

Introduction to the American Political Process

Writing Assignment 1

Please answer **one** of the following questions, using readings from classes 2-5. You are free to reference outside sources, but no further reading beyond what is included in the prompt is necessary; a successful essay can rely only on the assigned texts, and must engage deeply with at least a few of them.

Your essay should be 1,000-1,500 words (about 4-6 double-spaced pages). We will not enforce a strict word limit, but please try to stay within these bounds. As always, please cite all your sources in-text and include a list of references (Chicago style).

1) In “Justice Ginsburg’s Umbrella,” Ellen D. Katz writes:

Near the end of her dissent in *Shelby County v. Holder*, Justice Ginsburg suggested a simple analogy to illustrate why the regional protections of the Voting Rights Act (VRA) were still necessary. She wrote that “[t]hrowing 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.”

The image went viral in the aftermath of the decision... And for good cause. The image crisply captured why the VRA’s supporters believed the preclearance regime remained necessary and why they thought scrapping it would be so damaging. It is still raining, they had been urging, and the umbrella the VRA offers continues to provide critical protection. Throw out that umbrella, the argument went, and lots of people are sure to get soaked.

Curiously, the *Shelby County* majority seemed to agree... Indeed, the reasons [Justice Roberts] provided for shutting down the preclearance regime suggested that he, too, expected that many people would get wet as a result of the decision.

It turns out that Chief Justice Roberts and Justice Ginsburg disagreed about a different point entirely... For the Chief Justice, carrying an umbrella, at least one like the VRA’s preclearance regime, is an extremely costly and damaging activity. By contrast, Justice Ginsburg viewed getting wet as the more damaging experience. She recognized that carrying an umbrella may be inconvenient and even costly but, in her view, well worth the bother. Keeping dry should be the priority.

Katz, Ellen D. “Justice Ginsburg’s Umbrella.” In *A Nation of Widening Opportunities: The Civil Rights Act at 50*. Edited by Ellen D. Katz and Samuel R. Bagenstos. Michigan Publishing Services, 2015. © Michigan Publishing Services. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

Discuss the disagreement between Ginsburg and Roberts in terms of what you’ve read thus far. Who “gets soaked” in democratic politics, and what are the causes of unequal representation in the United States specifically? What role can and should institutions play in providing “umbrellas” to redress these inequalities?

2) In June 2019, the Supreme Court ruled that the federal courts cannot intervene in partisan redistricting cases, meaning they cannot judge whether any instance of gerrymandering is unconstitutional. Speaking for the conservative 5-4 majority, Chief Justice Roberts wrote:

We conclude that partisan gerrymandering claims present political questions beyond the reach of the federal courts... Federal judges have no license to reallocate political power between the two major political parties, with no plausible grant of authority in the Constitution, and no legal standards to limit and direct their decisions.

The ruling delegated the policing of electoral maps to the legislative branch, and to individual states. In her dissent, Elena Kagan wrote:

Of all times to abandon the Court's duty to declare the law, this was not the one. The practices challenged in these cases imperil our system of government. Part of the Court's role in that system is to defend its foundations. None is more important than free and fair elections... With respect but deep sadness, Justices Ginsburg, Breyer, Sotomayor and I dissent.

Explain what is at stake in this debate: why is the drawing of electoral maps, in Kagan's opinion, tantamount to securing "free and fair elections"? Discuss the representational consequences of putting the onus of policing districting decisions on the national legislature and the states, rather than the federal courts.

Answering this question requires no further research beyond learning some basic facts of the case, as given in the article and four-minute radio segment [here](#). The full opinion and dissent are [here](#), but you by no means need to read it all.

References

1. Katz, Ellen D. "Justice Ginsburg's Umbrella." In *A Nation of Widening Opportunities? The Civil Rights Act at Fifty*, edited by S. R. Bagenstos and E. D. Katz. Ann Arbor, MI: Michigan Publishing, 2015.

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