

Opposing Oppressors and Transitioning to Reason

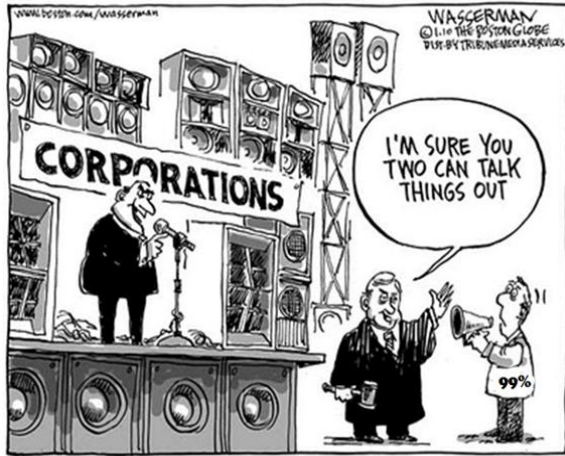
By Chris Barnett

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Introduction



Of the numerous political issues consuming the United States, the most damaging phenomena for our political system is also one of the least talked about. Corporate personhood and the legal practice of equating money to free speech take influence and power away from normal citizens and hands it to corporations and the rich. Threatening the very integrity of American democracy, these legal fallacies have been an organized assault on the natural rights of all Americans.

For over a century corporations have litigated just about every legal avenue²⁴ available to gain

constitutional rights intended for humans. Due to the dangerous judicial precedent of corporations gaining constitutional rights, reversing court decisions would be a near impossible task. However, adding a 28th amendment to the constitution stating that corporations do not have any claim to constitutional rights and that money cannot be equated to free speech would be an impactful first step to limiting corporate influence on our government and reversing the trend of the United States government away from plutocratic rule.

Proposed 28th Amendment (movetoamend.org)²¹

“Section 1. [*Artificial Entities Such as Corporations Do Not Have Constitutional Rights*]

The rights protected by the Constitution of the United States are the rights of natural persons only.

Artificial entities established by the laws of any State, the United States, or any foreign state shall have no rights under this Constitution and are subject to regulation by the People, through Federal, State, or local law.

The privileges of artificial entities shall be determined by the People, through Federal, State, or local law, and shall not be construed to be inherent or inalienable.

Section 2. [*Money is Not Free Speech*]

Federal, State, and local government shall regulate, limit, or prohibit contributions and expenditures, including a candidate's own contributions and expenditures, to ensure that all citizens, regardless of their economic status, have access to the political process, and that no person gains, as a result of their money, substantially more access or ability to influence in any way the election of any candidate for public office or any ballot measure.

Federal, State, and local government shall require that any permissible contributions and expenditures be publicly disclosed.

The judiciary shall not construe the spending of money to influence elections to be speech under the First Amendment.”

Passing a 28th amendment to the Constitution would be one of the greatest democratic victories in the history of the United States. This amendment would end the more than a century-old

fallacy of corporate personhood²⁴. It would also eliminate the plutocratic idea that money is free speech, protected under the first amendment to the constitution. All people would be afforded the same influence and equal rights under the proposed 28th amendment.

But, one could ask, how will government transition and what will it look like after this amendment ends a practice as ingrained in our government processes as corporate influence?

The answer to this question is not clear, however, government will be assuredly more democratic and pluralistic. Having an idea of what comes after this necessary, and hopefully inevitable, amendment, helps us think about the many steps needed to democratize the United States.

This transition would be a painful one. There is no doubt that corporations, and their massive amounts of resources, will not lose their influence without a fight. Taking power from those with the power is akin to a revolution of sorts, and this political revolution, like any other, will be challenging yet greatly gratifying.

With the proposed 28th amendment seeking to eliminate the idea of corporate personhood, examining the personhood rights that corporations would lose is crucial to understanding the kind of country we all could live in. The constitutional rights that corporations have gained deserve to be looked at, and imagining the future is necessary.

1st Amendment

Corporations speak not through a mouth but through a carefully constructed press team. The legal fiction that corporations are entitled to the 1st amendment right of freedom of speech allows corporations enormous freedom to influence government. Probably the most dangerous idea associated with the first amendment is the precedent that money is a form of free speech. Affirmed by *Citizens United*⁵, and fueled by the practice of corporate personhood³², corporations can legally contribute unknown amounts of money to politicians, campaigns, and lobbying. Corporations do not have the same limits and responsibilities of humans when it comes to how they spend their money. The main goal of a corporation is to increase profits to benefit the shareholders. So, if owning politicians and dominating the legislative process translates to higher profits it behooves a corporation to do so.



The price tag of elections is growing at a terrifyingly fast rate. Corporations can donate undisclosed amounts of money to political candidates because a corporation, as a legal person, has the right of free speech. This right tends to be practiced through extravagant “donations” to politicians that promise the greatest benefit for their donors.

However, it would be naive to think that the *Citizens United* ruling alone is the reason for the abhorrent understanding of the first amendment by our judicial system². The idea of corporate personhood backing this understanding has been argued since at least the 1860s and corporate “persons” have been granted some first amendment rights since the *Grosjean v. American Press Co.* (1936) case⁵.

Citizens United does show that the people are not winning the battle for rights. Despite the popular opinion that corporations do not belong in politics, the rights of corporations are expanding at a rate much greater than that of the people. Every few years there is a landmark case that grants even more power to the largest and wealthiest entities in the world. Meanwhile, Americans struggle with many social and environmental problems that are not aided by our corporate dominated government⁷.

The 1st amendment also grants religious freedoms to all in the United States. However, using the precedent of corporate personhood, corporations have been able to impose religious beliefs on their workers and other citizens. In the *Hobby Lobby (2014)* Supreme Court case, it was ruled that Hobby Lobby, a privately-held corporation, had the right, as a person in the United States, to refuse to cover certain contraceptives as part of their company health insurance coverage due to religious objections².

Manipulating the 1st amendment and the legal precedent of corporate personhood, corporations have been able to supersede people as the motivator of legislation and law. They have been able to argue that they are people, who's money can be spent to no end and is equated to speech. As the rights of corporations expand, the rights of the rest of the population are threatened. Corporations promote their interests, which are often complete contradictions from the will and rights of the people.

After a 28th amendment is passed, one can imagine that case law and legislation will begin to reflect the 1st amendment's intended purpose: to protect the freedom of living, breathing people. Corporations will have to follow laws that people vote to enact through their elected representatives instead of imposing oppressive laws on the citizenry.

4th Amendment

Protection against search and seizure is provided to a person's property under the 4th amendment to the Constitution. However, corporations have been able to stretch the purpose of even this amendment to their benefit.

Through typical corporate legal maneuvers, corporations have been able to apply the 4th amendment to themselves in a particularly harmful manner. By showing themselves to be people, corporations have gained 4th amendment rights to protect their personal property⁵. Corporations use this right to threaten the rights of the people.

Corporate lawyers have been able to get a favorable ruling of 4th amendment, making it a violation of a corporation's personal "rights" for a government agency to inspect a corporation's facility without proper notice of the inspection². The 4th amendment has also been inconsistently applied to corporations and their records. The Supreme Court has set the legal precedent that a court cannot subpoena certain "personal" documents⁸, while still forcing some documents to be turned over.

*Hale v. Henkel (1906)*²⁶ was a landmark case for 4th amendment rights for corporations. The Supreme Court ruled that the corporation was entitled, like an individual, to protections against seizure of private papers. This ruling makes it difficult to investigate a corporation as a warrant must be acquired to get certain evidence from a corporation's records²⁶.

This is an inherently flawed system. If a corporation knows exactly where and when they will be inspected, one can easily imagine that they will be able to fix violations and change the way they

operate, as to pass inspection when it happens. Also, a corporation could very well be able to alter their records before any legal body has an opportunity to investigate them.

Any corporation that follows health and safety regulations should have no fear of government inspection, as they will not be in violation. The only logical reason for a corporation to avoid inspection is because that corporation could be in violation of some sort of regulation.

Following the passage of the proposed 28th amendment, government review of corporations would increase dramatically. Corporations, with no claim to the fourth amendment, would have to allow inspectors and regulators to do their job in the interest of the people.

With corporate influence dramatically lessened, people would likely enact laws that promote government regulation to keep corporations from violating workers' rights as well as destroying the environment around them.

Deregulation is the way of the rich and corporate interests. With the passage of the 28th amendment, citizens will be able to better say what the government should and should not regulate regarding corporations.

5th Amendment

Corporations cannot take some of the 5th amendment right guaranteed to individuals, but can be afforded others. Individuals within the corporation can use the 5th amendment in testifying but are required to follow government issued subpoenas.

For example, a CEO could be held in contempt for refusing to turn over corporate records under subpoena, but still retains his/her right to not testify and incriminate themselves². However, the issue with the application of this amendment to corporations is that it isn't applied. Corporate officials are required to answer questions about the actions of the corporation, while reserving the right against self-incrimination.

The logic behind corporate personhood and the rights given to corporations as a result is inherently flawed³². But, if that is the policy the government chooses to utilize, one would expect it to be done uniformly.

Hale v. Henkel (1906) was an instrumental Supreme Court case in examining the claims of corporations to 4th and 5th amendment rights. The case confirmed the corporation's claim to 4th amendment rights, yet found that a corporation, as an "incorporeal" body²⁶, could not claim the 5th amendment right against self-incrimination. This finding is contradictory in its basis because it granted the rights of natural persons to corporations regarding one constitutional amendment but ruled that other amendments are designated for personal use only. The Supreme Court ruled that a corporation does not have claim to this constitutional right of the 5th amendment because they are reserved for people.

However, in *Pennsylvania Coal Co. v. Mahon (1922)*¹⁹, the court ruled that the coal company was regulated to such an extent that it qualified as a "taking." This ruling allows corporations protections from regulations¹⁹ that they argue are against the "public good." In this case the court ruled against Mahon, a homeowner whose house was being consumed by ground subsidence, caused by mining under the surface of his home. So, in this case not only did the court rule to grant corporations constitutional rights, but they ruled in direct opposition to a person that the 5th amendment was supposed to protect. The most dangerous aspect of this ruling

is corporate protection from regulation¹⁹. After this case, a corporation could cite legal precedent in which regulation which impeded the “public good” could be ignored.

The ruling in *Hale v. Henkel* shows the absurdity of corporate rights in the United States. If corporate personhood is the law of the land, then it should be practiced without fail. However, because of its inherently false pretense, corporate personhood can be shown to be contradictory when looking at the history of corporate personhood rulings in the history of the United States.

Even the Supreme Court has struggled to set standards for what rights of the constitution can be granted to corporations. Despite some courts seeing the corporate form as “incorporeal” and undeserving of personal 5th amendment protections, other courts have ruled in opposition to that idea.

The legal precedent allows for corporations to challenge government regulation and encroachments on their “rights.” The application of the 5th amendment to corporations shows the shady legal pretense in which corporate rights are based.

14th Amendment

The 14th amendment was passed to protect recently freed slaves from unfair trials and racist governments⁷ throughout the nation. It provides equal protection under United States law to any citizen. However, as corporations have gradually gained the legal rights of individuals they have been able to use the 14th amendment in a way it was never intended.

The majority of the 14th amendment cases litigated in United States history have not been about immigrants or freed slaves, but about corporate rights to equal protection. In fact, of the 150 cases⁵ litigated using the 14th amendment before *Plessy v. Ferguson (1896)*, 135 involved business entities, while just 15 concerned citizens². Using legal fiction established over decades, corporations have secured the same legal rights to equal protection under law as any citizen in the United States.

The nature of how the 14th amendment came to represent corporations as well as people is a shady tale that could create a cynic out of anyone. The 14th amendment was written and ratified after the Civil War to provide legal protection to newly freed slaves. One of the key people to draft the amendment was Senator Roscoe Conkling⁵. Soon after the amendment was ratified Conkling left the Senate to pursue a career as a lawyer. He would be one of the first people to argue that the word “person” was meant to apply to corporations. By producing a journal that seemingly showed that the drafters chose the word “person” over “citizen” so the amendment could apply to corporations, he proved that corporations were considered persons all along⁵. There was no evidence, besides the journal produced by Conkling, to back up his argument. However, shortly after his argument was heard, it was used in the fateful case *Santa Clara County v. Southern Pacific Railroad (1886)*, in which a headnote became the improper legal precedent for corporate personhood.

So, in summary, one of the men who wrote the 14th amendment used the guise of his inside knowledge to pretend that the drafters of the amendment had intended it to be used for corporations, despite never using the word “corporation,” all along and his arguments⁵ have been a part of creating the corporate-owned world in which we live today.

Even more frustrating about the application of the 14th amendment to corporations is the fact that the case in which corporations gained equal protection, never ruled upon the idea of

corporate personhood. In the court report for the *Santa Clara* case a court reporter wrote a headnote⁵ quoting Chief Justice Morrison Waite essentially saying that the court would not discuss the idea of corporate personhood because all the justices believed that, under law, corporations were people.

This headnote was cited multiple times in corporate personhood cases and was a turning point in which corporations began to gain rights at the expense of citizens. But a headnote of a court report is not legally binding, it is just a note that the court reporter chose to include in his report. So, the beginning of the process of corporate personhood is a headnote that carries no legal credibility and was not even part of the decision reached in the case.

This was the first constitutional amendment that corporations sought to apply to themselves because it allowed for them to gain equal protection under the law². Gaining 14th amendment rights opened the floodgates for corporate constitutional rights because once a corporation is granted equal protection it can lay claim to many other constitutional rights, expanding their influence at the expense of the people.

The outrageous application of this amendment to corporations is one of the greatest threats to American democracy and the integrity of our elected officials. Because of the doctrine of equal protection corporations have been able to apply religious norms to their business²², prove that they are entitled to 1st amendment rights and that money counts as free speech, and lay claim to many other rights reserved for people.

Equal protection arguments used in the following Supreme Court cases:

- *Santa Clara County v. Southern Pacific Railroad (1886)*
- *FEC v. Citizens' United (2010)*
- *Burwell v. Hobby Lobby Stores Inc. (2014)*
- Hundreds of other corporate cases since the 1800s

The proposed 28th amendment would revoke all the constitutional rights that corporations have stolen from citizens of the United States. The 14th amendment would, as it should, protect vulnerable individuals from government oppression and other affronts on their rights.

Ending Political Corporate Influence



Corporations are some of the most politically active entities in the country, threatening the people's representation in all levels of government. Corporations are not natural humans and, therefore, do not have the same interests and needs as 'we the people.' Too often, corporate political agenda is in direct opposition to the needs of the people⁷.

Cutting environmental regulations²⁵, weakening the rights of workers, and decreasing government accountability to

their constituents can be favorable things for corporations²² and threaten the rights of citizens in the United States.

Corporations have gradually manipulated constitutional understanding and congressional legislation, securing the advancement of their rights at the expense of American citizens². The most common way corporations can influence the political agenda is through copious campaign contributions and expensive lobbying practices⁶.

Currently, for every dollar spent by a public interest organization or a labor union on lobbying, corporations spend 34 dollars¹⁸. This difference in spending and the capability of such organizations to spend is what results in the vast differences in representation for corporations and everyone else.

The proposed 28th amendment²¹ would slow, and maybe reverse, this trend. This amendment would, by ending the legal fallacies of corporate personhood and the idea that money can be equated to free speech, disallow corporations from directly contributing to candidates and force candidates to disclose their contributors⁹. Creating a more transparent election system would allow for improved public regulation of government through informed voting.

The current American political system fosters corruption and distances citizens from the government that is supposed to protect their interests. The need for a 28th amendment is a need for citizen influence and public governance.

Limiting the Size of Corporations

American patriotism and American capitalism often go hand in hand. Some may inaccurately argue that if you aren't a capitalist then you must be a commie. However, Adam Smith, the father of modern economics, and the first to write on competition and capitalism would likely not see modern America as a capitalist economy. Competition is, according to Smith, the thing that drives innovation and development. Whereas, concentration of wealth stymies the competitive forces of the economy that work to self-regulate the economy in the interest of the people. Not all economic growth is necessarily good for the whole of society, the goal should be economic development for the most people, not growth for the overall economy⁷. So, the massive global corporations that dominate the world economy threaten economic development as they dominate the world economy and decrease competition, and therefore, progress.

Mergers and any other attempt to concentrate wealth should be viewed as an attack⁷ on our economic structure and those attempting to concentrate wealth should have to prove to the public that the concentration does not threaten economic competition or the public good.

The easiest way to combat the massive size of corporations is by enforcing the current antitrust laws⁷ in place in the United States. Legislation like the Sherman Antitrust Act and the Clayton Antitrust Act provide the Federal Trade Commission and other government agencies the framework for combating the concentration and size of corporate wealth.

The Sherman Antitrust Act made any effort to monopolize a part of the US economy illegal, while the Clayton Antitrust Act outlawed mergers and corporate acquisitions that reduce competition in the United States economy.

The inability of the government to enforce antitrust laws is evident in the most recent mergers in the United States. The fastest growing trust in the United States right now is the internet giant

Amazon. Amazon, who already accounted for nearly half of all internet sales, bought Whole Foods, one of the largest grocers in the country, announced June 16, 2017.

If the government was intent on enforcing antitrust laws Amazon's expansion would be much more gradual compared to its meteoric rise in the last decade. The Sherman Antitrust Act, if enforced, would have likely prevented many of the acquisitions made by Amazon and numerous other corporations that have allowed the company to monopolize internet commerce. The Clayton Antitrust Act, if enforced, also would have likely prevented the Whole Foods acquisition as well as others. Companies like Amazon do not make such a high-profile acquisition in the name of capitalist competition. Instead, acquisitions like this are made so that a company can expand its profits and increase their advantage over competitors.

If government agencies just used the framework already in place to combat corporate wealth concentration, then corporations would grow at a much slower rate and, theoretically, trusts would be outlawed and competition would increase.

However, enforcing hundred-year-old laws may not be enough to limit the influence and size of corporations with much more money and power than the people that fight them.

A recent study found that of the top 100 economies in the world, comparing a country's government revenue to the revenue produced by corporations, 69 were corporations³¹. This suggests that corporations are much too powerful in the modern world. At the very least it should show that the concentration of wealth is centered around the largest corporations in the world and those who run them.

The 28th amendment would not directly address this issue. However, the 28th amendment would increase citizen influence on government⁹ and as citizens begin to motivate legislation, our law will again work for the people. People will become more informed and have the tools to fight the concentration of wealth among corporations and work to increase competition in the American and world economy.

Heavier Corporate Taxes and Tax Shifting

The passage of the proposed 28th amendment would signal a shift in power from corporations back to the people. Utilizing their newfound influence on government, citizens should push for tax reform. Creating a system that taxes corporations with a higher rate and enforces tax laws with strong regulations would provide individuals with more power, while increasing the tax revenue of a government that would be more likely to work in the public interest.

In 2015 Americans paid three times as much in payroll taxes than corporations did in income taxes. Corporate income tax made up less than 11% of the federal government's tax revenue for fiscal year 2015³.

Government taxation should reflect the needs of the people being taxed⁷. People being the operative word as corporations would no longer be treated as people by the government with passage of the proposed 28th amendment.

Changing the tax code to include newer tax policies could work to deter detrimental behavior and increase the government's tax revenue. Some of these new taxes should include taxes on anything that contribute to environmental and social degradation. Taxing activities such as resource extraction, pollution, packaging, advertising, corporate lobbying, financial

manipulations⁷ (speculation, derivative spending, etc.), and others will contribute to government revenue and work to discourage activities that threaten environmental and social order.

Tax evasion and manipulation runs rampant among American corporations. Using legal manipulations such as off-shore profit shifting¹¹, corporations can lower their tax rate from the 35% rate of the United States government, to somewhere between three and six percent²⁸. For example, in 2016 JP Morgan and Bank of America avoided paying nearly \$10 billion in taxes²⁷ combined. To put that into perspective, President Trump's budget cut to education, ending after-school programs, and cutting work-study programs and teacher training, has a price-tag of around \$10 billion. This illustrates the opposing interests of corporations and the public.

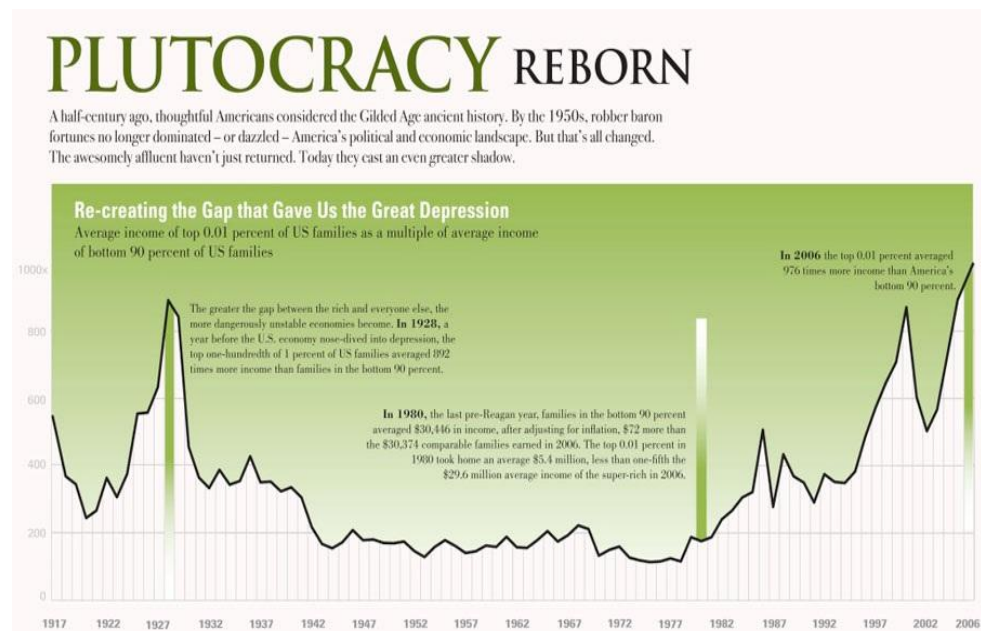
It should not be as easy as it is for the largest and most profitable entities in the world, corporations, to be able to not pay or avoid paying the full amount due when dealing with taxes. With the closing of tax code loopholes and more stringent enforcement of corporate income tax payment and the shifting of taxes to discourage detrimental corporate actions, corporations would lose some of their immense power and provide the government with funds for working in the public interest.

Shifting taxes would work to discourage, or possibly eliminate, many devastating actions⁷ taken by corporations as well as limit the speed with which they can grow.

A new tax code would be vital in limiting corporate influence, but could also work to combat rampant income inequality. The proposed 28th amendment works to add the citizens of the United States to the group of people that are making the tax code. The amendment allows for a process in which the people get more say and can set a political agenda that is helpful to them.

Income Inequality

Income inequality is growing in the United States and being sustained at a rate in which the top 10% of earners in the United States earn nearly nine times as much income as the bottom 90%¹². The trend is directly related to corporate influence, control, and ownership of the United States government. By allowing our government to be bought through



Source: <http://www.businessinsider.com/plutocracy-reborn>

exorbitant contributions and owned by the rich, the United States has let income inequality reach some of its greatest levels ever¹⁴. When the rich rule, the rest inevitably lose.

However, a 28th amendment to the Constitution provides hope. Hope that with pluralistic rule and a more democratic government, the clear majority of people will have greater influence on our tax system and our government as a whole. Expanding the earned income tax would limit the amount of taxes levied upon lower income individuals, helping them keep more of the limited income they earn.

Also, making the tax code more progressive would be a great step towards limiting income inequality. In recent decades, as the incomes of the wealthiest Americans has increased, their tax burden has decreased¹¹ drastically. The logic behind this policy is a poor understanding of economics that places overall economic growth ahead of all other factors in measuring economic prosperity. By raising the income tax for the richest Americans, as well as expanding taxes on capital gains, which mainly affects the wealthy, the government can vastly increase its tax revenue while limiting the income inequality that plagues the country.

This would not be the first-time taxes were raised in the United States. In the 1950s the statutory tax rate for corporations was 50%²⁸, today it is 35% and can be easily manipulated¹. Starting in the Great Depression and continuing through the 1970s¹⁶, the highest tax rate on top earners in the country was between 63% and 94%. This is a far cry from the 39.6% tax rate on the richest Americans of today¹.

Changing the tax code to include much higher taxes on capital gains such as speculation and derivative spending would be a tool to gain vast amounts of tax income and could allow for other tax burdens to be lessened. More money is spent on derivatives and speculation than exists in the real world, increasing the risk of bubbles and crashes. Taxing the unimaginable amount of money involved in this practice makes too much sense not to pursue.

Outside of increasing income tax obligations for the wealthiest Americans and improving the rate in which capital gains are taxed, there are multiple other policies that the United States government could utilize to level the playing field.

One of the more obvious changes that would help lower income inequality is increasing the minimum wage¹⁴. This change does not need to be as drastic and life-altering as corporations and politicians would lead the public to believe. Local and state governments can raise wages based on the needs of their constituents. Where the cost of living is higher, the minimum wage will be higher.

Many argue in counter to raising the minimum wage that it will discourage employment and limit economic growth¹². However, unless the wage is increased uniformly and by too much, all the increase does is increase the real income of the American worker. The key to making a higher minimum wage work is allowing local governments to understand the needs of their constituents and raise the minimum wage accordingly.

However, before local governments can understand their constituents better, they must shed their corporate influence. A higher minimum wage helps the average American worker but cuts into the profits of the corporations that employ them. So, until corporate influence is decreased, an increase in the minimum wage will be difficult to accomplish, as corporate-dominated governments will work to limit the increase.

Another avenue to increasing equality is investing heavily in education¹⁴. This idea is being reversed in a very serious and frightening way by the current government and has been under attack since the 1980s. Investing in education serves to increase opportunity. The higher the educational achievement of a student, the greater income mobility they have. Typically, public schools are funded by local property tax which, expectedly, skews funding towards wealthy areas. This trend of removing government funding of education has been accelerated recently and threatens the integrity of our education system.

Investing in universal preschool and improving the resources of public schools should be a goal shared by all Americans. Why would people not support legislation that increases educational opportunities?

The cynic's answer is that the richest Americans realize that if the poor stay uneducated, then they will not have the skills or knowledge to capture some of the wealth owned by the educated top. However, even if that is not the motivation for preventing educational opportunities, there is virtually no reason for limiting such opportunities.

The proposed 28th amendment would be a step towards equality in the United States, reserving constitutional rights for people and increasing their power to influence the government. With broader citizen influence will come greater steps towards equality.

Ending Limited Liability

Limited liability should be altered after the passage of a 28th amendment. It allows for the institutionalization of irresponsibility by separating ownership and management and creating a system in which absentee ownership decreases corporate accountability²³.

Limited liability limits the amount of capital an investor can be held liable to pay for in the event of their investment causing damages. The practice limits the amount an investor is responsible for to the amount they invest¹⁰. If an investor invests \$100 in a lemonade stand, and later it is found that the lemonade had a harmful chemical in it causing a cancer outbreak, the investor is only responsible to pay the \$100 back to assist with the damages.

If investors can just put money into a business venture and only be liable for the amount invested, then they are less likely to take interest in the business's actions as they can only be held liable for a set amount. Whereas, if an investor is held fully liable, or at least multiple times more liable than their investment, it is in the best interest of the investor to take an active role²³ in management to avoid destructive activities that can cause massive losses.

Limited liability would be a target of change following a 28th amendment in which people would regain their influence of the corporate form, challenging the idea of shareholder primacy in the modern corporation. The public could see limited liability as an excuse for investors to pump money into a business with no regard for how they receive their dividends because they cannot be held accountable for the actions of the business they are funding. In this new form of investment, one could see a system that says an investor is liable for three times their original investment, if unlimited liability proves imprudent. This would allow for a continuance of the idea behind limited liability while still holding investors more liable for the damage their investment could cause.

Defenders of limited liability point to the many ways in which unlimited liability would make conducting business more expensive and more hands-on¹⁰. First, creating a system in which

investors must research a potential investment to see if they have a good chance of high returns and to make sure the company is producing safe products and services seems to be a reasonable expectation. Increasing an investor's knowledge of their investment would only serve to create more informed investors and shareholders, which only works to create a more accountable economy. Second, making business more expensive in this scenario is also not really an intimidating proposition. If investors want to responsibly diversify, then they must put in the money and the work to ensure that they have made proper investments. Making things a little harder for the very wealthy to gain more wealth does not serve to halt the economy, but rather encourage responsibility and informed investment.

Ending the current practice of limited liability would be a step towards the people's regulation of corporations. Holding shareholders accountable for the actions of the business in which they invest, mandates responsibility and action in the public benefit.

Minimizing the Economic Impacts of the 28th Amendment

Corporate personhood is a theory and practice ingrained into the fabric of American politics and the American economy, yet the public is largely unaware of it. Naturally, this condition will look very different after the passage of a 28th amendment ending corporate personhood and the idea that their money is free speech. While politics will almost certainly experience a shift towards democracy and representation, the economic transition will not be as clear.

As corporations lose their influence over the government their existence will become much more complicated for some profits will slow and jobs may be at risk. The people most at risk in this situation would be the average worker in a factory or store that could lose their job as their parent corporation loses influence and profits. We should not concern ourselves with the wellbeing of the owners of corporations³⁰ that have systematically removed the influence of the American electorate to increase their already vast fortunes.

The economic impact of this transition should be measured by its effect on "real people" not by economic growth²⁹. So, we should focus on how to transition those losing their jobs to other positions, potentially in different industries. Government subsidies are too often allocated to large corporate interests in various sectors. Reallocating subsidies to apply to growth industries, such as clean energy will work to prepare people for the future and provide sustainable jobs. This will benefit us all in multiple ways. First, people get to have a job, hopefully comparable to their previous position, and, second, by adding to the workforce of these growing industries, we encourage innovation and progress in the growing field.

It is also important, after the passage of a 28th amendment, to make sure that big money interests, corporations, are not able to amass incredible power again. To make sure that citizens retain more power than corporations, multiple regulatory bodies should be created to keep corporations in check. Until after the Civil War, corporate charters were granted by the citizenry and could be revoked by the citizenry. Returning the power of revocable corporate charters would help limit the potential power of corporations. This could take the form of regulatory bodies, run by each state's governments, to increase citizen influence over corporations and, therefore, the government.

Having state agencies dedicated solely to making sure corporations practice their business in ways common to the public interest would prevent the type of power moves used by corporations for over a century.

These agencies could regulate things like corporate taxes³⁰, workers' rights, corporate political influence, preventing trusts, etc. Corporations have proven that they cannot be relied upon to work in the public interest and regulatory agencies with enforcement power would be a way to make sure corporations, after the passage of the 28th amendment, could not regain the type of power that is currently challenging the integrity of our government.

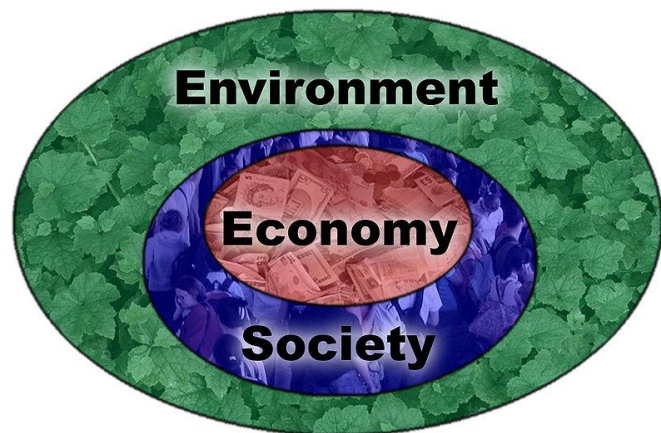
Corporations will make the transition to a new society, absent of corporate influence, very difficult. However, combating these challenges with new, different subsidies and competent regulatory agencies will work to make this necessary transition subtler.

Ecological Economics

The formal study of economics typically excludes a potentially field-changing approach to studying economics.

Ecological economics is a study of economics that considers the relationships between ecological, social, and economic systems and how they influence the wellbeing of people²⁹.

Ecological economics, unlike other theories of economics, does not measure economic success based on economic growth but rather on well being indicators like poverty rates and other indicators of human success.



Economies do not exist for some inherent reason. They exist for the benefit of people. When we simplify our understanding of economics to statistics we miss the point. Growth is not, or at least shouldn't be, about how many dollars Corporation A made compared to last year, but should be concerned with how many kids graduated high school in each year, or how many people rose above the poverty line. Measuring success by looking at human progress is a more apt way to understand our economy²⁹.

It is time to start measuring economic success not by GDP but by the success of each individual and the comfort they have in their lives. If only the wealthiest people can continue to grow their wealth and success, while average people struggle to keep a living wage, how is it logical to say that the economy is improving?

If an economy provides more opportunities for gainful employment and access to the necessities of comfortable living, it is progressing even if the GDP is falling.

Ecological economics also considers the extensive damage that is done to the environment²⁹ as the economy "grows." If the damages to the environment outweigh economic growth, the economy is regressing. Environmental degradation threatens lower income individuals with much greater regularity than those with higher incomes. Harming the environment should be seen as an affront on the rights of the average American. Placing more importance on environmental protection, in our economic practice, would work to create a system that works for more people.

Structuring the United States' economy as an ecological one would mean placing more importance on nature and real humans, than corporations.

Rethinking Rights

The United States Constitution became the supreme law of the land in 1787 and has not been addressed, outside of a handful of amendments, since then.

Corporations have unique rights in the United States, being considered persons under the law. Meanwhile, Earth has suffered the opposite consequence of the corporation. Currently, the United States, and most nations around the world, do not grant rights to the very thing that gives us life.

It seems like much less of a stretch to designate nature as a person under law as it is a real, tangible thing filled with life, struggling to survive. It is not an artificial entity interested in profits, but a planet that allows us and all life to flourish.

Granting human rights to nature is not a brand new, radical idea. New Zealand recently granted the rights of people to a river considered sacred to their indigenous people⁴. They passed this act not as a way of removing people from nature and discouraging their use of it, but to legally show that nature is living and they recognize the intrinsic worth of the world surrounding them.

Ecuador and Bolivia are two nations the United States should look at for the real application of rights to nature. Both have granted rights to nature to preserve their ecosystems. This is a phenomenal framework²⁵ for the kind of constitutional rights that the United States could give to nature.

Ecuador, in their new constitution²⁵ re-written in 2008, recognizes the rights of nature in Title 2, chapter 7, stating:

Article 71. Nature, or Pacha Mama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes.

All persons, communities, peoples and nations can call upon public authorities to enforce the rights of nature. To enforce and interpret these rights, the principles set forth in the Constitution shall be observed, as appropriate.

The State shall give incentives to natural persons and legal entities and to communities to protect nature and to promote respect for all the elements comprising an ecosystem.

Article 72. Nature has the right to be restored. This restoration shall be apart from the obligation of the State and natural persons or legal entities to compensate individuals and communities that depend on affected natural systems.

In those cases of severe or permanent environmental impact, including those caused by the exploitation of nonrenewable natural resources, the State shall establish the most effective mechanisms to achieve the restoration and shall adopt adequate measures to eliminate or mitigate harmful environmental consequences.

Article 73. The State shall apply preventive and restrictive measures on activities that might lead to the extinction of species, the destruction of ecosystems and the permanent alteration of natural cycles.

The introduction of organisms and organic and inorganic material that might definitively alter the nation's genetic assets is forbidden.

Article 74. Persons, communities, peoples, and nations shall have the right to benefit from the environment and the natural wealth enabling them to enjoy the good way of living.

Environmental services shall not be subject to appropriation; their production, delivery, use and development shall be regulated by the State.

Corporations having more rights and privileges in the United States than the Earth is quite the cultural indicator. Americans seem to care more about money and self-interest than nature and the collective interest we all share in preserving it.

Granting personhood rights to nature would afford it similar privileges currently awarded to corporations. Harming delicate natural cycles would be equivalent to harming a person and could be litigated as such. This change in thinking would give legal precedent to protecting nature as a person would be protected by law and reverse the current way in which we bestow rights.

It should feel natural that Earth is protected first, followed by the rights of humans, and then, lastly, the ventures of people could receive some protection. Transitioning from an imperial society to an ecological society is necessary for the survival of humanity. If we do not work to sustain the Earth, it will not be able to preserve us.

Conclusions

The proposed 28th amendment could very well be one of the most important legislative proceedings in American history. The practice of corporate personhood has allowed democracy to be usurped from the people and handed to corporations and the richest Americans.

Eliminating the personal constitutional rights afforded to corporations will allow for government to regulate and manage corporations like never before. Government motivated primarily by citizen input will be influenced by the public interest. As the rights of corporations become more reminiscent of an artificial entity, the rights of the people will expand.



Citizens could pursue a variety of policy options to limit corporate influence as well as seek legislation for their benefit and that of the future. One can easily imagine a citizen-influenced government seeking to exclude corporations from the political arena through restrictions on lobbying, campaign donations, and political advertising. As corporations are removed from politics by the people they once excluded, people could also work to create a tax system better equipped to help them.

Creating stricter corporate tax laws, which corporations are required to pay no matter the amount of tax lawyers they have, will work to strengthen the tax base. Also, taxes should, and with

citizen input could, reflect the public interest. Taxes could include actions deemed as destructive to social or environmental order.

As government starts to create a system that works for the people, not special interests, the people's agenda will be the common political agenda. Income inequality will be one of, if not the first, problems addressed by a citizen influenced government. Currently, at its most drastic since the 1920s, income inequality must be addressed in ways such as investing in education and raising the minimum wage to a reasonable level as to give everyone a chance at prosperity.

Corporations can seek endless influence on our political system and our economy partly through unmitigated growth. Limiting the size and scope of corporations is key to limiting their influence and increasing people's. Enforcing antitrust laws and increasing regulation on corporate growth will work to limit corporate influence as well as improve competition and, therefore, innovation.

Of the dangerous policies of the corporate-owned government, limited liability is one of the most dangerous. It allows for shareholders and rentier owners to avoid being held accountable for actions taken by the entity in which they invest. Ending this practice does not discourage investment but discourages bad investment. All that ending this practice does is encourage investors to take an active role in management as to not be ruined if the investment ends up being destructive.

Opposing corporations in such a way as taking away their falsely attributed constitutional rights will not come without a fight. To minimize the economic impacts of the 28th amendment, we must focus on minimizing the effects on normal citizens instead of CEOs and corporate robber barons. Measuring the economy after the proposed 28th amendment should include ways to observe whether the average person is doing better and if, as a society, we are living in a way that does not destroy the world around us.

A 28th amendment would mark a shift in the way Americans view the world. This shift should also see the application of rights to nature. Natural rights allow for better legal prosecution of those that threaten natural order. This idea is not radical and is a working part of the law in multiple places around the globe.

The proposed 28th amendment is necessary for the survival of democracy in the United States. What comes after is less clear but what is clear is that the power needs to be returned to the people.

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