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America's Presidential Crisis of Legitimacy:
How the Electoral College Became Obsolete and How We Can Fix It

By

Julia Rose Foodman

Senior Thesis

Submitted in Partial Fulfillment for the Degree of

Politics and Interdisciplinary Humanities

Scripps College

Claremont, California

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In hopes that this will be published, I dedicate this thesis to Mr. C,
who I promised I would dedicate my first published work to
twelve years ago.

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It is a pleasure for me to thank the many people who have made this thesis possible.

First, thank you to Professor Shields who pointed me in the right direction and consistently argued against me to sharpen the points I make throughout my thesis. I likely would have stayed in an echo chamber in my head without your help. Likewise, your continued optimism and support have been monumental in my work's success.

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Table of Contents

Preface		5
Introduction		6
Part 1: Debunking Arguments for the Electoral College		9
i.	The Electoral College Leans into the Political Center.	10
ii.	The Electoral College Keeps Impostors Out of National Politics.	14
iii.	The Electoral College Maintains the Two-Party System.	16
iv.	If Abolishing the Electoral College was Popular, Congress Would Already Have Done It.	21
v.	The Electoral College Stops Voter Fraud.	25
vi.	Electoral College Results Almost Always Match Up with The Popular Vote.	27
vii.	The Electoral College Maintains Democratic Legitimacy.	29
viii.	The Electoral College Helped End Slavery.	30
ix.	Other Countries Use Worse Systems.	37
x.	We Should Break Up States Instead of Abolishing the Electoral College.	37
xi.	Campaigning in Twelve States is Better Than Just Two.	40
xii.	Without the Electoral College, States Would Lose Their Voices in National Politics.	47
xiii.	A Popular Vote is Not in the Constitution.	54
xiv.	People Don't Always Know What's Best for Them.	57
Part 2: Constitutional Suggestions for Democracy in Presidential Elections		61
i.	The National Popular Vote Interstate Compact	62
ii.	Ranked Choice Voting	65
iii.	Voting Rights Citizens in U.S. Territories	69
iv.	Enhanced Universal Suffrage	71
Part 3: Conclusion		80
Bibliography		88

Preface

I began my undergraduate education at Scripps College in September of 2017, ten months after the election of Former President Donald J. Trump, a right-wing populist who lost the popular vote. A year after I began my studies, I declared a dual major in Politics and Interdisciplinary Humanities with concentrations in American Electoral Politics and Critical Theory intending to better understand the vast injustices and disparities that allowed for the election of Trump. Since then, I have worked at three electoral reform nonprofits, a state party, on a victorious Congressional Campaign, a failed Congressional campaign, and Presidential campaign, in an attempt to reconcile with the vast political and cultural disparities I saw in American life.

My primary takeaway from these experiences is that corruption and antidemocratic principles in American elections are eroding the legitimacy of government faster than any institution. Obtaining political power has proven to be a game of tactful execution and focused persuasion; it does not work by the people or for the people as it is supposed to. I chose to write my thesis on the Electoral College because it is the most glaring example of the inefficiencies in the American electoral system. That being said, it is merely one institution of many that favors a public interest in inequality and retaining power in the hands of a select few, contrary to democracy in its purest form. In this thesis I will illuminate and explicate these deeply troubling realities and advocate for tangible solutions that I hope to see implemented in my lifetime.

Introduction

“You know the old saying -- you win some, you lose some. And then there's that little-known third category,” remarked former Vice President Al Gore in his concession speech in 2000: an implicit acknowledgement that the Electoral College allowed a poorly constructed and antidemocratic principle in the Constitution, to distinguish between the candidate the American people chose to lead them for four years, and the candidate that a system, designed 250 years ago in wildly different context, designated as the next American President.¹ After a five-week struggle and a Supreme Court battle, President George W. Bush prevailed by 537 votes in Miami-Dade County in Florida making him the next President, although his opponent won over half a million more votes from the American people.²

Gore admitting defeat, despite winning America's favor, was the only thing that kept the legitimacy of the federal government holding on by a thread. This third category: concession despite victory, is detrimental to American democracy and the prosperity of its people. Former Secretary of State Hillary Clinton fell into that “third category” just sixteen years after Gore when she triumphed over Former President Donald Trump for the popular vote by three million votes but fell victim to the Electoral College.³ Four years after that, when Trump lost the popular vote and Electoral College, he utilized this vulnerable discrepancy in the American system to ignite political chaos. If our electoral system remains unchanged, we will see more and more candidates

¹ “Gore: Let's Make Sure This Time Every Vote Is Counted,” July 27, 2004.

<https://edition.cnn.com/2004/allpolitics/07/26/dems.gore.transcript/>.

² “2000 Electoral Vote Distribution.” Federal Election Commission. Accessed May 3, 2021.

<https://www.fec.gov/introduction-campaign-finance/election-and-voting-information/federal-elections-2000/president2000/>.

³ “2016 Presidential Election Results.” The New York Times. The New York Times. Accessed May 3, 2021.

<https://www.nytimes.com/elections/2016/results/president>.

fall into the third category, more and more deeply unsettling Presidential elections, and a burgeoning of loss of accountability in the Oval Office.

Before the any American President can assume his role in the Oval Office, he must proclaim, in accordance with Article II Section One of the Constitution, "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."⁴ The Electoral College was specifically designed to prevent a President who was incapable or unwilling to carry out this promise and against mob rule. It has since become a constitutional tragedy. In crafting the electoral system, the founders were both terribly wrong and terribly right about what they had hoped their writings would prevent. Since the signing of the United States Constitution in 1787, the college has drastically departed from the founders' original intentions of preserving Presidential integrity.

In this thesis, I seek to answer the following question: what are the main arguments in support of the Electoral College, why are they troubling, and how can we mend American Presidential elections for the greater purposes of political equality, democracy, and freedom? This question gives rise to a multitude of others which I also address in the paper. Is there a generally applicable principle that entitles some individuals or groups to extra representation? In what ways does the Electoral College adhere to or violate key principles of democracy? How can we ever legitimize authority, does the Electoral College do a satisfactory job of this? Is there a point in everyone having a vote if they're not equal?

⁴ Jefferson, Thomas. "The Constitution of the United States: A Transcription." National Archives and Records Administration. National Archives and Records Administration. Accessed May 3, 2021. <https://www.archives.gov/founding-docs/constitution-transcript>.

Countless publications already exist advocating for abolition of the Electoral College in favor of a more democratic system. However, I have not found considerable writings in conversation with the conservative pundits who oppose such reforms. My intention in writing this thesis is to provide such dialogue. I will not be discussing the mechanisms of the college, but rather, the efficacy, efficiency, and antidemocratic principles involved. In part one, I address the major concerns of supporters of the Electoral College, derived directly from the writings of political scientists who advocate for the college's conservation. In part two, I provide a detailed, pragmatic, constitutionally conservative solution: a new Presidential electoral system incorporating broadly used democratic reforms that addresses the major concerns I discuss in section two. Lastly, in part four, I discuss the major conclusions I have derived from my research: primarily, how the Electoral College is merely a symptom of a much greater issue.

Part 1: Debunking Arguments for the Electoral College

The first step to solving any problem is admitting its existence; the requirements laid down by the Framers for amending the constitution made it extraordinarily difficult to bring about changes despite their popularity. Almost from the beginning, the Electoral College has consistently failed to operate as the Framers intended. Despite Constitutional reforms such as the abolition of the Three-Fifths Clause and the establishment of voting rights for minority groups, the structure of the Electoral College has retained features that lead to undemocratic outcomes. This section outlines where the founders fell short and how these fatal mistakes are playing out today with increasing frequency.

When composing this section, the lengthiest portion of my thesis, I prioritized understanding the logic that allows supporters of the Electoral College to conclude that the system is efficient. This allowed me to address each of their concerns individually and demonstrate where their arguments generally fall short. Thus, in this section, I will detail each of the primary arguments made in favor of the Electoral College and unpack them from logical, political, and moral standpoints. Researching and writing in this manner has suggested to me that both supporters and critics of the Electoral College typically want the best leadership possible for the nation, indicating that we have far more similarities than differences and constructive discourse has the potential to spur this change.

i. “The Electoral College Leans into the Political Center.”

Supporters of the Electoral College, including Christopher DeMuth, an American lawyer, firmly take the stance that the Electoral College leans into the political center, favors centrist candidates, and retains moderate policy platforms on the national stage to award middle ground candidates with the presidency to satisfy the general public. This stance also aligns with the founder’s intentions but does not play out in our current political reality. DeMuth argues in his piece *The Man Who Saved the Electoral College*:

“In a direct-election system with several parties and a 40% threshold for a run-off between the top two vote-getters, narrow parties with, say, 20% of the national vote could hope to make it to the run-off, or else to play an influential role in the run-off. The current system's pre-election coalition-building, and competition for the broad political center, would be replaced by a cacophony of first-round election campaigns, probably with extreme or idiosyncratic parties in the mix, followed by power-sharing negotiations and endorsements in advance of the run-off election.”⁵

DeMuth is already assuming that a new and less efficient electoral system would take the place of the Electoral College. I agree with DeMuth in that this new run-off system he describes sounds mediocre and it would only benefit niche factions. He appears to be describing the center squeeze effect: a common electoral scenario under runoff elections where the centrist, the candidate that most voters would likely agree on as a safe middle ground, is eliminated first and voters are left with two extremes.⁶ For example, in an election with the voters of the following voter preferences, the centrist will not win:

⁵ DeMuth, Christopher, Christopher DeMuth is a distinguished fellow at the Hudson Institute., John G. Grove, and John Murdock. “The Man Who Saved the Electoral College.” National Affairs. Accessed May 5, 2021. <https://www.nationalaffairs.com/publications/detail/the-man-who-saved-the-electoral-college>.

⁶ “The ‘Center Squeeze’ Effect.” The Center for Election Science, June 10, 2019. <https://electionscience.org/library/the-center-squeeze-effect/>.

Percent of voters	Party rankings
35%	1. Republican, 2. Center, 3. Democrat
33%	1. Democrat, 2. Center, 3. Republican
22%	1. Center, 2. Democrat, 3. Republican
10%	1. Center, 2. Republican, 3. Democrat

The centrist is preferred to the Republicans by a huge 65 percent majority and to the democrats by an even greater margin of 67 percent. Under a run-off system exactly like the one America uses and that DeMuth suggests with party primaries and a general election between two major candidates, the centrist will be the first to be eliminated and not make it to the general election at all. The Electoral College, therefore, cannot sponsor a centrist, or “compromise” candidate the way the framers intended to. Later in this section, I will describe a far more efficient system the country could use to actually move towards a more agreeable future, blooming with healthy electoral compromise.

Inarguably, the 2016 election of the far right and polarizing President Donald Trump proved that the Electoral College does not have the ability to reliably prioritize a moderate candidate who pleases as many citizens as possible. In fact, Trump only won 45.9 percent of the popular vote.⁷ Furthermore, these “first round election campaigns” DeMuth describes already exist in the form of primaries. All political parties, including lesser known third parties like the Libertarian and Green Parties, host primaries before they put forward presidential candidates; they have become a pillar of Presidential politics. Primary debates have become a popular spectacle and source of entertainment, holding nearly as much importance as the debates between the two major party candidates. The first Democratic Presidential Debate in 2020 drew 20 million viewers,

⁷ “2016 Presidential Election ...” The New York Times.

beating out the Golden Globes and the Grammys.⁸ Bear in mind most viewers of the Democratic primary debate are only coming from the Democratic Party, making the number of viewers even more significant.

“Extreme parties” that DeMuth fears are already in the mix of these “first round” campaigns. President Trump first certified his status as an extremist right when he launched his campaign, remarking, “[Mexicans] are bringing drugs. They’re bringing crime. They’re rapists.”⁹ Texas Senator Ted Cruz suggested bombing ISIS in the Republican Primary in that same year: a counterintuitive idea at best and a war crime at worst.¹⁰ Likewise, Republican candidate Ben Carson, who eventually ended up serving in Trump’s cabinet, once stated, “My own personal theory is that Joseph built the pyramids to store grain. Now all the archaeologists think that they were made for the pharaohs’ graves.”¹¹ Similar remarks have been made by many candidates in Presidential primaries, and by Trump beyond the primaries in 2016 and 2020.

Power-sharing negotiations, another one of DeMuth’s fears, are also a pillar of primaries and the Electoral College. Prior to President Biden’s win in the 2020 Democratic Primary, Vice President Kamala Harris and Transportation Secretary Pete Buttigieg ran campaigns against Biden, both of whom eventually dropped out of the race and endorsed him.¹² Furthermore, as mentioned,

⁸ Koblin, John. “Democrats Set a TV Ratings Record at Their Las Vegas Debate.” *The New York Times*. The New York Times, February 20, 2020. <https://www.nytimes.com/2020/02/20/business/media/democratic-debate-las-vegas.html>.

⁹ Reilly, Katie. “Donald Trump: All the Times He’s Insulted Mexico.” *Time*. Time, August 31, 2016. <https://time.com/4473972/donald-trump-mexico-meeting-insult/>.

¹⁰ Neal, Deonna D. “Ted Cruz Wanted to ‘Carpet Bomb’ the Islamic State. Does He Understand Today’s Military?” *The Washington Post*. WP Company, April 18, 2019. <https://www.washingtonpost.com/news/monkey-cage/wp/2016/03/18/ted-cruz-wanted-to-carpet-bomb-the-islamic-state-does-he-understand-todays-military/>.

¹¹ Gass, Nick. “The 21 Craziest Quotes from the Campaign Trail.” *POLITICO*, November 25, 2015. <https://www.politico.com/story/2015/11/crazy-quotes-2016-campaign-trail-216157>.

¹² Smith, Allan. “Kamala Harris Endorses Joe Biden.” *NBCNews.com*. NBCUniversal News Group, March 8, 2020. <https://www.nbcnews.com/politics/2020-election/kamala-harris-endorses-joe-biden-n1152486>.

political outsider Ben Carson was able to secure the position of Housing Secretary under President Trump after dropping out and endorsing Trump for President in the 2016 Republican primary.¹³

Uhlmann reiterates the assertions of other supporters of the Electoral College: “With ... only two parties in contention, the major candidates are forced to appeal to most of the same voters. This drives them both toward the center, moderates their campaign rhetoric, and helps the winner to govern more effectively once in office.”¹⁴ Uhlmann and DeMuth, like the founders, clearly both fear extremist candidates and extensively complicated electoral systems. Ranked Choice Voting (RCV), offers a solution. RCV is a clear and established avenue to ensure electoral outcomes satisfied as many voters as possible, by allowing voters the option to rank candidates in order of preference. This system discourages negative campaigning because candidates must vie for second and third choice votes from supporters of their opponents, and voters have more power to vote for who they want without taking strategic voting into consideration.¹⁵ While this electoral reform is separate from abolition of the Electoral College, it provides a solution to these problems that the Electoral College has been unable to satisfy. I further elaborate on RCV in Section Three where I outline a solution.

¹³ “Donald Trump Presidential Cabinet.” Ballotpedia. Accessed May 3, 2021.
https://ballotpedia.org/Donald_Trump_presidential_Cabinet.

¹⁴ Uhlmann, Michael M. “The (Old) Electoral...”

¹⁵ FairVote.org. “Ranked Choice Voting / Instant Runoff.” FairVote. Accessed May 3, 2021.
<https://www.fairvote.org/rcv#rcvbenefits>.

ii. “The Electoral College Keeps Impostors Out of National Politics.”

The founders established the Electoral College in part to maintain an elite image of the Presidency by keeping political impostors out of the Oval Office. Political impostor refers to a President who has not dutifully served his country already or will not serve the American people to the best of their abilities. Unfortunately, this is one of the many instances, as I will explain, where the Electoral College has been unable to live up to its intentions; it now actively encourages impostors to run and win Presidential elections. Like the authors of the Constitution, supporters of the Electoral College argue that a President with little knowledge of the nation would be devastating, and the Electoral College protects against that. I agree with this sentiment. DeMuth describes what he perceives as a theoretical, popularly elected President: “he would typically be unfamiliar with the particulars of large parts of the nation, and his electoral base would have little in common with that of the Congress — his constitutional co-equal and frequent obstacle to his policies.”¹⁶ Michael Uhlmann, a Political Scientist who spent much of his career defending the Electoral College, echoes these assertions in his article *The (Old) Electoral College Cheer*: “By ensuring that the winner’s majority reflects the diversity of our uniquely federated republic, the current system also assures his opposition that it will not have to fear for its life, liberty, or property.”¹⁷

The Electoral College was specifically crafted because the framers saw a dark side to democracy, and the mechanism for electing a leader became of utmost importance. In the words of John Adams, “...democracy never lasts long. It soon wastes, exhausts and murders itself. There

¹⁶ DeMuth, Christopher. “The Man Who Saved...”

¹⁷ Uhlmann, Michael A. “The Old (Electoral) College Cheer.” National Review. Accessed May 5, 2021. <https://www.nationalreview.com/wp-content/uploads/2019/10/uhlamm-electoral-college.pdf>.

never was a democracy yet that did not commit suicide.”¹⁸ They anticipated that if they used a democratic system, a popularly elected leader would not *always* be amoral or dangerous, but if they were, the people would not be able to tell. Being possessed of this notion themselves, early presidents typically served their country in some notable and heroic way to gain the trust and confidence of citizens beforehand. Standards have drastically declined.

In terms of popularity and charisma, the primary difference between the Electoral College and a popular vote is that within the confines of the Electoral College, a candidate has to win the popular support only from the voters in swing states. We already exist in a world of a popular presidency; voters accept presidential candidates on the basis of charisma and rhetoric. In modern times, television and radio have been revolutionary in allowing countless candidates to gain name recognition by doing very little. A candidate need not have substance themselves so long as their media campaign does. Modern Presidents from both sides of the aisle who won the Presidency via the Electoral College have failed to live up to this standard, the most easily discernible example being President Donald Trump.

Prior to winning the Presidency, Trump had never held elected office before and throughout his term, he consistently slandered and disregarded states that had voted against him. He came to power because he was a reality star and real estate mogul, not a patriot. When Trump lost his re-election campaign in 2020, he incited a domestic terrorist attack on the capitol. Trump’s mob went so far as to hang a noose outside the Capitol for Trump’s Vice President, Mike Pence, who opposed overturning the election results in his favor. Five people were killed in the attack. Whether one uses insurrections, impeachments, or approval ratings, there are few metrics by which

¹⁸ “Founders Online: From John Adams to John Taylor, 17 December 1814.” National Archives and Records Administration. National Archives and Records Administration. Accessed May 3, 2021. <https://founders.archives.gov/documents/Adams/99-02-02-6371>.

the 45th president was not an imposter. Not only did the Electoral College fail to prevent this, it enabled it.

Trump never had the majority of the nation's approval: his highest approval rating was 49 percent, and his final approval rating was an unprecedented 29 percent.¹⁹ This blatantly contradicts Uhlmann's argument that, within the electoral college, "the winner's majority reflects the diversity of our uniquely federated republic."²⁰ The reality we live in gives shape to the founders' deepest fears about demagoguery. The system they created is enabling what they designed it to prevent. This impostor problem is only getting worse and serious moral violations in the Oval Office are only going to become more common; these concerns must be addressed if we want to move our nation in the secure direction that the founders intended.

iii. "The Electoral College Maintains the Two-Party System."

DeMuth and Uhlmann express a deep concern that a popular election would devastate the two-party system. DeMuth states, "... direct election would destroy our party system..."²¹ Uhlmann echoes these concerns, claiming, "... [The Electoral College] discourages third parties, and induces moderation on the part of candidates and interest groups alike."²² The framers,

¹⁹ Gallup. "Presidential Approval Ratings -- Donald Trump." Gallup.com. Gallup, March 1, 2021. <https://news.gallup.com/poll/203198/presidential-approval-ratings-donald-trump.aspx>.

²⁰ Keeter, Scott. "How We Know the Drop in Trump's Approval Rating in January Reflected a Real Shift in Public Opinion." Pew Research Center. Pew Research Center, January 20, 2021. <https://www.pewresearch.org/fact-tank/2021/01/20/how-we-know-the-drop-in-trumps-approval-rating-in-january-reflected-a-real-shift-in-public-opinion/>.

²¹ DeMuth, Christopher. "The Man Who Saved..."

²² Uhlmann, Michael M. "The (Old) Electoral..."

however, were mostly starkly opposed to a party system. President George Washington's farewell address is often remembered for its warning against hyper-partisanship: "The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism."²³ Similarly, President John Adams, Washington's successor, asserted that "a division of the republic into two great parties ... is to be dreaded as the great political evil."²⁴ The development of party competition was in no sense inevitable; it was the result of the early national struggle between the Federalists and Republicans in the 1820s to establish permanent two-party competition, sharply dividing the nation.²⁵ The two-party system was not deliberately created for any purpose other than to keep power in the hands of a select few elites who identified as Federalists and Republicans, years after the Constitution was written. Many of them would likely be disturbed at how the two parties dominate politics at every level in the country, thriving on the nativist sentiments of the populace.

The Electoral College thus worsens the rural versus urban party divide that has dominated American presidential politics in recent years. The binary party system has divided the country into two irreconcilable teams, leaving individuals and groups that do not neatly slot into one of these two teams with no other choices for representation. In addition to the founders' fear of an entrenched two-party system, the massive divide our nation is experiencing provides another compelling reason to reevaluate the two-party system. The Electoral College exacerbates these

²³ Washington, George. "Washington's Farewell Address 1796." The Avalon Project - Documents in Law, History and Diplomacy. Yale Law School, Lillian Goldman Law Library. Accessed May 4, 2021. https://avalon.law.yale.edu/18th_century/washing.asp.

²⁴ Drutman, Lee. "America Is Now the Divided Republic the Framers Feared." The Atlantic. Atlantic Media Company, January 2, 2020. <https://www.theatlantic.com/ideas/archive/2020/01/two-party-system-broke-constitution/604213/>.

²⁵ Ceaser, James W. *Presidential Selection: Theory and Development*. Princeton, New Jersey; Chichester, West Sussex: Princeton University Press, 1979. Accessed May 4, 2021. doi:10.2307/j.ctv131bvt3.

issues beyond what they actually are in reality. As of May 2021, 25 percent of Americans identified as Republicans, 32 percent identified as Democrats, and a colossal 41 percent consider themselves neither of the above: Independents.²⁶ Our party system is wildly off set from the political reality.

Because the Electoral College implicitly advantages the Republican Party, the GOP has not had to win a majority of the votes to successfully attain the Presidency. The party has lost incentive to moderate or collaborate with the Democratic Party. The institution that was founded to elect a middle ground candidate has become one of the nation's most polarizing. Immediately following the coup, President Trump told his supporters that the election had been stolen by the Democratic Party, that they were being denied power and representation they had rightfully won. "I know your pain," he said, in his video from the White house lawn later that day. "I know you're hurt. We had an election that was stolen from us. It was a landslide election, and everyone knows it."²⁷ More than a dozen Republican Senators, more than 100 Republican House members and countless conservative media figures corroborated Trump's claims.²⁸ Trump, and inadvertently the Electoral College which put him in power in the first place, enabled a detrimental erosion to any democratic legitimacy. By definition, Trump was a political impostor put into power by the Electoral College.

Republicans, then, can use the Electoral College as leverage to countless other issues. They focus their efforts on keeping their supporters continuously advocating for the Electoral College,

²⁶ Gallup. "Party Affiliation." Gallup.com. Gallup, March 27, 2021. <https://news.gallup.com/poll/15370/party-affiliation.aspx>.

²⁷ Anne Gearan, Josh Dawsey. "Trump Issued a Call to Arms. Then He Urged His Followers 'to Remember This Day Forever!'" The Washington Post. WP Company, January 7, 2021. https://www.washingtonpost.com/politics/trump-election-capitol-building/2021/01/06/3e9af194-5031-11eb-bda4-615aaefd0555_story.html.

²⁸ Klein, Ezra. "Ezra Klein Column: Trump Has Always Been a Wolf in Wolf's Clothing." baltimoresun.com. Baltimore Sun, January 7, 2021. <https://www.baltimoresun.com/featured/sns-nyt-op-trump-always-a-wolf-20210107-2z6gl2kpxvcirjr7yc7ijweica-story.html>.

claiming it does a multitude of things it simply cannot do in order to maintain a system that implicitly gives them more power. This is why the Electoral College has become so polarizing, as conservatives cite reasons grounded in propaganda and falsehoods that the Electoral College works. “Democracies may die at the hands not of generals but of elected leaders—presidents or prime ministers who subvert the very process that brought them to power,” explains Political Scientist Steven Levitsky.²⁹

Parties wield enormous power in Presidential elections: more than the people themselves. They cultivate their bases and choose the candidates themselves, and then the Electoral College conflates their nominees with the people's preferred representative. As David Daley, Senior Fellow at FairVote, the national headquarters for Ranked Choice Voting, argues in an opinion piece in favor of RCV: “Our politics suffer when voters feel browbeaten into supporting one major-party candidate simply because they hold the other in greater disdain. And candidates representing the right, left, center or independents of any stripe ought to be heard without being shouted down as spoilers.”³⁰ However, actually usurping the vast powers the two parties hold in local, state, and national politics would require many steps beyond simply abolishing the Electoral College.

Elections at all levels, not just presidential, are dominated by the two-party system, meaning the two-party system could still easily operate outside of the confines of the Electoral College. The Democratic Congressional Campaign Committee, The Democratic Senatorial Campaign Committee, The National Republican Campaign Committee, and the National Republican Senatorial Committee are just a few of the institutions that maintain the two-party

²⁹ Levitsky, Steven, and Daniel Ziblatt. 2019. *How Democracies Die*. Harlow, England: Penguin Books.

³⁰ “America Needs Ranked Choice Voting - Here's Why | David Daley.” *The Guardian*. Guardian News and Media, September 22, 2019. <https://www.theguardian.com/commentisfree/2019/sep/22/america-needs-ranked-choice-voting-why>.

system. Respectively, each of these institutions raised over 280 billion dollars in 2020.³¹ Similar institutions exist for gubernatorial and state legislative seats, as well as at the local level. Democrats and Republicans would likely still dominate elections even if we were to abolish the college, simply because the two-party machine is too big to dissipate so suddenly. In 2020 alone, the Democratic and Republican parties both raised nearly two trillion dollars, respectively.³² This money would not evaporate if we abolished the Electoral College and replace it with an alternative system. Ousting the two-party system would require far more due diligence. Even a fierce supporter of the two-party system thus has little to fear if a popular vote is instilled. Essentially, the two-party system should be seriously reevaluated for the aforementioned concerns, but actually doing away with it is not as simply as abolishing the Electoral College.

Many countries in Western Europe and around the world face the same problems as the United States relating to a recent rise of populism and susceptibility to corruption. Multiparty systems, however, can change: new parties can emerge and old parties can die. The main difference between the far-right populist parties in the United States and in places like Italy and France is that in most of Western European democracies, said parties have not been able to gain power because the sheer number of parties makes them all balance each other out.

³¹ “Political Parties Overview.” OpenSecrets.org. Accessed May 4, 2021. <https://www.opensecrets.org/parties/>.

³² “Political Parties....” OpenSecrets.org

iv. ***“If Abolishing the Electoral College is So Popular,
Congress Would Have Already Done It.”***

While acknowledging that a majority of the country supports abolishing the Electoral College, DeMuth contends that if abolishing the college is so popular, Congress would have acted on it following the 2016 Presidential election when Trump, earned nearly three million votes less than his opponent, Hilary Clinton but won the Electoral College.³³ To be clear, abolishing the Electoral College *is* popular among Americans. According to a September 2020 Gallup poll, 61 percent of Americans are in favor of abolishing, including 23 percent of Republicans, 68 percent of Independents, and 89 percent of Democrats.³⁴

DeMuth makes his case: “...there was no serious rekindling of the direct-election movement in Congress or in our broader politics [following the 2016 election]— none of the new amendment proposals attracted much interest or more than a few sponsors, and neither the House nor Senate Judiciary Committee even held hearings on the subject. Why was this?”³⁵ DeMuth fails to recognize that the integrity of a system does not depend on its abolition; a system that is inefficient and unjust can still exist. Because people are not outraged by something (although in the case of the Electoral College, many people are), it does not mean that there are not detrimental problems with it. An institution that an overwhelming majority of Americans dislike cannot be said to have legitimacy. DeMuth’s argument also ignores that the authority of the Electoral College is, in fact, being tangibly undermined. In a 2006 Gallup poll, 52 percent of Americans surveyed expressed confidence in honest elections in 2006, and the percentage had declined to 30 percent

³³ “2016 Presidential ...” The New York Times.

³⁴ Brennan, Megan. “61% Of Americans Support Abolishing the Electoral College.” Gallup.com. Gallup, March 23, 2021. <https://news.gallup.com/poll/320744/americans-support-abolishing-electoral-college.aspx>.

³⁵ DeMuth, Christopher. “The Man Who Saved...”

when Gallup asked the question in 2016.³⁶ Trust is certainly eroding. Forthcoming examples will illustrate why the college has been unable to maintain public trust and approval.

The turn of the century and the election of George W. Bush incited a new era in Presidential elections: protests of election results due to inconsistencies in electoral outcomes. In 2000, during an intense election debacle, hastily planned demonstrations erupted all over the country, protesting the way both the Republican and Democratic parties were handling the election deadlock. Demonstrators, holding placards and signs, took to the street and chanted: "We want elections, not a coronation!," as well as "Trust the people!" and "long as it takes!"³⁷ As aforementioned, deciding the election results took a Supreme Court case that eventually resulted in Miami-Dade County individually counting votes.³⁸ Likewise, following Trump's 2016 win, the country saw massive protests for weeks following the election, many marked as "Not my President" protests.³⁹ Because of the Electoral College's history of inconsistency with the popular vote, even in 2020 when the results matched up, Trump supporters were quick to question the legitimacy of the election results. Violent protests went on for months into Biden's presidency.⁴⁰ As of May 2021, Trump still claims

³⁶ Norris, Pippa, Sarah Cameron, and Thomas Wynter. *Electoral Integrity in America: Securing Democracy*. New York: Oxford University Press, 2019.

³⁷ "Nationwide Protests Criticize Bush, Gore for Election Impasse." CNN. Cable News Network, November 11, 2000. <https://www.cnn.com/2000/ALLPOLITICS/stories/11/11/atlanta.protest/index.html>.

³⁸ "Bush v. Gore." Oyez LII Supreme Court Resources. Accessed May 3, 2021. <https://www.oyez.org/cases/2000/00-949>.

³⁹ McKirdy, Euan, Susanna Capelouto, and Max Blau. "Thousands Take to the Streets to Protest Trump Win - CNN Politics." CNN. Cable News Network, November 10, 2016. <https://www.cnn.com/2016/11/09/politics/election-results-reaction-streets/index.html>.

⁴⁰ Phillips, Michael M., Alan Cullison, and Rachael Levy. "Trump Supporters Protest Biden Election Win; Violence Erupts at Night." *The Wall Street Journal*. Dow Jones & Company, December 13, 2020. <https://www.wsj.com/articles/pro-trump-demonstrators-call-to-overturn-bidens-presidential-election-win-11607806033>.

to have won the election.⁴¹ He is only able to make these allegations and garner the support of his followers because there have been two very recent elections where results did not match up, meaning sovereignty of the whole process is being undermined. This pattern of protest to election results has only shown signs of worsening, and it appears likely all election results will face similar backlash for years to come if we retain the system as is.

Aside from ignoring this very real crisis of legitimacy, DeMuth also erroneously asserts that congress' inaction proves the college's popularity. Republicans held majorities in both chambers of Congress as well as the executive, and the Electoral College had just swung a national election in their favor. Republicans and Democrats alike knew there was no chance Republicans would vote for removal of their advantage in future battles for the Presidency. In both elections since the turn of the century where a candidate has lost the popular vote but won the Electoral College, the winner was a Republican. We cannot expect immediate change in a faulty system that favors those whose support is necessary in overturning it.

Likewise, changing the Constitution is no easy feat. It would require that an amendment be proposed by two-thirds of the House and Senate, or by a constitutional convention called for by two-thirds of the state legislatures. It is up to the states to approve a new amendment, with three-quarters of the states voting to ratify it.⁴² Furthermore, the Amendment process has the same problems as the Electoral College: states with low populations have inflated influence. Thus, even popular amendments are extremely unlikely to pass. The chance of any constitutional amendment

⁴¹ Egan, Lauren. "We Won!: Trump Spreads Misinformation about 2020 Election during Final Georgia Rally." NBCNews.com. NBCUniversal News Group, January 5, 2021. <https://www.nbcnews.com/politics/2020-election/we-won-trump-spreads-misinformation-about-2020-election-during-final-n1252802>.

⁴² "What Does It Take to Repeal a Constitutional Amendment?" The National Constitution Center. Accessed May 3, 2021. <https://constitutioncenter.org/interactive-constitution/blog/what-does-it-take-to-repeal-a-constitutional-amendment>.

being repealed would be roughly the same as a person living to 80 years old being struck by lightning during their lifetime.⁴³

Another fundamental flaw with this argument is that it neglects the vast disparities in representation in the Senate: another body that this legislation would have had to pass through. The Senate inarguably does a horrific job representing the American people at the level of the individual. In the most extreme case, the least populated state, Wyoming, to the most populous state, California, is just under 70 to 1. In other words, a California Senator represents nearly twenty million people, whereas her colleague in Wyoming represents just over 240,000 people.⁴⁴ This is the worst of it, but these disparities exist in every corner of our country. Thus, just because a policy is popular does not mean it can pass in the Senate, especially in cases like this where two-thirds of Senators' support is necessary. One third of all Senators represent 33,821,604 or 9.84 percent of Americans, while the other two-thirds represent a colossal 299,093,469, or 90.15 percent, yet each senator has an equal vote on national legislation.⁴ The lack of equal representation in the Senate is a separate issue, but it is a hallmark of why the Electoral College is highly unlikely to change in any process that requires the Senate, no matter how popular it is. Simply put, the Republican Party has a structural advantage in both the Electoral College and in the mechanisms that could change it.

It must not go unsaid that historically, there have been 700 attempts in congress to abolish the Electoral College.⁴⁵ Although no legislation has been enacted at the federal level, legislation

⁴³ "What Does It Take to..." The National Constitution...

⁴⁴ "State Population Totals: 2010-2019." The United States Census Bureau, April 20, 2021.
<https://www.census.gov/data/tables/time-series/demo/popest/2010s-state-total.html>.

⁴⁵ Brockell, Gillian. "Of the 700 Attempts to Fix or Abolish the Electoral College, This One Nearly Succeeded." The Washington Post. WP Company, December 5, 2020.
<https://www.washingtonpost.com/history/2020/12/04/abolish-electoral-college-george-wallace-trump-bayh/>.

opposing the Electoral College was passed in overwhelming numbers following the 2016 election in individual states. In part three of my thesis, I will discuss the intricacies of the National Popular Vote Interstate Compact (NPVIC), an agreement among states designed to guarantee the election of the presidential candidate who wins the popular vote. The compact has already passed in sixteen states, including six between 2016 and 2019. This also does not include the 26 states where legislation has been introduced but not signed into law. While changing the Electoral College at the federal has been nearly legislatively impossible, individual states have been taking action.⁴⁶

i. “The Electoral College Stops Voter Fraud.”

Uhlmann, along with many conservatives in the media, often make this allegation; however, I have yet to find any evidence to support it. “By making the states the principal electoral battlegrounds, the current system tends to insulate the nation against the effects of local voting fraud,” Uhlmann alleges.⁴⁷ It is true that there is little voter fraud under the Electoral College, but elections at the national, state, and local levels that decide candidates based on popular votes are not fraught with fraud either. Under the Electoral College, there are few opportunities for impactful fraud because only votes cast in battleground states, or even battleground counties exclusively in battleground states, truly carry weight. When fewer votes matter, elections are simpler. The system that we replace the Electoral College with would likely need measures to prevent voter fraud just as any other electoral system would, as electoral integrity is not unique to the Electoral College.

⁴⁶ Foodman, Julia. “National Popular Vote: A Status Update.” FairVote, July 1, 2019.

https://www.fairvote.org/national_popular_vote_a_status_update.

⁴⁷ Uhlmann, Michael M. “The (Old) Electoral...”

Individual states can continue to register voters, maintain voter rolls, and orchestrate polling places even without the confines of the Electoral College. Any popular election could still remain decentralized and localized, clearing up any confusion about fraud.

Defenders of the status quo may resort to logistical arguments, claiming that tallying votes would be too difficult without the Electoral College. This argument resembles the previous argument. This argument relies on an uncharitable conception of any system that would replace the college. Allen Guelzo, a Political Scientist, states in his article *In Defense of the Electoral College*, "... it bears recollecting that holding a direct presidential election might not be any less cumbersome than the Electoral College."⁴⁸ *Might* is the key word to Guelzo's argument. With no alternative mentioned, of course a system could potentially be as cumbersome as the Electoral College. A better solution to this problem, however, would be to modernize American voting systems.

Following the 2020 election, Former President Trump accused over fifty cities and localities of election fraud, all of which were dismissed.⁴⁹ Because of the way the Electoral College operates, Trump filed lawsuits primarily in swing states where key votes would have flipped the results of the election, financially burdening those individual states. Without the Electoral College, Trump likely would have filled more lawsuits in more cities that are not in swing states which would have been even more costly. However, without the Electoral College, Trump never would have been President or had ground to file those lawsuits in the first place.

⁴⁸ Guelzo, Allen. "In Defense of the Electoral College." National Affairs. Accessed May 5, 2021. <https://www.nationalaffairs.com/publications/detail/in-defense-of-the-electoral-college>.

⁴⁹ "Fact Check: Courts Have Dismissed Multiple Lawsuits of Alleged Electoral Fraud Presented by Trump Campaign." Reuters. Thomson Reuters, February 15, 2021. <https://www.reuters.com/article/uk-factcheck-courts-election/fact-check-courts-have-dismissed-multiple-lawsuits-of-alleged-electoral-fraud-presented-by-trump-campaign-idUSKBN2AF1G1>.

ii. *“Electoral College Results Almost Always Match Up with The Popular Vote.”*

DeMuth argues that “A victorious presidential candidate will almost always win a popular majority or plurality, but almost always win a concurrent majority of state electoral college votes.”⁵⁰ Depending on how you define “almost always,” this argument may ring true: the outcome of the Electoral College has reflected that of the popular vote in 91.5 percent of presidential elections. However, a popular vote would match up with the results of the popular vote 100 percent of the time instead of just over nine times out of ten. It is incumbent on the arguments of other authors to justify why the American people should settle for 92% accuracy instead of 100%. This is the same probability that the current year will end with an eight on any given year, any given individual was not born in September, or that it will rain in Portland most days in the winter. It is not reliable.

Notably, by making this argument, DeMuth implicitly recognizes that there is something wrong when Electoral College results are misaligned with the popular vote. While the percentage of Electoral College wins that do not agree with the popular vote may be minimal, it is steadily increasing. Since the turn of the century, one third of election results have been inconsistent with the will of the people. While in the most recent Presidential election, 2020, President Biden won both the popular vote and the Electoral College, little would have needed to change in key states for the Electoral College to have rendered different results. Biden earned 51.3 percent of the popular vote, with over seven million more votes than Trump nationwide. Trump, however, could have easily taken home an Electoral College victory without winning the popular vote with small margins in swing states. Had Trump garnered 11,780 more votes in Georgia, 10,457 in Arizona, 20,608 in Wisconsin, 81,660 in Pennsylvania, 33,596 more in Nevada, and 233,012 in Minnesota,

⁵⁰ DeMuth, Christopher. “The Man Who Saved...”

he would have won a second term as President. Winning these 370,505 extra votes still would have left Trump with 74,22,962 votes, nowhere near Biden's 81,283,361.⁵¹

All elections in recent history have resembled this to some degree, in the sense that just a few votes in a handful of states could have rendered a different outcome. President George W. Bush won the Electoral College in 2000 with half a million fewer votes than his opponent Al Gore, notably by winning just 532 votes more votes than Gore in Florida, giving him the state's 25 electoral votes and consequently, the presidency.⁵² In 2016, Trump won his term with three million fewer votes than Hillary Clinton. Donald Trump took Florida, Pennsylvania, Michigan, and Wisconsin all by less than two points, while Hillary Clinton ran up massive majorities in big states like California and New York: 30- and 22-point wins, respectively.⁵³ The winner-take-all nature of the Electoral College makes this cumbersome math the determinant of our most powerful representative. Notably, a candidate can win the Electoral College with a mere 23 percent of the popular vote.⁵⁴ Keeping the institution as it is is not going to fix the fundamental issue; in fact, as demographic changes grant an increasingly outsized voice to less populous states through the Electoral College, it is only going to become worse. Historically, Americans have been migrating away from the states with less electoral influence, and towards more populous states with deflated interests. Presidencies will continue to be won by tactful campaign plans in a couple swing states instead of with broad support from across the nation. The presence of this democratic discrepancy undermines the integrity of the electoral process.

⁵¹ "Presidential Election Results: Biden Wins." The New York Times. The New York Times, November 3, 2020. <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-president.html>.

⁵² "2000 Electoral Vote" Federal Election Commission.

⁵³ "2016 Presidential Election" The New York Times.

⁵⁴ Kurtzleben, Danielle. "How To Win The Presidency With 23 Percent Of The Popular Vote." NPR. National Public Radio, November 2, 2016. <https://www.npr.org/2016/11/02/500112248/how-to-win-the-presidency-with-27-percent-of-the->.

iii. *“The Electoral College Maintains Democratic Legitimacy.”*

Even after extensive study, the word “democracy” can be hard to define; similarly, it is difficult to characterize what qualifies as a “democratic system.” Democratic scholar Robert Dahl laments that the term is used in a staggering number of ways, and that there are a hopeless variety of definitions. Nevertheless, he offers six minimal requirements for democracy: elected officials, free, fair, and frequent elections, freedom of expression, alternative sources of information, associational autonomy, and inclusive citizenship.⁵⁵ “Elected officials” implies that officials are elected democratically, or by a majority of voters in order to be considered democratic, which is not guaranteed under the Electoral College. Elections cannot be “fair” if the candidate with fewer votes wins. Thus, the Electoral College only meets four of the six minimum requirements for democracy. It does not sponsor democratic legitimacy.

The notion that the Electoral College upholds some democratic ideal is inconsistent with democratic theory. “Direct election would suit the natural inclinations of political activists, conspicuous in numerous other democracies, to organize by regional, economic, and class interests, unadulterated ideologies, and sheer personalities,” laments DeMuth.⁵⁶ Suiting the interests of popular activists and policies is what democracy should do. As for catering to “unaltered ideologies and sheer personalities,” this is irrefutably what the country ended up with when the Electoral College chose Trump in 2016, contrary to the results of the popular vote. The Electoral College did not prevent his rise to power. Faith in the Electoral College rests on little more than conformity to conventional beliefs: a fragile foundation for nationhood or democracy.

⁵⁵ Dahl, Robert A. 1998. *On Democracy*. New Haven: Yale University Press.

⁵⁶ DeMuth, Christopher. “The Man Who Saved...”

Admittedly, there is no singular definition or model that suits all democratic societies. It was quite literally a revolutionary way for citizens to elect a president when it was modeled two and a half centuries ago, but standards evolve. American democracy is truly distinctive, but under a modern lens, the Electoral College is missing the mark on the rudimentary democratic standards. American society deserves a democracy that legitimizes the voices of the people. The Electoral College is antiquated and an area where we lag behind those of other nations. The United States, the first nations to establish modern democracy, should be at the forefront of ensuring that the principles of democratic governance are upheld. Democracy requires upkeep, something the Electoral College has been lacking since the Twelfth Amendment was implemented in 1800. The Electoral College is emblematic of how we have failed to maintain democracy.

iv. “The Electoral College Helped End Slavery.”

Because of the way the Electoral College has always systematically disadvantaged Black people, this argument is not only false but blatantly insulting to Black Americans. Guelzo posits, “Ultimately, the Electoral College contributed to *ending* slavery, since Abraham Lincoln, having earned only 39.9% of the popular vote in 1860, nevertheless won a crushing victory in the Electoral College — leading many Southern slaveholders to stampede to secession in 1860 and 1861.”⁵⁷ While Lincoln did not win a majority of the votes, he won both the Electoral College and the popular vote, meaning a popular vote would have rendered the same result. Guelzo seems to be inferring that since there were four candidates, there would have been a runoff election without

⁵⁷ Guelzo, Allen. “In Defense of the...”

the Electoral College and Lincoln may not have won. This is a significant, if unfounded, assumption to make in this hypothetical scenario. Even if it were true, a popular election runoff would still have elected an anti-slavery candidate because ending slavery was far more popular than maintaining it. At the time of the Civil War, 22 million people inhabited the Union where slavery had already been outlawed, and only nine million lived in the South, 3.5 million of whom were enslaved, unable to vote, and unlikely to be sympathetic to the Southern cause of maintaining slavery.⁵⁸ Confederates were outnumbered by three and a half folds. In fact, a system that favored popular candidates leveraging slave states' votes would have likely elected an anti-slavery candidate far sooner and without 620,000 Americans dying in a war against their own country.⁵⁹ Even if Guelzo's argument did hold up, this would hardly be reason to maintain the Electoral College 156 years after the abolition of slavery. Lastly, for his argument to hold any weight, Guelzo must suggest that without Lincoln's Electoral College win, America would not have had a reckoning with slavery.

As stated, the Electoral College played a key role in allowing Southern slave states to retain voting power, well past the time slavery was widespread. When the college was created, populations in the North and South were approximately equal although one-third of those living in the South were held in bondage. The Electoral College successfully leveraged the three-fifths compromise so Southern states could wield a disproportionate influence because enslaved people were counted towards population totals that determined their state's number of votes under the Electoral College even though they could not vote themselves. The region was the undoubted

⁵⁸ Gauthier, Jason. "1830 Fast Facts – History" - U.S. Census Bureau. Accessed May 5, 2021. https://www.census.gov/history/www/through_the_decades/fast_facts/1830_fast_facts.html.

⁵⁹ Gauthier, Jason. "1830 Fast Facts..." ...

beneficiary of the compromise.⁶⁰ “If the three-fifths provision operated to give slave-holding states extra leverage in the Electoral College, it gave that leverage to every state, North and South alike,” Guelzo postulates, blatantly disregarding that 93 percent of the country’s slaves inhabited just five southern states.⁶¹

Even after the Thirteenth Amendment outlawed slavery, the Electoral College continued to function in a way that disproportionately empowers Southern states. The repealing of the Three-Fifths Compromise in the wake of the Civil War, while Black people still would not see the right to vote for another century, only increased the federal political power of the former slave states. Instead of Black populations being counted at three-fifths, they were counted at one hundred percent, meaning white people from former slave states gained even more influence on the Electoral College immediately following the South’s attempt to leave the Union.

Likewise, in one of the five instances where the Electoral College results failed to align with those of the popular vote, 1876, Democrat Samuel Tilden won the popular vote while some electoral votes were disputed. Eventually, an ad hoc commission of lawmakers and the Supreme Court certified Republican Rutherford B. Hayes as the winner.⁶² Accordingly, in the words of Law Professor Wilfred Codrington III,

“As a part of the agreement, known as the Compromise of 1877, the federal government removed the troops that were stationed in the South after the Civil War to maintain order and protect black [people]. The deal at once marked the end of the brief Reconstruction era, the redemption of the old South, and the birth of the Jim Crow regime. The decision to remove soldiers from the South led to the restoration of white supremacy in voting through the systematic disenfranchisement of black people, virtually accomplishing over the next eight decades what slavery had accomplished

⁶⁰ Codrington, Wilfred III. “The Electoral College's Racist Origins,” June 16, 2020.

<https://www.theatlantic.com/ideas/archive/2019/11/electoral-college-racist-origins/601918/>.

⁶¹ Gauthier, Jason. “1830 Fast Facts...”

⁶² “The Electoral Vote Count of the 1876 Presidential Election.” Accessed May 5, 2021.

<https://history.house.gov/Historical-Highlights/1851-1900/The-electoral-vote-count-of-the-1876-presidential-election/>.

in the country's first eight decades. And so the Electoral College's misfire in 1876 helped ensure that Reconstruction would not remove the original stain of slavery so much as smear it onto the other parts of the Constitution's fabric, and countenance the racialized patchwork democracy that endured until the passage of the Voting Rights Act of 1965."⁶³

Thus, the Electoral College paved the way for the continued oppression of Black people, maintaining the legacy of slavery in America.

Guelzo, in an attempt to blame non-slave states for the residual racism left behind by slavery, calls state voter eligibility into question. He asserts, "Northern states had looser ("more diffusive") rules for determining voter qualifications than Southern states, and thus might have an unfair advantage in a presidential-election system based solely on a direct, popular vote (since, at least proportionally, more Northerners than Southerners would be eligible to vote)."⁶⁴ This is the same misguided argument that claimed the three-fifths compromise helped the North. The number of electoral votes a state is awarded relies on population, not voter eligibility because electoral votes are assorted pursuant to the census. Southern literacy tests were targeted to keep Black people away from the polls, meaning white Southerners could continue to wield a disproportionate influence on the Electoral College while barring Black people from voting at all. Simply put, this disparity was the result of Southern states' use of selective and extensive literacy tests to determine voting eligibility. Under the Electoral College, each state decides voter eligibility; today, Southern states including Texas, Georgia, Missouri, Mississippi, and Tennessee are still ranked as the five most difficult states to vote in.⁶⁵ Maintaining the Electoral College as it is will not solve this

⁶³ Codrington, Wilfred III. "The Electoral College's..."

⁶⁴ Guelzo, Allen. "In Defense of the..."

⁶⁵ Parisi, — Tom. "How Hard Is It to Vote in Your State?" NIU Newsroom. Accessed May 5, 2021.
<https://newsroom.niu.edu/2020/10/13/how-hard-is-it-to-vote-in-your-state/>.

problem. Individual states taking action to ensure universal suffrage will. The Electoral College did not help end slavery, but it continues to allow its legacy to prosper.

v. ***“Other Countries Use Worse Systems.”***

As a state or any sort of community for that matter, we should always be striving to make systems more efficient and improve our institutions, regardless of what other countries use. Guelzo draws upon the German presidential electoral system, the German Electoral College (without calling it by name), which was modeled off the American Electoral College, as a comparison to the United States.⁶⁶ He describes their electoral process:

“A federal president (*Bundespräsident*) is elected every five years by a federal convention that reflects the party majorities in the *Bundestag* and the state parliaments of the 16 German states. Finally, the federal president proposes the name of the de facto head of state, the chancellor (*Bundeskanzler*) to the *Bundestag*. By contrast, the Electoral College is remarkably straightforward.”⁶⁷

The mechanisms of the German Electoral College are slightly different from the American one, but this only furthers the argument that Electoral Colleges are blatantly flawed and there is significant room for democratic growth.

Guelzo also neglects that while the mechanism Germany uses may appear far less efficient than that of America, it yields more satisfactory results. On the same accord, unlike Americans, Germans are very satisfied with their government calls to reform or abolish this system are almost

⁶⁶ “Navigation and Service.” www.bundespraesident.de: Der Bundespräsident / Election of the Federal President. Accessed May 5, 2021. <https://www.bundespraesident.de/EN/Role-and-Functions/ConstitutionalBasis/Election-of-the-Federal-President/Elections-node.html>.

⁶⁷ Guelzo, Allen. “In Defense of the...”

nonexistent. Currently, 73 percent of Germans support their head of state Chancellor Angela Merkel.⁶⁸ a number Americans have not seen in Presidential approval ratings since President Lydon B. Johnson’s highest approval rating in 1965, 61 years ago.⁶⁹ Notably, unlike in The United States, “In order to be elected, a candidate for President [of Germany] must receive a majority of votes.”⁷⁰ We should concern ourselves with reforming our own system to a minimum level of satisfaction before we worry about Germany, especially when their electoral system already brings citizen satisfaction.

Guelzo also cites a handful of other countries that, unlike The United States and Germany, hold popular votes for their leaders instead of using an Electoral College where elected legislators select the head of state. He posits, “...the examples set by some of the nations that *do* hold direct elections for their heads of state: Afghanistan, Iran, Mexico, Russia, Turkey, Venezuela, and Zimbabwe are just a few. Jettisoning the Electoral College for direct popular elections would not automatically guarantee greater democracy.”⁷¹ This is just a list of countries that Americans generally fear that also happen to hold popular elections. With the exception of Russia, which is essentially undemocratic because they do not allow freedom of speech, The United States has held military backed coups to overthrow popularly elected leaders in every single country he

⁶⁸ Gallup. “Presidential Approval Ratings -- Gallup Historical Statistics and Trends.” Gallup.com. Gallup, March 18, 2021. <https://news.gallup.com/poll/116677/presidential-approval-ratings-gallup-historical-statistics-trends.aspx>.

⁶⁹ Lyons, Ken Kluch and Linda. “Pre-Election, Germans Satisfied With Their Political System.” Gallup.com. Gallup, May 3, 2021. <https://news.gallup.com/poll/219848/pre-election-germans-satisfied-political-system.aspx>.

⁷⁰“Methods of Choosing a Head of State.” Parliament of Australia, October 16, 2014. https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/Background_Papers/bp9798/98bp12#COMP.

⁷¹ Guelzo, Allen. “In Defense of the...”

mentioned. These countries have not been able to carry out successful democracies because the American military has invaded them every time they have tried.

American troops have been devastating Afghanistan since 2001 when President George W. Bush vowed to “win the war against terrorism,” and zeroed in on terrorist groups that originated in Afghanistan.⁷² Similarly, the U.S. military invaded Iran in 1953. The CIA even publicly admitted to its involvement in the 1953 coup against Iran's democratically elected Prime Minister Mohammad Mossadegh.⁷³ Furthermore, after invading Mexico City in 1846 and claiming swaths of Mexican land as American, much of the Western United States, the United States overthrew Mexico's popularly elected leader in 1917.⁷⁴ More recently, more than 250 people were killed in the attempt to overthrow democratically elected, Turkish President Recep Tayyip Erdogan and his government in 2016, carried out by The United States. Venezuela, which is commonly cited by U.S. politicians as a failed state, had a U.S. backed coup against President Hugo Chávez in 2002.⁷⁵ Lastly, after a violent coup against President Robert Mugabe in 2017, Reuters obtained hundreds of internal documents from Zimbabwe's Central Intelligence Organization showing CIA involvement in a democratic transition of power that went awry after U.S. involvement.⁷⁶ The democracies Guelzo criticizes as “failed” have not been successful because The United States has

⁷² “Timeline: U.S. War in Afghanistan.” Council on Foreign Relations. Council on Foreign Relations. Accessed May 5, 2021. <https://www.cfr.org/timeline/us-war-afghanistan>.

⁷³ Wu, Lawrence, and Michelle Lanz. “How The CIA Overthrew Iran's Democracy In 4 Days.” NPR. NPR, February 7, 2019. <https://www.npr.org/2019/01/31/690363402/how-the-cia-overthrew-irans-democracy-in-four-days>.

⁷⁴ “The Mexican Revolution: November 20th, 1910.” National Endowment for the Humanities, March 19, 2012. <https://edsitement.neh.gov/closer-readings/mexican-revolution-november-20th-1910>.

⁷⁵ Forero, Juan. “Documents Show C.I.A. Knew Of a Coup Plot in Venezuela.” The New York Times. The New York Times, December 3, 2004. <https://www.nytimes.com/2004/12/03/washington/world/documents-show-cia-knew-of-a-coup-plot-in-venezuela.html>.

⁷⁶ “What Is Behind the Military Coup in Zimbabwe?” CounterPunch.org, November 21, 2017. <https://www.counterpunch.org/2017/11/21/what-is-behind-the-military-coup-in-zimbabwe/>.

played an active and violent role in stopping them from thriving, not because a popular vote is inefficient. Arguing that other countries that America has actively contributed to the corruption of are worse off than America is hardly an argument for the Electoral College.

Guelzo also fails to mention that many countries that have never faced a U.S. military backed coup use a national popular vote to select their head of state, including France, Ireland, Portugal, Austria, and Finland, just to name a few.⁷⁷ Overall, among Americans, there seems to be a general consensus that we should assure ourselves of the superiority of the American political system by comparing it with political systems in countries ruled by nondemocratic regimes or countries that suffer from violent conflict, chronic corruption, and frequent chaos. Essentially, when faced with criticism of American political institutions, an American will often remark, “Yes, but just compare it with X!,” the favorite X’s being Russia, China, and Venezuela. So long as we settle for being “better” than others, we will fail to make our election system great.

vi. “We Should Break Up States Instead of Abolishing the Electoral College.”

While this solution would be nearly logistically impossible, I believe it is worth considering. Guelzo ambitiously claims, “Is the best solution to such inequity, then, to break up the Electoral College? Or would it be just as equitable, not to say easier, to break up California into two states?”⁷⁸ The inequity Guelzo refers to is the irrefutable fact that an individual citizen’s presidential voting power varies greatly based on where they live; a vote in California equates to

⁷⁷ “Methods of ...”. Parliament of Australia...

⁷⁸ Guelzo, Allen. “In Defense of the...”

3.2 votes in Wyoming. Simply put, breaking California into two states would slightly lessen but continue to maintain this inequity by reducing one vote in California to 1.6 votes in Wyoming. Furthermore, this does not attack the root of the problem at all; it merely provides a band-aid. At its core, the inequity problem stems from the fact that there is no constant standard for a single person's vote under the Electoral College. Citizens of all states have unequal weights on the Electoral College. Would Guelzo, then, agree with splitting all states until they have even populations? I would imagine not, since state populations are always fluctuating. This idea would require far more work and maintenance than just splitting California, a state with over ten percent of the country's population, once.

Guelzo goes on to describe this problem as it pertains to other states. "Of the 102 counties in [Illinois], only 11 went Democratic in the 2016 presidential election. Nevertheless, Clinton won the state's popular vote, 3.1 million to 2.1 million, thanks to the Democratic counties mostly clustered in the Chicago area. She was thus granted all of Illinois's 20 electoral votes. Is that fair to the rest of the states?" posits Guelzo.⁷⁹ Of course, it is not fair that the 2.1 million votes for Trump essentially went to waste. This is just further evidence that the Electoral College is inherently flawed. It is just as inequitable and undemocratic that 33 percent of Californians who voted for Trump in 2020 had no weight on the election as it is that 58 percent of Illinois' population who voted for Biden in 2020 also had no weight on the election results.⁸⁰ Guelzo appears to be arguing that one person should get one vote, a notion that the Electoral College disregards entirely.

Furthermore, if we were to break up states between urban areas that vote blue and rural areas that vote red as he proposes for Illinois, this would require breaking up nearly all states. The

⁷⁹ Guelzo, Allen. "In Defense of the..."

⁸⁰ "Presidential Election Results: Biden Wins." The New York Times. The New York Times, November 3, 2020. <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-president.html>.

simple fact is that urban and rural areas tend to vote in opposition to one another. This would be quite the undertaking that I imagine nobody, including Guelzo, is willing to invest in. It is also critical to note Guelzo only mentions blue states that could be divided to give rural areas more of a say than they already have, like Illinois, but examples from both sides of the political spectrum exist in abundance. For example, in 2020, Trump won Florida with 51.2% of the votes. He lost all counties with the biggest cities: Miami, Fort Lauderdale, West Palm Beach, Tallahassee, Jacksonville and Orlando.⁸¹ Why should the voices of these urban-resident Floridians be ignored? They should not, and neither should those from rural Illinois.

On the same accord, if we were to split states, it would further split our already divided country decisively between red and blue areas. Urban areas with far larger populations would become even more separated from rural areas with sparse populations. If Guelzo truly believes splitting California into two so residents can have more of an equal say in the American presidency, he invalidates his own argument in stating rural residents of other states like Illinois should have louder voices than the densely populated area around Chicago. This makes it remarkably clear that creating more states just to maintain an inequitable structure is a foolish concept. It would cause further issues without solving the ones it was intended to solve.

Lastly, Guelzo claims, “Those who complain that the Electoral College subverts the “one man, one vote” principle should also object to the way the system operates within the states.”⁸² I, along with nearly all critics of the Electoral College believe the way the college operates within states is one of its most fundamental flaws. Guelzo, however, is posing an alternative solution to the Electoral College: a reform instead of defense, an implicit recognition that there is a problem

⁸¹ “Florida Election Results 2020.” Politico, January 6, 2021. <https://www.politico.com/2020-election/results/florida/>

⁸² Guelzo, Allen. “In Defense of the...”

with the Electoral College, and an acknowledgement that something needs to change. This suggests hope and a meeting to the minds. However, the solution he provides is worse than the original problem; better alternatives exist.

vii. “Campaigning in Twelve States is Better Than Just Two.”

“Instead of appealing to two states, [Presidential] candidates end up appealing to ten or twelve [under the Electoral College] and leave the others just as neglected. But campaigning in ten or twelve states is better than trying to score points in just two,” (Guelzo), Guelzo contends. Campaigning in twelve states *is* better than campaigning in two, but campaigning in all fifty states would be far better than just twelve for a number of reasons. To give Guelzo the benefit of the doubt, let us assume he is referring to the two most populous states: California, with a population of roughly forty million people, and Texas, home to thirty million people. Seventy million people is only about 42 percent of the 165 million people which would constitute half of the country’s population of 330 million.⁸³ California and Texas’ populations are politically diverse; there is no evidence that a candidate could possibly garner the whole states’ populations’ support. In fact, the minimum number of states’ support necessary to swing an election under the Electoral College is twelve, if said twelve states are the states with the most electoral votes: California, Texas, New York, Florida, Illinois, Pennsylvania, Ohio, Georgia, North Carolina, Washington, Arizona, and Tennessee.⁸⁴ No candidate could possibly win a popular vote with support from only two states

⁸³ State Population Totals: 2010-2019.” ...

⁸⁴ “Distribution of Electoral Votes.” National Archives and Records Administration. National Archives and Records Administration. Accessed May 8, 2021. <https://www.archives.gov/electoral-college/allocation>.

and under the Electoral College, a president only needs to win the twelve largest states, directly contradicting Guelzo's claim. States are a bad metric for support because people vote, not land. A popular vote win would require broad support from all over the country.

DeMuth describes his related concerns: "... [under a popular vote,] leading candidates would focus on the large population centers along the coasts and ... pay little or no heed to the interests of more dispersed citizens residing in vast areas of the nation."⁸⁵ This argument evolves from the assumption that swing states like Pennsylvania, Michigan, Ohio, and Arizona are microcosms of a greater whole that is the United States. DeMuth implies that, in many ways, these states are more representative of America than cities with more major metropolitan areas. However, American life is not about a particular urban or rural experience: America is made up of populations from the whole country. As a swing state, Ohio, for example, may resemble much of America in many ways, but it is really only truly representative of Ohio. It cannot possibly represent votes from New York; votes New York would do a much better job. The best way to represent as many people as possible is to have everyone vote directly and with equal weight. This also neglects that a state with both metropolitan areas and rural areas is in fact *more* representative of America, as four out of five Americans live in urban areas.⁸⁶ There is no justifiable principle for one out of five Americans who do not live in urban areas to wield extra influence in elections simply because they represent some idealized notion of quintessential, rural Americanism. America is experienced by people, not states.

85 DeMuth, Christopher. "The Man Who Saved..."

86 Ingraham, Christopher. "Americans Say There's Not Much Appeal to Big-City Living. Why Do so Many of Us Live There?" The Washington Post. WP Company, December 19, 2018.
<https://www.washingtonpost.com/business/2018/12/18/americans-say-theres-not-much-appeal-big-city-living-why-do-so-many-us-live-there/>.

Perhaps the most frequent argument made in defense of the Electoral College is that without it, rural areas would be ignored completely by campaigns. This argument likewise fiats that maintaining the Electoral College is the only way to account for rural voices in national politics. Unfortunately, the Electoral College *already* ignores the majority of rural areas. In fact, none of the most rural states, Alaska, Montana, South Dakota, Alaska, Vermont, are even swing states, meaning Presidential campaigns already disregard their populations.⁸⁷

Without the Electoral College, rural areas would likely be *more* ignored. Republican strength resides in rural areas, and Republicans need their base to turn out if they have any hope of winning elections. The GOP is dependent on these voters and if they fail to mobilize them, they will lose every time. Similarly, because the country is somewhat evenly divided between Republicans and Democrats, Democrats would need to garner Republicans' support in rural areas to win a national election. The votes of rural Americans would no longer be cancelled out by the influence of metropolitan districts. Implementing a popular vote would likely mean campaigns would venture to these rural areas of all states *more*, instead of just cities in a handful of states primarily in the Midwest.

Inevitably, campaign events will always be held in more populated areas to cater to as many people as possible. In the final month of the 2020 campaign, Biden and Trump collectively held nine events in Nevada, a key swing state. All of them were in the Las Vegas and Reno-Sparks metropolitan areas, the two most populated areas in the state.⁸⁸ This means that the 282,00

⁸⁷ Baseballot. "How Urban Or Rural Is Your State? And What Does That Mean For The 2020 Election?" FiveThirtyEight. FiveThirtyEight, April 14, 2020. <https://fivethirtyeight.com/features/how-urban-or-rural-is-your-state-and-what-does-that-mean-for-the-2020-election/>.

⁸⁸ Ruthhart, Bill, and Jonathon Berlin. "Campaign Trail Tracker: Where Trump, Biden and Their Running Mates Have Traveled in Presidential Race's Final Weeks." *chicagotribune.com*. Chicago Tribune, November 5, 2020. <https://www.chicagotribune.com/politics/ct-viz-presidential-campaign-trail-tracker-20200917-edspdit2incbfnopchjaelp3uu-htmstory.html>.

Nevadans from elsewhere were largely ignored.⁸⁹ Under the Electoral College, campaigns already ignore all rural areas; they are just more likely to spend time in a small to mid-size city in twelve very specific states than anywhere else. The most populated cities in a select few seemingly arbitrary states, or “swing states,” just receive more attention.

This could change under a popular vote: it would likely mean expanding campaign events to reach more metropolitan areas in more states, meaning more people could access them. For example, Oklahoma is largely ignored under the Electoral College, and rightfully so: the state has gone for the Republican candidate in every election since 1968.⁹⁰ Thus, there is little to no incentive for a candidate to campaign there. However, Oklahoma’s most populous county has nearly as many registered Democrats as Republicans.⁹¹ Under a popular vote, the votes of those Democrats would matter rather than essentially disappearing. Similarly, Washington State has voted for the Democratic candidate in Presidential elections every year since 1988.⁹² 26 of the state’s 39 counties chose Trump 2020, but again, these votes did not matter because the state’s electors unanimously voted for Biden who won 58.4 percent of the state’s total votes. Removing the Electoral College would incentivize candidates to work for the votes of people in rural Washington and urban Oklahoma.

Admittedly, because the Electoral College incentivizes Presidential campaigns to spend all their money in a small handful of states, campaign spending would change significantly under a

⁸⁹ “Rural Health Information Hub.” Rural health for Nevada Introduction. Accessed May 5, 2021.

[https://www.ruralhealthinfo.org/states/nevada#:~:text=Nevada%20covers%20110%2C567%20square%20miles,Nevada%20\(USDA%20DERS](https://www.ruralhealthinfo.org/states/nevada#:~:text=Nevada%20covers%20110%2C567%20square%20miles,Nevada%20(USDA%20DERS)

⁹⁰ “Oklahoma Presidential Election Voting History.” 270toWin.com. Accessed May 5, 2021.

<https://www.270towin.com/states/Oklahoma>.

⁹¹ “Voter Registration Statistics.” Oklahoma Election Board. Accessed May 5, 2021.

<https://oklahoma.gov/elections/voter-info/voter-registration-statistics.html>.

⁹² “Washington Presidential Election Voting History.” 270toWin.com. Accessed May 5, 2021.

<https://www.270towin.com/states/Washington>.

popular system. If all states become battleground territories, it will likely become significantly more expensive to win votes from across the whole country. DeMuth states, “Geographically diversified retail politics would give way to the techniques of mass communications; state committeemen would give way to professional marketers and financiers and media masters.”⁹³ However, the Electoral College already does an extremely poor job keeping money out of politics: Presidential elections are already based off of money and the Electoral College has only added fuel to the fire.

The political marketing and consulting industry is worth roughly 300 billion dollars, with the most being raised for the Presidential election every four years.⁹⁴ No candidate in recent history has made it to the general election or been a contender in the Electoral College without massive donations and national attention. During the two most recent presidential elections, 2016 and 2020, billions of dollars were raised on both sides in attempts to secure Electoral College victories. In 2016, Hilary Clinton raised 1.2 billion dollars. Donald Trump, her opponent, raised 646.8 million dollars, as well as donating 66 million dollars of his own money.⁹⁵

Four years later, in 2020, campaign spending increased significantly. Donald Trump raised 1.96 billion dollars and Joe Biden amassed 1.69 billion dollars.⁹⁶ The whole election cost an

⁹³ DeMuth, Christopher. “The Man Who Saved...”

⁹⁴ Inc., Beroe. Management Consulting Market to Reach \$295 Billion by 2020, Says Beroe Inc, October 23, 2019. <https://www.prnewswire.com/news-releases/management-consulting-market-to-reach-295-billion-by-2020-says-beroe-inc-300943883.html>.

⁹⁵ Allison, Bill, Mira Rojanasakul, Brittany Harris, and Cedric Sam. “Tracking the 2016 Presidential Money Race.” Bloomberg.com. Bloomberg, December 9, 2020. <https://www.bloomberg.com/politics/graphics/2016-presidential-campaign-fundraising/>.

⁹⁶ McMinn, Sean, Alyson Hurt, and Ruth Talbot. “Money Tracker: How Much Trump And Biden Have Raised In The 2020 Election.” NPR. NPR, December 4, 2020. <https://www.npr.org/2020/05/20/858347477/money-tracker-how-much-trump-and-biden-have-raised-in-the-2020-election>.

estimated fourteen billion dollars.⁹⁷ This is inarguably big money. The influence of mass communication, professional marketers, financiers, and media masters, what DeMuth claims the Electoral College nullifies, completely pervades the process. Furthermore, this money is currently being spent to win over votes from only a small handful of people: during the 2020 election cycle, Trump and Biden used nearly all their money for television ads in just six states. According to NPR, “Almost \$9 out of every \$10 spent on TV in the presidential race — \$882 million — [was] invested in Florida, Pennsylvania, Michigan, North Carolina, Wisconsin and Arizona.”⁹⁸

If DeMuth is concerned with illicit campaign spending, he should redirect his efforts toward overturning *Buckley v. Valeo*,⁹⁹ the notorious case that equated money with speech in campaign expenditures in 1975, or the 2010 Supreme Court decision on *Citizens United* further tilted political influence toward wealthy donors and corporations.¹⁰⁰

Spending money in all fifty states should be a basic expectation for broad-based Presidential approval. In a nation as vast as ours, big money in elections is inescapable, inherent, and necessary, as DeMuth’s colleague at National Affairs, Bradley A. Smith, tells:

“The century-old effort to constrict the ways our elections are funded has, from the outset, put itself at odds with our constitutional tradition. It seeks to undermine not only the protections of political expression in the First Amendment, but also the limits on government in the Constitution itself ...”¹⁰¹

⁹⁷ “2020 Election to Cost \$14 Billion, Blowing Away Spending Records.” OpenSecrets News, October 28, 2020. <https://www.opensecrets.org/news/2020/10/cost-of-2020-election-14billion-update/>.

⁹⁸ Montanaro, Domenico. “Presidential Campaign TV Ad Spending Crosses \$1 Billion Mark In Key States.” NPR. NPR, October 13, 2020. <https://www.npr.org/2020/10/13/923427969/presidential-campaign-tv-ad-spending-crosses-1-billion-mark-in-key-states>.

⁹⁹ “*Buckley v. Valeo*, 424 U.S. 1 (1976).” Justia Law. Accessed May 5, 2021. <https://supreme.justia.com/cases/federal/us/424/1/>.

¹⁰⁰ “*Citizens United* Explained.” Brennan Center for Justice, April 23, 2021. <https://www.brennancenter.org/our-work/research-reports/citizens-united-explained>.

¹⁰¹ Smith, Bradley A., Bradley A. Smith is the Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Chester E. Finn, and Lawrence M. Mead. “The Myth of

Likewise, James Bopp of The Heritage Foundation argues, "... political parties are not exempt from the enjoyment of this protection [of spending money] and, therefore, the Constitution prevents Congress from forbidding them from receiving and expending soft money."¹⁰²

While campaign finance is already a massive industry, it is unlikely to increase significantly if we institute a popular vote. Individuals and companies that already donate to and fund campaigns would not be incentivized to increase their already enormous donations, meaning there would be no additional source of campaign income. Thus, instead of drastically increasing spending, campaigns would have to use their money more strategically across the whole country. Instead of using ads, candidates might try other tactics to sway voters, such as adopting more popular policy positions. Under a popular vote, campaigns would have more media markets because local markets all across the country would have a much greater role to play. All people should have equal or at least similar exposure to candidates. As aforementioned, while Ohio voters may represent America to some extent, American voters represent America far better. Even if abolishing the Electoral College makes elections more expensive, we should not have a worse system just because it is cheaper. Democracy is expensive. However, this cost is a small price to pay for a far more efficient and equitable system.

Campaign Finance Reform." National Affairs. Accessed May 5, 2021.
<https://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>.

¹⁰² Bopp, James. "Campaign Finance 'Reform': The Good, The Bad and the Unconstitutional." The Heritage Foundation. Accessed May 5, 2021. <https://www.heritage.org/budget-and-spending/report/campaign-finance-reform-the-good-the-bad-and-the-unconstitutional>.

**viii. “Without the Electoral College, States Would
Lose Their Voices in National Politics.”**

When the Constitution was written, America was a collection of thirteen distant colonies along the Eastern Seaboard that would eventually become the first states. Few citizens had a sense of a national identity. The Electoral College was created as a way for each state to retain a distinct voice in national politics while uniting into a cohesive nation state. The Senate was founded pursuant to this same ideal, along with individual state governments consisting of bicameral legislatures, governors, and cabinets mimicking those at the federal level.

In her book, *Keeping the Compound Republic*, Martha Derthick argues, “... the United States is a nation made up of distinct political communities, and that citizens conduct their politics, including deliberations about national policymaking and president choosing, in part as members of those communities.”¹⁰³ If states were ever homogenous communities that required distinct voices, they certainly do not function that way anymore. Americans have generally progressed well beyond this notion to comprise a nation of fifty states, all containing a multitude of multifaceted, diverse communities on account of race, gender, religion, and political thought. A state’s political “identity” is based on how *all* its citizens voted, not just how a plurality voted, and our electoral system should account for that.

Dynamics in the United States have shifted significantly since the Constitution was written, giving rise to the following question: is the United States collection of individuals or communities? I argue we are both: state identities certainly matter, and I would not vouch for a system that would deplete local and state governments. Conservative and liberal theorists alike agree that localism is

¹⁰³ Derthick, Martha. *Keeping the Compound Republic: Essays on American Federalism*. Washington, D.C.: Brookings Institution Press, 2001.

a *good* thing for America, and the most significant way people can directly contribute to democracy. That being said, the Electoral College can be modified significantly without posing a threat to state identities. The reality is that “communities,” or states, look very different now. California, the most populous state, has a population of forty million people. To put that in perspective, one state now contains sixteen times as many people as the whole United States circa 1776. Countless smaller communities as well as individuals who do not identify with *any* community exist within states, but they are still Americans, and the Presidential electoral system needs to account for their unique voices.

Furthermore, removing the Electoral College would not deplete state identities because the Electoral College never retained them in the first place. America is a compound republic meaning the institutions at the state level serve that state, and institutions at the national level should serve the national community. Currently, the Electoral College prevents a legitimate national community from forming because it is wholly dedicated to individual states. I agree with Derthick that local and state institutions are devoutly important to the American spirit, but that state legislatures and governors are the bodies that preserve that state sovereignty. I would certainly not advocate for abolition of state governments. The role of the President is an entirely different conversation; one that has nothing to do with the method of electing the candidate. The electoral system used to elect the president will not change the responsibilities of the job, except that the President might cater his job performance to the whole country instead of people in swing states if they intend to run for reelection. To keep a compound republic, the national government needs to be separate from the state governments.

A bigger shift that has already taken place underlies the concern with state identity. The number of people who identify with their state over country has declined significantly since the

Constitution was written. Political Scientist Daniel J. Hopkins explores this trend and its implications on American politics and national identity:

“This change does operate contrary to a key rationale of America’s federalist system, which was built on the assumption that citizens would be more strongly attached to their states and localities. It also has profound implications for how voters are represented. If voters are well informed about state politics, for example, the governor has an incentive to deliver what voters—or at least a pivotal segment of them—want. But if voters are likely to back the same party in gubernatorial as in presidential elections irrespective of the governor’s actions in office, governors may instead come to see their ambitions as tethered more closely to their status in the national party.”¹⁰⁴

Citizens are already attached to the two major parties, another reality the Electoral College failed to thwart. A new system should adapt to these shifts so it can accommodate the American people’s changing identities. To appease Derthick’s concerns relating to state communities, I believe we should adhere to the logic James Madison presents in Federalist 46, where he argues, “Federalist and state governments are in fact but different agents and trustees of the people, and thus equally subject to the address by ‘the people.’”¹⁰⁵ When people do not directly elect the President, the President is not accountable to them. They cannot simply remove the President with the next election, because he very well may win the election without popular support. A popular vote would enforce accountability on the part of the President and would unify people from across the whole country, regardless of the state they come from because the President would represent a majority of citizens.

A glaring issue with the Electoral College’s state-level focus is that it fundamentally gives greater power to some “communities,” or individuals in certain states, than others. While

¹⁰⁴ Hopkins, Daniel J. *The Increasingly United States: How and Why American Political Behavior Nationalized*. Chicago ; London: The University of Chicago Press, 2018.

¹⁰⁵ Madison, James. “The Avalon Project: Federalist No 46.” The Avalon Project - Documents in Law, History and Diplomacy. Yale Law School, Lillian Goldman Law Library, January 29, 1788. https://avalon.law.yale.edu/18th_century/fed46.asp.

democracies come in many varieties, this violates the principle of equal representation that should be inherent to any democratic system. A democracy that represents communities instead of people, like the Electoral College, should do so in an equitable way; our current system does not. If the total 538 electoral votes were dispersed evenly across the population, one electoral vote would represent about 607,000 people. In California, one electoral vote represents 727,000 people, while in Wyoming, a single electoral vote represents 200,000 people.¹⁰⁶ Thus, a Wyoming voter's vote is presently worth 3.2 times as much as a Californian's. As populations continue to shift towards cities, that disparity will only continue to grow. Furthermore, the notion that all communities warrant equal representation regardless of size is irrational. By this logic, if a community with three people should have similar voting power to another community with forty people in it. The argument is absurd.

The greater concern that Derthick may have around community is glocalization of the American community, leading to its decline. As major corporations spread their legacies around the country, most towns in America have started to look identical. Small businesses can no longer compete with the enormous, private companies that wield influence across the country. Every town has the same fast-food chains: McDonald's, Burger King, and Wendy's, with a few smaller chains sprinkled throughout. A few hotel chains like Hilton, Holiday Inn, and Marriott dominate the hospitality sphere. The same mall stores like Gap, H&M, and Target are in essentially every shopping mall in the country. When people are forced to work for these institutions and occupy spaces completely dominated companies that are run from outside their community, a community's individualistic charm and unique nature is depleted rapidly. Americans no longer go to the local market where they see their neighbors; instead, they go to the major chain that occupies

¹⁰⁶ State Population Totals: 2010-2019." ...

their corner of the country, whether that be Stater Brothers, Stop and Shop, or Publix. This uniformity inherently prevents localities from developing a distinct local identity, but retaining the Electoral College, an institution that has been in place since this shift began, is certainly not the way to bring community back.

Because the Electoral College was established at a time where only 2.5 million people, or 132 times less people than our current population and only white men among them could vote, all votes were roughly equal to each other.¹⁰⁷ The Electoral College did not evolve with the implementation of constitutional voting rights for women and people of color. It fundamentally does not account for the fact that we have begun to see people who were not allowed to vote then as equally deserving of the right to vote to the white man. In fact, the college actively works against these minorities. States with the highest white populations, however, still retain the most proportional power in the electoral college.

The five least populated states, Wyoming, Vermont, Alaska, North Dakota, and South Dakota, have the heaviest influence on the Electoral College proportionate to their populations. Wyoming is 92.5 percent white, Vermont is 94.2 percent white, Alaska is 65.3 percent white, North Dakota is 86.9 percent white, and South Dakota is 84.6 percent white. While Alaska may not be the whitest, it still has outsized power and is the only outlier in this group. Compare this with the five most populated states which all have the smallest impact on the electoral college proportionate to their population: California's population is 71.9 percent white, Texas is 78.7 percent white, Florida is 77.3 percent white, New York is 69.6 percent white, and Pennsylvania is 81.6 percent white. While the United States is a majority white country at 76.3 percent white, the states with higher populations come much closer to matching this average white less populated

¹⁰⁷ State Population Totals: 2010-2019." ...

states that carry extra influence have far fewer minorities based on percentages alone.¹⁰⁸ Essentially, as it did with slavery, the institution still serves to prioritize white voices and the legacy of the Three-Fifths Compromise remains.

Because America held Black people in bondage for centuries, enforced Jim Crow laws, and implemented countless other horrifically overtly racist policies, Black people still have the lowest influence per capita on the Electoral College. Codrington describes,

“Because the concentration of Black people is highest in the South, their preferred presidential candidate is virtually assured to lose their home states’ electoral votes. Despite black voting patterns to the contrary, five of the six states whose populations are 25 percent or more black have been reliably red in recent presidential elections. Three of those states have not voted for a Democrat in more than four decades. Under the Electoral College, black votes are submerged. It’s the precise reason for the success of the southern strategy. It’s precisely how ... the South has prevailed.”¹⁰⁹

If we are going to give groups certain advantages in the presidential electoral system, should it not be the groups that have suffered at the hands of the government the most? The Electoral College *disadvantages* Black people, contributing to their continued suffering.

This also weakens the voices of other Native American and minority groups that have immigrated to the United States. This includes Asians, Latin Americans, Jews, Muslims and other groups that have been historically subject to redlining and other racist zoning laws that confined them to certain areas of cities. When we have an electoral system based off of “communities,” we must question which communities should be represented. The current system empowers white people to have an outweighed voice. The United States is roughly three-quarters white, which means in a fair system, white people would account for roughly three-quarters of the vote. Under the Electoral College, white people wield far greater clout by design. To reiterate, if our electoral

¹⁰⁸ State Population Totals: 2010-2019.” ...

¹⁰⁹ Codrington, Wilfred III. “The Electoral College’s...”

system is going to favor certain groups, which it does, to protect against tyranny of the majority, the most vulnerable minorities should be most entitled to protection, rather than the people who happen to live in swing states.

The winner-take all state system also encourages civic disengagement. Americans are notorious in the first world for our low turnout rates because the citizenry believe their votes often don't matter. Between 1996 and 2016, American voter turnout has hovered between 53 and 63 percent.¹¹⁰ This puts us in thirty second place for voter participation among other democracies.¹¹¹ Under the current system, people in reliably red or blue states know their individual votes do not matter.

This is not a problem of American apathy towards the Presidency. It is a problem because a huge swath of voters do not wield any influence over electoral outcomes. In 2016, the states that saw the highest voter turnouts were all swing states: Minnesota, New Hampshire, Colorado, Maine, Iowa, and Wisconsin. The states with the lowest turnouts were all states where presidential elections have been nearly uncontested in recent history: Hawaii, Utah, Tennessee, West Virginia, Texas, and Oklahoma.¹¹² This is no coincidence. A healthy democracy should encourage civic engagement and the participation of all citizens to satisfy the very rudimentary definition of democracy surrounding rule by and for the people. A popular vote would incentivize people to vote regardless of their location because candidates would not need to win a majority of votes in

¹¹⁰ Wallace, Gregory. "Voter Turnout at 20-Year Low in 2016 - CNN Politics." CNN. Cable News Network, November 30, 2016. <https://www.cnn.com/2016/11/11/politics/popular-vote-turnout-2016>.

¹¹¹ DeSilver, Drew. "In Past Elections, U.S. Trained Most Developed Countries in Voter Turnout." Pew Research Center. Pew Research Center, November 13, 2020. <https://www.pewresearch.org/fact-tank/2020/11/03/in-past-elections-u-s-trailed-most-developed-countries-in-voter-turnout/>.

¹¹² Kurtzleben, Danielle. "CHARTS: Is The Electoral College Dragging Down Voter Turnout In Your State?" NPR. NPR, November 26, 2016. <https://www.npr.org/2016/11/26/503170280/charts-is-the-electoral-college-dragging-down-voter-turnout-in-your-state>.

any particular state: candidates would need a majority of American votes. For the first time in presidential history, all votes would matter.

Inequality of votes is perhaps the most significant problem with the Electoral College. The Declaration of Independence famously states that all men are created equal. While we have expanded this definition to include women, at the bare minimum, it should mean each American has equal stakes in who their president is. Equality of input is one of the most rudimentary forms of equality that can exist in a democracy. The Electoral College exemplifies a public interest in inequality. In the words of founding father James Wilson, "Can we forget for whom we are forming a government? Is it for men, or for the imaginary beings called States?"¹¹³

ix. "A Popular Vote is Not in the Constitution."

The Electoral College is written into the Constitution, and as Guelzo tells, "There is no mention whatsoever of a popular vote, at any level."¹¹⁴ The Constitution *omits* the concept of a popular vote, but there are still constitutional ways to implement such. Instituting the National Popular Vote Interstate Compact (NPVIC) within the confines of the Electoral College, which is the most likely way the United States will implement a popular vote, is entirely constitutional. Under NPVIC, legislation passes through individual state legislatures and nothing in the Constitution would need to change in order to implement it. I later further discuss the NPVIC and outline a new system I believe will best suit our needs as a country.

¹¹³ "Madison Debates." The Avalon Project - Documents in Law, History and Diplomacy. Yale Law School, Lillian Goldman Law Library. Accessed May 5, 2021. https://avalon.law.yale.edu/18th_century/debates_630.asp.

¹¹⁴ Guelzo, Allen. "In Defense of the..."

However, another considerable problem with this argument is that modifications to the Constitution pertaining to the Electoral College were made just 23 years after the college was created because it was not functioning as anticipated, proving the founders could not have possibly anticipated how their handiwork would play out. During the election of 1800, presidential candidate Thomas Jefferson received the same number of Electoral College votes as his vice-presidential candidate, Aaron Burr. Because at that time, the ballot did not distinguish between Electoral College votes for president and vice president, the House of Representatives chose Jefferson as the new president instead of the Electoral College. Congress then amended the Constitution to prevent similar ballot confusion from reoccurring. 24 years later, the same issue happened again, and Congress was forced to utilize the 12th Amendment for the first time.¹¹⁵

Over 200 years ago, Congress made modifications to the Constitution because it was necessary to ensure smooth, accurate presidential elections in the future. Aside from logistical concerns, there is no constitutional reason we should not follow suit today. In fact, the Eleventh through Twenty-Seventh Amendments, nearly 60 percent of the Amendments in the Constitution, were not in the original document, including the Twelfth Amendment which modified the Electoral College in 1804. Other amendments added to the Constitution that were not in the original document include abolition of slavery (thirteenth, 1865), and universal suffrage on the accounts of race (fifteenth, 1869) and sex (nineteenth, 1920).¹¹⁶ Constitutional amendments have proved to be a veritable cornucopia of rights necessary to a democratic order. If Guelzo maintains this originalist

¹¹⁵ West, Darrell M. "It's Time to Abolish the Electoral College." Brookings. Brookings, March 13, 2020. <https://www.brookings.edu/policy2020/bigideas/its-time-to-abolish-the-electoral-college/>.

¹¹⁶ "The Constitution: Amendments 11-27." National Archives and Records Administration. National Archives and Records Administration. Accessed May 5, 2021. <https://www.archives.gov/founding-docs/amendments-11-27>.

mindset, is he also willing to backtrack on all these modifications to the Constitution? I would certainly hope not.

DeMuth still expresses concern surrounding straying from the original document, arguing, “...we will not abandon our political system ‘because we are angry that the world is not perfect.’”¹¹⁷ DeMuth is essentially saying that we cannot improve a system because it needs improvement. We will certainly not abandon our whole political system, but we should improve it to make it work more efficiently. People are angry because the Electoral College does not reflect their interests and because they know a solution that *does* represent their interests exists.

Guelzo catastrophizes the prospect of democratic reform even further than DeMuth: “Simply doing away with the existing process without putting a new one in its place could create the biggest political crisis in American history since the Civil War.”¹¹⁸ None of the sixteen amendments that have been added to the Constitution have even called for a Constitutional Convention.¹¹⁹ Similarly, if the implementation of a new system is mismanaged, of course a crisis could occur, but that same rationale applies to everything. His argument lies on the assumptions that there will be nothing to replace the Electoral College. Following Guelzo’s logic, any change to the Constitution that is supported by over half the country could ignite “the biggest political crisis in American history since the Civil War.” The chaos Guelzo describes has not happened any of the times the Constitution has been changed, and our endurance as a democratic republic is tied to the Electoral College. In fact, the only occurrence that resembles Guelzo’s theoretical crisis that would occur if the Electoral College is removed was when a president who won the Electoral College but lost the popular vote ignited a domestic terrorist attack on the United States capitol.

¹¹⁷ DeMuth, Christopher. “The Man Who Saved...”

¹¹⁸ Guelzo, Allen. “In Defense of the...”

¹¹⁹ “The Constitution” ... National Archives...

While the Constitution laid a solid foundation to begin American political life, the vast, diverse, and constantly evolving American community is what allows us to be successful in a multitude of ways. For example, the Framers did not intend to abolish slavery. However, when later generations concluded that slavery should no longer be tolerated, they changed the Constitution to conform with their beliefs and grant basic human rights. This concept should be rudimentary to all people who intend to participate in society. There is no reason that we should feel completely and literally bound to a document that has majorly failed to live up to its intentions, that was produced more than two centuries ago by a group of fifty-five mortal men, actually signed by only thirty-nine, a fair number of whom were slaveholders, and adopted in only thirteen states by the votes of fewer than two thousand men, all of whom are long since dead and mainly forgotten. Alternatives that better suit our times exist.

x. *“People Don’t Always Know What’s Best for Them.”*

This assertion directly contradicts the previous claim that the Electoral College retains democratic sovereignty by defending the idea that democracy, or the will of the people, is inherently dangerous and needs to be prevented. Uhlmann states, “Men do not suddenly become angels when they acquire the right to vote; an electoral majority can be just as tyrannical as autocratic kings or corrupt oligarchs.”¹²⁰ This implies that the Electoral College always selects the morally upright candidate in place of the people because the populous cannot be trusted. I find this deeply troubling because this argument assumes that the general populous will not choose the

¹²⁰ Uhlmann, Michael M. “The (Old) Electoral...”

“better” candidate, but people from swing states will. Does Uhlmann believe these people are more morally upright than those from the rest of the country? He continues: “The current system teaches us that the character of a majority is more important than its size alone.”¹²¹ I would certainly agree that virtue should trump numbers, but how does the Electoral College guarantee this will happen? I have yet to see an argument that conveys this.

Essentially, this argument is about the common fear of *tyranny of the majority*: a conservative buzzword that essentially just means majority rule, or democracy. It should come as no surprise that conservatives warn of the dangers of a legitimate election system; the Electoral College gives them an implicit advantage. Using people in a situation that is not democratic as proof that democracy does not work is illogical. This legitimates anti-democratic policies and processes in an anti-democratic system and further pushes the narrative that majority rule is dangerous. Many Americans only hate democracy because they are trapped in an oligarchic form of it. The people do not pick the President: Presidential campaigns are strategic and about singling out and focusing on the right voters in swing states. There is no proof that American voters implicitly do not know what is best for them because they have never been allowed to decide. Furthermore, there is certainly no proof that people in swing states know any “better” than the rest of the populous.

Furthermore, ignoring the votes of a state’s minority, which the Electoral College does, is by definition, an example of tyranny of the majority. The rights of minorities are violated in each state since a majority of the vote will carry the whole state and the winner-take-all rule treats all the voters who did not vote for the first-place candidate as if they had voted for the candidate who won their state. Rather than disallowing the tyranny of the majority, the state-by-state winner-take-

¹²¹ Uhlmann, Michael M. “The (Old) Electoral...”

all rule ensures it. What “tyranny” does the Electoral College prevent by not giving the Presidency to the candidate who receives the most votes? The Electoral College caters to a tyranny of the *minority* system.

Like Uhlmann, I agree that a leader’s character should be more important than their bases’ size. The founders did, too, inspiring them to craft the Electoral College with hopes that it would prevent a Presidency revolving around charisma instead of effective leadership. In Federalist 10, James Madison argued for a representative democracy instead of a direct democracy. Madison states, “Pure democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths.”¹²²

Madison, along with many of the other founders, recognized that it would be physically impossible to bring large numbers of people together to participate effectively in national governance, especially at a time with no modern technology, a lack of news sources, and inefficient, complicated modes of communication. This argument made sense in 1787: America was the first modern democracy, and there were no other successful democracies to reference for guidance. Centuries later, this is no longer true. While the United States was the first democracy, and a revolutionary one at that, countless other nations have looked to our country and used our ideas to grow and improve, surpassing us with their democratic electoral systems that account for the voices of all citizens, not just a select few in particular places. Democracy is not automatic. We need to continuously update it for it to function properly and in a way that benefits the people

¹²² Madison, James. “The Federalist Papers No. 10.” The Avalon Project - Documents in Law, History and Diplomacy. Yale Law School, Lillian Goldman Law Library, November 23, 1787. https://avalon.law.yale.edu/18th_century/fed10.asp.

that live under it. No system of popular sovereignty guarantees a good leader. The opposite is also true: no system arbitrary, strategic, or *unpopular* sovereignty guarantees a good leader.

By the end of his career, Madison backtracked on his concerns with democracy; his political experience led him to abandon his hostility to majority rule. Madison actually backtracked on his antidemocratic sentiments after years of experience in government. He declared three years before his death that critics of majority rule “...must either join the avowed disciples of aristocracy, oligarchy or monarchy, or look for a Utopia exhibiting a perfect homogeneousness of interests, opinions, and feelings nowhere yet found in civilized communities.”¹²³ We cannot blame the people for electing “bad” leaders when they have never been given the opportunity to. The only “bad” leaders America has ever had have come to power with the help of the Electoral College because the Electoral College has been used in all American Presidential elections.

¹²³ Madison, James, and Gaillard Hunt. *The Writings of James Madison*. New York: G.P. Putnam's Sons, 1900.

Part 2: Constitutional Suggestions for Democracy in Presidential Elections

In the 1964 Reynolds versus Sims Supreme Court case, voters from Jefferson County, Alabama, challenged the apportionment of the state legislature; lines dividing electoral districts resulted in dramatic population discrepancies among the districts. Ultimately, the court decided that equal protection required that state legislative districts be composed of roughly equal populations, catering to the standard of one vote per person. Justice Earl Warren authored the decision, asserting that there should be “no less than substantially equal state legislative representation for all citizens.”¹²⁴ While no parallel case has resulted from the Electoral College, the same standard should still apply. No person is entitled to a more impactful vote than their neighbor. We are obligated to hold this standard up in Presidential Elections. In awarding additional voting power to certain states, the Electoral College marks some citizens as more valid than others.

Because implementing a new presidential electoral system will be complicated, and expensive it is of utmost importance that the system truly corrects the problems the Electoral College has not. I have outlined a four-pronged, Constitutional approach to correcting the current system in a way that will serve the American people, the spirit of democracy, and the hopes of the founders. First, the National Popular Vote Interstate Compact (NPVIC) is legislation that has been circulating individual states’ legislatures since 2006. If it is implemented, a popular vote will be instated within the constitutional purview of the Electoral College. Second, the addition of Ranked Choice Voting (RCV) to Presidential elections will optimize elections to find the best possible candidate for as many people as possible. Third, equitable voting rights for citizens in Washington D.C. as well as Puerto Rico and other territories are necessary for all Americans to have equal say

¹²⁴ “Reynolds v. Sims.” Oyez. Accessed May 5, 2021. <https://www.oyez.org/cases/1963/23>.

in the presidency. Lastly, the United States needs enhanced universal suffrage to legitimize its democracy in the 21st century. Alone, none of these solutions are enough to mend the vast democratic inconsistencies growing in American elections. These structural changes can be a significant step for American Democracy.

i. The National Popular Vote Interstate Compact

The first and most important component of a new and reimagined system is implementation of the National Popular Vote Interstate Compact (NPVIC). The NPVIC is an agreement among states designed to guarantee the election of the presidential candidate who wins the popular vote in the 50 states and Washington, D.C. By enacting the NPVIC, states avoid waiting for a federal mandate to nullify the electoral college by taking matters into their own hands. When a state legislature passes the NPVIC and the governor signs it into law, that state agrees to give all of their electoral votes to the winner of the popular vote rather than who won their individual state. Thus, NPVIC is an entirely constitutional way to instate a popular vote while still maintaining structural elements of the Electoral College and strictly adhering to the Constitution. NPVIC will guarantee that the winner of the popular vote always wins the presidency, something DeMuth stated happened most of the time under the Electoral College NPVIC is grounded in two powers delegated to states by the Constitution: the power to design rules for awarding their electoral votes and the power to enter into interstate compacts with the ultimate goal of erasing the gulf between swing states and safe states.

The bill is a constitutionally conservative, state-based approach that preserves the Electoral College, state control of elections, and the power of the states to control how the President is elected. Under the current system, a voter has a direct voice in electing only the small number of presidential electors to which their state is entitled. Under the NPVIC, every voter directly elects the 270+ electors that make up the Electoral College.¹²⁵ States would continue to be the primary electoral administrators, and votes would be counted at the state level. This means that the fear of complications relating to counting votes at the national level can be nullified entirely. Similarly, states will retain their power to administer voting sites and all other powers they currently have under the Electoral College as we know it. Local and county election officials would conduct elections exactly as they do now, meaning it would not be any more difficult to count votes, stop voter fraud, or administer elections in localities. Similarly, although I have already established that the Electoral College does little to maintain state identity, NPVIC would not do anything to further deplete it. In fact, it would likely enhance state identity, as states have to decide on an individual basis to actually enter the compact.

By overcoming the “winner take all” obstacles, America can eliminate this aspect of the legacy of slavery and the Three-Fifths Compromise. Black people, particularly in former slave states in the South, will no longer be locked into states that generally vote against their interest, meaning their votes will actually count towards the total. Correspondingly, civic engagement will likely rise as people see their votes count towards the totals, regardless of their state’s demographics.

¹²⁵ “Written Explanation.” National Popular Vote, April 27, 2021. <https://www.nationalpopularvote.com/written-explanation>.

Since the NPVIC was first proposed and passed in Maryland in 2006, sixteen states have entered the compact individually. The compact will go into effect once enacted by states with a total of at least 270 electoral votes: enough electoral votes to guarantee the election of the president. As of early 2021, it has been passed in 16 jurisdictions totaling 196 Electoral College votes, or 72.6 percent of the 270 votes needed to give the compact legal force. This means that states totaling at least 74 more electoral votes have to pass the NPVIC in order for it to go into effect, or votes totaling 36.4 percent of the Electoral College. It certainly will not go into effect in the next few months, but leaps of progress were made following Trump's 2016 win. If another President is elected without winning the popular vote, we should expect to see this trend continue, specifically in states that have larger populations that do not match with their weight of influence on Presidential politics.¹²⁶

The major drawback to the NPVIC is that it is difficult to implement. The same states that hold considerably more, disproportionate weight on the Electoral College carry that same weight on whether the NPVIC will pass in enough states. In both instances where a candidate lost the popular vote but won the Electoral College since the turn of the century, a Republican has become the president. Due to the implicit historical advantage the Electoral College gives Republicans, the states that have passed the compact so far are all democratic-leaning states. It is difficult to have a thoughtful, rational debate surrounding presidential elections when our current system elevates one party over another. Thus, that party, the Republican Party, is generally opposed to any reforms that will eliminate their advantage and to make the system fair and suit the will of the people. Because this system addresses the many legitimate concerns of the Electoral College's conservative supporters while adjusting the system to better suit the intentions of the founders,

¹²⁶ Foodman, Julia. "National Popular..."

opposition to the NPVIC is nakedly partisan. In the words of President Trump, “[greater] levels of voting [would mean] you’d never have a Republican elected in this country again.”¹²⁷

ii. Ranked Choice Voting

As I have already established, Ranked Choice Voting satisfies a multitude of concerns associated with removal of the Electoral College as we know it. This includes keeping impostors out of politics, the need for candidates to hold support from at least half the populace to win, and civil campaigning that leans towards the political center. It also minimizes strategic voting, meaning it encourages voters to select the candidate they support, not the one they think everyone else will. This has been an extremely prevalent concern for many voters in the past two presidential elections where many people argued the choice between the two major candidates was a “lesser of two evils.” With RCV, voters can honestly rank candidates in order of choice and the candidate that satisfies as many people as possible will be the winner if there is no clear winner after counting first round votes. Voters know that if their first choice doesn’t win, their vote automatically counts for their next choice instead. This frees voters from worrying about how others will vote, and which candidates are more or less likely to win.¹²⁸ Under RCV, voters send clear signals about what candidates they actually support and not just who they think will win because the parties offer more different alternatives. Thus, electoral results represent the will of a decisive majority.

¹²⁷ “Trump Says Republicans Would ‘Never’ Be Elected Again If It Was Easier to Vote.” The Guardian. Guardian News and Media, March 30, 2020. <https://www.theguardian.com/us-news/2020/mar/30/trump-republican-party-voting-reform-coronavirus>.

¹²⁸ FairVote.org. “Ranked Choice...”

Ranked choice voting, while fairly new to The United States, is not a new concept. Denmark began using it in the 1850s.¹²⁹ Currently, it is used in more than fifteen U.S. cities including New York, the state of Maine, and many university and organization elections.¹³⁰ RCV had not been developed as a concept when the Constitution was written, but it aligns with the values of compromise and centrism the founders prided the Electoral College on. The system operates as follows: voters rank candidates in order of preference: one, two, three, and so forth. If a voter's vote cannot help their top choice win, their vote counts for their next choice. If any candidate receives more than half of the first choices, that candidate wins just like in any other election. However, if there is no majority winner after counting first choices, the race is decided by an "instant runoff." The candidate with the fewest votes is eliminated, and voters who picked that candidate as 'number one' will have their votes count for their next choice. This process continues until there's a majority winner or a candidate won with more than half of the vote. Thus, no candidate can win an election without support from a majority of the populous, easing DeMuth's concerns about "cacophony of first-round election campaigns ... with extreme or idiosyncratic parties."¹³¹ RCV favors the *condorcet winner*: the candidate who would win a one-on-one matchup against every other candidate.

During the 2020 Presidential Primaries, four states, Alaska, Hawaii, Wyoming, and Kansas used RCV for the first time and voter turnout skyrocketed: it increased by 87 percent in Alaska,

¹²⁹ "History - Ranked Choice Voting." Ranked Choice Voting Resource Center. Accessed May 3, 2021.
<https://www.rcvresources.org/history>.

¹³⁰ FairVote.org. "Data on Ranked Choice Voting." FairVote. Accessed May 3, 2021.
https://www.fairvote.org/data_on_rcv#research_rcvvoteturnout.

¹³¹ DeMuth, Christopher. "The Man Who Saved..."

114 percent in Wyoming, and 276 percent in Kansas. These primary elections went smoothly, which is a promising sign that RCV could soon make its way to the national stage.¹³²

RCV was initially adopted by Maine for a multitude of reasons, one being that the pine tree state has a tendency to elect officials who are not from either major political party. For example, one of two Senators who identify as independents was elected by Mainers. Under RCV, people can run for office regardless of political affiliation and win with broad support, instead of just backing from a major party. Maine League of Women Voters found that after its first use in 2018, more than 90 percent of respondents said that their experience using RCV in the primary was either “excellent” or “good.”¹³³ However, RCV has trouble gaining traction from either major party because it incentivizes people whose views do not align with either party to run and win. As I have already recounted, our current electoral system encourages the nativist, polarizing attitudes that have recently dominated American politics. However, when citizens see more candidates that cater to their diverse viewpoints, they are more likely to turn out on voting day. RCV offers a middle-ground solution with candidates that will appease at least fifty percent of the nation.

A multitude of studies, including one by FairVote New Mexico immediately following the first use of RCV in Santa Fe in 2018, found that 94 percent of voters reported feeling “very satisfied” or “somewhat satisfied” with their first use of RCV.¹³⁴ Compare this with Presidential satisfaction in New Mexico: a September 2020 study found neither candidate satisfied more than fifty percent of voters. 39 percent of voters approved of Trump, while 43 percent approved of

¹³² FairVote.org. “RCV for Presidential Nominations.” FairVote. Accessed May 5, 2021.

https://www.fairvote.org/rcv_for_presidential_nominations#presidential_primaries_2020.

¹³³ FairVote.org. “Maine Voter Survey Shows RCV Was Easy to Use.” FairVote, June 15, 2018.

https://www.fairvote.org/maine_voter_survey_shows_rcv_was_easy_to_use.

¹³⁴ “Santa Fe Voters Support Ranked Choice Voting and Have High Confidence in City Elections.” FairVote, March 15, 2018. <https://fairvote.app.box.com/v/SantaFeExitReport>.

Biden. This is not enough to constitute favorable ratings for either candidate.¹³⁵ While no data specifically from Santa Fe Presidential election satisfaction in 2020 exists, Santa Fe is representative of the rest of the state’s political leanings. In the 2020 election, Joe Biden won New Mexico 54.3-43.5 percent, resembling Biden’s margin of victory in Santa Fe County.¹³⁶ This data, paired with the polls showing the majority of Santa Fe voters were not keen on either Biden or Trump, shows voters were merely choosing a “lesser of two evils” candidate in the 2020 Presidential election, highlighting how the Electoral College and our voting system circumvent voters from choosing a candidate they actually want to vote for. Under RCV, people can prioritize their candidate of choice, even if they are extreme, but a trade-off candidate that satisfies at least half of voters will prevail. At the end of my thesis, I will further elaborate on the plethora of other ways RCV can and should benefit the American electoral system.

In a total of eighteen Presidential elections, candidates have gained the presidency without winning a majority of popular votes, meaning in one out of every three presidential elections, a candidate won with a minority of voters.¹³⁷ We should work towards a future that will prevent this from happening again. The Electoral College decisively has not been able to deliver on the problem of extremism and maintaining it the way it exists will not solve this problem. Supporters of the Electoral College should redirect their passions for centrism and frustration with radical factions by supporting democratic reforms like RCV.

¹³⁵ Dan McKay | Journal Staff Writer. “Journal Poll: NM Voters Give Both Trump, Congress Low Marks.” Albuquerque Journal, September 5, 2020. <https://www.abqjournal.com/1493759/nm-voters-give-both-trump-congress-low-marks.html>.

¹³⁶ “New Mexico Election Results.” The New York Times. The New York Times, January 5, 2021. <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-new-mexico.html>.

¹³⁷ Dahl, Robert A., 1915-2014. *How Democratic Is the American Constitution?* New Haven, Conn.; London: Yale University Press, 2003.

There are numerous benefits to a system in which not everything is cast in a binary. Coalitions come and go and there is ample room for growth, change, and collaboration, which we should be encouraging in American politics. With RCV in place, parties can change, new parties can emerge, and old parties can die. Although supporters of the Electoral College warn of these coalitions, they are essential to building community and necessary political power in any state. Integrating RCV into presidential elections will require no considerable changes other than the switch to ranked choice ballots, which a handful of cities and states have already done seamlessly. Similar to how campaign finance may increase following a shift towards a popular vote, this will inevitably be expensive. However, the reward outweighs the risks. Democracy and effective institutions are expensive. We cannot expect to see greater good if we put no money or effort into it.¹³⁸

iii. Voting Rights for Citizens in U.S. Territories

A significant drawback to our current electoral system is that roughly four million Americans cannot vote for President simply based on their physical, geographic location. For the purposes of the Electoral College, per the Twenty-Third Amendment, the roughly 700,000 residents of Washington, D.C. receive the same number of Electoral College votes as the similarly populated Alaska.¹³⁹ Of course, under the NPVIC, this would not matter: the total number of votes from DC would simply contribute to the vote totals per electors from DC. In fact, DC has already joined the NPVIC. Citizens in all U.S. territories have even less representation, controlling a total

¹³⁸ FairVote.org. “Where Is Ranked Choice Voting Used?” FairVote. Accessed May 5, 2021.
https://www.fairvote.org/where_is_ranked_choice_voting_used.

¹³⁹ The Constitution” ... National Archives...

of zero electoral votes. I argue that Puerto Rico is owed the same voting rights as DC. Puerto Ricans should have choice in their President, and likewise, they should have the power to enact the NPVIC if they so choose.

Over four million Americans in Puerto Rico, American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands do not have the same fortune. American territories are sub-national administrative divisions overseen by the United States government. This is not a new concept. Thirty-two American states actually started off as territories and were later granted statehood. People of the current American territories are U.S. citizens, they pay federal taxes for things like Social Security and Medicare and can freely travel within the U.S.¹⁴⁰ In denying Puerto Ricans and inhabitants of other American territories the opportunity to help choose the President, America maintains the legacy of colonialism and forces territory-dwellers into submission to a government they did not consent to.

Even if we are to maintain the Electoral College, Puerto Rico, with roughly 3,200,000 inhabitants, is owed six electoral votes, the number of Electoral College votes as the similarly populated Iowa and Utah. Similarly, American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands combined are home to over 375,000 people which would be proportional to one to two Electoral College votes. An alternative solution would be to pass to NPVIC and then allow territories to hold presidential elections; then, votes from each territory would just contribute to the total vote counts. Regardless, a representative democracy requires that all Americans are represented. Currently, we are omitting over four million of them entirely. We should instead be migrating towards a system that ensures universal suffrage.

¹⁴⁰ Webber, Tim. "What Does Being A U.S. Territory Mean For Puerto Rico?" National Public Radio. NPR, October 13, 2017. <https://www.npr.org/2017/10/13/557500279/what-does-being-a-u-s-territory-mean-for-puerto-rico>.

iv. Enhanced Universal Suffrage

A plethora of democratic reforms have been circulating through government at the local, state, and national level for centuries. While countless reforms exist, many of which could be beneficial in many ways, I believe that by hosting elections on weekends, automatically registering voters when they turn 18 or become legal citizens, switching to a primarily mail-in system, and reinstating voting rights for felons are the primary reforms we should focus on to improve ballot access. These reforms all follow the same moral argument: participating in democracy should be not only easy but encouraged.

Hosting elections on weekends is a rudimentary recommendation to enhance democratic universality in American presidential elections; currently American presidential elections are on Tuesdays. According to the Pew Research Center, of the thirty-six nations in the Organization for Economic Cooperation and Development (OECD), the United States is one of nine that votes on a weekday, and one of seven that doesn't designate election day a national holiday.¹⁴¹ People work during the week, especially those who cannot afford to take time off, making weekday voting is particularly taxing for single parents, students and citizens who work multiple jobs. Weekend election would wait times and instill less pressure on poll workers because turnout would be more spread out throughout the day. In 2010, the U.S. Census Bureau found that people from families that earned more than \$100,000/year were twice as likely to vote as those whose household income was less than \$20,000/year. Likewise, being "too busy" is often cited as the most common reason for not voting, and 27 percent claimed they were in 2010.¹⁴² A more expensive alternative would

¹⁴¹ Hunt, Amy. "Voting Around the World." CultureReady, November 16, 2018.

<http://cultureready.org/blog/voting-around-world>.

¹⁴² Ahmed, Beenish. "Should Elections Be Held On Weekends?" NPR. NPR, January 20, 2012.

<https://www.npr.org/2012/01/18/145397003/why-vote-on-tuesday-why-not-the-weekend>.

be to enforce a mandate for paid leave on election day but there are no reasons that solution should be implemented instead of just moving election day. While there is no way to guarantee this would increase voter turnout, evidence from voters and simply knowledge of how busy people function in society suggests it has the potential to help. This fix is uncomplicated and needs to be instated.

According to the Washington Post, critics of weekend voting argue more people travel away from home on the weekends, and the burden of voting would just shift to other populations who have more weekend obligations. Because Saturday and Sunday are Sabbath days for devout Jews and Christians, elections would probably have to be held over the two-day period — creating a need for more poll workers and a process for securing ballots overnight.¹⁴³ There is not a single day in the seven-day calendar that will satisfy everyone in a country of 330 million people, but weekends are time off for far more people than weekdays. As for the concern that elections would need to be spread over a two-day period, many states already do early voting that lasts for multiple days and have found this system to be successful. If states want to avoid this, however, optional mail-in voting, something that has become far more common after the coronavirus pandemic, offers a solution.

The 2020 election opened a new gateway to mail-in voting in America to avoid the spread of COVID-19. However, mail-in voting has already been a centerpiece of voting for years in forty countries throughout Europe and North America as well as countries in the Asia-Pacific region, such as India, Indonesia, South Korea and Sri Lanka.¹⁴⁴ It has also been commonplace in select

¹⁴³ Shineman, Victoria. “Analysis | Would Turnout Go up If We Didn't Have to Vote on a Workday?” The Washington Post. WP Company, November 6, 2018. <https://www.washingtonpost.com/news/monkey-cage/wp/2018/11/06/why-is-election-day-always-a-tuesday-7-things-you-should-know-about-the-timing-of-u-s-voting/>.

¹⁴⁴ Schumacher, Shannon, and Aidan Connaughton. “From Voter Registration to Mail-in Ballots, How Do Countries around the World Run Their Elections?” Pew Research Center. Pew Research Center, November

states in America, rendering high voter satisfaction and smoothly run elections. Under mail-in voting, states can also track ballots in transit to ensure all votes are counted. The Brennan Center for Justice describes the process:

“Much like a FedEx package, the ballot comes with a barcode that allows election officials and voters to track where the ballot is throughout the process. Most people who vote this way, however, do not send in ballots by mail. Instead, they drop them off at secure government offices or other locations. According to MIT’s election lab, in 2016: 73% of voters in Colorado, 59% in Oregon and 65% in Washington returned their ballots to some physical location such as a drop box or local election office. Even among those who returned their ballots by mail in these states, 47% dropped off their ballot at a U.S. Post Office or neighborhood mailbox rather than having their own postal worker pick it up at home.”¹⁴⁵

Those who oppose mail-in voting often cite fraud as the top concern with mail-in voting. Much like the claim that the Electoral College prevents fraud, there is no evidence for this concern. Ample measures have successfully prevented fraud in places that already use mail-in voting. For example, the ballot envelope itself can be designed to prevent fraud. Voters have to sign the envelope, and that signature can be compared to the one that’s already on file for the voter. Ballot drop boxes are made more secure with cameras or other security measures which are still far less expensive than in-person voting. Furthermore, post-election audits can identify any irregularities that may remain. The practice has already proven successful. In 2018, a congressional election in North Carolina was marred by absentee ballot misconduct by a Republican political operative, necessitating a revote. That misconduct was caught by a state post-election investigation.¹⁴⁶

Mail-in voting can serve as a broader solution to civic disengagement even in a post-pandemic world. Widespread mail-in voting provides easy ballot access for those with

13, 2020. <https://www.pewresearch.org/fact-tank/2020/10/30/from-voter-registration-to-mail-in-ballots-how-do-countries-around-the-world-run-their-elections/>.

¹⁴⁵ “Why a Vote-by-Mail Option Is Necessary.” Brennan Center for Justice, April 5, 2021.

<https://www.brennancenter.org/our-work/research-reports/why-vote-mail-option-necessary>.

¹⁴⁶ “Why a Vote...” “Brennan Center. ...

responsibilities that make getting to the polls difficult. This is a simple step to ensure that anyone who has the right to vote can exercise that right as simply and safely as possible. This shouldn't be a partisan issue but a patriotic duty. Voting by mail is just one step among many to accomplish that goal.

Under an Automatic Voter Registration system (AVR), eligible voters are automatically registered to vote whenever they interact with government agencies; it is an innovative policy that streamlines the way Americans register to vote and has been proven to increase voting rates significantly. AVR makes voter registration “opt-out” instead of “opt-in;” eligible citizens who interact with government agencies are registered to vote or have their existing registration information updated, unless they affirmatively decline. Then, those agencies transfer voter registration information electronically to election officials instead of using paper registration forms. This common-sense reform increases registration rates, cleans up voter rolls, and saves states money. The policy keeps voter rolls more accurate by creating a constant stream of updates between registration agencies and election officials and by reducing the odds of mistakes caused by processing paper registration forms by hand. Cleaner rolls reduce errors that cause delays on Election Day and prevent eligible voters from casting regular ballots. AVR also lowers costs: for example, the transition to electronic transfer allows states to save money on printing, mailing, and data entry.¹⁴⁷

Currently, nineteen states and D.C. have approved the policy, meaning that over a third of Americans live in a jurisdiction that has either passed or implemented AVR. Since Oregon became the first state in the nation to implement AVR in 2016, Oregon voter registration rates quadrupled

¹⁴⁷ “Automatic Voter Registration, a Summary.” Brennan Center for Justice. Accessed May 5, 2021.
<https://www.brennancenter.org/our-work/research-reports/automatic-voter-registration-summary>.

at DMV offices. In the first six months after AVR was implemented in Vermont on New Year's Day 2017, registration rates jumped 62 percent when compared to the first half of 2016. Since the implementation of AVR, the following states have seen the following increases in voter registrations:

Georgia: 93.7%	California: 26.8%
Vermont: 60.2%	Colorado: 16.0%
Rhode Island: 47.4%	Oregon: 15.9%
Alaska: 33.7%	Washington, D.C.: 9.4% ¹⁴⁸

Currently, registration stands as a significant obstacle to ballot access for millions of Americans. AVR offers a solution to this problem via open access to the franchise. At a time when many states have enacted restrictive voting laws and voter turnout has hit record lows, AVR is effective, democratic, and necessary.

Felon disenfranchisement is generally a controversial subject, but I see little legitimate justification for the subversion of felon votes. Felons have already served their punishments for breaking rules established by the government, and voting rights should be returned as they re-enter society. Like Puerto Ricans, when felons have no say in the election of their president, they are forced to abide by the rules of a government they did not consent to, violating a key pillar of the Constitution. Felon disenfranchisement cannot be justified as a measure to protect citizens because there is no proof that it does so. What is left to disenfranchisement's name is degraded democracy and improper, lifelong punishment. In a nation of the people, by the people, and for the people, voting should be a fundamental right, not a privilege.

¹⁴⁸ "Automatic Voter Registration Works Everywhere It's Been Implemented." Brennan Center for Justice. Accessed May 5, 2021. <https://www.brennancenter.org/our-work/analysis-opinion/automatic-voter-registration-works-everywhere-its-been-implemented>.

The Electoral College is not the only American institution related to voting that maintains the Three-Fifths legacy: felon disenfranchisement functions the same way. People of color, specifically Black people, are far more likely to lose their right to vote for crimes that often do not have long term effects on their white counterparts. An obvious example to cite is the vast disparity in marijuana arrests. As cannabis becomes legalized in many states, Black people are still being arrested and losing their rights for this minor felony.

A 2021 analysis of marijuana-related arrests in 2020 in New York City's five boroughs reported that people of color comprised 94 percent of those arrested by NYPD in 2020.¹⁴⁹ Nationally, a 2020 analysis by the American Civil Liberties Union concluded that Black people are 3.64 times more likely than white people to be arrested for marijuana possession, notwithstanding comparable usage rates. In every single state, Black people were more likely to be arrested for marijuana possession: in some states, up to six, eight, or ten times more likely to be arrested. In 31 states, racial disparities were actually larger in 2018 than they were in 2010.” Meanwhile, there is little to no difference in marijuana use by race.¹⁵⁰ These numbers remain consistent across various types of crimes. Thus, although Black and white people use marijuana at similar rates, Black people are far more likely to be arrested and lose their voting rights over it. The issue of arrest disparity by race is separate, but in terms of democratic equality, American needs to put effort into undoing this racist legacy instead of enforcing a system that actively maintains it. Likewise, prison populations are counted as part of the population when calculating how many Electoral Votes each state should get, but prisoners still cannot vote in many places.

¹⁴⁹ “Racial Disparity In Marijuana Arrests.” NORML, March 24, 2021. <https://norml.org/marijuana/factsheets/racial-disparity-in-marijuana-arrests/>.

¹⁵⁰ Dews, Fred. “Charts of the Week: Marijuana Use by Race, Islamist Rule in Middle East, Climate Adaptation Savings.” Brookings. Brookings, August 11, 2017. <https://www.brookings.edu/blog/brookings-now/2017/08/11/charts-of-the-week-marijuana-use-by-race/>.

This precisely mimics the Three Fifths compromise under a modern pretext, especially since prison populations are roughly 65 percent people of color despite making up approximately 24 percent of the population.¹⁵¹

Despite considerable reforms at the state level in the past 25 years, 5.2 million Americans remain disenfranchised, or 2.3 percent of the voting age population.¹⁵² Maine, Vermont, and Washington D.C. already serve as strong models of states where felons do not lose their right to vote. In the nineteen states where formerly imprisoned people can vote, felons have to jump through additional hoops to re-register, thus discouraging them from participating in the democratic process. This must be amended. To incite universal suffrage, The United States should join Canada, Czech Republic, Denmark, Finland, Ireland, Iran, Israel, Kenya, Laos, Latvia, Lithuania, Macedonia, Montenegro, Pakistan, Serbia, Spain, Sweden, Switzerland, Ukraine and Zimbabwe in enfranchising both former prisoners.¹⁵³ If a democratic government is to be of, by, and for the people, then its punishment policies should reflect this instead of dictating who can participate in elections. This is just another measure America can take to ensure elections are free and fair.

¹⁵¹ Nellis, Ashley. "The Color of Justice: Racial and Ethnic Disparity in State Prisons." The Sentencing Project, January 10, 2019. <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

¹⁵² Uggen, Chris. "Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction." The Sentencing Project, November 2, 2020. <https://www.sentencingproject.org/publications/locked-out-2020-estimates-of-people-denied-voting-rights-due-to-a-felony-conviction/>.

¹⁵³ Miles, Thomas J. "Felon Disenfranchisement and Voter Turnout." The Journal of Legal Studies, January 1, 2004. <https://www.journals.uchicago.edu/doi/abs/10.1086/381290?journalCode=jls>.

The United States is a charter member to the United Nations and one of five permanent members on the UN Security Council. Article 21 of the Universal Declaration of Human Rights, put forth by the UN, reads as follows:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.¹⁵⁴

The Electoral College falls short: the will of the people is *not* the basis of authority in the U.S. government. Elections cannot be genuine when certain votes are prized above others. There is no universal suffrage. The solution I put forward will only bring us to these very rudimentary standards that we have an obligation to abide by. Implementation is long overdue.

America cannot defensibly deprive anyone it arbitrarily deems irresponsible when electing the president, lest it continue to delegitimize its own democracy. The state has deemed Americans capable of making important decisions by giving them countless obligations, and those capabilities should transfer to civic responsibility. Likewise, while extreme views are unlikely to prevail if we take the necessary steps that the NPVIC and RCV implore us to do, healthy democracy requires a diversity of opinion. A democratic state cannot choose its voters, whether inadvertently or by chance. This principle fundamentally ranks people based on supposed democratic value. By preventing mentally capable citizens from self-governing, we create an underclass of semi-citizens who do not enjoy the full benefits of membership in the polity. The same principle that I have spent much of my thesis trying to refute, that people need to be responsible for electing their

¹⁵⁴ “Universal Declaration of Human Rights.” United Nations. United Nations. Accessed May 5, 2021. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

leaders, applies here. While these solutions are all politically difficult to implement, the first step to fixing a problem is admitting we have one.

Part 3: Conclusion

The goal of this thesis has been to critique the current Presidential electoral system and show what an alternative could potentially look like and mean for the American people. In discussing each of these arguments in favor of the Electoral College individually, I conveyed how a lack critique can lead to unfair assumptions that disadvantage the whole nation. To reiterate: Article II, Section 1 of the Constitution, which designates the Electoral College, is a Constitutional tragedy. The founders drafted the document with the best intentions for our nation, but as society progresses, the document has been unable to achieve many of its original goals. Likewise, while these intentions may be what the founders saw as “best,” we are now experiencing part of the impacts of a mostly slave-holding wealthy elite with disdain for common laborers and an ill-placed confidence in democracy.

I profusely agree with many of the principles that inspired the founders to establish the Electoral College, including maintaining integrity in the role of President, retaining state sovereignty, upholding democratic legitimacy, and finding a compromise candidate. I leveraged these arguments in my thesis because I believe they are morally sound; however, I often find myself in an uncomfortable position when I am agreeing with slave owning oligarchs who created a deliberately elitist, racist, and inefficient system. I see no obligation to be bound to a document that has consistently failed by modern standards and primarily serves as a domineering relic of the past. I worry that we often ask too often, “what would the founders think?” Meanwhile, if we were able to ask them, we would spend far too long explaining the modern context before we could even begin to ask them these questions. The seventeenth century English Philosopher, John Stuart Mills, makes the case in his essay *On Liberty*, “Human nature is not a machine to be built after a model

and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing.”¹⁵⁵

To provide an analogy: one of the founding fathers, Benjamin Franklin, is often credited with contributing to discovering modern electricity by flying a kite during a lightning storm because he saw many similarities between electricity and lightning. This was a tremendous feat in its time, but I certainly would not trust Franklin to conduct a minor electrical operation in my house today, or even change a lightbulb. Expectations change and we as a human race are constantly evolving. If our government, an institution that we thought of and built ourselves cannot live up to the standards that we set for it, what is the point in having a governing body at all? The originalism espoused by the authors I critique will only serve to keep us in a past we have evolved well beyond. As Mills argues, “savages” need time to develop into “citizens:” when people are not yet ready for democracy, society must school them until they are eventually able to.¹⁵⁶ Nearly 250 years after the United States became a country, society has transformed entirely. Is it not time we allow the citizen to enter the role of democratic citizen?

Yet, it is still difficult to argue for true democracy when educational disparities in this country are so vast. According to the U.S. Department of Education, currently 54 percent of U.S. adults 16-74 years old, or about 130 million people, lack proficiency in literacy, reading below the equivalent of a sixth-grade level.¹⁵⁷ Because I believe in pragmatism in implementing democracy, I understand the gut instinct to prevent uneducated people from voting. However, the nation state

¹⁵⁵ Mills, John Stuart. “On Liberty.” The Project Gutenberg eBook of On Liberty, by John Stuart Mill. Accessed May 5, 2021. <https://gutenberg.org/files/34901/34901-h/34901-h.htm>.

¹⁵⁶ Mills, John Stuart. “On Liberty.” ...

¹⁵⁷ Nietzel, Michael T. “Low Literacy Levels Among U.S. Adults Could Be Costing The Economy \$2.2 Trillion A Year.” *Forbes*. *Forbes Magazine*, September 9, 2020. <https://www.forbes.com/sites/michaelt Nietzel/2020/09/09/low-literacy-levels-among-us-adults-could-be-costing-the-economy-22-trillion-a-year/?sh=361e4c144c90>.

should not prevent these people from voting all together, thereby excluding them from the major decisions that govern their lives; instead, the nation must educate them. These divides are not natural: they are products of a system we artificially constructed and can personally deconstruct. We need materialist first steps and basic, universal societal conditions should be met before we can implement a popular vote. Money needs to be invested into closing the vast educational gap this country faces.

Due in part to this gap, my biggest concern with the immediate or any implementation of a popular vote is what critical theorists Theodor Adorno and Max Horkheimer refer to as the culture industry. This is the equivalent of mass media: while it already plagues our nation, I fear America's propaganda problem would only worsen if there were legitimate democracy. "The culture industry is not the art of the consumer but rather the projection of the will of those in control onto their victims. The automatic self-reproduction of the status quo in its established forms is itself an expression of domination,"¹⁵⁸ they describe. Thus, awarding all individuals with a vote is conducive to a sort of monotony of opinions. The culture industry holds an incredible and vast power to infiltrate any given individual's judgements and perceptions. Because the nation is rich with diverse opinions and life experience, this monotony is a blatant untruth propagated by the media.

The argument that the Electoral College is good for rural areas exemplifies the media's outweighed influence. "Rural communities deserve someone fighting for them," argues one article featured in the conservative dominated site, Fox News.¹⁵⁹ The use of phrases like "fighting for

¹⁵⁸ Adorno, Theodor W., and Horkheimer Max. *Culture Industry: Selected Essays on Mass Culture*. Routledge, 2015.

¹⁵⁹ Turner, Daniel. "Electoral College Is Needed – It Ensures All Parts of US Are Represented in White House." Fox News. FOX News Network, March 20, 2019. <https://www.foxnews.com/opinion/electoral-college-is-needed-it-ensures-all-parts-of-us-are-represented-in-white-house>.

them” intends to draw an emotional reaction from the viewer and draw their support for the cause, but as I have established, it simply is not true. Republicans will continue to try to keep winning elections with the understanding that their strength lies in rural areas; the Electoral College gives a few more rural states elevated, undemocratic influence. I worry echo chambers like this already amplify the binary political system, serving to further divide the nation and propagandize the average American. While some will inevitably be seduced by conspiracies, elevating the standard for education in America will certainly help diminish this worry. Then, the blind trust in humanity a popular vote requires would be far less blind.

That being said, no matter how much education a person gets, they will still often make decisions others consider “wrong.” For example, Allen Guelzo currently teaches at Princeton, one of the top universities in the country, and in 2020, he wrote a slew of opinion editorials in Trump’s defense.¹⁶⁰ I disagree with this decision from a moral standpoint. Yet, this example conveys that despite how frustrating existing in society can be, there can never be any sort of uniformity of opinion, especially in a country as big as America.

Accordingly, it is still difficult to make this case when there is no definitive principle of what becoming educated means, or what it means to make a “good” decision.” Power is arbitrary: any individual can stand up and argue that they should be in control of societal decisions because they are the smartest, the strongest, the loudest, etc. This is exactly what the founders did. With that, the best way we can legitimize authority is via consent of the governed. Coexisting in a nation, or any society for that matter, requires a reliance on the other people in and faith in humanity. The idea of trusting on their fellow countrymen, not just those within the walls of the Pennsylvania

160 Guelzo, Allen. “Jackson and Wilson Had Nothing on Trump in an Epidemic.” SCNow, The Heritage Foundation, 10 June 2020, scnow.com/opinion/columns/allen-guelzo-jackson-and-wilson-had-nothing-on-trump-in-an-epidemic/article_3b105628-8fcd-55d2-809a-5ca61196c912.html.

State House while writing the Constitution, is exactly what terrified the founders. They attempted to craft a system that would thwart democratic principles and the documents they created implicitly put them in power over others. The prescription for power I see as the most valid is the one Mills describes: “The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”¹⁶¹ When the authority figure can no longer do this, the people should take over.

In fact, this same principle is noted in the Declaration of Independence:

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.”¹⁶²

It is ironic how the framers wrote both this document, and the Constitution, which actively suppresses many of the basic standards outlined here. Likewise, this framing is very pro-democracy: it requires consent of the governed and the people’s right to revolt when the government no longer works in their favor. When such vast democratic disparities exist between intention and impact and the safety and happiness of the general populace is being seriously undermined, perhaps it is time we take action.

The Electoral College is perhaps the most glaring example of a much greater systemic issue: public policy and public opinion often fail to align. The general population has recently become critically aware of the inequities in Presidential elections because they resulted in the rise

¹⁶¹ Mills, John Stuart. “On Liberty.” ...

¹⁶² “Declaration of Independence, July 4, 1776.” The Avalon Project - Documents in Law, History and Diplomacy. Yale Law School, Lillian Goldman Law Library. Accessed May 5, 2021. https://avalon.law.yale.edu/18th_century/declare.asp.

of Trump which drastically altered at least the current political trajectory. However, the same vast, autocratic disparities exist in the House of Representatives where gerrymandering dismantles democracy. Furthermore, in terms of vote inequity, the Senate is even less equitable than the Electoral College. Currently, five of the nine Supreme Court Justices, unelected, lifetime appointees, were appointed by a President who did not win the popular vote.¹⁶³

This conflict of the word “better” has been the most difficult part of writing this thesis. Terms like “better,” “just,” and “freedom” have been co-opted far beyond any universal meaning to mean something unique to the individual. There is no such thing as a universal truth or nature, and this is essentially the heart of the problem of living under democracy or coexisting among other people at all. Democracy implicitly means a lack of any common measure or general consensus. Antidemocratic institutions like the Electoral College only exist to suppress basic human desires which should be the ground for governance and carve back the notion of individuality. There will never be a governing institution that satisfies every individual’s ideal of “better,” but we should work to implement a system that will allow a majority of people to control the decisions being made on their behalf.

To me, “better” means the alleviation of as much pain and suffering as possible. I would hope this definition is universal, but since I am only one voice among a human population of seven billion, I understand this is not what “better” means to everyone. I can only hope that a majority of people agree with me, and to that, we should be able to help one another reach a future that allows as many people to thrive and prosper as possible. Fundamentally altering our institutions to more closely adhere to the majority of peoples’ conceptions of better is an exceptional first step to

¹⁶³ “Current Members.” Home - Supreme Court of the United States. Accessed May 5, 2021.
<https://www.supremecourt.gov/about/biographies.aspx>.

edging towards this future. Understanding a problem is the first step to solving a problem; I hope to have provided the explanation.

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<https://www.reuters.com/article/uk-factcheck-courts-election/fact-check-courts-have-dismissed-multiple-lawsuits-of-alleged-electoral-fraud-presented-by-trump-campaign-idUSKBN2AF1G1>.
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https://avalon.law.yale.edu/18th_century/debates_630.asp.
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