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English IV

15 December 2024

Why Citizens United will Destroy our Democracy

The 2024 election had the most money ever spent in an election year at almost 16 billion dollars. This dramatic increase in money spent in elections, even when adjusted for inflation, has worried many Americans. Many point to one controversial Supreme Court case, *Citizens United v. The FEC*. The case surrounded a film created by a non-profit corporation Citizens United that was critical of then Senator Hillary Clinton during the 2008 presidential primaries. Prior to Citizens United it was illegal for corporations and unions to make a political ad 30 days before an election because of a law called the "Bipartisan Campaign Reform Act" or BCRA. The movie was therefore not allowed to be released so Citizens United sued. The court decided to rule on far more than just when corporations can release ads, it changed how campaign finance fundamentally worked. It allowed for infinite "soft money" which is money spent on behalf of candidates to be spent in elections which was previously banned by BCRA. It also removed many safeguards against corruption. This decision led to much controversy with some liberals fearing for the future of democracy and some conservatives celebrating the 1st Amendment being upheld. While Citizens United may have some constitutional basis, ultimately Citizens United has hurt democracy by allowing the rich to essentially pick which candidates get to have campaigns and open the floodgates for corporate money. The Citizens United ruling is also based on logic too shaky for a Supreme Court case and should be overturned.

The first major problem that Citizens United led to is Super PACs. Super PACs or independent expenditure-only committees are a legal loophole that allows for essentially infinite money to be spent in campaigns by corporations which is damaging to democracy. How Super PACs achieve this is by not

giving money directly to candidates, which is usually a capped amount, (usually around 5000 dollars) they spend money on behalf of candidates which is uncapped. This is supposed to protect from corruption because Super PACs and candidates aren't supposed to officially coordinate but reality they do often. Before Citizens United this type of funding was illegal but because of the ruling in tandem with other supreme court cases the floodgates were open for infinite corporate money in politics. John Nichols writes in “The Assault of the Super PACs” on this problem: “This warps the process in a perverse way, creating a circumstance where a candidate who is not particularly appealing to voters but who is particularly appealing to a small group of 1 percenters can, with the help of well-funded friends, frame a campaign in his favor.” The essence of Nichols' argument is that politicians are forced to cater to their rich donors, which leads them to ignore their voters. This is how Super PACs hurt democracy. By allowing rich donors and corporations to essentially pick what candidates they want to win, government is no longer for the people.

The single most damaging part of Citizens United is the ruling on the definition of corruption. In one line Citizens United changed the legal definition of corruption which fundamentally changed the landscape of campaign finance forever. The line in question reads "...Ingratiation and access… are not corruption". What this means is that people spending large amounts of money in campaigns to get better access to a politician is no longer corruption. This accentuates the issue of Super PACs because now those rich donors who can spend infinite money on a campaign now legally have access to a politician. This new definition also leaves very little left in what can be defined as corruption. Essentially all that is left is strictly quid pro quo corruption (ie. money for votes). Heather K. Gerken, a Yale law professor writes on the impact of this: "Citizens United seems to have dramatically cut back on the reasons the court can regulate. That is because it substantially narrowed the definition of corruption, which is regularly invoked whenever congress wants to pass reform." In other words Gerken explains that since Citizens United redefined what corruption means, it is now far harder for congress to regulate corruption. For congress to pass a law it needs a constitutional reason to do so. Before Citizens United a donor gaining more access to

a politician was considered corruption so congress could make a law to stop it. Post Citizens United this is no longer true. This suddenly changed the whole landscape of campaign finance reform. It led to the weakening of so many campaign finance laws and set the stage for Super PACs. This influx of legal corruption has hurt faith in democracy. According to Pew Research Center, 80% of Democrats and 83% of Republicans believe that major donors have too much influence on politics. Much of the power of a democracy is based on how much faith the people have in it. The Citizens United Decision eroded that faith badly. The American people are not wrong in their belief that donors have too much power, the supreme court was wrong in their belief this was the right ruling.

A common defense argument for Citizens United is surrounding corporate rights and specifically that it is good that corporations are seen as people. A lot of the parts of the ruling of Citizens United had to do with the 1st Amendment Free Speech protection and how it extends to corporations. A combination of supreme court cases with the logic of corporations are people and money is free speech led to many controversial parts of Citizen United like Super PACs. This essay will not go into the validity of the claim of money equating to speech but the idea of corporations being people however is central to the argument of Citizens United. Anthony Dick defends Citizens United and the claim of corporations being people in his essay Defending Citizens United.

> "…the formalistic obsession with whether a corporation should have the legal status of a "person" with a "right" to free speech quite misses the substantive issues at stake, which concern how the principle of free expression should be applied to the political speech of certain types of social groups. In particular, is there something uniquely harmful and/or unworthy of protection about political messages that come from corporations and unions, as opposed to, say, rich individuals, persuasive writers, or charismatic demagogues?"

The point the article is making is that political speech coming from a group should be protected the same as political speech from an individual. It doesn't matter whether or not corporations technically are people or not, they are providing a political point of view which should be protected. The article also points out that an extremely influential person could have the same sort of impact as a corporation so they should be protected the same. The issue with this is that speech from a group like a corporation isn't necessarily speech from that group as a whole. If Amazon expresses a political belief it doesn't mean every distribution center worker has that same thinking. People don't work at corporations because they align politically. Corporations act according to what will make the most money for their shareholders. There is no real genuine political belief from the corporation. Of course that isn't necessary for the right to have free speech but it highlights the fundamental misunderstanding about corporations: Corporations aren't people and therefore don't deserve the same rights as people. A parallel to this is AI. Most people would believe that the political beliefs from an AI aren't protected by the first amendment. There is very little difference between that and a corporation. They both have human influence but they are very clearly not people. We should be "formalistic" in determining what is deserving of having free speech and that form should be human.

Another defense of Citizens United and corporate rights is the issue of government control of political viewpoints. Justice Kennedy described his view in the Citizens United ruling

> "When Government seeks to use its full power ... to command where a person may get his or her information or what distrusted source he or she may not hear, it uses censorship to control thought. This is unlawful. The First Amendment confirms the freedom to think for ourselves." (Justice Kennedy Decision)

In other words Kennedy believes that it is not the job of the government to control who gives their opinion. This argument makes sense because keeping the government out of where the public gets their

information prevents society becoming authoritarian. It upholds the ideals of a free democracy. This sentiment when referring to corporations is invalid because limiting corporate speech does not limit the political perspectives of people. If a CEO wants to express their political speech, prior to Citizens United, they were completely in their rights to do so. My only issue is with a corporation doing that. If the assumption that corporations represent the views of people within them is correct then the people that make up a corporation can express their opinions freely just not organized specifically as a corporation. That political viewpoint would still exist. Some may argue that the corporation itself is a unique political perspective but I would point to my logic above that corporations don't act in a way similar to people and don't represent people accurately so their viewpoint should not be protected. Corporations aren't people. The issue with Corporate speech isn't that it would be "bad" for democracy, "bad" speech is still protected and should. The issue is that corporate speech isn't valid human speech.

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