HOPE AND FEAR FOR DEMOCRACY IN AMERICA

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The familiar saying "money is power" carries two meanings: one is common in the United States today; the other less so.

The common meaning asserts that money *buys* power and therefore that economic inequality tends towards, or causes, political inequality. According to this idea, the rich can use their income and wealth to pay lobbyists and influence legislation, to subsidize political campaigns and influence elections, and even to buy publicity and influence public opinion. In the limit case, the rich deploy these and other related methods to monopolize political power. Political scientists increasingly document that the limit case is not just possible, but becoming actual.

The uncommon meaning asserts, directly, that money *is* power, and therefore that no contingent causes are required to connect economic and political inequality. This idea begins by reflecting on the nature of money.[1] Imagine, the idea proposes, that a society distributes goods and services using an array of vouchers that name specific items (as when wartime rationing boards issued coupons for "one pound of butter," for example, or "one pint of milk") and requires anyone who wishes to have one of these items to give over an appropriate coupon, sending government agents to deploy force against those who attempt to get an item without one. The vouchers, in this system, are not properly understood as things at all. Rather, they administer an accounting system that keeps track of and controls people, specifically regarding what things people may have or use. The vouchers, that is, constitute relations of constraint. Moreover, money is simply an abstract and generalized version of this voucher system: A $20 bill is just a voucher that permits its bearer to consume any disjunction of conjunctions of goods and services that cost less than $20. Money, therefore, is no more a thing that the vouchers would be. Rather—again, just like the vouchers—money is an accounting system that constitutes relations of constraint. Money, in other words, is power. To deny this is to fall into commodity fetishism, in the classic sense of misconstruing relations of constraint as things.

The common and uncommon understandings of the connection between economic and political inequality carry very different ideological valences. In this sense, also, the first view falls inside, and the second outside, the normal range of contemporary U.S.-American political discourse.

[1] The discussion below follows G.A. Cohen, *Back to Socialist Basics*, NEW LEFT REVIEW I/207, at 3-16 (September-October 1994).

The worry that money can buy power is quintessentially liberal. It insists on the autonomy of politics—the idea that political equality can sensibly be understood (even if not always achieved) apart from economic equality. Liberalism's more hopeful strands then argue that good laws can contain economic power to preserve the autonomy of politics. Liberalism's less hopeful strands worry that this is difficult or impossible. In the jargon of the moment, they worry about the hydraulic problem of money in politics—the problem that any efforts to keep money from buying power through one channel will simply divert the money to buying power through another.

The uncommon worry that money is power belongs to a more radical tradition. This tradition has also received expression in U.S.-American legal thought—for example, in Robert Hale's classic *Coercion and Distribution in a Supposedly Non-Coercive State*—but it belongs, quintessentially, to European socialism. The idea that money is power denies the autonomy of politics and hence also denies that political equality is intelligible as a free-standing value at all. The problem, according to this view, is not that money can interfere with politics, but rather that there exists no meaningful category *politics* with which to interfere. In the jargon of orthodox Marxism, base determines superstructure.

Neither familiar formulation quite suits current conditions, however.

The common, liberal view seems increasingly naïve. Lived experience plainly shows that politics is not autonomous today and, equally plainly, that economic inequality allows the rich to dominate the poor. Even the less hopeful formulation of the liberal view seems not really to come to grips with this problem. The hydraulic metaphor suggests that wealth leaks into politics in ways that cannot be all closed off at once. But money in politics is less like a leak that cannot be contained and more like an overwhelming flood. Hydraulic pressure has nothing to do with this problem, which is all about quantity, so that economic power no longer just infects politics but rather causes politics proper, in the liberal sense, to cease to exist.

The radical view, for its part, also contradicts lived experience, this time by flattening differences and denying distinctions that matter in practice. Even in the United States, money simply did not infect politics at the middle of the last century as it does today. And—at least with respect to economic inequality[2]—U.S.-American democracy once credibly approximated what Robert Dahl called "the continuing responsiveness of the government to the preferences of its citizens, considered as political equals."[3] International comparisons bolster this historical lesson: Wealth inequality in Switzerland and Denmark equals wealth inequality in the United States; but Swiss and Danish politics are not dominated by the rich in the U.S.-American fashion.[4] In all these cases, capitalism and democracy co-existed. These are simply concrete and particular formulations of

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[2] The same could not of course be said about inequalities concerning race and gender.

[3] ROBERT ALAN DAHL, POLYARCHY: PARTICIPATION AND OPPOSITION 1 (1971).

[4] See, e.g., James B. Davies et al., *The Level and Distribution of Global Household Wealth* 56 (Nat'l Bureau of Econ. Research, Working Paper No. 15508).

the abstract and general complaint that scientific socialism's insistence that base dominates superstructure succumbs to unwarranted fatalism—to a false tyranny of no alternatives.[5]

Ganesh Sitaraman's outstanding book—*The Crisis of the Middle-Class Constitution*— enters these arguments about economics and politics to chart a fundamentally new course that avoids both shortcomings. Unlike conventional liberals, Sitaraman recognizes that money is power as well as buys power and that the economic inequality's influence over political inequality is not cabined to the narrowly hydraulic channels that the liberal law of democracy fetishizes. This insight pervades Sitaraman's book—in both its choice of subjects and its language. These come together in Sitaraman's discussion of the progressive tradition in anti-trust, which he says, quoting Michael Sandel, worried that economic concentration "threatened self-government in two ways—directly by overwhelming democratic institutions and defying their control and indirectly, by eroding the moral and civic capacities that equip workers to think and act as citizens."[6] And unlike conventional socialists, Sitaraman recognizes that the economic perversions of present-day U.S.-American democracy are distinctive and contingent, rather than endemic to capitalist orders. Once again, this recognition pervades Sitaraman's way of thinking: Indeed, the sense that something has gone wrong, and the urge to recover a tradition that is at once capitalist and democratic, motivates the entire book.

Sitaraman's fundamental idea is that the relationship between money and politics arises inside a constitutional structure and, in fact, is framed by a basic—perhaps even *the* basic—constitutional choice. *Middle-class constitutions* accept that money can buy power but deny that money is power and are therefore, in their basic political economy, liberal. This political economy pervades middle-class constitutional orders, perhaps most importantly in their insistent application of liberal legalism to the political process itself—their insistence on formal equality of political participation, on the negative liberty of speech and assembly, and on high proceduralism in lawmaking and administration. *Class-warfare constitutions*, by contrast, acknowledge that money is power and adopt what might be called (although now speaking loosely) a socialist political economy. This political economy once again pervades class-warfare constitutional orders, which openly reject liberal legalism in their politics by violating formal political equality in order to secure political participation and even office-holding by economic caste; and by limiting the negative rights of the rich to speech, assembly, and due process as required to protect the positive political participation of the lower economic orders.

[5] *See generally* ROBERTO MANGABEIRA UNGER, FALSE NECESSITY: ANTI-NECESSITARIAN SOCIAL THEORY IN THE SERVICE OF RADICAL DEMOCRACY (1987).

[6] *See* Michael J. Sandel, *The Political Economy of Citizenship*, *in* THE NEW MAJORITY: TOWARDS A POPULAR PROGRESSIVE POLITICS 133, 136 (Stanley B. Greenberg & Theda Skocpol eds., 1997).

Sitaraman's secondary idea is that the United States, for distinctive intellectual, cultural, and economic reasons—and pursuing a minority approach—adopted a middle-class rather than a class-warfare constitution; and that the prerequisites—especially the economic conditions—for the success of middle-class constitutionalism no longer exist. Sitaraman's general theory of the relationship between money and power, therefore, enables him to make a distinctive—and distinctively deep—diagnosis of the present U.S.-American predicament.

A tertiary set of ideas addresses how to respond to this predicament, so diagnosed. Sitaraman recognizes that conventional liberal proposals—campaign finance reform, lobbying reform—are structurally mismatched to the scale of the breach that they hope to repair. He also recognizes that his diagnosis leads naturally to two very different courses of treatment: to remake the U.S. Constitution along class-warfare lines; and to remake the U.S. economic order to recover the conditions that make a middle-class constitution sustainable. Sitaraman prefers the second approach, although he never really makes clear how the policies needed to rebuild the middle class might be achieved within a constitutional structure weakened by the very dysfunctions that these policies aspire to address. In this sense, Sitaraman's cure mistakes the depth of his own diagnosis.

Even so, Sitaraman opens up a conceptual space for hope that familiar arguments leave closed. Liberals who acknowledge that money can buy power but deny that money is power fall prey to a quietist complacency. Their solutions are badly out-of-scale to the problems that beset U.S.-American democracy. Socialists who insist that money is power and that base dominates superstructure fall prey to fatalism and despair. They abandon hope of finding any political solution to political inequality.

Sitaraman's book engenders hope by showing that not just one but two alternative arrangements can sustain democratic political equality against the forces of capitalism, and that the United States has in the past achieved one of these arrangements. The book provokes fear by laying bare just how much will be required to recover this democratic past and just how great the forces arrayed against democracy today really are.