

Why the Right Wing Is Petrified of Letting Voters, Instead of the Electoral College, Pick Presidents

Written by Steven Rosenfeld | AlterNet
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A movement to reform the Electoral College and elect the president based on the national popular vote has half the states it needs.

Republican Senator Mitch McConnell [calls](#) it “absurd and dangerous.” The *Wall Street Journal* [says](#) it deserves to “die.” The Heritage Foundation [calls](#) it “unconstitutional.” The *Washington Post* calls it “flawed.” A Republican National Committee [resolution](#) [says](#) it is a radical, un-American, “questionable legal maneuver.”

It is awarding the presidency to the candidate who wins the most votes.

“The United States is not a democracy and shouldn’t be,” said Michael Munger, Duke University’s Political Science Department chairman and a 2008 Libertarian gubernatorial candidate [attacking](#) it at a League of Women Voters forum. “There is NO moral force in the majority. It is just what most people happen to think.”

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These right-wingers are truly worried that a plan reforming the way the president-electing Electoral College works is gaining legal ground and could bring the biggest change in the political landscape in decades. The National Popular Vote [plan](#) would replace the current system, in which states award Electoral College delegates to whomever wins the presidential vote in that state, with a new interstate agreement where a participating state's delegates would be bound to the national popular vote winner.

In other words, as soon as states with a total of 270 Electoral College delegates sign on—and they are halfway there—presidential elections where one state swayed the outcome, such as Ohio in 2004 and Florida in 2000, would be no more.

“It is born from a frustration of a system that is inherently broken, a system that allots two-thirds to three-fourths of resources in a presidential campaign in the last six or seven weeks to six states. That isn't democracy,” said Pam Wilmot, Common Cause's [National Popular Vote](#) coordinator. “We cannot and should not have a small number of states deciding the outcome of presidential elections for the rest of us.”

The idea that voters across the country—not just in politically split battleground states—would elect the president scares the Republican Party and arch conservatives on so many levels. It would upend the way candidates and political parties and consultants now work to retain their power and influence. It would force presidential nominees and parties to campaign in more racially diverse states, more cities and suburbs, addressing those communities and their concerns.

“We need to kill it in the cradle before it grows up,” McConnell [told](#) a Heritage Foundation audience last December.

Right-wingers say these changes are terrible, and not just because they might empower Democrats and relegate the GOP as it now exists to history's dustbin. But even worse, they say this is a constitutional coup because the founders' great insight was that some branches of the government—such as the presidency and Senate—had to be set apart from the passions of

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majority opinion and the tyranny of mob rule.

“It is a completely faulty intellectual argument,” said NPV founder, Stanford University’s John Koza. “It is oblivious to the fact that the mob rules now. In the first presidential election, only five states let people vote for president. And many of the founders, like Alexander Hamilton in New York, were very happy that the people did not vote for president. But it was left up to the states if people voted for president, and now 100 percent of the states let people vote for president.”

“So if you are against mob rule, you are against what we have now,” he continued. “The mob is Ohio, Pennsylvania and Florida, which dominate presidential elections. The question is whether there is some virtue in having the mob in 35 states ignored in preference to the mobs in 15 states. It is a completely silly argument.”

National popular vote’s right-wing detractors are first drawn to the partisan implications, suggesting that this is a potential blue-state bonanza born out of revenge for Al Gore’s loss to George W. Bush in Florida in 2000. Then they are quick to point out that widely held contemporary notions of what our democracy consists of are wrong—and are not what the founding fathers envisioned at all.

“Democrats love this idea,” said Michael Uhlmann, professor of politics and policy at Claremont Graduate School and frequent Heritage Foundation speaker, in a recent [debate](#) with Koza. “Any Republican and conservative who signs onto it needs a psychiatric examination. These people aren’t foolish. There are real constraints imposed by the Electoral College system.”

Right-wingers like Uhlmann say that because human nature cannot be trusted, the founders created key governing bodies that were not elected, but instead consisted of wiser “elders” whose decisions put brakes on more impulsive majorities. The U.S. Senate was one such body and until the 17th Amendment passed in 1913, senators were appointed, not elected. The Electoral College, where 48 states (Nebraska and Maine are exceptions) award all their

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delegates to the state's presidential victor, is another, because it spreads the real constitutional act of electing the president to special legislators who meet once every four years.

"The criticisms of the institutions of the Electoral College, based on an assumption that there is a mystical 'will of the people' that can be divined through elections, are misguided," said Munger. "There is no better system for controlling political excesses, and forcing presidential candidates to represent the entire nation, that that created out of the original wisdom and compromises of the early 19th century."

But according to Koza, who launched the National Popular Vote movement, there is a far better system: engaging the majority of American voters in choosing the president.

A national popular presidential vote is the natural next step in the country's constitutional evolution that has expanded voting rights to all citizens in every state; not just to males, millionaires, landowners and slaveholders, as was the case when the nation was founded, Koza said. NPV elevates voters in every state, not just in tightly divided battleground states. Moreover, the conservatives' obsession about insulating the presidency from mob rule does not hold up to reality, he said.

But it is perhaps the best argument the hard right has—because everything else they have thrown at NPV and are likely to throw at it as it comes closer to becoming a political reality—eight states plus the District of Columbia have signed on—is unlikely to prevail in federal court. Even noisy critics, like the *Wall Street Journal's* James Taranto, [admit](#) NPV "is not unconstitutional." He just hopes it is "unenforceable."

"Our bill is an interstate compact," Koza said. "A state cannot get out of an interstate compact except on the terms of the compact itself. There's 200 years where no court has ever allowed any state to weasel out of an interstate compact. It's higher than the state Constitution. When a state enters into an interstate compact, it's more binding than the state Constitution is."

NVP: The Fine Print

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The idea of a national popular vote to elect the president is [not](#) new. What is new is using the legal vehicle of an interstate compact, not a constitutional amendment, to get there.

The current national popular vote movement emerged out of a growing frustration with recent presidential campaigns. What happened in 2000 in Florida, when Al Gore won more popular votes nationally than George W. Bush but the Supreme Court intervened and awarded the presidency to Bush, was a turning point. But there have been other long-simmering frustrations with the way presidential elections unfold, most notably how most of the country is left watching the action in a few other states.

“You just can’t have an election coming down to 500 people or 20,000 people in an entire nation. It’s just crazy,” said Common Cause’s Wilmot. “The reason that it has such appeal is a basic sense that is consistently held in every demographic—Republican, Democratic, old, young, black, white—that the person with the most votes should win, and that every person’s vote in the election should count the same. And neither of those are true in our current system. And they feel it is wrong. And it is wrong.”

Wilmot is correct about NPV’s support. Majorities of American overwhelmingly back replacing the current Electoral College system with popular vote election of the president, according to [Gallup](#), whose polls have tracked the issue for years. And it is not just Democrats who support this, although 71 percent of Democrats said they did, compared to 61 percent of Independents and 53 percent of Republicans polled last fall. But the Republicans who support NPV are cut from a different political cloth than the RNC leadership or conservative think tanks.

“I believe this is a center-right country and that our conservative ideas and ideals will win the day if we take the argument to all the people, not just those in battleground states,” [wrote](#) Laura Brod, a Republican member of Minnesota’s House since 2002. “There is a conservative story in favor of a national popular vote to be told.”

The U.S. Constitution [grants](#) state legislatures complete power over selecting Electoral College delegates. So the National Popular Vote movement has been [working](#) in 42 states to push for identical legislation to join an interstate compact binding their delegates to a presidential popular vote winner once enough states representing 270 delegates sign on—the Constitution’s requirement to elect a president.

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Since 2007, eight states—Maryland, Illinois, Washington, New Jersey, California, Vermont, Hawaii, Massachusetts—and the District of Columbia have passed identical legislation, representing 132 delegates. The Republican critics like to note these are all blue states. Koza, in contrast, calls them “spectator states” that are tired of sitting on the national political sidelines.

“Every state that has enacted this is a spectator state,” he said. “And it is a much more difficult sell in the battleground states because the desires of the people who run the legislatures appreciate the current system, even though the voters of those states don’t support the current system. Look at the polls.”

The NPV compact does not replace the Electoral College; it modifies how states instruct their presidential electors to proceed, which is exactly what the Constitution tells states to do in [Article Two](#)

. Massachusetts, for example, has done that nearly a dozen times in the past 200 years. It does not tell states or parties that they cannot hold the primaries and caucuses as they are now doing, starting in Iowa and New Hampshire. But after parties nominate their candidates, their picks would need to campaign in far more states and regions than is now the case. In effect, presidential elections would become national contests where candidates would have to speak to a broader range of voters.

“You’ll have to turn out your base,” said Wilmot. “There will be a get-out-the-vote effort everywhere, because you need to turn out your voters and every single one that you turn out is going to add to your total nationwide. And every one that is left at home is one you have to replace somewhere else, or else the other side will beat you in the ground game.”

A handful of states may pass the compact in 2012, Koza said, but presidential election years typically see shorter legislative sessions. Connecticut is a priority for Common Cause, Wilmot said. Other states are holding hearings, like Kansas and Alaska recently did. And there are ongoing efforts in states like New York, where it passed one legislative chamber but was not adopted by the other.

Here Come the Lawyers

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The NPV compact's authors know the law will be challenged in federal court once states representing 270 Electoral College votes sign on. They are confident that the compact is constitutional, which even some right-wing critics concede. Opponents have begun to claim it is unenforceable, saying that the chief election officer in a compact state cannot order a political party's slate of presidential electors to vote for a candidate who did not win in their state. But Koza and other NPV backers say, yes they can, because state legislatures have absolute authority under the U.S. Constitution to do that.

That scenario, which one critic in Connecticut [said](#) "would substitute the will of outsiders for the determination of Connecticut citizens," is a non-issue, Wilmot said, because Article Two gives states "plenary," the legal term for complete, power to establish rules over their state's presidential electors.

"The election [of the next president] is in December [when the Electoral College meets], but for all intents and purposes for the American public, it's on Election Day in November and the winner is declared at that time," she said. The December meeting essentially becomes a "ceremonial, rubber stamp."

Legal challenges would not delay the seating of the next president, she said, because the U.S. Constitution sets a timetable. That is different from Minnesota's 2009 recount in its U.S. Senate race between Al Franken and Norm Coleman, which took months, because the U.S. Constitution does not have a timetable for seating U.S. senators.

Still, there will be no shortage of fear-based criticisms aimed at NPV as it edges closer to having states sign on with the needed 270 Electoral College delegates, but most of those have been rebutted in Koza's book (available as a free [download](#) at the NPV Web site). That chapter, responding in great detail to "myths" about NPV, is 248 pages long.

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One big misconception is the 12 largest states would become presidential deciders, Koza said. “That’s based on the misconception that the 12 largest states are controlled by the same party, but they’re not,” he said. Another misconception is the big cities will edge out small states in the presidential election process. “That’s factually wrong. A small state, Iowa or New Hampshire, is playing a big role in the nomination process,” Koza said, noting that NPV only affects the November election results. “Small states don’t become the presidential battlegrounds. They are just as ignored as the Californias.”

NPV would change the way money is spent in campaigns. No matter what vote counting system is in place, presidential campaigns always seek to raise as much money as they can—and then are forced to spend it wisely. NPV’s impact would be on the spending side, as the campaigns create and budget for messaging in different regions and media markets.

“Currently, TV is the biggest way money is spent. Remember TV markets are not just limited to cities,” Koza said. “They would campaign the way they do now. They would have personal messages and buy TV and radio and bumperstickers and print leaflets and do precinct walking—all of which can be delivered to any point in any state.”

And what of the right-wing critics who will continue to assert that America is not a democracy but a constitutional republic where the majority of voters should not get to vote for president—and for good reason, because of the tyranny of mob rule?

“Open a dictionary,” Koza replied. “Whether you are a democracy or not has nothing to do with whether you have a winner-take-all [Electoral College] rule. The president will still serve for four years. The federal legislature will still serve for two or six years, and they will make decisions on behalf of the public between elections. That’s the definition of a republic. These people who babble about democracy versus republic have never looked in the dictionary.”

Link to original article from [AlterNet](#)

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