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Defeating the Super PACs that Distort Our Political Process

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OPINION

Defeating the super PACs that distort our political process: Bruce Ledewitz (Opinion)

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By [Guest Columnist/cleveland.com](#)

Ted Cruz

U.S. Sen. Ted Cruz, R-Texas, speaks at a RedState Gathering at the Renaissance Worthington Hotel in Fort Worth, Texas, on Friday, Aug. 8, 2014. Cruz announced his presidential bid Monday.

(Richard W. Rodriguez/Fort Worth Star-Telegram/TNS)





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The rapid emergence of Texas Sen. Ted Cruz as a presidential candidate owes a great deal to [four super PACs](#) that have pledged \$31 million to him. Meanwhile, Norman Braman, a Miami auto dealer, [has pledged](#) \$10 million to Florida Sen. Marco Rubio. As Trever Potter, a former Republican member of the Federal Election Commission, [told The New York Times](#) last week, "It just takes a random billionaire to change a race and maybe change the country. That's what's so radically different now."

The most pressing task today to preserve American democracy is reducing the power of these super PACs. This can be done by simply eliminating campaign contribution limits. Cleveland State University's Cleveland-Marshall School of Law is holding a [symposium](#) today on campaign finance reform and I will be presenting this proposed remedy there.

Super PACs are political action committees that can raise unlimited sums of money from corporations, unions, and individuals, but may not contribute to, or coordinate with, political parties or candidates. Their enormous wealth can dwarf what candidates spend. In the Alaska Senate race of 2014, [independent spending](#) amounted to \$40 million, doubling the spending of the two candidates in the race.

Because they are required to operate independently, super PACs answer to no one. This means they can lie with impunity. Americans learned about their unique destructiveness from the "swift-boating" of presidential candidate John Kerry in 2004. The battle of the super PACs in the South Carolina Republican presidential primary in 2012 [set a new low](#) in American politics.

When confronted with these toxic ads, candidates point out, as President George Bush did in 2004, that they are legally powerless to stop, or even comment on, them. Of course, the candidates are actually delighted that their opponents are being savaged in ways the voters would never allow a candidate to pursue.

But even worse than their lies, super PACs are beginning to give their shape to election campaigns. The day is coming when well-funded independent groups, liberal and conservative, will turn elections into their personal battlegrounds. They may run ads in state legislative races all over the country for and against action on global warming, for example, even though candidates in these races may have quite nuanced views on the issue or may even feel that the matter is not that important.

Democracy requires a connection between the candidate and the voters. For democracy to create political legitimacy, the two opposing candidates must present coherent choices to the voters. The candidates must thus be the main and only event. In a sense, every election should be like the Lincoln-Douglas debates of 1856: a referendum on two competing visions of the nation's future.

When super PACs obscure the candidates and introduce their own issues, this thread of political legitimacy is broken. Independent electioneering privatizes and outsources what should be a national, democratic ritual.

Since the Supreme Court has held that independent campaign spending is a First Amendment right, how can it be stopped? Surprisingly, there is a simple remedy that could be adopted tomorrow: the elimination of all campaign contribution limits.

Independent spending was really an unanticipated by-product of the contribution limits that the Supreme Court upheld in Buckley v. Valeo in 1976, coupled with the spending limits the court struck down. If I could not give more than \$1,000 to the candidate I favored, then the only way to support that candidate was to spend money myself. That spending could not be controlled by the candidate, because then it would be a form of illegal campaign contribution. Thus, large-scale, independent spending emerged.

Once contribution limits are eliminated, candidates will demand contributions for themselves. And, once independence is no longer required, the voters will insist that candidates control any outside spending on their behalf that remains.

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Eliminating contribution limits will even lessen the total amount of money spent on political campaigns. Most corporations will not contribute openly to candidates, for fear of alienating customers. And wealthy individuals will find that ordinary campaign contributions are not as much fun as running their own attack ads.

We have it in our power to take our elections back from powerful interest groups. We need only act.

Bruce Ledewitz, a law professor at Duquesne University in Pittsburgh, presents his proposal to curbe the power of money in American politics at a panel on campaign finance law being held today from 3 p.m. to 5 p.m. in the Moot Court Room at Cleveland State University's Cleveland Marshall College of Law, 1801 Euclid Avenue.

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