Dēmos

Top 5 Ways *Citizens United* Harms Democracy & Top 5 Ways We're Fighting to Take Democracy Back

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In the five years since the Supreme Court's *Citizens United* decision the dominance of big money over politics and policy has grown, seemingly without restraint and with dire consequences for representative self-government. A funct ioning democracy requires a government responsive to people considered as political equals, where we each have a say in the public policy decisions that affect our lives. It is profoundly anti-democratic for anyone to be able to purchase political power, and when a small elite makes up a donor class that is able to shape our government and our public policy.

It's not just the amount of money being spent on campaigns and to lobby our elected representatives—which is on the rise and increasingly secret.[1] The problem is that our current system for funding elections allows a few people and special interests to have much more power over the direction of our country than the vast majority of Americans, who have different views on public policy than the wealthy elite.[2] We've been fighting to control the improper influence of money in government, whether from wealthy individuals or corporate interests, since the founding of our republic.[3] But we are at a low point, where large financial interests wield tremendous political power, and much of the blame rests squarely on the Supreme Court and its campaign finance decisions.

Americans across the political spectrum understand that our current rules for using money in politics give the wealthy greater political power and prevent us from having an equal chance to influence

the political process,[4] and that government is not serving our interests but rather serving special interests.[5]. Comprehensive, structural changes are needed to stop the anti-democratic results of our current system, and many practical solutions already exist to help build a new system.[6] The Supreme Court must reverse course and allow us to adopt common sense rules to reclaim our democratic self-government of, by, and for the people.

Here are five ways *Citizens United* harms democracy and five ways people are fighting back.

TOP 5 WAYS CITIZENS UNITED HARMS DEMOCRACY

1. Big money in politics allows a wealthy elite few to overpower other voices to an unprecedented degree, at all levels of government.

Citizens United declared that it was unconstitutional to restrict a corporation from spending its treasury money to support or attack candidates in elections,[7] and led to unlimited contributions to outside groups such as Super PACs and tax-exempt non-profits.[8] These decisions have allowed concentrated big money in politics to increase,[9] further marginalizing those without vast wealth in our political system.[10] Consider these facts:

- In the 2012 election just 31,385 donors who make up .01 percent of all Americans contributed more than 28 percent of the money spent.[11]
- Small donors do not play a significant role in most political fundraising; campaign money generally comes in donations of $1,000 or more from less than 1 percent of donors.[12] In 2014, in the most competitive races candidates got 86 percent of individual contributions from donors giving more than $200.[13]
- The $313 million raised by President Obama and Mitt Romney from all of their small donors combined—over 4 million people giving less than $200—was matched by just the top 32 donors to Super PACs who gave an average of $9.9 million each.[14] In the 2014 election, just 100 individuals and their spouses contributed 37 percent of the money raised by Super PACS.[15]

These elite few donors become gatekeepers. Since candidates for the House and Senate who spend the most money win the vast

majority of the time, our current system leaves our representatives dependent on a tiny slice of the wealthiest few in what is essentially a wealth primary.[16] For example, Sheldon Adelson was the largest individual spender in the 2012 election, famously spending approximately $150 million dollars to advance his political views, $98 million through disclosed channels and the rest through dark money channels like Karl Rove's Crossroads GPS and groups with links to the Kochs.[17] Former White House press secretary under President George W. Bush Ari Fleischer has remarked "certainly the 'Sheldon Primary' is an important primary for any Republican running for president."[18] Tom Steyer, the single largest donor of disclosed political spending in the 2014 elections, has the ability to play the same role in the Democratic Party.[19] Regardless of partisan affiliation, when wealthy individuals and corporate interests can determine who runs, who wins, the agenda, and ultimately the law,[20] our politics risks becoming just a disagreement between rich people.[21]

The dominance of big money in politics has a real impact on elections at all levels, not just federal elections, and is skewing policy at those levels as well. There has been a vast increase in spending in state and local legislative and executive races: $2.2 billion was spent in state elections in the 2014 cycle.[22] For example, in Missouri, multimillionaire Rex Sinquefield is using his wealth to dominate state politics and shape policy to his liking, which includes cutting funding for education.[23] In North Carolina, Art Pope dominated spending behind the Republican takeover of state government in 2012; the Governor then named him budget director and the state cut millions of dollars in social programs and attacked the freedom to vote.[24] Big money politics is also on the rise in judicial races, raising serious questions about impartial justice when judges are raising money from wealthy interests and attorneys who appear before them.[25] Former Justice Sandra Day O'Connor has called attention to the threat of rising spending and politicization of judicial election, saying "if Americans start thinking of judges as politicians in robes, our democracy is in trouble."[26]

The role of money in politics also undermines racial equity. People of color are not adequately represented by elected officials because of the inequities in our money in politics system.[27] At the county, state, and federal level, whites make up 90 percent of our elected leaders, though 37 percent of the U.S. population is people of color; additionally, men make up 71 percent of elected officials, though the electorate is 51 women.[28] As Demos President Heather McGhee writes, "underrepresented in government and among the wealthy

interests with the most access to government, African Americans, Latinos, Asian Americans and Native Americans are less able to win policies that would improve their communities, on issues from fair lending to criminal justice."[29] Our unprincipled and unrestrained big money in politics system is a principal barrier preventing the best and the brightest from leading a democracy truly reflective of our diversity.

Citizens United greatly increased the power of corporations over the power of regular Americans. The U.S. Chamber of Commerce was the largest outside dark money spender in the 2014 elections.[30] Judge Nelson of the Montana Supreme Court—whose state's nearly century old Anti-Corruption Act was declared unconstitutional by the Supreme Court as a result of the *Citizens United* decision—aptly described the harm to our democracy:

> *it is utter nonsense to think that ordinary citizens or candidates can spend enough to place their experience, wisdom, and views before the voters and keep pace with the virtually unlimited spending capability of corporations to place corporate views before the electorate. In spending ability, bigger really is better; and with campaign advertising and attack ads, quantity counts. In the end, candidates and the public will become mere bystanders in elections.*

2. Secret political spending exploded after *Citizens United* because the disclosure requirements relied on by the Court do not yet exist.

"Dark money"—political spending whose actual source is undisclosed—robs voters of information they need to make educated decisions and to exercise accountability. In *Citizens United*, the Court affirmed the constitutionality of disclosure requirements by an 8-1 majority. Justice Kennedy believed transparency would enable voters "to make informed decisions and give proper weight to different speakers and messages." But there isn't an effective system to require disclosure at the federal level, or in many states. As a result of the lack of an effective disclosure regime, a new ability and willingness to spend unlimited undisclosed sums, and a failure of government, in most cases, to take corrective action, secret political spending has shot up to historic highs.

In 2014, dubbed the "dark money" election, media spending topped $1 billion and about 40 percent of ads were purchased by dark money groups.[31] In the most competitive Senate races, more than 70 percent of the outside spending benefitting the ten winning

candidates was dark money.[32] Dark money has risen exponentially in the cycles since *Citizens United*: organizations that don't disclose their donors spent over $300 million to affect the 2012 election, more than twice as much as in the 2010 elections on the heels of the decision.

Federal disclosure requirements do not currently reach much of the new political spending, which is directed through channels outside of the traditional political players such as parties, candidate campaign committees, and traditional political action committees. Tax-exempt nonprofit forms like 501(c)(4) social welfare groups and 501(c)(6) trade associations are being used as turbo-charged political organizations that accept and spend unlimited sums in elections to support or attack candidates without telling the public where the money comes from.[33] The underlying donors to these groups remain hidden behind technicalities.

When political spenders can hide behind meaningless—or worse, misleading—names, it robs voters of information they need to assess political messages. Corporate donors can prevent "citizens and shareholders [from reacting] to the speech of corporate entities in a proper way" by cloaking their political spending through conduit organizations that disguise their true identity and agendas. For example, the "Coalition-Americans Working for Real Change" was a business organization opposed to organized labor, and "Citizens for Better Medicare" was funded by the pharmaceutical industry.[34] Dark money groups are now soliciting contributions on the promise of donor anonymity: the Wisconsin governor's campaign urged deep-pocketed donors to give to the Wisconsin Club for Growth because it "can accept Corporate and Personal donations without limitations and no donors disclosure."[35] Stephen Colbert compared these practices to money laundering.[36]

3. The purported "independence" of outside spending is often a farce, allowing for evasion of contribution limits and disclosure requirements.

Since *Buckley v. Valeo* the Supreme Court has supported treating "coordinated" spending by outside groups as contributions, because "the ultimate effect is the same as if the [spender] had contributed the dollar amount . . . to the candidate." And the *Citizens United* decision hangs on the majority's assertion that outside spending can't pose a corruption risk because it is purportedly "independent" of any candidate.[37] But the frequent lack of actual "independence" for outside spending means this spending ought to be considered

coordinated and regulated as a contribution, and it undercuts the Court's theory that the government doesn't have a sufficient interest in adopting common sense rules to limit these unlimited spending channels.

While rules exist to regulate coordination between candidates and outside groups,[38] Federal Elections Commission Commissioner Ann Ravel allows that they are "sadly murky."[39] Sophisticated political players have evaded them in all but their most technical sense, and they've gone unenforced by a broken FEC.[40] "The New Soft Money" report by Professor Daniel Tokaji and Renata Strause quotes an anonymous campaign operative, saying "at the end of the day, it's all just kind of a fiction—it's just kind of a farce, the whole campaign finance non-coordination thing."[41]

Professor Tokaji notes that new practices "may bend common sense, but not necessarily the law" since "a lot of things you and I would consider coordination are not coordination under the law."[42] For example, we've seen the rise of single candidate Super PACs that are founded and run by former campaign associates, funded by family and friends, and for whom the candidate is allowed to solicit funds from donors.[43] In the 2014 elections, Twitter was used to communicate strategic information between a Republican campaign committee and two outside groups—the groups may have run afoul of campaign laws because the information in the tweets could be considered a donation.[44] Senator Mitch McConnell released b-roll footage of himself to be used by his supporters;[45] Senator Jeanne Shaheen posted potential ad scripts on her website which may have telegraphed the messages her campaign thought would be most helpful for outside groups to air; and Senator-elect Thom Tillis posted a media strategy memo presenting the campaign's assessment of its need for television and digital ad support.[46]

4. Big money in politics distorts representation and responsiveness, preventing effective policy solutions supported by majorities of Americans.

Citizens United exacerbates the domination of the donor class over public policy outcomes. Research shows that government responds to the public policy preferences of the donor class and not the preferences of the majority of Americans in the middle and working class.[47] When the views of the richest 10 percent differ from the rest of us, the 10 percent trumps the 90 percent.[48]

This research also confirms that the very wealthy have starkly different policy priorities than the general public, especially on eco-

nomic issues.[49] For example, over two-thirds of the public believes that "the government in Washington ought to see to it that everyone who wants to work can find a job", but among the wealthy only 19 percent agreed with that statement—a disparity of more than 3 to 1.[50] Similarly, 78 percent of the public supports a minimum wage high enough that no family with a full time worker falls below the poverty line while only 40 percent of the wealthy agree, a nearly 2 to 1 disparity.[51] Americans across the political spectrum understand that money in politics is the reason their representatives are more responsive to private interests with financial resources than to the public interest.[52] This distortion of representation and government responsiveness is blocking necessary policy solutions to pressing problems supported by a majority of Americans on economic, environmental, and social issues.

Public servants owe a duty of loyalty to the people they represent, not just to those who fund campaigns. If government decisions can be bought by private wealth we end up with "an elite or ruling class of people whose power derives from their wealth"—the definition of plutocracy.[53] The infrastructure for funding our political system should avoid this risk, not intensify it.

5. The Supreme Court's decisions have distorted the Constitution by preventing common-sense rules to protect representative self-government.

The Court's jurisprudence, and current political intransigence, is preventing us from protecting our government from being dominated by big money. The Court has misunderstood the true need for common-sense rules to protect democracy for forty years, since the 1976 post-Watergate case *Buckley v. Valeo* declared that limiting spending in elections was unconstitutional. And now the Roberts Court has struck down each money in politics regulation that has come before it; *McCutcheon v. FEC* was the seventh case to strike down a campaign finance law since 2006.

Citizens United radically narrowed the government's interest in regulating money in politics.[54] The Supreme Court used to recognize that people have a compelling interest in protecting government from "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas."[55] Just as an unregulated economic marketplace does not necessarily produce free and fair trade, an unregulated system of money in politics can lead to a system where

financial-might-makes-right.

The rights of democratic citizenship must mean that self-determination is not dependent on wealth. Because access and influence gained through money is closed off to all but a few Americans, it is an illegitimate source of democratic political power. There are some things that aren't for sale; in a democracy, the power of government must be one of them.[56]

TOP 5 WAYS WE'RE FIGHTING TO TAKE DEMOCRACY BACK

Millions of Americans are fighting back—building a national democracy movement and demanding real structural changes to the way money is used to exert power and influence in our political system.

1. We must reclaim the Constitution to empower the people to adopt common-sense rules to protect our democratic government from being dominated by big money.

The Supreme Court's money in politics jurisprudence is deeply flawed and fails to reflect our Constitution's core values of equal voice and democratic accountability. In response to careful development of new legal theories and changing public opinion, the Court has reversed itself in the past to correct fundamental mistakes on critical issues such as slavery and racial segregation, New Deal economic regulations, and marriage equality. More and more scholars, jurists, elected officials and advocates understand that a similar change in course is needed now to ensure that we can protect democratic self-government from domination by big money interests.

Citizens United has come under withering critique.[57] Justice Ruth Bader Ginsburg has said "if there is one decision I would overrule, it is *Citizens United*. I think the notion that we have all the democracy that money can buy strays so far from what our democracy is supposed to be."[58] Leading First Amendment scholar and former University of Chicago Law School Dean Geoffrey Stone writes "that these five justices persist in invalidating these regulations under a perverse and unwarranted interpretation of the First Amendment is, to be blunt, a travesty. These decisions will be come to be counted as among the worst decisions in the history of the Supreme Court."[59] Judge Guido Calabresi of the Second Circuit has written that "all is not well with this law" and predicts that "just as constitutional law eventually came to embrace the concept [of one-person-one-vote],

so too will it come to accept the importance of the antidistortion interest in the law of campaign finance."[60]

The public also rejects the Roberts Court's distorted vision of the Constitution regarding money in politics. Fifty-nine percent of the public says money is not a form of free speech, and only 24 percent says it is, which has changed dramatically since before the *Citizens United* decision.[61] If the courts fail to understand the true nature of the problem of money in politics, the people will serve as the ultimate check. Seventy-three percent support a constitutional amendment to overturn *Citizens United*; this includes a 26-point margin among Republicans and a 56-point advantage among independents.[62] In September 2014, after 16 states and 550 municipalities passed resolutions demanding *Citizens United* be overturned, and at the urging of more than 3.5 million petition signers,[63] a majority of the U.S. Senate voted to support a constitutional amendment to empower people to adopt common-sense rules for using money in politics. Citizens are actually united around a shared support for necessary structural solutions to control the domination of money over our politics.[64]

2. We must support the participation of small donors and empower every voice through public financing.

To counter the influence of big money in politics we need structures that encourage small donors to get involved. Public financing programs that match small donations with public funds increase the impact of small contributions and incentivize candidates to reach out to people in their communities. Candidates will spend more time hearing from regular voters, rather than only from the elite donor class (who may or may not be constituents). The Government by the People Act, introduced by Representative Sarbanes with 160 co-sponsors, provides a multiple match of 6-1 for small donations which amplifies voices of ordinary Americans, creates a tax credit to allow all citizens to support the candidates of their choosing, and has a mechanism to address the threat of outside spending.[65] This public financing bill is supported by 67 percent of voters who heard arguments for and against the program,[66] and 75 percent of voters from groups that make up the Rising American Electorate.[67]

Investing in small donor democracy through public financing is the best policy we can currently enact to democratize the influence of money in politics, and has been very successful in practice. New York City's small donor matching funds have diversified the donor pool and increased the ability of candidates of color

to run and win.[68] In Connecticut, 90 percent of legislative candidates and both gubernatorial candidates participated in that state's clean elections program. Once candidates were no longer exclusively dependent on wealthy donors and businesses, the influence of lobbyists decreased, and elected representatives became more responsive to the public will and passed popular programs such as guaranteeing paid sick leave to workers and raising the minimum wage.[69]

Since *Citizens United*, more jurisdictions are working to adopt and strengthen their public financing programs. In Montgomery County, Maryland, one of the largest county governments in the country, the county commission voted unanimously to empower small voters by matching small contributions with public funds.[70] Voters in Maine[71] and North Carolina[72] are organizing to fight back against cuts to their public financing programs. New York State came close to passing a very popular Fair Elections bill in the past two years, modeled on the successful New York City program, and ought to be a leader in the nation.[73]

3. We must adopt effective disclosure requirements for political spending because voters deserve this information and knowledge is necessary for accountability.

Citizens United recognized that "prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters."[74] Disclosure of political spending serves voters' interests in knowing who is funding a political message and about a candidate's financial allegiances; protects against corrupt political deal-making; and prevents circumvention of campaign finance protections such as contribution limits by allowing monitoring.

The Federal Election Commission (FEC), the principal agency tasked with enforcing federal campaign finance laws, has unfortunately narrowed the disclosure requirements included in the Bipartisan Campaign Reform Act, but that action was rejected by a federal court.[75] The judge found that the rule created an "easily exploited loophole that allows the true sponsors of advertisements to hide behind dubious and misleading names"76 and concluded "the fact that some contributors 'just don't want their names known' does not provide grounds to override a clear Congressional choice in favor of transparency."[77]

There is much work that other federal agencies can and must do to prevent abuse and provide transparency so that voters may

exercise accountability. The U.S. Securities and Exchange Commission (SEC) has received more than one million public comments, the most in agency history, on a proposed rule to require publicly traded corporations to disclose their political spending.[78] The SEC has the authority and the responsibility to promulgate this rule for the protection of investors and in the public interest in response the newly allowed corporate political spending resulting from *Citizens United*.[79] The Internal Revenue Service (IRS), is addressing the issue of nonprofits abusing their tax-exempt status to spend unlimited money to influence elections without disclosing their donors by engaging in a rulemaking to establish bright lines for political activity by nonprofits. And the Federal Communications Commission (FCC) moved this summer to require all broadcasters to put their political files online, providing significantly improved transparency about ad buys.[80] There is now a petition pending before the FCC to have the Commission enforce existing laws and regulations requiring broadcasters to disclose the "true identity" of the sponsor of a political ad.[81]

President Obama can and should issue an executive order requiring disclosure of political spending by government contractors. Without transparency for political spending by those competing for government contracts, the public cannot detect if those seeking to do business with the government are providing financial support to government officials to increase their chances of receiving public contracts.[82] Pay-to-play is corrupt and corrupting,[83] and this type of crony capitalism has no place in our society.

In the face of newfound congressional intransigence against political transparency, Congress has failed to act to update federal disclosure laws to cover the new spending allowed by the *Citizens United*.[84] But there are important opportunities to improve disclosure requirements at the state and local level particularly in the face of increased spending in state and local races. In response to *Citizens United*, states have updated and expanded their disclosure regulations and enforcement; California,[85] Delaware,[86] Massachusetts,[87] Maryland,[88] Hawaii,[89] Vermont[90] and North Carolina[91] each passed new disclosure laws.[92]

4. We must prevent the evasion of contribution limits and disclosure requirements by strengthening anti-coordination rules to enforce actual independence for any outside spending.

Anti-coordination rules are necessary to enforce the requirement that unlimited spending be truly "independent" of the candidate.

Without effective rules regulating coordination, it is easy for sophisticated political players to circumvent contribution limits, rendering them ineffectual. But there are specific steps that can be taken to address current abuses: for example, coordination rules should reach all forms of outside spending; fundraising by candidates for "independent" groups should be treated as coordination; republication of candidate materials should be considered coordination, and certain shared staff or consultants should be considered indicia of coordination.[93] Non-independent outside spending should be treated as contributions of benefit to the candidate, and therefore subject to contribution limits.[94]

Effective anti-coordination rules also help prevent evasion of donor disclosure because they discourage the formation of dark money vehicles that exist in parallel to candidate and official political action committee channels yet can be just as useful to a candidate. If such rules were enforced, it would be a disincentive for the huge growth in outside spending because it might be somewhat less helpful to the candidate without the level of coordination that is currently allowed. Since the traditional candidate, party, and political action committee channels are subject to disclosure requirements, this could help improve transparency for political spending.

The FEC should strengthen and enforce its anti-coordination rules to play a more effective role in preventing the circumvention of the remaining contribution limits and ensuring that campaign-finance disclosure is robust enough to ensure that citizens have sufficient information to evaluate political messages.[95] State and local jurisdictions can take steps to protect their elections as well; Philadelphia's Board of Ethics recently adopted rules to prevent coordination from vitiating the independence of outside spending by restricting candidate fundraising for outside groups, and categorizing costs for reproducing a candidate's campaign materials as contributions.[96]

5. We must continue to take action to demand solutions to the problem of big money's domination of democratic government.

Public support to solve the problem of money in politics is large and growing across party lines. Ninety-two percent say it is important that "our elected leaders reduce the influence of money in political elections."[97] Sixty-one percent of voters, up from 51 percent in 2011, say we need to make "major changes" to the way campaigns are financed in the U.S.[98] The public supports limits on not just contributions but also political spending, for both candidates and outside groups. Ninety percent say they would support a federal law

that imposes tough, new campaign finance laws.[99] Seventy-nine percent support limiting the amount of money U.S. House and Senate candidates can raise and spend on their campaigns.[100] Seventy-six percent say unaffiliated groups should be limited in the amount they can spend on political ads during a campaign.[101]

People are standing up and demanding change.[102] A growing movement of civil rights, economic justice, environmental, consumer groups, students, business, and faith groups are coming together to commit to enacting transformative change by reducing the role of big money and strengthening our democracy. This past spring, in response to the *McCutcheon* decision, people across the country held 150 demonstrations in 41 states to protest against the court's destructive decisions. Now, in advance of the fifth anniversary of *Citizens United*, over a hundred groups—the largest collection of diverse groups ever aligned behind such an extensive set of money in politics policy solutions—have signed on to a Unity Statement of Principles: Solutions to the Undue Influence of Money in Politics.[103]

The courts and our elected representatives must respond.

ENDNOTES

1. *See* "The Dark Side of Citizens United: The U.S. Chamber of Commerce Is the Biggest Spender of Undisclosed Money in 28 of 35 Congressional Contests," Public Citizen (Oct. 29, 2014), http://www.citizen.org/documents/us-chamber-of-commerce-dark-money-spending-report.pdf; John Sugden, "Lobbying Giants Extend Spending Lead," Center for Responsive Politics, http://www.opensecrets.org/news/2014/10/lobbying-giants-extend-spending-lead/.
2. Benjamin I. Page *et al.*, "Democracy and the Policy Preferences of Wealthy Americans," Perspectives On Politics 51 (2013): 51, 55-56, http://faculty.wcas.northwestern.edu/~jnd260/cab/CAB2012%20-%20Page1.pdf; David Callahan and J. Mijin Cha, "Stacked Deck: How The Dominance Of Politics By The Affluent And Business Undermines Economic Mobility In America," Demos (2014), http://www.demos.org/sites/default/files/imce/StackedDeck_0.pdf.
3. The Federalist No. 39 ("It is ESSENTIAL to such a government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their government the honorable title of republic."), *available at* http://avalon.law.yale.edu/18th_century/fed39.asp.
4. Three-quarters of respondents to a CBS News poll conducted earlier this year said the wealthy have more influence over elections than other Americans. "CBS News Poll: Election 2014," RealClearPolitics (May 21, 2014), http://www.realclearpolitics.com/docs/2014/CBS_Poll_0514.pdf.
5. Only 11 percent of Democratic voters and 15 percent of Republican voters think constituents are even among the top *two* biggest influences on their representatives' votes, compared to groups like lobbyists, campaign donors and special interests. *See* Stan Greenberg *et al.*, "Voters Ready to Act against Big Money in Politics: Lessons from the 2014 Midterm Election," Democracy Corps, Every Voice & Greenberg Quinlan Rosner Research, (Nov. 10, 2014), http://everyvoice.org/wp-content/uploads/2014/11/EveryVoicePostElectMemo.pdf.
6. RealClearPolitics, CBS News Poll: Election 2014"; Liz Kennedy, "Citizens Actually United: The Overwhelming, Bi-Partisan Opposition to Corporate Political Spending And Support for Achievable Reforms," Demos (2012): 5, http://www.demos.org/sites/default/files/publications/CitizensActuallyUnited_CorporatePoliticalSpending.pdf.
7. *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 365 (2010). Previously corporations that wanted to engage in political spending were required to establish a political action committee; corporations are still banned from making direct contributions to candidates. *See id.* at 320; 52 U.S.C.A. § 30118.
8. The Court's holding that independent spending can't corrupt as a matter of law because "access and influence aren't corruption," *id.* at 360, led to the *SpeechNow* decision. *See SpeechNow.org v. Fed. Election Comm'n*, 599 F.3d 686, 694 (D.C. Cir. 2010) ("In light of the Court's holding as a matter of law that independent expenditures do not corrupt or create the appearance of *quid pro quo* corruption, contributions to groups that make only independent expenditures also cannot corrupt or create the appearance of corruption").
9. The estimated $3.6 billion spent in the 2014 federal elections broke records for the most expensive midterm in history, with $689 million in outside spending including $154 million in untraceable dark money. "Estimated Cost of Election 2014," Center for Responsive Politics, https://www.opensecrets.org/overview/cost.php.
10. "The real story of the election's campaign finance chapter was not which side had more resources, but that such a large chunk of the cost was paid for by a small group of ultra-wealthy donors using outside groups to bury voters with an avalanche of spending." Russ Choma, "Money Won on Tuesday, But Rules of the Game Changed," Center for Responsive Politics (Nov. 5, 2014), http://www.opensecrets.org/news/2014/11/money-won-on-tuesday-but-rules-of-the-game-changed.
11. Lee Drutman, "Why We Still Need to Worry About Money in Politics," *Washington Post* (Dec. 15, 2014), http://www.washingtonpost.com/blogs/monkey-cage/wp/2014/12/15/why-we-still-need-to-worry-about-money-in-politics/.
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15. Lioz & Shanton, " The Money Chase."
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