

BRIA

Bill of Rights In Action

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This mural in the U.S. Capitol depicts well-known delegates to the Constitutional Convention of 1787 meeting in Benjamin Franklin's garden (from left to right): Alexander Hamilton, James Wilson, James Madison, and Benjamin Franklin.

Does the Constitution Establish a Republic or a Democracy? A Supreme Court History

The U.S. Constitution went into effect in 1789. This organizing document helped to establish the structure of a new national political system. The political system set in place by the U.S. Constitution still operates today, more than two hundred years later. But important questions remain about this political system: What kind of system is it? And is this system consistent with the aspirations of the founding generation?

Scholars often speak of the American political system as a *republic* or a *democracy*. These terms are related but not synonymous. And they are not connected to either of the two major political parties in the United States: the Republican and Democratic parties.

Instead, republicanism and democracy represent two political visions that carry rich histories in this country. As far back as the debates over the ratification of the U.S.

Vocabulary

jurisdiction (n.) – the geographic area or subject matter that a court has authority over.

justiciable (adj.) – capable of being decided by the judicial branch instead of the executive or legislative branches. (Noun form is *justiciability*.)

representative democracy (n.) – a political system in which the people elect their leaders, who represent the people in a legislature.

Constitution, Federalists and Antifederalists deliberated over these two visions when deciding whether to replace the Articles of Confederation with the U.S. Constitution.

In the *Federalist Papers*, which advocated for the adoption of the new U.S. Constitution, James Madison explained the meaning of “republic” and “democracy” in the American constitutional context. In *Federalist No. 10*, Madison wrote:

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy...

The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

Madison defined his terms precisely. By “republic,” he meant (1) a representative government, which was (2) distinct from “pure” democracy. Democracy, in this “pure” sense, meant a system in which citizens vote directly on issues. The people wield ultimate authority over the government and possess full control over the key political institutions and practices that govern their lives.

The democracy of ancient Athens resembled this kind of “pure” or “direct” democracy. In Athens, citizens met in a popular assembly to make decisions together. But Madison was critical of Athenian democracy and did not want the United States to become a direct democracy.

Madison also specified in *Federalist No. 10* that a republic consists of a “small number of citizens elected by the rest.” Therefore, the republic formed by the new U.S. Constitution could be interpreted as a representative democracy, which is not the same as a direct democracy.

In a **representative democracy**, all citizens are political equals — they have equal standing and possess the same political rights under the Constitution. But citizens do not vote directly on every political issue. For instance, under the Constitution, we elect our leaders to serve in a political body and to communicate our interests in that body. Our leaders represent us for fixed terms and require our continued support — and votes — to keep serving. Democracy in this context means that we can vote our representatives into office — and we can vote them out, if a majority of us no longer feel represented.

Madison believed that a version of democracy was compatible with republicanism, and the U.S. Constitution would produce a political system that married these two visions. What Madison could not foresee was how American constitutional law would engage with both republican and democratic visions over time. The following sections highlight how the U.S. Supreme Court has approached these two visions within the Constitution and used them to clarify and update our nation’s political system.

The Republican Vision

The U.S. Constitution ensures the creation and maintenance of a republican political system. Nowhere is this commitment made more explicit than in Article IV, Section 4, of the Constitution. This section is commonly referred to as the Guarantee Clause. It states: “The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.” Despite the unmistakable promise of republicanism found in the Guarantee Clause, there has been limited judicial clarification or enforcement of this clause.

Since the 1800s, the Supreme Court of the United States has been reluctant to enforce this provision of the Constitution against individual states. In 1849, the Supreme Court was asked to resolve a dispute in the case of *Luther v. Borden*. The case came from Rhode Island, when a local rebellion led to two competing state governments vying for official recognition. But the court refused to resolve the dispute. “We decline doing so,” the Court stated tersely. Instead, the justices ruled that the court would not determine whether a state had a republican government.

To decide if a state had a republican government, the Supreme Court would have had to answer an intrinsically political question. The court believed it should refrain



from doing this: “This tribunal, therefore, should be the last to overstep the boundaries which limit its own **jurisdiction**. And while it should always be ready to meet any question confided to it by the Constitution, it is equally its duty not to pass beyond its appropriate sphere of action, and to take care not to involve itself in discussions which properly belong to other forums.”

In short, the justices decided that it was not the duty of federal courts to ensure that states maintained a republican form of government. The matter before them was not a **justiciable** matter: the other two branches of the national government — the executive and legislative branches, not the judicial branch — should resolve it.

“Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not,” wrote Chief Justice Taney. One way that Congress does this is when it officially recognizes and “seats” legislators. “And when the senators and representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority.”

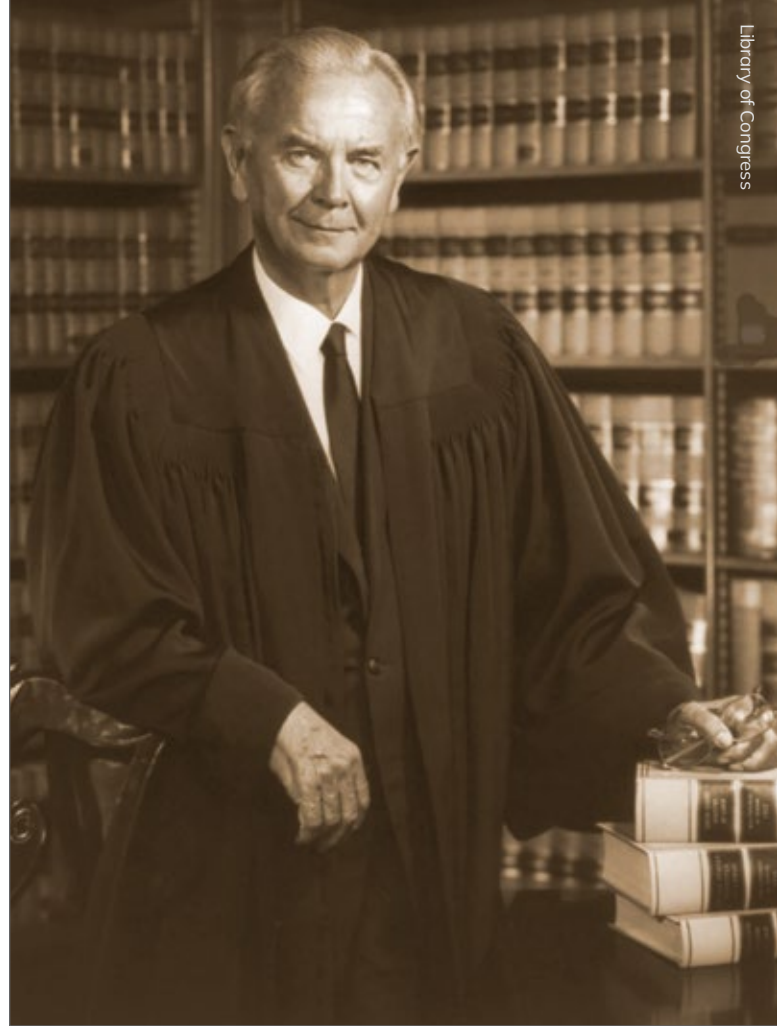
Additionally, the second half of the Guarantee Clause points to a way in which the president can resolve a threat to republican government. As commander-in-chief of the nation’s military, the Constitution authorizes the president to lead the armed forces and to quell invasions and domestic violence against any of the states.

In *Luther*, the Court set the precedent that the judicial branch of the national government does not have the authority to resolve these kinds of political disputes that arise under the Guarantee Clause. But the executive and legislative branches do. Later Supreme Court cases reinforced this precedent.

The Democratic Vision

There are no explicit references to “democracy” or “democratic” in the U.S. Constitution or in any subsequent amendments to the Constitution. However, the Supreme Court has interpreted many of the 27 constitutional amendments as democratic changes to our political system. Some of these democracy-enhancing amendments include the First, 13th, 15th, 19th, and 26th Amendments.

Moreover, the Supreme Court has interpreted the U.S. Constitution in a manner that has given more Americans a say over political decisions. *Baker v. Carr*, *Wesberry v. Sanders*, and *Reynolds v. Sims* offer three examples of the Supreme Court expanding democracy through its constitutional law decisions.



Justice William J. Brennan (1906 – 1997) wrote the majority opinion in *Baker v. Carr*.

Baker v. Carr

Throughout American history, many states have chosen to redraw their state legislative districts every ten years. They do this to ensure that each district covers approximately the same number of people.

But in the 1962 case of *Baker v. Carr*, the Supreme Court dealt with a state that was not regularly “redistricting.” A former mayor, Charles Baker, sued the state of Tennessee because the state had not redrawn district lines for more than 60 years, causing representation disparities that Baker believed to be unconstitutional. The population of Tennessee had grown significantly since the state last redrew its legislative districts in 1901. Urban areas had become much larger than they had been at the turn of the century.

Because the Tennessee government had refused to redistrict, the voting power of each person was not equal across the state. The vote of a Tennessean living in a low-population rural district held more weight than the vote of a Tennessean living in a high-population urban district.



INITIATIVE AND REFERENDUM



In contrast to Madison's republicanism, many states allow a form of "pure democracy" or direct democracy called the "initiative and referendum" process. In these states, citizens can pass initiatives or propositions on specific issues, usually by majority vote. In effect, these propositions amend state constitutions without the involvement of elected representatives in the state's legislative and executive branches. For example, in recent years, California citizens have considered whether to allow affirmative action in public schools and whether the retail sale of flavored tobacco should be allowed.

Within the states, initiative and referendum has prompted the same debates about the pros and cons of direct democracy as occurred during the Constitutional Convention. One recurring issue is whether citizens are informed enough to directly decide the issues they are asked to vote on.

Does your state have an initiative and referendum process?

In *Baker*, the Supreme Court ruled that challenges to the boundaries of states' legislative districts were justiciable. Federal courts could intervene to remedy violations of the 14th Amendment. Section 1 of the 14th Amendment states:

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.

A majority of Supreme Court justices agreed in *Baker* that Americans have a right to challenge state systems of political representation that debase citizens' votes. Writing on behalf of the majority, Justice William Brennan noted, "A citizen's right to a vote free of arbitrary impairment by state action has been judicially recognized as a right secured by the Constitution." An essential component of the democratic vision for the United States is that citizens should have the ability to vote and that their votes should carry the same weight as their neighbors' votes.

Wesberry v. Sanders and Reynolds v. Sims

The Supreme Court relied on *Baker* in two subsequent cases: *Wesberry v. Sanders* and *Reynolds v. Sims*. In these cases, the court established the broader democratic principle of "one person, one vote" in American

constitutional law. In these two cases from 1964, the Court ruled that each U.S. congressional district should cover roughly the same population, and each state senate district should have roughly the same population as every other senate district within the state. This way, every person's vote is worth as much as the vote of their neighbor.

In *Wesberry*, Justice Hugo Black discussed why the "one person, one vote" principle is so integral to a democratic political system. He wrote: "To say that a vote is worth more in one district than in another would not only run counter to our fundamental ideas of democratic government, it would cast aside the principle of a House of Representatives elected 'by the People,' a principle tenaciously fought for and established at the Constitutional Convention."

The Supreme Court was concerned with each citizen having an equal voice when it came time to vote. The court believed that inequality would come from U.S. congressional districts having extremely different populations, or state senate districts being determined by criteria like equal land area instead of equal population size. States could even use unequal systems of political representation to systematically discriminate against certain groups of people. Chief Justice Earl Warren wrote in *Reynolds*:

Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. As long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and



directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system.

It Is More Than the Supreme Court

Even though the U.S. Constitution includes both republican and democratic visions for the United States, the federal judiciary has approached these two visions quite differently across American history. The Supreme Court has regularly turned to the democratic vision to update our nation's political system and to enhance the governing power of everyday citizens.

It is important to remember that it is not just the Supreme Court that has a civic duty to deliberate over the nature of our political system. Our state and national governments must decide how best to exercise their constitutional powers and carry out the responsibilities given to them by the Constitution. And every person living in the United States has a complementary duty to hold their government officials accountable to the Constitution. The people also have a duty to push for changes to our constitutional framework when it is

malfunctioning, as we've seen with amendments that have passed.

The Constitution reflects both democratic and republican visions for the United States. These visions can supply all of us with ideas and inspiration to continuously improve our political system.

Writing & Discussion

1. How did James Madison distinguish a republic from a democracy? How did he see democracy as compatible with republicanism?
2. How does the principle of "one person, one vote" define American democracy?
3. Define the terms "republic" and "democracy" in your own words.
4. Do you agree that everyone living in the United States has a duty to hold government officials accountable to the Constitution? Why or why not?

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ACTIVITY: DECIDE THE CASE

Assemble into a group of 3-4 students. Each group is a team of clerks for a U.S. Supreme Court justice. The court has just heard two cases, and your team's job is to share your opinion about how your Supreme Court justice should vote in deciding the case.

In your team:

- Analyze each of the two cases.
- Decide how you think the questions in each case should be decided by the Supreme Court.
- Provide your reasons, using the cases and information from the article.

Case A: a republic-enhancing state proposal

Facts: A state decided to end its initiative and referendum system, which allows citizens to vote directly on some laws. (These are often called "propositions" that people vote on directly on their ballots.) The state wanted to enhance the republican form of government in the state. Some citizens challenged the state's decision.

Question: Does the state's decision undermine the principle of "one person, one vote"?

Case B: a democracy-enhancing state proposal

Facts: A state decided to reform how it chooses electors for the electoral college in presidential elections. Traditionally, electors pledged to vote for the presidential candidate who wins the popular vote in the state. From now on, however, the state will require electors to vote for the presidential candidate who wins the *popular vote of the whole nation*. Some citizens challenged the state's decision.

Question(s): Does the state's decision violate the Guarantee Clause? Is this case justiciable?

Be ready to have a spokesperson from your team share your decisions and reasons.

Assessment: Choose which state action (either Case A or Case B above) that you agree with more. Write a paragraph explaining why you agree with either the *republic-enhancing* or *democracy-enhancing* proposal more.



Jeanette Rankin: A Pioneer for Peace

Montana Historical Society

On April 6, 1917, Jeannette Rankin cast her first vote in Congress at the precipice of World War I. It would be one of the most controversial acts of her life. Days earlier, U.S. President Woodrow Wilson asked Congress to declare war on Germany to bring “peace and safety to all nations.”

When Rankin’s name was called to vote, she said, “I want to stand by my country, but I cannot vote for war.” For this, she faced severe public backlash.

Just over two decades later, her pacifism led her to be the sole dissenting voice against the U.S. entering World War II. She found herself publicly scorned once again. However, Rankin refused to back down. She believed that her votes aligned with her constituents’ desires and that she had an obligation to uphold her moral opposition to all war. Rankin’s dissent and broader efforts to promote peace left an indelible mark on U.S. history. Many admired her courage as a dissenting voice, while others thought she let her country down.

Roots of Idealism

Born on June 11, 1880, near Missoula, Montana, when it was still a frontier territory, Rankin was raised with a spirit of independence and moral courage. Her father, John Rankin, was a successful businessman who ensured his seven children never went without sufficient resources or opportunities. Education was highly valued, and the

children were expected to develop self-reliance, pursue professional success, and contribute to improving society.

After graduating from Montana University in 1902, Rankin spent several years working as a teacher and seamstress – among the few professional roles available to women then. After her father’s death, Rankin traveled to visit family in New York City, Boston, and San Francisco. There, Rankin began to realize the vast inequality that existed in America. She was stunned by the poverty and bleak living conditions endured by many. Such experiences led Rankin to pursue social work aimed at improving these circumstances.

Rankin enrolled in the New York School of Philanthropy in 1908 to pursue a career in social work. Several years later, Rankin began working in a children’s home in Spokane, Washington. However, she soon became disillusioned by the slow pace of change possible through case-by-case endeavors. Rankin shifted her reform ambitions to the political sphere, believing that legislation could more effectively tackle societal injustices. This launched Rankin on a trailblazing path as a politician.

Political Ascent

After moving back to Montana in 1910, Rankin became involved in the state women’s suffrage movement with great success. Her public speaking skills and political savvy led to her reaching high-ranking positions in Montana’s



suffrage organizations. It was reported that within one month, she delivered 26 speeches and traveled over 1,300 miles to support the suffrage movement. Rankin's efforts played an integral role in securing equal voting rights for women in Montana in 1914, six years before the 19th Amendment guaranteed the same on the federal level.

Bolstered by this achievement, Rankin set her sights even higher, running as a Republican for one of Montana's congressional seats in 1916. As she campaigned across the state, Rankin won over voters with her progressive stances. In her campaign platform, she pledged to support "national equal suffrage, child welfare, greater publicity in congressional affairs, and prohibition." When votes were counted, she had secured victory.

At age 36, Rankin was handed a historic first: becoming the first woman elected to the U.S. Congress. Though ready to tackle her platform issues, other pressing global troubles would define her career in Congress.

The First World War

On April 2, 1917, President Woodrow Wilson went before Congress to request a declaration of war against Germany. Europe and other parts of the world were embroiled in the Great War, which would later be known as World War I. The United States had resisted involvement in the global conflict for years, maintaining a policy of neutrality. But continued provocation from German U-boats attacking American ships had pushed the country to the brink of war. Wilson argued the time had come for America to enter on the Allies' side. A charged debate ensued in Congress, but most ultimately agreed that war was inevitable.

Rankin was among the holdouts. She made her way to the House Floor on April 6, 1917, already sure of the difficult vote she would cast. Rankin voted firmly against entry into the war, one of only 50 dissenters.

In the eyes of many Americans, her vote instantly made her disloyal. The *Helena Independent* ominously dubbed her "a dagger in the hands of the German propagandists" and suggested she was a willful part of the German war machine. Rankin later explained her vote by saying, "Never for one second could I face the idea that I would send young men to be killed for no other reason than to save my seat in Congress."

Despite her anti-war conviction, Rankin refused to abandon her duties to constituents. She upheld her responsibilities as a congresswoman by selling Liberty

Bonds to support the American war effort, providing home-cooked meals for soldiers headed overseas, and offering moral support to troops. However, the damage to her reputation was done. When she ran for re-election in 1918, she was defeated. With her first stint in Congress over, Rankin returned to advocating for the causes she held dear: women's equality and peace.

World War II

In 1940, nearly a quarter century after her first election to Congress, Rankin decided to run for one of Montana's seats again. She won the open position, returning to Congress just as Europe and Asia descended into World War II. Americans were divided in their opinions about entering the war, and Congress passed Neutrality Acts to prevent any Americans' involvement. In early December 1941, however, the crisis arrived on America's doorstep with the Japanese bombing of Pearl Harbor.

Public opinion swayed strongly toward entering the war. On December 8, just one day after Pearl Harbor, Rankin faced another vote to enter a new world war.

On the House floor that day, there were expectations that the vote to declare war on Japan would be unanimous. A declaration would draw the United States into conflict against Japan and its fellow Axis Powers, Nazi Germany and Italy.

Rankin later admitted she was conflicted about her vote but remembered her campaign promises about avoiding war. When her name was called, Rankin stated, "As a woman, I can't go to war and I refuse to send anyone else." Boos and hisses emanated from the floor and galleries above. After her vote, Rankin was forced to take refuge in a nearby telephone booth to avoid an angry mob.

Though some appreciated Rankin's willingness to hold fast to her principles, she faced widespread scorn for her dissent. America wanted unity, not discord, newspapers declared. By voting her conscience, she had encouraged America's enemies, critics charged. Rankin knew her political career was over. Her lone dissenting vote marked the end of her time in Congress. She chose not to run for re-election after her second term.

Commitment to Nonviolence

Rankin's loss of political power hardly slowed her passion for peace. Throughout the 1940s and 1950s, Rankin traveled extensively, learning perspectives from people in South America, Africa, Asia, and Europe that

**At age 36, Rankin was
the first woman elected
to the U.S. Congress.**





Jeannette Rankin pictured in 1932 before leaving on a speaking tour.

reinforced her conviction in the power of nonviolent protest. She never met Mahatma Gandhi in person before his assassination in 1948, but she was especially inspired by Gandhi's nonviolent independence movement in India.

Rankin lent her energy to a variety of pacifist organizations over the decades. Then, in the 1960s, Rankin found an opportunity to reignite a national debate over war. With the Vietnam War intensifying, the press announced in May of 1967 that 10,000 U.S. soldiers had been killed. Rankin reportedly remarked, "Maybe 10,000 women, if they were totally dedicated to the task, could end the war." Her comment was carried in the newspapers and sparked a movement that would be organized as the Jeannette Rankin Brigade. Rankin led 5,000 women to march on Washington, D.C., in January 1968 to protest U.S.

involvement in the Vietnam War. It was the largest protest by women in America since the Women's Suffrage Parade of 1913, and it was the largest women's peace protest in American history. Rankin was 87 years old.

In her final years, Rankin adopted a philosophy of non-resistance, summarized by the quote, "I'm for immediate, total and unilateral disarmament... the quickest way to promote world peace is total unilateral disarmament..." She tried unsuccessfully to get Congress to pass a resolution affirming this position. But her decades of tireless advocacy ensured that the controversial idea of pacifism remained part of American political discourse.

Rankin's Legacy

Jeannette Rankin's staunch commitment to pacifism in the face of public pressure leaves a complex legacy. Critics paint her as naive or unpatriotic for undermining American war efforts. But she also inspired generations of activists devoted to pursuing change through nonviolence. Her willingness to follow her conscience and take the lonely, unpopular position remains a defining example of dissent in a democracy.

Writing & Discussion

1. How did Jeanette Rankin's experiences shape her views on peaceful conflict resolution?
2. What were the reasons behind Jeanette Rankin's decision to oppose both World War I and World II despite prevailing sentiments of the time? In your view, how valid were her reasons for each?
3. Can Rankin's pacifist efforts influence individuals and movements seeking peaceful solutions to global conflicts today? Explain.

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ACTIVITY: PEACE OR WAR?

Imagine that you were participating in the congressional vote on U.S. involvement in World War II. Read Jeanette's statement below and consider the criticism levied against Rankin after her vote.

When I cast the only vote against war, I remembered the promises I made during my campaign for election to do everything possible to keep this country out of war. I was thinking of the pledges I had made to the mothers and fathers of Montana that I would do all in my power to prevent their sons from being slaughtered on foreign battlefields.

While I believed with the other members of the house that the stories which had come over the radio were probably true, still I believed that such a momentous vote - one which would mean peace or war for our country - should be based on more authentic evidence than the radio reports now at hand.

1. Form into small groups of four and discuss with classmates: Do you agree with Rankin's statement? Why or why not?
2. After discussion, write your own answer to the question in a short response of one paragraph.



AI AND THE FUTURE OF THE WORLD



BrianPenny94/Pixabay.com

Artificial Intelligence, also known as “AI,” is a form of advanced software that enables machines or computers to simulate human intelligence. A chatbot is a specific type of AI program that mimics human conversation. One well-known example is ChatGPT. Humans develop chatbots using programmed algorithms (coded steps) that can operate faster and more efficiently than humans. AI chatbots have shown beneficial and potentially harmful effects. Some developers aim to build chatbots that will someday be smarter than humans, but others doubt that can happen.

What is ‘Generative AI’?

Automated machines go back to ancient times. For example, the ancient water clock measured time with regular drips of water. In modern times, the Industrial Revolution (starting in the 1700s) and electricity (during the 20th century) altered human lives forever with a vast array of machines. Today, robots (1960s), personal computers (1990s), the internet (2000s), and now chatbots are part of our Digital Age. Historically, automation has often resulted in the loss of existing jobs. But today, new technologies are both eliminating and creating jobs.

ChatGPT (Chat Generative Pre-Trained Transformer) is a chatbot. It was developed by OpenAI, a company founded by Sam Altman and Elon Musk. It exploded on the technology scene upon its release in 2022-23 and set off a race for chatbot development by Google, Meta, Microsoft, and others. Musk eventually went a separate way to focus on his AI-enabled Tesla cars. Altman developed OpenAI with major funding from Microsoft.

So-called “chatbot training” occurs when programmers develop chatbots to rapidly learn massive amounts of existing data, mainly from the internet. This is also called “machine learning.” Chatbots are capable of seeking out patterns in the data and generating new content faster and more efficiently than humans.

Generative AI is what ChatGPT and other chatbots can currently produce. When users ask a question or provide a prompt, generative AI can produce essays, reports, articles, books, stories, history, poetry, images, videos, speech, music, art, and predictions. AI can also change writing to a picture, video, music, and computer code.

Is generative AI creative? Not quite. It does not generate content out of nothing, but rather depends on and is limited by its machine learning. Generative AI mimics human intelligence but cannot think like humans, at least not yet.

Psychologists have identified a number of mental activities that are involved in human brain intelligence such as learning, reasoning, understanding, seeing relationships, and separating fact from opinion. Currently, AI cannot fully duplicate these human-intelligence mental activities. AI mimics the human brain with its trillions of neural connections but is not more intelligent.

AI is not sentient, meaning it is not self-aware or conscious of itself. It does not think independently from what it has been trained to do. AI can see patterns, analyze data, and report an output of a question or prompt faster than humans. but it has no emotions or



HOLLYWOOD

ON STRIKE

AI's potential threat to human jobs gained widespread attention when Hollywood movie and TV screenwriters and actors went on strike in 2023. The writers

protested against cutbacks on the number of people in the "writers' room" and being paid less for finalizing AI script drafts. The actors also protested AI's ability to scan their images and then use them — even after they died — to make new movies without their permission or compensation.

The Writers Guild of America reached an agreement with movie and TV writers that ended the Hollywood writers' strike in September 2023. The agreement stated that writers cannot be required to use AI software and included various protections for writers' jobs.

The more complicated actors' strike ended with an agreement in November 2023. It included AI rules for protecting actors from movie makers using their scanned images and voices without permission or compensation.

intuition. It does not create new knowledge, but rather generates new variations of existing knowledge from data it has machine-learned during its chatbot training.

Examples of Current Generative AI Benefits

- Translating nearly all world languages. AI can translate Shakespeare's vocabulary into modern English.
- Using natural human speech (as done by Siri, Alexa, and Google Assistant) to serve as a "personal assistant" and answer questions and respond to commands.
- Providing more accurate medical diagnoses and reading of radiology scans, precise and non-invasive surgeries, robot monitoring of intensive care patients, and options for doctors to consider.
- Guiding self-driving cars (such as Tesla) to sense surrounding vehicles, pedestrians, bicycles, and other obstacles. Self-driving cars navigate by using GPS, radar, lidar, ultrasound, sensors, and cameras, but are currently still in a development stage.
- Helping teachers with individualized student learning. Students can benefit from AI tutors. AI can provide such tools as virtual field trips.
- Assisting authors, journalists, screenwriters, music composers, artists, video game developers, and other creators with research, drafts, and options. This allows creators to focus on more challenging tasks.
- Speeding up business operations like reports, accounting, tax preparation, marketing ads, delivery of goods, and fraud detection. Industrial robots can speed up assembly, packaging, and retrieval of goods from warehouses. AI facilitates inventions like 3-D printing, which can lead to new markets and jobs.
- Reducing time-consuming legal services such as researching cases and writing common legal

documents like wills. AI allows lawyers to make better use of their legal training for, and dedicate more time to, complex tasks like trial preparation.

- Enabling drones for search and rescue, survey of disasters, discovery of unknown archaeological sites, and updating maps.
- Conducting planetary and space exploration, including landing and surveying Mars.

Examples of Current Generative AI Harms

- Potentially threatening people's jobs, ranging from warehouse workers to professionals like lawyers. A *Los Angeles Times* poll conducted in July 2023 found that nearly half of Americans were concerned about AI having an effect on their work.
- Chatbot training uses copyrighted material without permission or compensation to the creators. Some developers use entire books from online sources to train their chatbots.
- Spreading misinformation, conspiracy theories, and hate speech. "Deepfake" AI impersonation can make it seem like a person says things they never said. Several deepfake videos of politicians have emerged online and in campaign phone calls. Many tech experts warn that these deepfakes could influence voters with false information.
- Chatbot training absorbs information from the Internet, which may invade privacy. This might include a person's medical information or a company's secret ingredients for a product. In China, face-recognition AI is being used to spy on individuals. U.S. law enforcement has used face recognition that is not always accurate and has led to false arrests.
- Mismanaging people's finances. A recent Federal Consumer Protection Bureau report found that some banks wrongly foreclosed on homeowners





Perhaps you have seen a car like this in your town. It is a self-driving car made by Waymo LLC, pictured here in 2023.

because of AI mismanagement. AI can also be used by malicious users to cause hacking, cyberattacks, ID theft, and fraud.

- Currently, AI has a flaw in failing to distinguish between fact vs. opinion in its recognition of racism, hate speech, and false information.
- Russia and other nations have used AI to try to interfere in democratic elections, including in the U.S. Some social media sites have recently added notices identifying deceptive AI-generated political ads.
- Users' loss of thinking skills. A 2023 study of university students in China and Pakistan showed AI negatively impacted students' decision-making skills while increasing laziness. In the U.S., many students are copying AI responses for use in their college application essays and schoolwork.
- AI development is now in the hands of private companies, some of which may ignore the dangers of AI to make a profit.
- Remote-controlled drones, carrying bombs and other weapons, have made warfare more deadly. Using AI to identify military targets is not always accurate, resulting in deaths of innocent civilians.

What Is 'Artificial General Intelligence'?

Because AI is not sentient or capable of moral judgments, many scientists doubt it will ever replace humans. For example, AI would have difficulty replacing teachers of young children, inventing new styles of art, understanding a medical patient's feelings, imagining the unreal, and experimenting to discover new scientific knowledge.

Nonetheless, some developers are working toward the ultimate goal of a "super intelligent" AI, or *Artificial General Intelligence* (AGI).

Possible AGI Benefits

Proponents of AGI argue that AGI chatbots could learn from experience rather than mere machine-learning. Developers could embed human values into chatbots to assist rather than replace humans, making them more efficient while relieving humans of repetitive tasks.

AGI would create original knowledge without human-directed training or intervention. This could solve complex problems, like creating new technology to reduce the effects of climate change. AGI might develop a cure for cancer, devices to replace diseased organs, remote-controlled surgeries, reversal of the effects of Alzheimer's disease, understanding cause(s) of autism, and analysis of a patient's genetics to predict chances of certain diseases.

NASA has already sent robotic "rovers" to Mars. Perhaps AGI robots could explore distant planets and beyond in space. Thus far, there are serious biological limitations to humans colonizing other planets, but AGI robots might not have those limitations.

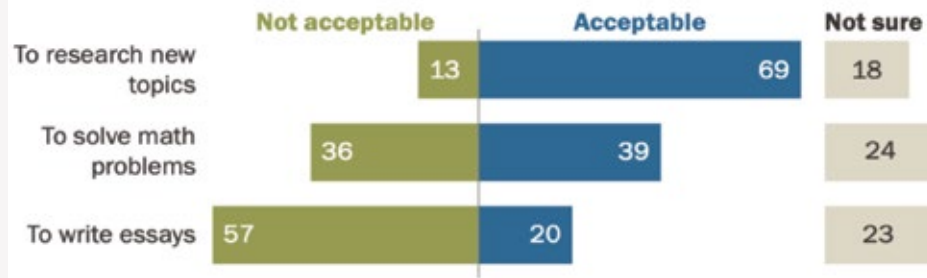
Possible AGI Harms

Without humans controlling machine-learning, AGI chatbots and robots might become unpredictable. AGI could make decisions and judgements based on *logical reasoning*, but they could not have human *moral reasoning*. Science has shown that humans develop their morality (sense of right and wrong) mainly during early childhood development and from nurturing in families, none of which machines have. AGI robots could be indifferent to threats of human extinction, such as nuclear war or extreme climate crises.

Dependency on AGI could put millions of people out of work, including professionals like doctors, engineers,

MANY TEENS SAY IT'S ACCEPTABLE TO USE CHATGPT FOR RESEARCH; FEW SAY IT'S OK TO USE IT FOR WRITING ESSAYS

Among U.S. teens ages 13 to 17 who have heard about ChatGPT, % who think it's ___ for students to use it for each of the following



Note: Those who did not give an answer are not shown.

Source: Survey of U.S. teens ages 13 to 17 conducted Sept. 26-Oct. 23, 2023.

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teachers, and lawyers. Mass unemployment would lead to major disruptions of the global economy. At the same time, rich owners and nations could use AGI for selfish and evil purposes: developing more deadly biological and chemical weapons of war, for example. Space wars could erupt over mining of minerals on the moon and planets. While these risks may seem remote today, there are some who believe that AGI poses a real risk of causing these types of problems in the future if it is not properly regulated.

Finally, AGI poses the problem of who would be responsible for harmful acts of increasingly independent chatbots and robots. For example, we have seen disputes arise over car accidents with self-driving cars. Who is responsible: the vehicle that “made decisions” on the road, or the humans who originally programmed the vehicle?

Should Artificial Intelligence Be Regulated?

Currently, the AI industry is unregulated. Most research and development of AI is done secretly by profit-minded private companies that are in competition with each other.

In September 2023, technology leaders such as Sam Altman, Mark Zuckerberg, Elon Musk, and Bill Gates, along with many others concerned about AI, met with U.S. senators in Washington. When asked if government should have a role in regulating AI, everyone raised their hands. But agreement on how to do this remained unclear. Some are worried that too much regulation would limit beneficial AI advances.

OpenAI co-founder Sam Altman testified before Congress on the risks of AI. “My worst fear,” he said, “is that we, the technology industry, cause significant harm to the world.” Altman sees both AI benefits and risks but is skeptical of companies regulating themselves.

The Center for AI Safety, a group of AI scientists and business leaders, stated, “Mitigating [reducing] the risk of extinction [of humanity] from AI should be a global priority alongside other society-scale risks such as pandemics and nuclear war.”

Social media might offer some lessons against lack of regulation. Originally, social media was viewed as a wonderful way to allow freedom of expression and opinion for everyone. This did happen, but the lack of regulation also permitted hate speech, damaging rumors, conspiracy theories, and attempts by Russia and other countries to interfere with democratic elections.

International rules for AI can be difficult to achieve. They would establish minimum AI global standards, but nations have different and sometimes conflicting national goals. Nonetheless, the European Union (EU) has adopted the Artificial Intelligence Act, which:

- bans facial recognition to spy on and judge people’s behavior;
- identifies “deep fake” images as AI-created;
- identifies all chatbot products as AI-generated;
- regulates AI aimed at children; and
- fines violators up to 6 percent of a company’s annual world revenue.

The U.S. has not regulated AI as much as many advanced nations. In October 2023, President Biden issued an executive order to apply guidance on use of AI to federal agencies. Some of the features of the executive order include:

- federal standards for testing advanced AI systems before release;
- “watermarking” or labeling AI-generated content;
- preventing AI-engineered biological weapons;
- protecting privacy; and
- helping workers who lost jobs because of AI.



Congress would have to pass legislation to enforce some of the elements of President Biden’s executive order.

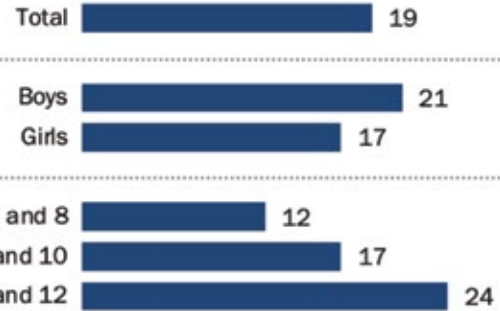
Opponents of government regulation say that private industries can set their own industry-wide regulations. They say government regulation would discourage innovation by imposing threats of fines and lengthy application processes. They also argue that slowdowns of AI development because of government regulations would put the U.S. at a disadvantage with China and other competing countries.

Writing & Discussion

1. Who do you think should own writing, music, art, and other chatbot content trained by existing data?
2. Who do you think should be responsible when AI goes wrong: developers or users? Why?
3. Do you think AI should be regulated? If so, who should regulate AI? Why?
 - self-regulation by for-profit company developers
 - individual nations
 - an international authority like the UN

AMONG TEENS WHO KNOW OF CHATGPT, 19% SAY THEY’VE USED IT FOR SCHOOLWORK

Among U.S. teens ages 13 to 17 who have heard about ChatGPT, % who say they have ever used it to help with their schoolwork



Note: Those who did not give an answer are not shown.
Source: Survey of U.S. teens ages 13 to 17 conducted Sept. 26-Oct. 23, 2023.

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Author: Carlton Martz is a retired high school teacher and librarian and longtime contributor to BRIA. See the feature about Carl in our previous issue.

ACTIVITY: REGULATING ARTIFICIAL INTELLIGENCE

After reviewing the description and examples of the options, students in groups will recommend five AI regulation ideas and rank them, the first being their top choice. Groups may choose from parts of options. The groups will then defend their rankings.

OPTIONS FOR REGULATING AI

- A. Embed watermarks in all AI content to alert users how it was generated or changed by chatbots.
- B. Impose taxes on for-profit companies that develop AI to fund re-educating workers to function in an AI economy.
- C. Organize a massive worldwide education effort to prepare youth and working-age adults to compete in the emerging AI world. Establish a basic government income during retraining of workers and for people unable to compete.
- D. Rely on lawsuits by copyright holders against developers who train their chatbots without creator permission or compensation.
- E. Negotiate labor contracts with employers for the use of AI.
- F. Pass national legislation with AI requirements, such as bans on certain AI uses like making biological weapons and testing of advanced chatbots with strict government standards for accuracy and lack of bias.
- G. Create a national government nonprofit agency to research and develop AI that competes with, and sets an example for, private for-profit companies to develop a strong AI ethical component.
- H. Adopt features of the recently written European Union (EU) Artificial Intelligence Act.
- I. Adopt international rules for AI written by an international authority, such as the UN.
- J. Let private industries develop their own regulations.



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Standards Addressed

Does the Constitution Establish a Republic or a Democracy? A Supreme Court History

California History Social-Science Standard

California History-Social Science 12.1 Students explain the fundamental principles and moral values of American democracy as expressed in the U.S. Constitution and other essential documents of American democracy. (3) Explain how the U.S. Constitution reflects a balance between the classical republican concern with promotion of the public good and the classical liberal concern with protecting individual rights; and discuss how the basic premises of liberal constitutionalism and democracy are joined in the Declaration of Independence as “self evident truths.” (4) Explain how the Founding Fathers’ realistic view of human nature led directly to the establishment of a constitutional system that limited the power of the governors and the governed as articulated in the *Federalist Papers*. (5) Describe the systems of separated and shared powers, the role of organized interests (*Federalist Paper Number 10*) . . .

California History-Social Science Framework (2016), Ch. 17, p. 434: “[Students] consider how government can attain goals sanctioned by the majority while protecting its citizens from the abuse of power by asking: **What are the trade-offs between majority rule and the protection of individual rights?** They will review and expand their knowledge of the key elements of a representative form of democracy, such as the idea that the authority to govern resides in its citizens.”

California History-Social Science Framework (2016), Ch. 17, p. 436: “The *Federalist Papers* explicate major constitutional concepts such as separation of powers, checks and balances, and enumerated powers as well as the Framers’ understanding of human nature and the political process. In particular, *Federalist Paper Number 10* explains the role of organized interest . . . Students should understand how these ideas shaped the American constitutional system and democratic behavior.”

C3 Framework Indicators (National)

D2.Civ.2.9-12. Analyze the role of citizens in the U.S. political system, with attention to various theories of democracy, changes in Americans’ participation over time, and alternative models from other countries, past and present.

D2.Civ.4.9-12. Explain how the U.S. Constitution establishes a system of government that has powers, responsibilities, and limits that have changed over time and that are still contested.

Common Core State Standards: RI.8.11-12. (“Delineate and evaluate the reasoning in seminal U.S. texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses).”); RH.1.11-12; RH.2.11-12; RH.10.11-12; WHST.9.11-12; WHST.10.11-12.

Jeanette Rankin: A Pioneer for Peace

California History-Social Science Standards

11.4. Students trace the rise of the United States to its role as a world power in the twentieth century. (5) Analyze the political, economic, and social ramifications of World War I on the home front.

11.7. Students analyze America’s participation in World War II. (1) Examine the origins of American involvement in the war, with an emphasis on the events that precipitated the attack on Pearl Harbor.

C3 Framework National Indicators

D2.Civ.5.9-12. Evaluate citizens’ and institutions’ effectiveness in addressing social and political problems at the local, state, tribal, national, and/or international level.

D2.His.3.9-12. Use questions generated about individuals and groups to assess how the significance of their actions changes over time and is shaped by the historical context.

Common Core State Standards: SL.11-12.1, SL.11-12.3, RH.11-12.1, RH.11-12.2, RH.11-12.10, WHST.11-12.10

AI and the Future of the World

California History-Social Science Standard 10.3: Students analyze the effects of the Industrial Revolution in England, France, Germany, Japan, and the United States.

California History-Social Science Standard 11.11: Students analyze the major social problems and domestic policy issues in contemporary American society.

California History-Social Science Standard 12.4 (Principles of American Democracy): Students analyze the unique roles and responsibilities of the three branches of government as established by the Constitution. (1) Discuss Article I of the Constitution as it relates to the legislative branch. . . .

California History-Social Science Standard 12.4 (Principles of Economics): Students analyze the elements of the U.S. labor market in a global setting. (2) Understand the operations of the labor market, including the circumstances surrounding the establishment of principle American unions, procedures that unions use to gain benefits for their members, the effects of unionization, the minimum wage, and unemployment.

C3 Framework National Indicators

D2.Civ.6.9-12. Critique relationships among governments, civil societies, and economic markets.

D2.Eco.9.9-12. Describe the roles of institutions such as clearly defined property rights and the rule of law in a market economy.

D2.Eco.13.9-12. Explain why advancements in technology and investments in capital goods and human capital increase economic growth and standards of living.

Common Core State Standards: SL.11-12.1, SL.11-12.3, RH.11-12.1, RH.11-12.2, RH.11-12.10, WHST.11-12.10

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People v. Clark

A Murder Trial

Featuring a pretrial argument on the Fourth Amendment (involving a geofence warrant)

People v. Clark is the trial of Tobie Clark, the in-house counsel for Sunshine Medical Components, Inc. (“SMC”), a medical technology company. Clark is charged with the first-degree murder of SMC’s chief executive officer, Kieran Sunshine.

The prosecution alleges that Tobie Clark murdered Kieran because Kieran was backing out of Clark’s plot to commit fraud against SMC’s board of directors. Prosecution witnesses overheard two arguments between Clark and Kieran and saw Tobie heading toward Kieran’s suite around the time of the murder.

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The defense argues that Tobie Clark did not have a motive to kill Kieran and never had the intent to murder or was inside Kieran’s suite. Furthermore, it was Kieran, not Clark, who concocted the plot to commit fraud, and Clark had no idea about the plot and refused to participate when he found out.

The testimonies of the state medical examiner and the defense forensic expert reveal different opinions about the physical and forensic evidence.

The pretrial hearing is based on the Fourth Amendment protection against unreasonable search and seizure and centers on a defense motion to quash evidence garnered through a geofence warrant.

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IS NOW



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