



On the Fence

When it comes to men and women in politics or any other aspect of life, should the focus be on equality of outcome or equality of ability to participate?

Equality of outcome vs. equality of ability to participate

This question was originally drafted to produce an examination of women's issues in American politics. Consequently, I read it as a question about women in American life. I also see it raising issues that women have moved beyond in most ways. Women are naturally equal to men. Now, all that is left is for women to recognize that fact and seize power and influence. Not because some men choose to give us a sort of equality of outcome or ability to participate, but because we have the ability to direct our lives as we freely choose.

Directing our lives as we freely choose was, and is, not easy. It requires our rights be recognized in the law, and that each of us empower ourselves through courage and persistence.

Most of our rights are now recognized by the law. For example, the 14th Amendment to the United States Constitution, ratified in 1868, granted citizenship to all persons born or naturalized in the United States, and guaranteed all of those citizens "equal protection of the laws."

The Equal Protection Clause has been the basis for much of the Supreme Court litigation and has ended with an expanded recognition of women's equality to men.

Federal statutes prohibit employment discrimination based on sex, and they prohibit sex-based wage discrimination for both men and women who perform substantially equal work in the same establishment.

There are monetary damages available in cases of intentional employment discrimination. More work is needed to close the wage-gap between women and men, probably through empowered women demanding equal pay and through litigation and the collection of monetary damages.

Reproductive rights are also recognized by current law. They allow us to make conscious decisions about if and when to have children, which is probably the single-most influential decision each of us makes in directing our lives.

The right for women to vote in America allows us to participate in politics, and thus in our government.



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The right to vote for women was born as part of the early fight for equal rights and the idea that women are not inferior to men. That fight continues as we see more and more women move into politics, where many people of both sexes still seem surprised to see them win. I thought it was overdue.

Unfortunately, the opportunity to freely choose how to direct our lives is not equal among women. We do not begin life on an equal playing field. For example, some women are born into poverty, some are born to addicted parents or with physical disabilities, and others may be indoctrinated into religions that demean women. However, such issues can be overcome to live rich lives while living in or with the situation, or by changing it.

For most women, the first step to freely choosing how to direct their lives involves getting a school education through courage and persistence. America's system is flawed and needs improvement, but still, almost all children have the opportunity for 12 years of education. For those girls who do not graduate from high school, they must empower themselves in some other way, and then direct their lives as they choose.

Ruth Bader Ginsburg has been talked about recently. She led some of the United States Supreme Court litigation that recognized the equality of women. And today she is a Justice of that Court.

For me and many others, she is a rock star of women's rights and equality. She has quoted from the following words of Sarah Grimké (1792-1873, pioneer in the antislavery and women's rights movements in the United States), and it summarizes my view of this On the Fence Topic: "But I ask no favors for my sex. I surrender not our claim to equality. All I ask of our brethren is, that they will take their feet from off our necks, and permit us to stand upright."

Our country was founded upon the bold declaration we are all created equal. In our more recent history, this proposition was etched into the 14th Amendment to the U.S. Constitution, which guarantees "equal protection of the laws" to all of our citizens.

This high and essential ideal is vital to the functioning of our free society on every level. When we speak of legal equality, it boils down to citizens being given a "level playing field." The problems arise when segments of society demand that government somehow promises, or even manipulates, outcomes rather than opportunities.

For purposes of this article, let's focus on equality between men and women. It is axiomatic that one cannot say they want men and women to be treated equally, yet at the same time demand one of the two be treated with some advantage that would be denied to the other (either way). The latter argument is inherently unequal and discriminatory. As a woman, I expect to be allowed the same opportunities that are afforded to any person, regardless of whether they, or I, am male or female; anything different is not only contrary to the very concept of equality, but is also offensive and prejudicial.

While history clearly bears out previous widespread discrimination against women, those wrongs were righted from a legal standpoint with the Equal Pay Act of 1963 and the Civil Rights Act of 1964. A society can never fully eradicate bias in an individual's heart and mind, but institutional and formal acts of discrimination have long been outlawed in this country, and certainly preceding my lifetime.

Let me share my experience. I am a female born after the passage of the aforementioned anti-discrimination laws. Having been born into poverty, I lacked advantages other had, but I consistently experienced that my choices, drive and perseverance could more than compensate for what did not come by default. I was allowed the same opportunities as a female that my male contemporaries were allowed, and I capitalized on those to accomplish every dream and



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goal I set for myself, including attending law school. (Note that more than half of incoming law students are now female.) As a well-educated, business-owning woman, I am the living outcome of the legal equality that has long been established in this country.

A quick note about inadvertent sexism. Even granting that good intentions may underlie efforts to manipulate equality of outcome, inherent in this argument is an implied statement that I, as a woman, need some extra help or advantage to manage the same outcome a man may have — I fundamentally and vehemently reject this dangerous concept and believe it to be overtly sexist. I do not want an asterisk next to any accomplishment that I obtain by my own hard work. And I believe I speak for most when I say that I want to be acknowledged for my accomplishments as a (fill in the blank: lawyer, athlete, marksman, business person, etc.), not because I am a female version of any of those titles. I yearn for a society that acknowledges merit over identity.

The late Dick Faegler summed it up best when he said "equality of opportunity is freedom, but equality of outcome is repression." This ideal is not relegated to conservative circles; indeed, many of our most respected American leaders of change have trumpeted the same sentiment. For example, Martin Luther King Jr. spoke of a "dream of equality of opportunity," and Franklin D. Roosevelt said that "equality of individual ability has never existed and never will, but we do insist that equality of opportunity still must be sought." However, equality is twisted by some into an ill-conceived (if not dangerous) belief that government or society should attempt to force equality of outcome.

Let us hold fast to the commitment that our citizens are equal under the law, and encourage personal efforts to obtain our individual best, regardless of our group identity.

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A division of
Western Communications Inc.

THE OBSERVER

An independent newspaper founded in 1896

(USPS 299-260)

The Observer reserves the right to adjust subscription rates by giving prepaid and mail subscribers 30 days notice. Periodicals postage paid at La Grande, Oregon 97850. Published Mondays, Wednesdays and Fridays (except Dec. 25) by Western Communications Inc., 1406 Fifth St., La Grande, OR 97850 (USPS 299-260)

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Send address changes to:

The Observer, 1406 Fifth St.,
La Grande, OR 97850

Periodicals postage paid at:

La Grande, Oregon 97850

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