

The Downfalls of the Electoral College

“My fourth recommendation is that the Congress adopt a Constitutional amendment to provide for direct popular election of the President. Such an amendment, which would abolish the Electoral College, will ensure that the candidate chosen by the voters actually becomes President” (The American Presidency Project). This statement, which was enclosed in a letter addressed to the United States Congress, was written by President Jimmy Carter on March 22, 1977. He, among many other past presidents such as Gerald Ford and Richard Nixon (Every Vote Equal), had actively supported efforts to abolish the Electoral College in favor of a popular voting system. In 1977, there had already been 3 presidential candidates who had won the presidency without winning the popular vote. Despite issues the Electoral College already had in 1977, no changes were made to the voting system. In fact, two more presidents have since been elected the same way - winning the election despite losing the popular vote (History.com). As the disconnect between the popular and electoral vote outcomes becomes more apparent, more and more Americans are questioning the relevance of the Electoral College. The Electoral College should not be an essential component of presidential elections in the United States on the basis of equity and contemporary relevance, and should be abolished in favor of the popular vote for presidential elections.

The Electoral College creates inequities in voting power across the United States, which means it is currently not upholding the democratic standard of “one person, one vote”. Out of the 330 million citizens who currently live in the United States, only a small fraction of voters actually decide the fate of the presidency. The issue is that, through the Electoral College, voting power isn’t equally distributed across all voters in the country. Electors are delegated on a “winner take all” approach, which means that if a candidate were to win the popular vote in a participating state, then all of the electoral votes will go to that candidate -

no matter how small the winning margin. This results in the suppression of minority voting power within a given state, as a vote for a losing party doesn't get represented at all in the electoral process. States that have one majority led party are known as partisan states because voters tend to vote for the same party every election, whether it's Democrat or Republican. If the partisan states had initially decided to keep their electoral votes proportional to the parties in the state, then the chance of winning for the dominant party would dramatically decrease (Fair Vote) due to increased voter equity for minority party voters. By only supporting one party with all of their electoral votes, states actually cause minority parties to have even less representation than if they were to use the popular vote system.

As a consequence, the current system has encouraged a heavily disproportionate form of presidential campaigning. Given current demographic and historical electoral trends, candidates can easily take partisan states for granted in ensuring the entirety of that state's electoral votes. Therefore, the way that candidates campaign has evolved to only target states that are undecided in most elections. Presidential candidates can mostly ignore the large partisan states such as Texas and New York, due to the fact that votes in those states are usually guaranteed for Republicans and Democrats respectively. If votes are already indisputable in a state, there is no reason to host rallies because voters have mostly made up their minds on the candidate that they will vote for. Swing states, states that have the ability to be won by either candidate, can greatly change how the electoral votes were distributed. The issues that predominantly affect these swing states become the national dialogue while other policies that impact the country as a whole aren't nearly as important to presidential campaigns. The issue with these states is that swing states are only a fraction of the total number of states in the U.S. According to the results of the 2016 election, 12 out of the 50 states are perennially recognized swing states; this is only 24% of all states (FiveThirtyEight).

Swing state voters have more power over the election because they are more “worthy” than partisan state voters are. Because of this small percentage of influential states, there’s an even smaller population of voters who can really impact the election. Having a popular voting system bypasses all of these complications so that each voter truly has an equal say in the presidential election.

Beyond inequities, the Electoral College has become a warped interpretation of the intent of the Founders and is thus an anachronism. During the construction of the Constitution, the Founders originally envisioned “enlightened men” who could make judgements about the candidate most fit to become the President of the United States (Supreme Court of the United States). However, the Founders envisioned these electors to be free from political or geographical influence; their votes would solely be based on the merits of the candidate. This is not the reality of the current Electoral College, however, as political parties currently choose their entire slate of electors before voters decide (Archives). It’s not reasonable to expect that these electors would be any more enlightened or knowledgeable as the Founders intended; rather, the entire process is open to political influence for a supposedly unbiased system. The current system is so different that it can’t reasonably be seen as a continuance of what the Founders envisioned (National Archives). Rather, the presidential selection process would greatly benefit from removing the middleman because it would ensure that all votes would be treated equally, and it would ensure that elector independence wouldn’t be exploited to benefit one party over another.

In fact, there have been many times when electors have taken advantage of their voter independence by voting against their state’s majority vote. Just recently, the Supreme Court of the United States was presented with the case *Chiafalo v. Washington*, the dispute between the state of Washington and three of its electors who had failed to vote for Hillary Clinton in

the 2016 presidential election, despite making the pledge to do so. In response, the state of Washington fined each of them one thousand dollars for not adhering to the state's majority vote. The three electors carried on the dispute, even presenting it to the Supreme Court for their ruling on the matter. On July 6, 2020, the Supreme Court ruled that electors must keep their pledges to the public vote of the state, and if they failed to do so, the states were allowed to punish the electors for their unfaithfulness according to their state governmental laws (Supreme Court of the United States). The Supreme Court ruling is a successful step towards limiting elector independence and allowing the people to be properly represented in government. However, the electoral process is still far from being a popular vote system. If the Electoral College was completely replaced with a popular vote system, laws that punish electors wouldn't even need to be established in the first place.

While the Electoral College has all of these issues, it still has many avid supporters, particularly those who don't want to establish a popular vote. Opponents of the popular vote mainly make the point that a popular vote system would cause candidates to only campaign in large states, ignoring the small population states entirely. They claim that the Electoral College remedies these popular vote faults by giving small states as much representation as the larger states have. However, there are some issues with this argument. First, the Electoral College doesn't make electoral votes completely equal between the larger states and the smaller states, as the smaller states still have fewer total electoral votes overall (Library of Congress). If the smaller states were to be equal to the larger states in terms of votes, then every state should receive the same amount of votes regardless of population to truly be equal. Second, while it would be highly unorthodox, the Electoral College could also be manipulated to be centered around the large populated states. America's top 12 most populated states altogether have the same number of votes as the other 38 states and the

District of Columbia (National Archives). Theoretically, if a presidential candidate or a party were to only campaign in these states and managed to win the vote for all 12 states, then they would also be able to win the election. Third, the Electoral College tips the scale to the other extreme by disadvantaging voters in larger states compared to small states. Because of the aforementioned winner take all system, a minority party vote in a swing state like North Carolina holds significantly more value than a minority party vote in a partisan state like California, despite the notable population difference. In fact, it appears that the public opinion of voter significance depends nearly entirely on whether the state is a partisan or swing state. In the 2016 election, many strong partisan-led states like Texas and New York only had a voter turnout percentage of 51.4% and 57.2% respectively, while swing states such as Colorado and Florida had a voter turnout percentage of 71.9% and 65.6% respectively (Elect Project). Not only is the Electoral College failing to make state representation fair, it actually discourages voters in many states to the point that a large number of voters don't bother showing up to vote.

Another issue with the removal of the Electoral College is the actual process required to abolish it. Thus far, there have been over 750 proposals to remove the Electoral College, but none of them had ended up successful (Ames). This is likely due to the difficult process required to amend the Constitution. In order to successfully enact an amendment to the Constitution, it needs to be first proposed by Congress (gaining two thirds of the votes from both the House and the Senate), then ratified by at least three fourths of the states (38 out of 50 states) (National Archives). While this process seems relatively simple to follow, it doesn't take into account the high-strung political climate that revolves around the nation's government, both at the federal and state levels. It would take a substantial amount of effort to just achieve senator and representative concessions, never mind state unity.

So if the effort to enact a regular constitutional amendment is nearly impossible to achieve, how can the Electoral College be replaced in favor of the popular vote? While there have been numerous efforts to reform the Electoral College, most seem to revolve around the constitutional amendment process. However, there has been an ongoing effort to reform the Electoral College called the National Popular Vote Interstate Compact, created by the National Popular Vote Inc. The National Popular Vote Interstate Compact is an agreement signed by sixteen states and the District of Columbia (who in total make up 196 electoral votes) dedicated to replacing the current Electoral College with a more favorable popular vote (National Popular Vote Inc.). The agreement was created in an effort to force presidential candidates to pay attention to voters in all states, not just the voters located in bipartisan states. The agreement can actually go into effect if it is supported by a group of states that altogether hold the majority of the electoral votes (which would be 270). If the agreement can be successful, these electors will directly vote towards the winner of the popular vote in all 50 states, automatically allowing that candidate to be president.

What benefits do ambiguous electors and state voting inequality bring to the U.S.? If there are so many aspects of the Electoral College that are either outdated or make voting publicly unequal, then why do we even need the Electoral College anymore? Why should certain populations even bother voting for the president? These are all relevant questions that have been asked by many Americans over the years, but none of them have ever been addressed. The Electoral College is an antiquated form of presidential election that not only has caused unpopular presidents to be elected, but it has also encouraged the average American citizen to let go of their right to vote due to the fact that it might not even influence the election as a whole. If the U.S. ever wants to become the democracy that it believes it

symbolizes, then it should follow by example and allow everyone to have an equal vote with regards to the presidency.

Works Cited

“About the Electors.” *National Archives and Records Administration*, National Archives and Records Administration, www.archives.gov/electoral-college/electors.

Ames, Herman Vandenburg, 1865-1935. *The Proposed Amendments to the Constitution of the United States During the First Century of Its History*. Washington, D. C.: Government Printing Office, 1897.

“Constitutional Amendment Process.” National Archives and Records Administration, National Archives and Records Administration, www.archives.gov/federal-register/constitution.

“Distribution of Electoral Votes.” National Archives and Records Administration, National Archives and Records Administration, www.archives.gov/electoral-college/allocation.

Jimmy Carter, Election Reform Message to the Congress. Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/243295>

McCarthy, Devin. “How the Electoral College Became Winner-Take-All.” FairVote, 21 Aug. 2012, www.fairvote.org/how-the-electoral-college-became-winner-take-all.

McDonald, Michael P. “2016g.” United States Elections Project, 2016, www.electproject.org/2016g.

Roos, Dave. “5 Presidents Who Lost the Popular Vote But Won the Election.” History.com, A&E Television Networks, 23 July 2020, www.history.com/news/presidents-electoral-college-popular-vote.

Silver, Nate. “The Odds Of An Electoral College-Popular Vote Split Are Increasing.” FiveThirtyEight, FiveThirtyEight, 1 Nov. 2016,

fivethirtyeight.com/features/the-odds-of-an-electoral-college-popular-vote-split-are-increasing/.

Supreme Court of the United States. *Peter B. Chiafalo, Levi Jenet Guerra, and Esther Virginia John, Petitioners v. Washington*. 6 July 2020, www.supremecourt.gov/opinions/19pdf/19-465_i425.pdf.

Supreme Court of the United States. *Ray, Chairman of the State Democratic Executive Committee of Alabama v. Edmund Blair*. Vol. 343, 15 Apr. 1952. <https://www.law.cornell.edu/supremecourt/text/343/214>.

“United States Electoral College, Votes by State.” Edited by Jacqueline V Nolan, *The Library of Congress*, 2008, www.loc.gov/resource/g3701f.cp000001/?r=-0.027%2C0.119%2C0.614%2C0.291%2C0.