

Electoral College in Question¹

America's founding fathers adopted a system for choosing the president called the Electoral College (EC), in which each state chooses electors sent to a convention to elect the president on behalf of their state. The Constitution does not demand that the winner of the popular vote in a state receive all of that state's electors; however, this has traditionally been the manner in which electors are awarded (though a minority of states do apportion their electors based upon the percent of the popular vote won by a candidate). The EC has been criticized by many in recent decades, especially after George W. Bush and Donald J. Trump won the presidency despite losing the national popular vote.²

Proponents of the EC argue that it is necessary to ensure that the electorate does not vote into office someone who is unqualified. For instance, in *Federalist No. 68*, Alexander Hamilton writes, "The immediate election should be made by men most capable of analyzing the qualities adapted to the station... A small number of persons, selected by their fellow citizens from the general mass, will be most likely to possess the information and discernment requisite to such complicated investigations."³ In addition, proponents argue that the EC guarantees that larger states are not able to exercise tyranny over smaller, less populous states. The EC, these proponents claim, is the only way to ensure that the interests of larger states are not overrepresented in the presidential election.

Some opponents of the EC, on the other hand, argue that its origins undermine its present-day justification. In particular, constitutional law scholar Akhil Amar has argued that slavery—not the avoidance of tyranny—was the *raison d'être* of the EC.⁴ And because the point of the EC was to ensure the continued oppression of African American slaves, he argues, we should dismantle the institution today. Other opponents of the EC argue that the effect of the EC is not equal representation of the interests of small and large states in presidential elections but rather an overrepresentation of the interests of small states.⁵ For instance, a vote in Wyoming is worth 3.6 times more than a vote in California, which some argue violates the principle of equal protection under the law.⁶

STUDY QUESTIONS

1. What is the value of an informed electorate? Should we have protections in place to ensure that an uninformed (or misinformed) electorate doesn't exercise too much political power through voting?
2. If some institution has morally troubling origins, does that fact affect whether the institution is morally justified today?
3. Should all votes count equally in a presidential election?

¹ This case is inspired by one in the Intercollegiate Ethics Bowl 2017 Regional Case Set. Thank you to the IEB! Please visit <http://appe-ethics.org/ethics-bowl/> for more information.

² <http://www.pewresearch.org/facttank/2016/12/20/why-electoral-college-landslides-are-easier-to-win-than-popular-vote-ones/>

³ http://avalon.law.yale.edu/18th_century/fed68.asp

⁴ <http://time.com/4558510/electoral-college-history-slavery/>

⁵ <https://www.nytimes.com/2016/11/21/upshot/as-american-as-apple-pie-the-rural-votes-disproportionate-slice-of-power.html>

⁶ http://www.huffingtonpost.com/leon-friedman/is-the-electoralcollege-b_13079652.html

