

Arguments Against the Electoral College

Those who object to the Electoral College system and favor a direct popular election of the president generally do so on four grounds:

1. the possibility of electing a minority president,
2. the risk of so-called "faithless" Electors,
3. the possible role of the Electoral College in depressing voter turnout, and
4. its failure to accurately reflect the national popular will.

1. Opponents of the Electoral College are disturbed by *the possibility of electing a minority president (one without the absolute majority of popular votes)*. Nor is this concern entirely unfounded since there are three ways in which that could happen.

One way in which a minority president could be elected is if the country were so deeply divided politically that three or more presidential candidates split the electoral votes among them such that no one obtained the necessary majority. This occurred, as noted above, in 1824 and was unsuccessfully attempted in 1948 and again in 1968. Should that happen today, there are two possible resolutions: either one candidate could give his electoral votes in support of another (before the meeting of the electors) or else, absent an absolute majority in the Electoral College, the U.S. House of Representatives would select the president in accordance with the 12th amendment. Either way, though, the person taking office would not have obtained the absolute majority of the popular vote. Yet it is unclear how a direct election of the president could resolve such a deep national conflict without introducing a presidential run-off election -- a procedure which would add substantially to the time, cost, and effort already devoted to selecting a president and which might well deepen the political divisions while trying to resolve them.

A second way in which a minority president could take office is if, as in 1888, one candidate's popular support were heavily concentrated in a few states while the other candidate maintained a slim popular lead in enough states to win the needed majority of the Electoral College. While the country has occasionally come close to this sort of outcome, the question here is whether the **distribution** of a candidate's popular support should be taken into account alongside the relative size of it. This issue was mentioned above and is discussed at greater length below.

A third way of electing a minority president is if a third party or candidate, however small, drew enough votes from the top two that no one received over 50% of the national popular total. Far from being unusual, this sort of thing has, in fact, happened 15 times including (in this century) Wilson in both 1912 and 1916, Truman in 1948, Kennedy in 1960, Nixon in 1968, and Clinton in both 1992 and 1996. The only remarkable thing about those outcomes is that few people noticed and even fewer cared. Nor would a direct election have changed those outcomes without a run-off requiring over 50% of the popular vote (an idea which not even proponents of a direct election seem to advocate).

2. Opponents of the Electoral College system also point to *the risk of so called "faithless" Electors*.

A "faithless Elector" is one who is pledged to vote for his party's candidate for president but nevertheless votes for another candidate. There have been seven such Electors in this century and as recently as 1988 when a democrat elector in the state of West Virginia cast his votes for Lloyd Bentsen for president and Michael Dukakis for vice president instead of the other way around. Faithless electors have never changed the outcome of an election, however, simply because most often their purpose is to make a statement rather than make a difference. That is to say, when the electoral vote outcome is so obviously going to be for one candidate or the other, an occasional elector casts a vote for some personal favorite knowing full well that it will not make a difference in the result. Still, if the prospect of a faithless elector is so fearsome as to warrant a constitutional amendment, then it is possible to solve the problem without abolishing the Electoral College, but instead merely by eliminating the individual electors in favor of a purely mathematical process (since the individual Electors are no longer essential to its operation).

3. Opponents of the Electoral College are further concerned about *its possible role in depressing voter turnout.*

Their argument is that, since each state is entitled to the same number of electoral votes regardless of its voter turnout, there is no incentive in the states to encourage voter participation. Indeed, there may even be an incentive to discourage participation (and they often cite the South here) so as to enable a minority of citizens to decide the electoral vote for the whole state. While this argument has a certain surface plausibility, it fails to account for the fact that presidential elections do not occur in a vacuum. States also conduct other elections (for U.S. senators, U.S. representatives, state governors, state legislators, and a host of local officials) in which these same incentives and disincentives are likely to operate, if at all, with an even greater force. It is hard to imagine what counter-incentive would be created by eliminating the Electoral College.

4. Finally, some opponents of the Electoral College point out, quite correctly, *its failure to accurately reflect the national popular will in at least two respects.*

First, the distribution of electoral votes in the college tends to over represent people in rural States. This is because the number of electors for each state is determined by the number of members it has in the house (which more or less reflects the state's population size) **plus** the number of members it has in the senate (which is always two regardless of the state's population). The result is that in 1988, for example, the combined voting age population (3,119,000) of the seven least populous jurisdictions of Alaska, Delaware, the District of Columbia, North Dakota, South Dakota, Vermont, and Wyoming carried the same voting strength in the Electoral College (21 Electoral votes) as the 9,614,000 persons of voting age in the state of Florida. Each Floridian's potential vote, then, carried about one third the weight of a potential vote in the other states listed.

A second way in which the Electoral College fails to accurately reflect the national popular will stems primarily from the winner-take-all mechanism whereby the presidential candidate who wins the most popular votes in the state wins all the Electoral votes of that State. One effect of this mechanism is to make it extremely difficult for third-party or independent candidates ever to make much of a showing in the Electoral College. If, for example, a third-party or independent candidate were to win the support of even as many as 25% of the voters nationwide, he might still end up with no Electoral College votes at all unless he won a plurality of votes in at least one state. And even if he managed to win a few states, his support elsewhere would not be reflected. By thus failing to accurately reflect the national popular will, the argument goes, the Electoral College reinforces a two-party system, discourages third-party or independent candidates, and thereby tends to restrict choices available to the electorate.

In response to these arguments, proponents of the Electoral College point out that it was never intended to reflect the national popular will. As for the first issue, that the Electoral College over-represents rural populations, proponents respond that the United States Senate -- with two seats per state regardless of its population -- over-represents rural populations far more dramatically. But since there have been no serious proposals to abolish the United States Senate on these grounds, why should such an argument be used to abolish the lesser case of the Electoral College? Because the presidency represents the whole country? But so, as an institution, does the United States Senate.

As for the second issue of the Electoral College's role in reinforcing a two-party system, proponents, as we shall see, find this to be a positive virtue.

Source: <http://constitutioncenter.org/files/electoralcollege.pdf>

Arguments for the Electoral College

Proponents of the Electoral College system normally defend it on the philosophical grounds that it:

1. contributes to the cohesiveness of the country by requiring a distribution of popular support to be elected president,
2. enhances the status of minority interests,
3. contributes to the political stability of the nation by encouraging a two-party system, and
4. maintains a federal system of government and representation.

1. Recognizing the strong regional interests and loyalties which have played so great a role in American history, proponents argue that the Electoral College system *contributes to the cohesiveness of the country by requiring a distribution of popular support to be elected president.*

Without such a mechanism, they point out, presidents would be selected either through the domination of one populous region over the others or through the domination of large metropolitan areas over the rural ones. Indeed, it is principally because of the Electoral College that presidential nominees are inclined to select vice presidential running mates from a region other than their own. For as things stand now, no one region contains the absolute majority (270) of electoral votes required to elect a president. Thus, there is an incentive for presidential candidates to pull together coalitions of states and regions rather than to exacerbate regional differences. Such a unifying mechanism seems especially prudent in view of the severe regional problems that have typically plagued geographically large nations such as China, India, the Soviet Union, and even, in its time, the Roman Empire.

This unifying mechanism does not, however, come without a small price. And the price is that in very close popular elections, it is possible that the candidate who wins a slight majority of popular votes may not be the one elected president -- depending (as in 1888) on whether his popularity is concentrated in a few states or whether it is more evenly distributed across the States. Yet this is less of a problem than it seems since, as a practical matter, the popular difference between the two candidates would likely be so small that either candidate could govern effectively.

Proponents thus believe that the practical value of requiring a distribution of popular support outweighs whatever sentimental value may attach to obtaining a bare majority of the popular support. Indeed, they point out that the Electoral College system is designed to work in a rational series of defaults: if, in the first instance, a candidate receives a substantial majority of the popular vote, then that candidate is virtually certain to win enough electoral votes to be elected president; in the event that the popular vote is extremely close, then the election defaults to that candidate with the best distribution of popular votes (as evidenced by obtaining the absolute majority of electoral votes); in the event the country is so divided that no one obtains an absolute majority of electoral votes, then the choice of president defaults to the states in the U.S. House of Representatives. One way or another, then, the winning candidate must demonstrate both a sufficient popular support to govern as well as a sufficient distribution of that support to govern.

2. Proponents also point out that, far from diminishing minority interests by depressing voter participation, the Electoral College actually *enhances the status of minority groups.*

This is so because the votes of even small minorities in a state may make the difference between winning **all** of that state's electoral votes or **none** of that state's electoral votes. And since ethnic minority groups in the United States happen to concentrate in those states with the most electoral votes, they assume an importance to presidential candidates well out of proportion to their number. The same principle applies to other special interest groups such as labor unions, farmers, environmentalists, and so forth.

It is because of this "leverage effect" that the presidency, as an institution, tends to be more sensitive to ethnic minority and other special interest groups than does Congress as an institution. Changing to a direct election of the president would therefore actually damage minority interests since their votes would

be overwhelmed by a national popular majority.

3. Proponents further argue that the Electoral College *contributes to the political stability of the nation* by encouraging a two-party system.

There can be no doubt that the Electoral College has encouraged and helps to maintain a two-party system in the United States. This is true simply because it is extremely difficult for a new or minor party to win enough popular votes in enough states to have a chance of winning the presidency. Even if they won enough electoral votes to force the decision into the U.S. House of Representatives, they would still have to have a majority of over half the state delegations in order to elect their candidate -- and in that case, they would hardly be considered a minor party.

In addition to protecting the presidency from impassioned but transitory third party movements, the practical effect of the Electoral College (along with the single-member district system of representation in the Congress) is to virtually force third party movements into one of the two major political parties. Conversely, the major parties have every incentive to absorb minor party movements in their continual attempt to win popular majorities in the states. In this process of assimilation, third party movements are obliged to compromise their more radical views if they hope to attain any of their more generally acceptable objectives. Thus we end up with two large, pragmatic political parties which tend to the center of public opinion rather than dozens of smaller political parties catering to divergent and sometimes extremist views. In other words, such a system forces political coalitions to occur within the political parties rather than within the government.

A direct popular election of the president would likely have the opposite effect. For in a direct popular election, there would be every incentive for a multitude of minor parties to form in an attempt to prevent whatever popular majority might be necessary to elect a president. The surviving candidates would thus be drawn to the regionalist or extremist views represented by these parties in hopes of winning the run-off election.

The result of a direct popular election for president, then, would likely be a frayed and unstable political system characterized by a multitude of political parties and by more radical changes in policies from one administration to the next. The Electoral College system, in contrast, encourages political parties to coalesce divergent interests into two sets of coherent alternatives. Such an organization of social conflict and political debate contributes to the political stability of the nation.

4. Finally, its proponents argue quite correctly that the Electoral College *maintains a federal system of government and representation*.

Their reasoning is that in a formal federal structure, important political powers are reserved to the component states. In the United States, for example, the House of Representatives was designed to represent the States according to the size of their population. The states are even responsible for drawing the district lines for their house seats. The senate was designed to represent each state equally regardless of its population. And the Electoral College was designed to represent each state's choice for the presidency (with the number of each state's electoral votes being the number of its senators plus the number of its representatives). To abolish the Electoral College in favor of a nationwide popular election for president would strike at the very heart of the federal structure laid out in our constitution and would lead to the nationalization of our central government -- to the detriment of the states.

Indeed, if we become obsessed with government by popular majority as the only consideration, should we not then abolish the senate which represents states regardless of population? Should we not correct the minor distortions in the house (caused by districting and by guaranteeing each state at least one representative) by changing it to a system of proportional representation? This would accomplish "government by popular majority" and guarantee the representation of minority parties, but it would also demolish our federal system of government. If there are reasons to maintain state representation in the senate and house as they exist today, then surely these same reasons apply to the choice of president.

Why, then, apply a sentimental attachment to popular majorities only to the Electoral College? The fact is, they argue, that the original design of our federal system of government was thoroughly and wisely debated by the founding fathers. State viewpoints, they decided, are more important than political minority viewpoints. And the collective opinion of the individual state populations is more important than the opinion of the national population taken as a whole. Nor should we tamper with the careful balance of power between the national and state governments which the founding fathers intended and which is reflected in the Electoral College. To do so would fundamentally alter the nature of our government and might well bring about consequences that even the reformers would come to regret.

Source: <http://constitutioncenter.org/files/electoralcollege.pdf>