

The Rigors of a Rigged System? Delegate Allocation Rules in the 2008 and 2016 Presidential Primaries

Brittany Page Brake
John A. Clark
Department of Political Science
Western Michigan University
Kalamazoo, MI 49008

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Abstract

The Republican and Democratic presidential nomination systems are confusing combinations of state legislation and party rules within a framework of national party regulations. But is a confusing system necessarily “corrupt”? Even when a candidate like Donald Trump is able to win his party’s nomination? In this paper, we examine the impact of varying delegate allocation procedures on the 2008 and 2016 presidential nominations. In their analysis of the 1972 primaries, Lengle and Shafer (1976) showed that the rules of the nomination process matter. To what extent do the rules still matter in both parties’ nominations? Do winner-take-all rules benefit one candidate over others in the race for the nomination, or is it the case that proportional rules would lead to similar outcomes? Using data from the 2008 and 2016 Republican and Democratic Party nomination processes, we seek to determine if, indeed, variations in the complex rules of the presidential nomination process can completely alter the outcome for a potential presidential nominee.

The Rigors of a Rigged System?

Delegate Allocation Rules in the 2008 and 2016 Presidential Primaries

"It's a rigged, crooked system that's designed so that the bosses can pick whoever they want and that people like me can't run and can't defend you against foreign nonsense."

-Donald Trump (Washington Post, 4/20/16)

The power of political parties to nominate candidates for public office is thought to be an indicator of the strength of a party system. In bestowing the nomination, the party – however it is defined – selects a standard-bearer who conveys the party’s issue positions and presumably represents the best opportunity to carry the party to victory in the general election.

The way that party nominees are selected varies considerably on multiple dimensions. There are differences across states and countries, across offices within states and countries, and across parties. Is there a “best way” to nominate candidates? In the short run, the answer likely depends on whether one’s preferred candidate is the nominee. More generally, there often is disagreement about who should be selecting nominees and how those selectors are themselves selected (Schaffner 2012, 118-119). Major changes to the nomination process include the creation of the first national party conventions in the 1830s and the advent of the direct primary in the Progressive Era (Epstein 1986). More recently, the Democratic Party instituted significant reforms to its presidential nomination system following its controversial 1968 convention in Chicago (Shafer 1983).

The presidential nomination process in 2016 had its own controversies. For Democrats, former Secretary of State Hillary Clinton held off a furious challenge by Senator Bernie Sanders. Calls for further reform came from Clinton supporters concerned that the Democratic nomination almost went to a candidate who is not a Democrat, while Sanders supporters argued that Clinton's edge among Democratic superdelegates was an undemocratic advantage.¹ Among Republicans, Donald Trump's successful candidacy led many "establishment Republicans" to question how a political novice with little connection to the party was able to vanquish a large field of more qualified candidates. In many ways, the 2016 nomination races were quite similar to the nomination battles eight years earlier. At the same time, they seemed to be unique events with little in common with prior contests.

In this paper, we examine whether changes in the delegate allocation rules in the Democratic and Republican parties would have altered the outcomes of their nominating contests in 2008 and 2016. By replicating the delegate allocation process with uniform sets of alternative rules, we show that the rules governing nominations did have an impact on outcomes. The question of whether an alternative set of rules would constitute a "better" way to nominate candidates remains an open question, however.

Previous literature

Whether rules matter in any aspect of politics seems to be a settled question at this point in time. Research that explores this question in the context of elections concludes that rules in political contests are created intentionally for, and enforced by, those competing in such

¹ Superdelegates – unpledged party leader and elected official delegates, as they are officially known – are selected for the positions they hold rather than the candidates they support. Superdelegates can vote for any candidate they want (Norrande 2010, 78-81). Clinton won more than 80% of the superdelegates compared to about 54% of the pledged delegates in 2016.

competitions or who have an interest in their outcomes (Aldrich 1995; Lingle and Shafer 1976; Hammond 1980; Geer 1986; Ansolabehere and King 1990). However, while the literature that analyzes delegate allocation rules is explicit that rules do, in fact, matter, the type of rules and the way in which they are determined and enforced has varied over time and across the two parties. In this work, we do not contest the notion that rules matter; we firmly believe that they do. We extend the question by asking, to what *extent* do the rules matter in each party and primary? Previous research on this topic indicates that in most cases when alternate rules are applied to the Democratic nomination process the outcomes do not change much (c.f. Lingle and Shafer 1976), but the differences are worthy of mention (Arbour 2009; Dowdle et al. 2009). Nevertheless, we continue to expect that diverse rules in complex presidential nomination systems can affect, or perhaps even alter, the outcome of a party's nomination process.

Our study is not the first of its kind. The research on the effect of nominating rules dates back to the first election implementing the Democratic Party's McGovern-Fraser Commission reforms following the 1968 convention. Lingle and Shafer (1976) reexamined the primaries from the 1972 election and showed the possibility that a different nominee would have emerged if the Democratic party had used only winner-take-all or proportional rules. Their analysis indicated that such an alteration to the rules could have led to the nomination of Senator Hubert Humphrey or Governor George Wallace instead of Senator George McGovern. These potential outcomes were not completely due to an alteration of the rules, but also the political milieu that encompassed the primaries and the political actors who were involved (Lingle and Shafer 1976). That McGovern was part of the reform process certainly did not hurt his candidacy. Regardless, their pioneering study recognized that the rules can impact political and social outcomes in processes like presidential primaries.

Mayer (1996) revisited the Democratic and Republican parties' nominations from 1980 through 1992. Mayer concerned himself primarily with the effects of the outcomes on what he calls the "divisive Democrats" (Mayer 1996, 11). He, like others, reran the primaries by strictly applying winner-take-all rules and then proportional allocation with a fifteen percent threshold to both the Democratic and Republican results. Mayer (1996, 20) explicitly notes that he only reapplies the rules to those states that use primaries to determine delegates, not to caucus states due to the possible higher margin of error when calculating the data (in our analysis, we include all states for which data are available). Mayer concludes that applying the rules in this manner produces thought-provoking variations among the results, but nothing which signifies a complete change in who would have been nominated in either party. While his findings do not necessarily invoke shock value among his readers, the data are worthy of reexamining because the fortunes of certain candidates could have changed in different stages of the primaries.

Like the Democrats' 2016 contest, Hillary Clinton and Barack Obama fought long and hard for delegates in 2008. When Obama finally claimed victory it left many Democrats, including former President Bill Clinton himself, questioning the effectiveness of the Democratic Party rules. Brian Arbour's (2009) analysis shows that, had the Democrats used the corresponding Republican rules in each state, the race would have been even more prolonged and more divisive. Obama's actual lead at the end of the primaries and caucuses was 104 pledged delegates. Under Republican rules, Clinton would have held a slim four-delegate lead. In this alternative scenario, the Democratic nomination would have been decided by unpledged superdelegates at the convention.

While Donald Trump is not the sole-focus of this paper, his remarks about the "rigged system" certainly served as motivation for our work to demonstrate that the rules matter for

every candidate and not just particular individuals or individual parties.² We believe that it is worthwhile to again apply alternative rules to the delegate allocation process.

In order to test this hypothesis for 2008 and 2016, we first look to the delegate allocation rules in both the Democratic and Republican parties. The Democrats let state parties decide whether to use primary or caucus-convention systems to select delegates, but the national party mandates strict proportionality in delegate allocation among candidates. Any candidate receiving at least 15% of the vote is guaranteed a share of the delegates in that state, although states have the option of lowering that threshold. Republicans, meanwhile, give state parties more discretion in creating their delegate selection rules. Some use proportional allocation, others allocate delegates by congressional district or through some more complex hybrid system.³ The national party set the schedule for the first four nomination contests, and a new rule required state parties choosing a winner-take-all contest in 2016 were required to wait until at least March 15 to hold their primary, but this framework left considerable autonomy to the states. The differences across parties are not new. Since the start of the reform era (post-1968), Democrats have been concerned with inclusion and representation of diverse elements of the party, while Republicans have been reluctant to force states to comply with national party mandates (Wekkin 1985).

There are a number of ways to interchange the rules, especially with the motley assortment of Republican methods. Our approach is to apply a uniform system of rules for all of

² To be fair to the eventual nominee, Trump was referring to delegate selection rules at state party conventions rather than the delegate allocation rules governing GOP primaries. He was losing delegates to other candidates, especially Ted Cruz, until he hired veteran strategist Paul Manafort to help with his convention problems. We are not sure what the “foreign nonsense” in the quote refers to, but it is worth noting that Manafort is under indictment for money laundering and failure to register as a foreign agent.

³ For a complete state-by-state listing of delegate allocation rules, visit Frontloading HQ (<http://frontloading.blogspot.com/>). Even without winner-take-all rules in place, Trump captured all of the delegates in South Carolina’s February 20 primary with only 32.5% of the vote by winning pluralities in each of the state’s seven congressional districts.

the states. This approach deviates from Arbour (2009), who applied the 2008 Republican delegate allocation rules for each state to that state's Democratic primaries.

In many ways, the 2016 nominations election were similar to those of 2008. In both years, the Democratic contest featured a clear frontrunner – Hillary Clinton – and a relatively unknown challenger. While the Clinton-Sanders divide was sharp in 2016, their race was not as close as the 2008 Clinton-Obama contest. In both election cycles, the nomination was not decided until nearly all states had weighed in. Obama won small majorities of both pledged delegates and unpledged superdelegates in 2008. Clinton won substantially more pledged delegates than Sanders in 2016, but her margin among superdelegates was huge.

The Republican contests were muddled from the start with large fields of candidates in both election cycles; in fact, 2016 tied for the largest number of candidates in contemporary political history.⁴ This created uncertainty for voters and the Republican leadership, many of whom were unsure which candidate to support. The field winnowed quickly in 2008 as John McCain emerged as the GOP nominee. The drama in 2016 was prolonged as several candidates attempted to provide an alternative to Donald Trump. As Trump emerged as the Republican frontrunner, the establishment's outcry became more shrill. No consensus was reached on an alternative, however. Amid widespread opposition and threats of an open convention, Trump was unable to nail down a majority of delegates until May despite emerging as the de facto nominee by the middle of March.⁵

⁴ Source: <http://www.usnews.com/news/blogs/run-2016/2015/07/02/the-biggest-republican-primary-in-100-years>. 2016 ties with the election of 1916 in which the Republicans again had 17 possible candidates. This does not include those early possible candidates who did not make it on to the ballot for the primaries.

⁵ The results for all four races fit the patterns of candidate winnowing outlined in Aldrich (1980).

Analysis

In order to assess the impact that the rules can have on either party's outcomes, we apply a fairly straightforward procedure. First, we gathered data on the delegates available in each state, the election results from the primary or caucus in each state, and the actual allocation of delegates in each state. Although the information can be found in a number of places, we used Frontloading HQ,⁶ the Green Papers,⁷ and CNN⁸ for delegate allocation results from each state and party. We used all three sites to ensure accuracy and consistency in the data, since the results are not always reported in identical fashion by news organizations (and sometimes not updated after the night of the contest). Once the data were collected, we simply reallocated the delegates among candidates using winner-take-all rules for the Democrats and both winner-take-all and proportional rules for the Republicans.

The Democrats

The early contests in 2008 were split between presumed frontrunner Hillary Clinton and her chief rival, Barack Obama.⁹ Obama won in Iowa and South Carolina; Clinton won New Hampshire and the disputed contests in Michigan and Florida.¹⁰ The result in Nevada was split with Clinton winning the popular vote while Obama won the largest share of delegates.¹¹ They

⁶ We are big fans of Josh Putnam's extremely informative site: <http://frontloading.blogspot.com/>

⁷ <http://www.thegreenpapers.com/>

⁸ <http://www.cnn.com/election/primaries>

⁹ Former vice-presidential nominee John Edwards dropped out of the race by the end of January after failing to win any states.

¹⁰ Michigan and Florida scheduled their primaries outside the window authorized by the national Democratic party. Democratic candidates pledged not to campaign in those states. In Michigan, neither Obama nor Edwards even appeared on the ballot so as to avoid offending voters in Iowa and New Hampshire. Ultimately, each state's delegation to the national Democratic convention was reduced by 50% (Clark 2009).

¹¹ We code Nevada as a win for Obama in our winner-take-all count.

continued to trade victories for the duration of the campaign. Obama did not clinch a majority of pledged delegates until the Kentucky and Oregon primaries on May 20.

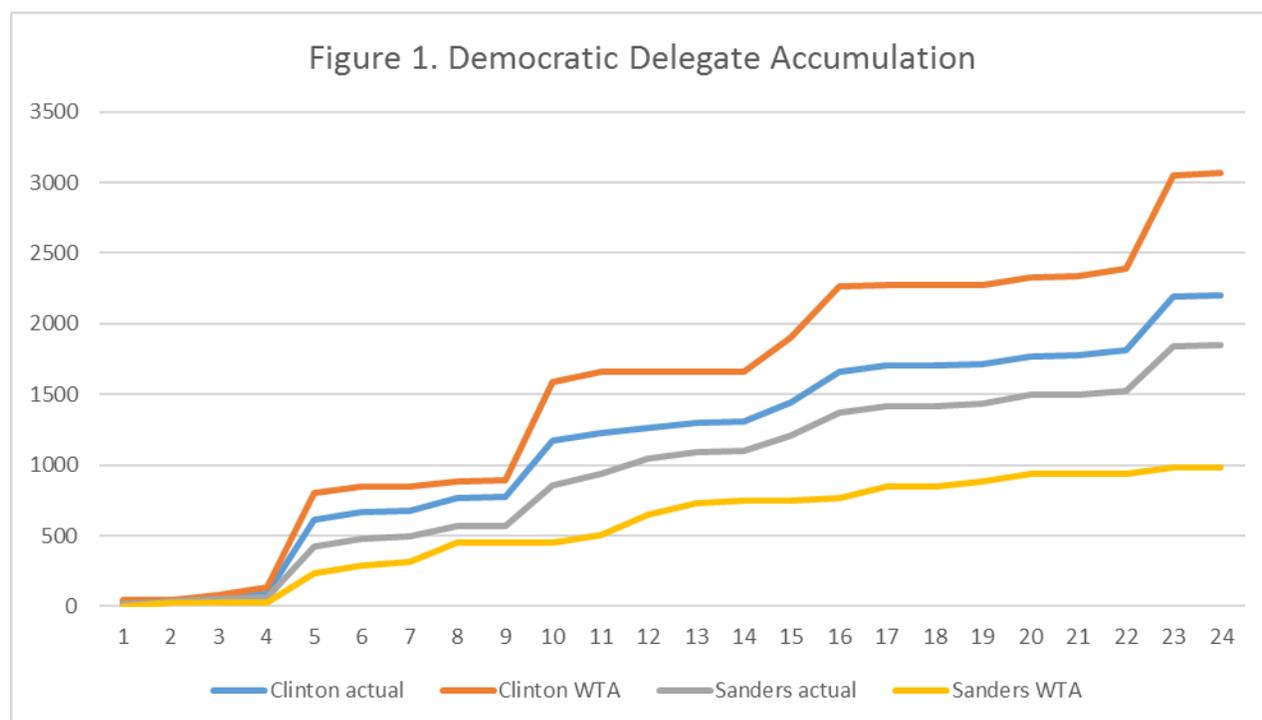
The Democratic party's rules require states to allocate pledged delegates to the national convention based on proportional representation. Under these rules, Obama bested Clinton in pledged delegates by a margin on 1842.5 to 1720.5. Would alternative allocation rules have led to a different outcome, all other things remaining the same? To find out, we applied a winner-take-all standard to the Democratic nominating contests. Much to our surprise, those rules would have put Clinton ahead among pledged delegates, 1901 to 1662. What accounts for the difference? For one thing, the Obama campaign focused attention on the often smaller states that used caucuses instead of primaries to allocate delegates. He won the caucuses in thirteen of fourteen states and three of four U.S. territories (Norranders 2010, 54). In addition, Clinton won several large states with large delegate hauls like California and New York, but the margins were fairly close. Using proportional rules minimized the significance of those wins relative to a winner-take-all allocation framework.

We argue that rules matter for outcomes, but they also affect candidate strategies. Both candidates would have run different campaigns under different rules. We do not want to make too much of a small difference in what was by any measure a close race. The larger point is that delegate allocation rules are not always neutral and can affect candidate fortunes in different and often unexpected ways, especially in close races.

The campaign for the 2016 Democratic nomination started out like a repeat of 2008. Clinton scored a surprisingly narrow victory over Bernie Sanders in Iowa. After Sanders won the New Hampshire primary, Clinton came back with wins in Nevada and South Carolina. She

established a cushion of about 200 delegates in the March 1 “Super Tuesday”¹² contests, then maintained that margin for the rest of the campaign.

Figure 1 shows the accumulation of pledged delegates for Hillary Clinton and Bernie Sanders in two ways.¹³ The two middle lines represent the actual delegates won throughout the nomination campaign using the proportional rules of the Democratic Party. Clinton created some separation in the March 1 primaries by sweeping the six southern states that held primaries that day (seven non-southern states held their contests that day, too). She expanded that lead only slightly throughout the rest of the campaign. Her large margin in delegates at the convention resulted from her overwhelming success in gaining support from unpledged superdelegates, but she would have been nominated based only on the results of primaries and caucuses.



¹² Originally used in reference to the southern regional primary in 1988 (Norrande 1992), the term “Super Tuesday” has come to mean the day on which a largest number of states hold their nominating contests.

¹³ The numbers on the X-axis represent the sequence of days on which nominating contests were held. Each unit of measure does not represent a specific unit of time, but it does allow for a better representation of the patterns.

The top and bottom lines in Figure 1 recast the Democratic results under winner-take-all (WTA) rules. With these rules, Clinton would have dispatched with Sanders fairly easily, winning more than 75% of the pledged delegates. Clinton won virtually all the big states, albeit sometimes by narrow margins. Sanders' success in smaller states (especially those that used caucuses instead of primaries) was not enough to catch the eventual nominee. Clinton easily would have clinched the nomination with pledged delegates alone (no superdelegates needed) under winner-take-all rules.

While Clinton and her supporters might have preferred the expediency of a quick nomination fight in 2016 (and a nomination victory in 2008), the Democratic Party has a tradition of valuing inclusion over efficiency. Any short-run benefit to Clinton would undermine the long-term commitment to a more "fair" nomination process, a process already held in suspicion by many Sanders supporters.

A more likely change to the Democrats' nomination rules – should one occur – might involve a reconsideration of superdelegates. Had superdelegates been allocated to the candidates in the same proportional method as pledged delegates, or if there were no superdelegates at all, Clinton still would have won the nomination. In light of the Republican race in 2016, some Democrats (and many Republicans) might argue that superdelegates are necessary to prevent the nomination of a Democratic version of Donald Trump.

The Republicans

The Republican party offers state parties considerable flexibility in how to allocate their delegates to the national party convention. Even so, there are national party rules that must be obeyed. Several states were penalized in 2008 for holding their contests outside the window

authorized by the national party.¹⁴ In 2016, Republican state parties that wanted to use a winner-take-all allocation process had to wait until March 15 to hold their nomination contest. Given the variation across states, we recalculate delegate allocation for the Republicans using strict application of proportional and winner-take-all rules.

At first blush, the Republican candidate fields in 2008 and 2016 were similarly large and diverse. There were no clear frontrunners in either year, yet plenty of candidates seemed to have a reasonable chance of capturing the party's nomination.

The early contests in 2008 provided no insight as to who would emerge as the Republican nominee. Three different candidates won the first three contests: Mike Huckabee in Iowa, Mitt Romney in Wyoming, and John McCain in New Hampshire, respectively. Those states and several others led up to the first real battlegrounds in South Carolina and Florida. By winning both states, McCain established himself as the candidate to beat. McCain followed up those victories with wins in ten of the 22 "Super Tuesday" states that held contests on February 5, including both California and New York. A month later, he sewed up the nomination by clinching a majority of the delegates to the national convention.

Our re-analysis of the 2008 suggests that McCain would have done well under any formulation of the rules. If anything, McCain may have reached a majority of delegates more quickly under the actual delegate allocation procedures than under consistent winner-take-all rules. He finished near the top (and received delegates) in those states where he did not win up through "Super Tuesday," and he had the field more or less to himself thereafter. We might

¹⁴ Wyoming, New Hampshire, Michigan, South Carolina, and Florida.

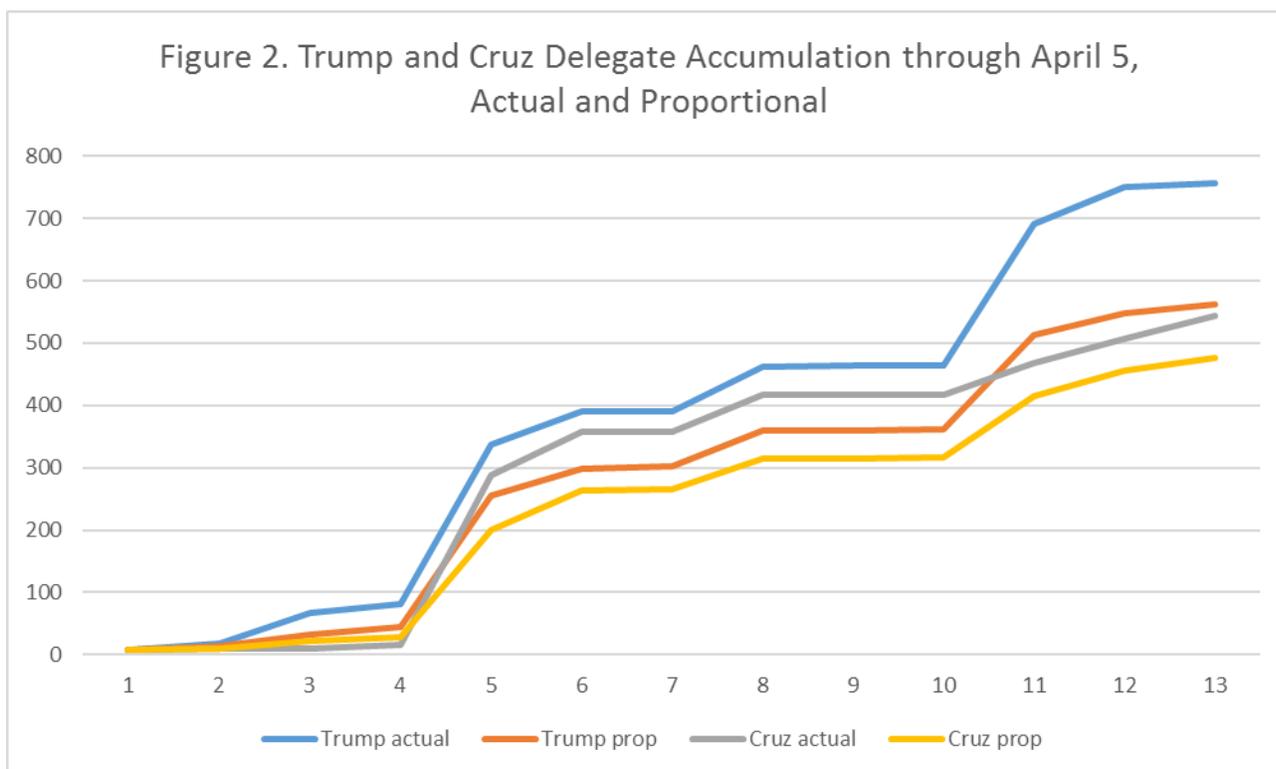
expect winner-take-all rules to hasten the process of winnowing out candidates other than the eventual nominee, but that does not appear to be the case for Republicans in 2008.

The more typical pattern returned for Republicans in 2016. Donald Trump, the eventual nominee, shook up the process by saying and doing things that would have been disastrous for candidates without his celebrity status. Trump benefitted from a lack of consensus among traditional Republicans regarding which candidate to support. After Ted Cruz won the Iowa caucuses by a narrow margin, Trump reeled off consecutive victories in New Hampshire, South Carolina, and Nevada, and he won seven of the eleven “Super Tuesday” states holding primaries on March 1 (Schaffner and Clark 2018). While most of the field was winnowed out quickly, three candidates (Ted Cruz, Marco Rubio, and John Kasich) continued to fight for the mantle of the alternative to Trump. No consensus was reached, though, and Trump captured a majority of pledged delegates on June 7, the day the last states held their nominating contests. There was talk about whether pledged delegates could be released to vote their consciences on the first ballot of the convention in an attempt to deny Trump the nomination, but the convention stayed mostly on script and Trump was nominated without major incident.

When we replay the 2016 Republican nomination under alternative rules, our analysis shows that Trump would have done better under a strict winner-take-all system while all other candidates would do worse. Although three other candidates won at least one state, Trump would have reached a majority of pledged delegates on April 26 under winner-take-all rules. In contrast, a strictly proportional system would have hurt Trump and helped everyone else. Trump would have ended the race with a plurality of pledged delegates under uniform proportional rules, but he would have fallen almost 100 delegates short of a first ballot win at the GOP convention. The

delegates might have awarded Trump the nomination eventually, but the anyone-but-Trump forces would have had an easier time throwing the convention into turmoil.¹⁵

Consider the information in Figure 2, which compares the delegate accumulation for Donald Trump and Ted Cruz through April 5, the day of Cruz’s last primary win in Wisconsin. In the actual delegate count, Trump had a substantial lead of more than 200 delegates. Under strict proportional rules, his lead over Cruz would have been 60% smaller. The perceived inevitability of Trump’s nomination would have dropped substantially, too, opening the door for Cruz (or Kasich or Rubio or someone else) to emerge as the singular alternative to Trump.¹⁶



¹⁵ Like with superdelegates for the Democrats, some Republican delegates are selected by virtue of party offices that they hold rather than candidates that they support. A change in the rules for 2016 required these delegates to support the candidate who won their state, even if other delegates were allocated based on proportionality or some other method.

¹⁶ Under winner-take-all rules, Trump would have had more than twice the number of delegates compared to Cruz, his closest competitor, through the April 5 contests. His margin at that time would have been 570 delegates under winner-take-all rules compared to only 86 using proportional allocation.

Even at that late date, more than 700 delegates were up for grabs in the states yet to hold their nominating contests.

As with the Democrats, our analysis for Republicans assumes that we can change the delegate selection rules without affecting anything else related to the nomination campaign. While this assumption simplifies our analysis, it fails to take into consideration the impact that a change in rules would have on the behavior of candidates and voters. We cannot know how the Republican nomination battle would have been different under proportional rules. Even so, the likelihood of a different campaign (and possibly a different nominee) seems quite high.

Discussion

Our examination of the 2008 and 2016 nomination races reveals at least three patterns when alternative rules are applied:

- For both parties in 2016, a winner-take-all system would have allowed the eventual nominees to clinch a majority of delegates earlier than they actually did. A Republican change to the system of proportional allocation used by the Democrats would have made their nomination battle much closer.
- For Democrats in 2008, a winner-take-all system would have reversed the outcome of the nomination race among pledged delegates.
- For Republicans in 2008, a consistent set of alternative rules would have had little impact on McCain's success.

We find the Democratic contest in 2008 to be especially interesting (see also Arbour 2009). A useful parallel can be made to another facet of our electoral system that uses winner-take-all rules, the electoral college. Was Hillary Clinton “cheated” out of the presidential

nomination in 2008 and the presidency in 2016? No, but her experience in both years illustrates the importance of understanding the rules of the game. We traditionally think of the electoral college as magnifying the margin of victory for the successful presidential candidate, and it normally works that way. As the presidential elections of 2000 and 2016 remind us, it is possible for the candidate with the most popular votes to lose in the electoral college. When the electorate is evenly divided, the likelihood of a split result increases.

No rules change by itself would have prevented Donald Trump and Hillary Clinton from winning their respective party nominations in 2016. Does that mean the rules did not matter? Hardly. Under winner-take-all rules, Clinton would have easily defeated Bernie Sanders on her way to her party's nomination. Trump would have won the Republican nomination under a strict proportional framework had everything else stayed the same. What might have been different? Candidates behave strategically, so an alternative path to the nomination might have opened up for Cruz or one of the other candidates. Media coverage of the campaign would have been different, altering the perceived dynamics of the race. Voters may have weighed their options differently if they perceived another candidate to be more viable or electable than Trump.¹⁷ Put simply, the dynamics of the race would have changed.

This leads us to another important point about presidential nominations: although rules matter, they are hardly the only thing that shapes the nature of a campaign. The size and shape of the field of candidates introduces a dynamic into the process that can shorten or lengthen the path to the nomination (Aldrich 1980). Decisions by party elites to coalesce in support of a particular

¹⁷ Viability refers to the likelihood of a candidate capturing the party's nomination, while electability is the likelihood of winning the general election. Both considerations are thought to be important to voters and delegates (Abramowitz 1989).

candidate – or, as in 2016, their unwillingness to do so – can give important advantages to the frontrunner (Cohen et al. 2008).

Finally, the likelihood of the Democrats altering their requirement that delegates be allocated proportionally seems pretty remote. Similarly, any efforts by the national Republicans to impose additional restrictions on their state parties would likely be met with extreme opposition. Even if such changes are unlikely, there is merit in examining the impact of any potential rules change.

The path to a presidential nomination is long, decentralized, and quite possibly confusing to candidates and voters alike. Attention to the rules – for delegate allocation, fundraising, ballot access, and more – matters. Those rules may create advantages for some candidates and barriers for others, but following the rules is a sign of a smart campaign behaving strategically, not simply “corruption” to those who choose to play by their own rules.

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