
The Influential Authority of the Corporation: How Citizens United v. FEC Redefined Legal Personhood, Political Jurisdiction, and the Societal Paradigm

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This paper examines how the landmark decision in *Citizens United v. Federal Elections Commission* reinforced corporate personhood by establishing the constitutional provision that corporations could influence electoral outcomes by way of monetary campaign support. Using early modern political theory, contrasted with the legislative history of corporate influence, this paper aims to define corporate personhood and assess its sociopolitical authority. With some reference to trade and labor statistics, the analysis mainly leverages a theoretical framework to answer the following questions: Which collective person is more powerful, the state or corporation? How do they operate under the social construct of artificial or collective personhood? By what metrics can we measure their authority? Through historical, theoretical, and legislative analysis, I conclude that corporations are issued an avenue of political autonomy that grants them a degree of control over the initial governing body that provided them this very freedom. Because corporations have influence over electoral outcomes, namely by unlimited monetary contributions to established Super PACs, their political personhood fundamentally informs the authority of the state. Finally, this paper examines the ideological component of corporate personhood's influence with reference to Wendy Brown's theory of "the neoliberalization of politics." This idea supports the general argument by underlining the ideological principles that promote neoliberalism in electoral or political contexts.

Keywords: Corporations, Legal Personhood, Citizens United, Neoliberal Order

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Introduction

Democracy is constituted by electoral governments, and capitalism by a market economy. Together, the political-economy refers to the societal complex of government-market relations. Taking a closer look at the constitution of these structures calls into question the artificial personhood of both figures: the state, a collective person composed of individual subjects, generally represented by a governmental authority; the corporation, a collective person composed of individual managers and employees, oftentimes represented by a CEO and characterized as a market symbol. These two bodies come together to provide services, goods, and freedoms to their respective constituents: citizens and consumers. However, given these two artificial persons dictate nearly all sociopolitical dynamics, the authority of their personhood further distinguishes them from the natural persons they provide for.

According to modern political theory, representative governments are granted their authority from civil society, particularly the electoral means by which citizens give voice to their state. By this principle, it is the societal collective of the citizenry that

informs political outcomes. Corporations are granted their authority through the market and the financial institutions which regulate supply and demand. Accordingly, it is also the sociocultural body of consumers that informs economic dynamics. These dialecticals suggest that the collective holds the ultimate authority in political-economic affairs. However, considering the collective bodies afford their figures of authority the power of administration, it begs to question the implications of granting them constitutional personhood.

While theoretically, representative states govern all sociopolitical affairs, I argue that corporations are ultimately more powerful than any government on the basis that they are constitutionally-protected under the same rights and recognition as natural persons, who are the fundamental determinants of government authority. In other words, because corporate persons are deemed equal to citizens in juridical terms, corporations also become foundational to the establishment of states, making them not only the primary figures of societal authority, but legally constitutive of representative governments. Additionally, while it may be the

administrative jurisdiction of the state that grants corporations the rights of persons, it is ultimately the corporation that can influence the sociopolitical realm into expanding the constitutional terms of legal personhood.

State Personhood

Understanding the development of corporate personhood requires a historical approach to the establishment of sovereignty and governance. In his book, *Leviathan*, published in 1651, Thomas Hobbes theorized that it is through “covenant” that individuals come together to form a civil society, effectively exiting the state of nature and placing authority in one figure, or the “head” of the state [1, p. 102]. About a century later, Jean-Jacques Rousseau expanded this theory under democratic principles, suggesting it is through elective participation that the authority of state personhood is made valid—direct democracy for the manifestation of the general will.

According to Hobbes, “a person is he whose words or actions are considered either as his own or as representing the words or actions of another” [1, p. 101]. In this context, Hobbes outlines the concept of artificial personhood as it pertains to the representatives of a society. This asserts the idea that one who represents the will of another is legally a person, granted authority by the terms of the aforementioned covenant. By this principle, the state is the personified will of the collective people it represents. This idea set the foundation for subsequent theorists to develop modern social contract theory. Notably, John Locke expanded on the principles of statehood in his 1689 publication, *The Two Treatises of Government*. The Lockean state is characterized by the separation of powers between distinct branches of government, coupled with the function of government power as “limited to the public good of society” [2, pp. 162-163]. These modifications progressed the concept of collective personhood through the figure of the civil state. In particular, Locke’s interpretation of the social contract reduces the power of the state from Hobbes’s appraisal of “absolute sovereignty” in the position of the representative [1, p. 138]. Instead, Locke suggests government authority based on the “consent of the governed” [2]. This revision of social contract theory established the ultimate authority of the governed as the vehicle allowing for a sovereign government; in essence, the virtue of popular sovereignty.

Decades later, Rousseau conveys his theory of state personhood through democratic virtues, including a defined figure who is tasked with establishing the ideological institutions necessary to create a properly-informed, civil society. In Book 2, Chapter 7 of *The Social Contract*, Rousseau, citing Montesquieu, states “it is the chiefs of republics who make the institution, and after that it is the institutions that form the chiefs of republics” [3, pp. 70-74]. According to Rousseau, the state is established through the institutions that create moral, civil, political agents; democratic people capable of maintaining democratic institutions. Once again, the state is depicted as the personification of the people’s will, and in Rousseau’s words, their “social spirit” [3, p. 73]. As a solution to the paradoxical relationship between a pre-existing society and initiating sovereign governance, Rousseau suggests that the “lawgiver,” or the representative, enacts legislative governance and establishes a just, democratic polity [3, p. 73]. As a representative of the society that grants the law-making powers, this figure initiates civil society by creating laws and institutions from which its people can have a general, collective will.

Together, these thinkers outlined the philosophical and political foundations for the Western models of sovereign government, noting that the state exists as the personified general will of its people. By this principle, the state is a person representing a collective, granted authority of governance by election from its own constituents. Put differently, it is the people, the collective, or the civil society that awards its institutions of governance the authority to rule, prosecute, and enact legislation. This idea laid the groundwork for the fundamental principles of the U.S. Constitution—the juridical doctrine that effectively grants corporate persons the legal and political rights of citizenship—as well as the framework for other forms of collective persons, including unions, churches, universities, and in the case of this analysis, corporations.

Corporate Personhood

Hobbes also briefly points out the distinction between authorities of possessions and of actions: “...for that which in speaking of goods and possessions is called an *owner*, speaking of actions is called author” [1, p. 101]. By this logic, a company’s shareholders are the formal “owners” of the corporation, ultimately controlling it in the same way a sovereign would a state. The joint stock structure allows for a more distributed constitution of the corporation, but it nonetheless demonstrates the fundamental grounding for the corporate person, particularly Hobbes’s definition of personhood as representation; the corporate person *represents* the general interests and will of its many owners or shareholders. Considering the logic of incorporation, individuals collectively enter into a contractual relationship under the entity of the corporate name. The abbreviation “Inc.” indicates the process of “incorporation” of several individuals entering into the body of one company, creating a legally-distinct figure to represent their collective will, assets, and activity. This title not only implies the integration of many into the body of one, but it simultaneously awards the company with formal recognition from the state where it was established [4].

Another variety of modern business models, limited liability companies, are the legal distinctions of a natural person from their market body. While not necessarily corporations by definition, LLCs demonstrate the “separate entity status” that affords corporations distinct personhood, legally autonomous from the natural persons that create them [4]. According to the IRS, an LLC can be represented as either a corporation, a partnership, or as part of the owner’s tax return, “a disregarded entity” separate from the owner [5]. The natural person and the corporate person are held to distinct rights and responsibilities, shielding one another from the potential liabilities of the other body. As a result, the company exclusively represents the private interests of the corporate body, which are legally separate from the natural persons that form it.

Elizabeth Pollman’s work on “Reconceiving Corporate Personhood” offers a comprehensively historical, philosophical, and legal analysis of corporate personhood, concluding with a proposition for an alternative approach to understanding corporate rights and responsibilities. She mentions the “contractual” and “aggregate” conceptions of corporate personhood, the former being the notion of corporate personhood in order to protect individuals’ property and rights, as is the case with the LLC; the other being the idea that a corporation is the compound of its many shareholders or owners, as in the legal process of incorporation [6]. Ultimately, she argues, neither one of these conceptions align with the principles of

the modern corporation; rather, the modern business corporation has been made equivalent to the individual citizen, making it a distinct sociopolitical personality [6].

Under legal jurisprudence, it is the state that initially established corporate personhood through constitutional rights and political freedoms. The 1886 decision in *Santa Clara County v. Southern Pacific Railroad Co.* ratified the validity of corporate persons by extending the Equal Protections Clause under the Fourteenth Amendment to corporations. Interestingly, this idea was highlighted not in the Court decision itself but in part of a headnote written by a court reporter quoting Chief Justice Morrison: “The Court does not wish to hear argument on the question whether the provision in the Fourteenth Amendment to the Constitution which forbids a state to deny to any person within its jurisdiction the equal protection of the laws applies to these corporations. We are all of opinion that it does” [7]. Section 1 of the Fourteenth Amendment famously affirms the rights of U.S. citizenship, most notably, the rights to equal protection of the law and due process, specifically the principle that the state cannot “abridge the privileges and immunities” of those born or naturalized in the country [8]. This means that any “Inc.” or “LLC” established in the United States is automatically “born” into the constitutional rights awarded to all U.S. citizens. By expanding the rights of citizenship to corporations, the decision in *Santa Clara County v. Southern Pacific Railroad Company* ultimately ratified the legality of corporate personhood by expanding constitutional protection against infringement by the state to corporate entities. This juridical development brought forward the legal question of collective persons, as in states and corporations, as well as their degrees of authority relative to one another.

A Brief Juridical History of Federal Election Regulations

The Federal Elections Campaign Act of 1971 established a comprehensive overview of federal campaigns regulations, requiring quarterly disclosure reports and developing a framework for political action committees [9, p. 3]. The following 1974 amendments formally established the Federal Elections Committee and also placed contribution and spending limits [9, p. 3]. However, in 1976, the decision in *Buckley v. Valeo* ruled that campaign spending limits violated the First Amendment [9, p. 3]. Decades later, the Bipartisan Campaign Reform Act of 2002 (BCRA), co-sponsored by Senators John McCain (R) and Russ Feingold (D) prohibited national parties, candidates, or officeholders from soliciting soft money contributions (influential funds not regulated by campaign finance laws) [9, p. 4]. BCRA also prohibited corporations and unions from using funds to finance electioneering communications which were eventually overturned in subsequent cases [9, p. 4].

Most recently, the landmark decision in *Citizens United v. FEC* (2010) further expanded the political agency of corporate persons. As stated by Chief Justice Kennedy, “The Court has recognized that First Amendment protection extends to corporations” [10]. This decision overturned part of *McConnell v. FEC* (2003) that upheld §203 of BCRA which had prohibited monetary disbursements for electioneering communications from corporate or union entities [11]. Similarly, in 2014, *McCutcheon v. FEC* determined aggregate contribution limits invalid [9, p. 10].

Not only did these court decisions reaffirm corporate personhood, they simultaneously reshaped the very nature of representative democracy; if governments are constituted by citizens, and corporate persons are granted the same political rights as citizens, then corporations fundamentally become part of the collective that comprise democratic states, existing as political constituents possessing the constitutional freedoms of political speech.

Theoretically, if the administrative jurisdiction of government is the technical vehicle of politics and legislation, it is seemingly the state that holds dominion over all sociopolitical affairs. However, a greater paradigmatic shift has seemingly reversed this power relation: corporations now possess the right to influence political outcomes with capital, and the very economic logic inherent to the corporate person is now superstructural to the procedures of governance, law, and society. In general terms, the personhood of states is granted by the elective constitution while the personhood of corporations is rooted in the capacity to enact sociopolitical and cultural changes.

As demonstrated by juridical and legislative history, the question of corporate personhood is predominantly a legal debate. However, the behavioral practices of the corporation suggest an interest in continued existence—the capacity for cultural influence, legal responsibility, private interests, and monetary freedom, infamously manifested in the accumulation of capital profits. A 2003 documentary, *The Corporation*, examines the psycho-social characteristics and externalities of capital transactions imperative to the survival of corporate persons [12]. The film reviews various case histories of the harms and damages committed by corporations, including threats to labor relations, harm to human and non-human lives, as well as pollution of the biosphere [12]. The film cites destructive instances of anti-union tactics, widespread layoffs, habitat destruction, animal testing, CO₂ emissions, among other externalities as examples of how it is the *ontology* of corporations that makes them not only person-like, but significantly influential against others, including natural persons, landforms, other collective persons, social relations, and more [12]. This suggests that corporations’ influence spans far beyond the political-economy, posing consequences on humanitarian, environmental, and paradigmatic levels.

Which person is more powerful? How do they impact one another?

The question of which collective person has more power is essentially a matter of context. Legally, government representatives have the authority to grant and withhold freedoms but societally, corporations bear the economic and cultural influence to enact political change by participating in the electoral institution.

It is important to note that there are specific bureaucratic and militaristic liberties in the hands of states that corporations lack. For example, the capacity to sign treaties, go to war, suspend or enforce laws when necessary—these are all instances of freedoms exclusive to governments and their administrative authority. However, these instances of political affairs can often be credited to the economic incentives for contract or war: entering trade agreements and tax treaties, or mediating disputes over commodity control by enacting trade wars via tariffs or sanctions. While these examples are only indicative of some instances of foreign affairs

driven by economic factors, they are becoming increasingly relevant in contemporary global politics; for instance, the 2020 termination of the North American Free Trade Agreement (NAFTA), which reduced trade barriers between Canada, the United States, and Mexico since taking effect in 1994 [13]. Despite NAFTA's replacement by the more comprehensive and modernized United States-Mexico-Canada Agreement (USMCA), the Trump administration launched a trade war against Mexico and Canada beginning in February 2025, citing national security threats as reason to exercise the International Emergency Economic Powers Act [14]. While the provocation of this cross-border political issue is more militaristic in nature, the actions by which the politics are fought are inherently economic. This suggests that while administrative capacity defines the authority of states, it is instead the economic sphere, and thus the corporation that carries greater weight in determining contemporary political affairs.

This also raises the question of global jurisdiction. If a state is limited to the scope of its national borders, is a multinational corporation not by its very nature more far-reaching and influential than a single state? Through foreign direct investment, MNCs wield capital influence over international trade, the global labor market, sociocultural demand, and other avenues of the global political-economy. For instance, according to OECD data, MNCs accounted for 36 percent of global exports in 2016 and over half of imports, particularly in “knowledge-intensive” goods and services [15]. Additionally, based on a study conducted by the National Bureau of Economic Analysis, increased production offshoring (defined as investing in foreign affiliates by vertical multinational corporations) drives declining employment among non-multinational firms in the same industry [16]. Not only do MNCs have a growing influence over the circulation of goods and services, they also possess greater access to international labor and consumer markets. In the globalized world, an increasing number of corporations extend across borders, influencing foreign trade of products, labor, and consumers. This development conveys that multinational corporations possess a global influence that individual states often lack, suggesting that corporations hold the potential to supersede global economic authority. Moreover, enforcing international trade regulations is often a complex and nuanced issue, offering an advantage to these enterprises in the global marketplace. This demonstrates that corporations are not only more powerful than governments, but they can balloon into hegemonic global figures, also impacting smaller, local corporate persons.

Ultimately, sociopolitical influence is the primary factor driving the argument that corporations wield political authority. Wendy Brown, a political theorist whose work spans from the topics of the political-economy to critical legal theory, speaks on the ideological influence of the neoliberal order, expressing issues with how economic market principles override the political. Brown not only discusses the legal history of corporate personhood, but ultimately alludes to a greater structural argument about the transformative influence of corporations on sociopolitical ontology, what she deems “the neoliberalization of politics” [17, p. 155]. Her central argument is that political speech has become equated with capital; since the corporation's capacity for speech is limited to campaign spending, the market logic of capital flow becomes increasingly superstructural to the political realm. Brown's analogy of democratic politics as a “marketplace” wherein the “goods” of

opinions, ideas, and votes are established through free speech demonstrates the economization of politics; in this metaphor, “speech” is the capital of the political marketplace [17, p. 155]. This means that the constitutional development of *Citizens United* made the freedom of speech equivalent to the unlimited campaign contributions allowed by corporations; in effect, the civil liberties of the First Amendment also became capital rights [17, p. 160].

It is primarily through unlimited contributions to certain political actions committees (PACs) that corporations can exercise the right to free speech, specifically political speech—a right granted to them in the *Citizens United v. FEC* decision. Super PACs, according to the Federal Election Commission, “are independent expenditure only action committees” [18], meaning any contributions they receive finance elections communications that express advocacy for a campaign or other independent political activity [19]. Unlike traditional political action committees, Super PACs may raise unlimited funds from contributing figures, whether it be individuals, unions, or corporations [18]. PACs are the most significant contributors to federal campaign funds. According to 2024 FEC data, the vast majority of federal campaign funding came from political action committees; by April 2024, total campaign financing was just over \$8 billion, \$5.6 billion of which was contributed by PACs [20]. While Super PACs are not the only avenue through which corporations can influence an electoral campaign, they are the most indicative of corporate authority to assume the political liberty of providing limitless financial support for or against electoral campaigns. Based on the legal precedent that corporations are considered equal to individual citizens, campaign contributions from natural persons and corporate persons are, by definition, also equal; meaning each dollar donated by an individual or a business holds the same value—only most businesses often have much more to offer than individual people. This begs the question: whose interests are more likely to influence political affairs?

According to David Harvey in his book *A Brief History of Neoliberalism*, the neoliberal order largely manifests in the institutional frameworks of private property, deregulated markets, and free trade [21]. Harvey asserts that under neoliberalism “the role of the state is to create and preserve these practices” through its administrative, militaristic, and legal jurisdictions [21]. The late 20th century witnessed a significant neoliberal shift from the post-war era of Keynesian economics wherein state intervention and market regulation were imperative; this suggests that neoliberalism can also be defined as a societal paradigm. This is supported by Brown's analysis in that the neoliberal rationality not only influences economic and political affairs, but as made evident by juridical history, now establishes principles for interpreting the Constitution [17, p. 164]. Harvey's and Brown's critical analyses also suggest the preeminence of economic determinism, the idea that the economy is foundational to sociological and political dynamics.

Quoting the opinion in *McConnell v. FEC* (2003), Chief Justice Kennedy states, “The fact that a corporation, or any other speaker, is willing to spend money to try to persuade voters presupposes that the people have the ultimate influence over public officials” [10]. Accordingly, political action committees use money to influence voters, which presumes that voting is the definitive mechanism of political change. However, could this principle not also suggest that votes are merely a medium through which corporations can influence legislation [17, p. 155]?

Consider this thought experiment: if a polity votes to reduce corporate personhood, that is, enact strict market regulations or reduce corporate freedoms, would the polity be the ultimate authority? By this logic, the constituents, by way of state representation, control the capacities and scope of the corporation. What if instead a corporation lobbies government officials into lifting regulations or enacting business tax cuts, effectively strengthening the political autonomy of the market? Is the power in the hands of the elected representatives that grant the freedoms or in the corporations that influence the representatives toward passing certain legislation?

In all, corporate persons have become increasingly influential in the sociopolitical realm. As expressed by Brown, quoting Foucault, “the juridical brings form to the economic,” particularly in the neoliberal paradigm [17, p. 151]. Brown’s analysis expands this theory even further: law and legal reasoning fundamentally economize other ideological spheres, particularly the political [17, p. 151]. As a staunch example, *Citizens United* determined the right to free speech as applicable to the voices of individual citizens *and* to campaign financing from corporations. The neoliberal order has intensified the role of the corporation from an ideological perspective, exemplified by the proliferation of conservative administrations, welfare retrenchment, the deregulation of the private sphere, and austerity-based policy agendas. Through its artificial personhood, the corporation personifies the essence of neoliberalism; as a result, the vehicle of social change is neither driven by the individual person nor the collective, but instead the artificial.

Conclusion: How do we define authority?

Evidently, as collective legal persons, the state and the corporation are members of a greater sociopolitical network. In the game of the political-economy, states and corporations play for opposing teams, the public and private spheres. Each player is equipped with different instruments of influence, legislation or capital. To further this analogy, the score of the political-economic game is ever-changing. Historically, the state was embodied by an absolute sovereign, as in the Hobbesian case, but currently, the neoliberal paradigm positions corporations in an exceedingly influential role. In the end, we must ask ourselves, what *kind* of authority is more powerful: governance or influence?

Having established the juridical personhood of states and corporations, society manifests itself through these two collective avenues: democracy and capitalism. While topics this grand cannot be thoroughly analyzed in just one paper, the legal equivocation of their value poses ideological questions worthy of our inquiry: How is artificial personhood different from the natural? In what ways is the corporate person more or less powerful than a natural person? How do other entities contrast with the collective person, such as landforms, animals, or artificial intelligence? Is it the prospective scope or the retrospective qualifications of personhood that determines who (*or what*) is (*or is not*) a person? Put differently, is it that we expand the definition of legal personhood to extend its privileges, or instead that these non-human entities develop into persons based on our understanding of personhood?

In terms of a normative argument, I fundamentally agree with Pollman in that I do not think corporate personhood should be equated in the constitutional bounds of natural citizenship [6].

Legally, corporations must be recognizable for the purposes of accountability or liability— otherwise, they could commit atrocious human rights violations or pollute protected lands without any consequence. However, affording corporations the civil rights of free speech and equal protection poses a threat to the representative framework of democracy. The political sphere fundamentally decides the composition of the state, meaning the more corporations can contribute to politics, the more representation they will see in government.

Throughout my research I encountered an array of philosophical debates and ontological questions, many of which are not only subjective, but seemingly indefinable. However, my greatest takeaway is best conveyed in Astra Taylor’s discussion of democracy. Citing Hannah Arendt, she states that “Rights are not inborn or ‘inalienable.’ Instead they are agreed upon, or ‘socially constructed’... We possess rights only when we are counted as members of a particular political entity that recognizes and ensures them” [22, p. 96]. By this principle, corporate personhood is made powerful by our *recognition* of it. The decision in *Citizens United v. FEC* simply made this a juridical question rather than a philosophical one. Ultimately, however, the more value we place in the economic realm, the more the corporation is liberated in its scope and freedoms to influence the political. In order to preserve the integrity of democratic values, it must be the collective of natural persons that give voice to the corporate, not the reverse.

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