

Gerrymandering

HW = Read & Answer # 1 - 4 on separate piece of paper

Fellmann, Getis, Getis - Human Geography

Geography and Public Policy

Voting Rights and Race

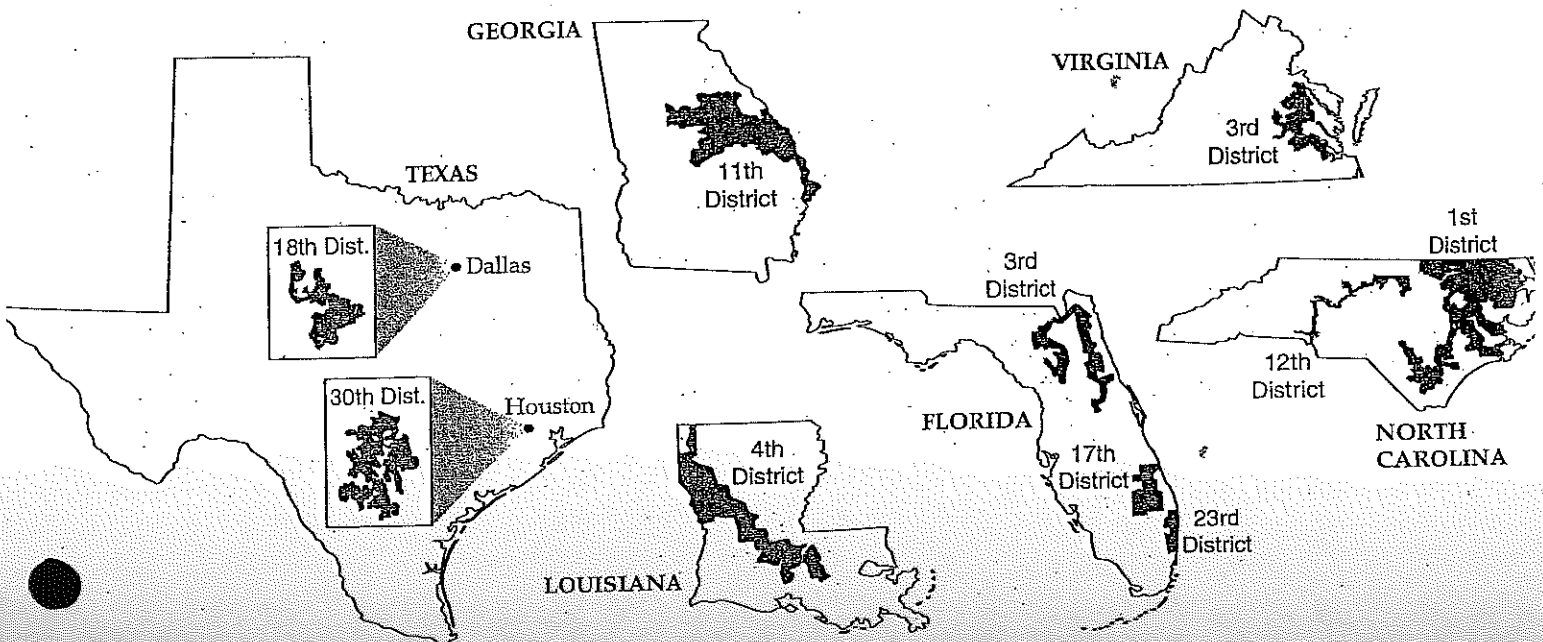
Irregularly shaped Congressional voting districts such as those shown here were created by several state legislatures after the 1990 census to make minority representation in Congress more closely resemble minority presence in the state's voting-age population. Most were devised to contain a majority of black voters, but what opponents called racial gerrymandering was in a few cases utilized to accommodate Hispanic majorities. All represented a deliberate attempt to balance voting rights and race; all were specifically intended

to comply with the federal Voting Rights Act of 1965, which provides that members of racial minorities shall not have "less opportunity than other members of the electorate . . . to elect representatives of their choice."

Because at least some of the newly created districts had very contorted boundaries, on appeal by opponents they have at least in part been ruled unconstitutional by the Supreme Court. The state legislatures' attempts at fairness and adherence to Congressional mandate contained in the Voting Rights Act were held not to meet such other standards as rough equality of district population size, reasonably compact shape, and avoidance of disenfranchisement of

any class of voters. The conflicts reflected the uncertainty of exactly what were the controlling requirements in voting district creation.

In North Carolina, for example, although 24% of the 1990 population of that state was black, past districting had divided black voters among a number of districts, with the result that blacks had not elected a single Congressional representative in the 20th century. In 1991, the Justice Department ordered North Carolina to redistrict so that at least two districts would contain black majorities. Because of the way the black population was distributed, the only way to form black-majority districts was to string together cities,



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towns, and rural areas in very elongated sinuous belts. The two newly created districts had slim (53%) black majorities.

The redistricting in North Carolina and other states had immediate effects. Black membership in the House of Representatives increased from 26 in 1990 to 39 in 1992; blacks constituted nearly 9% of the House as against 12% of African Americans in the total population. Within a year, those electoral gains were threatened as lawsuits challenging the redistricting were filed in a number of states. The chief contention of the plaintiffs was that the irregular shapes of the districts were a product of racial gerrymandering and amounted to reverse discrimination against whites.

In June, 1993, a sharply divided Supreme Court ruled in *Shaw v. Reno* that North Carolina's 12th Congressional District might violate the constitutional rights of white voters and ordered a district court to review the case. The 5-4 ruling gave evidence that the country had not yet reached agreement on how to comply with the Voting Rights Act. It raised a central question: Should a state maximize the rights of racial minorities or not take racial status into consideration? A divided Court provided answers in 1995, 1996, and 1997 rulings that rejected Congressional redistricting maps for Georgia, Texas, and North Carolina on the grounds that "race cannot be the predominant factor" in drawing election district boundaries, nor can good-faith efforts to comply with the Voting Rights Act insulate redistricting plans from constitutional attack.

The difficulty in interpreting and complying with the Act is illustrated by the fact that

although the Supreme Court in 1996 ruled North Carolina's 12th Congressional District unconstitutional, federal courts in 1998 and 1999 rejected alternate district designs. In *Easley v. Cromartie* (2001) the Court approved both a redrawn 12th District and using race as a redistricting consideration as long as it was not the "dominant and controlling" one. Finally, in *Georgia v. Ashcroft* (2003), the court permitted using minority political influence, not just the number of minority voters, in redrawing districts. Some observers hail these decisions as providing needed guidance in new district creation; others contend the rulings leave unresolved conflicts between the Voting Rights Act and the Court's admonitions against using race as a redistricting determinant.

Questions to Consider

1. Do you believe that race should be a consideration in the electoral process? Why or why not? If so, should voting districts be drawn to increase the likelihood that representatives of racial or ethnic minorities will win elections? If not, how can one be certain that the voting power of minorities will not be unacceptably diluted?
 2. With which of the following arguments in *Shaw v. Reno* do you agree? Why?
"... Racial gerrymandering, even for remedial purposes, may balkanize us into competing racial factions; it threatens to carry us further from the goal of a political system in which race no longer matters." (Justice Sandra Day O'Connor) "... Legislators will have to take race into account
- in order to avoid dilution of minority voting strength." (Justice David Souter).
3. One of the candidates in North Carolina's 12th Congressional District said, "I love the district because I can drive down I-85 with both car doors open and hit every person in the district." Given a good transportation and communication network, how important is it that voting districts be compact?
 4. Blacks face difficult obstacles in being elected in districts that do not have a black majority, as witness their numerical underrepresentation in most legislative bodies. But critics of "racial gerrymandering" contend that blacks have been and can continue to be elected in white-majority districts—as, in 1996, were two black incumbents from abolished majority-black districts in Georgia—and, further, that white politicians can and do adequately represent the needs of all, including black, voters in their districts. Do you agree? Why or why not?
 5. Given partisanship and the desire of incumbent legislators to protect their own seats, is there an inherent conflict in having legislators draw district boundaries? Defend your answer.
 6. After the 1990 census, more than 130 suits were filed in 40 states challenging either the states' overall redistricting plans or individual districts. The result was that, in many cases, courts determined final district boundaries. Does it seem democratic for a judge elected in one district to draw up a redistricting plan for an entire state? Defend your answer.