

Striking the Balance

The Constitution is known as a living document. It's like an ever-growing tree: new Amendments can be added and it can be interpreted in many different ways, but there are and will always be foundational roots upon which the American people's rights are built. The preamble of the Constitution states how "[w]e the People" plan to "form a more perfect Union," by "promot[ing] the general welfare" and "secur[ing] the Blessings of Liberty." However, the clash between general welfare and these individual rights is stark in certain situations, and there is controversy over which should be prioritized. America was unique for its attempt to balance individual rights and welfare, which was born from the distaste for the tyranny they previously endured under the British government. These values are what continue to shape the nation into what it is today. Unfortunately, there is no steadfast, logical decision between individual rights and general welfare. This leaves the question of: which would lead America further towards success? The answer is neither. When looking at events such as gun control and racial discrimination in schools, it seems that finding a clear path toward prioritizing both issues is nearly impossible. Therefore, although individual rights and general welfare are equally important, in times of adversity and when there is controversy, the prioritized right should be decided when analyzing the situation, rather than having a set decision that would support the American people every time.

A situation where welfare should be prioritized before individual rights is the issue of gun control and gun rights. The right to bear arms is protected by the Constitution under the 2nd Amendment. However, the controversy lies in the question: Is the individual right to bear arms a threat to others' welfare? In America it often is. From a health standpoint, gun violence is being viewed as a public health emergency, due to the innumerable injuries and high costs for healthcare and resources to aid. As seen in the 20,000 people killed and the 40,000 people injured by guns in 2020, the right to own a gun is nowhere near equal to the right the rest of the American people have to live. Obviously, not every gun owner is

going to commit crimes such as these, as hunting and protection are the main motives for ownership and the creation of the 2nd Amendment was purely for self-defense, but where should the line be drawn for gun sales and who they are sold to? The protection and balance of the general welfare and individual rights can be enforced by implementing background checks. These background checks would make an impact in favor of general welfare because the general public would be more protected when the guns are kept in the right hands. Some argue that background checks are an infringement on the 4th Amendment, the right to privacy and protection against unreasonable searches. However, in this situation, this violation along with the violation of the 2nd Amendment are necessary for the balance, because without them, gun rights would tip the scale too far in the “individual rights” direction.

In contrast to the previous example, some situations, such as racial discrimination in schools, require individual rights to be put in front of the general welfare. In 2007, the Seattle School District had “racial tiebreakers” in place to make admissions decisions easier by forcing a specific demographic to which they tried to adhere to. In simpler terms, if there was an overflow of student applications, the school would choose who to admit by race, with preference to whichever race could balance the percentages of each in the school. These schools believed in these “racial tiebreakers” because they felt that this forced demographic would promote racial diversity in a controlled way, and therefore support the general welfare. However, the refusal to admit certain students because of their race is an infringement on their individual right to an equal education. This is not only a violation of the Equal Protection Clause under the 14th Amendment, the prohibition of the states from denying anyone equal protection under the law, but also the Civil Rights Act of 1964, the ban on discrimination of race, color, religion, or origin. This led to a non-profit organization, Parents Involved in Community Schools, suing these discriminatory schools, which later went to the Supreme Court as *Parents Involved in Community Schools v. Seattle School District*. Five out of the nine Supreme Court Justices ruled the schools’ attempts at diversity unconstitutional. This kind of discrimination and court cases go all the way back to *Brown v. Board of Education* in 1952. *Brown v. Board of Education* was a Supreme Court case in which Linda Brown’s

father sued the Topeka Board of Education in hopes to enroll her in an all white school, which kickstarted the movement for desegregation. As a result, schools tried to promote this desegregation from then until now, with some going as far as the Seattle School District's methods. The motives behind these attempts at racial diversity, or the hoped for general welfare, in these schools can be seen as commendable, however, it becomes an issue when these schools turn applying students away based on their race, removing their individual right to equal protection under the law.

All in all, there will be circumstances where balance is difficult to achieve, so it would be more beneficial to assess the situation and balance accordingly, even if that means the scale tips more to a certain side. For situations like gun control, it is beneficial to find balance through general welfare weighing more than individual rights. However, for situations like racial discrimination in schools, it is more beneficial to weigh the individual right to equality more than the forced demographic disguised as welfare. Due to the lack of uniformity in these issues and events, it is impossible to have a definite stance on whether general welfare or individual rights should be placed on a higher pedestal in situations of controversy.

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