

The Scandal of Scandals

The term “scandal” used to mean something, a serious abuse of power or some truly outrageous conduct Watergate, Iran-Contra, lying a nation into war but the word has grown almost meaningless, just one more partisan insult, as ex-CIA analyst Paul R. Pillar explains.

By Paul R. Pillar

The *Washington Post*'s media reporter, Paul Farhi, had [an interesting article](#) earlier this week about the life cycle of news stories about “scandals.” The pattern Farhi discerns is that an incriminating report or accusation that quickly pushes a story to the status of “scandal” gets lots of attention, but that subsequent information that undercuts or negates the original version of the story gets much less.

And so some stories retain in many minds the elevated status of “scandal” even after the factual basis for assigning that status has crumbled.

Among the examples Farhi cited was the IRS policing of tax-exempt status, in which the later information indicating that the enforcement efforts involved were directed at groups all across the political spectrum received far less attention than the original version of the story, according to which the enforcement was aimed only at conservative groups.

Another of his examples was about the White House allegedly leaking classified information about a foiled terrorist plot, with the later, more accurate but less noticed, information being that the leak had actually come from a former FBI agent with a criminal record.

Farhi is writing about this as an issue of how well the press does its job, and there is indeed an issue there. But there are some other consequences of how “scandals” are treated and perceived that also deserve notice. For one thing, the term *scandal* has been debased.

The problem is not just incomplete or erroneous information about happenings that have acquired that label, but also a looser standard for applying the label. A term that used to be reserved for what is legally or morally outrageous is now applied to what is just politically edgy. That's too bad; our useful vocabulary has been diminished, as has our moral sensibility. Teapot Dome was a true scandal; much of what gets that label today is not.

There also are unfortunate effects on policy debate and ultimately on policy itself, in two respects. One is that much of that debate is ill-informed, in the

sense of being based on that early and erroneous reporting. Moreover, the public's understanding of many issues reflects an imprinting on whatever was the first version of the issue that came to the public's attention. The problem is thus one of public psychology as well as inconsistent press coverage.

Another consequence for policy and policy debate involves the opportunity costs of so much attention being sucked up by "scandals." The president and members of Congress are having their time badly diverted from matters that are far more important for the well-being of the republic.

Of course, this is often a problem less of inconsistent press coverage than of willful political manipulation. Whatever the exact impetus, the public, press, and Congress alike are because of this diversion paying much less attention to many things that deserve much more attention. A list of those things could go on and on: strategic issues in the eastern Pacific, the Arab-Israeli peace process, and much else.

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Taxing the Movement of Money

If U.S. budget gridlock had not ground rational thought to a standstill, creative options for revising the tax code might be possible, such as a tax on stock transactions to raise money and discourage micro-second trades. Another option would be a toll tax on money movement, as ex-prosecutor William John Cox suggests.

By William John Cox

The political coma of the U.S. government induced by Congress and its failure to represent those who elect it can ultimately be traced to the unfair and complex system of income taxation. Better for the country and more equitable for its taxpayers would be a toll tax on the movement of all money along the nation's economic highway.

Not a national sales tax, not a value-added tax, not a flat income tax, and not a speculation tax, but rather a slight levy should be imposed on every single financial transaction. Not just every time you fill up your gas tank or buy

groceries; we also should hear a tiny “ka-ching” every time stocks, bonds and futures are bought and sold, every time currencies and derivatives are traded, and whenever an oil company buys a new drilling rig or a bank rolls the dice in the financial casino.

The federal government could easily operate on revenues produced by a “toll tax” of less than one percent on the movement of *all* money. Significantly, the payment of taxes would shift to those who most profit from government — from individuals to corporations and from the laboring poor to the wealthy elite, who would pay taxes on their money games and spending for luxuries, instead of their “income.”

A toll tax would result in a slight increase in the overall cost of goods and services; however, the toll would apply to *all* monetary transactions, including financial manipulations by the wealthy, who engage in every imaginable scheme to avoid having any “taxable income.”

A “transaction tax” was first suggested by James Tobin 40 years ago and expanded upon by University of Wisconsin Professor Edgar L. Feige, who has proposed an Automated Payment Transaction Tax. Professor Feige believes the payment of taxes should be split between the transaction parties and paid immediately.

While the automatic payment of taxes into sequestered tax accounts by financial institutions could and should be easily accommodated, most individuals and companies would find it more difficult to comply. Moreover, there would be a temptation to avoid taxes by engaging in cash transactions.

For most taxpayers, collection of the toll tax could occur somewhat like the current income tax, in that individuals, small businesses and corporations would still prepare and file an annual tax report. The preparation of returns, however, would be simplified and tax fraud greatly reduced.

Let’s consider a married couple with joint earnings of \$100,000. Their employers would still prepare 1099 and W-2 forms, and the couple would file a return setting forth incoming money. They would then deduct the amount paid out for health insurance, including Medicare, and further reduce their outlay by the amount paid into Social Security, IRAs, 401(k) plans, and into federally-insured savings accounts. From a policy standpoint, these funds are not spent until withdrawn and circulated.

When allowable deductions are subtracted from income, the difference would be how much money the couple spent. Their toll tax would be paid on the balance, and even without any deductions, a one-percent tax would only be \$1,000. Since, however, it has been suggested that a 0.35 percent toll tax would produce the

same revenue as the present income tax, the couple's annual toll tax could be as low as \$350, even without deductions.

In addition to simplifying their accounting procedures, a toll tax would provide other benefits for businesses and corporations. Businesses, corporations and other organizations should not have to pay a toll tax on their payroll to the extent they are owned by U.S. citizens and their salaries are paid to U.S. citizens since salaries would be directly passed through to their employees to spend (and to be taxed) in the economy.

But payrolls paid to foreign workers by American businesses should be subject to the toll tax, as the money would not pass through the U.S. economy. This provision could provide an incentive to reverse the trend of "outsourcing" American jobs.

Finally, while the Earned Income Tax Credit was well intentioned, it has encouraged widespread fraud and many resent it as a socialistic redistribution of income. The credit should be eliminated, and all spending above an established "poverty line" should be reported and taxed.

In this way, every individual, rich and poor, and every business, large and small, should support good government by fairly contributing to a uniform toll tax that is the least painful and most equitable â€” a true "win-win" for all.

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What the IRS 'Scandal' Wrought

The anger of Tea Partiers, as they precipitate a federal government shutdown, still burns from the IRS "scandal" of earlier this year, even though the supposed singling out of conservative groups proved to be a myth. But the furor disrupted IRS policing of political money abuses, writes Michael Winship.

By Michael Winship

A few days ago, Lois Lerner, head of the tax-exempt division of the Internal Revenue Service, retired. But her story will go on because, as *Politico's* Lauren French wrote, the 30-year civil service veteran "is the political piñata that Congress still loves to whack months after she awkwardly acknowledged that the IRS wrongly scrutinized conservative groups for years."

Three congressional investigations are ongoing and yes, mistakes were made, as the late Republican president and conservative icon Ronald Reagan once said. But in reality, this is a story about how bureaucratic bungling was turned into scandal by right-wing politicians desperate to spin gold from straw.

They have sought to create a splash, to score points with their allies, make converts, seize the publicity spotlight and pull in some quick campaign cash while they're at it. But far worse, their staged controversy has distracted from a real Washington scandal, our inability to rein in the outrageous amounts of money used by the rich and powerful to secretly broker elections and buy our government.

The target of opportunity landed in the right wing's lap, gift-wrapped and tied with a bow. After all, who doesn't love to hate the IRS? No one likes paying taxes and an audit is about as welcome as multiple root canal. So when a chance came to go after the dreaded IRS for meddling in politics, the Right jumped at it.

If true, it would not have been the first time the IRS had been used for political skullduggery. When Richard Nixon was in the White House and wanted to go after his enemies such as the Chandler family, owners of the *Los Angeles Times* he picked up the phone and called Attorney General John Mitchell.

"We're going after the Chandlers," Nixon announced. "Every one. Individually, collectively. Their income taxes... Every one of those sons of bitches, is that clear?"

During Nixon's reelection campaign in 1972, he had an enemies list of some 200 names that John Dean, the White House counsel, took to IRS Commissioner Johnnie Mac Walters, hinting that Walters should look for wrongdoing and even pack some of them off to jail. Wisely, Mac Walters locked the list in his safe and kept it there.

Fast-forward 40 years and once again the IRS is a political football. But what's the real story?

If you're just tuning in, some basics: Among its other duties, as outlined in a tax code first passed a century ago, the IRS keeps an eye on non-profit organizations that are exempt from paying taxes. They're called 501c's and the groups we're specifically concerned with are called 501c4's. They're defined as social welfare organizations, meant to be civic groups looking out for the common good. But and this is key donors to a 501c4 don't have to reveal who they are.

So along comes the Supreme Court's Citizens United decision in 2010, which in

the name of free speech unleashes unlimited campaign contributions. But suppose you're a corporation or a tycoon and want to keep all the cash you're pouring into the election of your favorite candidates under wraps?

IRS rules say that 501c4's those social welfare groups can spend money on politics and campaigns, as long as it's not their primary activity. Where that line gets drawn, however, is somewhat of a mystery even to the IRS. So far, the general rule of thumb has been that political activities must constitute 49 percent or less of 501c4 activities.

In the wake of Citizens United, and with the realization that 501c4's could be used like bagmen for anonymous political bucks, applications for social welfare status at the IRS almost doubled in the years 2010 to 2012 from 1,735 to 3,357.

By the time November 2012 rolled around, those so-called social welfare organizations had poured more than \$300 million into the election. According to the investigative journalism group Pro Publica, 84 percent of that money came from conservative groups like Karl Rove's Crossroads GPS and the Koch Brothers' Americans for Prosperity.

All the applications for 501c4 tax-exempt status were sent to the Internal Revenue Service office in Cincinnati. The task was overwhelming, not only because of the sheer numbers but because the IRS regulations were so vague and contradictory. Trying to cut corners and red tape, the Cincinnati office decided to determine which groups were legit and which were covers for political mischief by implementing a keyword search targeting words like "patriot" and "tea party." All hell broke loose.

For a week this past May, it was as if the IRS and the Obama White House had committed murder most foul, or at least the most heinous crime since the heyday of Watergate and Nixon's dirty tricks. The Beltway media went into a feeding frenzy, the embers of suspicion and paranoia fanned by a powerful congressman who never met a photo opportunity he didn't like: Darrell Issa, Republican of California, the richest member of Congress and chairman of the House Oversight and Government Reform Committee.

He has used that position as a political cudgel to hammer away at anything that might hurt the opposition (and consequently help his party), or, most important, elevate the visibility of Darrell Issa.

"We don't know how high it went," he claimed to CNN. "What we know, and this is the disturbing part it was discovered and stopped and it continued." Similar charges were made by Issa as he rode the circuit of Washington talk shows.

Not coincidentally, USA Today reported that during this time, Congressman Issa

had the best fundraising quarter of his entire political career. A total of nearly \$740,000 poured into his campaign chest from April 1 to June 30, more than two and a half times what he pulled in during the first three months of the year.

Issa launched an investigation into the IRS, promising the press, pundits and the rabid Right that there would be blood. Yet slowly but surely, the scandal narrative began to unravel.

Corruption and conspiracy started giving way to fumble-fingered reality: that the whole thing was a colossal, bureaucratic screw-up on the part of IRS employees and that in fact, their word search for BOLD's cop talk for "be on the lookout for" included liberal groups as well as conservative. This was underscored by the revelation of IRS training materials that surfaced a month into Issa's congressional investigation.

In addition to conservative groups, the IRS workers had been told to be on the lookout for ACORN successors a reference to the left-wing community-organizing group that folded under congressional pressure three years ago.

Another key word was "emerge." As *The New York Times* reported, Emerge Nevada, Emerge Maine, and Emerge Massachusetts were groups set up to back Democratic women candidates. All applied to the IRS for 501c4 status and all were denied because their primary work is political.

Meanwhile, news of the IRS scandal that wasn't so much of a scandal fell from the headlines into the back pages. Coverage of the IRS story by *The New York Times*, *The Washington Post* and *Politico* took a nosedive as the less exciting truth was revealed. The media big wheels of the Right had to shift gears, too, while still insisting there was a monster hiding in the closet.

Tim Graham of the conservative Media Research Center mourned the dying down of media coverage. The IRS scandal was real, he said the press was covering it up. Back in late July, Graham told Pat Robertson's Christian Broadcasting Network, "We have a news media that's just as corrupt as the administration, because their definition of how to cover things is, what does the president want us to do today?"

When the story first broke, conservatives claimed that scrutiny of right-wing non-profits by the IRS would have a chilling effect. But if anything, the purported scandal has given the Tea Party and others a new lease on life, handing them something fresh to be mad about and reenergizing their cause witness the current crusade to defund Obamacare.

The purported IRS scandal remains at the top of the right-wing's litany. In

preparation for the 2014 midterm elections and the fundraising that goes with them the IRS is being cast as a boogeyman.

Reforms are being put in place at Internal Revenue. According to the Treasury Department, the IRS is working on new guidelines for 501c4s, including clearer information on how to measure political activity.

And while it may have fallen from the front pages, stories continue to appear. *USA Today* has been particularly diligent obtaining internal IRS documents, including a 2011 list that flags political groups “based on the content of their literature, raising concerns specifically about ‘anti-Obama rhetoric,’ inflammatory language and ‘emotional’ statements made by non-profits seeking tax-exempt status.”

Of the 162 groups cited, more than 80 percent were characterized as conservative. But in fact, this is roughly proportionate to the amount conservative 501c4s contributed in the 2012 elections.

Far more troubling is that the current brawl over the IRS may make the agency too gun shy to properly police tax-exempt groups. (A few days ago, it was announced that the IRS has agreed to grant tax-exempt status to “True the Vote,” the organization that has gone after groups attempting to register minority votes – although as a 501c3, rather than a c4).

And much worse, the contretemps will prevent real reform; that in the rush to placate the Right, the desperate need for overhaul of our campaign finance system – the fight against “dark money” and the anonymous, deep-pocketed power and control that come with it – will be back-burnered once again.

Then we’ll see the real victim in all of this: what’s left of an increasing frail democracy.

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Selling the Fake IRS ‘Scandal’

Despite the Tea Party wallowing in its “victimhood,” the evidence now shows no

“targeting” of right-wing groups. The IRS also used word searches for “progressive” and “occupy” to weed out political groups seeking tax-exempt status, as ex-CIA analyst Paul R. Pillar notes.

By Paul R. Pillar

In their long history of practicing the dark arts of misleading the public, political leaders have enjoyed much success in getting people to believe what is not true, and what even just a small amount of inquiry or research would demonstrate is untrue.

Totalitarian regimes in particular have been able to do this, relying in large part on what is known as the Big Lie, an untruth that overwhelms any skepticism through the authority and lack of equivocation with which it is repeatedly pronounced. The power of the Big Lie comes partly from its sheer audacity but also from the repetition: the serial drumming of an idea into the heads of an unwitting public.



In societies with free speech and a free press there is some deterrence against telling outright whoppers. Usually fact-checking critics, who include energetic journalists as well as some who are trying to protect opposing political interests, are ready and eager to point out falsehoods. Even that is not enough of a deterrent to some who do not consider themselves part of the reality-based community and who merrily dispense their own odd version of the truth.

For those deterred from telling outright falsehoods, the same sort of repetition that helps to make the Big Lie work can be used to considerable effect with a more indirect technique. This is to cultivate an idea in the public mind by asking it as a question, raising it as a possibility, or just associating two otherwise unrelated things by speaking of them in the same sentences.

Do this enough times, over and over, and even a proposition that has no basis in reality takes root in the public consciousness. Once rooted, it becomes resistant to uprooting and has a good chance of becoming conventional wisdom that, as such, becomes repeatedly referred to even more. The technique that gets the false idea started is not the Big Lie; it is the Big Insinuation.

A flagrant, and consequential, example of this process was the effort by the George W. Bush administration, in its campaign to build support for the Iraq War, to associate the Iraqi regime with the terrorism of al-Qaeda and especially with the 9/11 attack. The association was accomplished not by telling specific lies but instead mostly by incessantly uttering "Iraq," "terrorism," and "9/11" in the same breath and talking about how 9/11 taught us that we cannot wait in dealing with a supposed threat such as Saddam Hussein's regime.

This part of the campaign worked. Polls indicated that although only a tiny proportion of the public suspected immediately after 9/11 that Iraq had anything to do with it, on the eve of the Iraq war, after more than a year of the associative utterances, about two-thirds of Americans had come to believe that Saddam had been involved in the September 11th terrorist attack.

Something similar is happening with the "scandal" at the Internal Revenue Service as a result of congressional Republicans and like-minded commentators loudly and repeatedly suspecting, expecting and predicting (and less loudly, hoping) that evidence would be found showing that the White House had directed the IRS to treat political groups on the Right differentially and unfavorably in reviewing applications for tax-exempt status.

Despite enormous investigative effort devoted to that end, not an iota of such evidence has been found. What has instead been found makes the scenario of White House direction all the more implausible, given that the groups whose applications had been flagged for closer scrutiny included not only the ones on the Right that had gotten all the publicity but also ones on the Left and various others that the administration would have no interest in undermining, such as organizations working to promote Obamacare.

Not only has there been no evidence of White House involvement; there is not even any evidence of misconduct within the IRS. At most there was a slightly blunt and clumsy use of search terms to try to streamline the very difficult task of enforcing an ill-written law that says tax-exempt groups can do some politicking but this can't be most of what they do.

Despite the total lack of supporting evidence, the Big Insinuation has already had a marked effect on public perceptions. A CNN/ORC poll taken two weeks ago indicates that 47 percent of Americans (up from 37 percent in May) believe that

senior White House officials ordered the IRS to target conservative political groups. There are the usual divisions by party affiliation, but even a majority of self-identified independents believe there was such a White House order (51 percent, versus 45 percent who believe the IRS acted on its own).

This is the sort of already-rooted mistaken belief that even disclaimers by those who have done some of the insinuating will not correct. Senate Minority Leader Mitch McConnell, speaking last week at the American Enterprise Institute, acknowledged to the disappointment of his audience that a hoped-for smoking gun of White House involvement probably doesn't exist. But he continued the effort to associate the White House with the "scandal," accusing the President of encouraging "bureaucratic overreach" and trying to shift any burden of proof on to the White House.

McConnell's speech was similar in that respect to a speech on the Middle East that George W. Bush gave shortly before he left office. Bush issued the requisite disclaimer that Iraq wasn't actually involved in 9/11, but then he delivered more of the all-in-the-same-breath associative language, rhetorically linking Iraq to 9/11, that had created the mistaken public belief that it was.

Everyone who cares about informed discussion of public affairs ought to care about the damage done by the Big Insinuation, regardless of which side of the political spectrum one would like to see scoring or losing points. Expressing outrage cannot be left to a fact-checking Glenn Kessler, who would not necessarily have an explicit lie to work with.

The IRS "scandal" has already received far too much attention, but the damage there includes spoiling any chance for a legitimate debate on why tax-exempt status should be given to groups doing *any* politicking, regardless of whether it is of the Left, Right or Center. No one is being prevented from political activity; why should I and other taxpayers in effect foot part of the bill for that activity?

And as we saw a decade ago, sometimes the damage to the country, including in matters involving foreign policy, can be far greater.

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The IRS Non-Scandal ‘Scandal’

The IRS “scandal” stamped Official Washington, including much of the mainstream press which portrayed the Tea Party as the “victim” of partisan abuse. But the dust has finally cleared and it appears there never was a “scandal,” just a clunky attempt to achieve bureaucratic consistency, Beverly Bandler reports.

By Beverly Bandler

The Internal Revenue “scandal” has turned out *not* to be a scandal. As a *Washington Post* headline read: “The Obama IRS scandal retreats to the fever swamps.”

The radical Right looked in vain for a “smoking gun” that would link Barack Obama to the charge that the IRS had “targeted” Tea Party groups that were seeking tax-exempt status as “social welfare” organizations. Even the term “targeting” turned out to be pejorative. It was more a case of putting a few similar applications in the same pile so they would receive consistent treatment.

As commentator William Boardman noted early on: “Much of the media goes on reporting as fact the partisan spin placed on a ‘scandal’ that was not really a ‘scandal’ at all.” MSNBC’s Lawrence O’Donnell also deserves credit for distinguishing facts from spin from the beginning of the story.

Even the mainstream media after much initial sloppy, knee-jerk reporting finally realized that they and the American public were being played by the Republican Party. (The White House also doesn’t get high marks for calm or clarity in its first reactions.)

The collapse of the “scandal” became undeniable when Rep. Elijah Cummings of Maryland, the ranking Democrat on the House Oversight Committee, released the full transcript of an interview with a mid-level IRS bureaucrat in Cincinnati who explained that the isolation of Tea Party-related applications for tax-exempt status was just a local decision to provide consistent handling of similar cases.

With that disclosure in defiance of the efforts by Committee Chairman Darrell Issa, R-California, to keep the exculpatory transcript secret the last air went out of the pumped-up IRS “scandal.”

After release of the transcript, all that was left was a recognition that the “scandal” had entered a “post fact” phase, as political commentator Jonathan

Chait observed, adding that Senate Minority Leader Mitch McConnell's American Enterprise speech on June 21 was "an attempt to reframe the issue in a way that it can survive the utter absence of incriminating facts.

"One method [McConnell] employs is to flip around the burden of proof. Before Republicans were going to prove that Obama's administration was involved. All of the evidence suggests it wasn't. So now McConnell is framing the question as *Obama* trying to prove he wasn't involved ... [a] kind of covered retreat, signaling the IRS scandal's turn into a vague trope that conservatives use with other members of the tribe to signal some dark beliefs they don't need to back up."

But the absence of evidence hasn't stopped today's version of the GOP from continuing to hype its outrage, marketing the "scandal" with grotesque charges like accusing the IRS of "political thuggery" (McConnell), or claiming that the IRS "saw to it" that Tea Party votes were "suppressed" to give Obama the 2012 election (Rush Limbaugh), or comparing the trumped-up IRS flap to the crimes of Nazi Germany (Glenn Beck).

In response to Limbaugh's charge that the IRS suppressed Tea Party votes in the 2012 election, J. Russell George, Treasury Inspector General, a Republican who worked in the administrations of both George H.W. Bush and George W. Bush overseeing the IRS, said: "It is noteworthy that zero cases [of Tea Party claims for tax-exempt status] have been denied."

Not to dignify inexcusable accusations by repeating them, but it is necessary to take note of the claims by some right-wing pundits that the IRS was making America into a totalitarian state or that, as Beck bellowed, America will "dwarf what Germany did."

One is left speechless in the face of such monstrously bizarre charges. Comparisons of the IRS to Nazi Germany's *Gestapo*, and President Barack Obama to Adolf Hitler are beyond comprehension, not to mention beneath contempt. But these tactics are typical of the Right's propaganda strategy of hyperbole. Some recent estimates put the total number of people murdered by the Nazis as high as 20 million, including at least six million Jews. To make comparisons between the horrors of the Holocaust and the bureaucratic flap at the IRS is unfathomable

On a lesser scale of excess, there also have been juvenile attempts to connect the non-scandal at the IRS with other themes designed to demean Obama, such as the *National Standard* writing: "Obama 'Refuses to Accept the Fact that the Public isn't Going to Applaud Everything He Does.'"

In the face of the Right's wild exaggerations and cheap shots, it's of value to

review the key factual elements of the IRS issue as far as the current investigation is known:

First, government targeting of individuals for their political beliefs or *profiling* when you select people for arbitrary scrutiny on the basis of race or religion is wrong and illegal. However, selecting a group for special scrutiny based on evidence that they don't meet an appropriate legal standard in this case, as applicants for a 501(c)(4) tax exemption is legal and appropriate.

Indeed, in this case, there is evidence that these Tea Party groups are primarily political organizations and thus shouldn't qualify as "social welfare" organizations. If that is the determination, then the Tea Party groups would be violating federal tax laws and thus do deserve special attention. In fact, it is part of a government agency's job to ascertain compliance with federal laws under the purview of the particular federal agency.

So, while it is germane to ask the question – "Did some inappropriate ideological screening of applicants by the IRS take place?" – it is a mistake to assume that the IRS office in Cincinnati was imposing some "ideological screening" rather than simply seeking some consistency in how similar groups would be handled.

Thus, *Politifact*, which purports to "fact-check" political issues, should not simply assume that the early rush to judgment against the IRS was correct, as when *Politifact* writes: "There's broad bipartisan agreement that Internal Revenue Service targeting of tea party and other conservative groups was wrong."

While it may be fair to say that the stampede when the story first broke was "bipartisan," it is now clear as the dust settles that there was a reasonable bureaucratic interest in sorting the Tea Party applications into one pile, so they wouldn't receive divergent judgments from different IRS officials.

Since the fuller story is now known, the residual "scandal" is one of conservatives clinging to their preferred "Smear Obama Strategy" and their default anti-government bias, their "dark beliefs" and propaganda. The IRS may have done its job clumsily, but there appears to be no evidence that it was acting on a partisan basis.

The IRS issue is an explainable flap involving a beleaguered agency with insufficient resources trying to apply vague eligibility rules. The existing eligibility rules for "social welfare" organizations were adopted in 1959 by the IRS during the Eisenhower administration. In effect, the 1959 regulations contradicted the language of the 1913 statute which required social welfare groups to engage "exclusively" in "social welfare" activities. Campaign

activities do not qualify as permissible activities under the law – *no political party is eligible for public tax subsidy and secrecy for its donors.*

Associated Press reporter Alan Fram has pointed out that the IRS flap can be traced even further back to 1947 when New York University Law School went into the noodle business. “The 1947 episode helped produce conflicting laws covering the kinds of activities tax-exempt organizations may conduct,” Fram wrote.

But, let’s go all the way back to 1913 when Congress created the legal framework for 501(c)(4) nonprofits. To receive the tax exemption, groups were supposed to be “operated exclusively for the promotion of social welfare.” The IRS later opened the door in 1959 to some forms of political activity by interpreting the statute to mean groups had to be primarily engaged in enhancing social welfare.

But neither the tax code nor regulators set out how “primarily” would be measured. “Social welfare” and “primarily” are difficult words to define and for which applicable measurements are difficult to determine. The difference between “exclusively” and “primarily” is clear, however.

Campaign reform activist Fred Wertheimer emphasizes that the existing regulations that have been in place since 1959 are antiquated and flawed and do not provide clear guidance regarding when a group is entitled to 501(c)(4) tax-exempt status. They also do not take into account the new groups that formed after the 2010 *Citizens United* decision and seek 501(c)(4) status for the purpose of hiding political donors (and thus evading other federal campaign laws requiring disclosure).

According to Wertheimer, former acting IRS Commissioner Steven Miller recently said that the eligibility requirements for 501(c)(4) tax status is “not always a clear area, and there are no bright-line tests for what constitutes political intervention. Yet, the IRS is tasked with monitoring and enforcing this difficult area.”

The *Huffington Post’s* Sam Stein reported that a top Treasury Department official in the Clinton administration, Steve Arkin, predicted 13 years ago that turning the IRS into a watchdog at the intersection of tax code compliance and campaign politics was perilous. “[A]s Arkin sees it,” wrote Stein, the IRS “shouldn’t have been forced to perform functions usually reserved for the [Federal Election Commission] to begin with.”

Arkin addressed in 2000, the proposal of H.R. 4762 to force “527 organizations” created under another part of the tax code to register with the IRS and disclose their contributions and spending. While the goal was to make stealth political action committees a bit more transparent, it had the effect of turning the IRS

into a watchdog.

The bill's passage "wasn't the only thing that precipitated the IRS scandal that exists today," noted Stein. "As *ProPublica* reported, a restructuring of the agency's Exempt Organizations division in 1998 – done in response to congressional criticism resulted in the reduction in the number of IRS employees and a non-communicative culture between the agency's D.C. office and its other branches."

Regarding the use of various "dark pool" schemes for hiding political donations, we have real scandals, as Wertheimer, *ProPublica*, *Mother Jones*, the *New Republic's* Noam Scheiber and others point out: The "social welfare" nonprofits that tell the IRS that they are not going to spend money on elections, receive IRS recognition, and then turn around and spend money on elections. That means the American people are prevented from knowing who is financing political campaigns.

"Social Welfare" nonprofits poured more than \$256 million into the 2012 federal elections, the most expensive in U.S. history. Indeed, social welfare nonprofits, known as 501(c)(4)s for their section of the tax code, emerged as the primary conduit for anonymous big-money contributions. More money was spent on TV advertising in the presidential race by social welfare nonprofits than by any other type of independent group.

In recent years, Democrats and Republicans alike have seized on seemingly innocuous wording in IRS regulations "to create the darkest corner of American political fundraising," states *ProPublica*. Of the more than \$256 million spent by social welfare nonprofits on ads in the 2012 elections, at least 80 percent came from conservative groups, according to the Center for Responsive Politics.

ProPublica suggests that there are six key facts that should not get lost:

1. Social welfare nonprofits are supposed to have social welfare, and not politics, as their "primary" purpose.
2. Donors to social welfare nonprofits are anonymous for a reason.
3. The Supreme Court's *Citizens United* decision meant that corporations could pay for political ads, anonymously, using social welfare nonprofits.
4. Social welfare nonprofits do not actually have to apply to the IRS for recognition as tax-exempt organizations.
5. Most of the money spent on elections by social welfare nonprofits supports Republicans.

6. Some social welfare groups promised in their applications, under penalty of perjury, that they wouldn't get involved in elections. Then they did just that.

Citizen Action: Continue to follow the IRS issue and campaign financing on one or more of the resources below. (Note: Rootstrikers and Democracy 21 were created to fight for campaign finance reform). Contact your congressional representatives and the House Oversight and Government Reform Committee and ask that Congress take the appropriate steps so that the troublesome 1959 regulations are eliminated and replaced with IRS regulations that honor the original 1913 intent. To receive the tax exemption, groups were supposed to be "operated exclusively for the promotion of social welfare."

Beverly Bandler's public affairs career spans some 40 years. Her credentials include serving as president of the state-level League of Women Voters of the Virgin Islands and extensive public education efforts in the Washington, D.C. area for 16 years. She writes from Mexico. Her e-mail is bgbandler@yahoo.com.

Resources

Campaign Finance Center <http://www.campaignfinance.org/>

Campaign Legal Center <http://www.campaignlegalcenter.org/>

Free Speech for People <http://freespeechforpeople.org/>

Center for Responsive Politics <http://www.opensecrets.org/>

Citizens for Responsibility and Ethics in Washing (CREW)

<http://www.citizensforethics.org/>

Citizens for Tax Justice <http://www.ctj.org/>

Common Cause <http://www.commoncause.org/>

Democracy 21 <http://www.democracy21.org/>

House Committee on Oversight & Government Reform <http://oversight.house.gov/>

Internal Revenue Service <http://www.irs.gov>

Internal Revenue Service Taxpayer Advocate Service

<http://www.irs.gov/advocate/index.html>

League of Women Voters of the U.S.

<http://www.lwv.org/issues/reforming-money-politics>

Mother Jones <http://www.motherjones.com/>

People for the American Way <http://www.pfaw.org>

Public.Resource <https://public.resource.org/>

ProPublica <http://www.propublica.org>

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'Dark Money' Plot Behind IRS 'Scandal'

The flap over a few IRS bureaucrats clumsily trying to identify the many right-wing groups abusing a tax-exempt status remains the "big story." But the news media continues to miss the bigger scandal, the tricks used to create vast pools of "dark money" for buying the political process, writes Beverly Bandler.

By Beverly Bandler

In the 2012 federal elections, "social welfare" nonprofits, known as 501(c)(4)s

for their section of the tax code, emerged as the primary conduit for anonymous big-money contributions, pouring in more than \$256 million and spending more money on TV ads in the presidential race than any other type of independent group.

In recent years, both Democrats and Republicans have seized on seemingly innocuous wording in IRS regulations “to create the darkest corner of American political fundraising,” according to *ProPublica*. Yet, of the more than \$256 million spent by social welfare nonprofits on ads in the 2012 elections, at least 80 percent came from conservative groups, according to the Center for Responsive Politics.

This scandal of secret political money is the real scandal that has been obscured by the flap over an Internal Revenue Service office in Cincinnati using search words to get a handle on the flood of applications from Tea Party and other right-wing groups seeking to take advantage of or abuse the “social welfare” designation.

The IRS bureaucrats in Cincinnati may have been politically tone deaf in using search words, like “tea party,” but they were doing so because many of the political groups masquerading as “social welfare” organizations were right-wing operations.

And the IRS has a statutory responsibility to ensure that groups claiming these benefits are in fact entitled to 501(c)(4) tax-status. Section 501(c)(4) organizations receive valuable tax and other benefits from the government. Plus, the anonymity for donors enables political operations to evade other federal laws that require public disclosure of political contributors.

How this “dark money” scheme works in practice was illustrated in May 2012 when the Republican Jewish Coalition met for a luncheon on the 24th floor of a New York law firm. The coalition’s mission, as described by Matt Brooks, RJC executive director, is to educate the Jewish community about critical domestic and foreign policy issues.

But *ProPublica*’s Kim Barker reported that the 100 or so well-dressed attendees were shown two coalition-funded ads that took aim at President Barack Obama. Then Brooks made a pitch for a \$6.5 million plan to help Republican presidential candidate Mitt Romney in battleground states, reminding guests that their donations would not be publicly disclosed by the tax-exempt group.

“Contributions to the RJC are not reported,” Brooks told the people sitting around a horseshoe-shaped table. “We don’t make our donors’ names available. We can take corporate money, personal money, cash, shekels, whatever you got.” The

Republican Jewish Coalition and similar organizations enjoy tax-exempt status in exchange for promoting “social welfare.”

A Different Scandal

Thus, the current IRS issue is not the “scandal” that some would have Americans believe. It was a bureaucratic misstep that today’s version of the Republican Party, which has become less like a political party and more like an authoritarian apocalyptic cult, is trying to sell as a “scandal.” The IRS issue is an explainable mistake in which a beleaguered agency with insufficient resources applied some unwise shortcuts in an effort to protect the public interest.

The larger “dark money” scandal can be traced back to the current eligibility rules that were adopted in 1959 by the IRS under the Eisenhower administration. Congress had created the legal framework for 501(c)(4) nonprofits in 1913. To receive the tax exemption, groups were supposed to be “operated exclusively for the promotion of social welfare.” Campaign activities do not qualify as permissible activities under the law. No political party was eligible for public tax subsidy and secrecy for its donors.

However, in 1959, the IRS opened the door to some forms of political activity by interpreting the statute to mean groups had to be “primarily” engaged in enhancing social welfare. But neither the tax code nor regulators set out how “primarily” would be measured. “Social welfare” and “primarily” can be difficult words to define and for which applicable measurements can be provided. The difference between “exclusively” and “primarily” is clear, however.

Campaign reform activist (and attorney) Fred Wertheimer has said the existing regulations, in place since 1959, are antiquated and flawed and do not provide clear guidance regarding when a group is entitled to 501(c)(4) tax-exempt status and these half-century-old regs do not take into account the new groups that formed after the 2010 *Citizens United* decision allowed unlimited political donations by corporations and similar entities. After *Citizens United*, claiming 501(c)(4) status became a favorite tactic for hiding identity of donors.

According to Wertheimer, former acting IRS Commissioner Steven Miller recently said that the eligibility requirements for 501(c)(4) tax status is “not always a clear area, and there are no bright-line tests for what constitutes political intervention. Yet, the IRS is tasked with monitoring and enforcing this difficult area.”

This gray area also is where the potential for fraud arises, as Wertheimer, *ProPublica*, *Mother Jones*, the *New Republic*’s Noam Scheiber and others have

pointed out: The “social welfare” nonprofits tell the IRS that they are not going to spend money on elections. They then receive IRS recognition and turn around and spend large amounts of money on elections.

A second part of the real scandal is that IRS has failed to pursue blatant abuses of the tax laws by groups that claim 501(c)(4) tax status to evade financial disclosure requirements for political campaigns. A third scandal is how the IRS story is being reported by the major U.S. news media which has largely ignored these underlying scandals and focused on how a few bureaucrats employed some clumsy criteria in an effort to identify organizations that likely were violating the law.

Hiding Donors

Democracy 21, joined by the *Campaign Legal Center*, filed a rulemaking petition almost two years ago and urged the IRS to adopt new regulations that would sharply reduce political spending by groups holding 501(c)(4) tax status.

In their petition, they proposed that: “consistent with court decisions, the IRS establish a bright-line test by limiting the amount a section 501(c)(4) group could spend on campaign activity to no more than a small or ‘insubstantial’ percentage of its total annual expenditures, such as five or ten percent of the group’s expenditures. Or, consistent with the statutory language, the IRS could prohibit section 501(c)(4) groups from engaging in any campaign activity at all.”

Hiding the donors who are financing these campaign expenditures from the American people also is inconsistent with democratic principles, among them that the public not be subject to “hidden persuaders” and manipulation. Voters should know who is trying to buy their government.

The powers-that-be in Washington need to solve this issue. Campaign financing sources, which are hidden to keep voters in the dark, compromise the integrity of the electoral system. To try and reclaim the integrity of the election process, it seems appropriate to restore section 501(c)(4) groups to their original statutory role of engaging *only* in social welfare activities and to define those limits with clarity.

More broadly, the current assault on the IRS fits with the Right’s strategy of demonizing government. For years now, it has been the plan of the Republicans and so-called conservatives, who have evolved into an extremist Right, to sap confidence in government, if not destroy it altogether.

This hostility toward government has gained momentum since Ronald Reagan’s

declaration in his First Augural Address in 1981 that “government is the problem.” Reagan’s statement has been followed by consistent anti-government messages from right-wing think tanks and media outlets. As anti-tax advocate Grover Norquist said in 2001: “I don’t want to abolish government. I simply want to reduce it to the size where I can drag it into the bathroom and drown it in the bathtub.”

New Republic editor Noam Scheiber noted, “Conservatives have laid the groundwork for a cynical two-step: First, squeeze funding for government programs, making it harder for civil servants to do their jobs. Then, when the inevitable screw-up comes, use it as further justification for cuts. Against this backdrop, the IRS scandal looks like only the latest step in the conservative long-game.”

Or as Rick Perlstein looked at this reality from a different direction: “The mortal fear of the Republicans is that if government delivers the goods, the Republicans have no future.” Thus, instead of effecting policies to benefit the American public, the GOP will continue to tear down the effectiveness of government at all levels. Meanwhile, liberals and the Left have been ineffective in their response.

The Right’s anti-government strategy has been aided by a mainstream press corps that usually gets driven in whatever direction the Republicans prefer. Lay judge and commentator William Boardman has cited the “remarkable mental stampede in the wrong direction” as evidenced by the “false framing of the IRS story across the media spectrum.”

“Almost everything you hear and read in the media about the current IRS ‘scandal,’” Boardman wrote, “is based on deliberate falsification of basic facts. Some might call it lying ... so much of the media goes on reporting as fact the partisan spin placed on a ‘scandal’ that was not really a ‘scandal’ at all.”

To understand the IRS controversy clearly, the distracting side issues of IRS bureaucratic mistakes should be distinguished from central issues like deliberate violations of federal law, such as promising under penalties of perjury to spend money on “social welfare” and then collecting money from anonymous donors to be spent on political campaigns.

Yet, the even bigger scandal may be the concerted effort by the Right to destroy the very idea of elected governments doing the people’s business and replacing the concept of a democratic Republic with a structure of institutions firmly under the control of corporate power.

Beverly Bandler’s public affairs career spans some 40 years. Her credentials include serving as president of the state-level League of Women Voters of the

Virgin Islands and extensive public education efforts in the Washington, D.C. area for 16 years. She writes from Mexico. Her e-mail is bgbandler@yahoo.com.

Resources

Campaign Legal Center <http://www.campaignlegalcenter.org/>

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Democracy 21 <http://www.democracy21.org/>

Internal Revenue Service <http://www.irs.gov>

Internal Revenue Service Taxpayer Advocate Service

<http://www.irs.gov/advocate/index.html>

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The Other Side of the IRS ‘Scandal’

If Occupy Wall Street had a national plan to flood the IRS with illegal claims for tax-exempt status and some IRS clerks had run a search for “occupy,” they would probably get a bonus and the story would be Occupy’s “criminal conspiracy.” But if the search is for “tea party,” you have a different “scandal,” as William Boardman notes.

By William Boardman

Almost everything you hear and read in the media about the current IRS “scandal” is based on deliberate falsification of basic facts. Some might call it lying.

Here’s a reasonably typical media-framing of the IRS lie, from the usually careful and accurate *Economist*, posted May 23: “Even before this month’s revelation that conservative political groups applying for 501(c)(4) status were being singled out for special scrutiny.”

You see this false framing of the IRS story across the media spectrum, from Infowars to ABC News and NBC News to the Economist to DemocracyNOW (the latter on May 24: “the scandal over the targeted vetting of right-wing groups”). Even the usually reliable Wonkblog at the Washington Post doesn’t get the story right, apparently because it hasn’t read the relevant law.

An exception to this remarkable mental stampede in the wrong direction was Jeffrey Toobin (New Yorker, May 14) who wondered, “Did the I.R.S. actually do anything wrong?” His answer started to put the story in reasonable perspective, with a focus on tax law and political money: “the scandal isn’t what’s illegal, it’s what’s legal. It’s what society chooses not to punish that tells us most about the prevailing ethical standards of the time.”

Anatomy of a False Narrative

How is it that the conventional framing is dishonest? Here are some of the ways:

–It wasn’t a revelation. All kinds of people were aware of the underlying problem, that 501(c)(4) tax status abuse had been going on since 1959, and that it took a quantum leap after 2010, when the Supreme Court’s *Citizens United* decision opened the democratic process to money flooding that would be facilitated by the secrecy offered by the 501(c)(4) status.

–There were bipartisan public hearings on the problem of political organization abusing the tax-exempt designation scheduled by the Senate well before the “scandal” broke. Anyone could look it up.

–As soon as the story broke, Lawrence O’Donnell (MSNBC’s *The Last Word*) was reporting accurately on the issue, rooted in the difference between a law that says 501(c)(4) organizations should be “exclusively” for social welfare and a 1959 IRS regulation that says, with Orwellian authority, that “exclusively” is to be interpreted to mean “primarily.” Too many reporters and others still do not get this, even though responsible research begins with these primary sources.

–No one was singled out. That’s right, no one was singled out. The problem with 501(c)(4) applications is that the IRS *must* review every one to see if the applicant qualifies for tax-exempt status. Given the flood of applications from political groups of all sorts post-*Citizens United*, the IRS needed some way to make sure those applications were “primarily” for social welfare, even though political insiders knew that had been a joke for years. (Karl Rove’s Crossroads GPS and MoveOn.org are both IRS-approved 501(c)(4) organizations, of which there are thousands reportedly 97,382 in 2011).

–There is no reason within the law that *any* political organization should get a

tax subsidy from American taxpayers. That is allowable *only* under the IRS regulations put in place in 1959 under the Eisenhower administration. And the Congress could fix this virtually overnight by restoring “primarily” to its original meaning in the law, “exclusively.” Perhaps the real scandal, and a bipartisan one at that, is that that’s not happening.

The IRS at some level (that eventually included Lois Lerner) made a remarkably stupid, tone deaf, inept effort to identify applications that were more likely than others to be primarily political. Looking for applications tagged “tea party” may have reflected the reality of an inordinate number of such applications, but it was really dumb. Using the tag “party” not only would have done the job, but would have been wholly defensible, since *no political party* is eligible for public tax subsidy and secrecy for its donors.

The IRS net for possibly political organizations caught some 300 applications. Of these, no more than a third were “conservative” or “tea party” or “right-wing.” The rest were something else, including “liberal” and “left-wing.” None of the so-called conservative group applications were denied. Some were delayed, deservedly so, but a group can function as a 501(c)(4) with an application pending, so it’s hard to see how much damage a delay would do, if any.

—At least some of the groups on the Right were clearly partisan and perhaps broke the law. The New York Times of May 26 reports in a story wrongly headlined “Groups Targeted by I.R.S. Tested Rules on Politics” describes several tax-exempt groups that spent money on partisan activities.

One of the groups, **Emerge America**, was granted 501(c)(4) status in 2006 in order to train women to run for elected office. In 2012, when an IRS review showed that Emerge America was training only Democratic candidates, the IRS revoked the group’s tax exempt status.

Another group calling itself “CVFC 501(c)(4)” on its application in 2010 gave its address as the same as “Combat Veterans for Congress PAC” (or political action committee). Perhaps PAC triggered a closer look. While awaiting an IRS decision, CVFC spent almost \$8,000 on radio ads for a Republican candidate. CVFC omitted this expenditure from its 2010 tax return. On a questionnaire asking if it had engaged directly or indirectly in political activity on behalf of a candidate, CVFC checked “NO.”

Incompetent NBC News Reporting

In a report on May 29, “Open Channel Investigative reporting from NBC News” (bylined Lisa Myers, Rich Gardella, Talesha Reynolds) starts with a flat-out false headline: “IRS higher-ups requested info on conservative groups, letters

show.”

The story begins: “Additional scrutiny of conservative organizations’ activities by the IRS did not solely originate in the agency’s Cincinnati office, with requests for information coming from other offices and often bearing the signatures of higher-ups at the agency.”

The letters don’t show that. NBC provides two letters, and both come from and direct responses to the IRS Cincinnati office, although one letter also has an apparently hand-stamp signature for “Lois Lerner, Director, Exempt Organizations” and no address other than Cincinnati. The letters comprise nine pages, of which five pages are form letters. Each of the applicants also received a personal, two-page request for additional information to justify tax-exempt status.

The IRS asked Ohio Liberty Council Group in March 2012 to update a two-year-old filing, and to describe its planned activities, public events, membership recruitment, political activity and lobbying if any.

The IRS asked Linchpins of Liberty if they had adopted bylaws or chosen a board of directors. The IRS also wanted to know, among other things, about the organizations income and expenses, its loan agreements and other contracts, and whether its activities would go beyond selling a book (“Linchpins of Liberty”) written by its president.

NBC fails to note that this isn’t a response to a relevant 501(c)(4) application, but the IRS answer on May 6 to an application for the more stringent 501(c)(3) tax-exempt status.

Nothing in these two letters suggests anything more than due diligence by the IRS in protecting public policy and assets. The information in the story came to NBC mostly from attorneys representing the complaining groups. NBC provides no reliable, independent support for the opinions of its biased sources, even though it reports those opinions as more or less fact.

Strange Beginning

The IRS story went off the tracks of facts the moment Lois Lerner planted a question with a reporter at an American Bar Association conference on May 10. In answer to the reporter’s posing of Lerner’s question, Lerner answered this way, as reported by Associated Press (no transcript appears to be available):

“The Internal Revenue Service apologized Friday for what it acknowledged was ‘inappropriate’ targeting of conservative political groups during the 2012 election to see if they were violating their tax-exempt status.

“IRS agents singled out dozens of organizations for additional reviews because they included the words ‘tea party’ or ‘patriot’ in their exemption applications, said Lois Lerner, who heads the IRS division that oversees tax-exempt groups. In some cases, groups were asked for lists of donors, which violates IRS policy in most cases, she said.”

For whatever reason, the AP makes the IRS apology institutional even though it comes from a mid-level IRS manager ratting out people she was supposed to be managing. The news catches her superiors in the IRS, as well as the White House, completely off-guard. It also sets off a right-wing feeding frenzy, which the AP reports at length in the same story

Only near the end of the story, in a clumsily written paragraph, does the AP reporter touch on the factual context for the news Lerner was breaking and in which she had been a central player: “In all, about 300 groups were singled out for additional review, Lerner said. Of those, about a quarter were singled out because they had ‘tea party’ or ‘patriot’ somewhere in their applications.”

In other words, about 225 applications were *not* “political conservative groups,” as AP had reported at the top of the story. Given her unusual behavior over the past few years, it also doesn’t seem all that strange that Lois Lerner has refused to answer questions in Congress, pleading the Fifth Amendment protection against self-incrimination, while refusing to resign from her \$180,000-a-year job (she’s now on administrative leave).

What seems much stranger, but not as surprising as it should, is that so much of the media goes on reporting as fact the partisan spin placed on a “scandal” that was not really a “scandal” at all.

William Boardman lives in Vermont, where he has produced political satire for public radio and served as a lay judge. [A version of this story originally was published by [Reader Supported News](#).]

The Scandal of Lax Government

For decades now, it’s been fashionable to demonize government. After all, that’s what billions of dollars invested in right-wing think tanks and media outlets will buy you. There also are genuine abuses by bureaucrats. But lax government oversight can be a scandal, too, as Bill Moyers and Michael Winship note.

By Bill Moyers and Michael Winship

After a week that reminds us to be ever vigilant about the dangers of government overreaching its authority, whether by the long arm of the IRS or the Justice Department, we should pause to think about another threat – from too much private power obnoxiously intruding into public life.

All too often, instead of acting as a brake on runaway corporate power and greed, government becomes their enabler, undermining the very rules and regulations intended to keep us safe.

Think of inadequate inspections of food and the food-related infections which kill 3,000 Americans each year and make 48 million sick. A new study from Johns Hopkins shows elevated levels of arsenic – known to increase a person's risk of cancer – in chicken meat.

According to the university's Center for a Livable Future, "Arsenic-based drugs have been used for decades to make poultry grow faster and improve the pigmentation of the meat. The drugs are also approved to treat and prevent parasites in poultry. Currently in the U.S., there is no federal law prohibiting the sale or use of arsenic-based drugs in poultry feed."

And here's a story in *The Washington Post* about toxic, bacteria-killing chemicals used in poultry plants to clean more chickens more quickly to meet increased demand and make more money.

According to Amanda Hitt, director of the Government Accountability Project's Food Integrity Campaign, "They are mixing chemicals together in these plants, and it's making people sick. Does it work better at killing off pathogens? Yes, but it also can send someone into respiratory arrest."

So far, the government has done next to nothing. No research into the possible side effects, no comprehensive recordkeeping on illnesses. "Instead," the *Post* reports, "they review data provided by chemical manufacturers."

What's more, the Department of Agriculture is about to allow the production lines to move even faster, by as much as 25 percent, which means more chemicals, more exposure, more sickness.

Think of that and think of the 85,000 industrial chemicals available today only a handful have been tested for safety. Ian Urbina writes in *The New York Times*, "Hazardous chemicals have become so ubiquitous that scientists now talk about babies being born pre-polluted, sometimes with hundreds of synthetic chemicals showing up in their blood."

Think, too, of that horrific explosion of ammonium nitrate in the Texas fertilizer plant. Fifteen people were killed and their little town devastated.

The magazine *Mother Jones* noted, “Inspections are virtually non-existent; regulatory agencies don’t talk to each other; and there’s no such thing as a buffer zone when it comes to constructing plants and storage facilities in populated areas.”

For years, the Fertilizer Institute, described as “the nation’s leading lobbying organization of the chemical and agricultural industries,” resisted regulation and legislators went along. People can lose their lives when federal or state government winks at bad corporate practices 4,500 workplace deaths annually at a cost to America of nearly half a trillion dollars.

As columnist and author David Sirota observes, “If all this data was about a terrorist threat, the reaction would be swift – negligent federal agencies would be roundly criticized and the specific state’s lax attitude toward security would be lambasted. Yet, after the fertilizer plant explosion, there has been no proactive reaction at all, other than Texas Republican Gov. Rick Perry boasting about his state’s ‘comfort with the amount of oversight’ that already exists.”

Finally, consider this story from ProPublica’s investigative reporter Abraham Lustgarten about a uranium company that wanted a mining project in Texas that threatened to pollute drinking water. The EPA resisted – until the company hired as its lobbyist the Democratic fundraiser and fixer Heather Podesta, a favorite of the White House. Her firm was paid \$400,000, she pulled the strings, and presto, the EPA changed its mind and said yes, go ahead and do your dirty work.

In fact, Pro Publica found that “the agency has used a little-known provision in the federal Safe Drinking Water Act to issue more than 1,500 exemptions allowing energy and mining companies to pollute aquifers, including many in the driest parts of the country.”

Of course, in a free society we’ll always be debating the role of government and its agencies. What are the limits, when is government oversight necessary and when is it best deterred? But it’s not only government that can go too far.

As long as there are insufficient checks and balances on big business and its powerful lobbies, we are at their mercy. Their ability to buy off public officials is an assault on democracy and a threat to our lives and health. When an entire political system persists in producing such gross injustice, it is making inevitable wholesale defiance.

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The Lost 'Trifecta of Scandals'

From CNN to the Washington Post, the mainstream news media is abuzz about "the trifecta of scandals" besetting the Obama administration, a narrative that fails to assess the actual significance of the three "scandals." They don't measure up to the many important scandals that the media neglects, says Beverly Bandler.

By Beverly Bandler

Appropriate questions should be asked and answered about the controversies over the IRS screening of 501-c-4 applications, the subpoenas for AP phone calls, and the Benghazi attack. Abuse of power should be checked with vigor, but hysteria should be avoided. These issues require calm and reasoned perspective. Outrage should be reserved for real scandals of which there are plenty.

However, as some commentators rush to judgment especially about the IRS "scandal," a review of some genuine scandals past and present may be in order:

A real scandal is the lying to the American people by George W. Bush and his administration about non-existent WMD that led us into the illegal and immoral Iraq War (and the related scandals of torture, Guantánamo, Abu Ghraib, and Afghanistan). Bush's actions caused hundreds of thousands of deaths, millions of horrific injuries and the destruction and destabilization of Iraq. The United States will pay for that scandal for generations, not only in money but in loss of respect.

A real scandal is the complicity of Ronald Reagan in "grotesque human rights crimes including genocide in Central America, his tolerance of drug trafficking by his anticommunist clients, and his support for sophisticated propaganda operations to destroy troublesome journalists and other investigators," as journalist Robert Parry reported after Reagan's ally, ex-Guatemalan dictator Efraín Ríos Montt, was found guilty of genocide in an extermination campaign backed by Reagan in the 1980s.

A real scandal is the extent to which radical right-wing conservatives have managed to corrupt, to some extent, every single agency in the Executive Branch, for instance: restrictions placed on the Center for Disease Control by the National Rifle Association, the constant right-wing threats against the Environmental Protection Agency, and the latest threat of the GOP to render the National Labor Relations Board inoperative. There's also been the ideological corruption of the Judicial Branch.

A real scandal is the magnitude of air and water pollution across the nation along with worsening threat of global warming, while government efforts to address these problems are obstructed by GOP corporatists.

A real scandal is the conservatives' use of one "study," the Reinhart/Rogoff report to push for an austerity budget when the "study" has now been exposed as fraudulent and the austerity theory itself revealed to be fraudulent while the rich get richer and millions of Americans face long-term unemployment.

A real scandal is the extent of poverty in the United States with almost half of Americans dying close to penniless, in a nation in which the top one-hundredth of one percent average some \$27 million per household while the average income for the bottom 90 percent is a little over \$31,000.

A real scandal is how consistently the United States lags in international measurements for education (17th in the developed world) and for health care (37th out of 191 countries). Increasingly, ignorance shapes the national discourse with many Americans who rate the Benghazi case a major scandal not even knowing where it is.

A real scandal is the deliberate misinterpretation of the Second Amendment by the Right for political purposes and to serve the firearms industry, a distortion compounded the failure of the Left and centrist politicians to challenge the falsehoods. General citizens and corporate journalists apparently don't read history and the Constitution or are unfamiliar with the English language.

A real scandal is the continued takeover of the United States political and economic system by the military-industrial complex and by corporations, a power grab facilitated by five right-wing justices on the U.S. Supreme Court and their 2010 decision in *Citizens United v. Federal Election Commission*. That decision also laid the groundwork for the current IRS "scandal" because so many right-wing groups rushed to exploit the 501-c-4 tax-exempt "social welfare" category to carry out their political agendas.

The "social welfare" category was established for civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. In 1959, under the administration of Dwight Eisenhower, the meaning of this section was changed dramatically when the IRS decided the word "exclusively" could, in effect, be read as "primarily."

"For 54 years, the IRS has gotten away with the crime of changing the word 'exclusively' to 'primarily,'" said Lawrence O'Donnell on *The Last Word* Monday. "The IRS took a hard, clear word like 'exclusively' and changed it into a soft

word 'primarily' and then left it to the IRS agents to determine if your organization was primarily concerned with the promotion of social welfare."

Thus, when the Supreme Court issued *Citizens United* in 2010 – prompting a flood of new 501-c-4 applications – some IRS bureaucrats sought ways to detect which of the applicants were likely exploiting the loophole. That led to the controversial use of word searches that were viewed as targeting Tea Party groups.

"The IRS does need some kind of test that helps them weed out political organizations attempting to register as tax-exempt 501(c)4 social welfare groups," wrote Ezra Klein in the *Wonkblog* Monday. "But that test has to be studiously, unquestionably neutral."

Another real scandal is why the perpetrators of the financial crisis that began in late 2007 have not been held accountable and when the evidence is clear why they have not been brought to trial. As Sen. Elizabeth Warren, D-Massachusetts, suggests, the banks and other guilty parties need to be taken to court.

A real scandal is how the Bush administration and the Republican Party cratered the economy, giving the nation a full decade without net jobs growth and leaving behind a crippling depression. A real scandal is how the Republican Party held the debt ceiling hostage in 2011 and may well try it again.

A real scandal is how the GOP has been taken over by anti-democratic, anti-rational, anti-science, neo-confederate, nihilist, obstructionist, corporatist forces becoming a political party unlike one ever seen in U.S. history. Conservatism is one thing, *crazy* is another.

Former Republican Mike Lofgren describes the GOP as "less and less like a traditional political party in a representative democracy and ... more like an apocalyptic cult," one that is "ideologically extreme, scornful of compromise, and ardently opposed to the established social and economic policy regime."

It is also a party of liars and one ruthlessly determined to destroy a president because he's a Democrat along with the Democratic Party to impose an authoritarian, neo-fascist regime on the United States.

A real scandal is how the right-wing propaganda juggernaut has manipulated the corporate media and exploited American naiveté, lack of information and fear, and how the listless Left with its "learned helplessness" has let right-wing extremists get away with it by failing to "step up to the plate" with an effective investment in public outreach.

Below, I have provided a list of links related to the IRS story. I don't pretend

to have them all, but have tried to provide a decent selection. *ThinkProgress* and *Mother Jones* are particularly informative and rational as usual. I hope they are helpful to you.

Oh, by the way, the Congressional Budget Office reports that the deficit "crisis" is solved for the next ten years. Now *there's* a story.

Beverly Bandler's public affairs career spans some 40 years. Her credentials include serving as president of the state-level League of Women Voters of the Virgin Islands and extensive public education efforts in the Washington, D.C. area for 16 years. She writes from Mexico.

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Missing the Bigger IRS 'Scandal'

The Washington press corps is in hot pursuit of "Obama scandals," stampeding officials into various rushes to judgment while missing the bigger scandals underlying the excitement du jour, such as the systematic abuse of federal tax-exempt status for secret political donations, as William Boardman notes.

By Willlliam Boardman

Karl Rove is the real poster boy for the so-called Internal Revenue Service "scandal" of mid-level functionaries taking a closer look at applications by political organizations seeking a 501(c)(4) tax status that makes them not only tax-exempt but protects their donors with anonymity.

That 501(c)(4) is one sweet deal: not only do these organizations get untraceable, tax-free money laundering for their political activities, they get a taxpayer subsidy to do it. It was not always such: some of these activities used to be illegal.

People working for the Committee to Re-Elect the President (CREEP) Richard Nixon's campaign organization in 1972 were convicted of law-breaking, as were some corporate donors. CREEP was "illegally hauling in many millions of dollars from corporations, many of which felt pressured into making contributions," wrote Jill Abramson of the New York Times in a [2010 article](#) about the rapidly changing rules on political contributions.

"The fund-raising practices that earned people convictions in Watergate, giving direct corporate money to a campaign and doing so secretly, are back in a different form in 2010. This time around, the corporations are still giving secretly, but legally," Abramson wrote.

"This election year is the first since the Supreme Court's Citizens United decision, which allows corporations for the first time to finance ads that directly support or oppose political candidates. And tax laws and loopholes have permitted a shadow campaign network of Republican-leaning nonprofit groups to collect a flood of anonymous donations and spend it widely."

Indeed, Abramson noted, "Some players shaking the corporate money trees for nonprofit groups this year cut their teeth in the Nixon re-election campaign. ... There is Fred Malek, a founder of the American Action Network, [who] was the White House personnel chief in 1972 and helped dispense patronage for major Nixon donors as well as serving as deputy director of Creep. The American Action Network shares office space with American Crossroads, led by Mr. Rove, who also

was an active participant in Nixon's re-election as executive director of the College Republican National Committee."

Early in 2010, Rove founded American Crossroads, a perfectly legal, openly political, tax-exempt 527 organization, with no limits on the amount or source of their contributions, and no spending limits. Despite these freedoms, 527s were still prohibited from *openly* supporting particular candidates, and they had to register with the IRS, disclose donors, and file reports.

The Problem: Some Transparency

These 527 organizations (a broad category that includes Super PACs) have been an open charade in the democratic process for years, avoiding direct support of candidates while producing material that could only support their chosen candidates. For example, the 527 organization Swift Boat Veterans for Truth attacked presidential candidate John Kerry during the 2004 election, without expressing direct support for President George W. Bush.

In June 2010, Karl Rove and American Crossroads founded Crossroads GPS (Grassroots Policy Strategies) that, as a 501(c)(4), had even fewer constraints. American Crossroads was one of 1,500 applicants for 501(c)(4) status in 2010. In 2012 there were some 3,400 applications.

According to the Internal Revenue Code passed by Congress, 501(c)(4) status is reserved for "civic leagues or organizations not organized for profit but operated *exclusively* for the promotion of social welfare" [emphasis added]. In 1959, during the Eisenhower administration, the IRS decided to ignore the letter of the law, and wrote rules for 501(c)(4) organizations requiring only that they be *primarily* for the promotion of social welfare.

The difference between "exclusively" and "primarily" created a loophole even a non-lawyer could exploit, but it became most useful to \$100 million outfits like American Crossroads only after the Supreme Court, with its January 2010, 5-4 decision in Citizens United (558 US 310), opened the American political process to virtually any money from any source, with almost no duty to disclose anything.

Similarly, the emergence of 527 organizations derived from another Supreme Court decision, Buckley v Valeo (424 US 1) in January 1976, representing the court's pushback against federal election laws passed by Congress to address some of the recent Watergate abuses. Issued as an anonymous decision "by the court" (with two, opposing dissents), Buckley effectively gave money the same legal standing as speech, complete with First Amendment protection, albeit with some restrictions. Citizens United effectively removed those restrictions.

Since 2010, the IRS has faced an unexpected flood of applications for 501(c)(4) status from essentially political organizations of all stripes, but especially from conservative organizations. It's hard to find anyone who argues that the IRS responded properly or effectively to this exigency, but it's even harder to find anything but execrable reporting on it either, although there is some good work (by Chris Hayes, Lawrence O'Donnell, Jeffrey Toobin, among others).

Early reporting by the Associated Press on May 11 took the story off the rails in the first sentence by claiming that IRS "agents were targeting tea party groups as early as 2011," attributing the claim to a partial draft of a leaked report, and then repeating the claim in the next sentence. The New York Times story the same day started with a misleading reference to "overzealous audits."

The story got so distorted and detached from reality that even President Barack Obama in his May 13 remarks didn't have much of a handle on it.

The Reality of 501(c)(4) Scams

The first step toward understanding this IRS story is to realize that the issue of 501(c)(4) organizations carrying out political activities which should be illegal under federal law is a real problem and is widely recognized.

Senators Carl Levin, D-Michigan, and John McCain, R-Arizona, who co-chair an IRS oversight committee, released a statement on May 13, saying in part: "The Permanent Subcommittee on Investigations has been for several months examining on a bipartisan basis **whether the IRS has adequately enforced rules regarding the extent to which tax exempt nonprofit 501(c)(4) groups engage in partisan politics.** [emphasis added]

"We had tentatively planned a hearing on that issue for June. After Friday's announcement that the IRS, to the extent it has been enforcing the law, may have done so in ways that singled out some groups for special scrutiny, we have determined that the subcommittee should investigate that additional issue as well. As a result, we have decided to delay our hearing in order to examine this issue carefully."

In other words, the subcommittee's concern was *lax IRS enforcement* against a perceived abuse of the tax code, and this concern is reality-based, even though McCain is quoted as talking about "audits" of tea party groups which is not part of the reality of this issue. There were no audits. There was an evolving and almost comically ineffectual effort by the IRS to sort out 501(c)(4) *applications* to reduce the number of political organizations seeking tax shelter as "social welfare" organizations.

By May 14, the basic reality of IRS behavior during 2010-2012, while it was

still directed by a Bush appointee, still had not emerged. The director of the tax-exempt division of IRS said that about 300 applications for 501(c)(4) status were given special scrutiny, and of those about 75 were for “tea party” or similarly tagged organizations.

The IRS has not indicated who made the other 225 applications that got special attention, but they were apparently not conservative or tea party-like groups. According to the IRS, not one of the applications was denied. According to the head of the Kentucky 9/12 Project, his group refused to answer IRS questions and was approved anyway.

“There’s absolutely no targeting” of conservative groups, IRS Commissioner Doug Shulman testified to Congress in March 2012. Shulman is a former Bush appointee who completed his term in November 2012.

Phantom Resignation

In a letter to Treasury Secretary Jack Lew on May 13, Sen. Marco Rubio, R-Florida, wrote, awkwardly, in part: “Furthermore, it is clear the IRS cannot operate with even a shred of the American people’s confidence under the current leadership. Therefore, I strongly urge that you and President Obama demand the IRS Commissioner’s resignation, effectively immediately. No government agency that has behaved in such a manner can possibly instill any faith and respect from the American public.”

Although there is no IRS Commissioner currently, Rubio’s office said the letter was referring to acting commissioner Steven T. Miller, who was Shulman’s deputy and who served as deputy commissioner for services and enforcement during the time alleged “targeting” took place. According to his official biography on the IRS website:

“As Deputy Commissioner for Services and Enforcement, Miller provides direction and oversight for all major decisions affecting the four taxpayer-focused IRS Divisions: Wage and Investment, Large Business and International, Small Business/Self-Employed, and Tax Exempt and Government Entities.

“He also provides the executive direction and leadership for the IRS Criminal Investigation Division, which investigates income tax evasion and related financial crimes; the IRS Office of Professional Responsibility, which administers the laws and regulations governing the practice of tax professionals before the IRS; and the IRS Whistleblower Office, which receives information on tax cheating and provides appropriate rewards to whistleblowers.”

Miller, a 25-year career employee of the IRS, published an op-ed article in the May 14 issue of USA Today, saying that “we should have done a better job,”

adding:

“Mistakes were made, but they were in no way due to any political or partisan motivation. We sought to centralize work in this area in 2010 because our office of Exempt Organizations observed a sharp increase in the number of section 501(c)(3) and 501(c)(4) applications coming from groups potentially engaged in political campaign intervention. Between 2010 and 2012, the number of applications for 501(c)(4) status more than doubled, from 1,591 to 3,398.”

On July 7, 2011, Miller issued a memo that stopped an IRS effort to collect gift taxes from five major donors on their gifts to 501(c)(4) organizations such as Crossroads GPS or Priorities USA. The action to stop tax collection was taken in response to a written request to Shulman on May 18, 2011, from six Senators Orrin G. Hatch, Jon Kyl, Pat Roberts, John Cornyn, John Thune, and Richard Burr all Republicans.

In a story on Miller’s memo the same day, the New York Times reported: “The I.R.S. has said that the White House had nothing to do with its audits, and its original statement said they were begun by lower-level employees and that administration officials were not notified. Frank Keith, an I.R.S. spokesman, said Thursday that the estate and gift tax unit had in fact suspended those audits in March, although the agency’s initial confirmation of the audits did not mention any such action.

“‘All decisions to open, suspend and close the audits were made by career civil servants and were not the result of any outside influence,’ Mr. Keith said.”

Even before the final Inspector General’s report was released, Attorney General Eric Holder plunged into the melee, telling reporters on May 14 that, in regard to using “tea party” or “patriot” as search criteria: “The FBI is coordinating with the Justice Department to see if any laws were broken in connection with those matters related to the IRS. Those actions were, I think as everyone can agree, if not criminal, they were certainly outrageous and unacceptable. But we are examining the fact [sic] to see if there were criminal violations.”

Unlike the President the day before, the Attorney General did not allow for the possibility that the alleged behavior may or may not have happened as reported. Instead he rushed to judgment on actions of IRS functionaries in a way that he has conscientiously avoided when considering bankers or torturers.

And when the Justice Department and the FBI look for criminal violations, is there any likelihood they’ll probe the legality of any fundamentally political organizations getting the benefit of a tax subsidy and secrecy for their fanciful portrayals of “social welfare” organizations? [On Wednesday, President

Obama announced that acting IRS commissioner Miller would resign as a result of the controversy.]

William Boardman runs Panther Productions. [A version of this story first appeared at Reader Supported News.]
