

A Missing Foundation for Democracy

Let's Turn the Mythical Right to Vote Into Reality



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Resources

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* A Spanish translation of this article

* Text of this article, with language for a proposed Constitutional right to vote amendment attached

* Links to other organizations that support voting rights

* A pdf version of this flier for easy reproduction and distribution (see *Primers* page)

For a more detailed account of this issue, we recommend reading *Overruling Democracy: The Supreme Court vs. The American People* by Jamin B. Raskin (Routledge, 2002).

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version 4.11.03

Every time elections roll around, we hear exhortations to “do our civic duty” by exercising our right to vote. Trouble is, legally it's *not* a right. This overlooked issue has widespread consequences that undermine the foundations of democracy.

True, our U.S. Constitution contains amendments that outlaw preventing a person from voting based on their race, sex and age, but those protections are hollow because all citizens may be disenfranchised (stripped of voting privileges) so long as it is done without bias. Voting is presently a privilege that may be granted or revoked at the discretion of government officials.

While numerous electoral reforms have been debated since that 2000 debacle, we should first establish a long-neglected foundation of democracy by amending our Constitution to guarantee our right to vote--as at least 135 nations already do--and to have our votes count equally. By securing a right to vote as an inherent right of citizenship, numerous other reforms will be more achievable.

For example, an affirmative right to vote would have armed Florida residents to fight victimization by state officials who purged legally registered citizens (most of whom were Black and/or Hispanic) from the voter rolls. Presently any state has the power to refuse or ignore our votes in presidential elections, and as Florida's legislature asserted in 2000, any state legislature may simply choose electors with no voter input whatsoever.

A right to vote would enable citizens to challenge anti-democratic structures that routinely prevent citizens in several states from enjoying a choice other than Democrats or Republicans. For example, Georgia has institutionalized two-party dominance and precludes outside competition by requiring independent or “third party” candidates for U.S. Representative to gather signatures from 5 percent of registered voters, a feat that no person has accomplished in nearly 40 years.

While we lack an affirmative right to vote, state officials can and do permanently disenfranchise a citizen for a past felony, even after a sentence is served. Offenses that are used to deny voting rights in one state sometimes are misdemeanors in others. Virginia, for instance, strips citizens of

voting privileges for life simply for possessing a certain quantity of marijuana. Regardless of one's position on drug crimes, we should recognize that blocking ex-offenders from political participation undermines the process of re-integrating persons into society as productive, engaged citizens.

Then there's the perennial case of Washington, D.C residents, who lack voting representation in Congress entirely. Just months before the Supreme Court decided the 2000 election in *Bush v. Gore*, a majority of the justices ruled that the nearly 600,000 residents of our nation's capital have no legal recourse for their lack of representation. In that case, *Alexander v. Mineta*, the Court majority noted that our Constitution “does not protect the right of all citizens to vote, but rather the right of all qualified citizens to vote.”

Though Washington D.C. residents outnumber those of some entire states and pay taxes like the rest of us, they have no say in the federal laws under which they live. If that were changed, it would create the first U.S. Senate district with a black majority, but bills to right this situation are held hostage by partisan politics.

Those who think the Supreme Court could rectify such injustice through a more generous interpretation of our Constitution might wait a long time. In *Bush v. Gore* the majority reinforced the idea that “the individual citizen has no federal constitutional right to vote...” Although their statement refers to electoral votes for the presidency, it reinforces the reality that voting is a privilege granted at the discretion of those in power.

Though some may consider the legal reasoning in that decision dubious, the Supreme Court is not to blame when it comes to voting rights. It is up to citizens to force an amendment to guarantee what American University law professor Jamin Raskin calls “the right of the people to vote and, therefore, to govern.”

While most Americans assume universal suffrage to be a struggle already won, a right to vote is the next vital step toward realizing the goal of “one person, one vote.” Let's update our Constitution to enable that ambition.

By Jeff Milchen, Director

This article was published nationwide in fall 2002 via distribution by the Pacific News Service.