

Strassel Nails the Left's "Intimidation" Crusade

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The three-ring circus that is the 2016 presidential campaign features spellbinding performances worthy of the big top's clowns, hucksters, and high-wire acts. A neglected cost of the Trump-Clinton-Sanders show, however, is the diversion of attention from the Obama administration's cutting-edge assault on limited, constitutional government.

The administration has methodically deceived the public about its signature domestic and foreign policy objectives. MIT economist Jonathan Gruber, an architect of the 2010 Affordable Care Act, repeatedly declared that passage of the historic legislation required a concerted effort to delude a "stupid" public about Obamacare's cost and operation. Deputy National Security Adviser Ben Rhodes, an architect of the 2015 Iran nuclear program deal (which he characterized as the Obamacare of the president's second term), proclaimed last month that winning the necessary public support depended on enlisting a gullible media to fool the American people about the nature of negotiations with Iran.

The Obama administration has also eroded constitutional government by legislating from the White House. From repeatedly altering the health-care law *after* its enactment and granting quasi-legal status to millions in the country illegally to using the Environmental Protection Agency to limit power plant greenhouse gas emissions President Obama has employed unilateral executive actions to impose on the American people rules and regulations opposed by congressional majorities.

Perhaps most alarming has been the administration's leadership in the left's war on free speech and the closely associated rights of assembly and association. The result has been to impair people's ability to express their political preferences and expose government folly, subterfuge, and criminality.

"All throughout history and all across the planet," Kimberly Strassel soberly observes, "government officials have used state power to silence critics."

But changing times give rise to novel tactics. In her chilling book "The Intimidation Game: How the Left Is Silencing Free Speech," Strassel describes "the new attempt by left-leaning organizations to" not only "shut down conservative speech" but also to "silence anyone who proves a threat to their ideology."

The catalyst for the latest assaults was the Supreme Court's January 2010 *Citizens United* decision. On First Amendment grounds, the court's five more-conservative justices struck down McCain-Feingold Act restrictions on political expenditures by corporations and unions. As the Tea Party was reenergizing conservatives for the midterm campaign—in November 2010 the GOP would retake the House of Representatives, pick up six Senate seats, and score massive gains in the states—progressives sprang into action. Led by Obama, who trumpeted his displeasure with “shadowy” conservative organizations, and senior congressional Democrats, the left “moved to harass and scare and shame its opponents out of speaking.”

Strassel, a Wall Street Journal columnist, emphasizes that proponents of the regulation of political speech righteously claim the moral high ground. From the 1907 Tillman Act, which prohibited corporate contributions to political campaigns, through the 1939 Hatch Act, the 1943 Smith-Connally Act, the 1947 Taft-Hartley Act, the 1971 Federal Election Campaign Act (FECA was amended in 1974), and the 2002 Bipartisan Campaign Reform Act (the formal name for McCain-Feingold), curtailment of democratic give-and-take has been defended as good for democracy.

In practice, campaign finance laws are often wielded to muzzle opposition voices. This is sometimes accomplished by outright criminalization of financial support for dissenting speech. Another technique is to compel disclosure of membership in, or support for, political parties and civic organizations, which enables corrupt government officials and ruthless private citizens to identify and strong-arm opponents. Strassel's riveting reporting shows how the left has honed such methods to a fine art.

Back in 1958, in the midst of the civil rights movement, the Supreme Court exhibited admirable appreciation of government's propensity to intimidate dissenting individuals and groups. In *NAACP v. Alabama*, the court stressed that infringement of the rights to assembly and association also impaired freedom of speech. Citing the First and 14th Amendments, the justices unanimously rejected Alabama's demand that the NAACP disclose its membership lists as a condition of operating in the state.

Eighteen years later, another Supreme Court decision reversed course and paved the way for the flagrant abuses of power that have proliferated over the last seven years. In 1976 in *Buckley v. Valeo*, the court struck down FECA limits on spending while offering, Strassel writes, “its blessing to one of the more radical parts of the law—forced disclosure.”

As former Federal Elections Commission Chairman Bradley Smith told Strassel, there are many reasons—from preserving family relationships to avoiding denial of job promotions—that people “might not want to broadcast their politics.”

The most notorious instance of the left's efforts to use government power to intimidate political opponents during Obama's presidency was the Internal Revenue Service's targeting, beginning in 2010, of some 300 small, often Tea Party-affiliated conservative organizations

that had applied for tax-exempt status. The IRS's job was to ensure that applications had been filled out correctly. But at the behest of longtime Democratic Party partisan and then-director of the IRS' Exempt Organizations Unit Lois Lerner, the agency delayed action on applications for months, which in many cases stretched into years.

Sometimes the IRS directed targeted organizations to answer extensive questionnaires that were "a mix of boring officialdom and sinister intrusiveness." In the case of the San Fernando Valley Patriots—a small organization established to oppose what they deemed an arrogant, overspending, out-of-touch Washington establishment—the IRS requested, Strassel reveals, "the names and Social Security numbers of every person who had ever donated their money or time to SFVP."

The IRS conspiracy to drive conservatives from the political arena, the impact of which on the 2012 presidential election may have been decisive, was part of a multi-front offensive. Strassel recounts harrowing tale after tale of private citizens, nonprofits, corporations, and elected officials caught in the maws of a "vast and orchestrated" campaign to close down speech.

Operating through government offices as varied as the Justice Department, the FEC, the Security and Exchange Commission, and the Milwaukee district attorney's office, Obama-era Democrats sought to punish those who dared to dissent from their agenda on issues ranging from the size and scope of government to climate change, same-sex marriage, and public sector unions. The aim was not to refute opposing views but to use the force of law and threat of public humiliation and financial ruin to deny individuals their rights to engage in political speech and action.

Not the least downside of this bewildering election year is the absence of a candidate still standing who is not only capable of responding to widespread anger about the economy, immigration, criminal justice, terrorism, America's standing in the world, and establishment arrogance but also willing and able to defend the cause of limited, constitutional government.

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