



Written by [C. Mitchell Shaw](#) on December 7, 2021

Biden DOJ Sues Texas Over Redistricting

The Biden Department of Justice (DOJ) filed suit against the state of Texas on Monday, alleging the state's redrawing of congressional district boundaries violates the voting rights of minorities. This is in keeping with a trend: Since the passage of the Voting Rights Act in 1965, Texas has been forced to defend itself in court every time it has redrawn its congressional districts.

What sets this time apart is that this is the first time Texas has had to defend its maps since the U.S. Supreme Court ruled in 2013 that Texas and other states with "a history of racial discrimination" no longer need to seek approval from the DOJ before remapping congressional districts.



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Austin, Texas

That Supreme Court ruling notwithstanding, Texas now finds itself again preparing to defend its maps. As CBS News [reports](#):

The 45-page [suit](#), filed in the U.S. District Court for the Western District of Texas, alleges that Texas has "again diluted the voting strength of minority Texans and continued its refusal to comply with the Voting Rights Act, absent intervention by the Attorney General or the federal courts."

Attorney General Merrick Garland and Deputy Attorney General Vanita Gupta announced the lawsuit at Justice Department headquarters in Washington. "These redistricting plans will diminish the opportunities for Latino and Black voters in Texas to elect their preferred representatives. And that is prohibited by federal law," Gupta said Monday.

The suit alleges that Texas "refused to recognize the State's growing minority electorate," and passed the new maps through an "extraordinarily rapid and opaque legislative process." The suit also claims that — because the population of Texas has grown by four million since the 2010 census (and that 95 percent of that growth is "non-white") — Texas is attempting to use its redistricting powers to protect Republican seats by rearranging districts in a way that favors Republicans. This, the suit claims, is racist.

In typical liberal form, the *Chicago Tribune* [reports](#):

The lawsuit notes that the vast majority of Texas' population growth over the past decade came from Black, Latino and Asian people, but the new maps that state Republicans drew doesn't give any of these communities new opportunities to choose their own representatives.



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Instead, the maps pack Black and Latino communities into bizarre-shaped districts — a Dallas-area one is referred to as a “seahorse” shape — while preserving safe seats for white Republicans.

That article quotes Associate Attorney General Vanita Gupta as saying, “This is not the first time that Texas has acted to minimize the voting rights of its minority citizens.” And, “Decade after decade, courts have found that Texas has enacted redistricting plans that deliberately dilute the voting strength of Latino and Black voters and that violate the Voting Rights Act.”

Disputes over remapping congressional districts is nothing new. In fact, the term “gerrymandering” — used to describe what Texas is accused of — dates back to 1812, when Elbridge Gerry (who later went on to be vice president of the United States) was governor of Massachusetts. Gerry (often mispronounced as “Jerry,” though it should have be a hard “G” and sound more like “Gary”) signed a bill that created an oddly-shaped district that resembled a salamander. His name was combined with salamander to create the portmanteau “Gerrymander.”

What is fairly new (only dating back to the 1965 Voting Rights Act) is the requirement of “preclearance” before certain states could change their maps. And that is the real issue here: The 2013 Supreme Court ruling in *Shelby County v. Holder* ruled as unconstitutional the provision in the Voting Rights Act that required “preclearance” by either the U.S. Attorney General or a three-judge panel of the United States District Court for the District of Columbia.

That was after the 2010 census. With the 2020 census setting the stage for Texas to again remap its districts, the Biden DOJ appears to be chomping at the bit to regain its dominance over this issue — which is clearly a states’ rights issue.

That this is true is apparent by remarks made by Attorney General Merrick Garland. As [The Hill reports](#):

Garland on Monday bemoaned a 2013 Supreme Court decision that eliminated DOJ’s so-called preclearance authority, which had allowed the department to screen proposed changes to voting procedures in states with a history of racial discrimination in elections before they took effect.

He reiterated his previous calls on Congress to restore preclearance authority, but said that in the meantime “the department will use all available authorities and resources to continue protecting the right to vote.”

The DOJ suit asks the court to block Texas from holding elections under its contested map and to order the state to redraw its districts in compliance with federal law.

In an era in which the federal government acts as the final arbiter of everything, statistics of every stripe resist any challenge to that model. To allow Texas the ability to make its own maps — unhindered by the will of the federal leviathan — is unthinkable.

The DOJ’s accusation of racism is just that — an accusation, not a fact. Sometimes, a map is just a map. The natural arbiter of this issue should be the courts of the state of Texas. But here again — as is the case far too often (read: *almost always*) — the federal government sees an opportunity to make an accusation and then use that accusation as a justification to grab a state by the throat and tighten that



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grip into a stranglehold.

With DOJ preclearance off the table as a result of the Supreme Court's 2013 decision in *Shelby*, the states need a new tactic. That tactic appears to be this federal suit to stop the new maps from going into effect. If this succeeds, the states gain another point. If it fails, then — as Garland said — the plan is to pressure congress “to restore preclearance authority” though it was already ruled unconstitutional.



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