

One Dollar, One Vote

Corporate Capture of Electoral
Redistricting

Author

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About the Critical Corporate Theory Collection

The Critical Corporate Theory Collection is part of the *Systemic Justice Journal*, published by the Systemic Justice Project at Harvard Law School. The Collection is comprised of papers that analyze the role of corporate law in systemic injustices. The authors are Harvard Law students who were enrolled in Professor Jon Hanson's Corporations course in the spring of 2021.

The Collection addresses the premise that corporate law is a core underlying cause of most systemic injustices and social problems we face today. Each article explores how corporate law facilitates the creation and maintenance of institutions with tremendous wealth and power and provides those institutions a shared, single interest in capturing institutions, policies, lawmakers, and norms, which in turn further enhance that power and legitimates its unjust effects in producing systems of oppression and exploitation.

For more information about the *Systemic Justice Journal* or to read other articles in the Critical Corporate Theory Collection, please visit the website at www.systemicjustice.org.

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ABSTRACT

Corporations have captured the United States' redistricting process and are bankrolling partisan efforts to gerrymander electoral districts across the country. This paper offers an in-depth look at gerrymandering, its devastating consequences for democracy, and how corporate power power has increased systematic disenfranchisement and led to a gerrymandering epidemic in America. This paper also offers three potential solutions for how to reduce this corporate influence and return democracy to the hands of the American people. These solutions are vitally important this time, when legislatures around the country are sitting down to begin the redistricting process all over again.

One Dollar, One Vote

Corporate Capture of Electoral Redistricting

*“The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. And the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.” —
Reynolds v. Sims (1964)¹*

*“He who controls redistricting can control Congress.” —
Karl Rove (2012)²*

INTRODUCTION

In 2011, Wisconsin Republicans redrew their state's district maps into “one of the most effective gerrymanders that you can imagine.”³ The new maps gave Republicans a significant advantage in state elections; today, they mean that “even if Democrats manage[] to win a historically high 54 percent of the two-party vote . . . Republicans would still end up with a solid nine-seat majority in the state assembly.”⁴ In the subsequent lawsuit over the constitutionality of the maps, the Supreme Court declined to rule on whether the maps were constitutional and sent the case back down to the lower courts on a procedural technicality.⁵ Soon after, in 2019, the Court ruled in a different case that federal courts cannot hear partisan gerrymandering claims altogether because such claims raise political questions that should be left to legislatures.⁶ The decision allowed the gerrymandered Wisconsin maps to stand, only two years before the redistricting process would begin all over again.

The consequences of the biased district maps in Wisconsin are significant. Despite the fact that Wisconsin's voters traditionally vote for Democrats and Republicans almost equally, Democrats have not come close to a majority in the state legislature since the new maps were drawn.⁷ In fact, in 2011, Republicans used their newly acquired majority to pass voter ID laws described as some of the strictest in the country,

denying the vote to an estimated 300,000 people who lacked the documentation required under the new law.⁸ And the disenfranchisement did not stop there, even in the midst of a public health crisis. The day before the 2020 Wisconsin primary, when Democratic Governor Tony Evers called for a legislative session to postpone the election due to COVID-19, the legislature refused to do so and adjourned after debating the issue for only seventeen seconds.⁹ The governor then passed an executive order delaying the election, which the legislature immediately and successfully challenged in court.¹⁰ In the primary the next day, the first major election in the country to be held in person since the beginning of the pandemic,¹¹ poll closures and social distancing created long lines that led to hours-long waits for voters and put their health at high risk.¹² In Milwaukee, a city with sixteen percent of the state's total population but seventy percent of its Black population,¹³ polling locations were reduced from the normal count of 180 to merely five.¹⁴ Afterwards, the election was described as “chaotic,”¹⁵ “illegitimate,”¹⁶ and “unconscionable.”¹⁷ If the legislature was instead more willing to listen to the governor and take public health risks into account—if, in fact, it was more representative of the state's voters and more in touch with their needs and wishes—perhaps these problems could have been avoided.

*“Corporations bankroll [gerrymandering]
efforts by funding state election campaigns and
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gerrymandering schemes.”*

Wisconsin is not alone. Throughout the United States, state legislatures are gerrymandering their districts to disenfranchise voters and alter the balance of power—and they have helped every step of the way. Corporations bankroll their efforts by funding state election campaigns and financing expensive and sophisticated gerrymandering schemes.¹⁸ The result is state and federal legislative majorities that represent only a minority of the American population. As states across the country sit down to redraw their district maps again in 2021, corporations are once again stepping in to steal the right to vote from the American people.

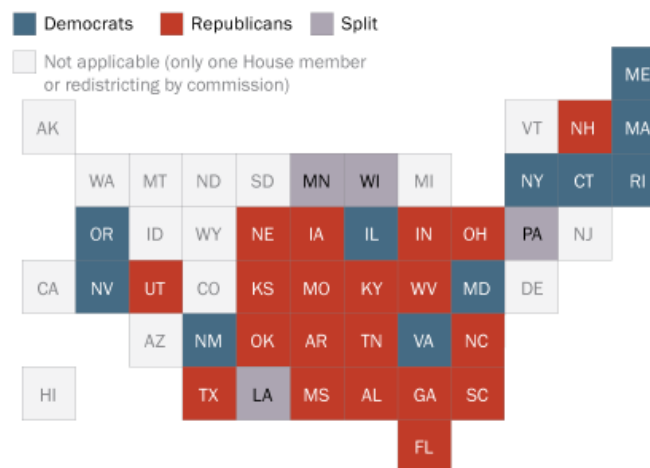
AN OVERVIEW OF REDISTRICTING AND GERRYMANDERING

The Mechanics of Redistricting

Every ten years after the national census, U.S. states engage in a redistricting process where they redraw electoral boundaries in light of any changes in population since the previous census.¹⁹ States redraw federal district lines for their members of the House of Representatives as well as state district lines for state houses and assemblies. This paper will focus on the federal redistricting process, but many of the same arguments and analysis applies to state redistricting procedures as well.

Seven states only have one Congressional representative and therefore do not redraw their federal district maps.²⁰ Eight states have nonpartisan or bipartisan commissions redraw their district lines, and three states allow outside commissions to draw the initial maps but require their state legislature to approve them.²¹ The remaining thirty-two states give the responsibility of redistricting to the legislature alone. Of the thirty-five states that involve their legislatures in the redistricting process (i.e., those that either give sole control or final approval to their legislature), only four have legislatures that are split between the two major parties—Republicans have majorities in both houses in twenty of those states, and Democrats control eleven (see Figure 1).²²

Figure 1: Who Controls Redistricting



Source: Pew Research Center

Therefore, thirty-one states effectively hand control of the redistricting process to a single party; unsurprisingly, those states are also the most likely to have gerrymandered and unrepresentative maps. Today, the states with the most biased electoral districts are all states where one political party had control of the redistricting process,²³ and Republican-controlled maps are especially skewed (see Figure 2). These states are also almost all battleground states, where the electoral outcomes are more hotly contested and where parties stand to gain the most from altering district boundaries.²⁴

Figure 2: Seat Skew by Map-Drawing Body

Seats-to-Votes Curve Analysis of 2012, 2014, and 2016 Elections*

Map-Drawing Body	Seat Skew, 2012	Seat Skew, 2014	Seat Skew, 2016
Sole Republican Control	25-32 extra Republican seats	13-20 extra Republican seats	13-19 extra Republican seats
Sole Democratic Control	2-4 extra Democratic seats	3-4 extra Democratic seats	2-3 extra Democratic seats
Split Control	2 extra Republican seats	0-2 extra Republican seats	0-2 extra Republican seats
Political Commission	1-2 extra Republican seats	0-1 extra Republican seat	Even balance of seats
Independent Commission	1-2 extra Democratic seats	3-5 extra Democratic seats	1 extra Republican seat
Court Drawn	2 extra Republican seats	0-2 extra Republican seats	1-3 extra Republican seats
Court Modified	1 extra Republican seat	0-1 extra Republican seats	4-6 extra Republican seats
Net	25-36 extra Republican seats	4-20 extra Republican seats	16-29 extra Republican seats
Partisan Balance of 370 Analyzed Congressional Districts	197 Republicans 173 Democrats	205 Republicans 165 Democrats	201 Republicans 169 Democrats

* In 26 states accounting for 85 percent of congressional districts.

Source: The Brennan Center

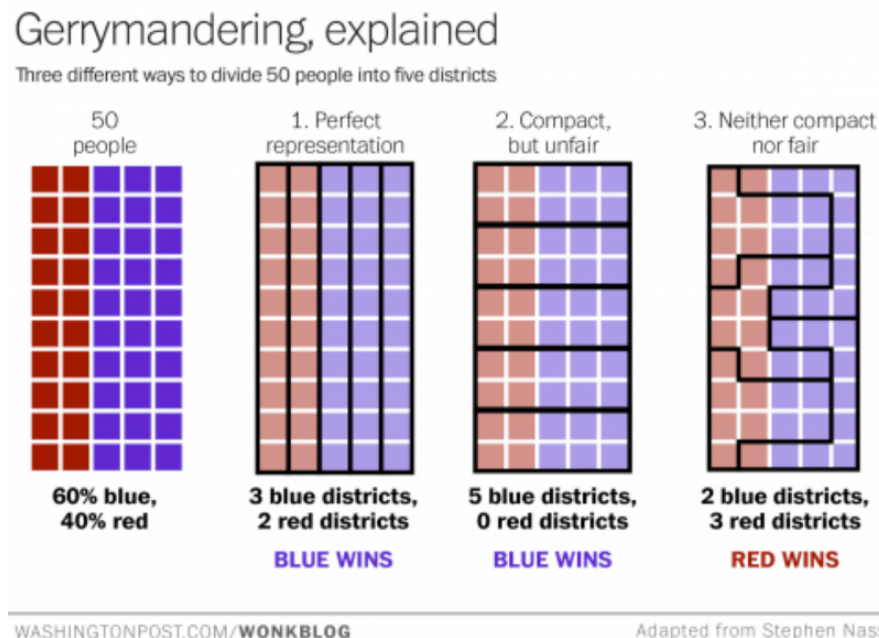
Generally, legislatures and commissions faced with the task of redrawing their district boundaries are limited by a few basic principles. Through Supreme Court interpretation of the Apportionment and Equal Protection Clauses of the Constitution, federal and state legislative districts must comply with the principle of “one person, one vote,” meaning that each district must include roughly the same amount of voters to create equal representation and equal voting power between persons.²⁵ Additionally, the Voting Rights Act of 1965 prohibits maps that discriminate on the basis of race.²⁶ States may also adopt their own redistricting criteria that go above the minimum federal limitations;

common requirements include compactness, contiguity, preservation of political subdivisions and communities of interest, etc.²⁷ However, within these limits, legislatures have free reign to manipulate district maps in ways that increase the likelihood of a particular outcome, a practice commonly known as gerrymandering. This paper refers mostly to partisan gerrymandering, which describes the process of drawing maps to advantage or disadvantage a particular political party.

The Mechanics of Gerrymandering

There are two common methods by which legislatures can gerrymander the districts to create and reap the benefits of additional legislative seats in future elections. Parties can *crack* like-minded voters by spreading them out among many districts and diluting their voting power (see Figure 3, Column 3), or they can *pack* voters into a small number of districts so that they are only able to elect a few representatives (see Figure 3, Column 4).²⁸ Either method results in legislatures that are unrepresentative of the actual population, and may even lead to legislative majorities that represent only a minority of voters.

Figure 3: Cracking and Packing



Source: Southern Coalition for Social Justice

The most common method of measuring the fairness of an electoral map is the efficiency gap, which measures the percentage of wasted votes (votes cast for the losing party as well as votes above fifty percent cast

for the winning party) in a district between parties; the larger the difference between the wasted votes of each party, the more likely it is that the district is gerrymandered.²⁹

“[G]errymandering alters federal Congressional outcomes by an average of 59 seats per election ... [Republicans] derive a net benefit of 19 seats per election.”

In the United States today, gerrymandering alters federal Congressional outcomes by an average of fifty-nine seats per election.³⁰ The benefits of the changes go mostly to Republicans, who derive a net benefit of nineteen seats each election in the House of Representatives.³¹ This means that while Democrats have only a six-seat majority in the House as of this writing, they *would* have a twenty-five seat majority under a more democratic system. It also means that roughly forty-two million Americans are represented by unrepresentative politicians.³²

The Effects of Gerrymandering

Not only does gerrymandering impact electoral outcomes, it also impacts democratic processes as a whole. While gerrymandering does not have a significant effect on voters’ support for a specific party,ⁱ it does have a large effect on party functions and therefore the ability of voters to elect a representative government. In districts biased against a particular party, the disadvantaged party receives fewer donations, contests fewer seats, and runs less credentialed candidates.³³ Therefore, not only are voters faced with an uphill battle in electing a disfavored party that they support, they also are presented with fewer good candidates who are representative of their beliefs.

Additionally, because Republicans more frequently benefit from gerrymandering while Democrats are more frequently disadvantaged by it, these negative effects fall disproportionately on minority voters and communities of color. While non-white voters make up only nineteen

ⁱ Although disfavored parties do experience a very small drop in votes in future elections, on the whole voters continue to vote for their favored party regardless of gerrymandered disadvantages. See Nicolas O. Stephanopoulos & Christopher Warshaw, *The Impact of Partisan Gerrymandering on Political Parties*, 23–24 (2020).

percent of Republican support, forty-one percent of Democratic voters are non-white.³⁴ Therefore, when Republicans disenfranchise Democratic voters through gerrymandering, they are disproportionately disenfranchising voters of color. This process is further exacerbated by significant segregation across the United States. For example, when legislators redrew Milwaukee County's districts to spread urban Democratic votes into suburban Republican districts, they placed the overwhelmingly Black and Latino voters in white districts that do not adequately represent them.³⁵ And the strategy is often explicit, as one Republican in North Carolina acknowledged when he stated that the party's plan to increase the number of "safe" Republican districts in the state required packing minority voters in the northeast of the state into a single district.³⁶ Though drawing districts based on race is unconstitutional, legislatures can get around this hurdle by drawing them based on political party instead, with significant unjust effects on representation for minority groups.

"[P]artisan gerrymandering hurts American democracy and its voters by withholding representation and blocking policy proposals that have broad support, with an impact that can last for years to come."

Finally, public policy issues are severely affected by gerrymandering. Leaders elected from gerrymandered districts are statistically more conservative and also less concerned about being voted out of power due to their built-in unfair advantage. As a result, gerrymandered legislatures that are run by unrepresentative majorities frequently enact policies that the majority of voters do not support, or block policies that the majority of voters *do* support. Progress in areas from voting rights³⁷ to health care³⁸ to gun violence³⁹ to education and child care⁴⁰ is significantly undermined. For example, in Michigan, the Republican legislature (which was elected due to gerrymandered maps) shut down Governor Whitmer's popular childcare proposals, reducing her \$84 million budget for childcare reform to a mere \$5 million.⁴¹ In North Carolina, the Republican majority legislature that was elected with only a minority of the state's vote has denied popular Medicare expansions that would give health insurance to an additional 365,000 people.⁴² In another year, that same legislature redirected \$50 million of popular federal child care funding to other purposes.⁴³ Other examples abound, but the outcome is clear—partisan gerrymandering hurts American democracy and its voters by withholding representation and blocking policy proposals that have broad support, with an impact that can last

for years to come.

CURRENT DOMINANT NARRATIVE

In the public conscience, the biggest demons of redistricting are politicians and partisan influence. After all, in the vast majority of states, politicians are responsible for drawing or approving district lines, and it therefore seems natural to hold them responsible for the gerrymandered districts that they create.⁴⁴ A quick skim of media accounts will tell you that even when simply offering definitions, the media frames gerrymandering as an activity exclusive to politicians and political parties. For example, common definitions of the term “gerrymandering” include “drawing political boundaries to give your party a numeric advantage over an opposing party”⁴⁵ or “a way that governing parties try to cement themselves in power by tilting the political map steeply in their favor.”⁴⁶

In the judiciary, the Supreme Court has further cemented the image of gerrymandering as a political problem by ruling that partisan gerrymandering claims themselves are political questions, best left to resolution by the legislature or by voters at the polls.⁴⁷ This perspective, of course, ignores the fact that gerrymandering takes away voters’ ability to enact any change at all by diluting their votes. Additional, while partisan gerrymandering might present a political question, it presents a corporate question as well. And by ignoring that corporate question, the dominant societal narrative fails to understand the full scope of injustice at play.

THE ROLE OF CORPORATE POWER

Corporate Capture of Redistricting Rules

While political parties have certainly driven gerrymandering, corporations have bankrolled their efforts and made gerrymandering far more prevalent in the past decade. Controlling the redistricting process allows corporations to benefit from electoral outcomes not just until the next election but for ten whole years, offering far greater incentive to invest.⁴⁸ While corporations have always been interested in redistricting, the FEC increased corporate capture in 2010 when it ruled that politicians and organizations may raise unlimited corporate funds, known as soft money, for redistricting purposes.⁴⁹ The foundation of the ruling was the FEC’s belief that because redistricting does not *directly*

impact elections, money raised for redistricting is not within the scope of campaign finance law.⁵⁰ The FEC stated that, while redistricting groups “may work in concert with like-minded individuals, organizations and political committees that will attempt to influence elections directly, [they] will not fund direct attempts to influence elections.”⁵¹

“While corporations have always been interested in redistricting, the FEC increased corporate capture in 2010, when it ruled that politicians and organizations may raise unlimited corporate funds, known as soft money, for redistricting.”

Of course, the FEC’s decision ignored the fact that redistricting has arguably a *bigger* impact on elections than regular campaign fundraising—rather than affecting a single election, redistricting impacts elections for a decade to come. The decision is indicative of a larger problem inherent within the law: regulatory bodies, here the FEC, have been “captured” by the very interests that they seek to regulate and are no longer fit to govern them.⁵²

The consequences of this capture are significant. After the FEC’s ruling, money flooded in, with Democrats aiming for \$12.5 million in fundraising and Republicans aiming for \$20 million in their upcoming redistricting efforts.⁵³ Notably, a significant portion of this money was earmarked for litigation, with Republicans gearing up to challenge elements of the Voting Rights Act. The strategy paid off in a devastating way when the Supreme Court gutted the statute in 2013, allowing states to redraw their maps without significant oversight from Congress.⁵⁴ But corporations were not content with their capture of regulatory agencies and the Supreme Court. Next, they used their financial power to skew electoral districts across the country.

How Corporate Money Bankrolls Gerrymandering

Once corporations were given the go-ahead to finance redistricting, the game was on. For corporations that want to increase their power through the use of redistricting, the process is simple: 1) win state elections for select candidates to create a partisan majority in the state legislature, 2) use the new majority to control the redistricting process and rig the system, and 3) gain lasting power in federal and state governments.⁵⁵ The strategy requires money, and money is the language

of corporate America. This section will use the Republican approach to explain how the process works because on the whole, Democrats fail to focus on fundraising for state legislature seats and redistricting to the same extent as Republicans.⁵⁶ Additionally, Republicans outspend Democrats three to one on state legislature and redistricting campaigns,⁵⁷ and outspend them by nearly \$300 million on gubernatorial elections.⁵⁸ However, rest assured that Democrats are engaged in the same dark money fundraising as Republicans, even if they raise less money in the process. In fact, Democrats use groups such as the Democratic Legislative Campaign Committee⁵⁹ and National Democratic Redistricting Trust⁶⁰ to gather corporate money for their redistricting goals.

“For corporations that want to increase their power through the use of redistricting, the plan is simple: 1) win state elections for select candidates to create a partisan majority in the state legislature, 2) use the new majority to control the redistricting process and rig the system, and 3) gain lasting power in federal and state governments.”

The Republican redistricting project began with phase one in 2010, after the FEC opened the financial floodgates. Directly after the FEC’s ruling, Ed Gillespie took over the Republican State Leadership Committee (RSLC) and launched the Redistricting Majority Project (REDMAP), a group able to accept unlimited corporate donations.⁶¹ Note that a decade later in 2019, anticipating 2020 redistricting, RSLC also created the Right Lines 2020 group designed to repeat the past success of REDMAP.⁶² Although REDMAP and Right Lines 2020 must report their donors, their biggest funders are from groups like the American Justice Partnership that do not themselves have to disclose their donors.⁶³ The donors that we do know about include tobacco companies, super PACs, Walmart, Chevron, Marathon Petroleum, Astellas Pharma, Koch Industries, and Farmers Group; far more donors go unreported.⁶⁴ Note that even more nefariously, many Republican redistricting groups get around disclosure requirements by classifying themselves as social welfare organizations, and can therefore collect donations without limits and anonymously.⁶⁵ The lack of transparency makes it exceedingly difficult to follow the money trail, but based on what we do know it is clear that corporations are some of the largest funders of these redistricting organizations.

To further obfuscate the money trail, the RSLC set up local nonprofits in areas with important state legislative elections.⁶⁶ Those local nonprofits could then use money from REDMAP to run campaign ads without implicating the name of a national Republican organization.⁶⁷ For example, in North Carolina, the “non-partisan” Real Jobs NC received \$1.25 million from the RSLC to launch a full out ad campaign attacking Democrats across the state.⁶⁸ The strategy then paid off when Democrats lost the state assembly for the first time in a century.⁶⁹ And nationally, the fundraising efforts were a resounding success, as the Republican party gained almost 700 state seats in 2010.⁷⁰ Phase one—capture state legislatures—was complete.

“The United States has a gerrymandering crisis, made possible by corporate donations.”

With state legislatures under control, Republicans began phase two, aiming to redraw the district maps in a way that would guarantee future Republican success while being sophisticated enough to satisfy state redistricting laws. However, drawing these district maps like these are expensive (see Figure 4). First, drawing sophisticated maps requires lots of data on voters’ demographics and political habits, requiring independent surveys beyond just the data gathered for the census.⁷¹ Additionally, political data from elections is usually reported at different geographic levels than demographic data is reported on the census. Collecting and standardizing this information therefore requires a significant amount of time and resources, as does digitizing the data and converting it into computerized databases and maps. Once that process is complete, redistricters must use that data to actually draw the maps, a process done through the use of sophisticated—and very expensive—computer software able to handle large amounts of information. Purchasing the software and training staff to use it is generally the most expensive component of the redistricting process, and the more sophisticated the software—and therefore the more capable it is at drawing maps that disadvantage parties or groups without running afoul of statutory protections—the more expensive the software.⁷² Once again, corporations line up to foot the bill.

Figure 4: The Cost of Redistricting

- 1) Control the legislature by winning state legislative races,
- 2) Hire significant numbers of staff and hold extensive training for them.
- 3) Collect detailed information on population data, geography, voter habits, etc., and then convert all the data to the same geographic units.
- 4) Turn the information into digitized databases and computerized maps.
- 5) Draw the maps. Today, most map drawing is done with expensive, highly sophisticated computer software.
- 6) Approve and implement the new map, with significant political, infrastructure, and administrative cost.

Information Source From ACE Electoral Knowledge Network

With corporations covering redistricting costs, the final phase aimed at gaining lasting power was easy. For example, in North Carolina, the strategy was to pack minority voters into three districts, and the plan was successful; in 2012, even though Democrats won 50.6 percent of the vote, Republicans won nine of the thirteen House seats available.⁷³ Nationally, gerrymandering efforts now give Republicans a nineteen seat advantage in the House per election,⁷⁴ and countless more in state legislatures across the country. Most importantly, as discussed above, gerrymandering has had devastatingly negative effect on voter access, policy issues, and democracy as a whole. The United States has a gerrymandering crisis that began just over a decade ago, but it is only made possible by corporate funding. Unless we find a way to stop this cycle, our democracy will continue to weaken as corporations dilute and disenfranchise voters and steal power from the American people.

POTENTIAL SOLUTIONS

There are three general solutions to the corporate capture of redistricting that would each take steps toward reducing money in politics and promoting fair and representative districts. The simplest, but likely least comprehensive, would be to reverse the FEC's 2010 ruling that allows redistricting organizations to raise unlimited soft

money.⁷⁵ The FEC's argument—that redistricting is not sufficiently connected to elections to warrant fundraising limits—was far-fetched at the time, and today seems practically outlandish in light of the rampant gerrymandering that resulted during the decade afterwards. If the FEC (or Congress) would reverse this decision, donations to partisan redistricting groups would be subject to the same strict dollar limits and regulation that regular donations to political candidates face. This would significantly reduce the amount of funding for political gerrymandering overall, and place large financial limits on the ability of politicians to create gerrymandered maps.

A second solution would be for states to remove redistricting from the hands of the legislature and require bipartisan or independent commissions to draw district lines. As discussed above, districts drawn by legislatures are far more likely to be unrepresentative than those drawn by nonpartisan or bipartisan commissions; taking the redistricting process away from the legislature would therefore be step towards increasing fairness. However, there are two potential flaws with this plan. First, it would probably be remarkably difficult to convince a legislature to give up its redistricting power voluntarily. Second, there is no guarantee that bipartisan and nonpartisan commissions would be insulated from the same corporate capture that we see elsewhere, especially if they became a dominant mechanism for redistricting and so a primary target for corporate funds. This solution would therefore be a step in the right direction, but is probably not sufficient to fully reverse partisan gerrymandering and its effects.

The third, most comprehensive, and best solution would be to pass a law in Congress that makes political gerrymandering illegal or unconstitutional, and there is currently a bill in Congress that would do just that. The For the People Act of 2021 (H.R.1/S.1) would institute sweeping electoral reform by greatly increasing voting rights and reducing the influence of money in politics—and, importantly, includes a ban on political gerrymandering. The bill states that map-drawing bodies cannot favor or disfavor political parties, as measured by the efficiency gap or other mechanisms. The statute would strike down maps with a partisan skew of one to two seats (depending on the size of the state), so long as the state is able to draw alternative maps without such bias. The bill then goes even farther by instituting reforms that draw on elements of the first two solutions articulated above—it requires transparent reporting of the data used to draw maps and even compels states to use independent commissions to redistrict. As of this writing, the bill has passed the House of Representatives and is currently in the Senate. Though passing it may prove to be an uphill battle, the For the

People Act or a similar statute is our best chance to hit the breaks on rampant gerrymandering and promote a democracy that actually represents its people.

CONCLUSION

In its decision in *Rucho v. Common Cause*, the Supreme Court ruled that gerrymandering is a political question⁷⁶ that must therefore be remedied in the legislature or through the ballot box. The problem, of course, is that gerrymandering snatches away that very remedy, diluting the votes that seek to undo it. Partisan gerrymandering takes away the very means that most citizens have to enact change—the vote. This redistricting capture, backed by corporate power, is a direct threat to democracy itself, and should be a major target of electoral reform. And as we head into another redistricting year, the fight *for* representative districts and *against* corporate power has never been more important. If we cannot stop gerrymandering and disenfranchisement at the ballot box, maybe we can at least cut off access to its bank account.

ENDNOTES

¹ Reynolds v. Sims, 377 U.S. 533, 555 (1964).

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⁴ Michael Li, *Gerrymandering Meets the Coronavirus in Wisconsin*, BRENNAN CENTER (2020), <https://www.brennancenter.org/our-work/analysis-opinion/gerrymandering-meets-coronavirus-wisconsin> (explaining that after the implementation of the new maps, Republicans needed only forty-eight percent of the vote in a 99 seat legislature to achieve a fifty-four seat majority).

⁵ See Gill v. Whitford, 138 S.Ct. 1916, 1933–34 (2018).

⁶ Rucho v. Common Cause, 139 S. Ct. 2484, 2506–2507 (2019).

⁷ See *supra* note 3.

⁸ Alex Tausanovitch & Danielle Root, *How Partisan Gerrymandering Limits Voting Rights*, CENTER FOR AMERICAN PROGRESS (July 8, 2020), <https://www.americanprogress.org/issues/democracy/reports/2020/07/08/487426/partisan-gerrymandering-limits-voting-rights/>.

⁹ See *supra* note 4.

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¹³ *Supra* note 3.

¹⁴ See *supra* note 12.

¹⁵ Danielle Root, *Wisconsin Primary Shows Why States Must Prepare Their Elections for the Coronavirus*, AMERICAN PROGRESS (April 27, 2020), <https://www.americanprogress.org/issues/democracy/news/2020/04/27/484013/wisconsin-primary-shows-states-must-prepare-elections-coronavirus/>.

¹⁶ *Supra* note 11.

¹⁷ Molly Ball, *What Went Wrong in the Wisconsin Election, and What We Can Learn From It Before November*, TIME (April 9, 2020), <https://time.com/5818773/wisconsin-coronavirus-elections/> (quoting Adam Hilton).

¹⁸ See, e.g., Nick Surgey, *Corporate-backed group launches multi-million dollar 2020 Republican Gerrymandering Project*, DOCUMENTED.NET (Sept. 27, 2019), <https://documented.net/2019/09/corporate-backed-group-launches-multi-million-dollar-2020-republican-gerrymandering-project/>.

¹⁹ See National Conference of State Legislatures, *Redistricting Systems: A 50-State Overview*, NCSL (June 2, 2020), <https://www.ncsl.org/research/redistricting/redistricting-systems-a-50-state-overview.aspx>.

²⁰ Drew Desilver, *With fewer state governments divided by party than in years past, GOP has edge in redistricting*, PEW RESEARCH CENTER (March 4, 2021), <https://www.pewresearch.org/fact-tank/2021/03/04/with-fewer-state-governments-divided-by-party-than-in-years-past-gop-has-edge-in-redistricting/>.

²¹ *Id.*

²² *Id.*

²³ See Laura Royden & Michael Li, *Extreme Maps*, BRENNAN CENTER 1 (2017).

²⁴ See *id.* at 1.

²⁵ *Gray v. Sanders*, 372 U.S. 368, 381 (1963); see also *Wesberry v. Sanders*, 376 U.S. 1 (1964); *Reynolds v. Sims*, 377 U.S. 533 (1964).

²⁶ See Voting Rights Act of 1965, 79 Stat. 437 (1965).

²⁷ NCSL, *Redistricting Criteria*, NAT. CONFERENCE OF STATE LEGISLATURES (April 23, 2019), <https://www.ncsl.org/research/redistricting/redistricting-criteria.aspx>.

²⁸ Nicholas O. Stephanopoulos, *The Causes and Consequences of Gerrymandering*, 59 WM. & MARY L. REV. 2115, 2121 (2018).

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³² *Id.* (based on an average of over 700,000 Americans per Representative).

³³ *See supra* note 28 at 23.

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³⁶ *See id.*

³⁷ *Supra* note 8.

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⁴² *Supra* note 38.

⁴³ *Supra* note 40.

⁴⁴ *Supra* note 20.

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⁴⁷ *Rucho v. Common Cause*, 139 S. Ct. 2484, 2506–2507 (2019).

⁴⁸ Olga Pierce, Jeff Larson & Lois Beckett, *The Hidden Hands in Redistricting: Corporations and Other Powerful Interests*, PROPUBLICA (Sept. 23, 2011), <https://www.propublica.org/article/hidden-hands-in-redistricting-corporations-special-interests>.

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⁵⁷ See *id.*

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⁵⁹ See *supra* note 48.

⁶⁰ *Id.*

⁶¹ See *supra* note 2.

⁶² See *supra* note 18.

⁶³ See *supra* note 2.

⁶⁴ *See supra* note 18; *supra* note 2.

⁶⁵ *See supra* note 48.

⁶⁶ *See supra* note 2.

⁶⁷ *See id.*

⁶⁸ *See id.*

⁶⁹ *See id.*

⁷⁰ *See supra* note 58.

⁷¹ *See* ACE, *Boundary Delimitation*, ACE Electoral Knowledge Network (2nd ed. 2012), <https://aceproject.org/ace-en/topics/bd/bdc/bdc01/default>.

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⁷⁴ *Supra* note 30.

⁷⁵ *See supra* note 49.

⁷⁶ *See* *Rucho v. Common Cause*, 139 S. Ct. 2484, 2506–2507 (2019).