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# Reality Behind “One People, One Vote” : Redistricting Manipulation and Partisan Politics in the United States

Su Jiangli<sup>1</sup>, Wang Ruijie<sup>2</sup>

<sup>1</sup> Associate Professor, School of Foreign Languages, Shanxi University

<sup>2</sup> Graduate Student, School of Foreign Languages, Shanxi University

## Abstract

Although political parties are not mentioned in the U.S. Constitution, the two-party electoral system is well-established in American elections and gerrymandering naturally occurs to benefit the party that controls both a state’s legislative chambers and the governor’s office. Tracing the evolution of partisan gerrymandering and examining the gerrymandering practices, this research finds that redistricting manipulation enabled by two-party electoral system, is a tale as old as time and it has continued for over two hundred years, rising or falling depending on the intensity of partisan politics. In 21st century, political polarization and gerrymandering have been feeding off each other. When the redistricting process is manipulated by entrenched partisan gerrymanders, it has become counterproductive to fair representation, competitive election, and translating public will into policies. As long as the foxes are allowed to guard the hen houses, partisan politicians will continue to abuse “one person, one vote” principle and pick voters.

**Keywords:** Gerrymandering, Two-Party Electoral System, Partisan Politics, Redistricting, Polarization

## 1. Introduction

In the United States legislative districts are redrawn every 10 years following the decennial census to reflect changes in population over the past 10 years and make sure each district represents the same number of people. Ideally, the House of Representatives—and by extension state legislatures—are supposed to be an “exact portrait, a miniature” of the people as a whole in the words of John Adams. But this mechanism to ensure democracy are increasingly proved to be counterproductive towards achieving fair representation, competitive election and “one people, one vote” democracy. Increasingly rampant political tribalism or polarization is manipulating this process to gain partisan interests. Popularly known as gerrymandering, abusing power for partisan purpose during redrawing the lines represents the current state of American two-party system, which American electoral system is frequently described as. (Maisel, 2007, p23)

In Federalist Paper No.10, written in 1787 to mobilize citizens of the newly found republic to ratify the federal Constitution, James Madison argued against political factions, “adverse to the rights of other citizens and to the permanent and aggregate interests of the community.” In 1796, when his second term in office drew to a close, George Washington cautioned against three dangers that would pose threat to American democracy :

regionalism, partisanship and foreign entanglement. He believed parties led to divisive, disruptive, and the tools of demagogues seeking power. (Hofstadter, 1969) He feared that partisanship would lead to a “spirit of revenge”, gripped by which the government would not govern for the good of people, but only to grab and maintain their control of power. (p105, 1935) Ironically, first American political parties came into being to build coalition to further the Framers’ conflicting views about how to govern during the ratification period. And it also exhibited the ugly partisanship they feared. The Jeffersonian Democratic Republican party and the Federalist party of Washington, Adams and Hamilton campaigned vigorously and gerrymandering entered the picture then (in 1788) when Patrick Henry attempted to draw district that would block his rival, James Madison, from winning a seat in the U.S. Senate. Ever since then, American parties have been playing important roles in its democracy, especially in the electoral system. But political parties are not mentioned at all in the Constitution. So, how parties, which served as instruments of political leaders to advance their political philosophy in the early eras, evolved into institutions that play a major role in the electoral process? Examining the relationship between partisan politics and gerrymandering will shed light on how partisan politics are sabotaging the true face of “one people, one vote” and eroding American democracy.

## 2. The Evolution of Redistricting Politics and Gerrymandering

Redistricting, which means redrawing district lines following the decennial census, determines who represent Americans in the House of Representative and state legislatures as well as who is going to be elected as president. Ideally, through the federal reapportionment and state redistricting process, political districts are readjusted in accordance with demographic changes. However, the redistricting process is frequently gerrymandered to benefit a particular political party or group. Tracing its history and digging into the manipulation process will help to understand this unique component of American politics.

In the United States, redistricting manipulation is a tale as old as time. Although the term gerrymandering was coined by *The Boston Gazette* to describe salamander-like Massachusetts map drawn by Governor Elbridge Gerry to “consolidate the Federalist Party in a few districts and thus gave disproportionate representation to Democratic-Republican Party,” (Britannica, 2023) the practice of drawing the map to favor one political party or individual can be traced back to the most powerful Virginia legislator, Patrick Henry in 1788 and his failed attempt to sabotage James Madison’s senator election.

From then on, it has continued for over two hundred years, rising or falling depending on the intensity of partisan politics. There was evidence that there emerged fewer obvious cases of gerrymandering during the “Era of Good Feelings” following the demise of the Federalist Party. But gerrymandering increased in the 1830s when Democratic and its rival Whig were established. After the Civil War, it increased dramatically because the newly freed Black men had the rights to vote and the Democratic Party in the southern states drew gerrymandered map to maximize their advantage over the Republican Party supported by Black voters at that time. For example, in 1882, South Carolina created a “boa” district that packed Black voters—who made up the majority of the state’s population—into one district, so that every other district had a white majority.

Far more disturbing scenario displayed when the three streams of migration to the urban areas from 1870s to 1940s made the US a predominantly urbanized society, and the state legislature failed to adjust to changing population distribution. Even when the Congress fixed its members to 435 in 1913, state legislature dominated by rural interest still refused to reappointing voting districts. Some states had not redistricted since the 1900 census. As a result, voting power for urban people was diluted, while voting power in shrinking rural areas were strengthened, benefiting native-born White Americans. In the 1946 Illinois case, *Colegrove V. Green*, the Supreme Court declined to intervene citing political problems in its decision. At that time, a majority of all Illinoisans lived in Cook County (greater Chicago), but they had no one to represent them in the general assembly or in the state’s congressional delegation, while they paid 53% of the state’s taxes. (Stebenne, 2012; Little, 2023)

In the 1960s, under Chief Justice Earl Warren, the activist Supreme Court decided to change this. With a series of cases known as “reapportionment revolution”, the Supreme Court firmly established “one person, one vote”

requirements on federal, state and local legislatures. In *Baker v. Carr* (1962), as well as subsequent *Gray v. Sanders* (1963), *Wesberry v. Sanders* (1964), and *Reynolds v. Sims* (1964), the Court ruled that all state voting districts must have roughly equal populations. In addition, states must reapportion their federal congressional districts after every decennial census to ensure each of the 435 members in the U.S. House of Representatives represents roughly the same number of people. (Seabrook 2022)

Unfortunately, the equal-population redistricting has opened door to partisan manipulation and also current political and racial gerrymandering. (Seabrook 2022, p123, 126) The “one person, one vote” reapportionment revolution has created single-member district which has “directly led to the current crisis of gerrymandering” (Ostrow, 2018, p1034) Districts are ironically drawn to secure incumbent seats and advance partisan interests. Especially, when computer technologies have made it easier for partisan politics to exert its role in drawing distorted maps strategically favoring one party. David Stebenne believes by the late 1970s, technology firms in California had designed “sophisticated computer software that would enable parties to draw these really exotic-shaped districts that maximize partisan advantage while still preserving equal-population districts.” (2018) But that is just a beginning, the 21<sup>st</sup> century technology advances, especially big data, algorithms and generative artificial intelligence, make boundary manipulation more precise, strategic and hidden. Michael Li, senior counsel for the Brennan Center for Justice said, “with computers, you can draw thousands of maps or redraw lines a million different ways.” Sophisticated computer programs like the GIS software conspires with big data and algorithm, rendering redistricting a partisan competition to choose their voters. As Justice Elena Kagan wrote in her *Rucho v. Common Cause* dissent opinion, with all the data available today, “mapmakers can generate thousands of possibilities at the touch of a key—and then choose the one giving their party maximum advantage.” (2019, p9) “The effect is to make gerrymanders far more effective and durable than before, insulating politicians against all but the most titanic shifts in the political tides. These are not your grandfather’s—let alone the Framers’—gerrymanders.” (2019, p10)

In the meantime, political polarization and gerrymandering have been feeding off each other since the Reagan Administration. The worst gerrymandering occurred when Barack Obama was elected as the first African-American president and the country’s electoral map was largely blue. Democrats held the majority of seats in both houses of the legislature in twenty-seven states. Republican State Leadership Committee (RSLC) run by Chris Jankowski, Kark Rove and Ed Gillespie, a super-PAC-like organization, launched the Redistricting Majority Project (REDMAP Initiative) with the goal of gaining control over the redistricting process. The project focused resources on states projected to gain or lose Congressional seats based on the latest Census. David Daley, editor-in-chief of the online publication *Salon*, who authored the book, *Ratf\*\*ked: The True Story Behind the Secret Plan to Steal America’s Democracy*, argued that it is a system so rigged that it hardly matters anymore who’s running for office. (XXV, 2016) Daley once said in a *Wbur* article that “the Republicans spent \$30 million on this and they were able to build themselves a firewall, a full Chamber of Congress for a decade, for less than the price of a losing Senate race in a small state.” (XXVI, 2016) The mid-term election proved to be an even bigger “wave” election, nationally, in addition to REDMAP targeted states. There were 25 states where Republicans hold majorities in both legislative chambers. Twenty legislative bodies which were previously split or under Democratic control are now under Republican control. In Wisconsin, Michigan, Pennsylvania and North Carolina, Republicans have maintained a majority in the state legislature until now even as Democrats have won gubernatorial and other statewide races. (Kolbert, 2016, Daley, 2016)

In the latest redistricting cycle following the 2020 census, both parties were seeking to press ahead to expand their advantages where they could. Partisan gerrymandering is widespread in the 2020 redistricting process. This redistricting cycle was the first since the Supreme Court’s 2019 ruling that gerrymandering for party advantage cannot be challenged in federal court. In *Rucho v. Common Cause* (2019), the Supreme Court’s conservative majority, over the bitter objections of its more liberal members, declared (5–4) that “partisan gerrymandering claims present political questions beyond the reach of the federal courts.” Obviously, redistricting did give Republicans control of the House, a razor-thin majority of five seats. Given the maps were artificially engineered to reduce competition, there were fewer competitive districts in the 2022 mid-term election than at any point in the last 52 years. (Li and Leaverton, 2022) The contest largely focused on 30 House seats that were decided by 4 percentage points or less. (Leaverton, 2023) This has negative consequences because candidates elected in these

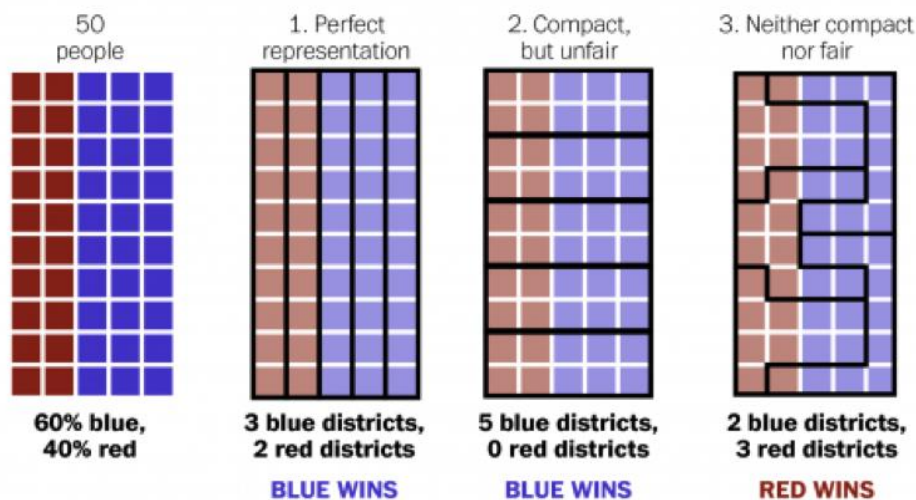
districts have little incentive to seek the support of moderate voters in campaigning or legislating, further increasing the House's partisan polarization.

### 3. The “Art” of Redistricting Manipulation

Manipulating the boundaries of legislative districts to achieve political ends gives one political party an advantage and leaves voters who support the other party's candidate disenfranchised and their voice deprived. Elaine Kamarck, a senior fellow at Brookings Institution, also a superdelegate to the Democratic Convention thinks “gerrymandering has become a refined art” when Democrats or Republicans are dividing units as miniscule as streets into different political districts for their political gains. (2018) Gerrymandering is generally known as the art of packing and cracking, both of which can be implemented by a party to maximize its electoral chances through gerrymandering.

## Gerrymandering, explained

Three different ways to divide 50 people into five districts

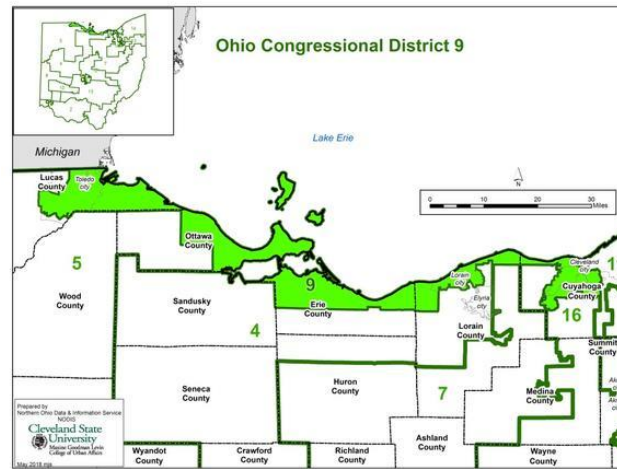


WASHINGTONPOST.COM/WONKBLOG

Adapted from Stephen Nass

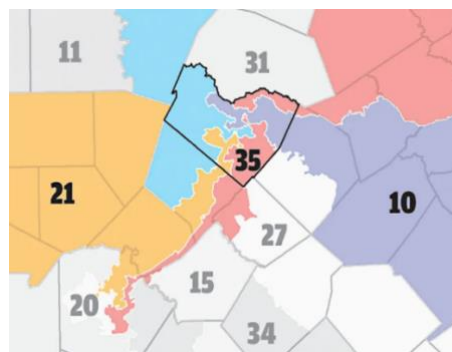
Source: Washington Post Website, Wonkblog

Packing involves cramming as many of the opposing party's supporters into as few districts as possible. In these few districts, the “packed” supporters are likely to elect their preferred candidates, but the groups' voting strength is weakened everywhere else. (as shown when red wins in situation 3) Imagine in a Republican-controlled state, what would happen if these Republicans-in-charge try to concentrate as many likely Democratic voters into one district as possible? This would give Democrats one non-competitive House seat for years to come, and would also ensure the adjacent districts to be Republican-leaning, resulting in a net gain of Republican seats in the House of Representatives for that state and nationwide. In Ohio, the prime example of the REDMAP Initiative, the RSLC (Republican State Leadership Committee) spent nearly one million on Ohio House of Representatives race before the 2010 election. And the redistricting operations, referred to as “the bunker”, were headquartered in a secretly rented hotel room rather than in the office of the state General Assembly. As a result, Ohioans who were Democrats-leaning were “packed” into four irregularly shaped, barely contiguous districts, reducing the Democratic political power in the state up to 2018. (2019) Ohio's notorious 9th district was labeled the ‘snake by the lake’ because it is so long and skinny that it looks like a snake. It spans five counties and is painstakingly designed to pack as many Democrat-leaning cities by Lake Erie into one district as possible. The has the effect of minimizing the number of Democrat voters in neighboring districts, increasing the chances of more Republicans getting voted across the state.



Source: American Civil Liberty Union Website

Cracking is just the opposite of packing. It means scattering the rest of the opposing party's supporters into districts where they have no chance of winning. Splitting voters with similar characteristics, such as party affiliation, average household income and race across multiple districts. With their voting strength divided, these groups' votes are being diluted, so they will fail to elect their preferred candidates in any of the districts. (as shown when blue wins in situation 2) Suppose a Democratic-controlled state contains a large, Republican-leaning population that is grouped together and could form its own congressional district. The Democrats in control could crack this large group of Republicans in half, and add the individuals to other heavily Democratic districts on either side. Instead of having two Democratic districts and one Republican district, the gerrymandered maps would lead to three likely-Democratic leaning districts. For example, Austin Texas, a city with six congressional districts, was namely the most cracked city by a *New York Time's* article. (2021) In the 2020 election, President Biden won Travis County, which includes Austin, by 45 percentage points. But five of Austin's six congressional seats are occupied by Republicans. Democratic votes in Austin were cracked into multiple districts sprawling among conservative areas. There are about 435,000 Democratic voters in Travis County, and only about 160,000 Republicans — but Democrats were only given one seat.



Decidedly Blue, Travis County was divided by 21,35, 10, 17 and 25 districts. (Source *Austin Chronicle* "Hearing on Gerrymandering Set for April 27")

#### 4. Partisan Redistricting Manipulation

Redistricting manipulation is deeply intertwined with partisan politics because two-party electoral system is the pillar of American election. When self-interested politicians are in charge of the redistricting of their own voting districts, the results are predictable. When one party controls both a state's legislative chambers and the governor's office, gerrymandering happens. In 2020, Republicans have complete control over the redistricting process in 20 states, and Democrats in 10. Republicans have the potential to gerrymander in Ohio, Texas, Florida, Georgia and North Carolina. Democrats have the upper hand in New York, Illinois, Oregon and

Maryland. It is just like letting foxes guard the hen houses, which leads to the scenario that even the worst incumbents rarely fear they will lose their seats. A growing number of scholars and research centers, like Brennan Center for Justice, Princeton Gerrymandering Project, FiveThirtyEight, and The Algorithm-Assisted Redistricting Methodology (ALARM Project) of Harvard University, believe it is time to move the process into sunlight for public scrutiny. (Semeraro, 2017; Stephanopoulos, 2018, 2021; Seabrook, 2017, 2022). But, with partisan politics playing out in full and a Supreme Court increasingly becoming more conservative than the majority of Americans (Jesse, Malhotra and Sen, 2022), the fundamental conflicts inherent in the electoral institutions might continue to “spoil the victors”.

#### *4.1. Single Member Districts with Plurality-Winner Elections*

American Framers discussed single-member districts at the Constitutional Convention in 1787. In Federalist Paper NO. 56, James Madison put forward that Representatives of local districts knew better and they could defend local interests. He envisioned that single member districts would “divide the largest state into 10 or 12 districts and it will be found that there will be not peculiar interests will not be within the knowledge of the Representative of the district.”(1788) However, when party system came into being, “it became apparent single-member districts would allow for better representation of partisan interests.” (Maisel, 2007, p18) Plus, the winners are determined by a plurality of votes, not a majority. Thus, the winner-takes-all-single-member districts both enables substantial partisan gerrymandering and constrains fair redistricting preventing proportional representation in legislation.

Single-member districts began with the Reapportionment Act of 1842, and redistricting legislation had been passed every decade from 1862 to 1911. It was not firmly established and remains in effect today until when Congress passed The Single-Member District Mandate in 1967. The mandate was implemented to preserve minority representation and ensure the newly enfranchised black voters to exercise their voting rights. In the 21<sup>st</sup> century, Congressional districts average nearly 700,000 residents and have extremely diverse population. Obviously, the electoral districts created in the name of representation do not pertain today. Rather, in the context of two-party electoral system, it created unparalleled opportunity to tamper with the redistricting process and manipulating districting boundaries. If one party fully controls the state legislature at the time of redistricting, the motive and opportunity to gerrymander are present, so do the opportunities to disadvantage its rival party. In the words of Nick Seabrook, a political scientist at the University of North Florida and the author of *One Person, One Vote: A Surprising History of Gerrymandering in America*, “in fixing one problem, they create a whole new one.” (Avery, 2022) Partisan gerrymanders, governors and legislative leaders of party-in-power, have often produced maps that entrench majority control which creates absolute majority or the momentum to ensure safe districts and the minority party are locked out of the process. For example, the 2022 court-drawn maps used by North Carolina was balanced and competitive, electing 7 Republican and Democratic Representatives respectively to the Congress in the mid-term election. But, when the North Carolina Supreme Court flipped to Republican majority, it abandoned “rulings limiting partisan gerrymandering and greenlit an aggressive redrawing of district maps.” (Li, 2023) In Oct. 2023, the state’s Republican actors pitched a new map that would create 10 districts that appear to favor a Republican candidate, three that favor a Democrat and one that could be considered competitive.

#### *4.2. Partisan Politics Empowering Gerrymander Actors*

The Elections Clause, Article I, Section four, Clause 1, is the primary source of constitutional authority to regulate elections for the U.S. House of Representatives and U.S. Senate. The Clause directs and empowers states to determine the “Times, Places, and Manner” of congressional elections, but gives Congress the authority to “make or alter” state regulations. The Supreme Court has interpreted the Elections Clause expansively, granting states the authority to enact a complete code for such elections, including rules concerning public notices, voter registration, voter protection, fraud prevention, vote counting, and determination of election results. (Constitution Annotated, Library of Congress)

Thus, the U.S. Constitution did not include the district redrawing specifically when it stipulates how Congressional representatives should be chosen. Today, the constitutional requirement (Article I, section 2) that House members be elected “by the People of the several States” eventually became the basis for the U.S. Supreme Court to hold that congressional districts must be as equal in population as possible (“one person, one vote”). (Smith and Tokaji) For state legislative districts, the Equal Protection Clause of the 14th Amendment to the U.S. Constitution requires that districts be substantially equal. In practice, normally a 10 percent deviation in population from one district to the next is seen as a safe standard. In most states, the legislature is responsible for redistricting. And this creates huge conflicts of interest because they are drawing lines for their own districts, which means they are the foxes to guard the hen houses.

The Supreme Court has been empowered to interpret election clauses and decides whether it is unconstitutional. State actors may breach the Voting Rights Act of 1965 in redistricting process, but the Supreme Court has the authority to impose redrawing order. But pendulum of the highest court has been swinging from liberal to conservative constantly and the partisan bias is becoming more and more obvious in recent years. In *Rucho v. Common Cause*, a 5-4 party-line vote closed the door on partisan gerrymandering claims on the basis that gerrymandering claims are not justiciable under the political question doctrine because the Constitution delegates oversight of congressional districting to Congress, not the courts. “No case is a better illustration of the partisan trend in the Supreme Court’s election law decisions than *Rucho v. Common Cause*.” (Bondurant, 2021, p1049) In research published in Proceedings of the National Academy of Sciences, a decade-long longitudinal survey shows that since 2020, the Supreme Court has become much more conservative than the public and is now more similar to Republican in its ideological position on key issues. (Jessee, Malhotra, and Sen, 2022)

Therefore, gerrymandering is being empowered by the institutions, which creates hotbed for partisan actors to maintain and expand their parties’ interests by manipulating the redistricting process.

## 5. Conclusion

Tracing the evolution of gerrymandering and examining its relationship with the intensity of partisan politics clearly present a picture of 21<sup>st</sup> century American election. Politicians are picking the voters, thus “one person, one vote” principle becomes an empty gesture. In the latest round of redistricting, “widespread gerrymandering could limit the electoral power of voters in many affected districts, even if biases mostly cancel out between parties at the national level.” More importantly, partisan manipulation in redistricting reduces electoral competition and responsiveness to public will. (Kenny, McCarten, and et. al., 2023, p4-7) Divisive issues, such as abortion, gun control/rights and transgender right, are increasingly controlled by extremist politicians and the silent majority’s policy needs are being ignored. In the meanwhile, partisan gerrymandering “reinforces the hyper-partisanship that paralyzes American politics and governance.” (Mann, 2016) As long as foxes are allowed to guard the hen houses, the two-party electoral system will continue to distort American election system and pay lip service to “one person, one vote” democracy.

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