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Independent Redistricting: An Insider's View

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Abstract: Coming out of the 2020 redistricting cycle, independent redistricting commissions are the clear winners, with most maps drawn by independent commissions being upheld against legal challenges, while other state maps face significant claims of vote dilution and partisan gerrymandering. While a growing literature debates the institutional designs of commissions and assess and compare their mapping outcomes, this article will offer a commissioner's view of the process. Reflecting on my service on the 2020 California Citizens Redistricting Commission, I will argue that while independent commissions are not a magic bullet, they are the best option for redistricting that allows for transparency over backroom negotiations and can, hopefully, help restore some faith in our democratic institutions.

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Scholars of redistricting will go to great lengths to present quantitative assessments of the demographic, partisan, or even incumbent outcomes of a redistricting plan. Complex mathematical formulas, statistical analysis, and a slew of legalese from three decades of case law all comprise the misty cloud that surrounds the redistricting process – a cloud that only a few wise sages are allowed to navigate as highly paid experts. A cloud that Supreme Court Chief Justice John Roberts has called “sociological gobbledygook,” and that is ultimately intended to serve the basic tenet of “one person, one vote.”

This was the environment as I saw it when, on a fateful day in July 2020, my lottery ball was randomly selected to serve on the California Citizens Redistricting Commission. As a newly minted PhD who had spent the last few years running ecological regressions on election outcomes assessing Asian American and Latino voting behavior in California, I felt like I had a thing or two that I could contribute to the process – though there was no shortage of male experts reminding me that I lacked the experience to know what I was doing. Over the next two years, my commission colleagues and I – a group of 14 that included five Democrats, five

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Republicans, and four no party preference/independents – developed our own expertise navigating the diverse demographics, geography, and legal requirements that govern the state’s process. After unanimously passing maps for fifty-two congressional districts and one hundred and twenty-five state legislative jurisdictions, we collectively concluded that redistricting is not a science, but an art form; a delicate balancing act that requires discussion and making tradeoffs.

Coming out of the 2020 redistricting cycle, independent redistricting commissions are the clear winners. Thus far, maps drawn by citizen commissions have been upheld against legal challenges, while states like Alabama, North Carolina, Florida, Texas, and now the city of Los Angeles have fallen prey to the age-old desires of self-interested legislators willing to gerrymander for their own or their party’s incumbency, often at the expense of communities that have faced historic and ongoing exclusion at the ballot box. This essay will not assess the outcomes of any of these plans. It will not respond to the dense scholarly literature meant to compare outcomes. Instead, I will reflect on my experience serving on a citizen’s commission, point out some of the shortcomings of commissions and possible pitfalls. My message is simple: Independent Citizen Redistricting Commissions are *not* a magic bullet. They require an enormous amount of time, effort, and involvement, and commissions can still get things terribly wrong. I will argue that what makes citizen commissions uniquely effective are the institutional constraints that usually, but not always, guide their process such as ranked redistricting criteria and strict transparency laws, a robust and transparent screening process, and a public dialogue about fair representation for all communities, particularly as U.S. democracy enters a multiracial era. Moreover, if we are to maintain our single member district system, independent commissions are the best option for redistricting that allows for transparency over backroom dealings and to restore faith in our democratic institutions.

1 Inherently Political or Inherently Democratic?

Californians in 2022 proudly boast of the job that has been done by the Citizens Redistricting Commission (CRC) for the last two cycles.¹ We have been called a “unicorn” and the “gold standard” for redistricting. But this wasn’t always the case, and many partisans continue to call for the commission’s demise. In this section I’ll discuss the ways in which commissions attempt to remove the politics from the

¹ “Editorial: Pat yourself on the back, California. Gerrymandering has been squashed.” *The Los Angeles Times*. February 18, 2022. <https://www.latimes.com/opinion/story/2022-02-18/lawsuits-california-political-maps-nonpartisan-redistricting>.

redistricting process, but also the ways that politicking inevitably sneaks in. From state to state, the institutional structures and criterion that guide the commission process differ and thus lead to varying outcomes. Ultimately, what sets commissions apart from the typical backroom negotiations of self-interested legislators is the transparency of the process and the ranked criteria that commissions must use in developing maps. The CRC was governed by the state's Bagley-Keene transparency laws, which required all meetings to be public, all documents to be posted for public consumption, and mandates that private conversations between commissioners is limited. In comparison to the backroom negotiations that typically guide the redistricting process,² transparency alone is a monumental sea-change in how redistricting is conducted.

Beyond the requisite transparency, the commission is guided by a set of ranked criteria in the California constitution. The first two criteria flow from federal requirements, including drawing districts of equal population and compliance with the Voting Rights Act to ensure that minority communities have a fair opportunity to elect representatives of their choice. Third, districts must be drawn contiguously, so that all parts of the district are connected to each other. The fourth and perhaps most contentious criteria says that the commission must minimize the division of cities, counties, neighborhoods and "communities of interest" to the extent possible. Communities of interest are defined as those communities tied together by "social or economic interests" and as defined by public testimony. Additional criteria require the commission to consider the geographic compactness of districts and to nest smaller state legislative into larger districts, where practicable. Much of our time was spent collecting public testimony and weighing it against the other criteria in the development of districts. We waded through nearly 40,000 pieces of public testimony that were collected. Leaving no stone unturned, we would develop a set of districts only to toss them out and consider ones that would maximize other criteria and other conflicting testimonies. Our deliberations were labeled "messy" by some advocates and media outlets. Having sat at the drafting table, however, I can attest that commissioners engaged in a thorough process, that took seriously the testimony received from communities, and weighed many options before finalizing our maps.

Over the last two years, I have sat on several discussion panels and been on the receiving end of Twitter rants from partisans and even legislators who decry the commission process. One line of attack is that redistricting is inherently political

2 In October 2022 secret recordings of Los Angeles City council members discussing redistricting were leaked and offer a prime example of the kinds of backroom conversations that guide redistricting. The councilmembers are heard using derogatory language discussing drawing districts to their advantage while wanting to put districts of their political opponents "in the blender," despite requests from community advocates to be kept together.

and thus should not be left in the hands of people outside of the political process. In the summer of 2021, before the release of Census data and the actual redrawing had begun, I had the pleasure of moderating a panel of lawmakers at the National Conference of State Legislators discussing the redistricting process. Legislators were forceful in their belief that redistricting is an “inherently political” act, and no one knows their districts better than them. I shot back at the panelists that no, these are not “their districts” or “their constituents” and redistricting is an inherently democratic act meant to ensure fair representation and equity in the political process. I heard this sentiment repeated numerous times from legislators in California that a group of random citizens, not from the region will not know “their constituents” and “their districts” well enough to make decisions for them.

Historically, legislators have drawn maps that allowed them to choose their constituents rather than enabling constituents to choose their representatives. This system undermines the concept of fair representation, which is to give people the power to choose their representatives. As a scholar of race and ethnic politics, studying the political incorporation of immigrant communities, much of my research is motivated by a normative concern for political empowerment. Too often legislators take for granted the needs of their constituents and ride the wave of incumbency from one secure election to another – this includes legislators of color who sit in packed districts and need to do very little to hold their seats. When the CRC released our draft maps in November 2021, there was outcry because a district that was more than 85% Latino was being dismantled and an incumbent who had been in the seat for more than thirty years, and her father before her, was being treated unfairly. The *Los Angeles Times* wrote that the maps gave “a blow to Latino representation.”³ I was upset about the headline, but I could have cared less about the incumbent. As a part of the criteria guiding the commission, the California constitution explicitly forbids the commission from considering the address of an incumbent or candidate when drawing lines and throughout the state our maps significantly increased the number of Latino majority-minority districts, unpacking districts like that one to create two Latino-majority districts. On a policy level, Los Angeles communities have fought for decades for immigration reform with many Latino members of Congress sitting on their hands rather than advocating within their own party for change. In the absence of an incumbent gerrymander, legislators might deliver greater substantive representation knowing that their electoral future is less certain. In the statehouse, 2022 has been dubbed “The Great Resignation” with nearly thirty state lawmakers opting not to run for re-election in the newly drawn districts, many of whom only had two

3 Mehta, Seema. “The most Latino congressional district in the nation is split apart under draft redistricting maps.” *Los Angeles Times*. November 11, 2021. <https://www.latimes.com/politics/story/2021-11-11/california-congressional-redistricting-latino-roybal-allard>.

years in office before facing term limits.⁴ On balance, if candidates for office (including incumbents) must struggle a little, canvass voters, and get to know constituents in a newly drawn district once every ten years, I personally believe that's a good thing for representation.

To be certain, the process is political. And while some of the communities of interest testimony that we collected were genuine calls for inclusion and voice from community members, it was clear, especially by the end of the process, that much of the testimony was thinly veiled partisan attempts to sway the commission toward drawing blue or red seats or to protect a particular incumbent. Perhaps the clearest example of this was San Jose Mayor Sam Liccardo's last minute outcry that we split the city into four congressional districts. The split was developed in part from the creation of a new Latino VRA district and at the request to keep Asian American communities together. The mayor was about to term out and was likely looking for a city-based congressional district where he could run. We entertained the idea, explored what it would mean for the entire state map to make local changes in San Jose, and ultimately didn't move forward with the mayor's request – as I pointed out to my colleagues, the mayor's concerns were only over the congressional maps and he didn't appear concerned that the city had multiple splits for assembly districts.

A second line of attack often heard against commissions is that you cannot bring “a rubber band to a gun fight,” meaning that California is tying its hands to a fair process in the race for majority control of the House of Representatives, while other states play dirty and win. I don't have much of a response to this because it is true. California could have been drawn an almost entirely blue state with only a handful of deep red seats. Instead, in this election cycle, California has some of the most competitive races in the nation, even though developing competitive districts is not a criterion for the CRC. This concern that California is tying its own hands is not new. When Californians stripped redistricting power from the state legislature more than a decade ago, Proposition 11, the Voters First Act, in 2008 was heavily supported by Republican Gov. Arnold Schwarzenegger. He was keenly aware that opportunities for Republicans to be elected were diminishing as a supermajority of Democrats took over the state legislature. In doing so, the long-lasting Schwarzenegger legacy is a commission that gives equal voice to Democrats and Republicans, despite the number of registered Democrats and No Party Preference voters far outpacing the number of Republican registrants in the state. Perhaps using a commission model in a deep blue state when red states flagrantly gerrymander is indeed unfair. To be certain, California will be in a better place if all fifty states adopt independent redistricting.

4 See “What's behind the ‘Great Resignation’ of California lawmakers?” by Ben Christopher in *Cal Matters*, March 12, 2022. <https://calmatters.org/politics/2022/01/california-legislature-great-resignation/>.

Is redistricting inherently political or inherently democratic? It is both. As I discuss in the following section, the politics will never be fully removed from redistricting. Redistricting commissions, however, are guided by a set of institutional reforms that place constraints on the politicking. Independence from legislators to create and certify maps is only the first step of limiting the political nature of redistricting. Codified, ranked criteria guides the redistricting process such as adherence to federal mandates and balancing communities of interest testimony against requests from cities and counties, where testimony might be submitted from influential mayors, councilmembers, or supervisors. Coupling these institutional reforms with transparency requirements adds to the secret sauce. Commissioners openly debate whether to give preference to one community of interest over another and communities can weigh in on the deliberations. We spent hundreds of hours listening and reading public testimony and live line drawing, contemplating the effect of moving district lines a few census blocks to the right or left for all to see. The “sausage making” is in full view, and that is inherently an improvement from the self-interested backroom negotiations that the public never sees.

2 Redistricting by Do-Gooders

A fundamental component that most academic accounts of citizen commissions leave out are the people who serve on them – people (including myself) who sign up to serve their states, be ridiculed by both parties and communities, and despised by legislators. Though I came into the process with a strong skepticism and distrust of my commission colleagues, I walked away from the process with thirteen lifelong friends whom I believe were all equally committed to a fair process and upholding the values of democracy and inclusion, something that we could certainly use more of in these current times where election deniers threaten our institutional foundations. Some have argued that commissions are a bunch of amateurs who do not know what they are doing and not accountable to the public. To be certain, we were a bunch of amateurs. We had much to learn about the complex laws that govern redistricting, the logistics of map making, and how to run a short-term state agency. Yet the outcome of the 2022 process suggests that despite being amateurs, we were successful: the final maps were passed unanimously by the CRC and have not received a single legal challenge. At its core, a *Citizens* Redistricting Commission suggests that any citizen should be able to serve. In this section I will consider the people who serve on commissions, the vetting process in California that leads to the selection of commissioners, including my own application process, and the sources of accountability for commissioners. While California has enjoyed two successful rounds of independent redistricting ($N = 2$), I will argue that this success stems from

an engineered pool of candidates and the significant and likely costly mobilizing efforts from a wide spectrum of communities and invested interests working behind the scenes to follow and participate in the process. While it is easy to have skepticism about the commission process and there are numerous inflection points in which a commission could fail, I continue to believe it is a better process than the power politicking of secret backroom negotiations by self-interested legislators.

I applied for the commission somewhat on a whim. I had just defended my dissertation entitled “Representation in a Multiracial Era.” Though I didn’t realize at the time, the title foreshadowed the work of the commission to ensure fair representation for a California in which Californians of color represented a larger group than white Californians. My first academic publication had just been released, which opined that the electoral reforms adopted in the state such as independent redistricting, the top-two primary, and term limits, were yielding more people of color to elected office. In the summer of 2019, I was preparing to start my first tenure-track job and writing a report on the worst state legislative gerrymanders for the Schwarzenegger Institute at the University of Southern California, when the *Los Angeles Times* wrote how the pool of applicants was predominantly comprised of white men. The academic director of the institute and my trusted advisor and coauthor on several projects encouraged me to apply. About the same time, I received an email blast from Asian Americans Advancing Justice-LA, where I had worked for nearly five years prior to starting doctoral work, offering application assistance. I mention these gentle nudges from media, civic organizations, and colleagues because this is how an applicant pool becomes diverse. As junior faculty, I already had my hands full, not to mention the demands of three young children at home. Rarely will you find people lying in wait for ten years with a burning desire to commit hundreds of hours to the thankless job of being a redistricting commissioner. Developing a pool of applicants that reflect the diversity of a state requires a concerted effort to reach and recruit individuals who otherwise wouldn’t bother to be involved. Thus, it was these nudges that encouraged me to add my name to the list of nearly 20,000 CRC applicants to be reviewed by a bipartisan panel at the state auditor’s office.

Over the course of the next year, I submitted essays on my commitment to democracy, the state’s diversity, demonstrations of my critical thinking skills, and my ability to work across the aisle and be unbiased. I solicited letters of recommendation and public comments from both academic colleagues and a host of nonprofit leaders with whom I worked during my years in the immigrant rights advocacy movement. Applicants are required to disclose information about any family members in politics, political campaign donations that have been made, financial investments, and possible conflicts of interest. Making it to the interview stage, I discussed why, as a registered Democrat and self-proclaimed progressive, I believe in the good

governance initiatives of former Republican Governor Arnold Schwarzenegger and work as a fellow at his institute. I described working with the offices of both Senator Ted Kennedy and Senator John McCain in attempting to advance comprehensive immigration reform legislation, and the heated, but always respectful, conversations I had shared with my late father, who was a life-long Reaganesque Republican.

Turns out, nearly everyone who remained in the candidate pool shared similar stories – of spouses and family members who are registered with a different party than themselves and their ability to disagree with their own parties. This commission did not have MAGA Trump Republicans, nor were there anti-establishment socialists. Instead, the screening process yielded a field of California-style moderates, largely career-oriented professionals or recent retirees who are not hostile to conversations of diversity and equity, though certainly had differing views on how to achieve it. It was also a field of do-gooders, committed to the ideals of democracy and inclusion, who may not know how to redistrict but would be committed to ensuring a fair process. The argument is often made that legislators should maintain the power to redistrict because they are elected and therefore accountable to the people.⁵ But when their redistricting process is not transparent, there is no way to determine if legislators are acting with accountability to the people or to their own or their party's re-election futures. Political commissions, where commissioners are appointed by elected officials and serve at their behest, often lead to failure. A quick glance at political commissions in states such as Ohio, New York, and Virginia in 2022, all ended in failure, with courts stepping in to redraw lines. Independent redistricting commissioners are not beholden to legislators, and while they could potentially gerrymander a state and ride off into the sunset, from my experience, commissioners' greatest critics are the neighbors they must face at the grocery store, the community groups they are associated with, and having their good names – which had probably rarely appeared in newspapers previously, being smeared in local outlets or social media. Redistricting by do-gooders chosen through a rigorous selection process implies a group of people who want their work to be seen as successful by their peers and for generations to come. These are important design elements to the California selection process, which other states may not require. Michigan, for example, who had its first round of independent commission redistricting in 2021, does not have as lengthy of an application vetting process. Instead, registered Michiganders can apply, and two rounds of random selection led to the full commission. Simple application and lottery draws that do not disqualify candidates based on any criteria could easily result in commissions with extremists on either side of the aisle who are unable or unwilling to compromise or work

5 Torchinsky, Jason & Dennis Polio. 2022. "How Independent is Too Independent?: Redistricting Commissions and the Growth of the Unaccountable Administrative State." *Georgetown Law Review*.

collaboratively, especially because most commissions lack formal or even informal arbitration systems to foster collaboration.⁶

The California screening and selection process also yielded significant diversity. The 14-member body was majority female, with four people who identify as Latino/a, four Asian/South Asian Americans, three Black members, three LGBT members. We represented geographic diversity with members spread between Northern and Southern California including representatives from the Bay Area, Central Valley, San Diego, Inland Empire, and Orange County. A key feature of California's selection process is that the first eight commissioners are selected through a random lottery ball selection process and the first eight select the final six and should consider the state's diversity in that selection process. Despite the statistical odds, the lottery draw yielded no Latinos among the first eight commissioners in a state that is nearly 40 percent Latino. The first eight were hit hard with op-eds and editorials appearing in newspapers across the state and community organizations that were galvanized by the selection who were calling and writing to make public comments demanding Latinos be placed on the commission. Despite the advice of the counsel provided to the first eight from the state auditor's office, I used my opening remarks to note the lack of Latinos among us and argued that to ensure public trust in the commission process, we had to act to remedy this wrong. In addition to no Latinos, I pointed out that we also had no East Asians, no Native Americans, no lower income Californians, no one with a legal background, and no geographic representation from certain regions of the state. Having some commissioners selected at random and still an opportunity to balance the commission on a broad range of diversity criteria remains an essential institutional design. Nationally, the Congressional Black Caucus has expressed concerns about the commission process as a possible avenue of further erasure of the Black community from redistricting, particularly in southern states where the Black vote continues to be diluted by self-interested legislators.⁷ Allowing for this kind of correction remains key.

Another important consideration relating to the screening and selection process is that state legislators in California are allowed to strike names from the final pool of candidates. This was an entirely opaque process. No reasons are given for why some names are struck. The process suggests that Democrat and Republican state leaders are paying their own consultants to vet the candidate pool, no doubt stealthily delving deeper than the state auditor's office to check the backgrounds of applicants. Stories of this reconnaissance trickled up. One of my colleagues who applied for the

6 Cain, Bruce. Redistricting Commissions: A Better Political Buffer? *Yale Law Journal* 121 (2011–2012).

7 Herndon, Alstead. "Why some Black Democrats haven't embraced a voting rights push." *The New York Times*. April 26, 2021. <https://www.nytimes.com/2021/04/26/us/politics/democrats-voting-rights.html>.

commission was struck from the candidate pool after anonymous public comments were made about some of her social media posts that called out the actions of then President Donald Trump. Similarly, one of the commissioners later shared that one of her colleagues had received a call inquiring about whether she had hidden liberal preferences. It is unclear how much money the parties spent to engage in the selection process or lobby the commission, but I would only imagine it is a great deal of both private and philanthropic funds.

Election law scholar Justin Levitt has compared commissions to a jury, that weighs evidence and makes decisions.⁸ There are many ways to unpack this assertion, but from my experience serving on the 2020 CRC, I will consider two components: weighing evidence from experts and weighing evidence from communities. Upon being seated, the commission went to work learning how to redistrict, which is no easy task. To learn redistricting is to rely on expert lawyers, social scientists, and community advocates with decades of experience to share their insights. But someone with decades of experience, dating back to a pre-commission time or actively working in other cities, counties, or states without commissions, is likely acting with partisan interests or even their own scholarly or business consulting interests. In our first meeting, we received training presentations from several such experts from around the state. Notably, one training from a seasoned redistricting consultant resulted in numerous anonymous public comment calls painting him as a racist who drew lines for a California city that were later overturned by the courts for diluting the Latino vote to protect incumbents. As a commissioner, I watched this exchange and realized that “public comments” are an avenue for partisan experts who do not wish to be a part of the public forum (likely because they are being paid to be a part of the background) to provide just as much information and advocacy to the commission as the limited pool of experts that are formally hired by the commission. The public comment process, moreover, allows shadow actors to plant seeds of information that can shift the thinking of the commission and can amplify or discredit community testimony and commissioner ideas for line drawing.

Public comment is viewed as the voices of communities on the ground and the experts of communities. Quite often that is accurate. In California many nonprofit civil rights and social justice organizations were deeply engaged from the day the first eight commissioners were seated. They weighed in on our process to ensure it was fair, equitable, and inclusive. They provided their legal perspective when our legal team had overlooked something, and many presented their own map suggestions for how to keep diverse communities together. These organizations

⁸ Levitt, Justin. “Democracy on the Hire Wire: Citizens Commission Implementation of the Voting Rights Act.” *U.C. Davis Law Review* 46 (2012–2013).

included major organizations throughout the state such as MALDEF, Asian Americans Advancing Justice, the Black Census and Redistricting Hub, NALEO Educational Fund, as well as a host of smaller, local, and regional organizations and coalitions. Many of the commissioners, including myself, came from advocacy or community-oriented backgrounds and thus relied heavily on the comments of these groups who served as trusted messengers. With a different set of commissioners, I could easily foresee commissioners being hesitant or skeptical of this community testimony. Though they are nonprofits, some of their testimony at times appeared partisan.

One example of this was the push to “maintain two Black Congressional districts” in Los Angeles. Though South Los Angeles has historically been home to a large and culturally important Black community, many in the Black community have moved eastward where the cost of living is less extreme. As the number of African Americans has diminished, the number of Latinos has grown. Though the Black community certainly meets the criteria of historic disenfranchisement under the Voting Rights Act, given the coalition voting patterns of diverse voters in Los Angeles, there was no clear VRA requirement to draw Black majority-minority or even opportunity districts. Those districts were represented by Reps. Maxine Waters and Karen Bass and the Black community was highly organized and effective in lobbying the commission to protect those districts. A 2010 commissioner turned redistricting consultant weighed in with an LA Times op-ed advocating for “two Black opportunity districts” rather than one Black majority-minority district⁹, followed by a cacophany of public testimony from local elected officials and community leaders. Was the testimony to maintain two districts where Black voters could elect the candidate of their choice or to maintain those two legislators? When we even considered districts in which the Black citizen voting age population dipped below 30 percent of the district population, we were slammed by accusations of racism and another op-ed from Rep. Bass and State Senator Steven Bradford that “Black lawmakers were under attack” by “appointed government officials,” who “believe they can do what they want to do”.¹⁰ The article suggests that the CRC should consider the incumbency of Black lawmakers – which would be a violation of the California constitution – and reasserts the notion that commissioners are not accountable to the public. In 2010, community advocates organized to advance and lobby for a “unity map” that met the needs of Black, Latino and Asian American communities, but in 2020 no such map

9 Malloy, Connie. “Op-Ed: Keep two Black congressional districts in L.A.” The Los Angeles Times. October 21, 2021. Available: <https://www.latimes.com/opinion/story/2021-10-21/redistricting-california-should-keep-two-black-districts-in-los-angeles>.

10 Bass, Karen & Steven Bradford. “Black Lawmakers are Under Attack.” *LA Focus*. December 8, 2021. <https://www.lafocusnewspaper.com/op-ed-black-lawmakers-are-under-attack-by-u-s-rep-karen-bass-and-california-state-senator-steven-bradford/>.

existed and various alliances advocated different district configurations for each community, leaving the commission to be the arbiter between these proposals. Based on the op-eds and coordinated public testimony, the CRC ultimately did work to maintain two Black opportunity districts, but given the demographic realities of the county, they are also multiracial districts with equally large or even larger Latino populations. We also worked to keep LGBTQ communities and Asian American communities together in districts based on communities of interest testimony, and improve opportunities for Latino representation. This balancing act between historically disenfranchised and underrepresented communities will be an ongoing redistricting debate in California and the nation in the decades to come. As communities continue to intermingle and become less segregated throughout the county and ethnic enclaves begin to dissolve, future redistricting commissions will have to grapple with drawing physical boundaries around racial or ethnic identities that are not so clearly defined. With the Supreme Court poised to potentially further dismantle the Voting Rights Act, lawmakers should be thinking now about how to meet the legitimate demands for representation in a multiracial democracy that brings communities together rather than pitting them against one another.

Finally, if independent commissions are like juries weighing testimony and expert advice, where does that advice come from and how big is the pool of experts? After spending several months preparing a request for proposals to hire a line drawing consultant for a multi-million dollar contract to work with the CRC in the largest state in the nation, we received only one application. Similarly, in searching for competitive proposals for a legal team with voting rights expertise, the CRC received three proposals, but only one team had a voting rights expert that was bar certified in California. The pool of redistricting experts who can provide guidance to independent commissions is painfully small, and rightly so: redistricting only occurs once every ten years. In the intervening decade these experts go back to work as partisan political consultants, in academia, or as lawyers focused on other matters. In addition, as a line drawer, demographics expert, or election lawyer, working with a commission is not the same as working for legislators. Commissioners may need things explained, sometimes multiple times. Line drawing in California was conducted publicly, so while many line drawers appointed as special masters by the courts may want to take a list of mapping requests and go work for a few hours behind the scenes to draw a map that meets them, that is not the process. In addition, election lawyers are typically trained to consider the creation of remedial maps when a state is sued for diluting a protected community's vote, not to proactively consider the creation of new districts where community power could be established. If the trend toward independent commissions continues, a new cadre of experts trained to work with commissions is needed.

3 Final Thoughts

In December 2021, just days before the Christmas holiday, we had sat through hundreds of hours of map considerations and public testimony. Rather than working off maps that had been submitted or making adjustment to prior maps to balance population, we had begun our line drawing from a cleared map. We worked on consensus, developing districts in one area of the map and “locking it in.” In those last several weeks, the commission drew districts that represented compromises of the testimony we had heard. Using a motto of “share the pain,” if a community of interest wasn’t kept together in an assembly map, they often were in a Congressional or state senate map. After months of listening to live public testimony, we could recognize the voice of regular callers who watched, waited, and called in each day often from multiple phone numbers, to make their voices heard. Some called to thank us and ask us not to change the map, most called to scream at us because we were not able to draw a map the way they wanted to see it. We triumphantly passed the maps for the state of California unanimously, increasing opportunities for Latino representation consistent with the demographic shifts of the state, and maintained opportunities for Black, Asian American, and even LGBTQ representation. I was tired and worn down.

After delivering the final maps to the Secretary of State, the commission awaited legal challenges to the maps, but not a single one was brought. Over the last few months, the commission has contemplated our lessons learned and considered if there are better ways to conduct redistricting. Certainly, there can be changes to the process: We could have worked from map submissions, or engaged with our line drawing consultants and legal team in a different process. In these reflections, I have waived in my commitment to independent redistricting – is this really the best way? We were indeed a bunch of amateurs being pushed around like pawns by “community” testimony from hidden partisans and groups jockeying for power. In October 2022, however, leaked recordings of Los Angeles City Councilmembers discussing city redistricting offered an insight to the alternative. The racism, homophobia, anti-indigenous sentiments displayed were unacceptable, but I was not in the least surprised by the redistricting discussion. The tapes revealed the backroom negotiations and hardnosed power politicking that goes on behind closed doors. The institutional design of redistricting at the city level rests power with the lawmakers. I have no doubt that in states without commissions the same conversations are happening. And while these were Latino legislators discussing saving their seats possibly at the expense of Black and Asian American representation, given the jockeying for power between Black, Latino, Asian and LGBTQ communities that we saw at the state level, I would only expect similar conversations were happening in other communities behind closed doors at the city level as well.

The prevailing mantra of political science is that we study who gets what, when, and how much. What's inherently political about redistricting is not just overt partisan politics, but the allocation of scarce resources (district seats) among both parties and communities that are competing for representation. Beyond the partisan divides, in California, where the Democratic party maintains its supermajority, identity politics continues to place racialized communities in competition with one another. These are communities who have historically been geographically segregated through red-lining policies or the draw of immigrant ethnic-enclaves, but are physically integrating in neighborhoods throughout the state. Though organizers of workers, renters, bus riders, and immigrants have attempted to build cross-racial coalitions, the entire body of race and ethnic politics literature suggests that while each community has its nuances, race and ethnicity continue to be powerful drivers of political psychology and behavior. Thus, so long as we maintain our single member district, first-past-the-post system, the horse trading and jockeying for power will exist in some form. Independent redistricting commissions are not a magic bullet. They will not solve the many grave problems that our democracy is facing, and most likely there are other electoral systems that would be better equipped at providing representation for communities that have historically and still today face discrimination. Despite all of this, if we are to maintain our winner-take-all system, having that horse trading happen in an open, transparent public forum, before a panel of do-gooders rather than behind closed doors by self-interested lawmakers, is a better alternative.