

THE ELECTORAL COLLEGE'S IMPACT ON PRESIDENTIAL MANDATES AND AGENDAS

BILAL YOUSUF AHMED

* ABSTRACT

The Electoral College is the method used in every four years to elect the President of the United States. Given that the Electoral College gives the power to elect the president to state-casted votes, the system has in recent years become a source of growing controversy given how two presidents, George Bush in 2000 and Donald Trump in 2016, without winning the national popular vote. These elections and the public discourse around them have brought new life to the purpose and impacts of the Electoral College.

This paper uses key presidential elections, including those of John Quincy Adams, Andrew Jackson, Benjamin Harrison, Woodrow Wilson, Donald Trump, and Joe Biden, give insight on how the Electoral College should now be understood. In particular, this paper examines the implications of the Electoral College on one fundamental question: Does election to the presidency via the Electoral College route fundamentally affect the ability of a president to govern effectively?

Examining these elections, the context around and impact after these elections, and modern United States political history shows that when the Electoral College is *not* an extraordinary or exceptionally notable part of an election cycle, the Electoral College does not fundamentally affect the president's ability to command public and political support required to effectively govern. However, when the Electoral College *does* become a point of focus during a presidential election and in the beginning of a president's term, it has wide-ranging

impacts. In particular, the College can shape the political and public mandate the president has to lead, shaping their overall agenda for their time in office; cause biases to arise towards certain states and conservative politics; and undermine their ability to serve as a unifying figure. With each modern election having an increased focus on the Electoral College, the system is likely to cause increased polarization and tension with each passing election if serious reforms are not undertaken.

1 THE ELECTORAL COLLEGE

The ideals of the Electoral College are high-minded and illustrative of the hopes the Founding Fathers had for American democracy. As originally created, the ideal elector in the Electoral College would be a "noble, non-partisan person who, in company with his fellow electors in his state, would perform the high political function of choosing a president and vice-president" (Dixon 1950). It was meant to be a system above politics, allowing those with the competencies and capabilities required of the presidency to rise to the top.

This is no longer how the Electoral College functions. With the trend of states selecting electors on the basis of a popular vote starting almost immediately after the first presidential election, presidential elections became far more politicized, contentious, and dramatic than expected by the Founding Fathers. Partisans and politicians now had to (mis)use the system in order to get their person of choice into the highest office in the land. High ideals of politicians above politics devolved into patronage and factional candidacies. The ultimate result was that, despite the original intent of the Electoral College, the system was now a major part of politics in America. Those running for president not only had to be popular among the Electoral College electors: they had to win a popular mandate, gain the support of certain states, and ensure their coalitions were maintained for their reelection bids. The politicalization of the College has evolved to where it influences how the public and political actors perceive the victory and mandate of the president, how the president frames their agenda, and how the president can use the tools of their office.



2 CONSTITUTIONAL BACKGROUND AND IMPLEMENTATION

The general structure of the Electoral College is relatively simple. As stated in Article II Section 1 of the Constitution, “[e]ach State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives” given to the state (Art. II § 1, United States Constitution 1787 rev. 1992). This is clear enough -- it is not meant to be a direct election, with there being a clear separation between the election of the presidency and the electorate itself. This separation is made even clearer when noting that each elector was required to “vote by Ballot for two Persons”, meaning that each elector had to publicly vote for two people they felt would be fit for the presidency (Art. II § 1, United States Constitution 1787 rev. 1992). Further, prior to the 12th Amendment, there were not separate elections for the president and vice president. The system in place was such that “after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President” (Art. II § 1, United States Constitution 1787 rev. 1992; superseded by 12th Amendment on 15 June 1804). And as a final separation, the Electoral College -- meeting to elect the highest *federal* office -- would only “meet in their respective *States*”, not at a form or type of national convention (Art. II § 1, United States Constitution 1787 rev. 1992, emphasis added).

Why does the original structure of the Electoral College matter in the context of our question? Before we can address whether the Electoral College *does* affect the ability to govern based on their public and political support, we must answer if it was *meant* to. What type of structure were the Founding Fathers attempting to create? Presidential scholars Sidney Milkis, a professor of politics at the University of Virginia, and Michael Nelson, a professor at Rhodes College, note that this structure “prevent[ed] a cabal from forming in the Electoral College”, meaning it would be nearly impossible for a

national campaign for a single president to be waged (Milkis & Nelson 63). It was also a matter of practicality. Having a system that required “voters to pass judgment on candidates from distant states of whom they knew little or nothing” seemed “impractical”; having an intermediate body seemed more reasonable at the time (Milkis & Nelson 61). Having the Electoral College also meant that the “executive powers and patronage” would not have to be used by the president to secure their reelection (Milkis & Nelson 62).

Regardless of their intentions, the Founding Fathers left the United States a novel system that (at the time) had compelling positives and negatives. Separation as a virtue resonates throughout the structure: separation from Congress, separation from patronage, separation from the people, separation from party politics. Despite arguments that might be posited by those in favor of the Electoral College, arguments that say the Electoral College was the Founding Father’s attempts at “fixing” politics miss the point of the College itself. The question of whether the Electoral College affects the president’s ability to govern is inherently framed from the view that the president, through constitutional and governmental processes, will be forced to engage with politics in a meaningful way. On the contrary, the Electoral College was made to avoid the president from dealing with petty politics altogether. The Founding Fathers did not foresee concepts of mandates, of election legitimacy, and of political respect. To put it simply: even though the Electoral College has different implications regarding the ability of a president to govern, *it was not meant to*. The system we are left to analyze therefore is one that was meant to be a-political but was instead forced into the heart of politics. The Electoral College was supposed to be a collage of different facets of various systems -- an attempt at creating an election system that would insulate the president from political concerns and allow them to remain focused on what was in the best interest of the nation. Analyzing the impact of the Electoral College on a president’s mandate and agenda shows how effective the Founding Fathers were in creating a system where this type of leader would rise, as well as how

the College system they created has led to unintended negative effects.

3 IMPACT ON A PRESIDENT'S MANDATE TO LEAD

A president's mandate, or political and public support necessary to govern, can be deeply connected to their election. In a 2013 paper for *Social Science History*, Julia Azari discusses how presidents-elect may frame their mandates to lead. She does so by grouping mandates into three types. The first type of framing is based on "directness of representation", which holds that "presidential legitimacy comes from the (imagined) relationship with the entire electorate". In other words, the president's mandate comes from the general voting population itself. Having won the people's support during the election, they have a mandate by default. The second is based on the "threshold of [the] election result". Unlike the first type, which focuses purely on whether or not they retain the support of a majority of the electorate, the second type of mandate focuses on scale. That is, the larger the landslide, the larger the mandate. The final mandate type takes the form of a "policy clarity", emphasizing the campaign's platform and how the president's "legitimacy as a political actor" comes from the "clarity of promises" and the president's ambition to work on behalf of the electorate (Azari 2013). The president, in this third type of mandate, must continue to act on behalf of those who voted for him or her in order to retain legitimacy as the chief executive. The Electoral College complicates the usage of each of these models for mandate claims. The perfect case studies to examine this phenomenon would be the elections of John Quincy Adams and Donald Trump. Milkis and Nelson argue that Adams was "severely constrained by the general view that he was a minority president", having been elected by the House of Representatives rather than the Electoral College in what became known as the "Corrupt Bargain" (Milkis & Nelson 188). Jackson would use this framing of Adams' elections to stay a dominant figure in national politics. By 1828, Jackson was us-

ing anger against Adams' victory to claim that Jackson, unlike "minority president" Adams, was the "immediate and direct representative of the people" that were deprived of a fair election in 1824 (Dahl 1990). Later on, Jackson used his victory to rebut much of what Adams had supported or protected. Jackson attacked the Bank of the United States, for instance, arguing that his veto was "justified [as] a defense of his or his party's policies", thus utilizing all three of the mandate types that Azari presents. He became a thorn in the side for John Quincy Adams for four years on the basis that the Electoral College *should* have made Jackson president, but instead remained deadlocked and tossed the election to the House of Representatives. He rode this resentment to the White House in 1828.

This is a clear example of both the directness of representation argument and the threshold of election argument. Jackson and many of his supporters saw Adams as illegitimate, as to them it was clear the Electoral College and popular vote pluralities had made Jackson the true representative of the people. With such a convoluted path to victory, Adams was also attacked using the threshold argument: with no clear *electoral* mandate, Adams had no mandate to *lead*. Jackson's own presidency was dominated by his claim to be a legitimate political actor, allowing him to take dramatic actions on the basis that he had "something like a popular ratification" as the "direct representative of the American people" (Dahl 1990).

For Jackson and Adams, the extent to which they were able to exercise the powers of their office was absolutely connected to the manner in which they each achieved (or were denied) victory. Yet, Robert Dahl argues that Jackson's "myth of the presidential mandate" began "as a result of his defeat in 1824 in both the electoral college and the House of Representatives" (Dahl 1990). For nearly all previous elections, the margin of victory in the Electoral College was not of concern since, as discussed when looking at the origins of the College, it was a system meant to improve "the chances of electing a *national* figure who would enjoy majority support" (Dahl 1990, emphasis added). And since the Elec-

toral College was never of concern, it never impacted the ability of presidents to govern. The one exception -- the election of 1800 -- broke the system to the point where it required a constitutional amendment. Jackson's victory in the Electoral College shattered the notion of national figures with wide-ranging appeal: factional candidates, that could win the Electoral College if not the support of the majority of people, could now argue they were legitimate political actors by having an inflated Electoral College victory. Jack Riggs and Gerald Hobbs of West Virginia University, as well as Todd Riggs of the United States Military Academy, labelled this the "Electoral College winner's advantage" (Hobbs *et al.* 2009). Through simulating Electoral College outcomes, they discovered that "the Electoral College magnifies the perception of the winner's margin of victory", while complicating how the victory itself is understood. Such complications are clear with Adams and Jackson. By having the Electoral College be the focus of the 1824 election, it was difficult to understand the extent to which Adams could lead as a legitimate political actor. Similarly, with Jackson's 1828 victory, his claims to be a legitimate actor -- allowing him to exercise unprecedented executive power -- were based on how he believed to be a direct representative of the people. An inflated victory in the Electoral College compared to his popular vote certainly did not hurt his claim.

Such as it is with Donald Trump. With such a slim victory in the Electoral College, complicated by his defeat in the popular vote, Trump was struggling to argue for any three types of mandates that Azari presented. An analysis published by *The Washington Post* within days of Clinton's 2016 defeat argued that Trump would have had "[more] political time and an easier time pursuing [his] agenda" if his victory had translated to a more comprehensive mandate (Blake 2016). Discussion after the 2016 election placed extraordinary emphasis on how the Electoral College had made understanding Trump's mandate so much more complicated, just as how it had hurt Adams in his victory. His popular vote victory was the easiest argument against his ability to govern as a popular president: Aaron Blake for the *Post*, echoing a common sentiment at the time, held

that "popular appeal does matter when it comes to how presidents can govern" (Blake 2016). With such a thin margin, one could make the argument that Trump had little to no mandate. This would be in line with Azari's threshold of election version of presidential mandate.

The Electoral College, though, tosses in two problems when applying Azari's threshold of election mandate type to the Trump victory. The first is that Trump's Electoral College victory was still relatively notable. Though Trump may not have received the massive victories of some other modern presidents, his 56.5% of the Electoral College was still a larger victory than numerous other post-Second World War presidents, including Kennedy's 56.4% of the College in 1960, Nixon's 55.9% in 1968, Carters' 55.2% in 1976, Bush Jr.'s 50.4% in 2000, and Bush Jr.'s 53.2% in 2004. (Peters 2020). This College victory was bolstered by how he had swung the "Blue Belt" -- Michigan, Wisconsin, and Pennsylvania. If framed in this way, Trump would actually have a real claim to being elected as a president who, if factional, was at least fighting on behalf of a silent or underrepresented part of America's working class. This would not be too dissimilar from Jackson's presentation of himself in the 1824 and 1828 elections. Even *this* framing, however, is again complicated by the Electoral College. After all, those "Blue Belt" state victories were themselves demonstrative of the "inflation" that the College tends towards. Only 100,000 votes spread across three states gave Trump 46 electoral votes, making Trump's Electoral College victory disconnected from the actual support he received from the national popular vote. What Trump's victory makes clear is that the impact on the Electoral College does not come from an inherent aspect of the system. Instead, it comes from how it made the entire process so convoluted to the point where a president's mandate may be unclear, exaggerated, or deflated.

With Adams and Trump, their claim to governing mandates were not *founded* in their Electoral College victories -- they were *complicated* by their Electoral College. Adams had a difficult time com-

batting Jacksonian Democrats in the four years following the Corrupt Bargain, setting up for Jackson's victory in 1828. Trump was plagued with claims he was barely president, with his few policy successes coming "thanks to the GOP's congressional majorities" (Blake 2016). An election where the Electoral College is of notable contention will at the least make it difficult to form a coalition. At the worst, it will make the elected president seem illegitimate as a force in national politics.

4 BIAS TOWARDS STATES AND CONSERVATIVE AGENDA-SETTING

Adams and Trump were embroiled in battles for a mandate after their elections were entangled in the complexities of the Electoral College. Regardless, they still became presidents; they still wielded constitutional and political power. How did their complicated victories impact their policies, as well as the policies of presidents who found themselves in similar situations? Professors Bernard Grofman of the University of California, Irvine and Scott Feld of Purdue University, writing in *Public Choice* in 2005, found that "the Electoral College focuses candidate attention only on the relative handful of potentially competitive states", thus "unduly rais[ing] the importance of issues that are of concern to voters in competitive states" (Grofman & Feld 2005). Coupled with complicating a president's mandate, the power the Electoral College has on shaping a president's governing agenda cannot be understated. Since the election is based on states rather than individual votes, many political scientists, such as Joseph Kallenbach of the University of Michigan, have noted that the system potentially violates the concept of one person, one vote and a potential form of gerrymandering to give certain states and electoral districts more influence than other states regardless of the size of their population. The Electoral College's tendency to "distort the values of individual popular votes in much the same way that legislative district gerrymanders do" putting the ability of the College to accurately represent the people's overall will at risk (Kallenbach 1960). Combining the arguments of Grofman, Feld,

and Kallenbach leads to two disturbing conclusions: The first conclusion is that the Electoral College forces presidential candidates to look at particular states rather than the popular will of the people. The second conclusion is derived from the first. Combining the emphasis on particular states with how Democrats and Republicans are not evenly distributed (with Democrats tending to be in dense locations, and Republicans being in less dense areas) creates a form of de facto quasi-gerrymandering. Democratic voters will tend to have their votes underrepresented, while Republicans will have the impact of their votes inflated through this type of "gerrymandering".

Presidential policies, when formed in the face of narrow or indecisive Electoral College victories, are founded in these two conclusions. Those that were elected by narrow margins in the College after an election, or those that assume they will face narrow margins in the College during an election, will take two actions. The first is that, in line with Grofman and Feld, they will focus on particular states. The second is that, in line with Kallenbach, they will tend towards being more conservative in their policies and actions. Benjamin Harrison showed how this focus on particular states will sway a presidential agenda. Winning a narrow majority in the Electoral College while losing the popular vote, Harrison aggressively pursued policies that favored the Northern and Western states that voted for him. Harrison, for instance, signed "the Sherman Anti-trust Act; the McKinley Tariff Act... and the Land Revision Act of 1891", all of which were well-received by his core voter base. He touted, in particular, his support of the McKinley Tariff since it gave him support in the North and West, even if it alienated Southern voters (Calebresi & Yoo 2008). He was making it such that states which looked favorably on conservation and reasonable regulation on industry -- New York, Indiana, California, and the like -- would continue to vote for him. All the same, he recognized that he lacked a compelling presidential mandate. While he may not have "permit[ed] any encroachment on his overall presidential power" by serving "absolutely [as] the head of his administration", in matters with Congress, "Harrison cheerfully

submitted to being practically a figurehead" (Calabresi & Yoo 2008; Milkis & Nelson 316).

Though the dust is still settling, we might be so bold as to analyze President-elect Joe Biden's campaign through this lens of bias towards conservative politics and certain states. Joe Biden demonstrated the bias towards a more conservative agenda and a bias towards certain states as that was what would have assured him an Electoral College victory. As many pundits have said, Joe Biden won by taking back the "Blue Belt" states. Joan Williams of *Harvard Business Review* argued that Biden did this by "appeal[ing] to enough white working-class Trump voters without alienating and disrespecting... voters of color" (Williams 2020). This bias is exactly what Grofman and Feld would have predicted, as these voters would give Biden the states he needed to win the election. Biden's strategy is also informed by Kallenbach's notion of the gerrymandered presidential election, which would result in more conservative politics. Rather than focusing on issues that might have appealed to progressives, even in the midst of a historic racial and social justice movement, Biden held firm on presenting himself as a moderate. His messaging was based on how "we can revitalize our industrial base at the heart of the American middle class", appealing to voters in the center and center-right when his entire party was debating on whether it should move in a diametrically different direction (Williams 2020). This was the "disciplined strategy" that was "just enough to help Biden secure the 270 Electoral College votes" (Hunnicut et al. 2020). As written in a Reuters article a few days after the election, "[a]t a time when progressives in the Democratic Party were pushing for big, structural change, the 77-year-old staked out the moderate lane and bet -- correctly -- that voters would coalesce around him" as a moderate choice (Hunnicut et al. 2020). This same mentality is what allowed him to win the primary election to be the Democratic Party's nominee for president in the first place. Democratic voters, anticipating that the Electoral College's preference towards those three Rust Belt states would swing the election, chose a moderate in Biden rather than a progressive in Bernie. Interestingly, when it has come to governing, Biden

has adopted progressive policy stances, openly casting himself as a "new-generation Franklin D. Roosevelt pressing for a modern-day New Deal" (Baker 2023). He has largely been successful: he has pushed to enact laws or otherwise taken executive action that included "large-scale spending on climate change, social welfare programs and student debt relief" (Baker 2023). All the same, he is still wary of public perception. Representative Josh Gottheimer of New Jersey noted that "[t]he country wants common sense; they don't want extremism and I think [Biden] gets that", showing how Biden has still presented himself as a moderate in presentation (Blake 2023). Biden, of course, benefits from having spent nearly 40 years in public life where he intentionally cast himself as at the center of the Democratic Party, if not to the right-of-center (Biden 2023). His modern progressivism is masked by the public's perception that he is a moderate, middle-of-the-road, common-sense politician. This allows Biden to have progressive politics while being perceived as a moderate in elections. Biden, understanding that losing votes in key states in the Electoral College could cost him the 2024 election, continues to maintain the image of a moderate. All the same, he is still able to act as a progressive, expanding past what constraints his electoral mandate may have placed on him.

The argument that the Electoral College forces presidents to be more conservative and to be biased towards certain states has opposition. Michael Nelson of the University of Chicago wrote that a "more accurate explanation [of bias in the Electoral College] is a pro-Democratic bias that [exists] in the electoral college system itself" (Nelson 1974). Noting that presidents Woodrow Wilson and John Kennedy both benefited from close elections -- with Kennedy having a "trifle more than an even share" of the popular vote yet receiving a decisive victory in the College -- Nelson argued the system biased *liberalism*, rather than conservatism. As argued previously, the Electoral College only matters insofar as a particular election places an emphasis on it. As such, Nelson's argument may be suffering from the presence of strong multicollinearity in those particular elections. In the election of Woodrow Wilson,

there was a strong third-party candidate, making what was an underwhelming popular vote mandate (with only 41.8% of the popular vote) into a deceptively commanding Electoral College victory. This is *not* demonstrative of a bias towards liberalism. This is instead demonstrative of how it is difficult to interpret a president's mandate when the Electoral College is the center of an election. As Hobbs and Riggs would argue, Wilson's margin was inflated in the Electoral College. Kennedy's election, on the other hand, was again not based on a bias towards liberalism. It was an example of the "gerrymandering" of presidential elections as articulated by Kallenbach. Kennedy was essentially lucky to have just enough votes to win in certain states and used his choice of vice president to secure Texas and boost his overall electoral victory. There was a bias towards New Deal liberalism -- as much as that can be conceded. But this must be qualified by the fact that all of national politics at the time was viewed through how to reinvent, reinterpret, and build on the New Deal. That would not change until the Civil Rights Act, Voting Rights Act, and 1968 election. Kennedy did not win off of the Electoral College's bias towards liberalism; instead, he won through savvy electioneering and a politically smart choice for vice president. Nelson's argument that the Electoral College has a bias towards liberalism is, therefore, misguided.

5 CONCLUSION

The Electoral College's influence on presidential politics is not inherent; it is a manifestation of how important the College is in any particular election. Randall Adkins and Kent Kirwan, writing for *Publius*, posited that since the Electoral College "rarely, if ever, played a decisive role in determining [the outcome of] presidential elections", as the outcome of the Electoral College vote has nearly always aligned with the outcome of the national popular vote. (Adkins & Kent 2002). On the whole, then, the Electoral College is not a source of major controversy. It will go in line with the popular vote, serving as a relic of the high values of the Founding Fathers. However, when elections are especially close and

there is a potential for there to be disconnect between the results of the Electoral College and the national popular vote, the College receives dramatically increased attention. In these instances, the Electoral College becomes key to the public's perception of the election and fundamentally alters Americans' views on their democracy and presidential election system. For the presidents who we have discussed in depth -- Biden, Trump, Harrison, Jackson, Wilson, and Adams -- the Electoral College was an important part of their campaign and narratives. As such, its impact is clear and can be understood in terms of their mandates and biases. The Electoral College we have been left with, when serving no other purpose than muddling election outcomes, makes the mandate and coalitions of presidents unclear and inapparent. This compounds with how presidents who focus on the Electoral College will tend to be biased towards certain states and conservative politics. The result is that the Electoral College may, generally, have little impact on how a president governs -- but when it does have an impact, its impact is grand, overwhelming, and dominating.

There are certain aspects of the Electoral College that this paper has not investigated. For instance, the formal voting process that takes place in the January following an election, where state votes are certified, has been a subject of much more recent discussion given the attack on the Capitol on January 6th, 2023, which attempted to disrupt the certification of the 2020 election. Additional research could also be done on the potential impact of returning to the classical model of the Electoral College, where party insiders and electors had more agency in selecting the president. What remains clear, however, is that the trends seen in the Electoral College should be of grave concern to Americans in the modern era, where two elections since 2000 have been given to a candidate who did not win the most votes and where political polarization is reaching a fever pitch. Without reforming the Electoral College to better reflect the wishes of the American people in aggregate, such as electing the president instead through a popular vote, presiden-

tial administrations will continue to face an increased chance of weakened mandates, and presidential candidates will have to continue to contort themselves to fit the arcane rules and structure of a system developed nearly 250 years ago.

The Founding Fathers wanted America to have non-partisan presidential elections. Or, at the least, they wished that the president might be someone who would be able to rise above politics. They created the Electoral College towards this end. The impact of the Electoral College on presidential politics shows that, unfortunately, they failed ■

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Bilal Yousuf Ahmed graduated magna cum laude from Rutgers - New Brunswick in May 2022. While at Rutgers, Mr. Ahmed was Editor-in-Chief of the Rutgers University Undergraduate Law Review, an Aresty Research Assistant, and a two-term Student Body Parliamentarian. He was also an inducted member of the Omicron Delta Epsilon and Pi Sigma Alpha honors societies.

Since graduating, Mr. Ahmed has worked at the Royal Bank of Canada in New York City and been a member of the Rutgers Alumni Association. In his free time, Mr. Ahmed enjoys discovering new live music spots and finding the best places to eat in the city.