

Gaslit Nation Transcript
Fight back with The States Project - Part II
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<https://www.patreon.com/posts/fight-back-with-63967638>

[intro theme music]

Sarah Kendzior:

I'm Sarah Kendzior, the author of the bestsellers, *The View From Flyover Country* and *Hiding in Plain Sight*, and of the upcoming book, *They Knew: How a Culture of Conspiracy Keeps America Complacent*, available for pre-order now.

Andrea Chalupa:

I am Andrea Chalupa, a journalist and filmmaker and the writer and producer of the journalistic thriller, *Mr. Jones*, about Stalin's genocide famine in Ukraine, a film the Kremlin doesn't want you to see so be sure to see it.

Sarah Kendzior:

And this is *Gaslit Nation*, a podcast covering corruption in the United States and rising autocracy around the world.

Andrea Chalupa (00:00:48):

Welcome to our special spring series, *Gaslit Nation Presents... Rising up from the Ashes: Cassandras and Other Experts on Rebuilding Democracy* [Tap Dancing SFX]. Our bonus episodes available to Patreon subscribers at the Truth-teller level and higher feature our esteemed guests taking the *Gaslit Nation Self Care Q&A*, so for fun ideas, sign up to hear that.

Sarah Kendzior:

Joining at this level also gives you access to hundreds of bonus episodes on topics in the news today. We'll be back with our regular episodes in July. If you're signed up any time between now and then at the Democracy Defender level or higher on Patreon—

Andrea Chalupa:

You'll get special access to watch a live taping of *Gaslit Nation* over the summer. More details to come.

This interview was recorded January 7th, 2022.

Andrea Chalupa (01:41):

Let's go back to the dark forces that were up against. We're seeing rioters from the violent coup attempt running for office. Trump's Big Lie has also ignited a push to win races in the states. What has Trump been doing on the state level that we should be alarmed about?

Aaron Kleinman (02:01):

I would say the biggest concern is really, again, you know, you go back to that text from Rick Perry on election night, 2020, where he says, "Have state legislatures throw their electoral votes to you," because there is a belief on the right wing, like we said earlier, elections are administered by the states. State legislatures pass the laws, executive agencies and local governments implement them, and state courts kind of judge whether those implementations follow the law. In 2020, in Pennsylvania, you have a right-wing state legislature but a very reasonable supreme court and the Supreme Court said, "Well, they passed this law allowing for absentee ballots and absentee ballots will be valid even if they're received three days after election day." The right-wing legislature sued them up to the Supreme Court and said, "Hey, we didn't want this to happen."

Aaron Kleinman (02:58):

Even though the law said that that wasn't feasible and there were four Supreme Court justices who signaled they may agree with this theory that only state legislatures can basically administer election law in the states. It's a totally unworkable thing because there's so many decisions that are administrative that have to be made by election administrators. States have their own rules and constitutions that state judiciaries have to enforce, so the idea that only state legislatures can actually set the rules by which elections are run is nonsense. But it's advantageous to the right wing because they can try to gerrymander state legislative majorities to say that they are. And again, four Supreme Court justices signaled they may agree with that. And so a lot of Trump's focus on the states is... He's actually made a bunch of endorsements of Republicans who are basically willing to, for state legislatures to say, "Oh, regardless of the outcome, we're gonna throw our electoral votes to Trump."

Aaron Kleinman (04:00):

And that is really concerning. And if those members are part of a majority that is ultimately kind of siding with Trump, then that becomes really, really concerning. It didn't come to that in 2020 but a lot of the lawmakers who might have predated Trump on the Republican side are retiring and they're being replaced by people who really are true believers. And so that is really kind of the most concerning thing happening at the state level right now and what we need to push back against. And in most swing states, 2022 is your last chance to elect people who will be in charge in that period between election night 2024 and electors voting.

Andrea Chalupa (04:43):

I think you just answered this, but if you could just summarize quickly again: What can be done about Trump's onslaught on the local level? It's just support the states? Support groups like The States Project?

Aaron Kleinman (04:56):

Yeah, exactly. You know, again, we support candidates that will not go along with basically trying to end representative democracy in America. That's what it comes down to.

Andrea Chalupa (05:07):

What about the Koch dark money political network? What is their strategy on the state level and how has it been paying off?

Aaron Kleinman (05:13):

The biggest manifestation of what they've done as a group called ALEC, the American Legislative Exchange Council. Basically it is a dark money hub of really horrible legislation and campaign donations.

So in terms of port legislation: It's amazing to me at least that they really have no principle other than power. Like for decades, it was really focused on just deregulation and cutting taxes. Those were the things, and they would turn out all sorts of horrible laws that would allow polluters to run rampant, to basically cut taxes for the wealthiest people. But they're just kind of a right-wing catchall now. And so, you know, recently they've come up with a bunch of really anti-free speech laws that would be implemented for local schools across the country as part of this whole CRT panic. Really, it would prevent parents from getting the best education possible for their children because they're basically preventing teachers from teaching them about basic American history. ALEC is kinda this catchall for every bad right-wing idea kind of being scaled across far-right legislatures across the country. That's the main by which they affect state legislatures.

Andrea Chalupa (06:30):

Yeah, ALEC is a mass production factory of right-wing legislation. ALEC puts out all this legislation and the local far-right officials go to their state government chamber and fight for it, rubber stamp it if they have control. It's just a factory. ALEC is a factory of right-wing legislation. Ava DuVernay's film, *13th*, does a wonderful breakdown on how ALEC works and how dangerous it is to our country on across all types of issues, of course, but in her film, she zeros in on how ALEC has played a major factor in the prison industrial complex and all of that. So check out *13th*, if you haven't seen it yet, because they have a really damning section on ALEC in that film. So, we saw Trump supporters flooding school board meetings and harassing public officials over mask mandates. What was driving this effort and what purpose does it serve in terms of broader elections than state control?

Aaron Kleinman (07:36):

It really showed the strength of the integrated Republican kind of media messaging legislation machine where a fake panic was drummed up in 2020 and so you had kind of this huge noise machine—especially in the lead up to the Virginia elections—saying, “They're trying to teach these awful things in schools, they're making my children cry learning about this stuff,” you know, all sorts of nonsense and lies, but it was amplified by, again, a really integrated machine that just doesn't exist on our side. And then of course after the election, most of the panic, you know, most of the coverage went away and it shows you just how kind of cynical and ruthless that is. But it's a way to turn out the base. And then they were able to kind of use the victory to say, “Well, see, we were right. People care about this.”

Aaron Kleinman (08:25):

When actually what really happened, what we think, in Virginia is there's a lot of kind of frustration right now. You know, we have a lot of parents on this call right now about schools not being open and worries about the overall decline in the quality of education, to the extent that people voted against our candidates because of education. It wasn't because of CRT, it was just because they were frustrated with their local schools basically not being open as much as they would like because of the pandemic. And it's just been hard on everyone. And so they've used that now as kind of cover and Virginia Republicans have come in and they're basically trying to DeVos the Virginia schools, just put charters everywhere, gut local schools and saying, “Oh, we have a mandate to do this.” And so what we really need is to kind of lay out the stakes a little better and say, you know, when they're saying this, what they really mean is they want to hand your kid's public school off to Betsy DeVos, cut salaries, make the education worse, make your kid worse off. That's really what was going on there.

Andrea Chalupa (09:26):

Wow. Okay. So just Republican dark money taking advantage of real grievances that are understandable given a pandemic. So what would you say to folks—I mean, you've said a lot of it already in this conversation—who feel that things are hopeless. They're seeing all the big, shiny news items in the press, our democracy slipping away. Here's the ridiculous cast of characters who are responsible for it. The focus is really on these national characters in terms of the right-wing assault on our democracy and it just feels like this horrific reality show that we're bombarded with every day in the headlines. But when you get up close on this local level, you see a lot more hope. When you pull back the curtain, you see a lot of opportunities here and a lot of reasons to sort of... Not breathe a sigh of relief, but a lot of places where it's like, "Okay, here are all of our pressure points. Here's how we're going to fight back. And we stand a really good chance of winning." So I wanna thank you for that, for breaking all of that down for us, but also just what would you say to folks who just feel so beaten down by all the bad news out there and the feeling of hopelessness that there's no future? What would you say to them?

Melissa Walker (10:42):

I'll say that I 100% understand that feeling. I mean, there's media coverage daily, hourly, about this now—the demise of democracy and that drum beat—and honestly, I'm glad that that's happening because I think it hasn't happened enough in the last few years and I think people are finally realizing exactly where we are in this truly great crisis for democracy. So I do not object to those articles. One thing that I wish would happen, and we talked about this a lot over the summer because there was a big article in *The New Yorker* by Jane Mayer that talked about the dark money and attempts to steal 2024 and so much of it focused on Arizona and the Fraudit and things that were happening there. And what I kept looking for—although I didn't hold my breath [laughs] in that article—was the notion that, Yes, this is all happening, but how do we change it?

Melissa Walker (11:43):

We win one state legislative seat in the Arizona Senate and one state legislative seat in the Arizona House and then we shift the entire majority in the state and stop this all in its tracks. And again, these are local state legislative races. We lost by just a little over a thousand votes in the Arizona House in 2020 and so knowing that we are so close to real shifts when we focus on something that honestly just doesn't have enough of a spotlight and doesn't get enough attention, we can cut through so much of this doom cloud. And it's honestly what keeps me focused and going because this is not about one election here that's not actually gonna shift power, this is about changing the balance of power. And these are smaller elections, but they do have that potential. And that's honestly why the radical right has organized around them for decades. They don't do it because there's no power there. They do it because there's immense power there. And so we have to turn our eyes away from what is being covered [laughs] out of Washington DC and put another eye on this level and put our time and our resources and our focus on this level because that is how we shift it. And it gives me a lot of hope. The more and more people who join us to look in this direction, the more hope I have.

Andrea Chalupa (13:15):

Very well said. Okay, so let's move to gerrymandering now. So this is our next episode with you guys and again, I appreciate all the time you're giving this because I think it's going to really motivate people. So the first question is if you can just give us an overview, what is gerrymandering and how does it work?

Aaron Kleinman (13:32):

Yeah, absolutely, I can give a brief overview of that. In the United States we have single member districts—most of the country, though in some states you actually do have multi member districts—and the way that those district lines are drawn affects who's in a legislature. So if you think about kind of a 50-50 state that had four districts, think about just kind of at the most basic level, picture 75% of the Democrats for one seat creating three mostly Republican seats and one super democratic seat, that would be kind of a classic gerrymander where you are kind of drawing lines for partisan gain. Gerrymandering has existed basically since the Constitution. The first gerrymander was in Massachusetts for the Federalist Party, just to give you an idea of how long it's been going on.

Aaron Kleinman (14:26):

But what you've seen really in the past few decades is increasingly sophisticated tools, especially on the far right, drawing increasingly sophisticated gerrymanders. And if you look at states where Democrats receive a majority of the vote but don't get a majority of the seats on a pretty regular basis—I mentioned Michigan earlier—and that happened constantly during the last decade where they would get a majority of votes for state house or state Senate and they would not get a majority because of how lines were drawn. That's gerrymandering kind of in a nutshell.

Andrea Chalupa (15:01):

How is gerrymandering still legal?

Aaron Kleinman (15:04):

Uh, a lousy Supreme Court. Basically Anthony Kennedy for decades had said, "Well, if you come up with a workable standard, maybe I will find that gerrymandering is against the Constitution." There are a number of measures of gerrymandering that you're actually able to use right now. One of them is called the efficiency gap, another is called the mean median gap. But the litigation took so long that by the time that these measures had reached the Supreme Court, Kennedy had retired, he was replaced by Brett Kavanaugh and a 5-4 court said, "Actually, this is really a state's problem. We're not gonna do anything about it." And so they kind of said, "You know what, this is gonna be legal." The For The People Act right now does have a ban on gerrymandering for congressional elections but not state legislative elections and so because the federal courts have decided that this is legal, it really falls to states to fight gerrymandering on their own, especially at the state legislative level.

Andrea Chalupa (16:06):

There was a United Nations report that recently came out that said America has reached crisis levels of gerrymandering. How did things get so bad?

Aaron Kleinman (16:16):

I think a big part of it is the fact that the right wing platform is so unpopular and because it's so unpopular, you know, there are a lot of ways that they can still retain power. One of them is really kind of focusing on nonsense cultural issues, like we had talked earlier about CRT, for example. It doesn't actually affect anyone's lives, but they can whip their base up into a frenzy and have them vote on it. And another thing is really because the only thing that really unites the right is the will to power. It means that gerrymandering really becomes something that they all need to support because all they care about is retaining power. So that's really kind of what's been the biggest driver of it.

Andrea Chalupa(16:59):

And it also comes down to the census. In the last census in 2010, Republicans, I believe, had an advantage and they were able to gerrymander quite a bit. Then we had a shot to undo that with the 2020 census. How did Democrats do in the 2020 census and what were some serious flaws with those census and how have any of those flaws been addressed?

Aaron Kleinman (17:24):

Yeah. So, the census itself, once it's done, there's not much you can really do to undo it. We do think that, for example, Latino Americans were undercounted in the census, but there's really not much recourse now and it really falls to drawing lines. And so I would say the good news is that in—especially in the states that we're focusing on—we actually have been able to get fairer maps than we had in the past decade. If you look at Michigan, for example, in 2018, voters there passed a ballot initiative that requires just to be drawn by a commission instead of the legislature, a citizens commission. The citizens commission just wrapped up its work. The districts aren't exactly what we would want. They still have a slight Republican lean, but they do present a pathway to winning a majority that was just a lot harder under the previous map.

Aaron Kleinman (18:14):

In Pennsylvania, for example, another one of our states, their legislative districts are drawn by a political commission for the past two decades. The tiebreaker on that commission was appointed by a Republican supreme court and it was kind of a Republican Party hat drawing lines in Pennsylvania for the past two decades. But because we were able to flip the supreme court in 2015 in Pennsylvania, now the chairman of the commission and the tie breaking vote is a nonpartisan political science professor who is really dedicated to drawing fair maps of Pennsylvania. And so even though gerrymandering is a scourge, there have been improvements in who's in charge of drawing lines since the last census, so we are gonna have opportunities in 2022, even though it might not be as good electorally as 2018, 2020, because we'll have fairer lines. There will still be opportunities to make progress in the states in 2022.

Andrea Chalupa (19:09):

One thing we've seen a lot in the reporting is that gerrymandering leads to greater polarization in America. How does that work?

Aaron Kleinman (19:18):

If you gerrymander a state and you are guaranteed a legislative majority, then you just have no incentive to really appeal to the middle and that's why you see in a lot of these states that have gerrymandered majorities very far-right popular legislation that keeps getting passed and being very hard to kind of turn out the people who supported that because they have a legislature that is not representative over the state of the people that they govern.

Andrea Chalupa (19:45):

What have Democrats been doing all this time on addressing gerrymandering and what could they have been doing? Because it seems like, as we've seen again and again, that Democrats—the DC machine, if you will—sort of woke up to a lot of these issues in 2016. So what could they have done over the last decade or so to address gerrymandering or try to counter it in some way?

Aaron Kleinman (20:11):

Yeah. I mean, if you wanna really talk alternative history, I think passing a law in really kind of first two years of Obama's presidency that would've banned partisan gerrymandering—which you could have gotten pretty easily—would've actually saved us a lot of problems with the past decade. But, you know, that's in the past. And I've really been heartened. I think it's really become a more salient issue and we've seen a lot of people understand the importance of it. And that's why, again, I go back to Michigan a lot because it's such a great example of what organizing can do, where you had the Voters Not Politicians group that kind of organized to get that ballot initiative passed. It was people organizing to flip supreme courts in states like Pennsylvania and North Carolina that put us in a better position for the round of redistricting. I think really the people—especially people in the states that are affected—understand this better than anyone in DC could because they're the ones who have to live with the consequences of a gerrymander and they're the ones who are fighting back. And so it's just been really great to see all these groups pop up to say, “Hey, I want a legislature that reflects my state.”

Andrea Chalupa (21:14):

The Michigan effort, that was launched by a young woman with a Facebook post, right? It's that movement and she led it, she drove it, she went up against massive attacks from Republicans and she was ultimately successful.

Aaron Kleinman (21:28):

Yeah, it was a hugely successful ballot initiative. And you're right, it was just in kind of those dreary weeks after the 2016 election, she put up a Facebook post that said, “Hey, I want fair districts in Michigan. Who's with me?” And she did it. It's amazing.

Melissa Walker (21:41):

There's a great documentary called *Slay the Dragon* that covers her story which I really recommend.

Andrea Chalupa (21:47):

Oh, fantastic. I'm so excited. I'm gonna watch that. [laughs]

Aaron Kleinman (21:51):

I believe it's Nancy Wang, that's her name.

Andrea Chalupa (21:53):

Okay, great. *Slay the Dragon*. We will definitely watch that here at *Gaslit Nation*. So the states are wrapping up the redistricting process now. There have been some extreme maps put out by Republicans in some states, notably, of course, Ohio. We're recording this conversation early January so obviously some of this is still playing out. How is it turning out for Republicans and how are things turning out for Democrats in terms of redistricting?

Aaron Kleinman (22:26):

So Ohio, actually, I want to hit on that because they have a Supreme court that does seem like... So they passed kind of a not ideal redistricting reform in 2018 that kind of ultimately gave lawmakers the chance to still gerrymander, but it did put a law in place that said, “You can't draw districts for partisan gain.” And the supreme court of the state does seem to be taking that law pretty seriously. So, yes, we're recording this in January. We're still waiting on a supreme court ruling there, but the chief justice of the

supreme court—who is a Republican, by the way—has signaled that she doesn't think that these districts should stand. So there's a decent chance that we could see, you know, again, because of a citizen passed initiative, we could see fair districts in Ohio after all.

Aaron Kleinman (23:14):

Also in North Carolina right now, there is litigation pending on a gerrymander that hopefully their state supreme court will find a way to overturn before the 2022 election. So it is still playing out. And again, we're still waiting on districts in Minnesota. It seems like the state supreme court there is gonna end up drawing the maps (another state supreme court that has flipped from Republican to Democrat over the past decade, by the way). And Arizona just enacted maps that, again, they have an independent commission, the tie breaking vote maybe side with Republicans more than we would like and there may be some kind of litigation around some of the decisions that they made, but in Arizona, you know, again, it gives us a chance. So we're seeing a lot more fair maps across the country—fairer maps, I would say—than previously existed.

Andrea Chalupa (24:06):

Which is extraordinary because there was a lot of doomsday reporting that Republicans were going to gerrymander their way into controlling the House in 2022.

Aaron Kleinman (24:16):

Yeah, I think a big reason why... First of all, there are great partners of ours out there, like the National Democratic Redistricting Commission, who have really been fighting. They've been preparing for this fight for a long time and they were ready. And they've been really a great ally in this fight. And also, you know, I think over the past decade, people have woken up to the danger it causes, that it poses. So they weren't successful everywhere, but we were able to mobilize people in such a way that they knew about the dangers of this and there are safeguards that exist now that just didn't exist in the last round of redistricting, so it's gonna lead to overall fairer maps across the country, at least at the state legislative level.

Melissa Walker (25:03):

I just wanted to add something really quickly because when we talk about gerrymandering, we really are talking about state legislatures as tools of federal power, and that's very consequential in terms of the US House. I also think that it's really important to tie gerrymandering to the kitchen table issues that we talked about earlier because when you get a minority rule in a state, what you see is that people in the state are like, "What is happening?" You know, like I grew up in North Carolina and I am watching a radical right majority really do some terrible things in the state, in terms of especially education, which honestly was like the jewel in our crown when I grew up through the public education system in North Carolina. And what we're watching happen, I think, is confusing to people on the ground.

Melissa Walker (25:58):

And it really has a lot to do with gerrymandering and the fact that you can have more votes for one party and the other party can still be well in power [laughs] because of these unfair lines. And so I just think it's incredibly important also to tie things back to, you know, Why is this happening? Why does my life feel this way? In the states where radical right majorities took over, those are the states that have defunded education and gutted environmental policy and put in right to work laws. When people are objecting to

what's happening and not understanding why it's happening in their state, a lot of times it has to do with these skewed maps.

Andrea Chalupa (26:40):

What are some states that have atrocious gerrymandering? I know Texas is obviously one.

Aaron Kleinman (26:47):

In Texas, thankfully—at least at the state house level—there are some safeguards. It's not the map that we want. It still is Republican leaning, but with the demographic change that's occurring there over the course of the decade, hopefully it will eventually fade away. Georgia is really kind of the other really big one that has at least enacted maps for now where it is a blatant gerrymander. It does not really provide a path to a majority, at least in the state Senate. Maybe this decade in the state house, but it seems like the state senate will be out of reach for a while in Georgia unless litigation is successful. There are some states where unfortunately the safeguards that exist elsewhere have not been able to really stop the most pernicious gerrymanders.

Andrea Chalupa (27:33):

And the gerrymandering affects both the congressional (the house) races and also the state level races?

Aaron Kleinman (27:42):

Yeah. I try not to speak out of turn on congressional redistricting. I try to focus more on the state level, but yes. Some states have different rules for drawing districts between congressional and legislative. So like in Pennsylvania, that commission actually only draws legislative districts, not congressional districts, though again in Pennsylvania because you have a democratic governor who can veto a gerrymander, ultimately they should have a relatively fair map drawn by the state supreme court.

Andrea Chalupa (28:11):

Wow. So a major frontline—the frontline, would you say—for combating gerrymandering, if gerrymandering's already been entrenched, it's put in place, the litigation can't stop it this year, well, at least you could push back against it, the results of it, as much as possible by electing strong state leaders to represent you? And that includes, of course, in the work you do, attorney general governor, all those important races, right?

Aaron Kleinman (28:40):

Yeah. Again, it ultimately comes down to state legislatures in almost every state. I would say actually state supreme courts are another bulwark, I would say more so than the attorney general though, obviously governor, who can veto gerrymanders is important as well. If a state elects a state supreme court, they can stop gerrymanders as well. But really, the line drawing comes from state legislatures and even, you know, a good state supreme court, if a state legislature isn't blatant about it, they might not override them. So because the state legislature in most cases holds the pen, that's really kind of where you wanna focus. Again, unless you're a state like Michigan where you have judiciary process where you are able to implement a commission that draws districts instead of the legislature. And so if you're in a state with a gerrymander and you have that recourse available to you—and I know that there are some efforts underway in states like Oklahoma and Arkansas, I believe to implement that—that can be a recourse for you.

Andrea Chalupa (29:42):

Wow, okay. And again, the way you could help combat gerrymandering and create all these important buffers for our democracy is by getting involved with giving circles at The States Project, which will hold your hand on how to get all of that launched and understand how it works and just create a bunch of community events around it among your friends, your neighbors, and however you wanna do that, just turn it into like the social event of the year. So I wanna thank you both so much for the work you do and for being so importantly in the weeds in all of this, and giving us signs of hope and a path forward of what would otherwise look like such a dark year, if it weren't for important groups like The States Project.

Melissa Walker (30:33):

Thank you so much for having us. It's really, really awesome to get to talk about this stuff with you and dive so deep. Very rarely do we get folks who wanna talk about state legislatures for this long, so we really appreciate it. [laughs]

Aaron Kleinman (30:46):

Yeah, we really appreciate it. It's so important and we're so glad that you care so much about it.

[outro theme music]

Andrea Chalupa:

Our discussion continues and you can get access to that by signing up on our Patreon at the Truth Teller level or higher.

Sarah Kendzior:

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Andrea Chalupa:

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Sarah Kendzior:

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Andrea Chalupa:

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Sarah Kendzior:

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Andrea Chalupa:

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