

3.12 Balancing Minority and Majority Rights



ESSENTIALS

Decisions affecting the rights of minority groups demonstrates that minority rights have been restricted at times and protected at other times, as represented by: *Plessy v. Ferguson* (1896)/*Brown v. Board of Education I and II* (1954-55)

The Supreme Court has upheld the rights of the majority in cases that limit and prohibit majority–minority districting.

1. What is the main idea of this cartoon? [Write your response like a claim statement]
2. Democratic theory warns against a “tyranny of the majority.” Explain in your own words.

Throwing some shade on the Supreme Court: *Plessy v. Ferguson* (1896)

“The object of the [Fourteenth] Amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either...

...We consider the underlying fallacy of the plaintiff’s argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction on it...”

Source: Court Opinion in *Plessy v. Ferguson* (1896)

1. Investigate the context of the *Plessy* case.
2. React to the Court decision.
3. We know *Brown* overturned the *Plessy* precedent. The Court in *Brown* said “separate is inherently unequal.” Assess your world – *Plessy* or *Brown* more prevalent?

Wearing the scholar's hat. Read the passage below and answer the questions that follow.

Majority and Minority Rights

The essence of democracy is majority rule, the making of binding decisions by a vote of more than one-half of all persons who participate in an election. However, constitutional democracy in our time requires majority rule with minority rights. Thomas Jefferson, third President of the United States, expressed this concept of democracy in 1801 in his First Inaugural Address. He said,

All . . . will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect and to violate would be oppression.

In every genuine democracy today, majority rule is both endorsed and limited by the supreme law of the constitution, which protects the rights of individuals. Tyranny by minority over the majority is barred, but so is tyranny of the majority against minorities.

This fundamental principle of constitutional democracy, majority rule coupled with the protection of minority rights, is embedded in the constitutions of all genuine democracies today. The 1992 constitution of the Czech Republic, for example, recognizes the concepts of majority rule and minority rights. Article VI says, "Political decisions shall stem from the will of the majority, expressed by means of a free vote. The majority's decisions must heed the protection of the minorities." The Czech constitution is filled with statements of guaranteed civil liberties, which the constitutional government must not violate and which it is empowered to protect.

Majority rule is limited in order to protect minority rights, because if it were unchecked it probably would be used to oppress persons holding unpopular views. Unlimited majority rule in a democracy is potentially just as despotic as the unchecked rule of an autocrat or an elitist minority political party.

In every constitutional democracy, there is ongoing tension between the contradictory factors of majority rule and minority rights. Therefore, public officials in the institutions of representative government must make authoritative decisions about two questions. When, and under what conditions, should the rule of the majority be curtailed in order to protect the rights of the minority? And, conversely, when, and under what conditions, must the rights of the minority be restrained in order to prevent the subversion of majority rule?

These questions are answered on a case-by-case basis in every constitutional democracy in such a way that neither majority rule nor minority rights suffer permanent or irreparable damage. Both majority rule and minority rights must be safeguarded to sustain justice in a constitutional democracy.

By John Patrick, [Understanding Democracy, A Hip Pocket Guide](#) (Oxford University Press)

1. What is the main idea of this passage?
2. What is the danger of relying only on the decisions made by majorities?
3. Explain how the Bill of Rights demonstrated our Founders' commitment to minority rights.
4. Define a referendum. More and more states are relying on referendums to make important governing decisions. Are referendums just another name for a tyranny of the majority?