Voting rights advocates and litigators in Ohio, Michigan, Wisconsin, and other key states are fighting against gerrymandering—and reaping dividends just in time for 2021.

William Marx, points to projected images of the old congressional districts of Pennsylvania on top, and the new re-drawn districts on the bottom, while standing in the classroom where he teaches civics in Pittsburgh. The Democratic-majority state Supreme Court redrew the congressional map for the 2018 elections after striking down the previous Republican-drawn version as an unconstitutional partisan gerrymander.

The Supreme Court’s recent decision in the two gerrymandering cases was terrible and all too predictable. Taking a page out of the Federalist Society playbook, Rucho v. Common Cause lined up neatly with the Roberts Court decisions in Citizens United v. FEC and Shelby v. Holder. The raft of commentary since Rucho was announced, has been mostly dire.
predictions about the consequences of the court’s decision. Some analysts have focused on
the court’s giving carte blanche to extreme partisan map-drawing—which it did—and
envision all-out partisan warfare as legislators and political operatives seek maximum
advantage in redrawing districts with no regard to democratic norms or principles.

But not so fast: In a number of key states, policies to promote fair and just redistricting are
already locked in. Over the last eight years, voting rights advocates and litigators,
grassroots organizers, and even more importantly, remarkable engaged citizens, who all
knew better than to rely on this Supreme Court, have worked tirelessly at the state level to
fight gerrymandering.

That hard work means that despite the court’s June decision, the 2021 redistricting process
in these critical battleground states will not be a repeat of 2011. Already it is clear that the
process will be far more fair and far less partisan than the nightmare scenarios painted by
commentators.

In Ohio, widespread citizen pressure and a successful 2015 ballot initiative led to
negotiations between legislative leaders and citizen activists. The result was a consensus
plan which was then codified by a successful ballot initiative in 2018. Among other
safeguards, the legislature will need a supermajority of 60 percent to pass a plan, and if
they can’t get one, a bipartisan commission of statewide officials will draw the lines for
both congressional and state legislative seats.

An upstart ballot initiative supported by the Michigan grassroots group Voters Not
Politicians, surprised Democrats and Republicans alike and passed by a wide margin in
November of 2018. It creates a 13-member citizen commission, consisting of four
Democrats, four Republicans, and five independents to draw the lines, sets a complicated
but fair process for their selection, and sets out requirements for substantial public input in
the process.

In Wisconsin, although no legislative changes requiring a commission or significantly
altering the process were passed, the election of a Democratic governor to a four-year term
in 2018, who has the power to veto the plans drawn by the legislature, will check the
partisan impulses of the Republican-controlled legislature in a major way.

Meanwhile, the Pennsylvania Supreme Court ruled that the maps drawn by the state
legislature violated the state constitution. When the legislature refused to correct its work,
the court ended up drawing the map, generating far less convoluted and manipulated
districts, which helped create a congressional delegation that is now evenly split, nine to
nine, between Democrats and Republicans. Going forward, the partisan mix of a Republican
legislature, a Democratic governor, and a Democratic majority on the state supreme should
ensure a balanced process in 2021.

Several other states will very likely change their processes as well. Virginia is well on its
way to passing a constitutional amendment creating a sixteen-member commission,
consisting of eight citizens and eight legislators to draw congressional and state legislative
districts. The legislature passed the measure this spring, and Governor Ralph Northam, a
Democrat, signed it. The amendment will need to be passed again in the 2020 legislative
session and then ratified by the voters, but the chances seem good for its success.
Meanwhile, Arkansas Attorney General Leslie Rutledge, a Republican, has certified a ballot initiative that would create a seven-member independent commission for the 2020 ballot and signature collection is well under way.

Even in North Carolina, efforts are underway—as Bob Dylan said, “Don’t speak too soon ’cause the wheel’s still in spin.” After the loss in the Rucho case, advocates and litigators are planning to file cases, similar to Pennsylvania’s, arguing that the blatant partisan gerrymandering violates the state constitution—and a newly-elected North Carolina Supreme Court justice, civil rights icon Anita Earls, will be a major player. A number of bipartisan legislative initiatives to change the process are also under discussion, as lawmakers of both parties are getting increasingly reluctant to bet the farm that they will be the party in power to draw the lines after the 2020 elections.

Moreover, Professor Sam Wang of the Princeton Gerrymandering Project says that every state has constitutional provisions prohibiting partisan manipulation of legislative districts and those prohibitions that can be invoked by litigators.

The Rucho decision illustrates that on partisan gerrymandering questions, the Supreme Court of the United States is recklessly blind to facts and profoundly unwilling to protect American democracy. But significant changes are being won by organizations that have been in the democracy trenches for a long time, and by citizens who are becoming even more aware of their responsibility and ability to protect and improve American democratic practices. These coordinated responses to the poisonous excesses of the 2011 redistricting cycle mean that the 2021 process will be a much smoother and less contentious one—a real gain for voters in these states.