

Dreaming and working for a real democracy after Citizens United ruling

by Greg Coleridge

It's a cruel irony that the very week our nation celebrates the life and work for justice and equality of the Rev. Martin Luther King Jr., our country also marks the 5th anniversary of the *Citizens United v. FEC* Supreme Court decision that diminished political justice and equality.

The controversial decision, issued Jan. 21, 2010, broadened the rights of corporate entities and individuals to donate (or, more appropriately, invest) in political elections. Its promises of expanding democracy and greater equality and diversity in political discourse have gone unfulfilled.

According to Duncan Hosie, writing in the Huffington Post, the decision unleashed outside spending of so-called "independent" groups in presidential elections from \$340 million in 2008 to over \$1 billion in 2012. Midterm election spending soared from \$68 million in 2006 to \$338 million in 2010 to \$555 million last November.

Most of this money from new "social welfare" organizations (which don't have to disclose donors) and SuperPACs was spent

enriching electronic media corporations by flooding the airwaves with ads that often distorted the truth, if not lied outright. The majority of the increased outside spending came from the superrich connected to both political parties and business corporations.

Since the Supreme Court previously defined money as speech, the roar of superrich and corporate speech has drowned out the voices of the vast majority of people and small businesses without access to spare cash to invest in politics.

So how exactly has democracy expanded since 2010? How precisely have untruthful attack ads increased the quality and diversity of political discourse? Has the disconnect between what most people want on important issues and what laws are enacted narrowed? Would King have seen *Citizens United* as an advancement of democracy and diversity?

Justice Anthony Kennedy, writing for the majority in *Citizens United*, said, "We now conclude that independent expenditures, including those made by

corporations, do not give rise to corruption or the appearance of corruption... The appearance of influence or access ... will not cause the electorate to lose faith in our democracy..."

King spoke of dreams of racial equality that would follow changed hearts and laws. Kennedy and the four justices who supported him in the *Citizen United* decision weren't expressing dreams, but sheer fantasies.

The rise in political power of corporations and the superrich post-*Citizens United* has certainly decreased citizen faith in what little remains, if anything, of our democracy. Recent polls show that more than 80 percent of the public believes there's "too much corporate money in politics," "corporate money drowns out the voices of ordinary people," "corporate spending has made Congress even more corrupt," and the agenda of Congress is dictated by political donors, not constituents.

It would be a mistake, however, to dump all the blame for our democratic decline on *Citizens United*. A recent academic

study looking at nearly 1,800 policy issues from 1981 to 2002 concluded that the United States is more an oligarchy than a democracy. *Citizens United* merely expanded this trend.

Corporate rights originated in 1886 when corporations were first anointed by the Supreme Court as legal "persons," while money was first defined as "speech" by the high court in the 1970s. Before then, corporations were defined via state charters or licenses, which were issued one at a time for specific purposes and length of existence. Corporations possessed only legal privileges, not inalienable "rights."

Tweaking *Citizens United* by legislation or reversing it by constitutional amendment isn't enough. As the national Move to Amend coalition advocates, the solution is a constitutional amendment ending both money as speech and corporate personhood.

King spoke in his "I Have a Dream" speech about people coming to Washington, D.C., to "cash a check" for racial justice, but that "America has defaulted on this promissory note." Instead, he said, "America has given the Negro people a bad check ... marked 'insufficient funds.'"

The only check politicians are increasingly concerned about is a sufficiently funded bank check. Stopping mega-checks to political candidates and their corrupting political influence, as well as

corporate rule in general, will only happen when we end our own psychological checks that restrain us from challenging power and participating in fundamental political change.

King understood that social movements from below could influence significant change at the top. So should we.

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By What Authority (ISSN: 524-1106) is published by the Program on Corporations, Law & Democracy. The title is English for *quo warranto*, a legal phrase that questions illegitimate exercise of privilege and power. We the people and our federal and state officials have long been giving giant business corporations illegitimate authority. Today, a minority directing giant corporations and backed by police, courts, and the military, define our culture, govern our nation, and plunder the earth. **By What Authority** reflects an unabashed assertion of the right of the sovereign people to govern themselves.

POCLAD is a group of 11 people instigating democratic conversations and actions that contest the authority of corporations to govern. Our analysis evolves through historical and legal research, writing, public speaking, and working with organizations to develop new strategies that assert people's rights over property interests.

BWA is a tool for democracy proponents to rethink and reframe their work. To that end we encourage readers to engage us with comments, questions, and suggestions.

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