

Alternative Version of Op-Ed *Constellations & Change* from *Mint* 22/11 /2016
<http://www.livemint.com/Opinion/k66K3kmEGt8AwwFX0lCWCO/Why-the-electoral-college-matters.html>

Why the Electoral College Matters

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Donald Trump is not President-elect of the United States yet. He still has to win 270 votes in the Electoral College on December 19, failing which state delegations to the House of Representatives will select a President. In most years, the elaborate process of filling out and conveying Certificates of Ascertainment and Vote in sextuplet is a non-event. The electors, people nominated (for the most part) by state party chapters and selected based on state-level formulae for converting popular vote to seats in the college, choose their party's nominees. Results are exactly as predicted by election-night calculations.

But this was not what was supposed to happen. The Electoral College was meant to be a place for informed, evidence-based, reasoned deliberation about who should be President - who should be trusted with the significant powers that leadership entails even with checks and balances.

Federalist Paper 68, a letter from Alexander Hamilton to the people of the State of New York lays out the logic. Including the will of the people was design criteria number one - "It was desirable that the sense of the people should operate in the choice [of President]." Design criteria number two was that the selection of such an important and powerful individual should also take into account "qualities adapted to the station" and other information that might not be readily available to or digested by the broader and probably busier masses. The selection of electors for a temporary and specific purpose rather than from a standing body was meant to keep them close to the will of the people, while the fact of the electoral college was meant to ensure that selection would be done by people who "possess the information and discernment requisite to such complicated investigations" and are acting "under circumstances favorable to deliberation and to a judicious combination of all the reasons and inducements which were proper to govern their choice."

The electors were not supposed to simply choose their party's candidates. In fact, when it became clear that parties were nominating loyalists to the slate of electors, Hamilton and James Madison (the two men credited/blamed for the electoral college) were horrified. They pushed for a constitutional amendment to keep selection of electors at the district rather than state level, explicitly basing their arguments on the proposition that district-level selection would preserve a shot at getting independent-minded people. It didn't succeed. The only change to the college was in the 12th Amendment to the Constitution in 1904, which effectively accepted the reality of party control over electors by altering a voting convention that would have kept leading to the House of Representatives having to choose which member of the party's ticket got to be President, and which Vice President.

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The College is back in the headlines now as an arcane loophole since even now, electors have some wiggle room. Some electors are constrained by state law or pledges to the party, but there is no constitutional provision or federal law backing these up. According to the U.S. National Archives, no elector has ever actually been prosecuted for failing to vote as pledged.

But even now, the College's significance as an institutional building block is being misread. The U.S. media and grassroots appeals seem calibrated to force a vote of introspection and conscience. The international press takes the tone of reporting on a circus.

The Electoral College is neither an arena for emotions nor the institutional equivalent of the human appendix. It is an increasingly relevant form of filter on large-scale aggregation of popular preferences about forks in the road that have lasting and irreversible consequences.

It was not that long ago that institutional designers – the framers of the U.S. Constitution - still openly proposed and worked with the idea that individuals might just be capable of analysing information, deliberating, and acting independently in the public interest. The college has been dismissed as an instrument for maintaining elite control (including protection for slavery) but it would be overly cynical and paranoid to completely ignore the fact that the public rationalization of the process actually “flew” as a reasonable notion of how groups of people might operate. Suspend quick and politically correct judgment and cries of paternalism, and look at the content. These people were actually expected to do their homework, discuss it with others, and think about interests beyond their own. Yes, they were assumed to be men, but that was more of a sign of the times than a specific statement about gender.

The idea of such a reasonable selection process sounds quaint today, but was somehow a plausible enough idea then that it made it into the U.S. Constitution.

Could we even talk seriously of such a process today? The idea of putting in place some kind of mechanism to slow down, look at the record, and have a discussion does not seem out of line given the spin that has been deployed, the echo chambers of social media, and the widely-recognized arrival of post-truth politics. We need these kinds of institutionalised spaces for reason, deliberation, and comprehensive consideration of evidence as much today as any time in our history. So before dismissing the technicality, consider the possibilities it represents.