where majorities support Medicaid expansion, abortion rights, and gun reform but gerrymandered legislatures block them. Congress where popular policies cannot pass despite majority support. The Voting Rights Act helped counteract minority rule by ensuring that diverse communities could elect representatives who reflected their interests. Without it, minority rule becomes easier to maintain—not minority in the sense of race, but minority in the sense of a shrinking white conservative faction that controls an ever-larger share of political power through gerrymandering and voter suppression

PART SIX: THE PATH FORWARD

CONGRESSIONAL ACTION

The John Lewis Voting Rights Advancement Act would restore the VRA by creating a new preclearance formula based on recent discrimination. But its passage requires overcoming the Senate filibuster, which has proven insurmountable in the current political environment. The 2026 elections may shift this calculus, but relying on Congress to fix what the Court has broken is a gamble.

STATE-LEVEL REFORMS

Some states have taken matters into their own hands. Independent redistricting commissions in states like California, Arizona, and Michigan have produced more competitive districts and fairer representation. Automatic voter registration, early voting, vote-by-mail, and restoration of voting rights for formerly incarcerated people can all increase access. But these reforms are only possible in states with the political will to enact them—and many of the states with the worst histories of discrimination are controlled by those who benefit from suppression.

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LITIGATION

The Louisiana decision leaves open the possibility of state constitutional claims. Many state constitutions have stronger voting rights protections than the federal Constitution. The Pennsylvania Supreme Court struck down a gerrymandered map under the state constitution. Similar strategies could succeed elsewhere.

ORGANIZING

At its core, the fight for voting rights has always been a fight about power. The Court's decisions matter immensely, but they do not determine the outcome. The outcome is determined by whether people organize, register, turn out, and demand representation. The Voting Rights Act was not handed down from on high—it was won through decades of organizing, marching, bleeding, and dying. The same will be required again.

CONCLUSION: THIS IS ABOUT POWER

The Supreme Court's decisions in *Shelby County* and *Louisiana v. Callais* are not subtle. They are not ambiguous. They complete a project that began in 2013 and perhaps earlier: the systematic judicial dismantling of the Voting Rights Act of 1965.

The Court's reasoning is legally flawed—it invents constitutional doctrine out of thin air, misreads the text of the Tenth Amendment, ignores the explicit grant of enforcement power in the 15th Amendment, and dismisses 15,000 pages of congressional findings as “decades-old data.”

The Court's reasoning is historically wrong—it repeats the catastrophic error of the post-Reconstruction Court that gutted the 14th and 15th Amendments and enabled Jim Crow. It denies that the progress of the last 50 years came *from* enforcement, not despite it.

The Court's reasoning is morally bankrupt from a DEI perspective—it confuses equality with equity, denies systemic racism, weaponizes “reverse discrimination” against actual remedies, treats political outcomes as natural rather than constructed, and abandons the most vulnerable members of our democracy to the tender mercies of state legislatures with long histories of discrimination.

But most of all, the Court's reasoning is wrong about what is at stake. This is not about legal doctrine. It is not about constitutional interpretation. It is about **power**—who has it, who gets to keep it, and who is excluded from it.

The question at the heart of these cases is simple: Should American democracy reflect the full diversity of its people, or should political power remain concentrated in the hands of a shrinking white minority?

The Court has chosen. It has chosen power concentration over democratic representation. It has chosen formal equality over substantive equity. It has chosen colorblindness as a weapon to preserve a status quo that was never colorblind to begin with.

That is why the decision is wrong. Not just legally, historically, or morally wrong—though it is all of those things. It is wrong in the deepest sense: it betrays the promise of democracy itself.

The 15th Amendment promised that the right to vote would not be denied or abridged on account of race. The Supreme Court has broken that promise.

The fight continues. It must.

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REFERENCES

Shelby County v. Holder, 570 U.S. 529 (2013)

Louisiana v. Callais, 608 U.S. ____ (2026)

Voting Rights Act of 1965, 52 U.S.C. § 10301 *et seq.*

U.S. Const. amend. XV

U.S. Const. amend. XIV

U.S. Const. amend. X

Levine, Sam & Lerner, Kira. "Ten years of a crippled Voting Rights Act: how states make it harder to vote." *The Guardian*, 2023

Jones, Chelsea N. "States are closing polling places. That hurts democracy." *The Washington Post*, 2022

Reichmann, Kelsey. "Supreme Court strikes down Louisiana's congressional map, further eroding Voting Rights Act." *Courthouse News Service*, April 29, 2026

Soifer, Aviam. "Hypocrisy on the high court: 'Textualists' and the Tenth Amendment." *The Hill*, 2020

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