

Republicans have insufficient evidence to call elections ‘rigged’ and ‘fraudulent’

Opinion by **Benjamin L. Ginsberg**

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Benjamin L. Ginsberg practiced election law for 38 years. He co-chaired the bipartisan 2013 Presidential Commission on Election Administration.

Legions of Republican lawyers have searched in vain over four decades for fraudulent double voting. At long last, they have a blatant example of a major politician urging his supporters to illegally vote twice.

The only hitch is that the candidate is President Trump.

The president, who has been arguing that our elections are “rigged” and “fraudulent,” last week instructed voters to act in a way that would fulfill that prophecy. On Wednesday in North Carolina, he urged supporters to double vote, casting ballots at the polls even if they have already mailed in absentee ballots. A tweet claiming he meant only for people to check that their ballots had been received and counted sounded fine — until Trump renewed his original push on Thursday evening in Pennsylvania and again Friday at a telerally.

The president’s actions — urging his followers to commit an illegal act and seeking to undermine confidence in the credibility of election results — are doubly wrong. They impose an obligation on his campaign and the Republican Party to reevaluate their position in the more than 40 voting cases they’re involved in around the country.

These cases are part of a torrent of 2020 voting litigation that pits Republicans’ belief that election results won’t be credible without state law safeguards against Democrats’ charges that many such rules are onerous and designed to suppress the votes of qualified citizens inclined to vote Democratic.

The president’s words make his and the Republican Party’s rhetoric look less like sincere concern — and more like transactional hypocrisy designed to provide an electoral advantage. And they come as Republicans trying to make their cases in courts must deal with the basic truth that four decades of dedicated investigation have produced only isolated incidents of election fraud.

These are painful conclusions for me to reach. Before retiring from law practice last month, I spent 38 years in the GOP’s legal trenches. I was part of the 1990s redistricting that ended 40 years of Democratic control and brought 30 years of GOP successes in Congress and state legislatures. I played a central role in the 2000 Florida recount and several dozen Senate, House and state contests. I served as counsel to all three Republican national party committees

nationwide GOP Election Day operations, overseeing the thousands of Republican lawyers and operatives each election on alert for voting fraud. In every election, Republicans have been in polling places and vote tabulation centers. Republican lawyers in every state have been able to examine mail-in/absentee ballot programs.

The president has said that “the only way we can lose ... is if cheating goes on.” He has asserted that mail-in voting is “very dangerous” and that “there is tremendous fraud involved and tremendous illegality.”

The lack of evidence renders these claims unsustainable. The truth is that after decades of looking for illegal voting, there’s no proof of widespread fraud. At most, there are isolated incidents — by both Democrats and Republicans. Elections are not rigged. Absentee ballots use the same process as mail-in ballots — different states use different labels for the same process.

The Trump 2016 campaign, of which I was not a part, could produce no hard evidence of systemic fraud. Trump established a [Presidential Advisory Commission on Election Integrity](#) in 2017 to expose all the fraud he maintains permeates our elections. He named the most vociferous hunters of Democratic election fraud to run the commission. It [disbanded](#) without finding anything.

The [Heritage Foundation Election Fraud Database](#) has compiled every instance of any kind of voter fraud it could find since 1982. It contains 1,296 incidents, a minuscule percentage of the votes cast. A [study](#) of results in three states where all voters are mailed actual ballots, a practice at the apex of the president’s outrage, found just 372 possible cases of illegal voting of 14.6 million cast in the 2016 and 2018 general elections — 0.0025 percent.

The president’s rhetoric has put my party in the position of a firefighter who deliberately sets fires to look like a hero putting them out. Republicans need to take a hard look before advocating laws that actually do limit the franchise of otherwise qualified voters. Calling elections “fraudulent” and results “rigged” with almost nonexistent evidence is antithetical to being the “rule of law” party.

Many of the GOP’s litigation concerns are meritorious in principle. But the president’s inflammatory language undercuts the claim that Republicans seek merely to uphold statutory safeguards needed to validate the results’ credibility.

Republicans need to rethink their arguments in many of the cases in which they are involved — quickly. Otherwise, they risk harming the fundamental principle of our democracy: that all eligible voters must be allowed to cast their ballots. If that happens, Americans will deservedly render the GOP a minority party for a long, long time.

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