

Originally published in

Albany Times Union

October 5, 2020

Demand Respect for Results



By [Jerry H. Goldfeder](#) and Lincoln A. Mitchell

In the so-called presidential “debate,” President Trump once again refused to agree to a peaceful transition if he loses. Through fifty-eight presidential elections we know of no similar threat, even when ten presidents [lost reelection](#) and graciously turned over the keys to the oval office. He went further, refusing to urge his supporters to calmly stand down until a winner is certified. Worse, he encouraged the Proud Boys to “stand by” - until what? It’s very unsettling, to say the least.

To be sure, feelings have run high in many campaigns, the most intense of which was probably [1876](#) when post-civil war passions were quite raw. Nevertheless, political competition has been mainly confined to persuading fellow Americans of specific policies or the worthiness of the candidates. It is no exaggeration to say that the important norm of civil decorum has been thrown out the window by the president. We may be living through the beginning of the end of American democracy.

The rule of law, the voting process, and the acceptance of the results are all on the table this year, and America is in real danger of becoming just another country where the leader will disregard any law or norm just to stay in power. Voters are confronting the meta-question of whether respect for time-honored democratic concepts of legitimacy, democratic elections and succession will survive. Irrespective of who actually wins, will there be merely profound disappointment, or, rather, as it already appears, the absence of respect for the outcome? Indeed, the president appears to be encouraging, if not fomenting, armed street riots that promise to threaten not only freedom of assembly but voting itself. [Republican party recruitment of 50,000 volunteer lawyers](#) to monitor “suspicious voting” is nothing less than an American version of anti-democratic vigilantism that is on regular display around the globe. It is a far different strategy and intent than the Democrats’ plan to deploy lawyers to try to prevent such intimidation at the polls. And, there is a serious question as to whether the president will [deploy federal agents on Election Day](#) that may, at the very least, discourage voting.

Many believe the old saw that "[it can't happen here.](#)" After all, the thinking goes, we are not Belarus or Ukraine, or Argentina or Chile. Our foundation of constitutionalism is deep and abiding. However, when the president challenges it repeatedly, and his supporters seek to delegitimize the voting process, it is time to recognize that, in fact, a threat to our democracy is indeed happening here. One need not be a student of [Thucydides](#) or [William Shirer](#) to understand the fragility of the rule of law when narcissistic leaders attempt to retain power at all cost.

It is not too early for Americans to begin to review recent and current events in Eastern Europe to understand what must be done to save our freedoms. The [people of Belarus](#), like those in [Georgia and Ukraine](#) earlier this century, are gathering in their cities with a determination to support democratic institutions and free, fair and democratic elections. Although Americans have marched in great numbers [against war](#), in support of the 19th Amendment and the [E.R.A.](#), or to [demand equal rights](#), we have not yet been called upon to show up to preserve our democratic institutions. That time, unfortunately, is now.

Thus, in addition to voting - whether it is on Election Day, on early voting days or by mail - Americans must be ready to demand respect for the results. Every election has its flaws, sometimes technological, often procedural. At the end of the day, however, the rules, albeit imperfect, must be accepted - even when the outcome is problematic. One need only revisit the [2000 election fiasco](#) to appreciate that a very unhappy majority nonetheless accepted George W. Bush as president. The difference we now face is that the effort to undermine the electoral process and question the results come from within the White House itself.

Despite increasingly provocative rhetoric from the president, we hope our historical traditions will carry the day. Unfortunately, we may have to guarantee their continuation through action beyond voting - to peaceably assemble throughout the country, in all state capitals and major cities, with a simple, yet profound, message: support democracy, count the votes, respect the outcome.

Voting is imperative, but to save our republic such mobilization may also be necessary.

Jerry H. Goldfeder, *special counsel at Stroock & Stroock & Lavan, teaches election law at Fordham Law School and is the author of "Goldfeder's Modern Election Law."* **Lincoln A. Mitchell** *teaches political science at Columbia University and is the author of "The Color Revolutions," about 21st century democracy movements in the former Soviet Union.*

Reprinted with permission from the October 5, 2020 edition of the *Times Union* © 2020 Capital Newspapers, a division of The Hearst Corporation, Albany, N.Y. All rights reserved. Further duplication without permission is prohibited.