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Electoral College Reform: Past, Present, and Future Implications of the United States Electoral College System

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Electoral College Reform: Past, Present, and Future Implications
of the United States Electoral College System

Madison L. McKinney

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Spring 2020

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Abstract

The United States' Electoral College system has been a topic of debate for several years, gaining even more attention from the recent 2000 and 2016 elections. This has become a controversial topic throughout history for several reasons, but mostly because twice in the modern presidency, candidates have won the presidency by winning the electoral vote while losing the popular vote. This paper will examine the history and creation of the Electoral College, how the Framers' intended it to function, several positive and negative factors of the current system, and compare arguments for and against Electoral College reform. Some reform options include eliminating the elector, amending the current system, direct election, and the National Popular Vote Interstate Compact (NPVIC). This paper concludes that the current Electoral College system has several flaws that can significantly impact the United States' political process but could be minimized or eliminated through reform. This paper also argues that slavery may have influenced the creation of the Electoral College and it therefore must be reformed. This paper also includes a research design comparing voter turnout in multiple countries to see which electoral system has higher voter turnout rates. In conclusion, more research must be done in order to further examine what future implications reform may have on voting in the United States.

Introduction

The Electoral College system in the United States has been controversial since its creation but has more recently become a topic for debate since the 2000 and 2016 presidential elections. During these two elections, the candidates who were nominated for President of the United States won the electoral vote but lost the popular vote. This phenomenon is significant for the United States because in a majoritarian democracy, many of the government's policies and foundations support "majority rules". This flaw in the current Electoral College system allows to elect a candidate that was not voted by the majority. This puts the legitimacy of the Electoral College into question of whether or not the system is working in the interest of the American people or in the interests of those in power. This phenomenon seems dangerous to democracy, and for this reason many believe that the current Electoral College system must be reformed to better represent the popular vote and to ensure that this system serves the people, and not those in power.

This paper seeks to explain how the Electoral College has functioned in the past, how it functions now, and how we can improve it for future elections by considering some reform option. This paper argues that this phenomenon is harmful to the foundations of U.S. democracy, and after further examination of the Electoral College, it is apparent that slavery may have had a strong influence in the creation of the Electoral College and therefore should be updated.

First, this paper will examine and discuss the current literature on the Electoral College, including an explanation of how it functions, the original intentions of the Framers, significant elections, and several reform options. Next, this paper will closely examine the history of the Electoral College in further detail. This will then lead to a closer look at significant elections throughout American history that have highlighted many flaws within the system for those

seeking reform. This section will also examine the public's opinion on the Electoral College, more specifically examining a study done to observe attitudes towards reform at Texas Tech University as well as some Gallup Polls on Electoral College reform. Included at the end of this paper is a research design where I hypothesize that in comparing voter turnout in three different countries, voter turnout is higher in countries without an Electoral College system of voting. Finally, this paper will examine some possible reform options that have been proposed as well as my own analysis and proposition for Electoral College reform.

Literature Review

The Electoral College is the process in which the President of the United States is elected. First, the Electoral College gives a two-vote bonus to each state which is sometimes referred to as the “constant two” (Florey, 2017). Next, the Electoral College allocates electoral votes among states based on the population of the state (Florey, 2017). Lastly, the Electoral College uses a winner-take-all method of counting electoral votes, meaning whichever candidate wins the most votes in that state receives all of the state’s electoral votes (Florey, 2017). Maine and Nebraska are the only two states that use a different method for allocating electoral votes (Florey, 2017). Instead of using a winner-take-all method, these two states use what is called the congressional district method, where some electoral votes are given to the winner of each congressional district (Florey, 2017).

In the current Electoral College system, once a candidate has won 270 electoral votes, they have won the election (Florey, 2017). If there is no clear winner of the Electoral College, the election is then decided by the House of Representatives, as stated in the Twelfth Amendment (McGee, 2013). The addition of the Twelfth Amendment resulted in changes for a few important aspects of the original draft of the Electoral College. One of the more significant changes being the way in which a final decision was made when no majority electoral vote was reached (Arato, 2001). It also pushed the political process towards a two-party system, where parties now had to run as President and Vice President on an executive ticket together (Amar, 2017). Some even argue that the Twelfth Amendment not only encouraged political participation among voters and presidential tickets, but more importantly, slavery (Amar, 2017). It is argued that the Electoral College gave an advantage to Southern ‘Slave States’ after the implementation

of the Twelfth Amendment (Amar, 2017). The issue of slavery and how it relates to the Electoral College will be discussed in greater detail.

The Electoral College is considered to be a counter-majoritarian procedure, which are mainly used in order to protect minority groups in a democratic system by having sets of checks and balances (Alemán, 2016). It is significant to understand this because many who oppose Electoral College reform argue that the original intention of the Framers of the Electoral College was to protect minority voters (McGee, 2013). However, many aspects and results of the Electoral College point to the complete opposite. In a study done by Arend Lijphart, he compared thirty-six democracies and the gaps of inequality in those democracies (Alemán, 2016). This sample included groups of countries with some similar and different socioeconomic backgrounds (Alemán, 2016). Lijphart categorized these democracies as being either counter-majoritarian democracies or consensus democracies, meaning parliamentary democracies (Alemán, 2016). For counter-majoritarian democracies, he studied countries like France, Greece, Canada, the United Kingdom, and the United States (Alemán, 2016). After analyzing several different patterns within democracies, this study found that not only were consensus democracies more likely to be welfare states, protect the environment, put fewer people in prison, and were more generous with their economic assistance to other countries, but out of all of the counter-majoritarian countries studied, the United States had the highest inequality rates (Alemán, 2016). The United States was in fifth place for economic growth, fourth regarding the wealth gap between the rich and poor, nineteenth in energy efficiency and foreign aid, twenty-first in electoral participation, and first place in incarceration rates (Alemán, 2016).

While this study shows a unique perspective of counter-majoritarian institutions like the Electoral College and how they compare on an international level, it also argues that the

Electoral College and other counter-majority restrictions not only function outside of the Framers' original intent, but also embodies disproportionality in political participation in the United States (Alemán, 2016). According to his analysis of the Electoral College, what has happened with the evolution of our political process is that the Electoral College and other large political institutions actually block collective action, leaving the political system with small organized groups who can then implement their own narrow agendas (Alemán, 2016). These groups can then take advantage of political processes like the Electoral College and Congress, which then leads to taking advantage of less organized groups of minorities or minority parties (Alemán, 2016). Consensus democracies were found to have higher levels of social welfare and better decision-making processes which resulted in a smaller cost of political participation, making it easier for smaller groups to participate (Alemán, 2016). These results are significant because with a large gap in economics and equality, this systematically puts minorities and minority parties at a disadvantage with higher costs in political participation, the opposite of the argument that the Framers' intentions were to protect minority voters.

Now that the current Electoral College and how it functions has been explained, it is now important to understand all of the original intentions of the Framers of the Electoral College and how they came to this compromise. The Virginia Plan and New Jersey Plan were two competing proposals for how to elect a president, and both instituted that presidential selection would be done by the national legislature (Ross, 2016). After the Connecticut Compromise in 1787, which was essentially the agreement between small and large states on how votes would be represented, debate of presidential selection became more prominent (Ross, 2016). The Electoral College became a continuation of the Connecticut Compromise and led to the creation of a federal institution for reconciling the representational differences between small and large states (Ross,

2016). Other popular debates during this time consisted of debates over slavery and the ability for states to keep their independence from the Connecticut Compromise and eventually the Electoral College (Ross, 2016).

Based on the events of the Constitutional Convention of 1787, there was no clearly favored method of presidential selection as many Framers supported several different ideas (Ross, 2016). While Northern delegates supported a direct election for the President, Southern delegates supported the Virginia Plan by which Congress would elect the President (McGee, 2013). Southerners feared a direct election because this would have put them at a disadvantage since the states' population was mostly made up of non-voting slaves (McGee, 2013). Many argued that the Framers' intentions were to provide security and general welfare, regardless of the method that was eventually decided upon (Ross, 2016). Referencing Robert A. Dahl's work, David Mena Alemán argues that the Founding Fathers' original intentions for counter-majority restrictions, such as the Electoral College, were in fact to protect the minority party vote and hoped to guarantee minorities certain liberties, such as fair political participation, that would otherwise not be available to them (Alemán, 2016). Another possible reason mentioned for the Electoral College was so that the choosing of the President would be separated from Congress's influence (McGee, 2013). According to Andrew Arato's analysis, some additional intentions by the original Framers of the Electoral College were to provide multiple elections, to give more of an advantage to smaller states and to slave states, and also to avoid a plebiscitary presidency, meaning a presidency that is only accountable during elections/impeachment rather than consistently (Arato, 2001). However, some have argued against these claims saying that when the Framers' decided on the best method for the Electoral College, it had more to do with protecting their own party and individual interests (Ross, 2016). Over half of the Founding

Fathers owned slaves, which suggests that they may have cared more about protecting slave owners' rights in the South than about protecting minorities (Ross, 2016). This further suggests that the term 'minority' meant something very different then than it does now.

With brewing arguments over which election process should be adopted, Southern delegates created the Three-Fifths Compromise which approved that three-fifths of the slave population within a state could be counted for congressional representation (McGee, 2013). This gave Southern states an electoral advantage over Northern states in allocating of electors and members of Congress (McGee, 2013). Although three-fifths of the slave population was counted, slaves could still not vote, meaning Southern States were allocated more representatives and electoral votes simply because they had slaves. This is why many argue that the Framers' original intentions were self-interested and had more to do with slavery than having a fair election.

Although it may seem that the Electoral College is a newer topic of debate, it has in fact been controversial in several elections before the 2000s. The election of 1824, considered one of the most controversial and significant elections in American history, is mentioned in several arguments when discussing Electoral College reform. The 1824 presidential election was decided in the House of Representatives and was between Andrew Jackson, John Quincy Adams, and William H. Crawford, the top candidates in the race as stated by the Twelfth Amendment (Ross, 2016). The House of Representatives voted in favor of John Quincy Adams, even though Andrew Jackson had the most electoral votes out of all of the remaining candidates (Ross, 2016). There was also controversy involving a fourth candidate, Henry Clay, who eventually played a significant role in the final decision of the presidency, as well as the ways in which the states decided to divide up their electoral votes (Ross, 2016). This controversial election is just one

example of a candidate who was voted in by the popular vote but did not end up as the President and will be discussed in further detail.

The most recent controversial elections being the elections of 2000 and 2016, are also two extremely significant ones that shed light on the legitimacy, or rather lack thereof, of the Electoral College system. In the election of 2000, George W. Bush was elected President of the United States after Al Gore won the popular vote, but lost the electoral vote (Arato, 2001). The legitimacy of George W. Bush's presidency was put into question after losing the popular vote by around 500,000 votes (Arato, 2001). Although many were shocked by these results, after the Supreme Court decided not to recount Florida votes, not even Gore pushed the issue further (Arato, 2001). In 2016, Donald Trump was elected after losing the popular vote to Hillary Clinton by the largest amount in history, around 3 million votes, but won the Electoral College (Chinn, 2017). This pattern of losing the popular vote but still being elected President has happened twice in the 2000s and has therefore caused a major debate on the legitimacy of the Electoral College.

There are several other significant and valid arguments that call the legitimacy of the Electoral College into question. When the Electoral College was originally created, the population of the United States was a lot smaller than it is now, something we all understand but tend to sometimes forget. There is also the argument that the Electoral College has given smaller states too much of an advantage with the addition of the "constant two" described earlier that allocates two votes to each state, regardless of population (Florey, 2017). Another common argument focusing on the allocation of electoral votes is that by allocating electoral votes based on population, several groups of people who cannot vote or choose not to are counted when allocating how many electoral votes a state should receive (Florey, 2017).

The current debate over the Electoral College has helped scholars understand the positives and negatives of the system, but also ways in which we can seek to improve the current system. One could argue that because the Electoral College has evolved into something that no longer supports the Framers' original intentions, we must reform or amend it in order to realign with those reasons. From the opposite perspective, many believe we must reform or amend the Electoral College because the Framers' original intentions for the Electoral College were based on maintaining inequality. One could also say that the Electoral College was created in a time which had a very different society and population than the United States has today. Reforming or amending the Electoral College system to reflect today's society and larger population may be beneficial to the political process and political participation. Several reform options have been proposed throughout the years, although many have not passed (Ross, 2016). Amendments, direct popular vote, elimination of the elector, and the National Popular Vote Interstate Compact (NPVIC) are all examples of Electoral College reform ideas that have been proposed. Some other examples of more problematic positions are to switch to a proportional method or a contingent election (McGee, 2013). This paper will go in depth of the positive and negative aspects of each reform option and thoroughly discuss how these possible reform options could impact the Electoral College system.

History of the Electoral College

With forming a Democratic government comes forming a process in which citizens can elect government officials. This was proven to be difficult for the Framers, as smaller and larger states were worried about being equally represented in this new bicameral legislature the Framers had adopted. The United States Congress is made up of two branches, the House of Representatives and the Senate, which now both consist of elected officials. Now that the Framers had adopted a two-branch system, they had to come up with a way to determine how to elect the President of the United States. Would the citizens directly elect or would Congress? Would they both elect the President? These are some questions the Framers needed to answer with a fair strategy for the Presidential election.

One proposal called “The Virginia Plan” argued that Congress should elect the President (McGee, 2013). Southern delegates supported this proposal because they feared that if representation was based on population, they would be at a disadvantage due to the fact that most of their population were slaves who were not able to vote (McGee, 2013). Therefore, if there was a direct election, Southern states would have less influence than the North. Others also argued against this proposal with the belief that the President should not be directly elected by “uneducated and incompetent” average American citizens, and that this responsibility should be one of Congress. (McGee, 2013).

Another proposal was called the “New Jersey Plan”, which argued that each state should have one vote in Congress instead of having representation based on population (McGee, 2013). This idea was popular among the smaller states because this would give them just as much influence as larger states (McGee, 2013). For that same reason, larger states greatly opposed this plan because it was not fair that states with a smaller population had the same amount of

influence as a state which twice the amount of people for example (McGee, 2013). It was not until the Great Connecticut Compromise that the Framers finally agreed on a compromise between both plans. After 60 proposed ballots, the Framers finally compromised on the Electoral College (McGee, 2013). With the ratification of the Twelfth Amendment, the Electoral College was born and works like this; each state has a number of electors based on the population of the state, including the District of Columbia. These electors are appointed by their respective parties and, in theory, cast their state's vote for a Presidential candidate based on what the people of that state voted for (McGee, 2013). If it were a tie, the vote would then go to Congress who would then elect the President (McGee, 2013).

There are a few problems with this system that the Framers had failed to consider. One issue is that every state has at least three electors, including small states who would not be allotted three electoral votes if electors were based solely on the population of the state. This is a problem for larger states because smaller states are being given more power in the election than their population allows. Another issue Framers failed to consider is that there is no regulation for electors. This means that electors can be a "faithless elector" or an elector that strays from the party vote and votes for a candidate other than who the population of the state voted for. This means that an elector can vote for whoever they want with little to no consequences. This is an important issue to consider, because many citizens already choose not to vote because they feel their votes do not count, and in a faithless elector situation, their vote does not hold any meaning. Another way this creates problems is for example, if an individual voted for the minority party of their state. In this case, their vote really holds no value because their state electors will always vote for the majority party in an election.

In a worst-case scenario, a faithless elector could even change the outcome of a presidential election if they became the deciding vote of the election. While this has not happened before, it is possible, as every election has its number of faithless electors. In fact, in the 2016 election alone, there were seven faithless electors, and an additional three others who tried but failed to change their votes (PK, 2016). In one presidential election, there was a potential of ten faithless electors (PK, 2016). In some past elections where the electoral votes have come extremely close, for example the election of 1876 between Tilden and Hayes where Hayes won by just one vote, a faithless elector could have easily changed the outcome of the presidency and history as we know it (Hoogenboom, 1995). More on this election and other important past elections in U.S. History will be discussed in the next section.

There has also been some speculation on the reasoning behind the implementation of the Electoral College. While some say that the Framers had accepted this proposal because they thought it was the best way to protect minority votes, others have found that slavery may have been an important factor of the implementation of the Electoral College (McGee, 2013). It is easy to say the Electoral College protected minorities and should be kept in place, but the term ‘minority’ meant something very different back when the Electoral College was first implemented. African Americans could not vote until the ratification of the Fifteenth Amendment in 1870 and women could not vote until the ratification of the Nineteenth Amendment in 1920, so what minorities are being discussed here? By speaking of minorities, scholars are really talking about the minority political party as well as poor and uneducated white men at the time who were labor workers, farmers, etc. It is important to remember that the government has almost always been governed by the elite, educated class, and the Electoral College was created by it too.

This paper argues that the Electoral College was not created in order to protect minorities but to do the exact opposite, exploit African American slaves in order for Southern states to have more representation in the general election. The Electoral College was heavily influenced by slavery, and for this reason alone should be reformed. As mentioned earlier, Southern and Northern delegates had a hard time compromising on which process of election and representation they wanted. One reason Southern delegates were against election representation based on population was because most of their population were African American slaves who were not able to vote (McGee, 2013). They believed this would have put them at a disadvantage to Northern states in the Presidential Election because the North would have more votes and power (McGee, 2013). With the convenient Three-Fifths Compromise, three-fifths of the population of slaves in a state would be counted for Congressional representation, even though those slaves could not vote (McGee, 2013). It is also important to note that over half of the Framers of the Constitution and Electoral College were slave owners, and therefore would greatly benefit from the implementation of the Three-Fifths Compromise (McGee, 2013). It was only after the addition of the Three-Fifths Compromise that Southern delegates accepted the Electoral College as an acceptable compromise between Northern and Southern States (McGee, 2013). While the Electoral College no longer advantages southern states since the abolishment of slavery, it is not unreasonable to amend or change a political process that once did do such things.

To summarize, while many argue that the Electoral College and the Constitution were put in place in order to protect minority voters, several scholars have found the opposite. The Electoral College did not protect minorities as in women, African Americans, or other ethnic voters. In fact, these groups of people were not able to vote until as late as 1920 with the addition

of the 19th Amendment making it legal for women to vote. The term ‘minority’ in context to the creation of the Electoral College referred to poor uneducated white men (McGee, 2013). What the Electoral College did was give slave states an advantage over northern states in the general election. With the implementation of the Three-Fifths Compromise, southern states were able to count three-fifths of their slave population in the general election, meaning they would get more electoral votes from counting some of the slave population even though these slaves could not vote (McGee, 2013).

Historical Elections and Public Opinion

There have been several historical presidential elections that highlight the flaws of the current Electoral College system. The Electoral College has failed to nominate the candidate with the popular vote five times in U.S. history: the 1824, 1876, 1888, 2000, and 2016 elections (Argersinger, 2004). This section will touch briefly on each election to show different ways in which the Electoral College system undermines the democratic political process.

The 1824 election is arguably one of the most important Presidential elections in the history of the United States. Not only does it show the Electoral College fail significantly, but it also shows how with the addition of the Twelfth Amendment, the Electoral College allows the House of Representatives to undermine the democratic political process. It also shows how candidates tend to focus on important electoral states while ignoring other states, which ultimately puts many voters at a disadvantage and is a key element and argument for Electoral College reform. This election is also significant because the past three elections had been won by Republican candidates and this election inaugurated a two-party system with Whig and Democrat candidates (Bourdon, 2014). This was also the first election that none of the Framers were running for the presidency (Bourdon, 2014). The candidates in the 1824 presidential election were William Crawford, John Quincy Adams, John Calhoun, Henry Clay, and Andrew Jackson (Bourdon, 2014).

Andrew Jackson's main focus during this election was North Carolina for a few reasons (Bourdon, 2016). One major reason is that citizens wanted out from behind Virginia's political shadow and wanted to distance themselves from the caucus which led to Jackson's creation of the "People's Ticket" (Bourdon, 2014). The People's Ticket was made up of electors who heavily supported candidates Calhoun, Jackson, and Adams (Bourdon, 2014). It was created

to give voters an alternative way to vote since many did not want to vote for the caucus-chosen Crawford Ticket (Bourdon, 2014). Until 1824, a national caucus system had been deciding presidential candidates, giving North Carolina voters relatively no say in a presidential election (Bourdon, 2014). Congressional party caucuses would nominate a president and vice president and each recommendation was almost guaranteed to a caucus member (Bourdon, 2014). Voters wanted to end the caucus because they felt it was keeping the same men in power and was silencing the popular majority (Bourdon, 2014). This debate over the national caucus system is what helped Jackson's campaign because many North Carolina voters wanted to end the caucus which meant they were likely to vote for the most popular candidate (Bourdon, 2014). North Carolina voters were also able to identify with Jackson because of his background of being a war hero and he supported internal improvement projects (Bourdon, 2014).

The majority of voters who had voted for the People's Ticket were convinced they were voting for Jackson as President and Adams as Vice President, when in actuality they had a choice between all three candidates; Jackson, Adams, and Calhoun (Bourdon, 2014). The People's Ticket was confusing to many voters, which was the goal of Jackson's promoters who targeted uneducated voters who would be more likely to identify with him because of his military background than to identify with his policies (Bourdon, 2014). The People's Ticket is significant because in the end, it awarded Jackson all fifteen of North Carolina's electoral votes (Bourdon, 2014).

Even though Jackson had won the most electoral votes with 99, he did not win the overall majority of votes of 131, and so the election would be decided by the House of Representatives as stated in the Twelfth Amendment (Ross, 2016) The top three candidates were Andrew Jackson, John Quincy Adams, and William Crawford (Ross, 2016). Henry Clay, who had

received four less votes than Crawford, was eliminated from the race but would play an important role in the House of Representative's decision (Ross, 2016). John Quincy Adams was nominated President of the United States after this election, but he was not nominated because he won the majority of electoral votes (Ross, 2016). Using his authority as the Speaker of the House, Henry Clay made a bargain with Adams that if he appointed Clay as his Secretary of State, he would vote in favor of Adams, and thus John Quincy Adams became the sixth President of the United States (Ross, 2016).

This is just one example of how the Electoral College failed to elect the candidate that won the majority and popular vote. If there is no clear winner of the Electoral College, the House of Representatives is legally allowed to choose whatever presidential candidate they want, regardless of how many electoral votes they received (Ross, 2016) Thanks to the Twelfth Amendment, which in this case completely undermined the political process of a general election, Andrew Jackson lost the election of 1824 despite winning the popular vote and having the most electoral votes out of all of the other candidates (Ross, 2016).

This is similar to what happened in the 1876 and 1888 elections. For four consecutive elections starting in 1876, the election was decided by the voting results of just one state, and in three of them, the candidate losing the popular vote was nominated President by the Electoral College (Argersinger, 2004). In 1876, candidate Samuel Tilden was leading in the popular vote and the Electoral College until three states' electoral votes were disputed (Hoogenboom, 1995). His opponent, Rutherford B. Hayes, believed that the only way he could have won was voter fraud, as it was a huge problem during this time (Hoogenboom, 1995). Louisiana, Florida, and South Carolina threw out thousands of Democratic votes due to voter fraud without being able to actually determine who would have won a fair election (Hoogenboom 1995). After doing so,

Rutherford B Hayes won the Electoral College and became President of the United States (Hoogenboom, 1995). This caused outrage among voters, discouraged specifically African Americans from voting, and highlighted the issues of voter fraud and how unregulated elections were during this time (Hoogenboom, 1995). Not only was there voter fraud and illegal bribery of buying votes during this election, there were the “bogus ballots” which were ballots that people would accidentally vote for someone else because of the format of the ballot (Argersinger, 2004).

In 1888, candidate Benjamin Harrison won the election despite his opponent Grover Cleveland winning the popular vote (Argersinger, 2004). “Bogus Ballots” were a problem during this general election as well and further highlights how elections were hardly fair to citizens during this time (Argersinger, 2004). Similar to the 1824 election, the 1888 election also showed the change in practices among campaigners and their practices to target the most influential states and voters (Argersinger, 2004). Harrison’s campaign targeted swing states such as New York and Indiana but Cleveland was still winning the popular vote in the polls (Argersinger, 2004). It was later exposed that the Republican national committee had been urging Indiana party officials to buy votes and partake in other illegal electoral practices that eventually elected Harrison (Argersinger, 2004). This is another prime example of candidates using all of their resources, including illegal ones, mostly on swing states which not only puts other states at a disadvantage but also takes advantage of voters who live in swing states.

The two most recent occurrences of elections resulting in the nomination of minority vote candidates were the elections of 2000 and 2016. These two elections are significant because they not only happened so close to one another, but because they are modern elections, meaning this phenomenon is still happening today and the Electoral College continues to fail to elect the majority vote candidate. This is also significant because the population of the United States has

significantly grown and these elections, especially the election of 2016, will show that the candidates who won the presidency but lost the popular vote lost it by a significant number of votes, which amplifies the need for Electoral College reform and has had a drastic impact on public opinion.

The 2000 election was won by George W. Bush whose opponent, Al Gore had won the popular vote by around 500,000 votes more (Arato, 2001). There was a discrepancy in the state of Florida's votes which resulted in the Bush v. Gore Supreme Court Case that decided to halt the recounting of votes which ultimately resulted in Bush winning the Presidency (Arato, 2001). This not only tarnished Bush's legitimacy as President of the United States, but it caused an uproar in the public's perception of the Electoral College (Arato, 2001). This election brings up a new concern of presidential elections; legitimacy and its impact on a "successful" presidency. Similarly, during the 2016 election presidential candidate Hillary Clinton won over three million more votes than Donald Trump who ultimately won the Electoral College (Chinn, 2017). With a loss this big, many have begun calling for Electoral College reform once again. Many view the Electoral College as a partisan issue and public opinion on this issue is very complex.

While polls since the 1930s have shown that the general public is in favor of Electoral College reform, one study done at Texas Tech University argues that voters are simply uninformed on how the Electoral College works (McKenzie, 2009). This study argues that those who are highly educated and politically sophisticated oppose Electoral College reform (McKenzie, 2009). The sample used in this study was a small sample of 839 undergraduate students from the University of Texas at Austin (McKenzie, 2009). This study surveyed six government classes and all classes were entry-level besides one (McKenzie, 2009). Unfortunately, this sample is not representative enough because not only was it isolated to one

university, but it was also isolated to only those taking mostly entry-level government classes. This sample is also not representative of the population because it was done in a higher-education environment which narrows the sample to only those seeking higher education. This study is an example of a biased sample that should not be used to generalize large populations, and in order to truly understand public opinion on the Electoral College, a larger, unbiased study must be done.

As the previously mentioned study did not seem to have an unbiased and representative sample, I decided to further research public opinion on the Electoral College and reform using a few recent polls. Gallup has been polling respondents on issues related to the Electoral College since 1948, when 53% of respondents at the time felt the Electoral College should be discontinued (Tarrance, 2016). Again, in 2000 after the controversial Bush v. Gore election, 61% of respondents favored replacing the current Electoral College system with a popular vote system (Tarrance, 2016). In 2013, Gallup found that 6 in 10 or 63% of Americans, would vote for a law that would eliminate the Electoral College (Tarrance, 2016). This poll shows that these questions have been around for decades and Electoral College reform is not a new concept that formed after the 2016 and 2000 elections. It is also worth noting that in 2000 when asked how well they understood the Electoral College system, 30% of respondents said they understood it “very well” while 28% said they knew basically nothing about it (Tarrance, 2016). This may relate to the previous study mentioned from the University of Texas, that knowledge on the Electoral College may have an impact on how respondents view reform and is worth researching further.

From these statistics, it seems as though support for Electoral College reform has been climbing over time and Americans want to see some changes made to the current system. For the most part, this has been true. It seems as though there was an exception after the 2016 election,

where support for Electoral College reform went down shown in Figure 1 below (Jones, 2019). This was likely due to the amount of controversy and heightened political climate that everyone was experiencing after the 2016 election. While one would expect to see a climb in support for reform, support and disapproval for reform were quite close to each other.

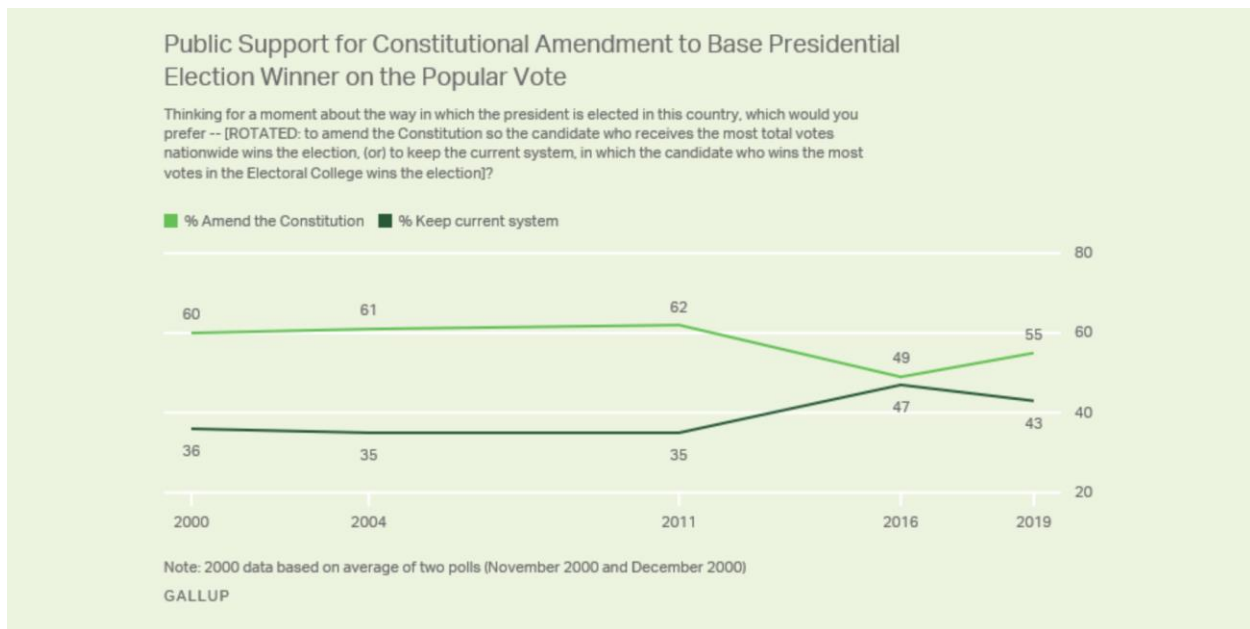


Figure 1. Public Support for Constitutional Amendment to Base Presidential Election Winner on the Popular Vote (2019). This figure shows the patterns of approval and disapproval for reform over time.

Another poll done more recently in 2019, found that 55% of respondents were in favor of amending the Constitution with a popular vote system while 45% wanted states to award electoral votes based on the national popular vote winner (Jones, 2019). These are two reform options that will be discussed even further in the next section. This poll interestingly enough included data on how democrats and republicans felt on this issue as well. In Figure 2 below, you can see that Democrats overwhelmingly support a Constitutional Amendment and show support

for states to change how they allocate votes at 84% and 69% approval (Jones, 2019).

Republicans however highly oppose both of these positions with 74% and 77% disapproval (Jones, 2019).

Support for Ways to Change System to Base Presidential Winner on Popular Vote, by Party

	Democrats/Democratic leaners		Republicans/Republican leaners	
	% For	% Against	% For	% Against
Amend the Constitution	84	14	24	74
States change how they award electoral votes	69	30	21	77

Note: Respondents were randomly assigned to answer one of the two questions.

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Figure 2. Support for Ways to Change System to Base Presidential Winner on Popular Vote, by Party (2019). This figure illustrates approval and disapproval on Electoral College reform based on party.

In Figure 2, you can see how public support and disapproval of Electoral College reform is largely distinguished by political party and party affiliation. This may be a root cause in the difference between approval and disapproval. This raises some valuable questions that may be worth looking into in the future regarding how political affiliation may determine one's support or disapproval of making changes to the Electoral College.

It is clear that Republicans strongly disapprove of Electoral College reform while Democrats strongly approve of reform (Jones, 2019). This could be for many reasons, including the fact that the two most recent controversial elections resulted in a Republican President, understanding of the Electoral College, etc. Further research would be beneficial to potentially uncover additional reasons for approval and disapproval of Electoral College reform based on political party. Approval for reform has been steadily climbing throughout history, with an exception of the 2016 election (Jones, 2019).

Research Design

With this new information on public opinion, for my research design I compare the voter turnout from France, the United Kingdom, and the United States over the last 10 elections to see if the system of voting shows any impact on voter turnout. France uses a Two-Round System for the president, legislature, and regional elections (Electoral Reform Society, n.d.). For the French National Assembly, candidates with more than 12.5% of the votes, or the top two candidates, go to a second round of voting (Electoral Reform Society, n.d.). The two elections take place on two different days, however if in the first round of voting a candidate wins more than half of the votes, there is no second round (Palese, 2019). If there is no majority winning candidate, the second vote will take place two weeks later with only the top two candidates (Palese, 2019).

In the United Kingdom, the First Past the Post system is used to elect the Members of Parliament (MP) (Electoral Reform Society, n.d.). Since one MP represents each area, each party only has one candidate to choose from (Electoral Reform Society, n.d.). During the General Election, 650 constituencies across the United Kingdom hold separate contests and in order to become an MP the candidate must get the most votes in their area (Electoral Reform Society, n.d.).

My hypothesis for this research is that countries with an Electoral College system have lower voter turnout rates than countries who use parliamentary system. France and the United Kingdom do not use an Electoral College system for their elections, but instead use a parliamentary system. Comparing the voter turnout in these countries compared to the voter turnout in the U.S. could not only show correlations between public opinion and the effectiveness of the Electoral College, but this could also help reveal if there is a need for election reform in the U.S.

Observing the United States, the past 10 presidential elections that utilized the Electoral College, as seen in Table 1, had only reached above 60% once since 1980 (IDEA, n.d.). The voter turnout rate in the U.S. seems to stay steadily in the 50% range (IDEA, n.d.).

Year	1980	1984	1988	1992	1996	2000	2004	2008	2012	2016
Voter Turnout Rate %	56.54%	58.39%	55.93%	60.08%	53.44%	52.62%	57.07%	57.47%	53.58%	55.98%

Table 1. United States Voter Turnout. This table illustrates the voter turnout in the United States from the past 10 Presidential Elections which utilized the Electoral College

Presidential elections are the only U.S. elections that will be observed in this data research because an Electoral College system is not used during midterm elections which occur every two years. This allows me to focus on comparing the voter turnout rates of the United States Electoral College system to the voter turnout rates of other countries whom do not use an Electoral College system.

In France and the United Kingdom, a parliamentary system is used for elections and the past 10 elections can be observed below in Table 2 (IFES, French Republic, n.d.), as well as the voter turnout rates in the United Kingdom in Table 3 (IFES, UK, n.d.).

Year	France Voter Turnout Rate %
2000	30.73%
2002 (Presidential)	79.71%
2002	60.31%
2005	69.37%
2007 (Presidential)	83.97%

2007	59.98%
2012 (Presidential)	80.35%
2012	55.41%
2017 (Presidential)	74.56%
2017	42.64%

Table 2. Voter Turnout Rates in the French Republic. This table illustrates the voter turnout rates during the past 10 elections in the French Republic including referendums, presidential elections, and elections for the National Assembly of France (NAF) which do not utilize an Electoral College (IFES, French Republic, n.d.).

Year	United Kingdom Voter Turnout Rate %
1992	77.83%
1997	71.46%
2001	59.38%
2005	61.45%
2010	65.44%
2011(Referendum)	42.2%
2015	66.12%
2016 (Referendum)	72.21%
2017	68.81%
2019	67.55%

Table 3. Voter Turnout Rate in the United Kingdom. This table illustrates the voter turnout rates during the past 10 elections in the United Kingdom including referendums and British House of Commons elections which do not utilize an Electoral College system (IFES, UK, n.d.). Rates from 2019, 1992, and 1997 retrieved from separate source (Clark, 2019).

When observing this data as a whole, the voter turnout rates in France seem to lack an inclining or declining pattern, however the rates seem to be overall higher than the United States' voter turnout rates. The variation of turnout rates in France could be due to the fact that there are several types of elections included in this data including referendums, presidential elections, and the National Assembly of France (NAF) elections (IFES, French Republic, n.d.). It is also clear

that there is a higher voter turnout for presidential elections in France than for other types of elections in France (IFEA, French Republic, n.d.). This is similar to the U.S. which has lower turnout rates during midterm elections than during presidential elections (IDEA, n.d.).

The voter turnout rates in the United Kingdom seem to be somewhat steadier than in France, however the UK experiences an outlying decline in voter turnout in 2011 at a low 42.2%, however in 2015 the voter turnout rate is right back to 66.12% (IFES, UK, n.d.). Other than the outlier in 2011, the United Kingdom seems to also have a steadily declining voter turnout rate with similar percentages (IFES, UK, n.d.). This outlier could be because the 2011 election was a referendum, although in 2016's referendum the turnout rate was quite high at 72.21% (IFES, UK, n.d.). The United Kingdom also seems to have higher turnout rates than the United States.

This data shows that several important factors could be coming into play when observing these voter turnout rates. Although the turnout rates in France seem to have no pattern, the presidential election turnout rates in France are very similar to the presidential election turnout rates in the United States. This could indicate that there is a perceived difference in importance between the various types of elections for countries who have a President. This is also seen to be true in the United States where midterm elections have lower voter turnout rates than presidential elections (IDEA, n.d.).

In conclusion, this research supports the hypothesis that the United States Electoral College system has lower voter turnout rates than countries with parliamentary systems. This is because the data shows that overall, both France and the United Kingdom have had higher voter turnout rates in the past ten elections. The turnout rates in France show no observable pattern at first glance, however presidential elections in France seem to have higher turnout rates for the presidential elections, similar to how it is in the United States. This could indicate that certain

types of elections have a perceived level of importance in countries with a presidential figure, which in turn impacts the voter turnout rate (IFES, French Republic, n.d). The United Kingdom also seems to have higher voter turnout rates than the United States (IFES, UK, n.d.).

Reform Ideas

There have been several reform options proposed to replace the Electoral College, but none have been passed so far. This section of the paper will examine several different reform options from myself and scholars including the positive and negative aspects of each, as well as the implications they could have on the future political process if ever passed. The reform options that will be discussed are a direct popular vote, the congressional district method, the elimination of electors, the National Popular Vote Interstate Compact (NPVIC), and other state initiatives as well as possible amendments.

The first and most obvious reform option would be for states to adopt a Congressional District method or otherwise known as the “proportional” method like Maine and Nebraska currently use (McGee, 2013). As mentioned above, a Congressional District method is different from a “winner-take-all” method because it awards the two senatorial votes to the winner of the statewide election while each congressional district picks an elector for that district (McGee, 2013). This allows candidates to split the electoral votes in Maine and Nebraska (McGee, 2013). Some positives to adopting this method would be that it could be done quickly and relatively inexpensively because it is a familiar concept (McGee, 2013). This is argued to be a better option than letting elections be decided by Congress if there is a tie or no candidate is awarded the overall majority of electoral votes (McGee, 2013). The main criticism of this method is that it can yield unfair results in states with a lot of congressional districts (McGee, 2013). This method has also been discussed as a backup system for tiebreakers instead of the vote going to Congress like stated in the Twelfth Amendment (McGee, 2013). However, gerrymandering could become a serious problem if all remaining states adopted this method. Gerrymandering is essentially when the majority party in a state redraws the district lines in order to manipulate the outcome of

an election. This would pose too much of a risk to the U.S. political process unless in the future there was a federal law passed to ban gerrymandering. Gerrymandering is prevalent in most states because whichever party controls the state legislature during the time of redrawing have complete control over redrawing the congressional districts.

Another simple solution that would not take too much effort to update the Electoral College would be to eliminate individual electors. By eliminating the role of actual people casting electoral votes, the U.S. could come up with a system that will automatically award all electoral votes to the candidate who won the state for example doing it by computer or some other automatic voting process. Many feel that giving an individual elector the responsibility of casting an electoral vote undermines the democratic process, gives them too much power over the outcome of the election, and takes the people's vote away from them because of the risk of a "faithless elector" (Electoral College Reform, 2017). While this would get rid of the faithless elector problem and would reduce the risk of a faithless elector changing the outcome of an election, some could argue that this eliminates a check to the electoral system and that having actual people cast electoral votes is essential to the democracy and political process (Electoral College Reform, 2017). One way to combat a faithless elector is for states to pass laws prohibiting electors from casting votes against the majority. There are currently thirty-two states plus the District of Columbia that require electors to pledge for a candidate but nineteen of them have no penalty for faithless electors (FairVote, n.d). Some states including Indiana, Minnesota, Montana, Nebraska, Nevada, and Washington have all adopted what is known as the Uniform Faithful Presidential Electors Act which states that electors must pledge to vote for the winning candidate or else they will be replaced by a new elector and their vote will be canceled (FairVote, n.d). Four states currently have penalties for faithless electors, and two of the four

cancel the vote entirely (FairVote, n.d). Some argue that the issue of faithless electors is not serious enough because one has not yet changed the outcome of an election and other Electoral College reform options would make it harder for this to happen anyways (Electoral College Reform, 2017). However, this argument is lack-luster, as the U.S. political institutions should be constantly evolving with society to protect the vote of the people and so that these things never happen in the first place. There is nothing wrong with trying to pass legislation in order to prevent a faithless elector from having enough power to change the outcome of a presidential election, and thus, the history of the United States. As previously mentioned, there were seven faithless electors in the most recent 2016 election and are a number of faithless electors for many past elections (PK, 2016). A faithless elector has not yet changed the outcome of a presidential election, but still could in the future if not prevented.

One of the more controversial reform options is the direct popular vote. By replacing the Electoral College with a direct popular vote system, this would essentially abolish the Electoral College (Electoral College Reform, 2017). One positive to this reform option is that it would most likely require a joint ticket of president/vice president which the current system already has (Electoral College Reform, 2017). This method of electing the President would also guarantee that in every election the “people’s choice” would always win the election (Electoral College Reform, 2017). Supporters of this method say that reform options would either include the winner needs to receive 40% of the votes cast or whoever has the most votes (Electoral College Reform, 2017). This would also eliminate the issue of faithless electors and every vote would carry the same amount of influence regardless of which state it was from (Electoral College Reform, 2017). One article declares that this could even eliminate the issues that could occur if the President-elect died before Inauguration (Electoral College Reform, 2017). While there are

many reasons why this method could work better than the current Electoral College, many still oppose a direct popular vote. Critics of the direct popular vote say that adopting this method could result in political fragmentation and political parties would be competing against one another even more than they are now (Electoral College Reform, 2017). This could also lead to multiple candidates splitting off and challenging as a third-party candidate which could result in splitting political parties or even result in no candidate receiving at least 40% of the vote which could pose some problems (Electoral College Reform, 2017). That being said, as mentioned before, the congressional district method has been viewed as a better option for settling tiebreakers and could be easily adopted since it is already a familiar concept.

Another reform option is for states to pass their own initiatives to attempt to reform the Electoral College. Similar to a direct popular vote, the National Popular Vote Interstate Compact (NPVIC) is a current piece of legislation that has already started to be passed by several states in attempt to abolish the Electoral College (Electoral College Reform, 2017). This reform option seeks to establish a direct popular election of the President and Vice President by adding a Constitutional amendment (Electoral College Reform, 2017). Under this amendment, states would agree to appoint electors who are pledged to vote for the candidate who won the popular vote in each state (Electoral College Reform, 2017). This reform option can help fix both the faithless elector issue as well as guarantee that the popular candidate among American voters will always win. The interesting thing about this specific reform option is that many states have already passed the NPVIC, so once the collective number of electoral votes surpasses the amount needed to win the Electoral College, the Electoral College is essentially irrelevant because these states will now decide the election (Electoral College Reform, 2017). This is an unfortunate way of changing the political process and surely many feel this should be a bipartisan compromise,

but without any initiative from Congress, this is the only way that this legislation will be taken seriously and conduct any real change. Although this reform option would fix several flaws the current Electoral College system has, such as abolishing the faithless elector, and guaranteeing that the “people’s choice” wins, many oppose this bill (Electoral College Reform, 2017).

Opposition of the NPVIC say that it would undermine the Constitution and overturn the original Framers’ intentions, which as mentioned previous, is a highly debated topic and has no clear answer (Electoral College Reform, 2017). Others say that the NPVIC may interfere with the Voting Rights Act because it could dilute the minority party vote (Electoral College Reform, 2017). The protection of the minority vote is an interesting topic that may need to be further researched in relation to America’s counter-majoritarian political policies since it is cited as an argument often, yet there is no sound explanation of what it means or how it is currently being protected in the current Electoral College system. Another argument is whether the NPVIC is considered an interstate compact which must first be approved by Congress (Electoral College Reform, 2017). One way to avoid these problems is to have the federal government conduct oversight on the NPVIC (Amar, 2017). It is also worth mentioning that NPVIC is closely related to Democratic party control of legislation (Virgin, 2017). One study comparing all NPVIC bill proposals between 2006 and 2014 found that when Democrats are in control, they are more likely and have more success passing the NPVIC (Virgin, 2017).

Proposal

Now that the most relevant reform proposals have been discussed, I will now submit my own proposal on if the U.S. needs to reform the Electoral College and how to do so. Taking into consideration the several studies that have been observed for this research, I do believe that the Electoral College system needs to be reformed. Several sources have discussed the significant role that slavery had played when the Founders compromised on the Electoral College, as more than half of them owned slaves (McGee, 2013). With the inclusion of the Three-Fifths Compromise, slave states were given an advantage over northern states (McGee, 2013). This is one fundamental reason the Electoral College needs to be reformed. Now in the 21st century, we have every ability to reform a political process that once was used to advantage slave owners and was used for personal interests.

Another reason I feel we need to reform the Electoral College is because it does not function properly and has failed twice in the last twenty years, something that was much more uncommon in the past. It is clear that as we evolve, the U.S. political process has become more complex. As these complexities arise, I feel it is important that we address these issues and work to make our political processes run more smoothly for our evolving society. Just in the last twenty years, there have been two occurrences of a candidate winning the electoral college but losing the popular vote (Chinn, 2017). This shows that in our modern era of politics, it would be worthwhile to look into these flaws in the Electoral College system and address them through a bipartisan lens that way we can continue to make our elections fair and democratic.

I propose we address these flaws in the Electoral College system by adopting a National Popular Vote Interstate Compact (NPVIC) with some federal observation and oversight. After considering other proposals such as the congressional district method and eliminating electors, I

feel the NPVIC has the best chance of success and will function how Americans need it to function. Many fear that if reform involves a popular vote, those in minority parties of large states such as California will not have a say. This is a talking point used by those who are not in favor of reform, and this argument holds no meaning in a national popular vote. Since the winner will be decided by the national, not state vote, state populations will have nothing to do with the election. Although the NPVIC utilizes electors for now, the goal is that once enough states have passed this bill, electors will no longer be needed as this would abolish the Electoral College all together. This way, there would be no advantage of smaller states having more electoral votes than their population allows for and the vote would be a completely national popular vote. This would essentially even the playing field, meaning that large states will not have an advantage over small states, and small states will no longer have more electoral votes than their population allows. All votes will fall into one collective national popular vote which will decide the winning candidate.

The problem with the congressional district method is that gerrymandering, or the redrawing of district lines to advantage one party over the other, is such a large problem already for the U.S. that I feel this system would automatically be taken advantage of since there are no federal laws against it. The elimination of electors would be a plausible reform option if parties are unwilling to outright abolish the Electoral College and just want to reform it. However, since a faithless elector has never actually changed the outcome of an election, I feel this would not change much for the fairness of the Electoral College and would not make a significant change.

With the adoption of a NPVIC, or just a national popular vote in general, this would truly make each vote count equally, no state would be advantaged over the other, and the “people’s choice” would always get elected, which I argue is true democracy. This would also force

candidates to treat each state equally when campaigning and no state would be advantaged over the other with candidate appearances, candidate promises, resources, etc. I believe this would then encourage even more people to vote, could possibly decrease voter suppression, and citizens would no longer feel as though their votes did not count. I also feel it is important that we address this issue from a non-partisan standpoint if at all possible. In the 2016 election, not only did the winning candidate lose the popular vote, Donald Trump lost the popular vote by the largest recorded number in history, over three million votes (Chinn, 2017). As mentioned in several resources, one main reason Electoral College reform has not passed is because of the partisanship that has existed throughout the history of the United States (McGee, 2013). I argue this has more to do with the issue of Democracy itself than partisanship, because this could very well happen to any candidate from either party.

Conclusion

While more research needs to be done on the implications of the abolishment of the Electoral College and how this could affect future elections, reforming it, at least, is still necessary. The history of the Electoral College not only has shown that it was a compromise made by slave owners to protect and advantage their votes in presidential elections, it was also made to suppress minority votes, not protect them (McGee, 2013). During the time of its creation, the Electoral College did not protect the votes of racial minority groups or women simply because African American slaves could not vote, nor could women (McGee, 2013). Several historical figures have also stated that the poor and uneducated should not have an equal say in the presidential election (McGee, 2013).

In the modern political era, the Electoral College fails to nominate the winner of the popular vote, or in other words the “people’s choice”, and twice in just twenty years has nominated the candidate who was not chosen by the people (Chinn, 2017). This undermines the entire democratic political process. This is highlighted in a critical discussion of some of the most controversial presidential elections including the 1824, 2000, and 2016 elections specifically. These elections are all great examples of the Electoral College failing and the loopholes and corruption that existed in past elections and in modern elections.

Public opinion shows that approval for Electoral College reform has been steadily climbing with an exception of the 2016 election. There is a clear division between approval and disapproval of reform based on political party. Democrats and democratic leaning respondents strongly support Electoral College reform while Republican and republican leaning respondents strongly oppose Electoral College reform (Jones, 2019). The factors contributing to these

patterns would be beneficial to research and identify to further understand the divide in public opinion regarding the Electoral College.

After comparing voter turnout rates between the United States, France, and the United Kingdom, the hypothesis that the countries utilizing a parliamentary system of election would have higher turnout rates than the United States' Electoral College system was supported. Voter turnout rates in the United Kingdom and France were higher than the past ten U.S. elections, and turnout rates for French presidential elections are similar to the U.S. compared to other types of elections. This may indicate that there is a perceived level of importance that varies among the different types of elections, for example midterm elections are socially perceived as "less important" than presidential elections in the United States.

After reviewing several pros and cons of the current Electoral College and some popular reform options, I have proposed to abolish the Electoral College and adopt a National Popular Vote Interstate Compact (NPVIC) in order to update the U.S. political system. Another simple reform option would be to eliminate the individual elector to guarantee votes to the winner of the state, although I do not see this making any significant improvements in the political process.

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