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Citizens United Hearing: A Conversation about Democracy and Transparency

By MARY PENG

The Project On Government Oversight has had a longtime interest in more transparency about federal contractors, including their influence through campaign spending and lobbying. Since the 2010 *Citizens' United vs. FEC* ruling, that problem has only worsened.

The reason is that the ruling now allows federal contractors, along with other corporations and unions, to influence elections with unlimited campaign spending and not nearly enough disclosure.

On July 24, more than 400 people attended a Senate Judiciary Subcommittee hearing on responses to *Citizens United* and the rise of Super PACs. Subcommittee members and guest panelists called for greater inclusion of average American citizens in the campaign financing system and more disclosure of campaign spending.

The participating senators, all of whom were Democrats, lamented that the system is increasingly becoming the lone stage of wealthy individuals and corporations.

“Half of all super PAC money being spent in presidential elections [come] from 22 people, millionaires and billionaires buying their way in,” said subcommittee chairman Dick Durbin (D- Ill.) in his opening remarks. “Can we still proclaim to be the world’s model for free elections with open debates when we allow 22 wealthy individuals to control the terms of that debate and silence the voices of others?”

Sen. Durbin and his colleagues accused the U.S. Supreme Court of abetting such institutional corruption when it upheld unlimited political spending by corporations and unions in the *Citizens United* case. Most panelists espoused a constitutional amendment that would restore the authority of Congress to regulate campaign spending.

This proposal has won overwhelming public support and ignited nation-wide grassroots movements. Sen. Tom Udall (D-N.M.) noted that more than 1.9 million citizens and a hundred organizations across the country have petitioned for constitutional remedies, and more than 275 local resolutions have been passed calling for a constitutional amendment to overturn *Citizens United*.

Several senators, including Durbin and Sanders (D-VT), cited the civil rights movement and women's suffrage movement as examples of grassroots activism that pushed for constitutional amendments and culminated in "a more inclusive democracy."

One solution for creating "a more inclusive democracy" may be the [Fair Elections Now Act](#), according to Sen. Durbin, who introduced the bill in 2009. The Act would establish a public financing system in which candidates qualified for the program would raise at most \$100 from any single donor and then receive matching funds and grants to run a competitive campaign.

The only panelist at the hearing who held opposing views was Ilya Shapiro, a Senior Fellow in Constitutional Studies from Cato Institute. "Groups composed of individuals and smaller players now get to speak," contended Shapiro. "So even if we accept "leveling the playing field" as a proper basis for campaign regulation, *Citizens United's* freeing up of associational speech levels that playing field in many ways."

However, there was some agreement on more transparency. Shapiro agreed that the law should require disclosure for "significant amounts" of spending. "Then the big boys will have to put their reputations on the line but not the average person," he said. He refused to comment on a specific threshold for disclosure.

Sen. Durbin pointed out that mandating disclosure would involve voters into the conversation: "So if [a decision made by the voters] ultimately has to be made, shouldn't they at least have the information about who's playing in this game?"

There have been many calls for more disclosure since *Citizens United*. POGO has advocated more disclosure and political spending by federal contractors in particular, since taxpayers should know how their dollars might be used to fuel elections.

In May 2011, POGO supported [a draft presidential Executive Order](#) that has not yet been issued that would mandate the disclosure of and online public access to federal contractor spending on elections. In late July, POGO and allies sent [a letter to the House](#) endorsing legislation to do this. Sponsored by Reps. Keith Ellison (D-Minn) and Anna Eshoo (D-Cal.), the amendment to H.R. 5856 would require federal contractors to disclose their spending on elections after contract awards.

Clearly, America needs a national conversation about campaign spending and transparency, and this Senate hearing is an important step in that direction.

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