



SENATE FILIBUSTER RULE: A MATTER OF FAITH

WHAT'S THE MATTER?

The filibuster is a Senate rule with enormous consequences for legislating. It was first used by the U.S. Senate in the mid-19th Century and has been changed in its use and application over time. As Senate rules have evolved, so has the filibuster. Originally a “talking filibuster” would require a senator to physically speak on the Senate floor to prevent a vote or consideration of a piece of legislation. That process also prevented any other Senate business from moving forward. Now it is much easier for a senator to “filibuster” a bill. This procedure, which was once used only rarely has now become a default threshold that nearly all significant legislation must pass.

Each piece of legislation considered on the Senate floor requires either the approval of all 100 senators (called unanimous consent) or a cloture vote, which requires 60 senators to vote yes to end debate. This means if a bill has the potential to be controversial it often never even makes it to the Senate floor for consideration. Simply at the threat of a filibuster, the bill won't be considered. Therefore, we see the filibuster increasingly abused as a partisan loophole to stymie legislative progress. For instance, measures to address gun violence prevention, irrespective of popular support, have not made it to the Senate floor for a vote in years.

THE VALUES OF THE FAITH COMMUNITY

Many values that our faith traditions strive to instill in our communities, our society, and our nation can be modeled by our elected leaders. Participation, mutual respect, communal responsibility, fairness, and good faith negotiations are bedrock values that we want to see reflected in how our lawmakers function. These values allow the nation to peacefully hold a diversity of ideas, enable healthy compromise among competing interests, and instill a sense of mutual investment in successful outcomes.

On a practical level, only a healthy, well-functioning democracy has the capacity to attend to any of the issues our faith calls us to address: systemic racism, climate change, hunger, violence, poverty, healthcare, and more. The democratic political system is a primary means for people of faith to engage in creating a better world where all people can thrive and are treated with dignity. A faithful democracy must include elected leaders who draft, deliberate and pass legislation to address human needs and issues of the common good. When political rules perpetuate the legacy of racism in our politics and halt the progress of full and robust debate, every attempt should be made to reform them to root-out those distortions.

THE DISTORTION OF OUR DEMOCRACY

The filibuster disproportionately empowers a small group of senators who may represent a surprisingly small percentage of Americans. Each state is assigned two senators regardless of population, so that Wyoming voters have 68 times as much representation in the Senate as Californians. This was by design in our Constitution so that states would be equally represented. However, in the most distorted scenario of applying

the filibuster rule, if the Senators from the 21 states with the fewest residents chose to filibuster legislation, they could block national policy-making while representing 11 percent of the nation's population.

The Senate filibuster has consistently been used to perpetuate racist and discriminatory practices. It is often referred to as a relic of the Jim Crow era and a prime example of systemic racism. It was designed and used for decades to thwart civil rights legislation, including the creation and preservation of critical protections for voting rights, blocking anti-lynching legislation, stifling protections for workers, protections for Dreamers, environmental safeguards, and other critical legislative initiatives to advance the common good which had broad support among the American people.

It is important to highlight the horrific use of the filibuster to oppress Black people in the United States since the 1840s.¹ For several decades, beginning in the 1920s, Congress considered almost 200 pieces of legislation to prevent lynching, not one of them became law, largely due to the use and abuse of the filibuster in the Senate.² In 2021, we still do not have any anti-lynching laws on the books.

While in theory the filibuster protects the rights of the minority party in the Senate, it has instead been used to obstruct progress in Congress and block legislation to address some of the nation's most pressing challenges. The filibuster has been used for decades to prevent needed reforms to our democracy.³ Over the past thirty years, filibusters have blocked progress on legislation to address dark money in politics, ethics reforms, voter protections, and lobbying disclosures. And now in 2021 the filibuster is threatening passage of the *For the People Act (S. 1)*, a comprehensive reform package that incorporates many of those same bipartisan bills. The continued misuse of the filibuster rule by the minority opposition cannot be allowed to continue blocking debate on policies with broad public support, such as S.1 provisions to protect the freedom to vote, reform our corrupt campaign finance system and repair and revitalize our democracy.

“Access to voting...is so fundamental to our democracy, it is too important to be held hostage by a Senate rule. It is a contradiction to say we must protect minority rights in the Senate, while refusing to protect minority rights in the society. **No Senate rule should overrule the integrity of our democracy, and we must find a way to pass voting rights whether we get rid of the filibuster or not.**”

- Rev. Senator Raphael Warnock
in his First Senate Floor Speech,
March 17, 2021

THE FAITHFUL RESPONSE

The Senate created the filibuster rule and can change it. It is not rooted in the Constitution, it has a sordid, racially charged history of abuse, and it poses a threat to our democracy. We call on the Senate to take the necessary steps to swiftly and materially deal with the filibuster rule so that S.1 can pass with a majority vote in the Senate—as the Constitution envisioned—and prevent the Senate minority from abusing the rule to block other essential policies.

There are a multitude of options around the filibuster that would create a way forward for S.1 and numerous other bills that deserve a floor vote. The Senate has the power to ensure that its rules and procedures help bring about a more just world, while protecting good faith debates. Repealing the filibuster rule or reforming it to advance constructive debate in the Senate will help pave the way for an upper chamber that is more just and functional. No matter what path the Senators choose, they must choose one. Inaction is not an option.

¹ Kelsey Snell, “In Push To End Filibuster, Democrats Point To Its Civil Rights-Era History,” NPR (NPR, March 30, 2021), <https://www.npr.org/2021/03/30/982411563/in-push-to-end-filibuster-democrats-point-to-its-civil-rights-era-history>.

² Keisha N. Blain and MSNBC Opinion Columnist, “Mitch McConnell Is Wrong on Filibusters: They Are, in Fact, Racist,” MSNBC (NBCUniversal News Group, March 26, 2021), <https://www.msnbc.com/opinion/mitch-mcconnell-wrong-filibuster-fact-racist-n1262117>.

³ <https://www.americanprogress.org/issues/democracy/reports/2019/12/05/478199/impact-filibuster-federal-policymaking/>

