

OPINION  
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# Stop the Tax Breaks to Donors Who Give to Influence Policy

By David Callahan



ISABEL ESPANOL FOR THE CHRONICLE

Close your eyes for a moment and imagine an America where the democratic playing field is truly level and everyone's voice is heard. What would such civic equality look like?

For one thing, our elections wouldn't be dominated by money, with contributions from a wealthy sliver of Americans playing a big role in who gets into office. For another, policy makers wouldn't be swarmed at every level of government by armies of well-heeled lobbyists.

What else? Rich donors and private foundations wouldn't be bankrolling legions of experts, advocates, journalists, and lawyers to amplify certain views in public debates.

Open your eyes and look around. Obviously, we don't live in that America. But while there's strong agreement in many quarters that campaign money and lobbying work counter to civic equality, philanthropy hasn't gotten much blame for how little influence ordinary Americans have on

setting policy agendas and how disenfranchised many feel as a result.

That's been changing as all elites, and especially the wealthy, come under new scrutiny in a populist era. The role of private donors in elementary and secondary education has drawn particular criticism.

Still, there has been no real movement to check the growing influence of philanthropic money over public policy, even as a swelling army of savvy megadonors moves to shape governance on education, criminal justice, environmental policy, LGBT rights, voting laws, health care, foreign policy, urban planning, and more. Look at nearly any policy debate today and you'll see more philanthropic money — probably much more — trying to steer outcomes than you did two decades ago.

Precise numbers are hard to come by, but annual philanthropic giving to influence government decisions is likely greater than spending on elections and lobbying.

A recent study by the Think Tanks and Civil Society Program at the University of Pennsylvania reports that the United States has 1,835 think tanks. The institute defines think tanks broadly as organizations "that generate policy-oriented research, analysis, and advice on domestic and international issues." Most are sustained entirely by tax-deductible gifts from individuals and foundation grants. Many put forth views that align with, and help intellectually backstop, one or the other major political party.

The biggest policy groups have upped their fundraising sharply in recent years. In 2015, for example, the top five national environmental groups raised more than \$500 million. The three biggest conservative think tanks — the Heritage Foundation, the American Enterprise Institute, and the Cato Institute — raised more than \$150 million that same year. Giving for LGBT causes more than doubled from 2005 to 2014, to \$153 million.

## The Other Money in Politics

The best way to think about money in politics is that it's a river with three tributaries: money to influence elections, money for lobbying, and philanthropic dollars aimed at shaping public policy. All three flows have grown markedly in recent years.

In the philanthropic tributary, more of the money is coming from living donors, as opposed to legacy foundations. In fact, quite a few political contributors are also major philanthropic donors — George Soros, Tim Gill, the Kochs, the Mercer family. More rich people today pull all the levers of influence.

Advocates seeking to dam up the river of political money focus their attention on campaign spending and lobbying. They tend to ignore philanthropic giving, even though it is often just as effective at shaping public policy, if not more so, and is increasingly coming from the same wealthy donor class that wields so much clout in our electoral system. And if reformers ever do succeed in damming up the first two tributaries of influence spending,

guess where much of that money will likely go? Into the coffers of think tanks, advocacy groups, and nonprofit media outlets.

There's not yet a movement to clamp down on philanthropic money in politics, for a few reasons. First, this is the most opaque and least understood form of influence spending. Philanthropy often works upstream and out of sight, quietly putting ideas on the agenda and shaping which views get heard in public debates.

Second, the people who've led the charge to strengthen U.S. democracy depend heavily on foundations and major donors. None of us likes biting the hand that feeds us. More broadly, if you've spent your career in the nonprofit policy world (as I did, until recently), it's almost impossible to fathom how that world could function without a constant flow of philanthropic funds.

A third reason so few alarms are sounding about philanthropy's clout over public policy is that most nonprofit leaders don't think it's a bad thing.

Liberals have long viewed philanthropy as "society's passing gear" — a force that helps America overcome backward social views, powerful interest groups, or plain shortsightedness. On the right, philanthropy is seen as critical fuel for civil society and a counterweight to the state. Across the political spectrum, philanthropy is thought to enhance pluralism, with a heterogeneous mix of donors backing diverse voices and ideas.

All these arguments have merit, but it's still hard to get around a simple, stubborn fact: Philanthropists are buying ever more influence over public policy, wielding power that's not available to most citizens. Anyone worried about how economic inequality is translating into political inequality should worry about this flow of money.

### Pluralism Doesn't Mean Equality

Meanwhile, the upsides of philanthropy's role in public life aren't as great as some claim. Liberalism's strength has historically come from mass-membership organizations and social movements, and the left's fortunes have declined since the explosion of activist philanthropy in the 1970s. Well-funded liberal nonprofits, it turns out, are no substitute for mobilized citizens and workers organizing for change.

As for civil society countering state power, that sounds nice in theory — until you realize the extent to which we have a top-heavy nonprofit world whose priorities are increasingly determined by the same moneyed elite that often calls the shots in government.

The nonprofit world's vaunted pluralism is also overstated. By and large, the ideas that draw significant funding are ones that fall within the parameters deemed acceptable by foundations and major donors. These wealth holders are not as diverse in their views as the public writ large — not by a long shot.

Surveys show that F. Scott Fitzgerald was right: The rich really are "different from you and me." They're more economically conservative, socially liberal, and internationalist than most Americans. Legacy foundations tend to be run by highly educated urban professionals or wealthy heirs. There's no reason to think either group is much in tune with ordinary Americans.

In any case, pluralism isn't the same as civic equality. In an earlier era, advocacy organizations grew only if they had lot of members making small contributions. Now it's often big donors who decide which nonprofits will swell in size and which policy groups have the resources to be heard. Sure, a wide range of organizations with different views draw support, but for whom these groups really speak is often unclear amid a profusion of "AstroTurf" and "grass-tops" outfits that lack real constituencies.

Developments in the top-heavy nonprofit public-policy world parallel what's happened in electoral politics, where the masses play less and less of a role in setting party agendas and hyperpartisan donors increasingly call the shots. Think tanks and advocacy groups have become players in an escalating ideological arms race bankrolled by a tiny fraction of the population.

Advocates have offered a clear agenda for how to bring greater equality to our electoral system, working to reduce the role of big money and increase civic participation. These same twin goals suggest a road map for improving civil society. Indeed, there are plenty of good ideas around for drawing more Americans into voluntary activities and the nonprofit arena. The thornier problem is how to reduce the role of concentrated wealth in civil society.

### Rethinking Philanthropic Freedom

Proposals for limiting how philanthropic dollars can be used to influence public debates tend to run into a wall of opposition from nonprofit leaders and trade groups. Under the banner of philanthropic freedom, they argue for a laissez-faire stance when it comes to regulating what foundations and individuals can and cannot do. The rules that govern philanthropy haven't much changed since 1969, when Congress last revisited nonprofit tax law in a major way.

Of course, the nonprofit world has been transformed since then, in part by the huge influx of activist donors using tax-deductible giving to essentially practice politics. The tempo of such giving has escalated noticeably in just the past decade, a trend that's likely to continue as the great fortunes of a second Gilded Age are more fully harnessed to philanthropy.

All this suggests it's time to move beyond an absolutist embrace of philanthropic freedom. This important value needs to work in better balance with other values Americans care about. Just as our society, to protect shared values such as fairness and safety, places certain limits on the economic freedom of businesses and the social freedom of individuals, it's reasonable to place limits on philanthropic freedom to protect the value of civic equality.

What might such limits look like? One step would be to change how nonprofits are classified so that large gifts to policy and advocacy organizations are not tax-deductible. It's hard to imagine a way to stop all big money from flowing to nonprofits that aim to influence government policy — but citizens shouldn't have to help foot the bill for giving that makes it harder for their own voices to be heard. The bigger point would be to discourage public-policy and activist giving by major wealth holders, the primary beneficiaries of the charitable deduction.

I don't raise this idea lightly, and I'm well aware of how disruptive it would be. But with a historic transfer of wealth occurring and the potential for trillions of dollars to end up at nonprofits, now is the time to think long term about where we want this money to go.

Ideally, less will go to finance ever-louder policy battles fought by elites as alienated citizens watch from the sidelines, and more will go to solving problems in communities. Downsizing the world of professional advocates and policy wonks may help membership-based organizations and social movements return to the forefront of American civil society, giving the everyman celebrated by Alexis de Tocqueville a better shot at being heard.

There are plenty of other ideas to discuss for limiting the influence of wealth over civil society and public policy. But before we can debate solutions, we first need to agree that there's a problem. This is a threshold that most nonprofit leaders have yet to cross.

*David Callahan is editor of Inside Philanthropy and author of "The Givers: Wealth, Power, and Philanthropy in a New Gilded Age," published this month by Knopf.*

