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All American Citizens Fall Under ‘We the People,’ But Who Is Really Included?

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CONSTITUTION DAY SERIES

Does the people’ matter anymore?

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DELAWARE VOICE  ALAN GARFIELD

Who are “We the People”? Surely it includes all American citizens. But does it include legal immigrants who have lived here for decades? Does it include felons who have lost their right to vote? What about those living here illegally or their children who were born in the United States?

These are not academic questions. They make a difference. This fall, the Supreme Court will consider who counts when drawing district lines for electing state legislators. The Court long ago said these districts must be relatively equal so that one person’s vote is not worth less than another’s.

For the African American community to feel included in the ‘we,’ more needs to happen.

CARRON J. PHILLIPS

There has always been a difference between what someone or something says, and what it actually means. It’s the classic example of abiding by the letter of the law, or the spirit of it.

The first three words of the Preamble of the Constitution have always been the most popular. The ones that Americans love to use. But is it really as inclusive as it sounds?

“We the People of the United States, in order to form a more perfect Union, establish Justice, insures domestic Tranquility, provide...
The principle, the Court said, is “one person, one vote.”
Yet the Court has never been clear about which people count under this rule. Do you count only voters, which would exclude children, disenfranchised felons and undocumented immigrants? Or do you count everyone?

Most states have counted everyone. But a Texas case claims that one person, one vote means equality of voters, not people. This might ensure voter equality, but it would also shift power from urban areas, which have more children, immigrants and ex-felons, to rural areas, which would benefit Republicans over Democrats. Is this a more principled way of applying the one person, one vote rule? Or is it, as election law expert Richard Hasen put it, a “Republican power grab”?

And what should we do with those undocumented immigrant babies? The Constitution provides for birthright citizenship: that all persons born in the United States are citizens. So it’s hard to claim that these babies are not Americans. But, as Donald Trump has reminded us, the popular debate over birthright citizenship persists. Here, too, Texas has been actively stirring the pot. The state was recently sued for making it exceedingly difficult for undocumented mothers to obtain birth certificates for their children.

Even if we know who belongs to “We the People,” the concept remains elusive unless members of the community are committed to a common endeavor. Creating a “more perfect Union” is an empty dream without popular support.

Failing to integrate societal members also comes with risks. Witness the many European countries fretting over alienation in their poorly-integrated Muslim communities.

These nations worry that citizens who have grown up in their countries still feel like unwanted intruders. Similar concerns have been raised in our country about the dangers of “homegrown” terrorists.

Creating a cohesive community can even be challenging for groups who have long been members of “We the People.” We have just marked the Civil War’s sesquicentennial, yet our society continues to struggle with deep-seated racism. The Charleston massacre, the relentless stream of videotaped white officers shooting black men, and the Confederate flag controversy all attest to this regrettable truth.

For this year’s Constitution Day program, we have asked authors to reflect on these and other issues touching on the concept of “We the People.” Professor Muqtedar Khan of the University of Delaware will provide the perspective of a Muslim member of “We the People.” Journalist Carron J. Phillips of The News Journal will offer the perspective of an African American. Bilingual marketer and journalist Renee Solé will reflect on the wisdom of birthright citizenship, and Lisa Goodman, the President of Equality Delaware, will describe the impact of the Supreme Court’s same-sex marriage decision on gay and lesbian members of “We the People.” Finally, Rod Smolla, the new dean of Delaware Law School, will share his thoughts on the one person, one vote case.

These essays will help us think about what it means to be a member of “We the People.” Perhaps they will also remind us of how lucky we are to be included in this privileged group.

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