



The US Presidential Elections: Phase Three The Election Process and the Electoral College

*Dr. Stuti Banerjee**

In January 2017, the United States of America will have a new President, and a new Administration, who will take oath at the inaugural ceremony. The election, though domestic, to elect the head of State and government, is widely followed across the world for a number of reasons. The United States is one of the leading political, economic and military powers in the world with considerable influence in international relations. The new President and her/his views, especially on issues of foreign, defence and security policy are going to be monitored by analysts across the world.

The long campaign trail for the United States Presidential elections is coming to an end, with Election to be held on 08 November. Leading American polls suggest that it could be a tight race to the finish between two candidates, Republican Party nominee Mr. Donald Trump and Democrat Party nominee Mrs. Hillary Clinton. There are other third party candidates in the foray too, such as Governors Gary Johnson (New Mexico) from the Libertarian Party, and Dr. Jill Stien (Massachusetts) from the Green Party. Nonetheless, the contest is largely confined to the two leading parties and their candidates.

The Election Process

The election to the position of President requires the candidate to be a natural born US citizen, above 35 years of age and a resident of the country for 14 years. The President is elected for a fixed term of four years with the possibility of running for an additional term. Thereafter, they are not allowed to run for the office of President again.

The current campaign by the candidates started more than a year in advance, when they announced their intention to run for the office, and campaigned to win the primaries and

caucuses. After the respective party conventions, held in July 2016, the two candidates, Mr. Trump (Republican Party) and Mrs. Clinton (Democrat Party), were nominated to represent the party on the ballot. They were joined by their 'running mate' or Vice Presidential candidate on the 'ticket', Governor Mike Pence (R. Indiana) and Senator Tim Kaine (D. Virginia) respectively. After the convention, the parties focus their attention on their nominee and the campaign is more vigorous as Election Day approaches. The campaign is usually at its zenith in September-October as both the candidates face each other in three presidential debates and the Vice Presidential candidates hold one debate.¹

There have been a number of controversies generated by both candidates, with most US commentators critical of the manner of debate and the language used by the candidates to criticise each other. Mr. Trump has been a controversial figure since the initial days of his campaign as a result of his comments on Mexican immigrants and his pledge to build a wall on the US- Mexican border to stem the flow of illegal immigrants. He also proposes changes in the immigration policy, re-negotiating US trade pacts as well as its military alliances, etc. However, it has been his use of derogatory language with respect to women that has caused his campaign the most damage with a section of the Republican Party publically withdrawing their support such as former Secretary of State Mr. Colin Powel, Senator John Warner (R. Virginia), former Health and Human Services Secretary Louis Sullivan, etc.

Mrs. Hillary Clinton has not been able to run a controversy free campaign either. There has been speculation about her health after her sudden illness during the commemoration ceremony of the 9/11 attacks in New York City, to the possibility that the Democratic Party was undermining the election of her rival candidate Senator Bernie Sanders. She also had to repeatedly answer questions on her use of her private email for official work and the possible security breach this may have caused. Questions have been raised about the foreign donations to the Clinton Foundation and its possible impact on the Presidency. Mr Trump has also questioned her treatment of women, especially those who have spoken out against, alleged inappropriate behaviour of her husband and former President Bill Clinton.

The two candidates have travelled extensively through the length and breadth of America to win the support of the voters. And while all states in the United States would be important to win, it is the swing states that are likely to hold the key to this election. In the United States, there are some states that have over the years voted for either the Democratic Party or the Republican Party in both the state level elections and Presidential elections. For example, Texas has is a state whose residents mainly vote for the Republican Party since 1980. Similarly California has voted to support the Democratic Party candidates since 1992.

'Swing states' are those states that are states which are relatively evenly divided between Republican and Democrat party supporters and depending on the candidate has voted either Republican or Democrat. For example, Florida, a major 'swing' state with 29 Electoral College votes voted for the Republican candidate in 2000 and 2004 Presidential elections but vote for the Democratic Party candidate in the 2008 and 2012 elections. In 2000, President George W. Bush won the election despite not winning the popular vote, after winning the Florida Electoral College

votes. Other swing states are Ohio, Virginia, Colorado, North Carolina and Nevada which have a share of about seventy votes in the Electoral College.

The Importance of the Electoral College in US Elections

The Electoral College is a process, not a place. It was established in the US Constitution as a compromise between election of the President by a vote in Congress and election of the President by a popular vote of qualified citizens.

- The Constitutional Convention of 1787 considered several methods of electing the President, including selection by Congress, by the governors of the states, by the state legislatures, by a special group of Members of Congress chosen by lot, and by direct popular election. The Electoral College was the method that was approved by the majority of the delegates, who sought to balance the federal and state interests, while providing for citizens participation in the election process.²
- The Electoral College process consists of the selection of the electors, the meeting of the electors where they vote for President and Vice President, and the counting of the electoral votes by Congress.³
- The Electoral College is selected in a two-part process.
 1. In the first part, the political parties in each state choose a ‘slate’ of potential Electors sometime before the general election. The parties either nominate a list of potential Electors at their respective state party conventions or they chose them by a vote of the party's central committee. The candidates for the Electoral College are members of the party recognised for their service to the party and generally hold a leadership position in their party. They comprise of senior party members and state party leaders. The only people prohibited from serving as electors are Senators, Representatives, and persons “holding an Office of Trust or Profit under the United States.”
 2. The second part of the process commences on Election Day. When the voters in each state votes for the Presidential candidate of their choice, they are voting, in reality, to select their state's Electors. The potential Electors' names may or may not appear on the ballot, depending on election procedures and ballot formats in each state. The party whose Electors wins a majority in the state wins all the Electoral votes of the state, except in Nebraska and Maine, which have proportional distribution of the Electors. In these two states, two electors are chosen by popular state-wide vote and the remainder are chosen according to the popular vote in each congressional district. In these

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- The Electors are expected, but not required, to vote for the candidates they represent. There is no Constitutional provision or Federal law that requires Electors to vote according to the results of the popular vote in their states. Nonetheless, the U.S. Supreme Court has held that the Constitution does not require that Electors be completely free to act as they choose and therefore, political parties may extract pledges from electors to vote for the parties' nominees.
- The total number of electors each state gets are adjusted following the national census, conducted every ten years, in a process called reapportionment, which reallocates the number of Members of the House of Representatives to reflect changing rates of population growth (or decline) among the states. Thus, a state may gain or lose electors following reapportionment, but it always retains its two "senatorial" electors, as each state in the United States irrespective of size of state or population is represented by two Senators in the US Congress.
- The Electoral College consists of 538 electors. (435 members of the House of Representatives plus 100 senators and three electors are from the District of Columbia.) A state's entitled allotment of electors equals the number of members in its Congressional delegation that is, one for each member in the House of Representatives plus two for Senators. (For example California as the largest state has 55 delegates, followed by Texas, 38, New York and Florida, with 29 each.)
- A majority of 270 electoral votes is required to elect the President. The states of California, New York, Texas, Florida, Pennsylvania, Illinois, Ohio, Michigan, New Jersey, North Carolina, Georgia and Virginia account for close to 270 votes. Thus, if a candidate wins these 12 states s/he would be elected even if they do not win the other 38 states with majority. This is how the US President can lose the 'popular vote of the people' and yet be elected through the 'electoral college vote'.
- When the citizen casts a vote for President s/he is essentially voting for the candidate's electors. These ballots are counted as popular vote. These ballots also elect the Electoral College members of the state. Once the popular vote is counted, the electors chosen by the losing party stand down, and those on the winning side are called to the Electoral College, to meet in December and vote for the country's leaders.⁵
- After the presidential election, the governor of the state prepares a "Certificate of Ascertainment" listing all of the candidates who ran for President in the state along with the names of their respective electors. The Certificate of Ascertainment also

declares the winning presidential candidate in the state and shows which electors will represent the state at the meeting of the electors in December of the election year.⁶

- The electors meet in their respective states, where they cast their votes for President and Vice President on separate ballots. These votes are recorded and sent to the US Congress. Each state's electoral votes are counted in a joint session of Congress on the 6th of January in the year following the meeting of the electors. Members of the House and Senate meet in the House chamber to conduct the official tally of electoral votes. The Vice President, as President of the Senate, presides over the counting and announces the results of the vote. The President of the Senate then declares which persons, if any, have been elected President and Vice President of the United States.⁷

Criticism has been mounted on this system of election of the President. Those who advocate a change claim that the Electoral College is undemocratic. They also claim that due to this system, candidates tend to focus their attention in trying to win over swing states that may become the deciding factor of the results rather than on all states, affecting the way in which candidates focus on individual states and their issues. It is argued that with only a direct vote they would have to concentrate on all states. Though they admit that it may mean that the states with more population get more attention than the smaller states. They are also critical of the fact that the Electoral College votes are not public, but are counted and thereafter announced by the US Congress. To win the Electoral College, a candidate needs one vote more than 50 per cent of the total of 538 votes. If neither side reaches that total, the House of Representatives select the president, with each state's representative casting one vote, with the same 50 per cent plus one being the requirement.

The Current Election

Till a few days back most leading American election polls had Mrs. Clinton leading the national polls to be the next President of the United States. However, the recent statement by the Director of the Federal Bureau of Investigation (FBI) Mr. James Comey stating that the FBI would be re-investigating Mrs. Clinton's use of private mails to send, receive and store government emails during her time as Secretary of State, have complicated her electoral prospects. The FBI has obtained a warrant to begin searching newly discovered emails belonging to Mrs. Huma Abedin, a top aide of Mrs. Clinton. It has also released documents related to the former President Bill Clinton's pardon of Mr. Marc Rich, a former hedge-fund manager who had been indicted on multiple counts of tax evasion, wire fraud and racketeering. While the Clinton campaign has questioned the need to release these documents so close to the election date, the controversy has impacted her projected lead over Mr. Trump. For the first time in a number of weeks, polls show Mr. Trump either leading by a margin of one point or having closed the gap between him and his rival.

Both candidates suffer from unpopularity, both within their own parties and among the public at large. Age, race, gender and education are all big dividing points in the presidential race, with polling showing that men and whites are backing Trump, and women and ethnic minorities are supporting Clinton. Race has always been a huge dividing line in the US election, and the clash between Trump and Clinton is no different. Just 17 per cent of Hispanics and three per cent of black people back Trump, according to recent polling. This could prove significant in this election. However, any marginal decline in these votes would have cascading effect. For example, Hispanics account for more than a fifth of the population in four key swing states. Education is another big demographic division in the race, with college going or those with higher levels of education backing Mrs. Clinton. This could prove significant in the swing states of Georgia and Nevada, which both have a high proportion of people failing to graduate from high school.⁸

Nonetheless, it is predicted that Mrs. Clinton still maintains her lead in the Electoral College race to reach 270 delegates. And as was proved in the 2000 elections when Mr. Al Gore got more popular votes, but lost the presidency to President George W Bush, it is not enough for Mr. Trump to just win the popular vote. He has to ensure that he gets a majority in the Electoral College.

** Dr. Stuti Banerjee is Research Fellow with the Indian Council of World Affairs, New Delhi.
Disclaimer: Views expressed are of authors and do not reflect the views of the Council.*

Endnotes:

¹ The Indian Express, "US Presidential election 2016: Date and time of polling, results," <http://indianexpress.com/article/world/world-news/us-presidential-election-2016-date-and-time-of-polling-total-voters-results-announcement-3730466/>, Accessed on 02 November 2016.

² History, "Electoral College," <http://www.history.com/topics/electoral-college>, Accessed on 04 November 2016.

³ National Archives and Records Administration, Government of the United States of America, "What is the Electoral College," <https://www.archives.gov/federal-register/electoral-college/about.html>, Accessed on 03 November 2016

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ The Telegraph, "US election 2016 polls and odds tracker: Latest forecast Hillary Clinton's lead over Donald Trump narrows after FBI revelations," <http://www.telegraph.co.uk/news/o/us-election-2016-polls-and-odds-tracker-latest-forecast/>, Accessed on 03 November 2016.