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U.S. mired in tyranny of minority

Political commentators tell us that the epicenter of health care reform is the Senate Finance Committee, where a “gang of six” reportedly holds decisive influence. Since Olympia Snowe is a member of the gang, presumably Maine residents can anticipate an extraordinarily large role in the politics of health care. Appearances, however, may be deceiving. Health care politics are symptomatic of a deeper malady, the erosion of political equality in America.

The Senate is a fundamentally undemocratic institution. The Founding Fathers imagined a body that would check and restrain the democratic “passions” of the House of Representatives. Each state, regardless of population, elects two senators to six-year terms. Terms are staggered so that only a third of the senate is vulnerable to the electorate every two years. Snowe’s next election is more than three years off.

In a republic where geographic mobility was limited and regional interests were strong, it made some sense for one house of the legislature to assign an equal weight to each state. But in an era when more and more of us are from away and move frequently and problems are national if not global, granting Maine and Wyoming a voice equal to New York’s and California’s is harder to justify.

The Constitution is of course hard to alter, another of our undemocratic constraints. The Senate’s ability to impede the democratic process is, however, amplified by its own self-chosen rules. In the Senate’s good old days senators often made fools of themselves during filibusters where they read phone books in order to block anti-slavery or civil rights legislation.

In 1975, the Senate “reformed” itself by authorizing a procedural filibuster. This allows senators to request unlimited debate. Absent 60 votes to override such a request, bills are set aside indefinitely and the Senate turns to other business. As Thomas Geoghegan points out in a recent Nation article, this rule allows a minority to stonewall without even the obvious spectacle of obstruction.

Since 1975, resort to the cleaner filibuster has become more rather than less common. Both parties are responsible for its maintenance. Any party that maintains a commitment to a race, class and gender status quo has an obvious interest in delay tactics. But some liberal Democrats also maintain that the filibuster can prevent Republican majorities from imposing the worst judges. Yet use of the filibuster or its threat did not prevent confirmation of John Roberts and Samuel Alito.

Worse still, liberal use of the rule doubles down the undemocratic character of the system. It employs undemocratic means to influence the composition of an undemocratic institution, a court whose lifetime appointees not only interpret statutory law but also determine which bills pass constitutional muster. Both tasks, rhetoric to the contrary, are political not technical.

The role of the Senate and the filibuster in diminishing political equality is aided by the increasing significance of money in politics. Since beating or sustaining a filibuster is often a question of a few votes, swing votes are crucial. This trend makes the Senate hallowed ground. Find a few senators from small population states. Their votes count as much as those of senators from populous states, but their election campaigns are cheaper. Large special interest contributions to their elections can significantly alter policy. Thus if Sen. Snowe puts the interests of the insurance industry ahead of Maine residents, Maine's disproportionately powerful voice ends up hurting most Mainers.

Majority tyranny, where majorities shut down considered debate and deny due process or free speech is unconscionable. The U.S., however, is much closer to minority tyranny, as recent town hall sessions illustrate.

Eliminating the filibuster, ending the disproportionate role of a few senators, and robust public financing would limit minority tyranny and enhance political equality. The fight for health care, labor and economic reform cannot be separated from these struggles.

Fifty-one senators could abolish the filibuster and congressional majorities could enact effective public campaign financing. They probably won't without a push from us.

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