

# Why the United States Is Not a True Democracy, Part Two

by Van Gosse

The basic truism about democracy is that the majority of voters rule, but the rights of the minority electorate are respected, since they could become the majority at the next election. Quite the opposite has been true in the United States since its founding, which is why it is not a true democracy. Not just occasionally, as in elections like 2000 and 2016 when the Electoral College rather than the majority of voters chose the president, but week-in and week-out, minorities rule in the U.S. and the wishes of the majority are not respected.

What defines a legitimate minority right? In democratic theory, the majority has no right to physically oppress or politically subjugate the minority. In the U.S., however, the most powerful forms of “minority rights” have involved the supposed rights of property over human rights: originally, the untrammelled right to buy and sell human beings; later, the right to despoil the environment, mistreat workers, and pay women less than men.

The United States was founded on this perverse distortion of minority rights. From 1789 through the present, the basis for minority rule has been the Senate and the Electoral College. As every grade school student learns, each state elects two senators regardless of vast differences in population. The Senate’s original and explicit purpose was to secure the property rights of the wealthy (“the opulent Minority” in James Madison’s formulation), in particular by guaranteeing influence for those small states with large slave populations like Georgia and South Carolina (the latter was 43 percent slave in 1790). Throughout the antebellum period, the slave states insisted on maintaining parity in the Senate while their

populations dropped drastically in relation to the Northern “Free” states.

Today, this unequal representation is justified via the principle of “equal representation for the states,” insisting that their interests as separate political entities should have parity. But this premise is illogical in terms of democratic theory, wherein it is the people that should be represented, not the territory. The U.S. is not the United Nations General Assembly, where Luxemburg and India have equal representation; the U.S. is a nation-state that claims to be democratic.

The effect of a radically disproportional Senate is that the interests of small numbers of people are greatly over-represented. If you reside in any of the seven states that contain a single congressional district (Vermont, North and South Dakota, Delaware, Rhode Island, Montana, and Alaska), you have as much weight in the Senate as a resident of California, with its fifty-five congressional districts. Put another way, the 5,608,272 residents of these states, with 1.7 percent of the population, control 14 percent of the Senate. That gives them, or rather the Senators who represent them (since many of the voters in those states do not agree with their Senators), enormous power over the vast majority of us—minority rule.

Malapportionment is not specific to any particular period or party. It is almost exactly as bad now as it was in 1790. The top half of the states in terms of population have always been home to at least 80 percent of Americans, while holding only half of the Senate seats; historically, the other half has been reserved for 15-20 percent of the population. Today, the twenty-six smallest states, with their fifty-two Senators, represent

about 17 percent of the population. In other words, 17 percent, or one-sixth of the nation's people, can defeat legislation even if the other 83 percent favor it, which by definition is minority rule.

The second premise undergirding domination by the minority is the Electoral College's winner-take-all system for awarding votes, which makes the size of popular vote majorities both nationally and in the individual states irrelevant. Based on the distribution of votes in 2016, someone could win the presidency with 277 Electoral College votes from the forty less-populous states while winning only 23 percent of the popular vote. If that seems unthinkable, remember that Abraham Lincoln won almost 60 percent of the Electoral College in 1860 (180 of 303 votes) despite winning less than 40 percent of the popular vote. Woodrow Wilson did even better in 1912, taking 82 percent of the Electoral College with just under 42 percent of the popular vote.

The fundamentally undemocratic nature of the Electoral College is why both Republicans and Democrats focus their efforts every four years on winning just the states needed for an Electoral College majority. To that end, Republican donors bankrolled Ralph Nader's candidacy in 2004 to cut into John Kerry's possible pluralities in key states, and Kerry's strategists rued the fact that if he had taken sixty thousand votes in Ohio from George W. Bush he would have been president, even while losing the popular vote by more than three million.

The most long-lasting form of minority rule over the nation was practiced by the Democrats who controlled the Jim Crow South from the 1890s to the 1960s. Between 1890 and 1908, each state in the former Confederacy found a way to disfranchise African Americans without technically violating the Fifteenth Amendment. Not until passage of the 1965 Voting Rights Act did

the majority of black Southerners regain the vote. In addition, poll taxes, illiteracy, and indifference within the one-party system kept many poor whites from the polls. As a consequence, from Virginia to Texas, turn-out rarely exceeded 20 percent in presidential elections; nonetheless those states with their tiny all-white electorates kept casting their full number of votes in the Electoral College, yet another version of minority rule.

Making the U.S. a true democracy based on majority rule at all levels would be no simple matter. A more representative Senate would require changing the Constitution. Effectively abolishing the Electoral College is easier because of the campaign for a National Popular Vote Interstate Compact, through which states controlling a majority of the Electoral College agree to award their votes to whomever wins the popular vote, regardless of how their individual states voted. As of August 2019, states representing 196 Electoral College votes have passed the enabling legislation, but it is a long way to get to 270. Such massive reforms may seem challenging, but we need to start by recognizing that there is a fundamental problem in that our particular version of democracy legitimizes and institutionalizes minority rule—a fundamentally undemocratic principle.

#### Notes

1. The Senate's filibuster rule, whereby a minority of Senators (one-third until 1964; forty percent since then) can block any legislation, only exacerbates this problem.
2. This calculation is based on totaling the major-party votes in 2016 (minor parties only matter to the extent they take votes from one of two possible winners), and then calculating how many votes would be needed for a 1 percent plurality in each of those states.
3. Bush's margin over Kerry in Ohio was 118,601; if that state had gone the other way, Kerry would have had 271 Electoral College votes.

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