

From proclamation to practice: the principle of equality in three historic documents

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Abstract

This study examines the principle of equality as it is articulated in three foundational documents: the U.S. Declaration of Independence, the French Declaration of the Rights of Man and of the Citizen, and the Spanish Constitution of 1812. This research aims to explore how the idea of equality was conceptualised and implemented in these texts and to analyse the historical and socio-political contexts that shaped their development. Using a combination of historical, comparative, and interpretative methods, this study investigates the evolution of equality as a legal and philosophical concept, focussing on its application to different social groups, including women, enslaved individuals, and colonial subjects. The research reveals that while these documents proclaimed universal ideals of equality, their implementation often fell short, reflecting the biases of their time. Key findings include the role of these texts as both catalysts for change and tools for exclusion, as well as their enduring influence on modern human rights discourse. This study concludes that the struggle for equality is an ongoing process, shaped by the tension between ideals and reality, and highlights the importance of historical context in understanding the development of equality as a fundamental principle of justice.

Keywords

equality • enlightenment • human rights • foundational texts

INTRODUCTION

The 18th and 19th centuries marked a pivotal era in the development of written constitutions in the modern sense. During this time, the natural law doctrine flourished alongside evolving understandings of human nature and reason (Pleps et al., 2004). This period saw the rise of the natural law school, whose philosophers—such as Hugo Grotius, Thomas Hobbes, John Locke, Montesquieu, and Jean-Jacques Rousseau—laid the groundwork for contemporary legal thought (Zemītis, 2006). Their ideas emphasised fundamental principles, such as, human equality, which remains a cornerstone of any societal model (Dworkin, 1983). The principle of equality was further employed as both a political and legal tool during the transition from feudal class-based societies to modern liberal democratic societies (Levits, 2011). It played a crucial role in the emancipation of individuals with varying legal statuses, reflecting the broader shift towards democratic ideals.

The starting point for understanding equality is the realisation that equality is not the same as uniformity. Instead, based on the moral equality of all human beings, equality involves being different yet fundamentally similar (Rosenfeld and Sajo, 2012). Historical examples of the application of the principle of equality often raise the question of who is entitled to equality in a given context—who is considered ‘similar’ and who is

‘different’? The answer to this question determines which groups of people will enjoy certain rights and which will not.

This study examines and compares the manifestations of equality in three different documents: the Declaration of the Rights of Man and of the Citizen (France), the U.S. Declaration of Independence, and the Spanish Constitution of 1812, also known as the Constitution of Cádiz. These documents share a common philosophical foundation rooted in natural law, which protects individual rights against the abuse of state power. These ideas of natural law can be attributed to John Locke (Janis, 1992), who believed that human rights, rather than state authority, should take precedence (Locke, 1968). Taking into account the historical significance of these documents and the role of equality in any democratic society, this study aims to explore how the idea of equality is expressed in each of these documents and how these expressions are similar or different from one another. The author emphasises that the ideas of equality contained in these documents cannot be objectively evaluated solely through the lens of modern values—it is essential to consider the historical context of these ideas. Therefore, the focus of the work is on the events that occurred before and after the adoption of the respective legal documents.

To carry out the comparison of fundamental rights documents, the author sets the following tasks:

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1. To compile and analyse critical literature on the specific fundamental rights documents and their historical context;
2. To conduct a comparative analysis of the expression of the idea of equality in the selected three fundamental rights documents.

To fulfil the tasks and achieve the aim of this study, the author employs the historical method (Osipova, 2010), examining the historical context of these Enlightenment-era documents; methods of legal norm interpretation (Melkisis, 2003) studying the norms included in the documents that reveal the essence of equality; the analytical method (Channels, 1985), analysing opinions expressed in scholarly publications regarding the ideas of equality in specific legal catalogues; and the comparative method (Samuel, 2014)—comparing the understanding of equality within the framework of these three historical fundamental rights documents. The work primarily uses sources in the English language, but also in Latvian and Spanish.

The work consists of an introduction, discussion, and conclusions. The 'Discussion' section is divided into three separate but interrelated parts, in which all three legal documents are examined sequentially. First, the historical context of the drafting of the U.S. Declaration of Independence and the content of the phrase 'all men are created equal' included in it are discussed. This is followed by an overview of the adoption of the French Declaration, an analysis of the idea of equality in its text, and a comparison with the U.S. Declaration of Independence. Then, the adoption of Spain's first constitution is examined, along with an evaluation of the idea of equality contained within it and a comparison with the previously discussed documents. Finally, conclusions are drawn regarding the 'Discussion' section.

RESEARCH RESULTS AND DISCUSSION

Equality in the U.S. Declaration of Independence

The U.S. Declaration of Independence is one of the most important documents in the history of Western political thought (Armitage, 2007). On 4 July 1776, the 13 British colonies in North America declared their independence from Britain and the establishment of a new independent state—the United States of America. By the mid-18th century, these colonies differed from one another in terms of the ethnic composition of their settlers and their occupations. Pennsylvania was settled by Scots, Irish, Dutch, French, Danes, and Norwegians. Germans, Scots, and Irish settled in the southern colonies. Many of the immigrants fled from monarchical political systems, religious oppression, and the aristocratic order of life in Europe (Zemītis, 2003).

Since the mid-18th century, dissatisfaction with British colonial policy began to grow rapidly in the American colonies. The situation escalated when, in 1773, the Parliament in London allowed English tea merchants to sell tea at a lower price, granting privileges to English companies exporting tea to the colonies. This led to protests and confrontations in Boston, which quickly escalated into war (Zemītis, 2006). The complete independence of the colonies from Britain was declared by the elected representatives of the colonies on 4 July 1776, with the adoption of the U.S. Declaration of Independence. The Declaration was based on the political philosophy of the French and English Enlightenment. In its preamble, it states, 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness'.

However, it should be emphasised that the Declaration was primarily a political document aimed at rejecting British authority over the American colonies, and its primary goal was to declare the equality of the new state with other world powers, rather than to promote equality for all people (Becker, 1958; Boulton, 1995; White, 1978). At the time, the attention given to the famous phrase about equality was relatively insignificant (Maier, 1999). In a modern interpretation, not all people were considered equal in the understanding of the Declaration. The words 'all men are created equal' were written by Thomas Jefferson, who at the time owned around 200 slaves, whom he did not free even by the time of his death (Meacham, 2012). The idea of equality in the Declaration did not apply to women and people of African descent, who at the time were not considered part of American society, except as property. This position is partially confirmed by the infamous U.S. Supreme Court decision in *Dred Scott v. Sandford* (1856), which ruled that the Declaration and the U.S. Constitution did not grant any rights 'which the white man was bound to respect' to African Americans (Scott v. Sandford).

At the same time, African Americans and women were not the only groups whose rights were restricted¹—even free white men did not always enjoy full participation in society. The revolutionaries envisioned a state where the full protection of fundamental rights would be granted only to those who were both physically and economically independent. As a result, men without property or those deemed 'without investment or interest in society' were denied the right to vote. This rationale also served to justify the exclusion of enslaved individuals from society (Wood, 1992).

Historians argue that this contradiction between the Declaration's preamble and the realities of society can be

¹ Slavery in the United States was abolished only in 1865 after the Civil War with the Thirteenth Amendment, while women's right to vote was enshrined in the U.S. Constitution in 1920 with the Nineteenth Amendment.

explained by Thomas Jefferson's views on the natural order (Boorstin, 1948; Miller, 1988). Jefferson believed that God had created a perfect natural order, where every being had its designated place, and God could not err. Consequently, differences in gender, skin colour, and other natural characteristics were seen as inherent and unquestionable. While gradual changes in God's plan might occur, nature itself was considered perfect and unalterable. From Jefferson's perspective, this natural order justified gender and racial discrimination in society (Iwabuchi, 2000). Similar sentiments were echoed by another founding father, John Adams, who remarked, 'By the law of nature, all men are men and not angels—men and not lions—men and not whales—men and not eagles—that is, they are all of the same species. And this is the most that the equality of nature amounts to. But man differs by nature from man almost as much as man from beast'. (Hazen, 1964: 274–275).

It is important to note that Americans held a dual attitude towards equality. On the one hand, equality resonated with their sense of justice and fairness. On the other hand, there was a fear that extending equality too far might infringe upon individual freedoms. While they embraced equality before the law, many were hesitant to apply the principle to social and economic spheres, viewing such expansion as potentially disruptive.

In conclusion, for the drafters of the Declaration, equality primarily meant that all free men who owned property were created equal. For other groups—women, African Americans, and the economically disenfranchised—the struggle for recognition of their rights would continue long after the Declaration was signed (Maier, 1999).

Equality in the French declaration of the rights of man and of the citizen

Equality has held a central place in French traditions since the 1789 Revolution, which gave rise to the enduring slogan, 'liberty, equality, fraternity'. On 26 August 1789, the Constituent Assembly adopted the historically significant Declaration of the Rights of Man and of the Citizen. Article 1 of the Declaration proclaims, 'Men are born and remain free and equal in rights'. This statement reflects the Enlightenment belief that rights are inherent to all individuals by nature and, therefore, must be equally guaranteed to everyone (Levits, 2011).

As L. Birziņa has observed, 'In an era when serfdom still prevailed across Europe and slavery thrived in the United States, the bold assertion of human freedom and equality was truly revolutionary'. (Birziņa, 1989: 52–53. lpp.). The Declaration, along with the broader French Revolution, played a pivotal role in advancing the idea of equality across Western nations (Bell, 1995). While the U.S. Constitution predates it, the French Declaration was among the first

written constitutions globally. The relationship between the two documents has sparked debate, particularly regarding the influence of the U.S. Declaration of Independence on the French text (Ludwikowski, 1990, 1989). Grammatically, Article 1 of the French Declaration closely mirrors the phrase 'all men are created equal' from the U.S. Declaration (Fay, 1927). However, as French historian Godechot noted, the two declarations differ in character. The American text was highly specific and distinctly American, while the French Declaration was conceived as a universal manifesto, addressing humanity as a whole (Godechot, 1965). The authors envisioned it as a document 'for all nations and all times'. (Zemītis, 2006: 244). To fully grasp the inclusion and purpose of equality in the Declaration, it is essential to examine the historical context of its creation.

In the 18th century, France was ruled by two Bourbon monarchs: Louis XV (1715–1774) and Louis XVI (1774–1792). Both kings sought to govern as absolute rulers, but the Enlightenment ideals of liberty and equality were alien to their worldview (Zemītis, 2006). French society was rigidly divided into estates: the clergy formed the First Estate and the nobility the Second Estate. These privileged classes held exclusive political rights and occupied all significant positions in the state. The king, high clergy, and nobility lived in opulent luxury in Paris and Versailles, exempt from taxation (Birziņa, 1989). Together, they owned two-thirds of France's land, which was also tax-exempt, while the burden of taxation fell disproportionately on the common people (Dew, 1865). Peasants, who made up the majority of the population, were crushed under heavy taxes and feudal dues, leaving many in abject poverty and unable to afford even basic goods (Birziņa, 1989).

The abolition of noble and clerical privileges on 4 August 1789, marked a turning point, signalling that special status based on birth or tradition had no place in a liberal society. The Declaration reinforced this shift by declaring that the law must be the same for all. Unlike the U.S. Declaration, the French text provided a more detailed vision of equality. Article 6 states, 'Law must be the same for all, whether it protects or punishes', ensuring equality in legal proceedings and the application of punishments, although guarantees of legal process are included in Article 7 of the Declaration. This principle was rooted in the ideas of Voltaire, who opposed administrative favouritism, inhuman judicial practices, and political persecution. In feudal society, such equality was unprecedented, as lords often viewed peasants and townspeople as less than human (Birziņa, 1989). The Declaration also emphasised that punishments must be uniform for all who commit the same crime, echoing John Locke's belief that injustice and crime are inherently the same, regardless of the perpetrator's social standing (Zemītis, 2006). Article 6 further guarantees that all citizens are equally

entitled to public benefits, offices, and professions based on their abilities, with no regard for differences except virtue and talent. This revolutionary principle was encapsulated in the slogan, 'careers open to talent'. (Bell, 1995: 209). Additionally, Article 13 ensures equality in bearing public expenses, reflecting the Declaration's broader aim of addressing the stark inequalities between the privileged classes and the common people. The Declaration sought to dismantle the aristocracy's privileges, abolish the guild system, and end feudal taxation (Bell, 1995). While the French Constitution of 1793 later emphasised social equality, the drafters of the Declaration were content with establishing equal protection of individual rights, provided they did not harm others.

It is worth noting that, like the U.S. Declaration, the French text places less emphasis on equality than on liberty (Godechot, 1965). Article 2 identifies liberty, property, security, and resistance to oppression as fundamental human rights derived from human nature (Kingsley, 1962), but equality is notably absent from this list. Moreover, shortly after the Declaration's adoption, on 22 December 1789, French citizens were divided into 'active' and 'passive' categories, granting voting rights to only active citizens. To qualify as an active citizen, one had to be French, at least 20 years old, pay taxes equivalent to 3 days' wages, and not be a wage-earning servant (Zemītis, 2006). This division parallels the situation in the United States, where full rights were reserved for property-owning white men. However, the Declaration's text later became a foundation for broader discussions on expanding rights to marginalised groups. For example, although women were excluded from full citizenship, the French Revolution inspired the fight for women's rights (Zemītis, 2006). In 1791, Olympe de Gouges published the Declaration of the Rights of Woman and the Female Citizen, asserting in Article 1 that 'woman is born free and remains equal to man in rights'. Additionally, the Declaration's influence led to the abolition of the death penalty for homosexual acts and efforts to end slavery in France (Ishay, 2004).

Equality in the Spanish Constitution of 1812

Spain's first written constitution was adopted by the Spanish representative body, the Cortes on 19 March 1812, in Cádiz—a time when the American and French revolutions were still recent history. The French Declaration of the Rights of Man and of the Citizen had a particularly significant influence on Spain's first constitution (Errera and Kamleshwar, 1976). This document consists of 384 articles, among which equality is not explicitly mentioned, unlike in the French and U.S. declarations. Nevertheless, several authors agree that this constitution provided for equal rights before the law (Araque, 2009). Such conclusions can likely be drawn from what the constitution did not specify (the silence of the law), the granting of rights to inhabitants of the colonies, and provisions

such as a unified education system, punishment only on the basis of law, a standardised procedure for resolving disputes, and the right of all individuals to express their opinions without facing the death penalty.

Although the Spanish Constitution of 1812 is often regarded as the first liberal constitution, it is important to note that, in terms of equality, it differed from the ideas contained in the U.S. and French declarations. Specifically, the Spanish Constitution did not grant equal rights to all individuals to practice their religion. On the contrary, the state recognised only one religion, and all others were prohibited under the constitution. Similarly to the previously discussed declarations, women were excluded from civic life, as they were not considered citizens in the eyes of the law (Hernández Pina, 2013). People of African descent were also marginalised (with the exception of Article 22, which allowed for special recognition based on merit), being equated to slaves and individuals without property (Alonso, 2011). However, like the U.S. and French declarations, this constitution was later used to argue for the expansion of rights for people of African descent and enslaved individuals (Eastman et al., 2015).

The most notable expression of the principle of equality in the Spanish Constitution is the granting of citizenship rights to inhabitants of the colonised Americas. As a result, many distinctions between Spaniards in Europe and those in the Americas were levelled, a point frequently emphasised in legal doctrine (Casas, 2011). Although the inhabitants of the Americas did not yet enjoy full rights, this historic document, much like the previously described declarations, provided a platform for further societal development and the crystallisation of the idea of equality.

CONCLUSIONS

Based on the findings of this study, the author has drawn the following conclusions:

1. All three documents are now regarded as instruments for promoting equality. However, within the frameworks of these rights catalogues, certain groups were considered more equal than others. Specifically, free white men with property were seen as 'created equal' and entitled to all of the freedoms outlined in these documents. For women, people of African descent, and enslaved individuals, these documents provided a legal foundation and a powerful political tool to fight for the expansion of their rights in the future.
2. The disparities in equality observed in these nations were rooted in the prevailing attitudes of the time. From the perspective of the principle of equality, such discrimination was justified by the belief that the

compared groups were not equal but inherently different. For example, the initial denial of voting rights to women in democratic societies was rationalised by the notion that men and women were fundamentally different by nature (just as people of African descent were seen as different from white individuals). Therefore, the principle of equality was not considered violated. Only as societal perceptions shifted regarding who was 'equal' and who was 'different' did these groups gain the opportunity to level their legal status.

3. Equality, as understood today, is not a straightforward gift from the Enlightenment era. The equality we see today is the result of generations of struggle to realise the ideals of equality enshrined in human rights catalogues. It is an ongoing process, shaped by continuous efforts to address historical injustices and expand the scope of equal rights.
4. While the U.S. and French declarations explicitly emphasise the principle of equality, the Spanish Constitution incorporates it indirectly, though no less significantly. None of these documents at the time aimed to create an absolutely equal society. Instead, the idea of equality played slightly different roles in each context. In the U.S., it was about ensuring the equality of the new nation among other world powers; in France, it sought to create more equitable conditions between ordinary citizens and the privileged classes; and in Spain, it aimed to eliminate political inequality between Spaniards in Europe and those in the Americas.

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