

Good example of effects of political gerrymandering literature review

[Law](#), [Criminal Justice](#)



Political Science

Introduction

The concept or term “gerrymander” is about 200 years old and was coined in 1812 in reference to Massachusetts Governor Elbridge Gerry and the salamander-like district that he helped to create. However, such practice can be traced back even before the term “gerrymander” was created. For the past generations, the federal courts refused to police either gerrymandering or malapportionment based on political question grounds. Grofman defines the concept of gerrymandering to the drawing of electoral district lines so as to assign unequal voting weights to cognizable political groups and has been considered as a noxious political practice. One of the forms of political gerrymandering is when the gerrymander is arranged by “packing” a group’s members into relatively small number of districts so that the group is virtually assured of winning with overwhelmingly large majorities in those few districts, but of losing in others. Another method of gerrymandering is one that is arranged by “cracking” the members of a group so that it has large, but inefficacious minorities in most or all of the districts.

Thesis Statement: Whether or not political gerrymandering must be treated as a legal question or should it be a question of institutional competence.

Political gerrymanders are bad in a sense that it only benefits some of the corrupt self-interested politicians to redraw the electoral maps for the purpose of giving themselves and their party several electoral seats to gain control. The strategy of the gerrymanders is by crowding opposition voters into the same district to acquire many electoral seats as possible. However, this issue has failed to excite the voting public. When parties and voters are

disadvantaged by the lines, they have turned to the courts for relief such as in the case of *Davis v. Bandemer*, where the Supreme Court held that the political gerrymandering claims were justiciable, and that the lower court had failed to come up with a workable test that will determine whether political gerrymandering is constitutionally prohibited. However, in the case of *Vieth v. Jubelirer*, the Supreme Court addressed political gerrymandering to be a non-justiciable question. The latter case of *Vieth* reinforced what has long been clear that the biggest challenge is to establish judicially manageable standards that will determine the constitutionality or unconstitutionality of partisan gerrymandering, as the case may be. This legal question has been posed by many legal scholars and political scientists in relation to the extant proposals which appeared unsatisfactory on the ground that the tests proposed are not manageable, based on the “predominant intent” test that was floated by Justice Stevens. Another reason is that even if the tests are manageable, they are not clearly relevant to the constitutional violation.

Negative Connotation of Gerrymandering

The gerrymander has the tendency to destroy the will of the electorate and results to minority vote dilution. The negative effect of gerrymandering is that it causes the establishment of the political advantage of a specific political party in order to manipulate district boundaries allowing the disproportionate power to a given party. The genuine harm in gerrymandering is not really the discrimination as discussed in the earlier case of *Davis*, or the lack of the transparency in the term “bipartisan

gerrymandering". Instead, the real harm of gerrymandering is that it undermines the competitiveness of the process that results from the ability of the insiders to reduce the competitiveness pressures. The danger that is sought to be avoided is not only limited to the wrongful districting, but rather encompasses purposeful districting. In the case of Davis, the Supreme Court was unable to apply a legal standard or criteria that will be able to assess political fairness. Simply put, the courts failed to provide a baseline to calculate the proper distribution of electoral outcomes in the absence of gerrymander.

Difference between gerrymandering and malapportionment

Both gerrymandering and malapportionment refer to electoral abuse through boundary manipulation and geographical discrimination. The first form which is malapportionment refers to a design of the constituencies under which different constituencies may enclose highly varying size of voters, with the result that a party with much smaller numerical support in the overall population may be successful in garnering a highly disproportionate number of seats. In many Western countries such as the U. S., malapportionment has been intimately linked with the issue of rural over-representation. The explanation for this issue is that rural constituencies send their representatives for much smaller number of people per constituency, as compared to other urban areas. The difference between gerrymandering and malapportionment is that gerrymandering is an oddly drawn district that is being used to ensure the specific outcome or result; while malapportionment deals with the disproportionate size. However, technically speaking, there is

no difference between the two terms, since both of them are commonly used interchangeably. The main difference between gerrymandering and malapportionment is that the gerrymandering is legal, while malapportionment has been identified as an illegal activity. However, in order to resolve the issue on malapportionment, the “one person, one vote” principle implemented in order to address the problem on malapportionment. The simplicity and ease of application of “one person, one vote” has allowed the courts to intrude into the political thicket with a solution that was essentially beyond reproach.

Effects of gerrymandering and the trust in the political system

Even though there is a consensus that gerrymandering has the tendency to violate the Constitution, there are also some scholars who opposed this strategy. For example, there had been disagreements on the provisions of the Constitution that gerrymanders violate. Gerrymandering supposedly violates several constitutional guarantees such as the First Amendment, the Guarantee Clause, Elections Clause, and the Equal Protection Clause. In fact, some scholars argued that even though gerrymandering violates no specific clause, it violates the overall structure of the Constitution. As a result, the constitutional evils are unavoidable since they are caused by gerrymandering. The acts of the gerrymanders are illegal since they dilute votes, and generate uncompetitive elections. The evil effect of gerrymandering is that gerrymanders encourage the acts of extremist legislators, who have no intention to compromise. Hence, the trust in the political system is at risk.

Preventing Political Gerrymandering

Political gerrymandering can be prevented through the establishment of judicially manageable standards for the purpose of determining the constitutionality or unconstitutionality of partisan gerrymandering, as the case may be. In the decided cases of the Supreme Court, this legal question remains to be unanswered in connection to the extant proposals which turned out to be unsatisfactory for the reason that the proposed tests fell short on being manageable. This was on the basis of the “ predominant intent” test that was initiated by Justice Stevens. Secondly, assuming for the sake of argument that the established tests are manageable, they are completely irrelevant to the constitutional violation. Hence, there should be an enforcement of strict implementation of rules on gerrymandering in order to prevent gerrymanders from gaining control.

Conclusion

Although gerrymandering had been in existence since time immemorial and considered to be older than the republic, it had been used as an epithet to describe districts that are drawn with an eye toward furthering various agendas. Gerrymandering must be treated as a legal question that has to be resolved by the Courts, by mapping out the boundaries that will define what is legally permissible under the Constitution or otherwise. The previous acts of gerrymanders for the past decades are considered as rank amateurs, as opposed to the sophisticates who craft districting plans at modern times. At present, the legislators made use of the demographic data to identify the racial background, party affiliations, and voting proclivities of residents. This

will ensure the proportional representation of the minority and preventing gerrymanders to manipulate district boundaries that permits the disproportionate power to a given party. The effect of gerrymandering is that the act of artificially establishing political boundaries denies the citizens an equal voting power.

The purpose behind gerrymandering is to draw district boundaries that raise the tendency of a desired electoral outcome, by having more Republican or Democrat legislators, or more or lesser minority legislators, as the case may be. As the current lawmakers become more skilled in shaping district lines, there had been a scholarly consensus that declared that excessive gerrymandering must be declared unconstitutional. This can be illustrated in the case of racial gerrymanders, having the intention to divide the votes of racial minorities in order to deprive them of their fair share in legislative representation. On the other hand, in the case of partisan gerrymanders, they have the intention to minimize the electoral representation of members of the opposing party. However, the Supreme Court must settle once and for all the criteria surrounding cases that will be filed against potential gerrymanders. However, it has been settled that acts of racial gerrymanders are declared to be unconstitutional. Although the present Justices have agreed that certain partisan gerrymanders may be unconstitutional, there is a slim majority that continues to believe that no judicially administrable standards exist for the purpose of determining and declaring that the partisan gerrymanders are unconstitutional.

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