

## Perspective

# Democracy Itself Is on the Ballot

BY BRAD S. KARP AND ROBERT A. ATKINS

**T**he much-anticipated mid-term election on Nov. 6 will decide far more than the partisan makeup and leadership of the 116th Congress. It will decide the legitimacy of our election process itself.

After more than 200 years of expanding the franchise and codifying into law the right of all eligible citizens to elect representatives of their own choice, the nation faces a moment of truth: will the combined forces of extreme gerrymandering, vast sums of undisclosed campaign money, legislated obstacles to voter registration, sweeping purges of voter rolls, racially motivated voter identification laws, undeterred foreign subterfuge, and criminal threats from the president nullify the will of the people?

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BRAD S. KARP is the chairman and ROBERT A. ATKINS is the co-chair of the litigation department of Paul, Weiss, Rifkind, Wharton & Garrison.



Photo: Joe Sitarotnik

**The new “voting booths” where you fill out your scantron sheet. Not very private, and not nearly as cool as the old lever machines.**

When the director of national intelligence declared last year that the “warning lights are blinking red” for further cyber interference with our electoral process, he might as well have been sounding an alarm on the latest means of voter suppression. Due to partisan gerrymandering alone, voters across the country no longer choose their elected officials; the elected officials choose their voters. Pennsylvania is split evenly between Democrats and Republi-

cans, yet the Republican mapmakers there arranged to win 13 of the 18 congressional seats in each of the last three general elections.

The warping impact of gerrymandering is profound. The Brennan Center for Justice estimates that a midterm “blue wave” would not be sufficient for the House of Representatives to change hands; to do so would require instead a tidal wave of historic proportions: an 11 percent Democratic advantage in the national popular vote.

The genius of our founders' plan to hold congressional elections every two years was to ensure that the people would act as a constant – check on incumbents – including the sitting president. But rather than serving as a bellwether of the national mood, this midterm election will be a test of whether we truly have a national government *by* the people and *for* the people.

Voters in 23 states—nearly half the country—face barriers to registering and voting that did not exist ten years ago and that disenfranchise our fellow citizens just as the Jim Crow laws did fifty years ago. Before 2006, no state had strict photo ID requirements. In 2016, Wisconsin's voter ID law blocked 17,000 voters from casting ballots. The U.S. Government Accountability Office found that the voter ID laws in Kansas and Tennessee depressed turnout by up to 3% – the margin of victory or defeat in most competitive races.

Other states, like Florida and North Carolina, are aggressively “purging” thousands of voters from the rolls. Iowa has cut back on early voting and absentee ballots. And in Georgia, polling places have been shuttered and the secretary of state—himself a candidate—refuses to process 53,000 new voter registration forms, most filed by African-Americans. Elections for the House often are decided by razor-thin margins.

The signals are not all bleak. Pollsters tell us that voter enthusiasm, especially among young adults, is surging and may reverse the abys-

mally low turnout in 2014. Citizens, like the students from Parkland, Florida, are organizing and speaking out against the cynical tactics of voter suppression.

We, as lawyers, have a unique power—and professional obligation—to protect the right to vote and preserve the rule of law. Our law firm has been at the forefront of the fight to vote before. Fifty-five years ago, in 1963, our law firm successfully persuaded the Supreme Court in *Gray v. Sanders* to establish the principle of “one person, one vote.” Robert Kennedy, who made his only court

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appearance as attorney general in that landmark case, said: “Lawyers have their duties as citizens, but they also have special duties as lawyers. They have a continuing responsibility to uphold the fundamental principles of justice from which the law cannot depart.”

No matter your party affiliation, that summons to service has never been more vital. Democracy itself is at stake on Nov. 6th. Lawyers need to turn out across the nation on Election Day, not only to cast their own ballots but also

to stand ready to help at every polling place to ensure that every eligible voter has the chance to exercise her hard-fought constitutional right to cast her ballot for the candidate of her choice. With the confusion and chaos created by hacked registration rolls, purged voter lists, ever-shifting voter ID requirements, closed polling stations and shrinking voting hours, there is a real and present danger that without able on-site assistance, voters will be turned away, will just give up or will be given “provisional” ballots that never get counted.

Ours was the first founding document in history to enshrine into law the right to vote. But it requires work to protect and leaders who respect it, especially in the face of a president who himself cavalierly threatens potential voters with criminal penalties, as he did in an Oct. 20<sup>th</sup> tweet. We cannot allow the anti-democracy forces to prevail on Nov. 6<sup>th</sup>. We call on the private bar to do its duty on election day and to discharge the responsibility each of us swore to uphold upon admission to the practice of law: to faithfully support the Constitution of the United States.