The 2026 Supreme Court of the United States (SCOTUS) Ruling which Disallows Racial Gerrymandering.

In this article, I will explore the recent SCOTUS ruling concerning Sections 2 and 5 of the Voting Rights Act. The following quote from Abigail Thernstrom (Page 9. See Note 1 for reference) summarizes the issue.

"In 1965, the Voting Rights Act had been simple, transparent, and elegant. Its aim was to secure basic Fifteenth Amendment rights in a region where they had been egregiously denied. But the cumulative effect of the amendments was to turn the law into a constitutionally problematic, unprecedented attempt to impose what voting rights activists, along with their allies in Congress, the Justice Department, and the judiciary, viewed as a racially fair distribution of power. Majority-minority legislative districts that ensure the election of black and Hispanic candidates became a federal mandate. These districts protect minority voters' "candidates of choice" from electoral defeat, giving these voters a sheltered status enjoyed by members of no other groups. It is a troubling detour on the road to racial equality".

The SCOTUS ruling disallowing gerrymandering based on race removes the bigotry inserted into the voting rights act in 1982. At the time, this particular modification was acknowledged as biased toward one group. Nevertheless, this bias was viewed as tolerable since it was intended to solve a particular problem, viz., lack of minority representation, and be temporary. It has neither solved a problem nor been temporary.

By concentrating minority voters into contrived districts, it has ensured the election of minority candidates. But, at the same time, it has ensured minority participation is restricted to those districts. The goal should be for minorities to participate along with the majority in the political process, not to have their influence restricted to districts where only minority candidates are elected. Further, the availability of these protected districts probably affects the extent to which minority candidates seek office in other districts along with other issues as discussed by Abigail Thernstrom (Note 1).

The gerrymandering has turned out to not be temporary. It has been extended multiple times following an outcry that its termination would be turning back the clock on civil rights gains. I believe Thomas Sowell's argument to the effect that to someone accustomed to preferential treatment, equality looks like discrimination sums up this situation pretty well.

The SCOTUS ruling, by removing the bigotry inserted in 1982, realizes that the best weapon against inequality is equality, not more inequality. But, in doing so, I believe there are two issues.

First, this argument of turning back the clock on civil rights rests on the assumption that it is still 1965. This notion is clearly specious as evidenced by progress in virtually any area. Today, we are closer than we have ever been to the idea that, regardless of race and other factors, hard work and inherent ability is all you need to be successful (Note 2). Of course, race is something people take into account when they vote. I suppose that could be labeled human nature. However, it is something that voters should try to look beyond.

Gerrymandering makes that impossible by making race the defining characteristic, guaranteeing the race of the candidates and perpetuating race-based voting. The SCOTUS ruled correctly such that now it is incumbent upon the candidate to campaign in such a way that the voter ignores race. In other words, instead of making race irrelevant by ensuring all candidates are the same race, the ruling puts the onus on the candidate to make their own race irrelevant to the voter. The gains that the voting rights act achieved that should be a source of pride for all Americans are not in danger and are likely strengthened by this ruling such that minority candidates will no longer be able to campaign in contrived, protected districts.

Second, it is incumbent on elected officials to serve in such a way the preceding paragraph is true. In particular, all elected officials must strive to represent all voters; and, all candidates should campaign in such a way to address the concerns of all voters. If these are not the results, once again, the issue of some sort of parity between the percent of minorities in the population and the percent of minorities in office will be resurrected and we will be back to gerrymandering or some other inherently biased quota system.

Note 1:
Abigail Thernstrom, PhD (1975, Harvard Department of Government), (9/14/36 – 4/10/20), was an adjunct scholar at the American Enterprise Institute, vice-chair of the U.S. Commission on Civil Rights, Senior Fellow at the Manhattan Institute, and member of the Massachusetts Board of Education. She provided one of the most thoughtful and balanced views of the entanglement of civil rights and voting.

Quotations from Abigail Thernstrom, "Voting Rights and Wrongs. The Elusive Quest for Racially Fair Elections.", 2009, American Enterprise Institute for Public Policy Research, Washington D.C.

Pages 18-19.
But districts drawn to guarantee the election of African-American candidates-districts with much higher black concentrations-were a gift to Republicans.... concentrating African-American voters increased the likelihood that Republicans would be elected in the surrounding...areas.

The Voting Rights Act irrevocably changed American politics in both expected and unexpected ways. Majority-minority districts initially worked to integrate blacks into mainstream American culture, but,... by now they may be having a quite different impact. The entire point of racial gerrymandering maps is to give minority voters political territory they control, and, in this sense, separate political space. Thus, they suggest an equation of separate and equal-one that was explicitly rejected by the Supreme Court 1954 decision in *Brown v. Board of Education*.
...

Such "tailored" districts would seem to be poor training grounds for black politicians who have larger ambitions and need experience in building biracial coalitions in majority-white settings. That may be the reason no black members of the U.S. House of Representatives have moved up to the Senate. They have been elected from

constituencies in which the normal pressures that encourage candidates to move to the political center are unusually weak.

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Majority-minority districts appear to reward political actors who consolidate the minority vote by making the sort of overt racial appeals that are the staple of invidious identity politics. Harvard law professor Cass Sunstein describes a larger phenomenon that is pertinent: People across the political spectrum end up with more extreme views than they would otherwise hold when they talk only to those who are similarly minded. Districts drawn for the sole purpose of maximizing the voting power of a racial group surely encourage voters who live there to talk only to one another and lead candidates to focus on issues of immediate concern to their minority constituents. As a consequence, elected representatives seem to be left untutored in the skills necessary to win competitive contests in majority-white settings. It's a self-fulfilling prophecy: Very few black candidates risk running in majority-white constituencies; majority-minority districts thus become the settings in which blacks are most frequently elected.

In such settings, officeholders tend to be pulled to the left-or, in any case, are certainly under no pressure to run as centrists. Their left-leaning tendencies, along with a reluctance to risk elections in majority-white settings, perhaps explains why so few members of the Congressional Black Caucus have run for statewide office and none made a serious bid for the presidency before Barack Obama. It is doubtful that anyone can imagine, for instance, South Carolina representative James Clyburn building a national campaign, despite the fact that he is a well-respected, long-serving political figure.

Note 2

Pages 9-10.

A disconnection from reality surrounds the Voting Rights Act today. By every measure, American politics has been transformed since the 1960s. Blacks hold office at every level of government, and have reached the pinnacles of virtually every field of private endeavor; racial prejudice has fallen to historic lows. Yet the passage of the 2006 VRARA [Voting Rights Act Reauthorization and Amendments Act] was preceded by a sustained, meticulously organized campaign of civil rights groups to persuade Congress that race relations remain frozen in the past, and that America is still plagued by persistent disfranchisement. An extensive effort to organize support for the VRARA among every conceivable group, from black churches to the business community, was based on wildly misleading claims of catastrophe if section 5 were to expire.

...

In passing the VRARA, Congress signed on to the picture..."Discrimination [in voting] today is more subtle than the visible methods used in 1965. However, the effects and results are the same," the House Judiciary Committee reported. "Vestiges of discrimination continue to exist...[preventing] minority voters from fully participating in the electoral process" the statute itself read. Discrimination in 2006 was just "more subtle" than it was in the South in 1965? Every member of Congress had to know that was absurd. It was irresponsible campaign rhetoric.

It cannot be said too strongly or too often: The skepticism of those, like Georgia representative John Lewis, who cannot forget the brutality of those years, is understandable. But the South they remember is gone. Today, most southern states have higher black registration rates than those outside the region, and over 900 blacks hold public office in Mississippi alone. Between 1970 and 2002, the number of black elected officials in the seven southern states originally covered by section 5 in the 1965 act jumped from 407 to 4,404, nearly double the rate at which representation increased nationwide. Covered and noncovered states in the South are almost indistinguishable by the measure of African Americans elected to state legislatures. Massive disfranchisement is ancient history-as unlikely to return as segregated water fountains. America is no longer a land in which whites hold the levers of power and black and Hispanic political representation depends on the exercise of extraordinary federal intervention, constitutionally sanctioned only as an emergency measure.