Opinion
News
A poll worker reviews a ballot at the Miami-Dade County Elections Department during the pre

A poll worker reviews a ballot at the Miami-Dade County Elections Department during the presidential election in Miami Nov. 3. (CNS/Reuters/Marco Bello)



by Michael Sean Winters

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President Donald Trump's effort to try and overturn the election results is pathetic, as I discussed on Monday. He has lost every lawsuit that even got a hearing. The post-election mess, however, points beyond this election to the need to terminate the Electoral College.

Biden received 7 million more votes than the president. In Pennsylvania, Biden won 82,154 more votes than Trump, more than 1%; in 2016, Trump beat Hillary Clinton in the Keystone state by only 44,284 votes, less than 1%. In Michigan, Biden won by 154,188 votes, almost 3%; four years ago, Trump bested Clinton by 0.22%, or 10,704. Only in Wisconsin was Biden's 2020 margin less than Trump's 2016: Biden got 20,682 more votes this year in the Badger state while Trump got 22,718 more votes four years ago. The idea that a recount might alter the race was preposterous.

So the president has turned to sedition, asking fellow Republicans to overturn the constitutional order, ignore the will of the people as expressed at the ballot box, and award him the presidency. We have come to expect this kind of nonsense from the president, but I have been frankly surprised that so few Republicans have shown any gumption in defending the Constitution and the integrity of the election. Kudos to those few Republican leaders who, like Sen. Mitt Romney, have denounced the president's post-election actions as "madness."

The latest iteration was the decision of Texas Attorney General Ken Paxton to file a ridiculous lawsuit with the U.S. Supreme Court on Tuesday challenging the results in the swing states. After a day of errands on Wednesday, I returned home to find that 17 states had joined the Texas suit. Only once in our nation's history did a presidential election provoke such sectarian divisions: 1860.

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The president's lawyer filed a brief at the U.S. Supreme Court on Wednesday that stated: "President Trump prevailed on nearly every historical indicia of success in presidential elections. For example, he won both Florida and Ohio; no candidate in history — Republican or Democrat — has ever lost the election after winning both States." I am not sure what other "historical indicia" there are, but getting the most votes seems to be the one that matters. In addition, John Kennedy won the presidency in 1960 while losing both Florida and Ohio.

The easiest way to make sure future generations have less chance of enduring another post-election mess is to eliminate the Electoral College, which turns our national elections into 51 micro-elections. Each state becomes ripe for a legal challenge if the results are even a little bit close.

In a country as divided as ours, the prospect of a constitutional amendment to elect our president by popular vote is unimaginable. Even if we were not so divided, small states would never vote to overturn a system that increases their relative power. Voters in Wyoming have 3.6 times as much power with their ballot as do Californians. Why would Wyoming vote to change that?

The good news is we do not need a constitutional amendment, we just need a few more states to adopt the National Popular Vote Interstate Compact, which requires

signatory states to award their state's electors to the winner of the national popular vote. It would take effect as soon as states with 270 electoral votes have adopted it. Imagine that: The person with the most votes wins!

Currently, 15 states and the District of Columbia, accounting for 196 electoral college votes, have passed the law. Organizers need 74 more electoral votes. Both chambers of the Nevada legislature passed the bill, but it was not signed into law, which would bring in six more electors. One house of the legislature has passed the law in an additional eight states: Arizona, Arkansas, Maine, Michigan, Minnesota, North Carolina and Virginia. Those eight states account for 82 electoral votes. If it became law in all of them, we would at long last elect our president by popular vote.

If you live a ruby red Republican state or a true blue Democratic state, your vote barely counts, candidates feel no need to make their case in your state and you never see a political ad on local TV. OK, that last is a bonus of this crazy system, but you get the point. Voters in reliably red states like Arkansas and Alabama and South Carolina have as much interest in passing the law as voters in California and New York.

Completed absentee ballots are piled in the ballot room after Election Day at the Kenosha Mu

Completed absentee ballots are piled in the ballot room after Election Day at the Kenosha Municipal Building in Kenosha, Wisconsin, Nov. 4. (CNS/Reuters/Daniel Acker)

It is clear, however, that Republicans will likely fight the national popular vote effort. Democrats have won the popular vote in five of the last six elections, but in two of those races, the Republican candidate captured the White House by winning the Electoral College.

What is more, the Republican Party has long been the party that is deeply, profoundly committed to the rule of law and to a strict, textualist reading of the Constitution, which would prevent them from ever tampering with the nation's electoral process. Not. To quote the great Emily Litella, "Never mind."

As a rule, I am suspicious of anything that looks like a quick fix, to say nothing of overhauling the Constitution which, for all of its problems, was the product of more thoughtful statesmen than we find today. This is the exception that proves the rule.

Those concerned about democracy's future should dedicate some time and money to passing the national popular vote law. It won't solve all problems, but it would ameliorate the one we are living through today.

There is a profound anthropological and moral principle at issue here: the equality of humankind. When he was president-elect, Dwight Eisenhower famously spoke to the Freedoms Foundation. One quote is often recalled as evidence of the non-sectarian, civic religion of the era: "In other words, our form of government has no sense unless it is founded in a deeply felt religious faith, and I don't care what it is." Less well remembered is Ike's next sentence: "With us, of course, it is the Judeo-Christian concept, but it must be a religion that all men are created equal." *Must be*. That is the anthropological and moral principle at stake.

The party of Ike is no more.

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