

HAWAII

# The U.S. Supreme Court Acts as a Megaphone for Campaign Money

Democracy should be about the voice of all people, not the voice of cash.

APRIL 20, 2014 • By Leissan Sadykova  

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The U.S. Supreme Court *McCutcheon v. Federal Elections Commission (FEC)* decision hinders the practice of Democracy because no longer are basic rights guaranteed by the First Amendment free, you now need to pay more to be heard.

Letting your money do the talking at the expense of the public and the voting process is not what the First Amendment is about.

Democracy should function by the voice of the people, not the voice of money.

Unfortunately, this is not how the U.S. Supreme Court ruled.

The *McCutcheon* decision is more than disappointing for our democracy. It places money on an equal caliber with an individual by allowing for money to play a significant role in elections.

Meaning you have to pay more for your First Amendment right to freedom of speech. This decision reversed the precedent set by *Buckley v. Valeo*, which ruled that the “right to practice democracy through political contributions is protected by the First

Amendment, but that right is not absolute. Congress may regulate campaign contributions to protect against corruption or the appearance of corruption.”

As a result of the McCutcheon ruling, an individual with the capacity to donate in the million-dollar range to candidates or political committees has a louder voice than someone who exercises the free right to vote.

In the court’s majority opinion, Chief Justice John Roberts writes, “The Government may no more restrict how many candidates or causes a donor may support than it may tell a newspaper how many candidates it may endorse.”

There are two major fallacies with this comparison. First, this statement compares people to news organizations, which are not the same thing.

The second is that McCutcheon does not limit the number of candidates or political committees that a supporter chooses to support. Therefore the argument that this limits First Amendment rights is a stretch.

The previous ceiling has been removed, which now allows for an individual to now donate in the million-dollar range, which in turn allows them to have a louder voice than those who simply exercise their freedom to vote.

In the dissent opinion by Justice Stephen Breyer, he explains, “Donations, including soft money donations to political parties, do affect how Congress operates. It’s only natural, and happens all too often, that a busy Senator with 10 minutes to spare will spend those minutes returning the call of a large soft money donor.”

It is naïve to think that money does not play a significant role in the decision-making presented above.

Furthermore, testimonies from party operatives “showed that national political parties had created ‘major donor programs,’ through which they openly ‘offered greater access to federal official holders as the donations grew larger.’”

Would someone who does not have the capacity to donate millions of dollars to a candidate or political party have the same “priority rights” to present their interests?

No, that is exactly why the McCutcheon ruling undermines the democratic practice.

The definition of corruption is also inconsistent and very narrowly defined in the McCutcheon decision.

The only type of corruption that is addressed is quid pro quo, including both the act of it and also the appearance of it. This type of corruption is basically bribery: a direct exchange of an official act for money. This is difficult to prove, and keeps corruption narrow.

Corruption is not limited to bribery. Corruption includes any and all dishonest and illegal behavior. In a democracy, dishonest behavior includes voting in favor of the wants of large donors rather than that of constituents. This is not direct bribery but still undermines democratic practices that are rooted in the power of the people.

As the Supreme Court previously stated, Democracy cannot work unless “the people have faith in those who govern.”

How can someone hold faith in the government and the democratic process when those who can donate in the million-dollar range have greater and more open access to officials than those who turn out to the polling stations?

Letting money have the stronger voice in the democratic process can contribute to a cynical public and a loss in confidence in the democratic process. With the McCutcheon ruling, democracy is now more strongly based on the power of money.

The Court’s decision is beyond disappointing. Democracy should be based on the power of the people, not the power of money.

**About the author:** *Leissan Sadykova is a student at Hawaii Pacific University pursuing a master’s degree in Diplomacy and Military Studies. She is an intern for Common Cause Hawaii.*

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**Peter Kay** · Home schooled

In the political arena, money from donations is used to purchase media time, i.e. speech. So in this case, money is indeed speech. While am enamored with the idea that all speech must be equal, the only way for you to achieve that goal is via a totalitarian control of all speech. So we either have free and unequal speech, or totalitarian, controlled, and equal speech. Are there any other choices? If not, which one do you pick?

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