America’s Surge Toward Oligarchy

Exclusive: With the rapid concentration of wealth in a few well-manicured hands and the right-wing U.S. Supreme Court declaring money to be speech, the American surge toward oligarchy has gained what looks like an unstoppable momentum, as JP Sottile explains.

By JP Sottile

Is America an oligarchy? Thanks to a new study from Martin Gilens of Princeton University and Benjamin I. Page of Northwestern University, social media, Op-Ed pages and the blatheri are all atwitter at the implication that American democracy is a sham.

In Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens, Gilens and Page used a data-set of 1,779 policy issues from 1981 to 2002 to compare actual policy outcomes with the prevailing policy preferences of three income groups: “10Th income percentile (quite poor), the 50thpercentile (median), and the 90th percentile (fairly affluent).”

Not surprisingly, the policy desires of the 90 Percenters (earning at least $146,000 per year) are the most likely to become policy outcomes. If they support a policy, it has a 45% chance of being enacted. But if they oppose a policy, there is an 82% chance it will be defeated, derailed on the way to becoming a law, even if a majority of Americans support it.

These findings are more daunting when we consider that the study’s data-set ends before Citizens United, the sanctification of money as constitutionally-protected speech and the growing post-crash spike in inequality. But one word the authors did not use to describe the ruling class was “oligarchy.”

Although it’s being peddled in the news cycle, this somewhat imprecise term ignores the authors’ own characterization of the ruling class as “economic elites.” If editors and SEO (search engine optimization) advocates are looking for a snazzy word to spice up their traffic, they should use the more precise, but just as ominous-sounding term “plutocracy.”

Simply put, a plutocracy is defined by Merriam-Webster as “government by the richest people; a country that is ruled by the richest people; a group of very rich people who have a lot of power.”

The plutocratic power of America’s “economic elite” is strongly implied by the macro-snapshot of the Gilens-Page study. But it is wholly evident in an actual outcome of an actual policy with huge implications for actual plutocrats, the so-called Dodd-Frank financial reform.

Dodd-Frank Sausage Machine

As politicians and pundits like to say with a sly chuckle, “Laws are like sausages, and it’s best to avoid watching either of ’em being made.” It’s a dismissive, insider’s joke about the haggis-like haggling behind the raw deals churned out by the congressional sausage machine. As a practical matter, it means those with the most to gain and the most to spend are those who get the best seats at the table when the laws are being cooked up.

During the post-crash effort to rein-in the financial industry, curtail exotic financial device-makers and limit dubious debt obligation salesmen, the industry used its well-funded access to add key exceptions to Dodd-Frank before it became law. By the time the DoddFrank Wall Street Reform and Consumer Protection Act of 2010 was finally signed, the industry and its associations spent over $1 billion on related lobbying efforts.

The Center for Responsive Politics tracked the spending of three interested lobbying sectors, noting an uptick for the years 2008, 2009 and 2010, when the Dodd-Frank dust-up was finally settled. During the final frenzy of 2010, the Securities and Investment sector spent an all-time high of $105,699,730, Business Associations spent an all-time high of $199,738,789 and Commercial Banks spent $54,912,363, a number they then exceeded for the each of the following three years.

Those costly efforts “watered down” the Volcker Rule’s limits on banks taking risks in the investment business, preserved a loophole for derivatives trading and retained the “too-big-to-fail” orthodoxy that forces taxpayers to bail out gigantic financial institutions when they play fast and loose with other people’s money.

But this predictable backroom “sausage making”, the addition of perks, exemptions and tasty extras for those with enough money to afford political speech, is just one part of a recipe for disaster that all-too-often turns reform legislation like Dodd-Frank into Swiss Cheese. That’s because laws cannot be implemented until they become rules.

Golden Rulemaking

Rulemaking is the secret sauce that alters many of the bills passed by Congress and signed into law by the White House. During the “rulemaking phase,” those Executive Branch agencies tasked with implementing a newly-minted law huddle around conference tables and draw up the actual rules that will be enforced.

In the case of Dodd-Frank's "clampdown" on financialization gone wild, the regulators charged with writing the rules did so in heavy consultation with the very corporate banking entities targeted by the law in the first place.

During the first two years of a rulemaking process that still isn't complete, logs obtained by the Sunlight Foundation showed that Goldman Sachs pleaded its case during 181 rulemaking chinwags. Jamie Dimon's JP Morgan Chase attended 175 meetings with regulators. Morgan Stanley sat in on 150 meetings. And Bank of America hung out with regulators 122 times.

On the other side, the Consumer Federation of America aired their concerns at 34 meetings and Americans for Financial Reform sat at the conference table with well-heeled decision-makers just 32 times. Those first two years were crucial, since that's when many of the rules were written by the Department of the Treasury, the Fed and the Commodities Futures Trading Commission (CFTC).

By 2013, a bevy of banks, private equity firms, law firms and trade associations were, according to another Sunlight Foundation analysis, present at 90 percent of the Fed's meetings, at 82.7 percent of those held by the Treasury Department and at 74.8 percent of the meetings held at the CFTC. And "pro-reform" groups? They were present at 13.7 percent of Treasury's get-togethers, at 3.3 percent of the Fed's meetings and reform advocates sat in on just 4.4 percent of the CFTC's meetings concerned with, among other things, the exotic financial instruments and dangerous derivatives trading that catalyzed the crash of 2008.

This is the privilege of plutocracy. Not only did America's cozy financial cartel enjoy open door access into meetings to "help" regulators shape regulations meant to regulate their risky businesses, but they were given an intimate look at how the rules were being formulated and, therefore, privy to any gaps or loopholes that may be written into the rules.

And while they were pouring money into affecting the outcome of the rulemaking process, they also spent much of 2013 writing new laws for those lazy-sausage makers on Capitol Hill. In fact, they successfully lobbied for reforms of the financial reforms before the reforms could be fully implemented. Using their "influence" and copious campaign contributions, the financial industry shepherded the Swaps Regulatory Improvement Act through to passage in the House. But it doesn't stop there.

Joining the Plutocracy

Now that the financial industry has chimed in on the Volcker Rule and the rules governing the still-massive derivatives market are basically set, the Securities and Exchange Commission (SEC) is moving into the enforcement phase. So, America's financial cartel is seeking out the unique insights of the regulators who worked in deep consultation with them as they hashed out all those rules.

As Megan Wilson at The Hill reported, "More than two dozen federal officials who helped enact new rules for Wall Street have decamped from government for lucrative jobs in the private sector." Ms. Wilson indentified some of the "foot soldiers in the Dodd-Frank effort" who've spun their inside knowledge of the "complex rules" into advisory gold:

—Timothy Geithner, former Secretary of the Treasury, joined leverage buyout firm EM Warburg, Pincus & Co.

—Mary Schapiro, former Chair of the Securities and Exchange Commission (SEC), went to Promontory Financial Group

—Ronald Rubin, Consumer Financial Protection Bureau (CFPB) enforcement attorney, became a partner at Hunton & Williams

—Raj Date, former Deputy Director of the CFPB, left and formed his own firm,Fenway Summer

—Benjamin Olson leveraged his time at the CFPB and the Federal Reserve into a gig at the financially-focused law firm BuckleySandler

However, Mr. Olson wants to disabuse Americans of the idea that there could be anything untoward in this revolving door. He told Ms. Wilson, "there is this popular notion of there being loopholes in the Dodd-Frank law that are there to be exploited. In my experience, those loopholes are a myth."

The myth, though, may be the mantra of "public service" chanted by the merry-go-rounders who move from government to the businesses they once oversaw, or from scrutinized businesses to prime positions in "public service" that have them overseeing their previous employers. Wall Street is, in fact, a two-lane superhighway that leads directly to and from Pennsylvania Avenue. It is the fast-track lane to the plutocracy.

Public Service Plutocrats

The most notable recent commuter on this fact-track was Treasury Secretary Jack Lew who was handed a "golden parachute" from Citigroup on his way to Treasury. The Wall Street Journal reported on Lew's guaranteed bonus if and when he walked out of Citi for a "high level position with the United States government or regulatory body."

Kevin Drum at Mother Jones proposed an innocent explanation for Lew's contract provision. He suggested that this type of pre-arranged "severance" for public service-minded big-wigs merely protects big-wigs from taking “a big financial hit” if and when they go to Washington. It also eliminates a sticky decision by Citi of whether or not to pay a big bonus “to someone who will exercise power over it in the future.”

But Lew, like so many others in “public service,” seems to be living a charmed life filled with severance payouts. According to the New York Times, Lew also “got a $685,000 severance payment when he left a top post at New York University in 2006 to take a job at Citigroup.” That’s five times the base yearly earnings needed to qualify as a 90 Percenter.

Citigroup has also rolled out the red carpet for financial wizards like former Obama budget director Peter Orszag (now Vice Chairman of Citigroup) and Clinton’s Treasury Secretary Robert Rubin (co-architect of Alan Greenspan’s bubble economy during the 1990s).

Although those bubbly Clinton years continue to mesmerize nostalgic Democrats, it was his all-star economic team that wanted desperately to break the Great Depression’s last regulatory taboo, the Glass-Steagall Act. They lobbied from within the White House for the Financial Services Modernization Act of 1999 which allowed “investment banks, insurers and retail banks” to merge into the financialized monster that ate the middle class.

In fact, Jack Lew worked alongside Citi-banker extraordinaire Rubin in the Clinton Administration and replaced Orszag as Obama’s Director of the Office of Management and Budget.

The Governing Plutocracy

Ultimately, it’s not just anyone who gets a pre-arranged severance package if and when they decide to quit their job. These payouts are the dues corporations pay to gain membership in an elite plutocratic club that has unique access to Washington’s sausage factory.

As Lee Fang at The Nation reported, this practice is rife in the “public service” industry. He reviewed documents showing that staffers serving the leadership of “both Democratic and Republican lawmakers have received six-figure bonuses and other incentive pay from corporate firms shortly before taking jobs in Congress.”

In March of 2013, The Project on Government Oversight detailed some of the plum “public service” bonuses offered to employees who decide to leave their jobs to serve patriotically in government and politics:

–Morgan Stanley offers a bonus you would ‘ordinarily forfeit for leaving the company prematurely'

—Goldman Sachs hands out a 'lump sum cash payment'

—JPMorgan Chase promises possible stock awards and other rewards for a 'bona fide full-time campaign'

—Citigroup has an 'outstanding' stock and pro-rated incentive and retention award

—The Blackstone Group says departing employee will "continue to vest in units as if [you] had not left our firm"

—Fannie Mae reassures servants-to-be of 'qualification for a financial benefit'

As POGO noted, the problem is particularly stunning at the SEC where former employees "routinely help corporations try to influence SEC rulemaking, counter the agency's investigations of suspected wrongdoing, soften the blow of SEC enforcement actions, block shareholder proposals, and win exemptions from federal law."

Plutocracy Is Too Big To Fail

So, is it any surprise that in spite of Dodd-Frank the IMF recently issued a report detailing the persistence of "too big to fail" banks and their continued reliance on "implicit public subsidies" to counter their continued risky behavior? As the Financial Times reported, "The world's largest banks still receive implicit public subsidies worth as much as $590bn because of their status as 'too big to fail' and the assumption of a government bailout if they get into trouble."

With that security blanket in tow and the revolving door always just a short private jet flight away, Wall Street has reveled in the post-crash economy, scooping up assets, reaping big profits and paying tax-deductable fines to purchase "get out of jail" cards from the public servants currently minding the bank in America's grand Monopoly game.

Duly emboldened by the faÃ§ade of reform, by 2013 many of the "same old players" who "know how to push the boundaries" were again bundling debts into investment opportunities called "collateralized debt obligations." According to Nathaniel Popper of the New York Times, "The revival partly reflects the same investor optimism that has lifted the stock market to new heights." Those "heights" have persisted into the first quarter of 2014 and new Federal Reserve Chair Janet Yellen is unlikely to break that streak.

After initially signaling a possible end to the Fed stimulus party, she's been "easing investor concern" about a possible rise in interest rates and reassuring her constituents that government support, with bond purchases so far totaling $4.23 trillion, is as reliable as ever.

Thus, the plutocracy has good reason for optimism, despite a new "leverage ratio" rule that increases the amount of capital a bank holds against its assets from 3 percent to 5 percent and new scrutiny for both high-frequency trading and dark pool markets.

Their influence over the political system is secure. This is particularly true as a growing number of Americans live on the edge of economic ruin, their voices increasingly muted by a system that translates money into speech and into policies.

While the elite of the elites get richer and richer and, therefore, can afford to exercise more and more influence over elections, another new study shows that nearly "one-third of American households, 38 million of them, are living a paycheck-to-paycheck existence." And a new Gallup poll shows an increasing number of households teetering on the brink of "hardship" due to a lack of savings.

This rise in economic insecurity reinforces the plutocracy's political strength by diminishing ability of non-plutocrats to exercise power or force their policy preferences through the machinery. Most Americans simply cannot afford to lobby lawmakers, attend rulemaking meetings or hire people away from agencies to guide them through the system.

With millionaires increasingly taking over Congress, the representative part of America's "representative democracy" is, like public service in regulatory agencies, all-too-often just a way station on the way to the plutocracy. And the laws it churns out are, sadly, little more than an insult to sausages.

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