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# Party Polarization and Campaign Finance

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## INTRODUCTION

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The intense debate these days about the shortcomings of American democracy and how best to deal with them often features assertions about parties, polarization, and campaign finance that appear puzzling if not downright contradictory. For example, some analysts argue that campaign finance reforms have reduced the role of political parties in campaigns and thereby weakened the ability of party leaders to commandeer their members on behalf of achievable policy goals.[1] This seems an odd argument to make in an era of historically high levels of party loyalty—on roll calls in Congress and voting in the electorate. Are parties too strong and unified or too weak and fragmented? Have they been marginalized in the financing of elections or is their role at least as strong as it has ever been? Does the party role in campaign finance (weak or strong) materially shape our capacity to govern?

A second example involves the mix of small and large individual donors and its connection to polarization. The increasing involvement in presidential and congressional campaigns of large donors—especially through Super PACs and politically-active nonprofit organizations—has raised serious concerns about whether the super-wealthy are buying American democracy. Ideologically-based outside groups financed by wealthy donors appear to be sharpening partisan differences and resisting efforts to forge agreement across parties. Many reformers have advocated steps to increase the number of small donors to balance the influence of the wealthy. But some scholars have found evidence suggesting that small donors are more polarizing than large donors.[2] Can that be true? If so, are there channels other than ideological positioning through which small donors might play a more constructive role in our democracy?

This paper will attempt to shed light on both of these disputed features of our campaign finance system and then assess whether campaign finance reform offers promise for reducing polarization and strengthening American democracy.

## THE CONTEXT

These are difficult times for American politics and governance. The two major political parties in Congress are as polarized—internally unified and distinctive from one another—as any time in history. For perhaps the first time, the two dominant ideologies have captured the two major political parties. This ideological polarization is most prominent among elected officials and party activists but also clearly evident among voters. The 2012 electorate was the most polarized since the availability of systematic public opinion data over 60 years ago. This reflects sharp racial and religious divides between the parties as well as conflicting views on the size and role of government.

A rough electoral parity between the parties (with control of both houses of Congress as well as the White House now up for grabs under the right conditions) combined with striking policy differences raises the stakes of elections and creates powerful incentives for partisan team play. Leaders and members of both parties are actively engaged in an aggressive permanent campaign to hold or gain the reins of power in the White House and Congress. This leads to strategic agenda-setting and voting, even on issues with little or no ideological content, and the tribalism that is such a prominent feature of American government.

These ideologically coherent, internally unified, and adversarial parties are poorly matched with the American constitutional system of separation of powers, separately elected institutions, and constraints on majority rule, which usually require some degree of cross-party negotiations and compromise to function. Divided party control of the White House and Congress, a frequent consequence of American elections, is today not an invitation to bargain but a formula for willful obstruction and policy irresolution.

The mismatch between parties and governing institutions is exacerbated by the fact that the polarization is asymmetric. The Republican Party has veered sharply to the right in recent decades, even more so since the election of Barack Obama and the emergence of the tea party movement. Changing Republican Party positions on taxes, Keynesian economics, immigration, climate change and the environment, healthcare, science, and a host of cultural issues are consistent with that pattern. So too are the embrace of hardball strategies and tactics involving parliamentary-style opposition, the rise of the 60-vote Senate, government shutdowns, debt ceiling hostage-taking, and nullification efforts not seen since the antebellum South. The radicalization of the GOP has been amply documented by scholars and party-insiders. The liberal and moderate Republican officials who once played a key role in the enactment of civil rights and environmental legislation have virtually vanished from the contemporary Congress. At both the elite and mass levels, the Republican Party is overwhelmingly conservative and strongly opposed to doing business with their Democratic counterparts.[3]

The growing strains within the Republican Party between the so-called establishment and tea party wings of the party, most visible in a limited number of primary challenges and differences over strategies and tactics, mask a remarkable unity in roll call voting and overwhelming party loyalty in general elections. House Majority Leader Eric Cantor's stunning June 10, 2014 primary upset roiled these waters once again and accentuated the costs of the party establishment's embrace of the tea party movement and its agenda as a route to majority control in Congress.

The Democratic Party also became more unified with the demise of its white conservative wing following the passage of the Voting Rights Act and the partisan realignment of the South. However, outside of the South, the Party's ideological center of gravity has not shifted much in the last several decades. With Bill Clinton's election to the White House, the Democrats became more unified and clustered left of center but also more pragmatic and accommodating of differences within their caucus. Roughly equal numbers of liberals and moderates, as well as a strong disposition to compromise among Democratic Party identifiers in the electorate, makes such adjustments essential. It is no surprise that President George W. Bush had more (if still limited) opportunities to cut deals with Democrats in Congress than has President Obama with Republicans.

The second major feature of the contemporary landscape is the new, bifurcated world of campaign finance.[4] Campaign finance operates in two realms: one in which the source and size of contributions to candidates, parties, and traditional political committees are limited and disclosure is virtually universal, and the other a modern version of the Wild West, where almost anything goes. The first realm remains by far the largest component of federal election campaign finance. Individual candidates for the presidency and Congress, supplemented by party committees and traditional PACs, raise the lion's share of the money spent in federal elections. These "hard money" donations are all explicitly limited by source and size and are subject to timely disclosure.

This regulated world is not immune to weaknesses and pressure points that attract the attention of critics. Individual bundlers help solicit donations that collectively earn them status as major fundraisers; the transparency of these fundraiser networks largely depends on voluntary disclosure by the candidate. Joint fundraising committees facilitate the ability of donors to steer substantially larger contributions to candidates than the statutory limit on individual contributions to candidates. Leadership PACs associated with the vast majority of members of Congress permit donors who have given the maximum permissible contribution to a member's campaign committee to make an additional annual $5,000 contribution to a member's associated PAC. Leadership PACs also have looser regulations on how their funds may be used. Registered lobbyists and nonregistered corporate and trade association executives (sometimes under not so subtle duress from elected officials) broker multiple individual and PAC donations to enhance their standing with and access to members of Congress and their staffs.

The Supreme Court, in *McCutcheon* v. *Federal Election Commission*, recently removed one of the pillars of this first realm of hard money by overturning the limits imposed by the 1974 Federal Election Campaign Act amendments on the aggregate amount individuals may contribute to candidates, parties, and PACs over a two-year election cycle.[5] Plaintiffs and their supporters contended that the elimination of the aggregate limit would help parties and candidates raise more money from limited contributions. Defendants and their supporters argued that the elimination of the aggregate limit would spur supercharged joint fundraising committees that permit multimillion-dollar hard-money contributions raised with the involvement of candidates and benefiting those candidates. The early evidence suggests they both may well have been correct as the number of joint fundraising committees among party committees and among parties and candidates has risen sharply since the court issued its opinion in April 2014.[6] Defendants also worried that a far-reaching decision by the court in this case could eventually overturn the Buckley distinction between contributions and expenditures, potentially undermining the jurisprudential basis for the entire regulated system. The seed for that legal retrenchment may have been planted with language in the majority decision that limits the constitutional basis for regulating contributions to candidates and parties to *quid pro quo* corruption. Plaintiffs in this case, and deregulators more generally, welcomed a reconsideration of a constitutional distinction between contributions and expenditures they have long found flawed.

The other realm of campaign finance is everything else. It includes money spent on federal elections not subject to the same hard-money restrictions with regard to the source and size of contributions and the full disclosure of the sources and uses of those funds. Initially, this category was defined by the court's *Buckley* decision, which prohibited restrictions on spending of personal funds by candidates in their own campaigns and on independent expenditures by individuals for or against candidates.[7] The court also limited the realm of regulated financing to activities that expressly advocated the election or defeat of a candidate, thereby permitting the use of unregulated and undisclosed money by nonparty organizations for activities that can influence the outcome of elections, such as issue advocacy campaigns, voter guides and voter mobilization programs. Over time this grew to include funds raised by parties ostensibly for purposes other than electing or defeating federal candidates (such as party building and issue advertising); after the explosive growth of this party soft money between 1992 and 2000 (most of which was used for candidate-specific issue ads, largely indistinguishable from traditional campaign ads), party soft money was banned by Congress, a ban that remains in place today.

This other realm of campaign finance became known as "outside money" (somewhat of a misnomer, as we will see below). While such funding had been a feature of federal elections for decades, the flow of money into this sphere has risen substantially in recent elections, spurred by the changing tactics of party allies and organized groups, as well as recent legal and regulatory decisions. The role of non-party organizations became a matter of controversy beginning with the growth of issue advertising in 1996 and a focal point of public attention in the 2004 election when so-called 527 political organizations (named for the section of the Internal Revenue Code that grants tax-exempt status to political committees) blossomed as a means of steering unrestricted contributions into federal campaigns in ways that presumably did not involve independent expenditures (express advocacy advertising) or electioneering communications as defined by the Bipartisan Campaign Reform Act in 2002.[8]

A series of Roberts Court decisions culminating in *Citizens United* v. *Federal Election Commission* (which declared unconstitutional the prohibition on corporate expenditures in federal elections), an appellate court decision, *SpeechNow.org* v. *Federal Election Commission*, that drew on the reasoning of *Citizens United*, and two key steps by the Federal Election Commission (FEC) laid the legal groundwork for a much larger, more organizationally complex world of outside funding.[9] The Citizens United decision overturned the 1947 prohibition on corporate spending in federal elections and allowed corporations, including for-profit and nonprofit corporations, and by extension labor unions, to spend funds independently to advocate candidates.[10] The appellate court decision in *SpeechNow.org* struck down contribution limits for political action committees that are established solely to make independent expenditures and do not make contributions to candidates.[11]

The ruling quickly gave rise to *Super* PACs, formally nonconnected, independent-expenditure-only political action committees that register with the FEC and are subject to its disclosure regulations. However, these committees can accept donations of any size from any nonforeign source, including corporations, nonprofit organizations, unions, and individuals. In 2012 many of the largest Super PACs raised most of their funds from a limited number of wealthy individuals.[12] Nonprofit advocacy organizations can also accept donations of any size, but their finances are not generally subject to FEC disclosure rules. Politically-active nonprofit organizations affiliated with Super PACs or those like the Chamber of Commerce, a 501 (c)(6) trade association, that engages in extensive electioneering but is not affiliated with a Super PAC can therefore easily keep their donors hidden from public view. Although these organizations are required to disclose the monies they spend on independent expenditures or electioneering communications, recent regulatory actions by the FEC have made it possible for these groups to disclose the amounts they spend advocating candidates, but not the sources of funding.[13] The resultant breakdown in disclosure is striking: the identity of the donors responsible for about a third of the $1 billion spent independently advocating federal candidates by nonparty organized groups went unreported to the Federal Election Commission in 2012. The percentage of such "dark money" appears to be increasing in the 2014 election cycle.[14]

This unregulated or loosely regulated realm of campaign finance accommodates unlimited and often undisclosed money in federal elections. Most of the Super PACs are formed to advance a specific candidate (mostly in presidential primary and general elections, but this is beginning to spread to Senate and House contests) or one of the two major political parties. They constitute a universe parallel to candidate and party campaigns, formally separate and independent but effectively hardwired to them, providing ample opportunity for wealthy individuals, corporations, and groups to skirt the restrictions of the regulatory regime. These outside money groups can and do communicate with one another, and candidate and party campaigns have ways to legally signal their plans, an indirect mode of coordination, which together lead to larger and more effectively integrated campaigns.

This second realm of campaign finance, though markedly smaller than the first, attracts more attention because of its explosive growth, problematic disclosure, jarring presence of multimillion-dollar players, and potential impact on the integrity, accountability, and legitimacy of the political system.

## POLITICAL PARTIES IN CAMPAIGN FINANCE AND AMERICAN DEMOCRACY

Political parties have proved themselves essential to democracies across the globe in organizing choices for voters and helping elected representatives take collective action responsive to the electorate. The legendary political scientist V. O. Key clarified those partisan linkages by distinguishing three critical dimensions: party in the electorate, party organizations, and party in government.[15] Key's ruminations decades ago remain useful today in thinking about how parties might facilitate or impede democratic accountability and effective governance.

We have already discussed how the ideological polarization of parties and their intense competition for control of government can complicate and prevent collective action on pressing problems in a constitutional system with divided powers, separately elected institutions, and constraints on majority rule. Another critical feature of contemporary political life is the changing nature of the parties themselves. As John Zaller and his colleagues from UCLA have theorized and demonstrated, parties are less collectives of election-minded politicians responding to the median voter than networks that, in addition to party and elected officials, include interest groups, activists, donors, and media voices with clear policy demands.[16] These extensive networks of players with overlapping interests, values, and beliefs reinforce the distinctiveness of the parties and their unusually disciplined team play. The old notion of parties as pragmatic and moderating forces amid extreme and uncompromising interests does not fit well with contemporary American politics.

Before answering directly the question of whether stronger parties would mitigate the problems of governing, we need to address the claimed links between party strength and campaign finance. The central argument is that when local, state or national parties control the financing of the nomination and election of candidates, congressional party leaders are better able to discipline their members and cut pragmatic deals within and between the parties in Congress.[17] The amount of money crossing the national and state party books is seen as a good indicator of party strength. So when party soft money was banned in 2002, opponents of the Bipartisan Campaign Reform Act proclaimed, in simple syllogistic fashion, that parties would perforce be weakened. And when subsequent judicial decisions and administrative actions or inactions loosened the restrictions on political money not directly flowing through the parties, the further weakening of parties was inevitable.[18]

These claims seem perfectly logical and sensible, but they fall short of achieving empirical confirmation—over the last few years, two decades and century. Let's review that evidence in reverse order.

Scholars have long noted the relative weakness of American parties, especially the national committees. Local, patronage-based political machines such as New York's Tammany Hall were in their heyday in the late 19th, early 20th centuries and left a strong but irregular imprint on American politics up to the 1960s. In his comprehensive study of party organizations, David Mayhew identified 13 organization states in which local parties flourished, covering a high of 55 percent of the national population in the 19th century and dropping to a low of 37 percent by 1980.[19] Remnants of some of these local machines remain in place today but they are pale shadows of their former selves. Progressive reforms including the decline of patronage, adoption of the secret ballot, and most importantly the direct primary weakened the role of these local party organizations in the nomination of candidates. During this period, state parties were mostly skeletal organizations—loose confederations of local and county parties and dependent upon the resources provided by those confederates.

The national party committees were bit players in the financing of candidates for federal office during most of the 20th century. Fundraising for federal campaigns was carried out in a decentralized and disorganized manner that relied on an episodic combination of state and local parties, candidate committees, and independent political organizations that varied from election to election. As critics of regulation have noted, this decentralization was in part due to the restrictions imposed on party committees, especially by the 1940 Hatch Act, which imposed a $3 million ceiling on campaign expenditures by a national party committee and limited contributions to $5,000.[20] But as noted by Alexander Heard, one of the most prominent early scholars of campaign finance, the decentralization and role of varied political committees in federal campaigns was common "long before there were federal ceilings" and was also rooted in the "deeper soil" of party dissension, sectional and local parochialism, and the strategic choices of organized groups, ranging from Temperance advocates early in the century to business and labor organizations, which sought to pursue their own interests rather than work through the party.[21] Whatever the cause, the national committees failed to develop independent sources of funding sufficient for their purposes and usually faced substantial debts at the end of a presidential contest.[22]

The national committees did provide assistance to candidates, but the sums were usually small, supplying only a minor share of the money spent in support of a candidate, and often came from monies that had been raised in the first place from state or local party organizations.[23] In the post-war era, the Democrats tended to rely on ad hoc fundraising committees, while the Republicans adopted a more centralized approach, coordinating efforts through the Republican Finance Committee, but this committee was established as an independent organization that was ostensibly not a party committee to avoid federal reporting requirements.[24] By the 1950s, both major parties used a system of quotas imposed on state and local parties as their basic means of raising money, with each state party responsible for raising its fair share of the costs of national party activity.[25] State and local leaders, however, did not always meet their obligations, and party efforts were hindered by internal dissension and competing interests among party leaders. Intra-party disputes among the national and congressional campaign committees over financial allocations were also not uncommon. The results, as characterized by political scientist Raymond La Raja, were "akin to the national government's experience under the Articles of Confederation," with the DNC at times "reduced to begging for state parties to fill their quotas."[26] Neither party was able to recruit a broad base of small donors to supplement their funds, despite a number of initiatives undertaken to accomplish this end.[27] Consequently, the national committees typically relied on a relatively small group of large donors to bolster their coffers and pay off their debts.[28]

National and state party committees became a more significant presence beginning in the 1960s and 1970s. The national committees pursued more direct fundraising rather than rely on money from lower levels through transfers and quotas. The Republicans began to raise meaningful sums through a direct mail fundraising program, which was built on the successful solicitation of small donors first achieved by the Goldwater campaign. But the DNC failed to follow suit, despite investing heavily in a direct mail effort, and was saddled with more than $9 million in debt after the 1968 election, an obligation which they struggled to pay off until the late 1970s, and then did so only after the FEC allowed the committee to raise contributions in excess of federal limits for the purposes of retiring old debt.[29] While the Republicans began to accrue relatively large balances in their accounts, the Democratic national committees labored to raise money, and ended the 1976 election millions of dollars in the hole.[30]

The Federal Election Campaign Act reforms reduced many of the burdens imposed on parties under prior law. The act eliminated the ceiling on national party spending, established higher contribution limits for parties than for candidates and PACs, allowed parties to make limited "coordinated expenditures" with their candidates, and provided a public subsidy for the party national nominating conventions. In the immediate years after the reforms, the parties increased their resources, which led to more substantial core staffs and programs of campaign assistance to candidates. A more significant presence had by 1980 not yet produced parties that dominated campaign finance. The national party committees spent a total of $14.7 million in the 1980 election in direct support of congressional candidates, a small fraction of the $115.3 million spent by candidates in House and Senate campaigns. In the presidential race, the RNC spent the $4.6 million in coordinated spending allowed by the law, but the DNC could not muster the cash to provide even this modest level of support, spending only $4 million in coordination with President Carter, with about $600,000 of this amount coming after the election.[31] One would be hard pressed to find historical precedents in the last century for powerful party organizations flush with the mother's milk of politics providing the basis for effective political leadership in Washington.

What about the pre and post-soft money years? Was a major growth in national and state party building cut short by the abolition of soft money in 2002? Table 1, which displays receipts for the six national party committees between 1978 and 2012, provides an initial basis for answering that question. When viewed in constant dollars adjusted for inflation, both parties have compensated for the loss of soft money with hard money receipts. Democratic committees have done better, with adjusted receipts in the last several elections up from their pre-BCRA days. Republican committee receipts are down, with declines at the RNC and NRCC since 2006, mostly due to their failure to keep pace among donors who give an aggregate of less than $1,000.[32] This pattern likely reflects the divisions within the party and the dissatisfaction of Tea Party supporters with the mainstream party organizations. Nonetheless, both parties have upped their game on behalf of their congressional candidates, together spending $235.3 million in contributions, coordinated spending, and (overwhelmingly) independent expenditures. Even adjusted for inflation, that is more than six times what they spent in 1980.

## MONEY RAISED BY NATIONAL PARTY COMMITTEES, 1978-2012 (IN MILLIONS OF DOLLARS)

| | DNC | | DSCC | | DCCC | | DEM TOTAL | RNC | | NRSC | | RNCC | | REP TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| YEAR | TOTAL | (SOFT) | TOTAL | (SOFT) | TOTAL | (SOFT) | | TOTAL | (SOFT) | TOTAL | (SOFT) | TOTAL | (SOFT) | |
| **PRESIDENTIAL ELECTION CYCLES** | | | | | | | | | | | | | | |
| 1976 | 52.8 | | 4.1 | | 3.8 | | **60.7** | 117.3 | | 7.2 | | 49.2 | | **173.7** |
| 1980 | 43 | | 4.6 | | 8 | | **55.6** | 217.2 | | 62.2 | | 56.6 | | **336** |
| 1984 | 103 | | 19.7 | | 23 | | **145.7** | 234.1 | | 180.5 | | 128.9 | | **543.4** |
| 1988 | 101.5 | | 31.6 | | 24.2 | | **157.3** | 176.5 | | 127.8 | | 67.3 | | **371.6** |
| 1992 | 154.5 | (46.60) | 42.6 | (0.80) | 27.6 | (6.60) | **224.7** | 195.2 | (55.10) | 133.7 | (12.60) | 68 | (10.20) | **396.9** |
| 1996 | 305 | (146.70) | 65.6 | (20.60) | 56.1 | (17.20) | **426.7** | 448.9 | (167.00) | 137.2 | (42.90) | 150.4 | (42.10) | **736.5** |
| 2000 | 344.9 | (180.00) | 138 | (84.20) | 141.5 | (77.10) | **624.4** | 500.5 | (217.50) | 127.8 | (59.30) | 199.8 | (70.40) | **828.1** |
| 2004 | 493.3 | | 108.2 | | 113.8 | | **715.3** | 478.7 | | 96.4 | | 226.6 | | **801.7** |
| 2008 | 278.3 | | 174.2 | | 188.6 | | **641.1** | 457.5 | | 101 | | 126.6 | | **685.1** |
| 2012 | 290.4 | | 145.9 | | 183.8 | | **620.1** | 390.2 | | 117.1 | | 155.7 | | **663** |
| **MIDTERM ELECTION CYCLES** | | | | | | | | | | | | | | |
| 1978 | 39.8 | | 1 | | 9.7 | | **50.5** | 120.5 | | 38.3 | | 49.5 | | **208.3** |
| 1982 | 39.2 | | 13.4 | | 15.5 | | **68.1** | 200.3 | | 116.3 | | 138.1 | | **454.7** |
| 1986 | 36 | | 28 | | 25.8 | | **89.8** | 175.1 | | 180 | | 83.2 | | **438.3** |
| 1990 | 25.5 | | 30.9 | | 16 | | **72.4** | 120.9 | | 114.5 | | 58.5 | | **293.9** |
| 1994 | 134.8 | (69.90) | 41.6 | (0.60) | 38 | (7.90) | **214.4** | 201.2 | (65.70) | 111.3 | (10.10) | 48.8 | (7.40) | **361.3** |
| 1998 | 172.3 | (80.90) | 86.8 | (36.50) | 58.9 | (23.40) | **318** | 251.5 | (104.80) | 127.9 | (52.60) | 136.5 | (34.00) | **515.9** |
| 2002 | 210.6 | (124.20) | 186 | (124.00) | 132.1 | (72.70) | **528.7** | 369.7 | (151.90) | 161.4 | (85.60) | 252.1 | (93.80) | **783.2** |
| 2006 | 149.1 | | 138.4 | | 159.5 | | **447** | 277 | | 101.3 | | 201 | | **579.3** |
| 2010 | 235.7 | | 136 | | 172.1 | | **543.8** | 206.2 | | 117.9 | | 140.5 | | **464.6** |

*Note*: All numbers are expressed in 2012 dollars. For each party committee, total receipts include soft money.
*Source*: The 1976-1986 figures are from Paul S. Herrnson, *Party Campaigning in the 1980s* (Cambridge, MA.: Harvard University, 1988), pp. 32–34; the 1988 figures are compiled from Federal Election Commission, FEC Press Release, October 31, 1989; the 1990 figures are compiled from Federal Election Commission, National Party 24-Month Data Summaries; the 1992-2012 figures are from Campaign Finance Institute, *Hard and Soft Money Raised by National Party Committees, 1992-2012*, available at http://www.cfinst.org/.

Two other developments have shaped the role of national parties in recent years. The demise of the presidential public financing system, initially the matching funds in the primaries and then the general election grants, has reduced the financial role of the DNC and RNC in presidential elections. Because publicly funded presidential general election candidates were not permitted to raise additional private funds to pay for campaign activity, partisan donors who wanted to support the nominee were left with the option of giving to the party, and the RNC and DNC aggressively solicited such contributions. Now that presidential contenders no longer accept public funds, the candidates are raising money throughout the campaign, and are raising unprecedented sums in doing so. It is safe to assume that a substantial share of the contributions that used to go to the national party committees to help finance activities in support of the presidential nominee in the general election now go directly to the presidential candidates. And with candidates now engaged in wholly private fundraising, parties do not have to allocate the large sums to presidential independent expenditures that they undertook in the past to supplement the increasingly inadequate sum provided by the public general election grant. This change is not an effect of constraints on parties but the new reality of presidential finance.

In addition, the FEC data on party receipts captured above does not account for the national party efforts in gubernatorial and state legislative elections. After BCRA, which prohibited national party committees from raising soft money for non-federal purposes, the Republican Governors Association (RGA) and Republican State Leadership Committee (RSLC), which were embedded within the RNC, spun off into separate 527 political organizations; the Democratic Governors Association (DGA) was established as a separate organization in 1983, a result of internal politics within the party, while the Democratic Legislative Campaign Committee (DLCC) was formed in 1994. These national organizations of state elected and party officials play an increasingly significant role in state elections.[33] Although the amounts raised and spent by these committees vary significantly depending on the particular states holding gubernatorial elections and the competitiveness of particular races in any given cycle, the monies generated by these committees are substantial. For example, as measured in constant 2012 dollars, the DGA raised a total of $38.7 million over the course of the three election cycles from 2002 through 2006, while the RGA raised a total of $25.5 million; from 2008 through 2012, the DGA brought in a total of $35.3 million, as compared to the RGA's $24.1 million, with the difference in recent elections largely a result of the Democrats' lopsided $21 million to $3 million fundraising advantage in 2010.[34] These organizations are very much a part of today's national party networks, but their receipts and expenditures do not cross the books of the formal national and state parties.

One last point about soft money. BCRA critics argue that the ban on soft money slowed the transfer of funds to state parties and thereby weakened their party-building efforts. This may be true in a limited way, but these funds were primarily used to finance candidate-specific issue advertising in the 1996 and 2000 presidential elections. For example, according to FEC data, the DNC and RNC raised a combined $67 million in soft dollars in 1992 and transferred $15 million to state committees, or one out of every five soft dollars received. By the 2000 election, the committees raised a combined $303 million in soft dollars, transferring a total of $170 million—more than half—to the states.[35] During this period, state parties did increase their spending on voter mobilization and grassroots activities, but this increase paled in comparison to the growth in advertising expenditures. In 1992, state parties spent $3 million on media advertising, which represented roughly 3 percent of their total spending (not including their contributions and coordinated expenditures in support of federal candidates); in 2000, they spent $236 million on advertising, which represented at least 43 percent of their total spending. In comparison, the total state party spending for voter registration and contact, including direct mail, telephones, and canvassing, as well as traditional yard signs, bumper stickers, and volunteer work, was $17 million or 16 percent of overall spending in 1992, which rose to $85 million or 15 percent of total reported spending in 2000.[36] Moreover, in 2004, after the ban on national party soft money, the national and state parties combined spent significantly more on advertising and voter mobilization and grassroots activity than they had in any previous election. According to the best available estimates, Republican national and state parties spent $181 million on voter contact and mobilization in connection with federal elections in 2004, or more than three times the amount spent in 2000; Democratic committees spent at least $133 million, or more than twice the amount spent in 2000.[37] In addition, parties and their networks in recent years have invested heavily in building sophisticated large databases to facilitate targeted grassroots voter identification and mobilization campaigns, ranging from the Republicans' 72-Hour Task Force in 2004 to Obama's vaunted social-networking hub in 2012. In this sense, the national parties are light years ahead of past efforts to nurture party building in the states.

If parties have coped reasonably well with the ban on soft money, the same may not be true of their ability to thrive in the largely unregulated world of campaign finance dominated by Super PACs and politically-active nonprofit organizations. The congressional party campaign committees did independently spend $209.5 million in 2012 on behalf of their candidates but they were vastly outpaced by non-party organizations, which spent $467.2 million on independent expenditures. Why are parties precluded from forming their own Super PACs to accept unlimited donations from any source to support their independent spending campaigns, instead of being forced to rely on hard money? A good question, one that is swiftly moving to the courts and to which we return below.

But it is a mistake to assume that all or most non-party independent spending committees are separate from the parties. A number of Super PACS are not legally connected to parties but are linked in every way permitted by law (and perhaps then some) and are generally understood to be affiliated with elected party leaders in the House and Senate.[38] These party-affiliated committees are run by former party officials or operatives with long histories within and strong links to their parties, and they act as surrogates for the party. Majority PAC and House Majority PAC are essentially parallel campaign organs of the Democratic congressional campaign committees. In 2012, Majority PAC and House Majority PAC spent a combined $68 million on independent expenditures in support of Democratic congressional candidates.[39] This sum was equal to more than half of the $113 million spent independently by the formal congressional campaign committees. That these Super PACs served to promote party objectives is evident from their patterns of spending; for example, there were 51 House races in which the DCCC spent at least $100,000 on independent expenditures and in 45 of these contests House Majority PAC did the same. The PAC spent a smaller sum in two of the other six races.[40] The Republican committees have the Congressional Leadership Fund, which was less active than its Democratic counterpart in 2012, spending $9 million in support of House contenders. Then there are party-aligned Super PACs, such as American Crossroads and its affiliated 501(c)4 committee Crossroads GPS, which are broadly based and not focused on a single issue, candidate or geographic constituency, that in effect operate as shadow party committees. These two committees reported spending more than $176 million advocating federal candidates in 2012, with the greatest share of their expenditures focused on defeating President Obama.

The parties also benefit from party-aligned Super PACs established by their traditional allies, who demonstrate highly partisan strategies in their election spending, with few exceptions.[41] On the Democratic side, labor unions have been particularly active in capitalizing on the opportunities to spend money provided by the more permissive regulatory environment, with the three highest spending unions (Service Employees International Union; American Federation of State, County and Municipal Employees; and AFL-CIO) alone reporting $50 million in candidate advocacy expenditures in 2012, with only about $20,000 of this total disbursed in support of Republicans or against Democrats. The League of Conservation Voters spent $13.8 million on independent expenditures, almost all of which supported Democrats (the group did oppose two Democratic challengers during the primaries). On the Republican side, the Chamber of Commerce has proven to be a formidable ally, spending $35.6 million on independent expenditures and electioneering communications, almost wholly in support of Republicans.[42] These efforts are further supplemented by candidate-specific Super PACs, which were prominent in the 2012 presidential elections but are increasingly targeted to House and Senate candidates, which are well-versed on party strategies with respect to those candidates.

It would be a mistake to characterize parties as weakened players in national elections. While it is certainly the case that the changing regulatory fabric and tactical choices of organized groups has led to an environment in which formal party committees are not the sole or even dominant financial participant outside of the candidates involved in a race, they have never been as effective in the financing of election campaigns as they are today. To contend that parties have been marginalized or that their role in contemporary elections is diminishing as a result of the rise of Super PACs and other non-party organizations is to view "the party" simply as the formal party committees, rather than as a networked amalgamation of diverse organizations with common electoral goals and shared ideological predispositions. Congressional party leaders are all champion fundraisers on behalf of their parties. The four congressional party committees play a unique and consequential role in targeting key races, steering a massive redistribution of funds from their mostly safe incumbents to these more competitive races, raising substantial sums from small and large donors to boost their candidates in those races, and developing party strategies as part of the leadership team.

The broader party networks outside the formal party organizations are made possible by the distinctive ideological, interest group and value commitments of the two parties. All of this coordinated party teamwork pays dividends for the parties in the loyalties of their supporters across the country and almost unprecedented unity on roll call votes in Congress. Parties today are strong in the electorate, strong in their vast organizational networks, and strong in government.

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In the American constitutional system, however, strong parties—ideologically distinctive, intensely competitive, and strategically focused—do not necessarily mean good governance. Campaign finance law and practice are not responsible for partisan polarization, but are certainly influenced by the growing divide. Increased polarization spurs fundraising efforts by providing ideologically-oriented donors greater incentives to give. At the same time, fundraising practices have almost certainly reinforced and exacerbated the distance between the parties. The asymmetric nature of that polarization has been especially problematic. Republicans have become a doctrinaire conservative party in a political system that requires both a willingness to compromise and an acceptance of the legitimacy of the political opposition. Republican party leaders in Congress—abetted by the party establishment—chose to embrace a right-wing populist insurgency and adopt a divisive agenda and set of unusually confrontational tactics to advance it. The GOP transformation has been decades in the making. The recent interaction between the party establishment and tea party movement, grounded in pragmatic decisions to maintain or achieve majority control in Congress, is only the latest development. Whether their current spat will divide and weaken the party seems unlikely in the near term. In any case, it would be a mistake to attribute the radicalization of the Republican Party to a small number of ideologically extreme donors.

## LARGE AND SMALL DONORS

But might the mix of individual donors in federal elections contribute to our dysfunctional politics by fueling the growing polarization between the parties? This too is a question that features heated debate among advocates and some disagreement in the scholarly research community. The overall size and shape of the donor population is not disputed. The number of individual donors to candidates, parties, and other political committees is, by all estimates, a sliver of the total electorate. While the self-reporting of political giving at all levels by survey respondents in recent years has ranged from 11 to 13 percent,[43] barely one-half of one-percent of the nation's adults contributed $200 or more (the disclosure threshold) to any federal election campaign in 2011-2012.[44] That number grows closer to four percent when estimates, based on unitemized donation totals, of the number of small donors contributing less than $200 are included. (More on these donors will be discussed below.) The likelihood of contributing and the size of contributions are strongly associated with household income. Not surprisingly, those with substantial disposable resources are much more likely to give than those with few or none. But individual donors also need to be motivated (by strong partisan attachment, ideological commitment, material interest, sense of civic duty or political efficacy) and mobilized (by candidates, parties, bundlers, or social networks). Recent years have witnessed a surge in the share of all contributions made by adults in the top 0.01 percent in household income.[45] In 2012, a new generation of mega-donors—those making six to eight-digit contributions via Super PACs and politically active nonprofits—became an important part of the donor community.

This increase in the presence of large donors has been partially matched by the number of small donors (usually defined as those giving $200 or less). To date, though, this has been limited mostly to fundraising by a few presidential candidates (most successfully Barack Obama with more than 3 million small donors who each gave less than $200 in aggregate contributions for a total of $181 million, 24 percent of his total campaign money in 2008 and 3.6 million giving $216 million, 28 percent of his total in 2012[46]); the national party committees ($334 million from small donors in 2012, 25 percent of their receipts[47]); and a limited number of high-profile congressional leaders and candidates. Even Obama raised most of his campaign funds from relatively large donors. And as Lee Drutman has observed, 86 percent of those elected to the House and 61 percent of those elected to the Senate in 2012 took more money from the 1 percent of the 1 percent of wealthiest donors than they did from all of their small donors combined.[48]

What do we know of the consequences of these patterns of individual giving? First are the similarities among small and large donors. Relative to non-donors, they have higher incomes, are more politically engaged and partisan, and have more coherent and consistent ideological views. Small donors are more economically representative than large donors but there is no evidence that small donors are any less attached to their party and the policies they favor than are large donors.

There is a considerable body of scholarship that finds small donors more polarizing than large donors. It is based on a sophisticated ideological mapping of candidates and donors with federal and state election campaign finance data.[49] The argument, in simplified terms, is that small donors are more responsive than large donors to fundraising based on partisan taunting and ideological appeals. Adam Bonica illustrates this phenomenon with the small-donor fundraising success of Alan Grayson and Michele Bachmann as well as tea-party inspired Senate primary challenges in 2010. It is consistent with the conventional wisdom among politicians and their consultants going back decades that "hot" messages are essential for direct mail fundraising.

An alternative argument, summarized by Michael Malbin,[50] is that the case for small donor polarization has not yet been persuasively made. The only two studies that directly survey small donors—one in state elections, the other in federal elections—reject the small donor polarization hypothesis.[51] The two biggest small donor fundraising successes in absolute terms, the Obama presidential campaigns and the national party committee fundraising, appealed to small donors with mainstream party positions. Malbin finds no evidence that small and large donors to the Obama campaigns and the national party committees differed in the intensity of their partisan loyalty or ideological orientation. Indeed, the biggest difference may be between not small and large donors but Democratic and Republican donors, given the ideological and procedural asymmetry of the parties.

It is hard to believe that small donors could possibly exceed mega-donors to Super PACs and politically active nonprofits in their ideological zeal or distaste for compromising with the other party. The industrialist billionaire Koch brothers are the most prominent donors/funders on the right, with an announced budget target of $290 million in 2014, a network of political organizations and funding partners and an agenda perhaps best characterized as libertarian and protective of fossil fuel energy.[52] The Democrats have their own billionaires who are active on the independent spending front, including those who are financing a network of progressive organizations called the Democracy Alliance, which has steered a reported $500 million to liberal groups since its inception in 2005, and has announced plans to spend $374 million to boost liberal candidates and causes in 2014 and beyond.[53] Both are closely associated with and avidly courted by their respective parties.

Among those whose contribution records are disclosed, mega-donors in 2012 gave disproportionately to political committees working on behalf of Republican candidates. Of the top 1,000 donors in the 2012 elections, 580 gave at least 90 percent of their contributions to boost Republican campaigns while 326 contributed at least 90 percent on behalf of Democrats.[54] The most prominent examples of mega-donor influence on state elections—Art Pope funding a 2010 independent spending campaign in North Carolina that turned the legislature and governor sharply to the right[55] and a similar effort in Kansas funded primarily by Americans for Prosperity that replaced relatively moderate Republicans with much more conservative ones[56]—reinforce the party asymmetry among mega-donors.

Whether Republicans will continue to gain a major advantage from the pattern of mega-donor giving remains to be seen. As in the case of the Democracy Alliance, liberals and other Democratic partisans are responding to the early experience in the post-*Citizens United* world with counter-mobilization efforts that are designed to reduce the conservative edge. In addition, new players are likely to enter the fray, as in the case of liberal billionaire Tom Steyer, a former hedge manager and Democratic supporter, who aspires to spend $100 million in the 2014 elections.[57] His agenda, seen as extreme by many on the right, is almost exclusively focused on mitigating the effects of global warming and supporting candidates who share his environmental views. His efforts will in all likelihood benefit liberal Democrats. Such efforts may diminish the resource gap between conservatives and progressives, but they are unlikely to diminish the ideological divide—and may serve to reduce further any prospects of bipartisanship in the years ahead.

The practical question today about donors and partisan polarization is whether small, large or mega-donors are most likely to fuel or diminish the polarization that increasingly defines the political landscape. The implicit assumption of many of those who assert that small donors polarize is that the most likely path to a less extreme Republican Party is the intervention of large, business-connected donors in contested primary elections in support of so-called establishment candidates. The Chamber of Commerce is one such player in the 2014 elections. These donors are assumed to be more pragmatic and more focused on gaining access to legislators and pursuing particular policy interests, and thus less likely to embrace ideological crusades. But the rightward movement of the Republican Party began well before the tea-party movement surfaced in 2009; the party establishment is now mostly in agreement with the populist right on major economic and social policies, including immigration, infrastructure funding, health care, climate change and same-sex relations; and the disruptive and destabilizing tactics employed by Republicans in Congress were initially identified and championed by *The Young Guns*—Eric Cantor, Kevin McCarthy, and Paul Ryan, all with impeccable Republican establishment credentials. Differences within the Republican Party today have more to do with strategy and tactics, not substance. Small donors have played at most a bit part in the radicalization of the Republican Party.

While the discussion of the connections between partisan polarization and campaign finance usually treats both parties the same, the fact is that the movement toward the left within the Democratic party is largely due to the political change that has taken place in the South, and was driven primarily by race and religion. There is no evidence that small, large, or mega-donors have pulled Democrats to the left. Differences within the Democratic Party have been muted, mostly prompted by senators and House members representing red states or districts (a diminishing number) and/or those with strong economic interests in coal, oil and gas. The party leadership has been stable and successful in unifying its members behind an agenda most accurately described as center left, which seeks to maintain an important role for government, preserve the social safety net, expand infrastructure spending, and cope with economic inequality.

## IMPLICATIONS FOR CAMPAIGN FINANCE REFORM

These lessons about parties and individual donors offer no particularly promising avenues for those looking to campaign finance regulation or deregulation to reduce partisan polarization and thereby improve conditions for governing. One favorite is to strengthen the role of parties relative to "outside groups" in the financing of campaigns, by increasing the limits on contribution to parties (beyond what was already accomplished indirectly through

*McCutcheon*), repealing the ban on party soft money, or permitting party independent spending campaigns to be funded in the same way as Super PACs, that is, with no limits whatsoever on the source and size of contributions. Each of these measures would increase the amount of money that crosses the national party committee books, but not obviously strengthen party leaders and make them a force for less extreme parties. As we have argued, the parties are already major players in national elections, much more so than in the past, but these new-style networked parties are not the moderating and pragmatic forces they are often alleged to be. They are creatures of their dominant ideologies, the policy demands of aligned interest groups, donors, media validators, ascendant social groups and activists. Shifting some fraction of funds from party-affiliated or party-aligned Super PACs to party committees would not likely strengthen House Speaker John Boehner's hand relative to the tea-party wing of his party conference and make him more open and able to engage in serious negotiations with President Obama and the Democrats. Inadequate resources are among the least important problems facing party leaders in Congress on either side of the aisle.

The downsides of such a deregulatory move are more visible: more direct courting of large donors, more pressure within party councils from mega-donors, more opportunities for shakedowns of private citizens (of the legal sort) by party and elected officials, and more conflicts of interest.

Increasing the number of and reliance on small donors for campaign funding would likely have little effect one way or the other on partisan polarization. Attracting more small donors would not necessarily moderate party positions and make them more disposed to negotiation and compromise. But neither would such a shift in the mix of donors further polarize the parties. The case for adopting policies and developing new technologies and organizational capacities that encourage a significant increase in the search for and receptive response by small donors lies elsewhere. Enhancing the role of small donors in the financing of elections serves important democratic prerequisites, most notably by increasing citizen participation in the electoral process. Champions of small donations hope to reduce the dependence of elected officials on the sliver of the citizenry who currently provide their campaign funding, and thus counter the consequences of growing income inequality and the outsized influence of the wealthy on politics and policy. It is a way of trying to dilute the voices of the affluent in Congress and other legislative bodies with the concerns of ordinary citizens. The vehicle, whether multiple public matches for small private donations, meaningful tax credits or some type of universal voucher, is not perfect and comes with no guarantee of achieving its objective. But there are few options available given the jurisprudence of the Roberts Court and the deeply polarized positions of the two parties on campaign finance regulation.

Not only is campaign finance reform a weak tool for depolarizing American political parties, but some break in the party wars is probably a prerequisite to any serious pushback to the broader deregulation of campaign finance now underway.

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