

# Supreme Court opens with cases on voting rights, tariffs, gender identity and campaign finance to test the limits of a constitutional revolution

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The U.S. Supreme Court building at dawn in Washington, D.C.

*Samuel Corum/Bloomberg via Getty Images*

The most influential cases before the U.S. Supreme Court this term, which begins on Oct. 6, 2025, reflect the cultural and partisan clashes of American politics.

The major cases in October and November address the role of race in elections, conversion therapy and the Trump tariffs. Later cases include campaign finance and transgender sports.

This year's controversies focus on three dominant themes. One is the continuing constitutional revolution in how the justices read our basic law. The court has shifted from a living reading of the Constitution, which says the Constitution should adapt to the American people's evolving values and the needs of contemporary society, to an original reading, which aims to enforce the constitutional principles understood by the Americans who ratified them.

Another clear theme is the deep cultural division among Americans. The core disputes at the court this year reflect controversial factual questions about gender and race: How pervasive and influential is racism in the current day? Are gender transitions a recognized fact, which means that they must be accepted in sports competitions, or can a state assert that trans athletes are not women?

A final theme is the struggle for partisan advantage embedded in several cases.



The justices' constitutional interpretations could have major partisan significance.

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## **Constitutional revolution**

Until just a few years ago, the majority of justices would have agreed that the proper way to read the Constitution was as an evolving document, an approach usually described as living constitutionalism.

The new majority reads the Constitution as an expression of enduring principles, which maintain their historical meaning unless the American people collectively decide to amend the document, an approach known as originalism.

Since 2022, this revolutionary shift has led to dramatic changes in the law on abortion, religion, guns, affirmative action and the power of federal agencies to regulate in areas such as the environment, public health or student debt.

This year, the constitutional revolution – “a historic constitutional course correction” as legal scholars Gary Jeffrey Jacobsohn and Yaniv Roznai put it – turns to transgender politics.

Little v. Hecox and West Virginia v. B.P.J. ask whether a state can ban transgender athletes from participating in girls or women’s sports. The plaintiffs are middle school and university students who were banned by state laws from participating as a female competitor. They are asking the court to rule that transgender identity is a protected category similar to race and gender under the equal protection clause of the 14th Amendment.

Originalists argue that the meaning of the 14th Amendment is clear and fixed. It establishes the equal status of racial minorities as holders of rights. But originalists do not believe the equal protection clause was meant to apply to sexual identities unless that is explicitly approved through a constitutional amendment by the American public.

Originalists also emphasize the role of federalism as a core constitutional principle. Federalism allocates a great deal of authority to state legislatures to make decisions when a question of rights is uncertain.

For these reasons the court majority is likely to see the regulation of who gets to participate in women’s sports as a state-by-state decision.

## **Cultural divisions, disputed perceptions**

The status of transgender identity also reflects the disputed perceptions of reality that have come to dominate American politics. In essence, the Iowa and West Virginia sports cases ask the court to rule whether a transgender girl – a person assigned male at birth who has transitioned to align with their identity as a girl or woman, as the AP Stylebook phrases it – is a girl or a boy.

The court is likely to leave such questions about what is factually true for state legislatures to determine.

The same need for the court to determine who can decide what is or is not a legitimate fact also applies to this year's controversy over conversion therapy. Colorado bans the practice – condemned by many professional medical associations – in which counselors attempt to alter sexual orientation or gender identity.

*Chiles v. Salazar* challenges the Colorado law as a violation of the First Amendment's protections of free speech and religious liberty.

An original reading of the First Amendment provides strong support for open expression on controversial topics, even by medical professionals. But on the factual question of whether homosexuality or gender identity in young people is indisputably innate or immutable, the court may defer to state legislatures to decide whether licensed professionals must assert only a specific set of accepted facts.

## **Partisan advantage**

Many observers perceive a partisan as well as principled divide on the current court. Decisions in several cases this year potentially give a distinct advantage in future elections to Democrats or Republicans.

The most clear case may be about the regulation of campaign finance. *National Republican Senatorial Committee v. FEC* – a lawsuit begun in 2022 by then-U.S. Sen. JD Vance – asks the court to overturn a restriction that bars political parties from coordinating unlimited spending on campaign advertising with the official campaign.

Many Democrats believe Republicans will be the larger beneficiaries in the coming years if the court rules that the current limits violate the First Amendment.

Then there's the challenge to the constitutionality of the Trump tariffs.

*Learning Resources v. Trump* will determine whether the recent tariffs are authorized by Congress under the International Emergency Powers Act of 1977. The answer hinges on the application of what's known as the "major questions doctrine," which limits presidential authority over issues of great economic or policy importance in the absence of direct endorsement from Congress.

The major questions doctrine is an originalist concept, but in the court's view it may not apply to actions in the foreign policy realm – including tariffs – where the president has greater discretion.



Will the court strike down Trump's tariffs on imported goods such as those on this ship in Oakland, Calif.?

*Justin Sullivan/Getty Images*

## Race and elections

The case that represents all three trends at the court is *Louisiana v. Callais* on the creation of majority-Black congressional districts.

The Voting Rights Act of 1965 outlaws racial discrimination in voting. This landmark legislation from the civil rights era helped raise the rate of Black voter registration and turnout in Southern states from less than half the white rate to exceeding it over the past 60 years.

The question in front of the court is whether the law requires a state to make sure that some congressional districts have a majority of Black voters.

The argument opposing the intentional creation of racial districts is that the equal protection clause of the 14th Amendment demands the same treatment of all citizens regardless of race, banning any distinction even when designed to benefit minorities.

Underlying the differences of opinion are competing perceptions of the prevalence and influence of racism in the current day. This dispute was clear in the court's 2013 Shelby County decision, which struck down the part of the Voting Rights Act that limited Southern states from passing new elections laws without "pre-clearance" from the Department of Justice. That requirement aimed to ensure that new laws would not discriminate against Black voters, whether intentionally or unintentionally.

In striking down that requirement, Chief Justice John Roberts ruled that "no one can fairly say" that the South "shows anything approaching the 'pervasive,' 'flagrant,' 'widespread,' and 'rampant' discrimination that faced Congress in 1965."

Justice Ruth Bader Ginsburg famously responded that removing the Voting Rights Act's protections was "like throwing away your umbrella in a rainstorm because you are not getting wet."

The ultimate number of majority-Black districts in Louisiana is not only a question of constitutional principles applied to prevailing facts. It is also about partisan advantage. Partisans on both sides are well aware that a majority-Black district is also a Democratic district.

So whether the state ends up with two or just one – or potentially even none – of its six congressional districts shaped by race could shift the future partisan balance in a closely divided Congress.

With partisan advantage, clashing perceptions of reality and revolutionary readings of the Constitution all in play, the rulings of the Supreme Court this year will reach far into American politics and culture.

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