



CITIZENSHIP IN
21ST CENTURY AMERICA

A Module for Democracy/Civic Mission
Classrooms

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Citizenship in 21st Century America

Overview

What is the role of citizen in the United States in the 21st century?

This unit focuses on the meaning of American citizenship: Who is and is not a citizen? How is citizenship defined? What are the responsibilities, if any, of being a citizen? And what rights do all persons in the United States enjoy, and what rights solely belong to citizens? In addition, this unit introduces a deliberation strategy called “civil conversations” that will help people discuss – not debate – fundamental texts and ideas.

Objectives

- < Present basic information about the history and meaning of citizenship in the United States.
- < Offer opportunities to discuss what effective citizens should know, believe, be able to do, and do in American society.

Materials

A: Reading: Citizenship in the United States

B: Activity: Effective Citizenship

C: Source: Preamble to the Constitution of the United States of America

D: Deliberation Strategy: Civil Conversations

E: Handout: Civil Conversations Worksheet

A: Reading: Citizenship in the United States

The United States of America was created as a republican government composed of and led by citizens. The English common law, the tradition which forms the basis and the context for the American legal system, dealt quite extensively with citizenship; these understandings clearly guided the ideas of the American colonists. Yet the answer to the basic question “Who is a citizen of the United States?” was not explicitly defined for nearly the first century of America’s existence. How that question was answered explains the nature and meaning of citizenship in the United States.

Citizenship and the Constitution of 1787: Undefined Beginnings

The Revolutionary War was waged by thirteen former colonies that had aligned themselves as “the United States of America.” Yet in many ways the government of this new country more closely resembled a confederation of sovereign states. After the war, The Articles of Confederation defined the relationship among the states and between them and the national government. Article IV provided the first glimpse into citizenship in the new republic:

The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State, of which the owner is an inhabitant...

Significantly, Article IV identifies “free inhabitants” as “free citizens,” in recognition of the fact that slaves were held throughout the former colonies.

At the Constitutional Convention in Philadelphia in 1787, the Framers included several incomplete references to citizens. Members of Congress, as well as the President, had to be “Citizens of the United States,” but they included no definition of who a citizen was. In Article IV, the section of the Constitution devoted to relations between the states, they echoed language from the Articles of Confederation by writing that “the Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States” (Section 2). But what did this sentence mean? According to the Congressional Research Service, “the clause merely forbids any State to discriminate against citizens of other States in favor of its own. It is this narrow interpretation that has become the settled one,” (“Origins and Purpose of State Citizenship,” Annotated Constitution, <http://caselaw.lp.findlaw.com/data/constitution/article04/13.html#2>).

The Supreme Court Defines Citizenship: The Case of Dred Scott

In the 1850s, a man of African descent named Dred Scott was held as a slave by a doctor who lived for a time in Missouri. As part of his work for the federal government, the doctor took Scott and Scott’s family with him to free states. After the doctor died, the doctor’s wife brought Scott and his family back to Missouri. Although Missouri was a slave state, it followed a legal doctrine called “once free, forever free,” which meant that a person who had been in a free state or territory could petition for freedom. Scott went to Missouri state court to ask for his freedom. Through a complicated series of events, his petition ended up in federal court and was eventually argued twice before the Supreme Court of the United States. In 1857, the court announced its decision.

Chief Justice Taney wrote for the Court, and central to his decision was the question of citizenship. "The question," wrote Taney, "is simply this: Can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guaranteed by that instrument to the citizen?" The answer, for Taney, was "no."

The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing.... The question before us is, whether the class of persons described in the plea in abatement [people of African ancestry] compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word 'citizens' in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States....

Taney added that while "it is true, every person, and every class and description of persons, who were at the time of the adoption of the Constitution recognized as citizens in the several States, became also citizens of this new political body; but none other; it was formed by them, and for them and their posterity, but for no one else. And the personal rights and privileges guaranteed to citizens of this new sovereignty were intended to embrace those only who were then members of the several State communities, or who should afterwards by birthright or otherwise become members, according to the provisions of the Constitution and the principles on which it was founded" (*Scott v. Sandford*, 60 U.S. 393, 1857).

Redefining American Citizenship: The Fourteenth Amendment

Citizenship is generally granted under one of two systems. Under the first, called *Jus sanguinis* or "right of blood" in Latin, citizenship depends on who were a person's ancestors. If only white people were recognized as citizens when the Constitution was written, then—as Chief Justice Taney wrote—only white people could ever be American citizens.

The second way that citizenship is generally created is by *Jus soli* or the "right of land" in Latin. This means that where a person is born determines their citizenship. This second definition became law with the passage of the Fourteenth Amendment in 1868, which says

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws (Amendment XIV, Section 1).

This amendment effectively overturned the *Dred Scott* decision, and despite some initial resistance, the Supreme Court ultimately affirmed birth as making a person a citizen of the United States. With the Fourteenth Amendment, anyone born in America – white or black, a descendent of the Pilgrims or of foreign parents – was an American citizen.

Persons and Citizens

Even with the passage of the Fourteenth Amendment, the exact nature of American citizenship was still unclear. What were the "privileges and immunities" of American citizenship? The U.S. Supreme Court, in the case of *Cruikshank v. U.S.* (1873), the Supreme Court decides that "the privileges and immunities" of national citizenship guaranteed under the Fourteenth Amendment are restricted solely to those rights that owed their existence to the federal government, such as the right to travel to the national capital, or access to ports and navigable waterways. Even

so, the right of citizenship has been protected by the Court when the government has tried to strip it away from people because of their political activities (*Schneiderman v. United States*, 320 U.S. 118, 1943) or even for military desertion (*Trop v. Dulles*, 356 U.S. 86, 1958).

More significantly, the Fourteenth Amendment extends the rights of persons, whether or not they are citizens, under the Equal Protection and Due Process clauses. Because of these clauses, most of the Bill of Rights applies to citizens and non-citizens alike. Thus, the importance of distinguishing the rights of citizens from non-citizens has decreased over time.

Since the attacks of September 11, 2001, the distinction between the rights of citizens and non-citizens has taken on greater importance. For example, the Bush Administration has instituted military tribunals as part of the Global War on Terror. Most experts seem to agree that military tribunals are constitutional if used against non-citizen terrorists, and the Administration has captured non-citizens and held them as enemy combatants here in the United States. But a task force on military tribunals of the American Bar Association questioned the use of military commissions against non-citizens who are actually in the United States when captured. The task force noted court cases which held that aliens, even those not lawfully within the country, are entitled to due process protections contained in the Fourth, Fifth and Sixth Amendments and argued that such individuals should not be tried by tribunals ("American Bar Association Task Force on Terrorism and the Law Report and Recommendations on Military Tribunals," 2002). While this policy question depends on other important issues involving the war powers of the branches of the federal government and territoriality, the distinction between citizens and other persons remains significant to the debate.

Other privileges and associations with citizenship have also changed over time. In contrast to most democracies, for example, Americans have no constitutional right to an education. In *San Antonio v. Rodriguez* (1973), U.S. Supreme Court held that education is not a fundamental right guaranteed by the federal Constitution; instead, education is the responsibility of the states. Nevertheless, the U.S. Supreme Court later held in *Plyler v. Doe* (1982) that when a state does provide a free public education, it must do so for all children in its jurisdiction—whether they are citizens, legal immigrants, or even undocumented aliens.

As Patrick J. Bruer notes, "the Supreme Court's decisions have tended to reflect the Constitution's own ambivalence about citizenship.... While the Court has upheld birthright citizenship, its equal protection decisions have tended to [emphasize] the Constitution's tendency toward a narrow conception of citizenship closely tied to voting and office holding" ("Citizenship," *Oxford Companion to the Supreme Court of the United States*, 1992). The meaning of American citizenship will continue to evolve.

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B: Activity: Effective Citizenship

Overview

This introductory activity asks participants to think about and discuss the qualities of an effective citizen in four areas: knowledge, skills, attitudes, and action.

Instructions

1. Begin by writing the word “citizenship” on a piece of flipchart paper or blackboard. Ask participants to suggest words that they associate with citizenship and then *briefly* to explain why. Write each term on the flipchart paper and connect them to citizenship. When this pattern of association or word web has ten to fifteen terms, call for one or two more and then stop.
2. Next, explain that the group will try and brainstorm more concretely what effective citizenship means by looking at four focus areas:
 - § KNOWLEDGE: What does an effective citizen know?
 - § SKILLS: What skills does an effective citizen have?
 - § ATTITUDES: What attitudes (beliefs, dispositions) does an effective citizen have?
 - § ACTIONS: What does an effective citizen do?
3. Have participants count off by fours. Assign each group (1, 2, 3, or 4) to one of four flipchart stations positioned around the room – KNOWLEDGE, SKILLS, ATTITUDES, and ACTIONS. Each group will start at one station and then move clockwise to the other stations.
4. When the groups are in position, give them 3-4 minutes to brainstorm ideas for their station. Review the brainstorming basics: everyone’s ideas are accepted, all suggestions are listed, consensus is not necessary, etc.
5. After not more than 4 minutes, call “time” and ask all the groups to move clockwise to the next station [the direction is not important so long as it is the *same* direction each time]. At their new station, put a check mark next to ideas they agree with, and add their own ideas; ideas they do not share they are to leave on the paper. Have the groups repeat this process at each station until they are back in front of their “home” station.
6. When everyone is back at their original station, ask each group to reach consensus on the three most important things on their list and to select a spokesperson. [Each group is using the time-honored democratic power sharing structure – the committee – to reach its decisions.] When all the groups are ready, have the speakers report out to the rest of the group.
7. Debrief the activity. Use the following questions or develop your own:
 - § What do you think makes an effective citizen? Did you have any new insights about how you understand citizenship from this activity?
 - § Did you find most of what you consider effective citizenship in a specific area? If so, why?
 - § How does your understanding of citizenship compare with what was written at the beginning of the activity? How does it compare with what is taught in schools?

Conclude by noting that the group’s understanding of citizenship represents what they think today and not necessarily what they will think tomorrow. Rather, it is an opportunity to reflect on what it means to be an effective citizen. That understanding may change over time.

Adapted from: *A Facilitators Guide to Effective Citizenship Through AmeriCorps*, Corporation for National Service, 2001.

C: Source: Preamble to the Constitution of the United States

Below is the Preamble to the Constitution of the United States. "Although the preamble is not a source of power for any department of the Federal Government, the Supreme Court has often referred to it as evidence of the origin, scope, and purpose of the Constitution," ("The Annotated Constitution," <http://www.findlaw.com/casecode/constitution/>). The preamble is thus a good place to start the conversation about the rights and responsibilities of "the people" in the United States.

Using Handout D, "Deliberation Strategy: Civil Conversations," read and discuss the preamble. In pairs, identify the most important information and questions the reading raises for you. Then as a class discuss the preamble carefully to try and gain a deeper understanding of what it says and what it might suggest about the role of the citizen.

1 We the People of the United States, in Order to form a
2 more perfect Union, establish Justice, insure domestic
3 Tranquility, provide for the common defence, promote the
4 general Welfare, and secure the Blessings of Liberty to
5 ourselves and our Posterity, do ordain and establish this
6 Constitution for the United States of America.

D: Deliberation Strategy: Civil Conversations

Overview

Our pluralistic democracy is based on common principles—such as justice, equality, and liberty—that often are interpreted quite differently in specific situations by individuals. When controversial legal and policy issues are discussed in the public arena, they often lead to polarization, not understanding. This discussion model offers an alternative. Under the guidance of a facilitator, participants are encouraged to think carefully about a challenging text, gain insight about their own points of view, and strive for a shared understanding of issues.

Duration and Format

Conversations for classroom purposes should have a time limit generally ranging from 15 to 45 minutes and an additional five minutes to reflect on the effectiveness of the conversations. A large-group conversation requires that all students sit in a circle; if the group is too large, pair the students so that there is an inner and outer circle with students able to move back and forth into the inner circle if they have something to add. Small-group conversation can be structured either with a small group discussing in the middle of the class “fish bowl” style or simultaneously with different leaders in each group.

PROCEDURE

Introduction. Briefly review the purpose and rationale of the activity. Distribute a copy of Handout E, “Civil Conversations Worksheet,” to every participant. Review the “Rules for Civil Conversations” with the class.

Reading Guide. Disseminate the selected text. The reading should not be long—shorter is better—and it sometimes is helpful if it is a complete reading [such as the Preamble to the Constitution or the Pledge of Allegiance], although self-contained selections work, too. Ask the students to work in pairs and to complete the reading by following the instructions and responding to questions 1 through 5 in the guide.

Conducting the Activity

Step 1. Select a format and time frame and participants accordingly.

Step 2. If selecting the large-group format, the teacher leads the discussion using the procedures from below. If using a small-group format, write the following procedures on the board and review them with the class. Then select co-conversation leaders for each group. Use these instructions for facilitators:

- § Begin the conversation by asking every member of the group to respond to questions 3 and 4 of the Civil Conversation Worksheet. Members should not just repeat what others say.
- § Then ask the entire group to respond to question 5 and jot down the issues raised.
- § Continue the conversation by discussing the questions raised.

Step 3. Debrief the activity by having the class reflect on the effectiveness of the conversation. Ask students to return to the Reading Guide and answer questions 6 and 7. Then begin by asking students who were not active in the conversation to comment:

- § Who said something that gave you a new insight? What did you hear that you agreed with? disagreed with?
- § What did you learn from the Civil Conversation?
- § What common ground did you find with other members of the group?

Step 4. Conclude the debrief by asking all participants to suggest any ways they might improve the conversation. If appropriate, add these suggestions to the conversation rules.

From: *The Challenge of Violence: Teacher's Guide*. 1997: Constitutional Rights Foundation.

E: Handout: Civil Conversations Worksheet

Rules for Civil Conversations

- Read the text as if it were written by someone you really respected.
- Everyone in the conversation group should participate in the conversation.
- Listen carefully to what others are saying.
- Ask clarifying questions if you do not understand a point raised.
- Be respectful of what others are saying.
- Refer to the text to support your ideas.
- Focus on ideas, not personalities.

Civil Conversation Reading Guide

Reading: _____

Read through the entire selection without stopping to think about any particular section. Pay attention to your first impression as to what the reading is about. Look for the main points, and then go back and re-read it. Briefly answer the following questions.

1. This selection is about _____

2. The main points are:

3. In the reading, I agree with _____

4. I disagree with _____

5. What are two questions about this reading that you think need to be discussed? (The best questions are ones that have no simple answers and ones that use materials in the text as evidence.)

The next two questions should be answered after you hold your civil conversation.

6. What did you learn from the civil conversation? _____

7. What common ground did you find with other members of the group? _____

From: *The Challenge of Information*, © 1998, Constitutional Rights Foundation