



We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

Strengthening Democracy in America

Issue Brief

Topic 10—Political Equality

No free government nor the blessings of liberty, can be preserved to any people, but by ... a frequent recurrences to fundamental principles.—George Mason, Virginia Declaration of Rights, 1776

*We hold these Truths to be self-evident, that all Men are created equal.—
Declaration of Independence, 1776*

The context—One of the founding principles of American democracy is that every person has a right to an equal voice, either directly or through elected representatives, in the making of important decisions that affect them, even though this right was denied to many during our history and has not been fully realized to this day.

The right to political equality is embodied in the Declaration of Independence, the Constitution and its amendments, Supreme Court decisions, acts of Congress, Presidential executive orders, and many other places in our federal system. A belief in this right is firmly embedded in our political culture. Research shows that almost all Americans believe that they have a right to an equal voice in the making of any governmental decisions that might affect their lives, their freedoms, their ownership of property, and their right to pursue their dreams and develop whatever productive capacities they might have in pursuing whatever vocation or avocations they wish to pursue.

As with the right to vote, and directly related to it, it has taken more than two hundred years to come closer to the ideal of political equality for each person from the great inequalities that existed during the formation of our nation. The history of the struggle for political equality is well-documented in many historical documents and history texts. What might not be so well-documented or readily available is a summary of the current status of political equality and means of enhancing it. The following is an attempt to highlight current inequalities, related issues, and proposed remedies.

Inequalities built into the U.S. Constitution—Perhaps the two most prominent and obvious examples of inequality in the Constitution are the Electoral College and equal representation in the U.S. Senate. There is also inequality in the procedure used to select a president if there is a tie

in the Electoral College and in the recognition of slavery that has been largely rectified by the Civil War Amendments and subsequent acts of Congress

Brief explanations of the first three of these inequalities noted above follow. In all three cases, inequalities exist because they violate the principle requiring each citizen's vote should count the same as every other citizen's vote.

- **Inequality of the Senate**—Each state can only elect two senators despite its population. This means that the votes of each citizen in a state like Wyoming with a population of about 580,000 count much more than those for each citizen in California with a population of almost forty million people. The ten states with the largest populations have more than fifty percent of the total population of the United States. Those ten states are represented by twenty senators in Congress when the forty states with less than half of the population are represented by eighty senators.
- **Inequality of the Electoral College**—The structure of the Electoral College makes it possible for a candidate to win the presidency with a minority of the popular vote. This means that the votes of a minority count more than the votes of the majority and is a violation of the principle of equality—that each person's vote should count the same as any other person's. This has happened five times in history. Also, the Electoral College enables eleven states to elect a president and gives small states more electors per person than the large states. All are violations of political equality.
- **Inequality in the event of a tie in the Electoral College**—If there is a tie between candidates in the Electoral College, the vote for president takes place in the House of Representatives where each state, no matter how large its population, gets one vote. Under these circumstances, states with less than half of the population can elect a president.

Inequality due to wealth and education—Wealthy and more educated citizens are far more likely to vote and participate in politics in other ways and to know how to do so more effectively than those less privileged. As a result, they have a much greater effect on government and the laws it passes than do less wealthy and educated citizens. That is why many people feel civic education is particularly necessary for students in poverty to help all citizens gain the knowledge and skills required to monitor and influence their government and wield equal power with the more privileged members of the society.

Inequality due to money in politics— Some political observers note that since wealthy individuals and businesses can contribute more to support candidates running for office and influence opinion on policy issues, they have far more influence on government than ordinary people. They claim as a result that economic inequality reduces the chances that the voices of ordinary people in the making of policies by government will be as effective as the voices of the wealthy. The *Citizens United* decision by the Supreme Court has augmented this problem by ruling that donating unlimited amounts of money for political campaigns is a form of freedom of speech and protected by the First Amendment. As a result, among other things, people can donate large sums of money anonymously so it is impossible to know who is supporting candidates or proposed policies.

The current lack of political equality in the United States might at least partially explain why some people feel that the system is “rigged” and the negative attitudes towards government. For example, many believe that Congress, our most representative national institution, is serving special interests instead of those of all of the people in the society. Some of the criticisms are valid, but some are simply based on a lack of understanding of the institution and the fact that most members of Congress are well-regarded by their constituents and devoted to representing their interests and those of the nation at large.

Political equality and competing principles, values, and interests—It is commonly claimed in liberal democratic societies that no principle or value, with the possible exception of freedom of belief, should be held as an absolute. That is to say that there will be situations in which even the most fundamental values, such as the right to freedom of expression, should be limited or set aside in light of competing principles, values, or interests. These might range from preventing the defamation of character to the revelation of information that jeopardizes national security.

The same observation holds true in regard to political equality. For example, the Constitution of the United States and constitutions throughout history have required that some important decisions be made by supermajorities instead of simple majorities. This requirement, in effect, gives minorities a greater voice than majorities in such decision-making by setting aside the principles of political equality and majority rule and therefore giving priority to other principles and values claimed to be more important in the particular circumstances in which a decision is to be made.

Some claim that when a choice to set aside a fundamental principle such as political equality is made, it should be justified in terms of competing principles, values, and interests. For example, the requirement of a supermajority in certain circumstances might be justified by the claim that broader support than a majority plus one on an important policy is desirable for its longevity and legitimacy. That is, that laws passed by large margins tend to result in less continued controversy, are seen as legitimate by larger numbers of the people, are less likely to be overthrown, and contribute to the stability and predictability of the system.

The Framers clearly set aside the principles of political equality and majority rule in favor of other priorities when they established equal representation by state in the Senate. As noted above, it was justified by the claim that the decision was made in deference to the claim by the less populated states that it was necessary to prevent them from being overwhelmed in Congress by the power of the more populated states. This reflected the Framers’ concern that the minority needed to be protected from unfair treatment by the majority.

Issue—Although there are justifiable claims that political equality should not always prevail, for many people the extent of political equality in the United States today is unacceptable. And, for those who favor narrowing the gap in political influence between those least advantaged by the system and those most advantaged and influential in the making of public policy, there are available remedies.

The following are some remedies that have been proposed to narrow the gap between the ideal of political equality and the current extent of political inequality.

1. Remedies for political inequality

- **Constitutional remedies**

- **Electoral college**—Due to the difficult process for amending the Constitution and widespread support from small states for the continued existence of the Electoral College (EC), it is unrealistic to try to eliminate it by an amendment to the Constitution. However, the anti-majority capacity of the EC to elect a president with a minority of the popular vote could be eliminated if states would agree to allocate the votes of all of their electors to whoever wins the national popular vote. This is the goal of the National Popular Vote Interstate Compact which has been agreed to by twelve states and has passed one house in the state legislatures of eleven additional states.
- **Equal representation of states instead of people in the Senate**—Although the Supreme Court has ruled that it is a violation of the equal protection clause of the Fourteenth Amendment for states to have equal representation by geographical legislative district in either of the houses of their state legislatures, it has not applied this ruling to the Senate. This is because the Supreme Court is prohibited from changing sections of the Constitution that are explicit and not open to interpretation (so called “hard wired” parts of the Constitution) and Article V prohibits Congress from amending the Constitution to change the basis of representation in the Senate. Therefore, the only way to make the Senate comply with the principle of political equality would be to create a new constitution, which is highly unlikely.

- **Remedies by legislation and other means**

- **Inequality due to wealth and education**—The most practical means of addressing this inequality include
 - increasing the number of people who vote and participate in other ways;
 - improving education, including effective civic education programs, to make the more numerous part of the electorate as well-educated as the fortunate few about the political system and how to participate effectively in it (See improving the quantity and quality of participation in the issue paper on voter participation.); and
 - providing beneficial economic opportunities for the less privileged to help integrate them into the mainstream of American life.
- **Inequality due to money in politics**—Policies proposed to diminish the impact of money in politics include
 - requiring transparency and public disclosure of the sources of donations to candidates and political causes,
 - public funding of campaigns,
 - limiting expenditures for campaigns, and
 - creating ethics laws that control the messaging of campaigns.

2. Online resources

a. **Strengthening Democracy in America video series.** View highly informed perceptions of the intent of the Framers regarding political equality. Watch these videos for additional information:

- Video 2, Section 13, with William Galston, Senior Fellow, Brookings Institution
- Video 3, Section 7, with The Honorable Lee Hamilton

b. **Other online resources**—The following is a short list of some online resources that might be useful in gaining more understanding of the topics covered in this issue brief. Reviewers are encouraged to find more resources and to forward any they find useful to the Center at quigley@civiced.org. (Please also send any suggestions for improving this issue brief to the same address.)

- <http://harvardmagazine.com/2012/09/america-the-politically-unequal#10734>
- <http://billmoyers.com/story/confronting-citizens-united/>
- <https://www.russellsage.org/sites/all/files/u4/Verba.pdf>
- <https://politicalinequality.org/category/definitions/>
- https://www.washingtonpost.com/news/monkey-cage/wp/2015/04/05/do-economic-inequality-and-political-inequality-go-together/?utm_term=.658bf76e841c
- https://www.vanderbilt.edu/csdi/includes/Working_Paper_5_2017.pdf
- https://www.huffingtonpost.com/daron-acemoglu/us-inequality_b_1338118.htm
- <http://prospect.org/article/political-roots-widening-inequality>