

WHERE ARE WE HEADED AS A NATION? PART III

What are the reforms that exist today for activists to support in order to renew democracy in this country? That is the question I posed at the end of Part II of "Where Are We Headed As a Nation?" The challenge, I noted, is to work toward rebuilding a political and governmental system that diverse citizens can believe is striving to live up to the concept of "we the people."

One reform that is fresh to those of us who worked successfully to pass an Ohio Constitutional Amendment this May establishing a fair process for drawing new Congressional district maps is redistricting. Because of the extreme gerrymandering of legislative districts that took place in many states after the 2010 Census, redistricting reform has taken center stage for activists and groups such as Common Cause in recent years. One approach that has succeeded in California and Ohio is launching a statewide, citizen ballot initiative that creates a fair process for district map making.

Another strategy focuses on challenging unfairly drawn districts in the courts. This process was making great headway in a number of states until a June decision by the U.S. Supreme Court mad this approach somewhat iffy. Opponents of extreme gerrymandering in Wisconsin won their case in the Federal District Court, and this decision was then appealed to the Supreme Court.

After hearing arguments last fall, the High Court released its five to four decision several weeks ago. The majority said that the plaintiffs had failed to provide sufficient evidence to prove their grievance, and therefore sent the case back to a lower court without taking any stance on the legality of gerrymandering itself. This finding of the Court seems to leave room for a future ruling against gerrymandering, and legal scholars believe that the North Carolina case provides a compelling example of how extreme gerrymandering violates voting rights. Nevertheless, the recent resignation of Justice Kennedy and his possible replacement in the fall by a right wing ideologue makes reformers extremely pessimistic about future Supreme Court decisions.

Following the example of California and Ohio, at least four statewide efforts to enact redistricting reform by ballot initiatives will take place in the fall. Once again, reformers are concerned about a more right wing Supreme Court eventually ruling that state legislatures and not citizen initiatives are the mechanisms for determining how representatives are elected as stated in the Constitution. Although such a Court decision is possible, this approach is currently the best way to organize diverse citizens to preserve fair elections.

The impact of "big money" on politics and government is the elephant in the room that has done the most damage to democracy. Due to several Supreme Court decisions

that equate spending money to freedom of speech and to money's long term impact on both major parties and their candidates, doing something effective to remedy this blight on democracy is gargantuan in scope. The public financing of political campaigns remains one practice that partially levels the playing field for candidates, and it has been implemented in states such as Arizona, Minnesota, Maine, and Connecticut, and cities such as New York City, Los Angeles, Austin, and Santa Fe. Meanwhile, setting limits on individual and organization contributions to campaigns is another reform that usually complements public financing, and it is in place for Congressional elections as well as in many states and cities.

Because of the Court's 1973 decision in *Buckley Versus Valeo*, public financing cannot be imposed on candidates, and those who opt out can spend as much as they want on their campaigns. *Buckley* upheld contribution limits, but it also stated that no limits could be placed on an individual candidate's spending of his or her own money. Nevertheless, examples of elections taking place in states and cities that possess these reforms show that candidates who accept public funding have been able to defeat opponents who amassed larger amounts of money through private contributions.

The *Citizens United* Court decision in 2011, however, created further obstacles to the effectiveness of these reforms. The majority opinion gave personhood to

incorporated organizations, while further stating that these groups could spend unlimited amounts of money to advocate for policies and candidates. Furthermore, if they kept their operations separate from the actual campaigns of individual candidates, their funded activities were not subject to any of the limits in place for those running for office. This decision was a game changer, because it allows corporations or incorporated groups established by billionaires such as the Koch brothers to mount huge war chests that can overwhelm candidates that they oppose.

This is not to say that public financing and contribution limits are not worthy reforms, but the Supreme Court has greatly reduced their power to limit the influence of "big money" on elections. Thus, besides attempting to prop up these reforms, activists need to be championing long term efforts such as overturning the Citizens United and the Buckley Versus Valeo decisions. What then loom as daunting tasks for reformers are mounting grassroots campaigns in all fifty states to pass an Amendment to the Constitution

A number of organizations have formed with that goal in mind. A coalition that is solely focused on amending the Constitution is Move To Amend. It has a presence in a majority of the states and also in many cities. It also has written an amendment that specifically over turns Citizens United and Buckley Versus Valeo, and it has collected over 400,000 signatures from supporters across the

country. Move To Amend's proposed amendment states that only "natural persons" can have rights protected under the Constitution. Denying the current precedent that links free speech with spending money, the proposal says that federal, state, and local governments should regulate campaigns to insure that money does not create an unfair advantage for candidates. It also stipulates that all campaign contributions and expenditures be publicly disclosed.

Despite the good groundwork done by Move To Amend and other organizations, amending the Constitution is a huge undertaking. Much education still needs to happen, and an incredible amount of citizen organizing will have to take place in all fifty states. Somehow a majority of Americans will have to be convinced that such an amendment is critical to saving democracy.

An immediate activity for activists is taking steps to protect and enhance voting rights. With the fall campaign just around the corner, the goal should be to organize some grassroots efforts to help citizens overcome obstacles that could prevent them from voting. A second goal is to organize those same citizens to oppose existing and future efforts to block certain voters from casting their ballots. Part IV of this series will examine some of the effective ways groups such as Common Cause and the League of Women Voters plan to work on protecting voting rights in the months ahead.

