



Written by [Joe Wolverton, II, J.D.](#) on October 7, 2015

Will Illegal Immigrants Send Hillary Clinton to the White House in 2016?

In an article published by *Politico* on October 3, the authors examine the possibility of the participation of “illegal immigrants” in the November 2016 elections resulting in Hillary Clinton winning the White House.

The authors, Paul Goldman and Mark Rozell, aren’t predicting that millions of non-citizens will vote and sweep Clinton into the Oval Office. Their theory is based on the potential for manipulation of the Electoral College mechanism established in the Constitution as the method of electing a president. They write:



We understand counting illegal immigrants and noncitizens in the census. Accurate population counts are essential to sound decision-making. Census numbers are used to allocate governmental resources. But we fail to find any persuasive reason to allow the presence of illegal immigrants, unlawfully in the country, or noncitizens generally, to play such a potentially crucial role in picking a President. Choosing a nation’s leader should be a privilege reserved for her citizens.

The pair goes on to promote direct popular election of the chief executive:

If the United States elected its chief executive as it is done in Mexico — direct election by those citizens eligible to vote — then the inclusion of noncitizens in the census wouldn’t result in any impact on the presidential winner.

While the reasoning in that last statement appears sound, there is one huge variable unaccounted for: votes cast fraudulently by illegal immigrants.

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There is ample, undeniable evidence that such ballots are not only being counted, but that the Supreme Court is protecting that possibility. Consider a story covered by this author in July:

Reuters reports that the high court’s refusal to hear an appeal of the decision in the case of *Kobach, et al. v. Election Assistance Commission, et al*, had the effect of upholding the ruling handed down last November by the 10th Circuit Court of Appeals.

The *Kansas City Star* provided the following summary of the facts of the case:

The 10th Circuit Court of Appeals in Denver ruled that Kansas cannot require proof-of-citizenship documents — almost always a birth certificate or passport — from prospective voters who register using a federal voter registration form. The court also said that a federal agency doesn’t have to alter the form to fit Kansas requirements.

Arizona has a similar proof-of-citizenship requirement, and Kobach argued the case on behalf of



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both states in conjunction with Arizona Secretary of State Ken Bennett.

In other words, individuals showing up to the polls in Arizona and Kansas can no longer be required to demonstrate proof of U.S. citizenship, opening the ballot box to illegal immigrants.

We're fortunate, though, that under the manner prescribed for presidential election in the Constitution, fraudulently cast votes have an impact only on the outcome of the election in which it is illegally cast, leaving the elections in sister states wholly untainted. This would not be the case under a scheme where the popular vote determines who is chosen to occupy the Oval Office.

On this point, Thomas Jefferson declared, "The elective franchise, if guarded as the ark of our safety, will peaceably dissipate all combinations to subvert a Constitution, dictated by the wisdom, and resting on the will of the people."

The very idea that the federal government should have power over the voter rolls is anathema to the Constitution. Article I, Section 4 clearly mandates that "The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof."

Curiously, in *Federalist* 43, Madison predicted the potential for noncitizens to influence federal elections:

May it not happen, in fine, that the minority of *citizens* may become a majority of *persons*, by the accession of alien residents, of a casual concourse of adventurers, or of those whom the constitution of the State has not admitted to the rights of suffrage? [Emphasis in original.]

Undoubtedly, the authors of the *Politico* piece would point to that prediction as evidence of the preferability of direct popular election of the president. Madison wouldn't agree with that solution to the problem.

The electoral college was a hotly disputed matter during the Constitutional Convention of 1787.

While they argued about the wisest method of electing the president, most of the delegates in Philadelphia agreed that direct popular election would be, in the words of one historian, "invoking demagoguery and possibly dictatorship as one man claimed to embody the Voice of the American People."

In *Federalist* 39, Madison defended the Electoral College compromise:

The executive power will be derived from a very compound source. The immediate election of the President is to be made by the States in their political characters. The votes allotted to them are in a compound ratio, which considers them partly as distinct and coequal societies, partly as unequal members of the same society. The eventual election, again, is to be made by that branch of the legislature which consists of the national representatives; but in this particular act they are to be thrown into the form of individual delegations, from so many distinct and coequal bodies politic.

In other words, the Electoral College was designed to serve as a filter, removing the temporary passions and incorrect impulses from the people at large, resulting in a sounder, wiser choice for the head of the executive branch.

Or, in the words of Constitutional Convention delegate and Supreme Court Justice James Wilson, the Electoral College would make intrigues, conspiracies, and cabals "rendered impracticable."

Turning to the cautionary tales told in the history of the classical world, Noah Webster pointed out that the Electoral College would prevent the sort of bribery and corruption that plagued the election of



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consuls in the Roman Republic.

From their understanding of classical history, moreover, the Founders realized that an electoral college system such as that included in the Constitution would sometimes produce unpopular results. In their estimation, that was a benefit of the process, not a detriment.

There is another historical issue at hand. The Electoral College is part of an impressive federal arrangement invented by our Founding Fathers. The government established by them in the Constitution created a federal government with few and defined powers, while leaving the bulk of governing power in the hands of the sovereign states and the people. (As described elegantly in the [10th Amendment](#): “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”)

Furthermore, the states themselves were to be represented in the new federal government through a balanced bicameral Congress composed of one house representing the people (the House of Representatives, where members are chosen according to population) and one house representing the states (the Senate, whose membership is divided equally among the states regardless of size). This intricate system was the result of a compromise known to history as the Connecticut Compromise, wherein the feud between populous states and smaller states was settled by giving to each a means of being represented equally in the legislative branch.

The relationship between the balancing of state interests in Congress and the design of the Electoral College was succinctly and superbly described by John Ryder, a member of the Republican National Committee from the state of Tennessee. In an article published in the *Washington Times* in 2011 entitled “[Popular Presidential Vote Subverts Constitution](#),” Ryder wrote:

The Electoral College mirrors this arrangement by giving each state electoral votes equal to its membership in the House plus its two Senators. Thus, California gets 55 electoral votes because of its large population, but no state, even Delaware, has fewer than three electoral votes. It reflects the Founders’ compromise between large states and small states and between electing the president by Congress and electing the president directly by the people.

Bypassing the Electoral College through the proposed compact undermines that balance by effectually erasing states’ boundaries along with those states’ sovereignty.

If each state instead possessed a number of electoral votes equal only to the size of its delegation in the House, then California would have 53 electoral votes instead of 55 and Delaware would have one electoral vote instead of three. But the design conceived by the Founders skews representation in the Electoral College to the benefit of the smaller states, which like the larger states, are sovereign in their own spheres.

As the situation stands today, a successful candidate is required to build a coalition of electoral support from across the country. The frequent trips to Iowa, New Hampshire, and other less populous states witness this campaign reality. To be elected, a candidate cannot simply woo voters in urban areas while ignoring those citizens living between the two coastal megalopolises.

The solution to the potential problem, therefore, would be to not count noncitizens in the decennial census. Curiously, the authors of the *Politico* piece reject this answer. As quoted above, they wrote, “We understand counting illegal immigrants and noncitizens in the census. Accurate population counts are essential to sound decision-making. Census numbers are used to allocate governmental resources.”



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“Government resources” is a euphemism for legal plunder in the form of federal welfare in all its iterations.

Imagine what would happen to the immigration problem (including illegals’ potential impact on national elections) if instead of building walls or arming border patrol guards, we simply eliminated the “entitlements” that are such a draw to so many.

This solution would be beneficial in a multitude of ways: It would substantially reduce the number of aliens illegally crossing the border, it would relieve the American people of the necessity of funding the massive federal welfare state, it would preserve the Electoral College process provided by our wise Founders, and it would likely eliminate the influence illegals have on elections by removing them from the census rolls.

Maybe then the vision of the Founders of an Electoral College that elects a president worthy of the trust afforded the office in the Constitution would be a reality.



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