

Gerrymandering Hypothesis in the Italian Constituencies: the Case of Genoa's District

FABIO RATTO TRABUCCO*

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Abstract

Gerrymandering is a practice intended to establish a political advantage for a particular party or group by manipulating district boundaries. The term gerrymandering has negative connotations. Two principal tactics are used in gerrymandering: "cracking" (i.e. diluting the voting power of the opposing party's supporters across many districts) and "packing" (concentrating the opposing party's voting power in one district to reduce their voting power in other districts). Partisan gerrymandering to increase the power of a political party has been practiced since the beginning of the US. What's happening in Italy? The paper examines a hypothesis of Italian gerrymandering: the uninominal constituencies of the Genoa's District where typically progressive voting areas are united with conservative suburbs and municipalities. Last but not least the initiatives against the gerrymandering in American history to understand how to identify and contrast the techniques of gerrymandering.

Key words

Gerrymandering; redistricting; constituencies; Italy; USA

Resumen

El *gerrymandering* es una práctica destinada a establecer una ventaja política para un partido o grupo en particular mediante la manipulación de los límites del distrito electoral. El término *gerrymandering* tiene connotaciones negativas. Se utilizan dos tácticas principales para manipular: "romper" (es decir, diluir el poder de voto de los partidarios de la parte opuesta en muchos distritos) y "empacar" (concentrar el poder de voto de la parte contraria en un distrito para reducir su poder de voto en otros distritos). La práctica partidaria de aumentar el poder de un partido político se ha practicado desde el comienzo de los EE. UU. ¿Qué está pasando en Italia? El artículo examina una hipótesis del gran albedrío italiano: las circunscripciones uninominales de la Provincia de Génova donde las áreas de votación típicamente progresivas se unen con los suburbios y municipios conservadores. Por último, pero no menos

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* Adjunct Professor in Comparative Public Law. University of Cassino, University Avenue, Cassino, Italy. Email address: fabio.rattotrabucco@iuav.it Researcher ID: B-5831-2018. ORCID: <https://orcid.org/0000-0002-2273-4019>



importante, las iniciativas contra el *gerrymandering* en la historia de EE. UU. para comprender cómo identificar y contrastar las técnicas del *gerrymandering*.

Palabras clave

Gerrymandering; reordenación; distritos electorales; Italia; EE. UU.

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1. The gerrymandering in the American tradition

The term “gerrymander” belongs to the American political tradition. It is a compound term that could be paraphrased as “acting like a salamander as Gerry does”. More precisely, it is a portmanteau word resulting from the combination of the surname of Massachusetts’ conservative governor back to the early XIX century, Elbridge Gerry, and “salamander”, referring to the mythical creature.¹

In 1812, Gerry’s party fought for the adoption of a law aimed at reorganizing Massachusetts’ senatorial districts by readjusting constituencies in an original way so that the new arrangement could prove favourable to its promoters. The flexible nature of such arrangement led to the foundation of the South Essex constituency in Northeast Massachusetts which was characterised by particularly winding boundaries, later compared by both political opponents and critical press to the shape of a salamander. The word “gerrymander” was coined by Gerry’s political detractors to denounce the fact that he cunningly redesigned the boundaries of his constituency for the purpose of including favourable constituencies, originally relegated to a remote position in the outfield while leaving out the antagonistic ones, originally placed in a central position. Despite the electoral defeat of the conservative party and the resulting impossibility for Gerry to be re-elected as governor, the control of the Senate during 1812 elections solidly remained in their hands (Hart 1927, p. 458, and Billias 1976, 317).

Since then, the above-mentioned term has been referring to the nasty habit of legislators to shape constituencies at their own discretion and for their own benefit. This particularly applies to North American member states where constituencies are systematically set up by local congresses, in turn, represented by specific commissions (Musgrove 1977, McGann *et al.* 2016, Seabrook 2017). The only exception is the state of Iowa where, instead, independent ad hoc commissions still exist (Cook 2007). However, it should be bore in mind that English Labour supporters took advantage of such “cutting out” strategy in the 1950s as well (Johnston *et al.* 2001a, 2001b). Moreover, the gerrymandering was extensively widespread in Northern Ireland after the Home Rule of 1921, favouring protestant unionists to the detriment of Catholic nationalists (Gwynn 1911, 104-105). It is also interesting to note that the term “gerrymandering” has been used since the 1990s with a new meaning, i.e. “jurymandering”, referring to the selection of members of people’s juries for penal proceedings (King 1993, Fukurai 2001).

Gerrymanders are essentially constituencies whose boundaries have been manipulated for partisan purposes, or rather in order to favour one party against another and to guarantee the re-election of office-holders. In other words, if promoted by transversal political agreements, such stratagem allows to elect candidates of rival parties, avoiding competitive elections. Unlike when the distribution of constituencies and therefore the control of election results, it is the result of specifically predetermined administrative divisions to fragment a national minority, as in the case of the Hungarian community in Slovakia divided into several administrative entities (eight Higher Territorial Units, *Vyššie Územné Celky*) by virtue of the regionalization of the country imposed by the central government in 1996 and completely detached from historical and cultural heritage (Ratto Trabucco 2013). In fact, these administrative boundaries seem to be aimed at dividing the areas inhabited by the Hungarians into four regions, in such a way as to prevent the latter from aspiring to constitute autonomous entities in which they can better defend their identity (Cerreti and Fusco 2007).

¹ The term “gerrymander” (originally “Gerry-mander”) appeared for the first time in the *Boston Gazette* of 26 March 1812 together with a satirical cartoon representing a constituency of the Essex County. The college was embodied by a bizarre animal provided with claws, wings and a dragon head; the creature was meant to resemble the bizarre shape of the district itself.

Constituencies, particularly single-member ones (i.e. single-member constituencies), should cover areas which have to be homogeneous in various ways – demographic, social, economic - so that members appointed to electoral offices could execute their representative function as effectively as possible. Areas unequally grouped together, yet supporting the same party or the same candidate, could be theoretically gathered in the same constituency in favour of that given party or candidate, to which preference is meant to be given by the electorate. As a result, electoral chances occur to be enhanced.

Electoral systems such as the American one are more exposed to the gerrymandering precisely due to the influence of a polarised electorate, as well as due to the fact that they are based on either single or plural member colleges that basically adhere to a “winner-take-all-logic”. In a majoritarian voting system with single-member colleges, the election of an assembly can be portrayed as follows, provided that there are only two parties competing for a position in the assembly: the territory is divided into constituencies; for each college there is only one constituency; constituencies are entrusted to the candidate who gained more than half of the total votes of the constituency (though it is normal practice to take into account a deviation consisting in a reasonably reassuring participation rate); the assembly is ultimately formed, once all candidates obtained a constituency; the party that has a majority in the assembly holds likewise the majority of constituencies. It follows that a proper model of majoritarian voting system with single-member constituencies and polarised electorate consists of: a clearly delimited territorial area; a finite group of electors forming two subsets composed of supporters of opposing parties; a subdivision of the territory which accurately reproduces the electoral redistricting. Therefore, the outcome of electoral competitions may vary depending on whether the majority or the minority of the electoral subset ascribable to a given party is included in the same constituency or not. Technically and aprioristically, the designing process of boundaries within constituencies is quite likely to be manipulated in a similar way.

As an example, it is sufficient to consider a hypothetical situation as described hereinafter: within a given territory, four constituencies must be elected. Most of the conservative electorate flows into one constituency, whereas the rest flows into the remaining three, together with almost all progressive electors of the area. It can be easily inferred that, on the one hand, the conservative wing gets only one constituency, although relying, in absolute terms, on more votes, yet solely concentrated in a singular constituency. On the other hand, the progressives obtain the remaining three constituencies.

Another hypothetical situation could be the following one: a territory is composed of a city, where almost half of the inhabitants live, and a rural area, where the remaining half of the population is settled. The ones living in the city vote for the left wing, the other for the right one. Legislators with a common sympathy toward the right-wing party could take advantage of their power of re-shaping electoral bodies so that electoral city colleges would partially include rural ones, at least just enough to ensure that left-wing city electors would be numerically lower than their rural right-wing counterpart. In that way, it would easily come to a situation in which left-wing candidates are necessarily the majority, although the two groups making up the electorate are numerically equivalent.

As a matter of fact, the gerrymandering has different applications, such as, on the one hand, the so-called “cracking”, which refers to the practice of dividing a relevant group of supporters of the same party in many different districts. On the other hand, the so-called “packing” is no more than the opposite practice, since it serves as a clustering strategy of electors gravitating towards the same party. This procedure, however, entails the sacrifice of one constituency, though offering in return the advantage of obtaining all the other ones. Mention should be also made of the “hijacking” method, which leads to the direct engagement of rival parties with full certainty that one of the two will be defeated.

Actually, there are plenty of gerrymandering categories depending on the final objective it is aimed at, e.g. to increase (affirmative gerrymandering) or decrease (negative gerrymandering) the incisiveness of the votes of a given voting bloc. Another example is the silent gerrymandering, which is instead intended to maintain the electoral *status quo*. Within such categories, it is possible to envisage further gerrymandering typologies, differently evaluated by the Supreme Court (Bognetti 1966). In fact, it is no coincidence that there is an extensive body of case-law which declares the racial gerrymandering unconstitutional. Such practice was launched in 1966 with the *South Carolina v Katzenbach* case and recently confirmed by the *Bethune-Hill, et al. v Virginia State Board of Elections* one (see also Trucco 2017, Filippi 2018). Particularly, *Baker v Carr* in 1962 redefining the political question doctrine of the Supreme Court and decided that Tennessee's redistricting (attempts to change the way voting districts are delineated) issues present justiciable questions, thus enabling federal courts to intervene and to decide redistricting cases. Fundamentally changed the nature of political representation in the US, requiring not just Tennessee but nearly every state to redistrict during the 1960s, often several times. This re-apportionment increased the political power of urban areas with greater population and reduced the influence of more rural areas (Eisler 1993, 11).

Conversely, the partisan gerrymandering has turned into widespread political practice, since the Supreme Court has not managed over the past three decades to identify any criterion to discern the unconstitutionality threshold. In this regard, reference can be made to the *Davis, et al. v Bandemer* case: in 1986, the Supreme Court established that the Indiana apportionment law might have produced discriminatory effects to the detriment of the Democrats, yet such unfair implications proved to be "insufficiently adverse", hence they did not violate the Equal Protection Clause (Anderson 1987). Generally, most of the American judges spoke in favour of the justiciability of the political gerrymandering, on condition that a clear "manageable standard" is provided. Given similar precedents in the juridical tradition, it has become common practice within American legislative bodies to lawfully resort to the partisan gerrymandering, rather than violating the one-person, one-vote principle and safeguarding in that way the effectiveness of votes cast by ethnic minorities.

Over the last years, the gerrymandering has been massively implemented in America, so much so that it is no exaggeration stating that electoral results turned out to be distorted on several occasions (Isacharoff *et al.* 2012). Reliable studies have proved its exacerbating effect as to the polarisation among political parties, resulting in a greater radicalization of political conflicts with the consequent loss of moderation and pragmatism (McCarty *et al.* 2009).

A recent example of the phenomenon just described took place in North Carolina, where three federal judges making up a constituency declared modifications of the electoral arrangement produced by the gerrymandering unconstitutional, disregarding the electoral legislative authority. The declaration of unconstitutionality was "motivated by invidious partisan intent" (Blinder and Wines 2018). Additionally, the gerrymandering thrives particularly in America due to the fact that the electoral system occurs to be based on consolidated, historically recurring voting proportions: city inhabitants tend to vote for the Democrats, rural ones for the Republicans. Keeping in mind such electoral inclinations, it is easy for legislators to carefully set up colleges and districts, in other words, to their own advantage.

Potentially, Supreme Courts could be forced to adopt a dissolution district plan on the basis of both constitutional and federal provisions. However, the Voting Right Act of 1965 is the only juridical source that regulates the gerrymandering. Specifically, it envisages the possibility for citizens to appeal, as well as the obligation for legislators to review constituencies in case of considerable modifications, though limited to violations concerning racial discriminations. Such limitation, together with the reticent attitude of the Supreme Court towards the resolution of the gerrymandering

question, gave free rein to its proliferation (Grofman 1990, Semeraro 2017, Foley 2017).

In 1978, the Supreme Court established the obligation for the federal court to spur responsible committees into action, i.e. towards the re-arrangement of constituencies, whenever a reorganisation plan of the boundaries of any electoral jurisdiction violates either the *Equal Protection Clause* under the XIV amendment or the Voting Rights Act. If the assembly fails to re-shape constituencies or if the rearrangement draft still violates the law, it is up to the federal court itself to complete the task and to impose its results to the local assembly (*Wise v Lipscomb*). In the case of the *Karcher v Daggett* Supreme Court, which dates back to 1983, the rearrangement draft of the boundaries of New Jersey's constituencies was deemed to be unconstitutional. On that occasion, the unequal redistribution of the population was motivated with the intent to safeguard the voting power of ethnic minorities (see also Powers 1984). However, the Supreme Court did not find any evidence supporting the above-mentioned objection, hence it proceeded with the annulment of the redistribution plan, giving rise to a typical situation of affirmative racial gerrymandering. In other words, the Supreme Court agreed to the irrational delimitation of the boundaries of constituencies only to guarantee the electoral representation of geographically dispersed minorities (Lublin 1997, Burke 1999).

State courts have the power to impose new redistribution plans of constituencies if the pertinent legislation prohibits the gerrymandering. By way of example, the State of Florida adopted in 2010 two constitutional amendments by means of which the Parliament is precluded from the implementation of re-shaping electoral plans that could affect, favourably or unfavourably, the representativeness of any political party.

A more recent example is the *Whitford v Gill* case; the Federal District court of Wisconsin established that the boundaries of the constituencies had been intentionally manipulated to favour the Republican Party. The court also determined that legislators had no other valid reasons for doing so but for manipulating electoral results to their own advantage. For the first time ever in American history, the claimant resorted to mathematical models to prove the discriminatory nature of the electoral reorganization plan to the detriment of the electorate (Stephanopoulos and McGhee 2014, Bernstein and Duchin 2017). After more than thirty years, the District court was the first federal court to ban an electoral redistribution plan, basing such decision on the identification of the conditions typical for the partisan gerrymandering (Maag 2017). Such case law nourishes the hope that American courts would agree, in the future, that mathematical principles (or rather metric geometrical principles) are neutral benchmarks to measure district cohesiveness. In that way, they could be helpful in the process of finding a permanent resolution to the partisanship problem. However, it should be pointed out that, on appeal, the Supreme Court unanimously relinquished responsibility for the identification of circumstances attributable to the gerrymandering practice to lower courts. This is explained by the lack of proofs that could demonstrate constitutional illegitimacy of the redistricting plan of the Wisconsin State Congress, as alleged by the counterpart that raised criticism at first (*Gill v Whitford*). In doing so, the Supreme Court shifted the focus towards a purely procedural aspect, i.e. the formulation of a judicial opinion, glossing over the heart of the matter: the redistribution plan of the constituencies. The problem lies in the fact that the Supreme Court avoided taking a clear stand on the constitutionality of the partisan gerrymandering. However, even in the case of unconstitutionality, it is always up to the court to state which criterion should be followed in order to fix electoral boundaries according to constitutional standards (Filippi 2017). Recently, during the 2017-2018 term, the Supreme Court had the chance to decide on cases regarding both forms of gerrymandering, but sent them all to lower courts for a further definition.

Concrete difficulties in the identification of gerrymandering traits in the electoral practice led to the foundation of training schools for electoral experts at the Tufts University in Medford and Somerville (Massachusetts). The schools were founded by the mathematician Duchin, who pioneered the metric geometrical approach to evaluate gerrymandering cases forensically (Duchin and Levine 2017, Duchin 2018a, 2018b). This is how the Metric Geometry and Gerrymandering Group (MGGG), which incidentally works together with MIT, was born. The main task of the above-mentioned institution consists in formulating mathematical solutions to the gerrymandering problem judges can resort to, while evaluating potentially compromised electoral results. In practical terms, such schools serve as places of training for mathematicians, enabling them to testify as qualified experts during judicial proceedings dealing with the reorganization of constituencies. Indeed, electoral experts, in collaboration with state commissions, could give, on the one hand, a significant contribution to redistricting procedures. On the other hand, it is worth reminding that it is common practice for local governments to refuse intentionally any fair and unbiased approach while setting up constituencies. It follows that inputs coming from electoral experts would be easily ignored precisely by those state legislators who need them most.

2. A gerrymandering hypothesis in Italy: the case of the single-member colleges of the Genoa district

Speaking of the organization of constituencies and their boundaries, there is a substantial difference between the American and the Italian system. In the US, it is a purely political matter that rests on legislative assemblies or commissions affiliated to them. In Italy instead, the task of drawing electoral boundaries is up to a special committee of experts of the Italian National Institute of Statistics (ISTAT) on the basis of technical data gathered during the last census conducted. On the one hand, such a procedure appears to be unrelated to neither pressures nor political constraints. On the other hand, the fact remains that the arrangement of constituencies might affect the results of national elections. Nevertheless, the partisan gerrymandering phenomenon has never been considered in Italy as study object, neither from a purely juridical viewpoint nor from a metric geometrical one.

Furthermore, the last Italian electoral law n° 165/2017 (so-called *Rosatellum*) introduced significant changes in the arrangement of constituencies. Specifically, it provides for the Chambers of Deputies a mixed-member electoral system in which 37% of all colleges assigned are single-member constituencies, except for the autonomous region of Trentino-Alto Adige and for the single constituency of the autonomous region of Valle D'Aosta. Art. 3 of the above-mentioned law states that the government is liable for electoral redistricting procedures in both cases of single and plural member constituencies as a combination of single-member constituencies.

Although there have been some rumors in the political debate as to a hypothetical redistricting project under the leadership of the former ruling party, the Democratic Party (*Partito Democratico*, PD), this subject matter has never received significant academic attention. Only the case of the Tuscan municipality of Rignano sull'Arno, the hometown of the PD's secretary Renzi, caused media clamour due to the unusual assimilation of the above-mentioned village to the constituency of Livorno through its territorial contiguity to the city of Florence, to whose college it was eventually integrated. Could such a case represent clear evidence of the intention to draw electoral boundaries to the advantage of the ruling party? At most, it could be assumed that the objective underlying such a redistricting stratagem consisted in the maximisation of the political consensus in the region of Tuscany in view of a forthcoming, general meltdown of the party – as indeed later happened. Under that approach, the idea was to limit the loss of political consensus in other regional colleges except for the Florentine one, traditionally linked to the PD's secretary, who was also mayor of the municipality of Florence.

Nevertheless, it should be bore in mind that, whenever in Italy it has been resorted – even remotely – to the gerrymandering shortcut, the electoral situation was so stable that voting patterns of the regional electorate were quite clear to politicians who gave that shortcut a try. In Italy, the gerrymandering would have been particularly successful in the 1950s or in the 1960s, when electoral dynamism was reduced to a minimum and elections basically ended all up with the same results, confirming the preexisting *status quo*. Slight changes were introduced with the establishment of a ruling quadripartite coalition opposed to the Italian Communist Party, which is anyhow no longer the case.

Especially since 2013, the growing popularity of a cross-party such as the Five Star Movement (*Movimento 5 Stelle*, M5S) together with the increasing mutability of electoral preferences has gradually led to a situation of a great electoral unknown, precisely in terms of rate of abstentionism and general electoral uncertainty. To predict electoral outcomes on beforehand, above all at the local level, has become almost impossible, as survey institutes well know, not because of their incompetence, but simply because of a matter of electoral indecision.

After all, arranging constituencies for maximization purposes of the electoral consensus could produce a real boomerang effect. However, it should be noted that the assimilation of small and midsize towns, such as Villafranca Piemonte in Turin district or Trani in Apulia, to a given constituency rather than another, could actually increase or decrease the number of parliamentary seats occupied by members of the 5MS.

The redistricting procedure of single-member constituencies carried out after the so-called *Rosatellum* was launched in 2017 and produced significant changes due to new legal requirements concerning the maximum and the minimum number of inhabitants per college, except for the Liguria region. At the general elections in 2018, the same electoral boundaries as provided by electoral laws n° 276 and 277 of 1993, so-called *Mattarellum* for Chamber of Deputies and Senate, were adopted.

Nevertheless, the problem of potential gerrymandering arises with respect to the split of the territory belonging to the municipality of Genoa in three different single-member colleges for the Chamber of Deputies with no concern for the integrity of both municipal and metropolitan area. Indeed, it should be reminded that the city of Genoa is the biggest municipality in Liguria, the sixth most populous municipality in the whole of Italy as well as the third in Northern Italy. It is the fifth biggest city in the country in terms of economic activity, forming part of the industrial triangle Milan-Turin-Genoa. The population of the metropolitan area of Genoa (which replaced since January 1, 2015, the no more existing Province of Genoa) amounts to about 840,000 inhabitants. Moreover, the city, which lies at the centre of the homonymous gulf, covers an “upside-down pi-shaped” territorial area of 243 km². Genoa stretches along an approximately 35 km long coastline, from the Voltri neighbourhood to the Nervi one.

The municipal territory covers up to 19 neighbouring municipalities, annexed in 1926 to the so-called Big Genoa, which used to be autonomous until that moment (these 19 municipalities coupled with the six municipalities of the Bisagno Valley, already annexed in 1874; see Royal decree law N°. 74/1926 and Royal decree N°. 1638/1874). Such a territorial extent makes it surely difficult to shape the boundaries of constituencies uniformly, which is particularly evident in the case of a specific constituency.

Constituency n° 3, Genoa-Serra Riccò, owes its compactness to the municipal constituencies of Ponente, Medio Ponente, Polcevera Valley it incorporates, together with around half of the west-central territory of the city. These are thereby linked to the five municipalities of the Upper Polcevera and Stura Valleys (Campomorone, Ceranesi, Mignanego, Sant’Olcese, and Serra Riccò). Similarly, constituency n° 5, Genoa-Rapallo, gathers what remains of the following municipalities: Municipio

Centro Est, Levante, Municipio Medio Levante (except for the urban centre of Chiappeto, annexed to constituency n° 4). These are thereby linked to the eastern metropolitan area (except for four eastern municipalities, annexed to the constituency of the district of La Spezia: Casarza Ligure, Castiglione Chiavarese, Moneglia, and Sestri Levante). On the contrary, constituency n° 4, Genoa-Bargagli (indicated in blue in the map below representing the constituencies of the Liguria region), links the Genoese municipalities of both Lower and Middle Bisagno Valley with almost the entire middle-east area of the city (except for Municipio Portoria-Carignano), as well as the rest of the middle-west area (Municipio Medio Levante). Moreover, the territory of college n° 4 covers Municipio Levante, linked with the contiguous municipalities of Bargagli and Davagna. As a result, the territory of this specific college has a particularly irregular shape which reminds of a sawfish.

FIGURE 1

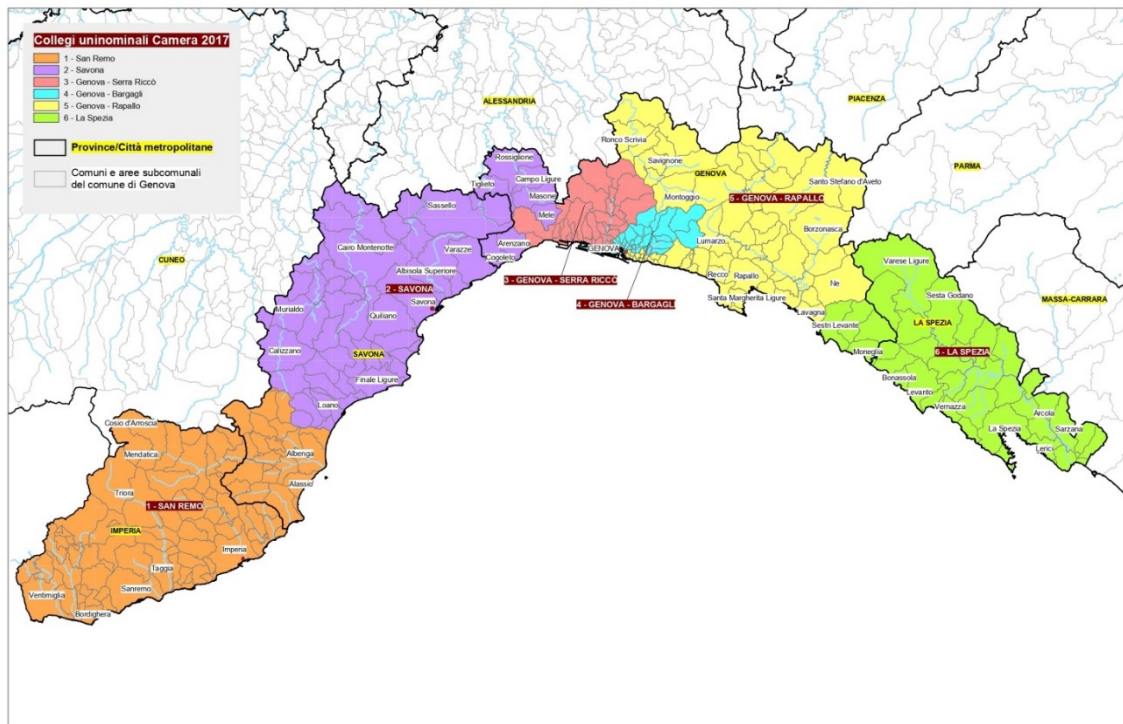


Figure 1. Chamber of Deputies: single-member constituencies of the Liguria Region (n° 1 - San Remo; n° 2 - Savona; n° 3- Genoa-Serra Riccò; n° 4 - Genoa-Bargagli; n° 5 - Genoa-Rapallo; n° 6 - La Spezia).

(Source:

http://documenti.camera.it/Leg17/Dossier/Pdf/ac0760b_liguria.pdf,
page 4 ; accessed 5 June 2019)

All Ligurian single-member colleges for the Chamber of Deputies are formally homogeneous, although geographical borders divide Ligurian districts from the metropolitan city of Genoa are not effectively respected. In some cases, the same applies to dividing lines among the various municipalities within the so-called Big Genoa. Moreover, in the event of an electoral propaganda initiative, it would be possible to tamper with the boundaries of college 4 by climbing over the hills separating the municipality of Genoa from the contiguous ones of Bargagli and Davagna.

Last but not least, it is clear that there is an evident problem of electoral inhomogeneity, since voters of the municipality of Carignano, belonging to constituency n° 5, are mixed together with voters disseminated all around the district, from the municipality of Isola del Cantone to the border with the district of Alessandria, from Santo Stefano d'Aveto to the border with the districts of Parma and Piacenza, as well as to the municipality of Lavagna, on the Genoese far eastern coast. Similarly, voters of both municipalities of Borgoratti and Apparizione do not belong

to the same constituency as their neighbours of the municipality of Sturla but are rather mixed together with voters of the eastern outermost area of the municipality of Prato. It results that electoral preferences of voters living in the municipalities of Bargagli and Davagna, as well as those living in the five municipalities of the Upper Polcevera and Stura Valleys, will be inevitably diluted among electoral preferences of the remaining urban colleges. While geographical borders of some Italian municipalities have actually been drawn arbitrarily, it should be highlighted that most of them meet both cultural and historical criteria, delimiting commuting flows, or at least meet specific criteria in terms of administrative cohesion. After all, the creation of the so-called Big Genoa in 1926 was motivated not only by economic-administrative reasons in view of both industrial and port development, but also by the desire of the Fascist regime to control the population living in industrial centres such as Ponente and the Polcevera Valley, traditionally characterized by a high rate of adherence to socialist ideas.

FIGURE 2

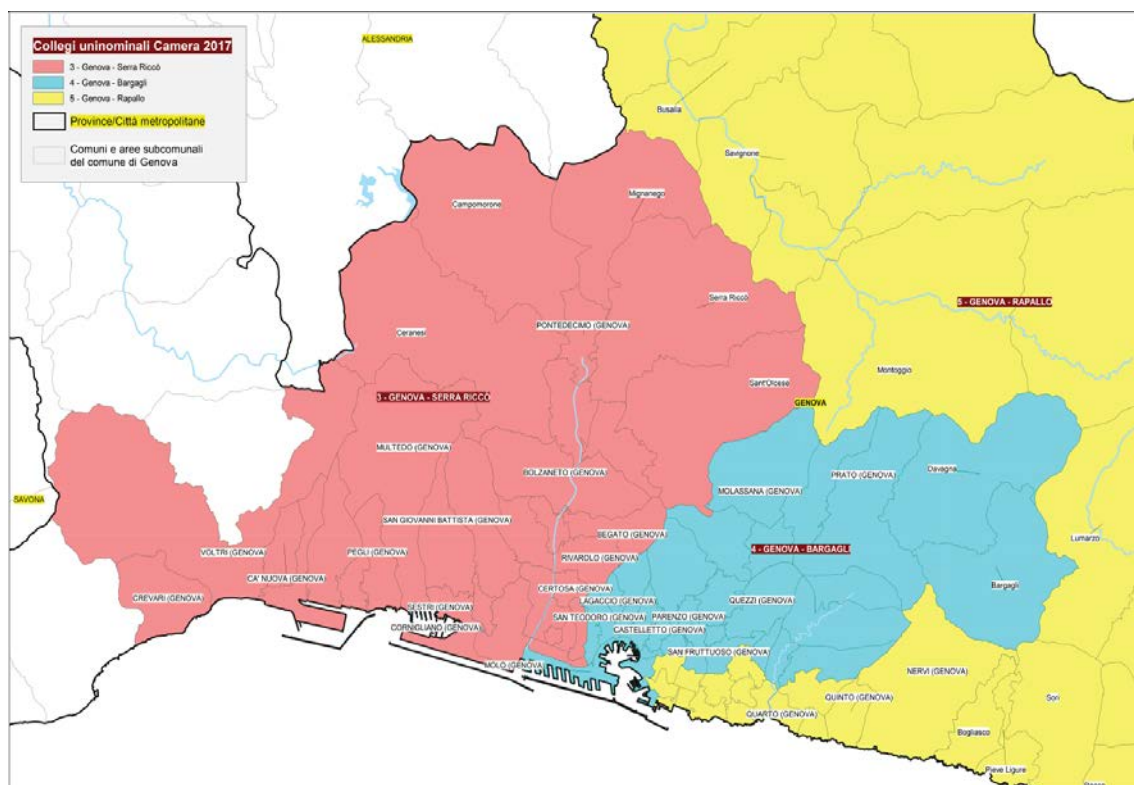


Figure 2. Chamber of Deputies: single-member constituencies of the Genoa's district (n° 3 - Genoa-Serra Riccò; n° 4 - Genoa-Bargagli; n° 5 - Genoa-Rapallo).

(Source:

http://documenti.camera.it/Leg17/Dossier/Pdf/ac0760b_liguria.pdf
page 5; accessed 5 June 2019).

Furthermore, the case of the Genoese constituencies appears to be peculiar not only due to the shape of their boundaries, specifically with regard to college n° 4 but also due to the way the city was divided into different sections. College n° 4, Genoa-Bargagli, gathers both traditionally left-wing neighbours of the eastern part of the city (Middle Bisagno and Sturla Valleys) and moderate ones (Centro Storico, Castelletto, and Middle Bisagno Valley). College n° 5, Genoa-Rapallo, in turn, links the Upper Polcevera Valley until the so-called coast of the East Tigullio of Lavagna (traditionally more left-oriented) with the Genoese metropolitan area, with exception of the municipalities of Arenzano and Cogoleto, which were annexed to the constituency of Savona. Genoese strongly conservative neighbours of the east coast, from Bogliasco to Lavagna, were as well added to the college.

The boundaries of the three above-mentioned constituencies for the Chamber of Deputies were all arranged in 1993 by an independent commission under the aegis of the Italian National Institute of Statistics (ISTAT). However, the result turned out to be likewise deleterious for constituencies for the Senate, since gerrymandering traces can be found in the attempt to limit competitive colleges. Indeed, the pairwise aggregation of the six single-member colleges for the Chamber of Deputies produced the concentration of all left-wing neighbourhoods in four constituencies (Savona, Genoa-Serra Riccò, Genoa-Bargagli, and La Spezia), whereas right-wing neighbours were concentrated in two constituencies (Sanremo and Genoa-Rapallo). Consequently, only the colleges Sanremo-Savona and Genoa-Rapallo-La Spezia were properly balanced, whereas the remaining Genoa-Serra and Riccò-Bargagli were totally left-wing oriented. Three elections were held with such an electoral arrangement under the so-called *Mattarellum* (1993), then under the so-called *Porcellum*, i.e. law n° 270/2005; during this period, no transition of electoral seats ever occurred, although the centre-left obtained in 1994 a regional advantage of 4 percentage points, in 1996 +6pp, in 2001 only +2pp. At the elections in 2018, an unusual tripartisanism together with the expected collapse of the centre-left coalition led to an unexpected result against all odds. As a matter of fact, candidates of the Five Star Movement (M5S) won in both college n° 4, Genova-Bargagli, for the Chamber of Deputies and college n° 2 for the Senate (gathering colleges n° 3 and 4 for the Chamber of Deputies). Except for college n° 3 for the Chamber of Deputies, dominated by the Five Star Movement as well, candidates of the centre-right won in all other four remaining single-member colleges for the Chamber of Deputies but also in the two remaining colleges for the Senate.

FIGURE 3

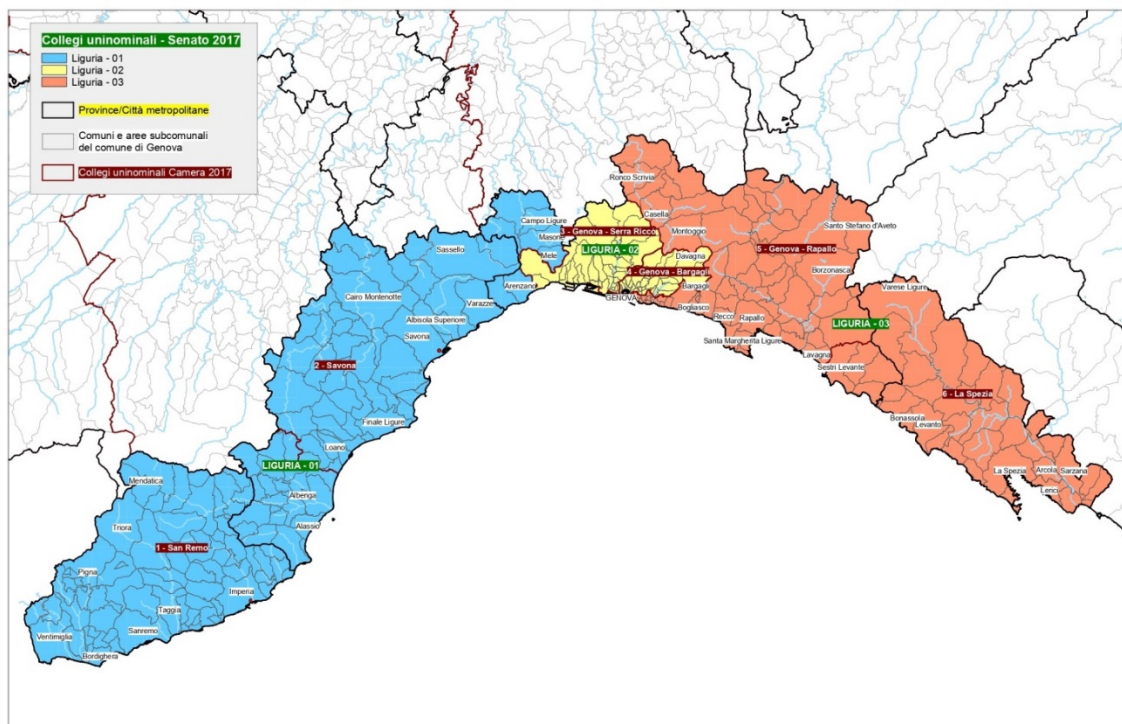


Figure 3. Senate: single-member constituencies of the Liguria region (Liguria - 01: San Remo and Savona; Liguria - 02: Genoa, Serra Riccò, and Bargagli; Liguria - 03: Genoa-Rapallo and La Spezia).

(Source:

http://documenti.camera.it/Leg17/Dossier/Pdf/ac0760b_liguria.pdf page 11, accessed 5 June 2019).

Art. 7, para. 1 of law n° 276/1993, so-called *Mattarellum* for the Senate, provides that "every constituency shall be arranged in accordance with due criteria of territorial cohesion, as well as with regard to socio-economic, historical and cultural distinctive

features of every area" and that "the boundaries of constituencies shall be arranged so that cohesion of the municipal territory is granted, except for municipalities including various colleges due to their demographic size". In case of big municipalities, the above-mentioned law provides also that "as far as possible, constituencies shall be arranged within borders of the municipalities themselves or, alternatively, within borders of the metropolitan area", always with due regard to territorial cohesion.

That being said, it should be highlighted that the last-mentioned clause was not included in the so-called *Rosatellum*, since metropolitan cities were formally introduced from 1 January 2015 in all Italian ordinary regions in place of the respective districts.

Nowadays, a coherent arrangement of constituencies would be not only more functional in terms of political representation, but also more convenient in practical terms. Indeed, the already mentioned Art. 3, para. 3 of law n° 165/2017 provides that demographic variations cannot exceed the flexible limit of 20%, according to criteria already adopted for the *Mattarellum*. It follows that: "the number of members forming part of each single and plural member college may deviate from the average out of the total number of inhabitants of each constituency by no more than 20%". It should be also pointed out that, except for the regions of Piedmont, Lombardy, Lazio, Campania, and Sicily (each divided into two constituencies), all other Italian regions form part of one constituency, further divided into different constituencies. The number of electoral seats for each college depends on the population of each area on the basis of the last census conducted.

In the case of the Metropolitan City of Genoa, there have been only minor demographic changes since 1993 – the deviation from the average number of inhabitants per college amounted to 10%. That being said, a better solution would have been probably to arrange the boundaries of constituencies more functionally, i.e. to limit constituencies n° 3 and 4 to the sole area of the municipality of Genoa, creating also a cohesive, peripheral sub-college in the eastern part of the city. Another solution could have been to keep the boundaries of constituencies n° 4 and 5 as they were, that is within the municipal area of Genoa, bringing only the eastern section closer to the constituency of the district of Savona (from a historical viewpoint, the western neighbourhood of Voltri has always been closely linked to the area around Savona).

The fragmented, inhomogeneous arrangement of Ligurian constituencies, particularly those situated within the Metropolitan City of Genoa, are a lost opportunity for a new electoral law that would have included a positive, albeit limited, element: single-member colleges. It seems reasonable to assume that an electoral system based on single-member constituencies would have granted a more virtuous relationship between voters and elected representatives, yet it is up to ruling parties to take advantage of such an electoral arrangement. Unfortunately, the superficial approach that clearly emerges from the analysis of the arrangement of Genoese constituencies as outlined above represents both clear evidence of a political system such as the Italian one which is completely uninterested in the establishment of closer relations with the citizens.

3. Conclusive remarks on the Italian and American cases

At this juncture, it is necessary to set out some final considerations on both redistricting plans of the constituencies and initiatives taken against the gerrymandering.

The US and Italy differ deeply from legal (common law vs. civil law) and political systems (bipartisanship vs. multipartisanship) thus the hypothesis of gerrymandering cannot be directly transposed from one country to another without proper contextualization. The Genoa's district constituencies redistricting appear suspect but

there are no proofs that there was real partisan gerrymandering from the political establishment as typically in some US states. It is true that the Italian left government supervised the redistricting for the general election of 2018, but the rules of electoral law and the statistical data as limits for draw the constituencies may have even generated strange colleges. Moreover, if in the US the gerrymandering mechanism is perceived by public opinion as a serious danger for democratic elections, in Italy there is not a gerrymandering consciousness.

However, in this regard, if we want to compare US and Italy, I have already mentioned the hypothesis of an "upside-down gerrymandering" (Ratto Trabucco 2007) as a direct result of a decision made by the Italian electorate, based on the so-called procedure of territorial regional variation pursuant to Art. 132, para. 2, Const., which provides for the possibility to conduct local consultative referenda. Considering that the boundaries of constituencies cannot cross in any event regional borders, the territorial detachment of one or more municipalities from a given region in favour of its/their attachment to another, provided by state laws, inevitably leads to a change in the arrangement of constituencies. This not only concerns the level of local organization when it comes to provincial and regional elections, but also and especially the greater level of national electoral organization when it comes to the elections of both Chamber of Deputies and Senate. A sort of "bottom-up gerrymandering" arises in that way; it finds its roots in local initiatives rather than in top-down ones, i.e. stemming, by definition, from the ruling government with distortive intentions. Local referendum initiatives allow citizens to give expression to their right to territorial self-identification, implicitly conveying a redistricting request of regional borders, thus constituencies as well. Consequences of such a redistricting process could turn out to favour, but not necessarily, one party or another. In Italy, there have been only two cases of territorial detachment-reattachment of local entities up to now, both regulated by state laws (Law n° 117/2009 and Law n° 182/2017). That being said, the gerrymandering hypothesis in Italy seems interesting as well as suggestive, especially if an account is taken of the various obstacles raised at State level to prevent local initiatives from finding their implementation. In concrete terms, there have been different cases of delays or obstruction during verifying procedures of laws drafted after territorial local referenda (Ratto Trabucco 2009). It is therefore clear that party oligarchies in Italy prevent by all means any kind of redistricting procedure of regional borders, which would inevitably produce changes in the arrangement of constituencies as well as, in turn, changes, mainly negative, in the electoral consensus. In a few words, the Italian partitocracy rarely supports or, still less, encourages changes in the arrangement of regional borders (Ratto Trabucco 2007, 849-850), even in the case of small municipalities. A parallel could be drawn with the American situation, specifically with the difficulties in updating periodically the boundaries of constituencies in relation to recurring population displacements. The unwillingness of local assemblies elected according to old district schemes, can be explained by the fact that, in the event of the implementation of new redistricting plans, they would suffer greater losses (Spini 1962).

Therefore, there is no ideal universal redistricting system in US, Italy, and everywhere. Redistricting is about optimal representation and the best processes for achieving that ideal situation. People disagree about the end goal as well as about the method to attain it. Even when they share common values, people may disagree about the values they prioritize, about their hierarchy as well as to which extent they should be pursued – which means that different people think that different solutions are the best. Moreover, redistricting heavily depends on the context: the right choice in a given context could prove to be wrong in another one. Even elements such as the cast of characters involved and the scope of implementation of the redistricting plan could make the difference. That being said, there are redistricting ideas that are worth considering – ideas that may turn out to be effective if implemented in the

right way and in the right circumstances. None of these ideas are “magic bullets”, yet they are worthy of consideration (Levitt 2011).

There is too often a reason to believe that personal, partisan interests are widespread when it comes at redistricting plans, at the expense of public interest. However, there are promising developments also in the United States. In many states, attempts to engage informed members of the public in the redistricting process have been taken into account. Some are spurred by nonprofit civil society groups, educating their own constituents about the importance of redistricting plans and about opportunities to influence the drawing of the lines. Some of them are spurred by competitions, encouraging members of the public to submit their own plans as a counterweight to official proposals. Other is instead driven by official redistricting bodies through hearings or software allowing citizens to submit comments or suggestions.

If transparency is built into the redistricting process, it increases the chance that redistricting procedures will both serve the public interest and avoid unwanted consequences. There are multiple means to encourage public participation: by providing opportunities for official testimony or encouraging the submission of personal opinions per e-mail, allowing the submission of full statewide proposals or just the rough geographic assessment of a local community. Similarly, such a public involvement could be solicited before redistricting plans are drawn or after draft proposals have been prepared, or both options.

Transparency requires more than a flow of information to the official body; it also requires information from those responsible for drawing the lines. The same data available to the official redistricting body could also be made available to the public, with or without technological support to facilitate the whole process. In the United States, especially in California and Iowa, it is possible to ask redistricting entities for public reports explaining the *ratio* behind the guidelines they proposed (Cain and MacDonald 2006, Altman *et al.* 2010, Green 2018).

State redistricting rules like the requirement for districts to be cohesive or to abide by political boundaries like county or city boundaries serve to ensure that people who live side by side, and for this reason are likely to share similar interests, are represented by the same person. However, it happens that measures of redistricting cohesion push districts toward the delineation of pristine geometric figures, although some neighborhoods cannot fit neatly within circles or squares. It follows that communities of like-minded families may spill over the boundaries of box-shaped counties or pockmarked cities expanded as a consequence of annexation battles (Stephanopoulos 2012).

Despite the emphasis put by the prevalent state law on the fact that one does not lose residence due to temporary absence, census data shows that there are imprisoned people whose address of permanent residence matches the one of the places of detention instead of where they used to live before they were incarcerated. When redistricting is based on this data, districts are built on the back of “ghost voters” such as detained who have no connection at all to other residents of the district nor to its welfare (so-called prison-based gerrymandering). This distortion artificially inflates the representation of citizens in prison districts, skewing political incentives – not to mention the artificial deflation of further representation. For example, 1,300 of the 1,400 people allotted in the last decade to Ward 2 of the Anamosa (Iowa) city council were detained. This left political representation completely lopsided: the few belonging to Ward 2 had much more leverage than any other of their neighbors in town. Indeed, it is barely possible to envisage traces of democratic procedures in such distorted districts. In 2006, just two write-in votes were enough to elect the city council member of Ward 2 (Wagner 2008).

Taking a census including detained, registered with their last known address before incarceration – where they virtually return after release from prison – accounts for the proper representation of the whole community without undue distortion.

Delaware, Maryland, and New York passed legislation to adjust redistricting plans for detained, though Delaware faced implementation snags. Many other local governments have done the same for several years now. On October 7, 2011, California enacted a legislation to adjust its redistricting boundaries starting in 2020.

In 2006, the Supreme Court decided that the Federal Constitution lays no state limits as to the drawing and redrawing of district lines, despite the potential disruption of electoral representation as well as the incentive to tweak electoral boundaries for personal interests. Twenty-one states clearly limit re-redistricting possibilities of state districts as a matter of state law; only six states clearly limit the re-redistricting of congressional districts. Redrawing the boundaries only once per decade helps maintain stability so that representatives are accountable for the citizens they represent (Cox 2006, Levitt and McDonald 2007).

In addition, it could be useful to defer the implementation of new districts; at most, population projections could be used to draw districts that would come into force after a few years. In that way, it would be more difficult for candidates to custom-design districts on the basis on their own interests in view of future elections.

Elections are based on the premise that voters choose people who will represent them. However, since redistricting plans sort voters into one district and out of another, incumbent legislators with control of the process are naturally encouraged to draw electoral boundaries on the basis of their personal preferences as regards the composition of the electorate. In order to avoid such a conflict of interest, six US states have opted to give redistricting authority to individuals who had no personal ties with incumbent officials.

Each of these independent commissions is designed differently and the case of the above-mentioned states represents just one of the possible options that could be undertaken to face the matter. Making a redistricting body independent only addresses the conflict of interest to the advantage or the disadvantage of given candidates. In order to mitigate the partisan bias, a different type of restriction should rather be introduced. Districts that are more compact, competitive or whose boundaries coincide with concrete communities, but whose independence alone does not allow them to accomplish redistricting requirements, should be as well encouraged.

Independence can improve the responsiveness of the redistricting process, but only if carefully managed. Independent bodies need legitimacy, which also means that their structure should reflect the diversity of their jurisdiction. Diversity ensures that different interests are considered while outlining electoral boundaries (Levitt 2011).

A recurring tension in the redistricting process hints at the desire to hold representatives accountable for cohesive popular majorities without losing minority preferences entirely. When districts elect only one representative, it is difficult (and often impossible) to draw districts keeping together voters that share common values but who are also in competition with each other and represent concerns of the minorities.

Speaking of the American tradition, both state and local legislatures have accommodated these concerns by drawing bigger districts that elected numerous representatives. By way of example, three representatives were regularly chosen for over 100 years in the state of Illinois by each state district. Such a voting system allowed both majorities and minorities to elect representatives of their choice. In that way (similarly as in the case of cumulative or choice voting), the voting system itself plays a key role to ensure that also minorities enjoy representation within the legislature. The federal law currently limits congressional districts to one member per district, yet without altering the fact that each state is subject to its own laws when it comes to deciding whether to use such multi-member "super districts" or not.

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