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Electoral College Trying to Dismantle Now

Many people trying to reform the political system in the U.S. are focusing on dismantling the Electoral College and seeking the election of the President by direct popular vote.

There are some interesting arguments on both sides of this issue. There may even be some compromise ways of changing the electoral system. However, at this point in time, we think dismantling the Electoral College could make political polarization worse, not better.

Why Was the Electoral College Created?

The Electoral College was written into the Constitution and modified by the 12th Amendment. The two major reasons for the Electoral College were that the founders of the Republic did not trust the public to make the best decisions in voting for the President and Vice President. In addition, they wanted to protect small states against the power of the larger states. On the first point, the Electoral College is now an anachronism. Most people believe the electorate is capable of selecting the top officeholders. People in larger states believe that the second point is also no longer valid. They see no reason why their votes should be diluted. However, the same argument could be made for the Senate, which also gives undue weight to smaller states.

The Senate and the Electoral College are two of the institutions that have made the United States a Federalist system. Many of the arguments for dismantling the Electoral College could be made for dismantling the Senate. However, for all of its current problems, the U.S. government has worked well for more than 300 years. It is reasonable to ask if changing the Federalist system could create more problems than it solves.

Reasons for Dismantling the Electoral College

1. The Electoral College gives much greater weight to voters in smaller states. Wyoming has 573,720 people and three electoral votes. This equates to one electoral vote for every 191,240 people. California, on the other hand, has 39,776,830 people and 55 electoral votes. This equates to one electoral vote for every 723,000 people. **This means a citizen of Wyoming has roughly 3.8x the voting power of a citizen from California.** If the concept is one man-one vote, the Electoral College is unfair.
2. People in states that are solidly red or blue feel their vote is irrelevant. If you live in New York, you know the state will vote for a Democrat and your individual vote for President is largely meaningless. If you live in Mississippi, you know your state will vote for a Republican and your individual vote for President is largely meaningless. The fact that

the votes are meaningless leads to lower turnout in elections and less focus on down ballot candidates.

3. A related issue is that candidates also understand this reality, which is why they focus on swing states like Florida, Pennsylvania, Ohio, Wisconsin, Minnesota, Colorado, and others. These states receive much more money in political advertising. More significantly, issues of concern to voters in these states get much more attention and funding than issues of concern to voters in states that fall solidly into one camp or another.
4. Eliminating the Electoral College has become a partisan issue because in 2000 and 2016 the Democratic candidates (Al Gore and Hillary Clinton) won the popular vote but lost the electoral vote to Republicans (George W. Bush and Donald Trump). In fact, Hillary Clinton received about 2.9 million more votes than Trump, but lost by 77 electoral votes. Democrats believe the Electoral College unfairly penalizes them.
5. The Electoral College discourages third party candidates because all votes are winner-take-all, and most third-party candidates are not in a position to carry an entire state. The last third-party candidate to finish ahead of a major party candidate was Theodore Roosevelt in 1912. The last third-party candidate to win a state was George Wallace in 1968. The last third-party candidate to win 20% in multiple states was H. Ross Perot in 1992. The last third-party candidate to win 20% in one state was Evan McMullin, who won 21.5% of the vote in Utah in 2016.

Reasons Against Dismantling the Electoral College

1. The United States was established as a Federalist system, with power allocated between the States and the Federal government. The Electoral College and the Senate were created with the idea of giving small states protection against the power of the larger, and often wealthier, states. Dismantling the Electoral College could be the beginning of the unraveling of the Federal system that has worked very well since the founding of the Republic.
2. The dismantling of the Electoral College could create a situation where large numbers of independent candidates were on the ballot. This could lead to a situation where the winner might have 20% or even less of the total popular vote and might represent an extreme position.
 - There could be mechanisms for resolving this type of result, such as run-off elections or ranked choice voting; but this would create an additional level of complexity that would be extremely difficult to implement.
3. Attempting to dismantle the Electoral College could either be impossible, causing people to spend years and large amounts of money chasing a pipe dream, or it could be a political disaster for everyone involved.

How Could the Electoral College Be Dismantled?

There are two primary ways of dismantling the Electoral College: a constitutional amendment or a compact among states.

Dismantling By Constitutional Amendment

Since its founding, major changes in our government have come from constitutional amendments. A constitutional amendment requires the support of 2/3 of the members of the House of Representatives and the Senate or by a constitutional convention called by 2/3 of the states. It then must be ratified by 3/4 of the states.

There is no way that 3/4 of the states would ever vote for a constitutional amendment dismantling the Electoral College. Small states like the extra power and protection provided by the Electoral College. Further, in today's polarized world, it is impossible to get 2/3 of the House and the Senate and 3/4 of the States to agree on anything. This means that trying to dismantle the Electoral College by constitutional amendment is a fool's errand that has no chance of ever succeeding.

Dismantling By Compact

Dismantling by Compact seems like a much easier solution, but the potential snags in this system could create far more problems than they solve.

Under the compact, states would agree to give all their electoral votes to the candidate that won the popular vote nationwide. If Hillary Clinton won the popular vote, any state signing the compact would give Mrs. Clinton all of its votes, regardless of which candidate emerged victorious in that state.

To date, 13 jurisdictions with 181 electoral votes have signed the compact. These include California, Colorado, Connecticut, D.C, Hawaii, Illinois, Massachusetts, Maryland, New Jersey, New York, Rhode Island, Vermont, and Washington. Not surprisingly, all of these states voted strongly for the Democratic candidate in the 2016 election.

There are several problems with this concept.

- Because this is a compact and not a constitutional amendment, there is no guarantee the individual electors in each state would abide by it. Electors in solidly red or blue states might revolt and vote their conscience. This means that even if the compact did gain jurisdictions with 270 votes, there is no guarantee the candidate with the most popular votes would win. If such a circumstance occurred, it could precipitate a constitutional crisis.
- The concept of the compact is highly partisan. Most of its supporters are Democrats, who want a national popular vote because Al Gore and Hillary Clinton lost in 2000 and 2016, when each won the popular vote.
- Small states, without a political axe to grind, are unlikely to support it because it reduces their power. If Democrats had lost the popular vote but won the electoral vote in 2000

and 2016, it is likely that states like Vermont and Rhode Island would not be supporting this compact.

- Swing states are unlikely to support the compact. As swing states, they have leverage on important issues. With the compact, this leverage is lost.
- At this point in time, Republican states will also not support it, because it is really a partisan issue.
- Changing the constitution or the form of government through work-arounds leads to increased partisanship. The Democrats changed the rules of the Senate under Obama to get some judges appointed. When the Republicans took over, they had the new rules in effect to block Garland and appoint Kavanaugh.

If the goal is to reduce partisanship, creating a system that disenfranchises Republicans and enfranchises Democrats will backfire.

Is The Electoral College Rigged Against Democrats?

Although Democrats have lost two elections in which they won the popular vote, the Electoral College need not be truly rigged against them.

The first argument by Democrats against the Electoral College is that large states are overwhelmingly Democratic and small states are overwhelmingly Republican. In the 2016 election, this was definitively not the case.

- 7 of the 10 largest states in 2016 voted for Trump, not Clinton.
- Among the 10 smallest jurisdictions (including Washington D.C.) the split between Trump and Clinton was 5-5.
- Hillary Clinton did not lose the election because large states were disadvantaged by the Electoral College. She lost because she won a few states, like New York and California, by large margins, (6 million votes) while losing battleground states, like Florida, Pennsylvania, Michigan, and Wisconsin, by very small margins.
- If Clinton had received 78,000 more votes in Pennsylvania, Michigan, and Wisconsin, she would have won the Electoral College.
- In 2000, if Gore had received 538 more votes in Florida, he would have carried the state and won the election.

The problem for the Democrats is not that the Electoral College is rigged against them, it is that they have lost battleground states by small margins.

Are There Other Alternatives That Could Work Better?

One alternative that could resolve some of the problems of the Electoral College and increase voter turnout would be to have states divide their electoral votes by Congressional District. Under this system, the state would allocate two electoral votes to the winner of the state and then allocate the remaining votes by Congressional district.

Two states, Nebraska and Maine, currently utilize this system.

- Nebraska currently divides its electoral votes with one at large (for the winner of the state) and 3 delegates by Congressional district.
- Maine currently divides its votes with one at large (for the winner of the state) and 2 delegates by Congressional district. In the 2016 election, Maine was the only state to cast electoral votes for both Clinton and Trump.

The benefits of this system are that the winner-take-all system is modified, moving slightly close to one-man-one-vote. It is not as partisan as eliminating the Electoral College, because it does enfranchise minority sections of larger states. For example, Republican areas of New York State or Democratic areas of Texas would now have votes that meant something.

However, by focusing on the Congressional districts instead of the states as a whole, swing states are still giving up some of their power, something they may not want to do.

This type of modification to the current voting system may be very difficult to implement because there is little impetus for change.

Conclusion

One-man-one-vote is an excellent concept. The popular election of the President and Vice President is also an excellent concept. However, both challenge the Federalist structure that made this country the United States of America, instead of just America.

There may be excellent reasons for changing the system now. Some of the rationale for the Electoral College is an anachronism. However, the current rationale for changes in the Electoral College is being advanced by partisan arguments.

We believe these changes will be very difficult to implement. We further believe that their implementation could significantly increase the polarization between the two parties.

Our goal is to minimize polarization and to increase bipartisanship. Accordingly, we do not believe eliminating the Electoral College is an issue that should be high on our agenda.