



The Left's Latest Ploy for Power: Ending the Electoral College

Progressives seek above all else power. They talk about fulfilling the democratic promise, ending inequality and overcoming injustice. But make no mistake about what they really want: power for themselves. They see themselves as more enlightened than average people, who are consuming too much, destroying the planet, have mistaken notions about their rights, especially gun rights, and are easily beguiled by conservative politicians (Republicans) and demagogues (President Trump).

Critical to fulfilling the progressive agenda is undermining the Judeo-Christian tradition in America, patriotism and the Constitution. The war on Christians has been unrelenting. Prayer in public places has come under legal attack; high school football coaches have been fired for conducting a team moment of silence before a big game; Christian businesses are sued because they seek to live up to their faith by not contributing to what they see as sinful behavior; and Democratic politicians have refused to be sworn into elected offices by placing their hands on the Bible. (Indeed, one Democratic official insisted on being sworn in on a Dr. Seuss book. She had not gotten the memo that Dr. Seuss books are now considered racist in some left-wing circles.)

The progressive disdain for patriotism is equally manifest. At the recent Democratic presidential debates not a single American flag was seen on the stage. It would have been interesting to hear the response if one of the candidates had been asked about the absence of flags. We have a good idea where progressives stand on patriotism.¹

The progressive agenda to subvert the U.S. Constitution is evident in a recent campaign to end the Electoral College, the unique institution empowered by the Constitution to elect an American president. Leftists have launched a two-pronged attack to abolish the Electoral College. First, the Constitution is denounced as a racist document designed to uphold slaveholding. The portrayal of the Constitution as a racist document, written by racists for racism, is being promoted by the *New York Times* in its "1619 Project." Activists under the guise

of journalism and scholarship maintain that the Electoral College was set up only to protect slaveholding states.

The second prong to undermine the Electoral College is a bit cleverer—in fact, so clever that some Republicans have bought into the project. This project is to promote a **National Popular Vote Interstate Compact**. This compact requires electors in the signatory states to vote according to the national popular vote for the presidency instead of their own state's popular vote. It would go into effect when states with an absolute majority (270) of the Electoral College votes join the compact.

The compact is likely unconstitutional because nothing in the Constitution allows states to force their electors to vote in a particular manner. Moreover, the Framers explicitly rejected proposals for electing the president by a popular vote. They understood that a popular vote for electing the President would give less-populous states less influence in electing the chief executive in the newly formed constitutional republic.

Those who support the U.S. Constitution need to be prepared to counter the progressive agenda aimed at subverting the foundation of our unique experiment in representative government. Conservatives should challenge the premise that the Constitution was a racist document and should oppose the drive to eliminate the Electoral College.

Was the Electoral College Racist?

The new criticism of the original U.S. Constitution as a racist document is part of a larger left-wing attack on the United States as a racist country. A group of progressive scholar/activists has been promoting this view for the last decade or more. The *New York Times* has provided a venue for these activist scholars—they explicitly identify themselves as "activists"—to assert that American political liberty embodied in the U.S. Constitution is a fraud designed to protect slaveholders and racism; that American economic prosperity was a product of slavery;

that American capitalism was built on the exploitation of black slaves; and that inequality and exploitation of blacks are integral to the United States today.²

Akhil Reed Amar, a professor at Yale Law School, gave vent to the view of the Electoral College as a racist institution in a *New York Times* op-ed published on April 6.³ He writes that the Electoral College was “not mainly designed to balance big states against small states.” He attempts to prove his argument by pointing to outcomes. Eight of the first nine presidential elections were won “by candidates who were plantation owners from Virginia, then America’s biggest state. Only three candidates from small states have ever been elected president: Zachary Taylor, Franklin Pierce and Bill Clinton.” These election results hardly prove that the Founders intended the Electoral College as a racist instrument.

Amar maintains that the idea of a direct presidential election was “a political nonstarter” because “slaves could not vote, so the slaveholding South would basically lose every time in a national direct vote. But if slaves could somehow be counted in an indirect system, maybe at a discount (say, three-fifths), well, that might sell in the South.” He concludes, “Thus were planted the early seeds of an Electoral College system.”

Amar makes a facile argument, founded on neither logic nor historical fact. No doubt, Northern delegates at the 1787 Philadelphia Convention capitulated on the 3/5 representation of slaves in counting population. James Madison, irate that his Virginia Plan had failed, joined with South Carolina delegates in threatening to walk out of the convention. In order to prevent the walkout, Northern delegates accepted the 3/5 compromise, much to the chagrin of many who abhorred slavery. The 3/5 representation of slaves, however, was not new. Such a formulation had been used in a proposed amendment to the Articles of Confederation in 1783 in the context of taxation.

Slave States Were Opposed

But Amar ignores more than logic; he ignores basic facts, which have been pointed out by Sean Wilentz, a Princeton University history professor and a man of the left, a strong Hillary Clinton supporter. Wilentz notes that Southerners actually did not embrace the Electoral College plan: “In the initial vote over having electors select the president, the only states voting ‘nay’ were North Carolina, South Carolina, and Georgia—the three most ardently proslavery states in the convention.”⁴ Southerners feared electors would be corruptible ‘persons not occupied in the high offices of government.’” Those who

opposed the Electoral College, he writes, shared the same concerns as those who supported the system: fear of the popular passions of the voters.

Wilentz finds that the proposal for direct popular election had some initial supporters at the Philadelphia Convention, including Gouverneur Morris of New York, the author of the Constitution’s preamble. But the proposal for direct election of the president failed to win widespread support at the convention. **Delegates feared direct democracy.**

As students of ancient history, the Framers understood that direct democracy often gave way to chaos to be exploited by demagogues who became tyrants. While remaining convinced that sovereignty rested in the people, the delegates knew that power corrupts, not just for the elites but for the masses. Therefore they sought to balance and buffer power through a separation of powers in the three branches of government and through the federal system.

In addressing the matter of how to elect the president, the Founders explored having state legislators elect the president or allowing Congress to have the privilege. These proposals were rejected because the delegates feared that such schemes would make the executive branch too subservient to the legislative branch. Thus the concept of the Electoral College was born.

Electoral College Curbs Direct Democracy

Following the defeat of the motion for direct election in a 9-to-1 state delegation vote (not all states’ delegations voted), the convention considered other approaches to selecting the president. The middle ground was for the president to be elected by independent electors, possibly chosen by the people or by state legislators. William Paterson of New Jersey, a critic of slavery, proposed that the chief executive should be chosen by the states. The motion to replace the legislative election of the president with an electoral system passed easily.

The proposal for Congress to appoint the president, as Wilentz observes, also protected slavery. The debate over the Electoral College was not over protecting slavery, though. Both the Electoral College system and selection of the president by Congress protected slavery. The issue was not slavery, but a concern to restrain direct democracy. Following a vote to approve the Electoral College system, in which the only three states voting against it were slave states, things got messy.

Five days after the general approval of the Electoral College system, the convention, with the full support of the lower South, reversed itself, rejected the state electoral system

and restored the choice of the executive to Congress. At this point, Madison endorsed the direct popular vote rather than support a congressional system that would be vulnerable to corruption, according to Wilentz.

Only in the waning days of the convention did the body return to the unfinished business of the how to appoint the president. A special committee of eleven revived the Electoral College proposal. Historians do not have a record of this special committee's deliberations, but what is clear is that the convention opposed direct election of the president. Opposition to the Electoral College came from North Carolina and South Carolina delegates, who fought to the bitter end for election of the president by Congress.⁵

Calls to End the Electoral College

The recent debate over the origins of the Electoral College system occurred within the context of a larger debate over replacing the system with a national popular vote—an approach rejected by the Founders. *Washington Post* columnist E. J. Dionne weighed in by writing, “There is nothing normal or democratic about choosing our president through a system that makes it ever more likely that the candidate who garners fewer votes will nonetheless assume power. For a country that has long claimed to model democracy to the world, this is both wrong and weird.”⁶

Dionne repeated the mantra that the Electoral College tilts outcomes “toward white voters, conservative voters, and certain regions of the country.” He concludes that other groups and places are forced to “sit back and accept their relative disenfranchisement.” How exactly those voters are disenfranchised is not clear, but Dionne gets to his real concern that President Trump could win reelection with an even lower popular vote than in 2016, by winning the Electoral College vote.

Those supporting the Electoral College system, he claims, are really defending, without explicitly saying so, the idea that a state with a higher percentage of white, non-Hispanic voters should have a disproportionate influence on who becomes president. Not only does he think the Electoral College system disenfranchises minority voters in populous states, he believes it facilitates “Trump’s habit of dividing the country along racial lines. So in addition to being undemocratic, the Electoral College encourages a particularly odious politician with no interest in uniting the country.”

E. J. Dionne is no fan of tradition, either in the Catholic Church, to which he professes to belong, or in his politics. Still, as a public commentator, he should feel some obligation to make a logical argument. First, simply asserting that

certain voters outside populous states are disenfranchised does not make it so. Citizens in populous states have the right to vote, as do citizens in smaller states.

More to the point, he does not explain why the Electoral College encourages racial division. Did not Trump in winning the Electoral College have to win such states as Florida, North Carolina, Virginia, Pennsylvania and Texas? He did so by appealing to white working-class voters in these states. But white working-class, lower-income, high school graduates are the majority of voters in these states. And, speaking of racial politics, do not Democrats play the race card and racial division even more in trying to win these states?

Yet for the sake of argument, let’s assume that we had direct election of the president. Would racial politics be any better? Unfortunately the answer is an emphatic “No!” Democratic politicians in large cities and blue states with sizeable minority populations play the race card over and over. How doing away with the Electoral College would change this state of affairs is beyond reasonable explanation.

Interstate Compact: A Trojan Horse

Left-wing reformers understand that getting a constitutional amendment through Congress to abolish the Electoral College is impossible. Representatives from less-populated states would be reluctant to support such an amendment. As a result, leftists have come up with another idea, the National Popular Vote Interstate Compact (NPVIC), which is an agreement among states to circumvent the constitutional method of electing the president in favor of a national popular vote.

The scheme works this way: Each state signs an agreement that requires its presidential electors to obey the results of a national popular vote, not the results in their own state. This idea was dreamed up by Robert W. Bennett, a law professor, following the 2000 election. After Hillary Clinton’s defeat in 2016, the concept gained popularity. **The compact has been made law in Maryland, New Jersey, Illinois, Hawaii, Washington, Massachusetts, the District of Columbia, Vermont, California, Rhode Island, New York, Connecticut, Colorado, Delaware, New Mexico and Oregon.** Most of these states have not voted for a Republican president since 1988.⁷

This compact is likely unconstitutional as an end run around the constitutional procedure to elect a president, among other reasons. Though not directly affecting the compact, the U.S. Court of Appeals for the 10th Circuit ruled in August that under the U.S. Constitution, electors have discretion to vote as they wish and may not be removed by a state for casting their votes in violation of a state law requiring the

elector to vote for the presidential candidate winning the statewide popular vote.⁸ Thus, once state electors are chosen, they are not bound by voters' wishes even in their own state, much less the country as a whole.

Nonetheless, polls suggest that likely U.S. voters (54 percent) support direct election of the president.⁹ Even more disturbing is that some Republican voters have come out in support of the compact. A campaign is trying to convince Republicans that they should support the direct election of the president.¹⁰ The former chair of the Republican National Committee, Michael Steele, urged Republican voters to get behind the proposal before "it's too late."

The NPVIC ignores the wisdom of the Founders. It is another ploy by progressives to gain power in the name of the people.

There are compelling practical reasons to prefer the Electoral College system to a direct popular vote for president, including the walling-off of vote-counting disputes in the Electoral College system's state-by-state electoral approach as opposed to nationwide vote-counting disputes in a close national popular vote; and the current system's incentives for a presidential candidate to appeal

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NATIONALISM, POLITICS AND CHRISTIANITY. Attempts to blame President Trump for mass shootings or killers motivated by "white nationalism" are reprehensible. There is nothing wrong with nationalism per se, as long as the God-given dignity of all humans is recognized. Ask for 9/19

ABORTION-ON-HYPERDRIVE. U.S. Democratic politicians are speeding toward extreme positions in favor of abortion anytime up to birth, funded by taxpayers. Nine state legislatures have responded with more restrictive laws, which will be tested in court, and the Trump administration has taken a number of pro-life actions. Ask for 8/19

to a broader geographic slice of America than, say, only large cities or the most populous states.

Moreover, it is possible that some day a Republican candidate will win the national popular vote without winning the Electoral College the old-fashioned way. In that event, Democratic backers of the NPVIC will inevitably disavow their brainchild.

The campaign to eliminate the Electoral College is an assault on the constitutional order based on republican principles, federalism and the rule of law.

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- 1 <https://www.pewresearch.org/fact-tank/2013/07/03/a-generation-al-gap-in-american-patriotism/>.
 - 2 For a devastating rebuttal to the argument that the American economy was built around slavery, see Stephanie McCurry, "Plunder of Black Life," *Times Literary Supplement*, May 17, 2017. McCurry, a history professor at Columbia University, considers herself both a progressive and a feminist, so her critique of the supposed relationship between slavery and capitalism is especially noteworthy.
 - 3 Akhil Reed Amar, "Actually the Electoral College Was a Pro-Slavery Ploy," *New York Times*, April 6, 2019.
 - 4 Sean Wilentz, "The Electoral College Was Not a Pro-Slavery Ploy," *New York Times*, April 4, 2019.
 - 5 Sean Wilentz, "The Electoral College and the Myth of a Proslavery Ploy," *History News Network*, April 14, 2019.
 - 6 E. J. Dionne, "The Coming Implosion of Our Electoral System," *Washington Post*, August 28, 2019.
 - 7 "Still Sore From 2016, Democrats Ignoring Constitution to Pursue National Popular Vote," *The Federalist*, March 7, 2019. For a summary of the campaign, see Jose A. Del Real and Julie Turkewitz, "Should the Electoral College Be Eliminated? 15 States Are Trying to Make it Obsolete," *New York Times*, May 22, 2019.
 - 8 Trip Gabriel, "Electoral College Members Can Defy Voters' Wishes, Court Rules," *New York Times*, September 22, 2019.
 - 9 Matt Roy, "Poll: Majority of U.S. Voters Support Direct Election; Arizona Senator Opposes Measure," *Daily Independent (Your Valley)*, April 16, 2019.
 - 10 Saul Anuzis and Michael Steele, "Why Republicans Should Get Behind a National Popular Vote, Too," *Politico*, August 28, 2019.
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