

Table Setter: Four Representation Challenges for Communities of Color

1. People of Color Moving to the Suburbs.

In recent decades, most of the growth of communities of color, like the country's growth overall, has been in the nation's suburbs. Already, a majority of Black voters, Latino voters, and Asian voters in the country's metro areas now live in suburbs rather than cities. This trend has only accelerated post-pandemic.

It can be challenging to use traditional voting rights tools in the suburban setting.

Lower rates of residential segregation, for example, mean that it can be hard to draw the compact majority-minority districts that the *Gingles* framework requires in order to establish liability. Similarly, racially polarized voting patterns are often not as stark in the suburbs as they are in, for instance, rural Alabama – especially as growing numbers of suburban white voters have shifted in recent years to voting for Democrats.

The legal toolbox is also thin in other ways when it comes to the suburbs.

It would be comparatively easy in many suburban communities to draw compact coalition, crossover, or influence districts that would allow diverse, multiracial communities the opportunity for political success.

But it remains uncertain whether the Supreme Court will allow coalition-district claims to be brought under the Voting Rights Act. Likewise, while community of interest rules, bans on partisan gerrymandering, and/or state voting rights acts could help foster creation of natural coalition or crossover districts, the number of places where such rules exist are still fairly limited. And notably, few such protections exist in the South, where suburban communities of color are growing the fastest.

2. Cities #1: Representation in Diverse Cities with No Racial Majority.

In a growing number of American cities, like Los Angeles and Chicago, there no longer is a racial or ethnic majority. In this majority-less world, battles over representation increasingly take place not between a white majority and a non-white minority but between different minority groups.

These conflicts can be difficult to resolve in a way that is not zero sum given residential patterns where groups with distinct representational needs live in close proximity to one another. Sometimes these battles devolve into explosive, public acrimony as recently happened with fights over redistricting of the Los Angeles city council.

Disputes between groups also can be difficult to resolve in a mutually satisfactory fashion because of limitations in the legal frameworks that govern redistricting.

Existing voting rights laws, for example, are largely geared to preventing discrimination by a white majority and offer few solutions for mediating between the competing claims of different minority groups. Likewise, map-drawing rules that require contiguity or prioritize preservation of political subdivisions may have the effect, even if unintended, of favoring one group over another.

3. Cities #2: Gentrification.

Another equally profound change is taking in the nation's cities as they undergo significant gentrification.

For example, Washington, D.C., after decades of being majority Black, is now plurality white and could plausibly be close to majority white by 2030. Likewise, Atlanta, which had been majority Black since 1970s, is only plurality Black today. Washington and Atlanta are not alone.

These changes have the potential to create significant redistricting challenges, especially because in many places, not only are minority communities becoming smaller, they also are becoming less geographically compact as residential segregation becomes less stark. In tandem, these two trends could make it increasingly difficult to maintain minority representation at the current levels, especially where racially polarized voting exists and maintaining an ability to elect, therefore, is dependent having on majority-minority districts.

The trends also could open the door to efforts by map drawers to dismantle performing minority districts on the grounds that they are no longer protected under voting rights laws.

4. Falling Rural Populations.

Rural regions across the country are continuing to see their populations shrink. This includes many heavily minority rural regions that currently anchor Section 2 districts. The continuing decline in population in these areas means that many of these districts may be significantly underpopulated by the time of the 2030 census.

These changes create the risk that, at least in places, the legal predicates for Section 2 liability may no longer arguably exist, opening the door to the dismantling of Section 2 districts.

But even if map drawers are not that brazen or aggressive, the changes needed to bring underpopulated districts into population balance could potentially impact their continued viability as performing opportunity districts.