

Redistricting and the Quality of Democracy

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For the past 35 years, I have taught classes at the Ohio State University that deal with democratic institutions and the core principles relevant to the quality of democracy. Over the past four years, I have been working with the League of Women Voters and Ohio Citizen Action to implement these principles in Ohio through reforms in our redistricting procedures. These efforts culminated by the passage of House Joint Resolution 15 by a vote of 69 to 28 in the spring of 2010. If the constitutionally mandated time limit had not expired in early August of that year before a merger of our redistricting criteria with the structural and procedural reforms included in then-Senator Husted's Senate Joint Resolution 5 could be completed, it is likely that the voters of Ohio would have been given an opportunity to enact these redistricting principles by amending the Ohio Constitution. I would like to focus my brief remarks on the nature of those criteria and the core democratic values that underpin them.

Two of these criteria—geographical compactness and the avoidance whenever possible of splitting counties and municipalities—are based on the notion of community representation; that is, the belief that in a democracy like ours representation should be based on real, rather than contrived, communities, and that this would be facilitated by creating districts that include reasonably compact and relatively homogenous geographical areas. Instead, gerrymandering practices intentionally violate this core principle of democratic representation. “Cracking” is one common gerrymandering strategy that has this effect. This entails breaking up a community among several districts in order to swamp its voters with those from distant and very different parts of the state, thereby creating enormous, heterogeneous districts. Franklin County is a perfect example of the application of this technique, particularly with regard to the US congress. Franklin County includes more than enough residents to merit a congressional seat of its own. Instead, its population is fragmented among three congressional districts, and its urban and suburban voters are swamped by rural voters in Madison, Union, Licking, Delaware, Clark, Fairfield, Fayette, Green, Perry, Pickaway and Ross counties. This makes a mockery of the principle of community representation. For an even more extreme example, imagine the impossible task of trying to represent the voters of the 6th congressional district, who are strung out over 12 counties along the Ohio River from Portsmouth to Youngstown.

Why is this done? Specifically, in an effort to violate a third core principle of democracy—representational fairness. A primary objective of gerrymandering has been for the party controlling the redistricting process to stack the deck in favor of its candidates and emerge from elections with a much higher percentage of seats than can be justified by the level of electoral support it received. This can seriously distort the mandate of the voters. Competition on a level playing field is a fundamental requirement for citizens to be fairly represented in a high-quality democracy, and yet this is violated through the use of gerrymandering techniques. In the 2006 elections, for example, Franklin County voters favored the three Democratic candidates for the U.S. House of Representatives by a margin of 51.4% to 48.6%. Nonetheless, all three of the victorious candidates for these three congressional seats were Republicans.

In the aggregate, the use of gerrymandering techniques has led occasionally to some stunningly undemocratic outcomes. In the 2006 election in Ohio, for example, the Democratic candidates for the U.S. Congress received 53% of the popular vote; those Democratic candidates won just 39% of the seats. In short, the party

that received a majority of the vote was awarded a small minority of the seats. I challenge anyone to justify this kind of outcome on the basis of any rational conceptualization of democracy.

“Packing” is another common gerrymandering strategy, and this one violates a fourth key principle of democracy--competitiveness. This involves the creation of districts that include huge supermajorities of the supporters of one party. The 11th congressional district in Cleveland is a classic example: it regularly elects the Democratic candidate by majorities in excess of 80% of the vote. Why would the 2001 Republican gerrymander create a district like this? A glance at the neighboring 14th congressional district provides the answer why: in 2006 (for example), the Republican candidate won by 57% of the vote. If some of the Democratic voters from the 11th were included in the 14th district instead (perhaps reducing the Democratic majority in the 11th to 60%, instead of 83%), the Democrats would have won two seats from this area, instead of one.

In short, “packing” can be used to unfairly under-represent a political party statewide. It can also have a negative impact within the supermajority district itself. It is almost impossible to vote an incumbent in a district of this kind out of office. And since voters have no realistic chance to elect a candidate from the opposition party, their ability to hold that candidate accountable for his or her behavior in office is virtually nil. In short, “packing” can undermine both representational fairness and accountability.

Many journalists and political scientists also believe that “packing,” and the absence of competitiveness has also contributed to the increasing polarization that plagues American politics today. How does this work? Normally, candidates move towards the extremes on the left-right continuum in primary elections as a means of “mobilizing the base,” which is most likely to turn out in primaries. That is, those who regularly vote in primary elections tend to be more partisan and ideological than the average voter, and in order to be nominated, candidates must appeal to those kinds of voters by moving towards the extreme on the ideological continuum. When candidates face a competitive general election, however, they must move back towards the center to pick up support from swing voters—typically moderates or independents who are not ideologically motivated. When general elections take place in safe districts, however, there is no need to move back towards the center. Accordingly, the real election of candidates takes place in the primaries, whose outcomes are determined by more extreme, ideologically oriented voters. More generally, if the outcome of the general election is a foregone conclusion, there is no reason for a party to nominate a moderate candidate with the ability to appeal to undecided or independent voters near the center of the political spectrum. Over time, this has meant that both parties have moved away from the moderate center and towards divisive, ideological extremes, as is reflected in the polarization and gridlock in the U. S. Congress today.

To conclude, I urge the members of the Ohio legislature to respect these core democratic values in their redistricting decisions:

- community preservation and geographical compactness**, which greatly facilitate the representation of voters and their basic interests;
- competitiveness**, which makes it possible for voters to hold their elected representatives accountable, and provides an incentive for elected representatives to appeal to the moderate majority of voters; and
- fairness in representation** of political parties, which is at the very heart of representative democracy.