



## **Center for Law and Social Justice**

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**Testimony of The Center for Law and Social Justice  
before  
The New York State Legislative Task Force on  
Demographic Research and Reapportionment**

By:  
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Greetings. My name is Joan Gibbs and I am the General Counsel for the Center for Law and Social Justice. The Center for Law and Social Justice (CLSJ) is a unit in the School of Professional and Community Development at Medgar Evers College of the City University of New York. Founded in 1985 by means of a New York State legislative grant, the mission of CLSJ is to provide quality legal advocacy, training, and expert services in a personal manner to people of African descent and the disenfranchised. CLSJ seeks to accomplish its mission by conducting research, and initiating advocacy projects and litigation on behalf of community organizations and groups that promote human, national, and international understanding. Because of its unique combination of research, public policy advocacy and litigation from a community-based perspective, CLSJ is a focal point for progressive activity.

From its initial days, CLSJ has worked to defend the voting rights of Black New Yorkers and other racial “minority” New Yorkers. As advocates, we led or co-lead the following historic voting rights advocacy initiatives or litigation in New York City.

- **New Majority for Charter Change 1987-1989** – CLSJ led this successful coalition of activists and organizations of color that successfully advocated for major voting rights provisions and other equitable initiatives to be included in the new NYC Charter.
- **Ashe v. Board of Elections (1988)** – successful VRA challenge to force the NYC Board of Elections to conduct functional and voter-friendly elections in Black and Latino communities.
- **New York City Districting Commission (1990-91)** Esmeralda Simmons served as the Vice Chair of this initial appointed public body.
- **Majority Coalition for Fair Redistricting (1991-92)** Voting rights activists of color coalition to ensure fair redistricting for people of color in NYC.
- **Chin v. Bd. of Elections (1992)** -- Argued an appeal that sought to expand Asian language voting rights.
- **New York Voting Rights Consortium**- Founding institution of this coalition of leading local and national voting rights organizations advocating for the protection of voters of color in the New York metropolitan area.

- **NYC BLACK** (1998-2000) New York Pan-African community education and advocacy campaign on the 2000 Census.
- **Rodriguez v. Pataki (2001-02)** VRA challenge to NYS Congressional and Senate redistricting that forced the state government to redistrict, as required by law. CLSJ also unsuccessfully sought to create another “minority” congressional seat in the Bronx and to create a fair NYS Senate plan.
- **NYC Council Redistricting (2001)** Successfully advocated for the creation of a redistricting plan that protected Black voters in NYC.
- **Hayden v. Pataki (2004- Present)** VRA and constitutional challenge to NYS’ voter disenfranchisement laws against people with felony convictions.

At the top of our list of concerns with respect to the upcoming state redistricting cycle are that the new districts comply with the “the one person, one vote” rule” and with the Voting Rights Act. With respect to the “person, one vote” rule, although the Supreme Court has adopted a stricter standard for congressional districts than for state districts, we believe that the “one person, one vote” rule requires that state legislatures seek to achieve “population equality” among state legislative districts.<sup>1</sup> With the improvements in computer technology as well as the census, we believe that “population equality” among state legislative districts is more possible today than it was ten years. In particular, that it is possible to new draw senate districts with an overall range of three to five percent rather than ten percent. We would not like to see the problems we faced ten years of small senate district upstate and

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<sup>1</sup> The standard for congressional plans is based on Article 1, Section 2 of the United States Constitution which provides in pertinent part that “Representatives ... shall be apportioned among the several States ... according to their representatives numbers.” In Wesberry v. Sanders, 376 U. 1 (1964), the Supreme Court interpreted this to mean “as nearly equal in population as practicable”. See e.g. Karcher v. Doggett, 462 U.S. 725 striking down a congressional plan drawn by the New Jersey legislature that had an overall range of less than one percent); Abrams v. Johnson, 521 U.S. 74 (1997) (up-holding a court drawn congressional plan with an overall range of 0.335.) The Reynolds v. Sims (1964), the Court stated that “mathematical nicety is not a constitutional requisite” drawing legislative plans rather all that is necessary is that they achieve “substantial equality of population among the various districts” Id at 579. “Substantial equality of population” has come to mean that a legislative plan will not be thrown if its overall range is less than ten percent unless there is proof of intentional discrimination. See e.g. Chapman v. Meier, 420 U.S. 1 (1975), Voynovich v. Quilter, 507 U.S. 146 (1993).

larger senate districts downstate. The requirements of the Voting Rights Act also must be respected and adhered to. Section 5 prohibits covered jurisdictions from adopting voting changes – including redistricting plans – with a discriminatory purpose. Three counties in New York are covered by Section 5: Bronx County, Kings County and New York County. Section 2 of the Voting Rights Act requires that district plans, in both covered and not covered jurisdictions under Section 5 not unfairly dilute minority voting strength. In others words, districts should not be drawn that that reduce the number of majority-minority districts or that reduce the minority population percentage to a level which it makes it more difficult, if impossible for minority voters to continue to elect candidates of their choice. To these ends, because of the history of racially polarized voting in New York, including New York City, we urge that in drawing minority majority that the minority voting population be at least 55% to ensure that minority voters will be able to elect the candidates of their choice.

Further, we are concerned that the new state districts plans preserve existing, as well as emerging, “communities of interests” by not dividing populations and communities that have common “needs and interests.”<sup>2</sup> To this end, in drawing the state district lines, we urge that you not only consider census data but also other sources such as demographic studies, surveys or political information to assess what the social and economic characteristics communities share are. The social and economic characteristic that should be considered include but are not limited to: income levels, educational backgrounds, housing patterns and conditions, cultural and language characteristics, employments and economic patters, health and environmental conditions. Lastly, we urge that you hold as many public hearings as possible to hearing as possible to hear the voices and concerns of community leaders, residents and activists.

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<sup>2</sup> See e.g. League of United Latin American Citizens v. Perry, 458 U. 399 (2006).

Finally, with respect for proposals to reform the state redistricting process our main concern is that the redistricting process be transparent and open; that the voices and concerns of community leaders, activists and residents are welcomed, heard and listened to. To these ends, we urge that you make your data and maps publicly available and that you hold as many public hearings as possible. As for the proposals to establish an “independent redistricting commission, while we not opposed to “IRCs” in principal; we are concerned that any such commission fully respect the rights of “minority voters” and reflects the diversity of New York State. Several of the current proposals, for example, are modeled on Iowa’s Independent Commission. Iowa is not New York. Unlike New York, Iowa has homogenous population and none of its counties are covered by the Voting Rights Act. As for the consideration to be given to incumbency, our primary concern is that “minority voters” be able to elect the candidates of their choice, the incumbent or not. Thank you for these hearings and for the opportunity to present our concerns.