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## Campaign Finance and Collective Egotism

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# Campaign Finance and Collective Egotism: What Niebuhr Offers a Stultified Debate

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## Abstract

Currently, campaign finance law in the United States is governed by the Supreme Court's 2010 decision in *Citizens United v. FEC*, but the debate surrounding the case has grown tired. In order to reinvigorate public discourse on this consequential topic, this article proposes an interdisciplinary conversation between theology and law, relying on Reinhold Niebuhr's notion of collective egotism to shed new light on the decision. The comparison with Niebuhr highlights the Court's problematic reliance on unexamined empirical claims, pinpointing areas of the case in need of further critical assessment and suggesting viable alternatives. The result is a more precise diagnosis of the problems in contemporary campaign finance law and a more practical way forward for the public debate.

## Keywords

Reinhold Niebuhr, *Citizens United v. Federal Election Commission*, theology and law, campaign finance reform, corruption

In American politics today, a rather wonkish yet extremely consequential debate is going on mostly behind the scenes. Politicians and interest groups from across the political spectrum are fighting for the future of the campaign finance system in the United States. This issue is particularly significant because its adjudication will affect the very fabric of the democratic process, and yet most Americans are not engaged in the debate itself. While some of this might be attributable to design,<sup>1</sup> there is also a larger problem at work. Most Americans have strong instincts about campaign finance—one survey indicates that an overwhelming majority favors significant reforms (Confessore and Thee-Brennan 2015)—but few individuals are able to translate their sense of the issues effectively into public discourse. Given the complexities of the policies in question, this is entirely understandable. Given the stakes of the matter, though, this is decidedly unacceptable. Policies affecting the structure of democratic debate should not be handled in secret by the few; they should be scrutinized openly by the many.

In order for this kind of public deliberation to occur, however, the people will need help to navigate the current state of confusion that surrounds campaign finance laws. This is especially true because analyzing campaign finance law requires one to delve into the finer points of Supreme Court opinions, and as Louis Ruprecht has indicated in the pages of this journal before, “it is easy to feel as if each argument [in a Supreme Court decision] is reasonable and engaging when read on its own terms and in isolation from the others. So it is challenging to pull back just a bit and take a more encompassing view of the whole” (2013, 103). This is where an interdisciplinary conversation between Christian theology and American law can help. Specifically, a dialogue between Reinhold Niebuhr, the prominent twentieth-century Christian theologian, and *Citizens United v. FEC*, the 2010 Supreme Court case establishing the current precedent for campaign finance laws, can improve the stultified debate about campaign finance reform by providing “a more encompassing view of the whole,” which will yield a more precise diagnosis of the problems inherent in the Supreme Court’s reasoning and in the contemporary system based upon it. This greater precision can, in turn, highlight better solutions to the specific shortcomings of the current state of affairs, helpfully adding new tools to the “defense of our inalienable rights to be free of the undue influence of monied privilege” (119).

### Reinhold Niebuhr and *Citizens United*: A Legitimate Combination

At the outset, the potentially unexpected pairing of Reinhold Niebuhr and *Citizens United* deserves some explanation. To a certain extent, the pairing is justified by the profound significance of each of these sources in their respective fields. In Christian theology, for example, one would be hard-pressed to find a more generally recognizable thinker, particularly in an American context, than Reinhold Niebuhr. Likewise, for campaign finance law, no case looms larger at the moment than *Citizens United*, which literally sets the standard for the current state of affairs. Moreover, the general public is one of the specific audiences of legal decisions (Witte 2009, 40), so a Supreme Court case is a logical interlocutor in any discussion seeking to facilitate public discourse. Hence, the combination of these two specific sources is a reasonable choice for a productive interdisciplinary conversation between theology and law. This only answers part of the question, however. In order to truly make a case for the legitimacy and value of combining Niebuhr and *Citizens United*, one must also address the larger question of why a conversation between theology and law is merited for this issue in the first place. Here a multifaceted argument is appropriate.

First, there is a pragmatic case in favor of pursuing an interdisciplinary conversation between theology and law on the question of campaign finance because such a conversation is already taking place. This is perhaps not surprising in light of Ruprecht's assertion that "religion . . . was the gorilla in the courtroom" in the *Citizens United* case (2013, 109) because "religion is always there, implicitly, whenever the explicit issue is freedom of speech" (118). The intervening years have proven his point as Christian convictions have been brought to bear on opposite sides of the debate about the 2010 decision. For instance, some Christians have felt a profound disconnect between the jurisprudence behind the majority's opinion in *Citizens United* and their own faith commitments, and this has prompted them to voice their opposition to the law on theological grounds (see, e.g., Luria 2013). Meanwhile, other faith-based organizations, including a number of explicitly Christian ones, have identified the legal arguments in *Citizens United* as a helpful tool in the protection of religious liberty, and so they have defended the case using a different set of theological reasons.<sup>2</sup> Given this reality, new Christian voices are needed to help parse the issues in this theological debate. Adding Niebuhr's perspective, therefore, allows academic theology to contribute some nuance to an ongoing discussion of a public issue that has been defined more by political ideology than sustained engagement. In an increasingly polarized environment, adding subtlety to public discourse—even if only to a narrow slice—is a worthwhile aim. Of course, one might still find ways to analyze *Citizens United* without Niebuhr's theology, but doing so would remove the ongoing theological debate from the equation, and the current state of that debate indicates that greater nuance would be a meaningful development that one ought not to dismiss too quickly.

Niebuhr's perspective is not only valuable for an intra-theological conversation, though; it also has consequences for the broader public discussion of campaign finance law. In this larger field, Niebuhr's work in general, and his assessment of "collective egotism" in particular, offer additional resources for analyzing and responding to the crises of the current moment. This becomes especially clear by examining the rationale behind the Court's decision. Although the *Citizens United* case is most well known for its strict equation of the rights of corporate persons with the rights of natural persons, this was not the central issue at the heart of the decision. Instead, the majority advanced a normative conclusion about the role of government on the basis of a decidedly empirical claim about the nature of corruption. The importance of this line of reasoning for the outcome of the case is often acknowledged, but it has still not been adequately explored (cf. Ruprecht 2013, 113–14; 2015, 29–31), in large part because an appropriate framework has not been developed to analyze these claims directly. Niebuhr's work, however, offers tools for precisely this kind of analysis because he was especially attentive to empirical questions about the nature of corruption, not only for individuals but also for groups. The ideas and the language that he developed on these issues has the potential to help more people express more clearly the problems they intuit at the heart of the contemporary system of campaign finance in the United States (see Levitt 2010, 217).

The foundation of Niebuhr's contributions to this interdisciplinary debate lies in his assessment of the "empirical method." Responding to a strand of scientific rationalism prevalent in his day, Niebuhr asserted that an explicitly Christian theological perspective could offer a more comprehensive account of certain issues than that afforded by empiricist study. He insisted that this was most defensible when the human capacity for selfishness and corruption was in question, claiming that Christianity was able to recognize "the universality of man's tendency to egocentricity," whereas more scientific analyses

forced observers to fixate on the particular at the expense of the universal (Niebuhr 1953b, 7–8). In other words, he argued that an intentionally theological perspective could further illuminate empirical questions—especially empirical questions about the nature of corruption—because the theological reference point enabled one to examine narrow issues from a broader perspective. If he is correct, then an interdisciplinary conversation between theology and law will have the possibility of opening up new avenues for analysis. Such new avenues, though, will only become apparent if the theological argument is explored in its theological terms because the broader perspective comes specifically from the theological orientation. Thus properly identifying the implications of Niebuhr’s views on the nature of corruption and collective egotism requires interpreting not only his empirical claims but also the theological rationale behind them. When done effectively, this analysis can improve the public debate about campaign finance law by both identifying the problems with the existing laws and providing the skeletal blueprints for a constructive alternative to the status quo.

Admittedly, this proposed interaction between theology and law might raise some concerns about the proper relationship between religion and the law in the United States. To be perfectly clear, the intent of this dialogue is not to say that the Supreme Court of the United States has to, or even should, base its evaluation of corruption on Christian theological commitments or on Niebuhr’s theological anthropology. Instead, the claim in this paper is that in a pluralistic society, the public claims of the nation’s highest court must be subject to scrutiny from a variety of perspectives, including ones that are influenced by more “comprehensive doctrine[s]” like religious convictions (Rawls 2005, xvi). Of course, given the realities of a legally enshrined separation of church and state, indictments of a Supreme Court ruling from the perspective of a comprehensive doctrine like Niebuhr’s Christian theology cannot presume to have definitive implications for the law on their own. Instead, a religious comprehensive doctrine like this can impact public discourse in a two-step process that involves: first, identifying problems in the public discourse from a theological perspective; and, second, translating those problems into nontheological terms that others can evaluate even if they do not share the original comprehensive doctrine (see Rawls 2005, 212–54, 435–90).<sup>3</sup> If the theological analysis also yields concrete solutions, these solutions can be proposed from the comprehensive doctrine’s point of view and then developed in a more public fashion. In this manner, theological perspectives like Niebuhr’s can contribute to public debates without harming the religious neutrality demanded of the government in the Constitution.

Still, this approach may not be entirely satisfactory from all points of view. One might challenge that if assessments rooted in theological convictions are going to be translated into nontheological terms anyway then public discourse ought to proceed from the second step, skipping the first altogether. Two reasons militate against this strategy.

First, entirely ignoring the theological reasoning behind a proposal, even one that is ultimately made in non-theological terms, is disingenuous. The respect for pluralism may dictate that critiques of the law are to be proposed in secular language, but this does not mean that all legal criticisms arise from exclusively secular concerns. In light of this fact, public discourse benefits when the reasoning behind a legal critique is evaluated on its own terms before it is translated into the public sphere because this process helps to weed out incoherent arguments before they can impact policy considerations. In the case of Niebuhr’s account of corruption, examining his theological positions alongside their application

to the question of campaign finance demonstrates a high degree of internal coherence in his argument, further legitimizing the translation of his concerns to the public discourse surrounding *Citizens United*.

Second, setting aside theological reasoning unnecessarily narrows the conversation, negatively impacting both the assessment of public policy and the development of alternatives. For instance, in the interdisciplinary conversation proposed here, the juxtaposition of Niebuhr's theological assertions with the *Citizens United* ruling effectively shifts the spotlight onto the issue of corruption, which in turn underscores the empirical assumptions beneath the Court's split. As discussed below, this is not the typical interpretation of the *Citizens United* decision, and the focus on this new issue only emerges because the points of contact with Niebuhr's theology widen the debate. Meanwhile, Niebuhr's theological convictions provide the logical basis for a two-pronged response to the dangers of collective egotism. This response can then be adapted for the current system of campaign finance in the United States, yielding a framework for constructive alternatives. Excising his theological reflections would only serve to remove this new path forward. For all these reasons, Niebuhr is not only a legitimate conversation partner for the *Citizens United* decision, he is also a valuable one, whose insights can be employed without needlessly undermining the traditional separation of church and state.

### *Citizens United*: The Role of Government and the Nature of Corruption

In order to facilitate a useful conversation between Niebuhr's theology and the Supreme Court's decision, it is essential to identify areas of common concern. Given Niebuhr's emphasis on corruption, especially in groups, the obvious points of contact are in the Court's discussion of corruption. Focusing on this central issue in the decision, a curious new interpretation emerges. Although *Citizens United* is often analyzed for its simple elision of political spending and political speech (Ruprecht 2015, 18; Kairys 2010), or for its equation of corporate and natural persons (Ellis 2011; Osterlind 2011), the existing scholarship does not examine the surprisingly significant role that an empirical dispute about the nature of corruption played in the Court's reasoning. Even those scholars who do acknowledge the pivotal role of the corruption question in the overall decision do not attend to the empirical assumptions at the heart of that particular debate.

Michael Kang, for instance, has called the Court's assertions about the lack of corruption in independent expenditures—which first appeared in an earlier case—“absurd as a matter of political reality” (2010, 246). He, like other observers (see Kellogg 2012, 28–29), implies that this is more naïvety than faulty empirical analysis, however. Meanwhile, those commentators who have noted the lack of empirical evidence behind the Court's claims about corruption have typically done so only with passing references (Levitt 2010, 230; Hasen 2011, 583, 603). The most sustained analysis has come from Lawrence Lessig (2010), who noted in a reflection on “institutional corruption” that at least one element of the majority's decision in *Citizens United* was a “factual issue” decided without any reference to factual evidence. Even Lessig's observations, though, capture only a piece of the problem, focusing on the majority's claim that certain activities will not undermine voters' faith in the democratic process (see also Hasen 2011, 609). While this is indeed a factual assertion, it is a small matter in the ruling's overall argument. If one examines the larger claims about corruption more directly, as the comparison with Niebuhr invites, then the true extent of the Court's disconcerting

reliance on factual claims without factual evidence becomes clear. In fact, Niebuhr's emphases highlight the impact of unexamined empirical claims not only on the corruption question in general, but also on the equality of corporate and natural persons' proclivities for corruption in particular. The latter issue is one that the current scholarship fails to appreciate, and yet it is a central element in Niebuhr's thought. Consequently, examining *Citizens United* with an eye toward Niebuhr is a valuable exercise because the points of contact with his theology offer both deeper insights and new directions for this ongoing debate.

Admittedly, the *Citizens United* case placed a variety of legal questions before the court. In fact, the case generated an enormously lengthy record with five distinct opinions: the (majority) Decision of the Court, authored by Justice Kennedy; a concurring opinion from Chief Justice Roberts (joined by Justice Alito) defending the majority's reversal of existing precedent; a concurring opinion from Justice Antonin Scalia (joined by Justices Alito and Thomas) challenging a reading of the First Amendment in the dissenting opinion; the minority's dissenting opinion, written by Justice Stevens (joined by Justices Ginsburg, Breyer, and Sotomayor); and a dissent in part from Justice Thomas critiquing disclosure requirements. This tangled web of written opinions evinces the complexity of the case, but it does not undermine the fact that the effective outcome of the case was a 5–4 decision asserting that existing limits on “electioneering communications” paid for by corporations in the final months of an election campaign constituted a violation of those corporations' First Amendment rights (CU 318–19, 339, 361, 364).<sup>4</sup> Specifically, the Court insisted that the government has no compelling interest in regulating “independent expenditures” made by outside groups during political campaigns (CU 372),<sup>5</sup> leading to the normative conclusion that restraining corporate political influence is not part of the proper role of government in the United States. In response, the Court's majority proposed that the appropriate function of government in this case was to get out of the way so that “more speech, not less” might enter the public square (CU 361, see also 355). Granting additional legal intricacies, the case can still be evaluated along the 5–4 split over this normative role for the government of the United States. Examining the case along this fault line, and with an interest in developing an interdisciplinary conversation with Niebuhr, a new reading emerges.

To begin, the pursuit of parallels with Niebuhr's work—which has special emphases on the corrupting effects of collective organizations—underscores the fact that the majority's normative conclusion was, in turn, based upon empirical claims about the distinctiveness of groups and their corrupting influence in politics. Practically speaking, the Court brought empirical claims to the forefront by identifying political expenditures as a form of political speech (since the expenditures could be used to purchase airtime for one political proposal or another), which in turn required subjecting the existing restrictions on corporate political expenditures found in the Bipartisan Campaign Reform Act of 2002 to “strict scrutiny.”<sup>6</sup> This legal standard “requires the Government to prove that the restriction ‘furthers a compelling interest and is narrowly tailored to achieve that interest’” (CU 339–40). Since the Court's previous rulings permitted only narrow restrictions on political expenditures, there were only three potential bases on which to justify a compelling government interest in the *Citizens United* case: “antidistortion,” “anticorruption,” and dissenting shareholder protection (CU 348–49).<sup>7</sup> The Court dismissed the protection of dissenting shareholders in two paragraphs, arguing that shareholders could effectively critique and curb a corporation's political activities “through the procedures of corporate democracy” (CU 362). The crux of the majority's argument, therefore, focused on demonstrating the

insufficiency of the antidistortion and the anticorruption rationales, which meant that empirical assertions about the nature and corrupting influence of collective activity in political life became the central dispute before the Court.

With respect to antidistortion, empirical claims about the distinctiveness of groups translated into normative claims about the role of government. In legal terms, the issue boiled down to whether or not the government had a legitimate interest in regulating corporate political speech in order to avoid a situation in which corporations obtained “‘an unfair advantage in the political marketplace’ by using ‘resources amassed in the economic marketplace’” (CU 350). Those justifying government regulations for the sake of antidistortion were, therefore, attempting to ensure that corporations would not be able to use their wealth to purchase enough avenues of political speech to drown out all opposing viewpoints. The majority argued that this was not a legitimate use of government power, noting that legal precedent expressly prohibits government interference for the purpose of equalizing the exercise of free speech rights. Consequently, the majority suggested that the government should instead focus on ensuring the equal possession of free speech rights, meaning that all persons—both natural and corporate—should have the same freedoms to spend their economic resources on political speech regardless of disparities between each person’s economic resources. According to this view, fewer restrictions would better counteract distortion by bringing corporate political speech out into the open, where it could be subjected to public scrutiny (CU 350–52, 355–56). Tellingly, this normative vision for the proper function of government was based on the assumption that there were no substantive distinctions between corporate persons and other legal persons (CU 342–43). Thus, the majority built its normative argument about the role of government on an empirical claim about the nature of collectives.

The roots of the majority’s argument in this empirical claim about groups is even more readily apparent when one considers Niebuhr’s account of collective egotism. Niebuhr’s vision insists that individuals and groups are decidedly not equivalent on the matters most at stake in *Citizens United*. The stark contrast between Niebuhr and the Court’s majority helps to reinforce the importance of the minority’s dissent on this point, and this in turn highlights the empirical presuppositions behind the Court’s split in this case. Thus, although scholars have noted that the minority critiqued the majority’s uniform categorization of corporate and natural persons as a “conceit” that eradicated at least a century of legal thought (CU 394–95; cf. Osterlind 2011, 276–77), what is not stressed is that the basis of this critique is a different empirical assessment. With Niebuhr’s contrast in mind, though, one can see that the minority’s disputes on this matter are properly empirical counterarguments. For example, when the minority insisted that corporate and natural persons couldn’t be equated, they pointed to empirical distinctions such as the fact “that corporations have no consciences, no beliefs, no feelings, no thoughts, no desires” (CU 465–66). More dramatically, the minority stressed that corporations, by virtue of their particular legal structure (which orders for-profit corporations chiefly to the goal of profit maximization), are inherently tilted toward using the political process to serve their own economic ends, “no matter how persuasive the arguments for a broader or conflicting set of priorities” might be (CU 470). In light of the added power of corporations’ wealth and their structural orientation to the pursuit of narrow ends the minority argued that the government could legitimately restrict corporate political expenditures and that the government should do so in order to promote a more open and complete exchange of ideas. In this way, the minority critiqued the majority’s opinion and



proposed a contrasting normative vision for the role of government, precisely by contesting the majority's empirical claims about the simple equality of corporate and natural persons.

Strikingly, the question of the anticorruption rationale also entailed a normative dispute about the role of government that was similarly built on competing empirical claims. In this case, the empirical issue was, unsurprisingly, the nature of corruption. Both sides actually agreed on the overarching normative assertion that the government should use its powers to counteract corruption (and the appearance of corruption) in public affairs (CU 357, 447), but they vigorously disagreed on the application of that normative vision to the specifics of independent political expenditures by corporations. At the heart of this disagreement was a competing set of empirical assumptions about the nature of corruption and the influence of groups in politics—issues that are immediately apparent with Niebuhr in the background.

To begin, the majority hewed to a narrow definition of corruption, envisioning the concept as exclusively a “political *quid pro quo*” (CU 356, 359). Given the legal distinctions between direct contributions to candidates and independent expenditures during political campaigns (CU 345, citing *Buckley v. Valeo* 45–47), the majority argued that because independent expenditures are made independently of candidates, they are not prone to the creation of quid pro quo arrangements (CU 357). The majority did allow that these independent expenditures might incline politicians to favor the interests of certain donors or even create “the appearance of influence or access,” but they refused to identify this as a form of corruption (CU 360). Instead, the majority combined the independent nature of the expenditures in question with their earlier claims about the legal equality of corporate and natural persons and plainly declared, “expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption” (CU 357). In the process, the majority dismissed another legal precedent that “purported to leave open the possibility that corporate independent expenditures could be shown to cause corruption” and, therefore, could be regulated differently than independent expenditures by natural persons (CU 357). Suggesting that this precedent misinterpreted its original source, the majority argued that there was no room for distinguishing corporate and natural persons because there were no distinctions between the corrupting influences of each of these legal persons (CU 358). This, of course, represents an empirical claim about the nature of corruption and the corrupting capacities of collective organizations vis-à-vis individual citizens, two matters that are subject to more debate than the majority opinion admits.

To an extent, elements of this debate are evident in the *Citizens United* case by virtue of the minority's dissent. Beyond critiquing the lack of evidence before the Court on the effects of the law in question (CU 399), the minority also challenged the majority's definition of corruption, describing instead a “spectrum” that included a range of means by which individuals and organizations might seize “undue influence on an officeholder's judgment” (CU 448, 447). This spectrum, the minority insisted, militated against a clear demarcation of political quid pro quo as a separate category of corruption (CU 449). “Bribery may be the paradigmatic case,” they averred, “but the difference between selling a vote and selling access is a matter of degree, not kind” (CU 447). Thus, the minority refused to accept that independent expenditures were incapable of corrupting and instead proposed that the government could restrict these expenditures in order to avoid the mortal blow to “democratic integrity” (CU 451) that would result from the perception that “private interests . . . exert outsized control over

officeholders solely on account of the money spent on (or withheld from) their campaigns” (CU 450). In other words, competing views of corruption led to contrasting normative conclusions for the majority and the minority. This was not the only empirical divergence between the two sides of the court, however.

Although they decried the majority’s “crabbed view of corruption” (CU 447), the minority also challenged that the majority’s dismissal of the anti-corruption rationale was inadequate on its own terms. Even if one were to concede to a restrictive quid pro quo understanding, they explained, the government would still have a compelling interest in limiting corporate independent expenditures (CU 451). After all, the minority noted that previous distinctions between the corrupting influence of direct contributions and independent expenditures were restricted to individuals and did not address limitations on corporations, so there was no true legal precedent outlawing independent expenditures made by corporations (CU 453–54). In fact, the minority interpreted the lack of explicit precedent to mean precisely that corporate persons and natural persons could be treated differently with respect to their corrupting influence. Significantly, the minority justified its proposal for differential legal treatment on the basis of an empirical claim, stating that corporations, by their very nature, pose greater risks to the integrity of the democratic process than do individuals acting alone (CU 423).

As the minority explained, corporations “have vastly more money with which to try to buy access and votes. . . . The unparalleled resources, professional lobbyists, and single-minded focus they bring to this effort . . . make *quid pro quo* corruption and its appearance inherently more likely when they (or their conduits or trade groups) spend unrestricted sums on elections” (CU 454). By removing restrictions on independent expenditures, the minority predicted that the Court would exacerbate the corporate potential for facilitating political corruption, creating a system in which politicians would rely on outside corporate spending to advance their campaign only to become beholden to those corporations. According to the minority, the biggest concern was not what corporations would require elected officials to do, but what they would be able to prevent elected officials from doing, since corporate donors could powerfully threaten to withdraw their unrestricted funds and reapply them to an opponent’s campaign if an elected official were to adopt a policy in opposition to the interests of his or her donors (CU 455). On the basis of these empirical concerns, the minority insisted on a simple normative conclusion: “Our lawmakers have a compelling constitutional basis, if not a democratic duty, to take measures to guard against the potentially deleterious effects of corporate spending in local and national [elections]” (CU 394).

The main disputed question in *Citizens United* was the normative role government should take in regulating independent expenditures, but this normative question was only in dispute as a result of the majority’s and the minority’s radically divergent assessments of other empirical claims—claims that come to light only by focusing directly on the issue of corruption in general and in groups in particular as a result of Niebuhr’s emphases. With Niebuhr’s themes in mind, one can more readily see that empirical claims about the distinctiveness of groups, the nature of corruption, and the distinctive nature of group corruption formed the basis of opposite normative conclusions about the proper responsibilities of government in the sphere of campaign finance. Ultimately, the majority’s normative vision triumphed because its empirical assessments of these three issues won the day. Hence, the government is currently prohibited from regulating corporations’ independent expenditures because

the Court ruled that natural persons and corporate persons have no significant distinguishing features in this case, that corruption is problematic only in its quid pro quo form, and that groups do not pose any additional risks of quid pro quo corruption in the political process than individuals do when acting on their own. These empirical claims, however, deserve more scrutiny, especially since they have been used to substantiate normative conclusions with such wide-ranging consequences for the political process in the United States. This is where an expansion of the legal conversation to include theological sources can be most beneficial.

## Reinhold Niebuhr: Collective Egotism and Government Responsibility

The value of using Niebuhr to stimulate a more productive conversation about campaign finance laws revolves around his robust assessment of human sinfulness, both in individuals and in groups. Always attentive to the ambiguities and imperfections of life in the world, Niebuhr consistently stressed the unavoidable reality of sin as a part of the human condition (1953b, 7). Although he is sometimes faulted for this, with critics identifying an excessive pessimism in his theological anthropology (Stone 2012a, 125), he offers an important corrective to a contemporary situation that often tilts too far in the opposite direction. Thus, his realism is especially important for the question of campaign finance, where an overly optimistic interpretation of the role of financial power in the political system has managed to rule the day. Niebuhr's acute awareness of the presence and effects of sin complicates this state of affairs, and his remarks on the self-interested tendencies of group action directly challenge the empirical claims at the basis of the majority's opinion in the *Citizens United* case. Indeed, his insights are valuable for the case at hand precisely because his theological perspective translates to a broader, and more realistic, assessment of the facts.

In order to understand Niebuhr's claims about the distinctive dangers of groups, one must appreciate the context of his larger doctrine of sin. On this issue, Niebuhr began by identifying the human being at the intersection of freedom and finitude, insisting that humanity was therefore able to envision (in freedom) more than it could accomplish (in finitude) (1996, 167). Consequently, he maintained that a certain insecurity would always arise, because each person would be forced to consider the possibility that some of her or his hopes might not come true in light of humanity's "natural contingency" (1996, 178). Calling this anxiety "the internal precondition of sin" (1996, 182), Niebuhr expressed an inevitable tendency to sin in one of two directions as each human person either attempts to assert her or his freedom in a prideful effort to overcome finitude, or chooses to indulge in sensuality and thereby rejects the use of his or her freedom for self-actualization (1996, 186). Despite admitting both of these possibilities, Niebuhr gave much more attention to pride, calling it the "more basic" sin (1996, 186, 188).<sup>8</sup>

Niebuhr's focus on pride has admittedly been the subject of much criticism. While some fault him for stressing pride at the expense of sensuality (Stone 2012a, 125–26; Rasmussen 1988, 19), the most consequential critiques have come from feminist scholars, who rightly note that Niebuhr's "universal" sin does not represent the innate tendencies of every individual and instead generalizes a more typically masculine experience (Saiving 1960; Plaskow 1980, 62–73; cf. Stone 2012b, especially 92–95). This valuable critique, however, pertains most directly to the application of Niebuhr's doctrine of sin to the individual, so it is not as relevant to the issue of group sinfulness. At the same time, it is still useful to keep this feminist challenge in mind when considering Niebuhr's account of the moral limits of

group activity, which also hinged on the sin of pride. Doing so helps to highlight the fact that just as it is not the case that pride defines every individual, so it is not the case that pride in one's group is inherently evil in all circumstances.<sup>9</sup> Moreover, this admission takes nothing away from Niebuhr's analysis of group self-interest because his pessimistic assessment revolves around the omnipresent *possibility* of pride in groups, something that remains a dangerous potential even when it is not manifest in one particular instance or another.

According to Niebuhr, individuals may have been susceptible to the sin of pride (1996, 208), but groups were the locus of the worst manifestations of this quintessential human sin. Describing the "inferiority of the morality of groups" (2001, xxv), Niebuhr pointed to a "collective egotism" (1996, 212) that exceeded individual's prideful self-assertions by virtue of the fact that "the group is more arrogant, hypocritical, self-centered and more ruthless in the pursuit of its ends than the individual" (1996, 208). This bleak view of groups was grounded in the assumption that members would not identify with a group unless they believed it offered a certain sort of superiority over other groups. "Sinful pride and idolatrous pretensions are thus an inevitable concomitant of the cohesion of large political groups," Niebuhr wrote (1996, 210; see also Niebuhr 1957a, 243–44). Moreover, Niebuhr suggested that groups offered individuals an outlet for their repressed self-interest, allowing "the man in the street, with his lust for power and prestige thwarted by his own limitations and the necessities of social life . . . [to] indulge his anarchic lusts vicariously" (2001, 93; see also Niebuhr 1996, 212–213). Thus, in Niebuhr's understanding, collectives were more prone than individuals to develop an outsized, and sinful, self-interest.

Niebuhr's account of the distinctive sinfulness of groups, then, poses a challenge for the empirical claims at the heart of the majority's opinion in the *Citizens United* case. Whereas the majority insisted that groups were not any more prone to corruption than individual agents, Niebuhr's theological assessment posits a qualitatively different degree of sinfulness among groups. This empirical dispute is further exacerbated by the fact that Niebuhr also asserted that groups are far less able to combat their tendency to self-interest than individuals are. As an explication of this point shows, Niebuhr ended up proposing a much different normative vision for the proper role of government in relation to the problem of collective egotism.

In a claim with great relevance for the question of the corrupting effects of corporate agents in politics, Niebuhr maintained that complete resistance to pride was unlikely for the individual and virtually impossible for the group (2001, xxxi–xxxii, 257–59; 1957b, 34; cf. Niebuhr, 1964, 249). Individuals can respond to pangs of conscience, Niebuhr explained, but groups must rely on "a shifting and unstable 'prophetic minority'" to correct their collective egotism, and this would almost never be enough (1996, 210). Additionally, as one commentator explains, even if a vocal minority were able to highlight a problem in the group, the group's leaders would still have to serve the collective interest of the group's members and this obligation might undermine reform (Hinze 2009, 452). This insight is especially important for the *Citizens United* conversation because the leaders of for-profit corporations have a fiduciary responsibility to serve the (financial) interests of their firm's shareholders, and this responsibility could easily be at odds with ethical improvements. At the same time, Niebuhr also proposed that a group's interest in self-preservation would almost always translate into a desire for self-aggrandizement, so their "pride of power" would also squash internal criticism, further

undermining efforts at reform (Niebuhr 2001, 18; 1996, 189). Critiques of collective egotism, then, would have to come from outside the group (Niebuhr 1996, 214), but Niebuhr suggested that mere exhortation would always be insufficient (1957b, 34). The true solution to collective egotism lay in a countervailing source of power.

On this question, Niebuhr insisted that only competing groups would be powerful enough to challenge and eventually offset each other's sinful wills-to-power (1957d, 90). After all, he explained, "even a fairly ethical individual is inclined to live his life at the expense of other men, if others do not offer resistance to his exactions" (1957, 93). Given his assumption that groups were inherently less moral than individuals, one can easily imagine how this observation led to his conclusion that "when collective power, whether in the form of imperialism or class domination, exploits weakness, it can never be dislodged unless power is raised against it" (Niebuhr 2001, xxvi). Thus, Niebuhr seemed to envision a system in which different groups with opposing self-interests would be able to create a balance of power (Hinze 2009, 452).<sup>10</sup>

In this arrangement, Niebuhr surprisingly conceded that groups might have a positive role to play, identifying the possibility of "structures of justice," or "social and political organizations in their relation to brotherhood" (1964, 247, 249). In fact, in a later revision of his initial thoughts, Niebuhr eventually accepted that some inclinations toward common life and social justice remain beneath both individual self-interest and collective egotism. Nevertheless, he warned that one must not underestimate the strength of the still pervasive will to power (1965, 71–83; see also Niebuhr 1968; Niebuhr 1952, 10). In fact, he cautioned against placing excessive optimism in any structure of brotherhood because of his larger theological convictions about the disconnect between love and justice. Specifically, he argued that these structures would necessarily remain imperfect (1964, 251), especially when tested against the law of love (defined by the agapic model of Christ's life), which was the ultimate orientation of Niebuhr's ethics (Niebuhr 1935, 32; Hinze 2009, 453–54). Some degree of self-interest, and potentially self-deception, would always persist (Niebuhr 1964, 251–52; 2001, 106–7). Niebuhr, therefore, insisted that the state would also need to take an active role in restraining the damaging tendencies of collective egotism (1964, 257–59), adding, "an equilibrium of power without the organizing and equilibrating force of government is potential anarchy which becomes actual anarchy in the long run" (1950, 174).

At its core, Niebuhr's insistence on the necessary role of government was based on pragmatic considerations. He accepted the theoretical value of regulating individual and group self-interests through a competitive balance of power, but he denied the practicality of this arrangement, explaining, "the competition of interests will make for justice without political or moral regulation . . . only if the various powers which support interest [are] fairly equally divided, which they never are" (1952, 33). Niebuhr indicated that inequalities of power were all the more likely in the economic realm, for property was often used "to enhance or stabilize" other forms of power (1950, 62), a problem that was particularly acute in groups (2001, 210; 1957c, 118–19). Because the use of economic resources to secure other forms of power was often indirect, Niebuhr argued that a more direct form of power, specifically the political power of governmental institutions, would have to be deployed against it. Of course, he was very much aware of the dangers of too much political power in one place, and he admitted that the state itself could easily fall prey to the same forms of collective egotism that it was

intended to correct (1952, 93, 107–8; see also 1950, 43–45; 1964, 258). Nevertheless, Niebuhr believed that unfettered human freedom was too dangerous to be left to its own devices because of its tendency toward self-interest, so he accepted that some form of order would need to balance liberty in any successful society, and he preferred democratic government as the means for ensuring that order (1950, 3; 1952, 97, 101). For all these reasons, Niebuhr asserted that the potency of self-interest in society could not be corrected by the freedom of competing groups alone; instead, he maintained that the government would always have a necessary role to play, especially when groups managed to accrue economic power.

This, ultimately, brings the discussion back to the issues involved in the *Citizens United* decision. Niebuhr's concerns for the damaging influence of self-interest in groups, and his added comments on the role of economic power in furthering that self-interest through political means, speaks directly to the question of corporate involvement in political affairs. In fact, his account of an inherent tendency to self-interest that magnifies in groups presents a stark challenge to the Supreme Court's empirical claim that nothing distinguishes groups from individuals in the risks they pose to the integrity of the democratic process. His overall vision of collective egotism then criticizes the Court's normative vision, insisting that it is a grave mistake to give individuals and organizations the same access to power without any moderating force for order because such an arrangement fails to recognize that groups are (relatively) more likely than individuals to use that type of access to serve their own ends. At times, the Court's minority seems to appreciate this risk, as Justice Stevens's dissenting opinion builds on the empirical assertion that corporate persons are prone to different vices in democratic society due to the specific characteristics of the corporate organizational structure and the general issues associated with collective agency. The Opinion of the Court, however, reflects none of this concern, instead offering an empirical claim that persons in groups and persons in isolation operate in much the same way with respect to corruption. The tension between this claim of the Court's majority and the account of human nature and collective egotism found in Niebuhr's theology creates an important point of contention for public debate. By highlighting the Court's reliance on this contestable empirical claim, Niebuhr's theology can helpfully advance the public discussion about the (in)sufficiency of the current state of campaign finance.

### *Citizens United* and Reinhold Niebuhr: An Interdisciplinary Assessment

Of course, all this talk of empirical claims is merely an abstract exercise without the weight of actual data. If Niebuhr's work is helpful for highlighting the centrality of unexamined empirical claims in the *Citizens United* decision, then the logical next step is an evaluation of those unevaluated claims. In addition, since the thrust of Niebuhr's challenge stems from his theological convictions, his assessment of collective egotism must be tested against empirical evidence if it is to have any weight in a legal conversation predicated upon a separation of church and state. This translation does not undermine the theological considerations outlined above, nor does it obviate the need for such a discussion. Instead, the translation is legitimated by the compelling nature of Niebuhr's theological argument. If that argument were to fail on its own terms, there would be no reason to translate Niebuhr's claims to public discourse. Because Niebuhr's theological argument passes the test of internal coherence, though, the rationale for a public translation is all the more compelling.

Given the contours of the disagreement at hand, translating Niebuhr's insights for the public square is a fairly straightforward task because both the Court's opinion and Niebuhr's theology lend themselves to the development of falsifiable hypotheses that can then be assessed apart from strictly theological considerations. On the one hand, the Court's assertions about the nature of corruption and the proper role of government suggest that the removal of restrictions would make it easier for more people to influence the electoral process. On the other hand, Niebuhr's theological convictions about collective egotism and the need for government intervention alongside a more arbitrary balance of power imply that the consolidation of economic and political power will worsen when government regulation recedes. Somewhat ironically, the current system of campaign finance law post-*Citizens United* provides the means with which to test these competing assessments.

The current state of affairs is governed by the majority's insistence that the government has no compelling interest in regulating the independent political expenditures of corporations. This effectively eviscerated all regulatory requirements for independent expenditures, something that became readily apparent when a lower circuit court used the *Citizens United* ruling to conclude that the government cannot limit donations to those political action committees (PACs) that promise to make only independent expenditures during campaigns, thereby creating the infamous "Super PAC."<sup>11</sup> Thus, group self-interest in elections is now subject only to the countervailing influence of competing groups' self-interest and cannot be tempered by government intervention. The Court's majority would suggest that this is a positive development, enabling a proliferation of voices in the public square. Niebuhr's theology, however, would interpret this state of affairs as a negative change, insisting that a balance of power without government involvement will always be inadequate because some groups and interests will inevitably have more power than others. Unfortunately, the evidence in the contemporary landscape corroborates Niebuhr's assessment over that of the Court's majority.

If there is one thing about *Citizens United* upon which everyone agrees, it is that there is much more money in politics now than there was before the ruling. Spending in the 2012 campaign season topped \$6 billion for federal offices, an almost 20 percent increase from the prior presidential election cycle, which took place before *Citizens United* (Krumholz 2013, 1121). As one might expect, the greatest increases came in independent expenditures, which were nearly seven times higher in 2012 than in 2008, although the largest effect seems to have come from individual, rather than corporate, donations to Super PACS (Hansen, Rocca, and Ortiz 2015, 535, 543–44).<sup>12</sup> Additionally, spending in state elections increased more dramatically in those states that had previously banned independent expenditures by corporations compared to those that did not, indicating a strong causal influence to the *Citizens United* decision (Spencer and Wood 2014). Of course, this simple data is still open to interpretation, and a plausible case could be made for reinforcing the claims of either the Supreme Court or Niebuhr. Thus, for example, one could adopt the Supreme Court's equation of political spending with political speech in order to assert that the documented increase in spending represents an unqualified increase in political participation, which is beneficial for a democratic society. When one digs a little deeper, though, the numbers look far less rosy.

While a theoretical argument might maintain that an increase in political participation is good across the board, political scientists have shown that a number of factors influence who will utilize available avenues for political participation, and chief among these is wealth. Specifically, greater wealth

equates with greater use of any available means for engaging in the political process, a correlation that holds true for both individuals and groups (Schlozman, Verba, and Brady 2012, 4–9, 122–26, 318–33, 376–81, 420–29). This is true on top of the obvious fact that political donations, by their very nature, are a means of political participation that is already tilted toward those who have enough wealth and disposable income to make a donation in the first place (see Ruprecht 2015, 32–33).

Recent work by Martin Gilens and Benjamin Page (2014) has demonstrated that those with more economic power are able to exert a greater impact on political outcomes than those with less wealth (who, by contrast, have virtually no identifiable impact). Consequently, the rise of political spending by wealthier individuals and organizations is actually detrimental to democratic governance because it contributes to the shifting of public policy toward the interests of a narrow elite. Furthermore, Gilens and Page discovered that organized groups overtly supporting business interests were almost twice as effective at influencing policy outcomes than “mass based” interest groups formed by a collection of like-minded citizens (574–75). Contrary to the assertions of the Court’s majority, these data confirm Niebuhr’s prediction that a free market between competing groups could never create enough parity to provide a true balance of power because some groups will always have more power than others. This, in turn, legitimates his insistence that the government should be identified as a necessary player in the fight against collective egotism.

The available evidence thus validates Niebuhr’s assessment of the situation, providing nontheological data to express his theological interpretations. Translating for the public discussion, these data indicate that the majority erred in its optimistic assessment of human behavior and thus also in its normative vision for the role of government. As a result, Niebuhr’s contrasting acknowledgment of the deep-seated nature of human self-interest and its exacerbation in groups, and his corollary assertions about the proper role of government, both deserve greater weight in conversations about campaign finance reform. This is where the interdisciplinary conversation reaches its greatest payoff, for Niebuhr’s theological vision also included prescriptions for minimizing the dangers of collective egotism. These prescriptions can be applied on an analogical basis to the case of campaign finance law, offering a productive way forward.

Given that Niebuhr’s critique calls into question the very foundations of the Supreme Court’s decision in *Citizens United*, the most appropriate change would be a complete reversal of the ruling. Such a change, however, is exceedingly unlikely in the current political environment—although the prospects for reversal will hinge on the ongoing efforts to replace the late Justice Scalia. The bigger question at the moment is how to address the shortcomings of the law within the *Citizens United* precedent. Following Niebuhr’s account, there are two logical areas upon which to focus: creating a more effective balance of power between groups and establishing legitimate government intervention. Granted, Niebuhr developed these two responses to collective egotism on a theological basis, so they do not lend themselves to immediate solutions by correlation. Niebuhr did, however, advance a coherent argument for identifying these two avenues as the best challenge to collective egotism. Consequently, one can use his theological solutions as the basic framework for developing practical alternatives to the current system of campaign finance, which is insufficiently prepared to address the problems Niebuhr’s work identifies. Specific proposals can then be fleshed out within these two categories using a little “analogical imagination” (Tracy 1981, 408–10). Since the analogical applications will be directed by the



empirical data, Niebuhr's theology will still be operative here, but only in a way that accords with the two-step process of translation outlined above. This approach, which does not needlessly threaten the separation of church and state, yields two proposals that can function within the current legal framework.

First, because *Citizens United* made it easier for every corporation to pursue its own self-interest, there should presumably be ample opportunities for opposing groups to check each other's influence through public critique.<sup>13</sup> This process is not currently as effective as it could be, however, largely because certain donors and groups can still hide behind a shield of anonymity, despite the Court's acceptance of disclosure requirements (CU 366–71; *SpeechNow.org v. FEC* 2010, 696–98). This happens for a variety of reasons, and the nature of the problem is not insignificant (Gerken 2014). According to one study, anonymous spending amounted to more than \$300 million in the 2012 election, a 5,000 percent increase from the pre-*Citizens United* election of 2004 (Edsall 2014). Without a clear sense of who is behind a particular advertisement or series of advertisements, even groups with competing viewpoints cannot fully challenge the self-interest of their political opponents. Indeed, there is evidence that corporations are using the shroud of anonymous donations to publicly support policies that will generate goodwill with potential customers while privately waging a much more consequential campaign to block those same policies because they would be bad for business if enacted.<sup>14</sup> It would be responsible, then, for the government to strengthen disclosure requirements, perhaps limiting the political advocacy activities of 501(c)(4) "social welfare" groups in the process because such groups are not supposed to engage in political advocacy as their "primary activity," yet they are nevertheless the conduit of choice for donors who wish to support political candidates and causes anonymously (Bennet 2012; IRS 2014). This added transparency would create more equality between groups, analogically applying Niebuhr's claims that parity is the source of a genuine balance of power between groups. Just as importantly, this proposal has the added benefit of being quite feasible under the parameters established by *Citizens United*.

The second avenue for constructive reforms, which involves increasing government involvement in restraining collective egotism, is unfortunately not as simple in today's legal landscape. Short of a reversal, there are some other, less drastic changes that the government might promote while the decision stands. To give just one example: instead of advocating a complete rejection of the notion of corporate personhood—which would have potentially damaging repercussions for a host of organizations, including churches and public service institutions aligned with them<sup>15</sup>—the government could reassert the idea that since corporate personhood is a functional legal category and not a metaphysical one, the rights *and duties* of a corporate person are subject to the assessments of the legal system (see Meyer 2012). Currently, the legal purpose of the corporation is ambiguous (Bruner 2008, 1394, 1396, 1408, 1425–27), which leaves space for a limited view of corporate duties, such as the claim that a firm's sole responsibility is to maximize shareholder value (Friedman 2009). Instead of this silence, the government could give explicit support for a broader conception of corporate responsibility, promoting something more akin to "stakeholder management," which has received considerable academic attention but no legal recognition (Freeman, Harrison, and Wicks 2007, 3–6; Freeman 2009). By more clearly articulating the duties of corporate citizenship in this fashion, the government would have a more active role in checking corporate collective egotism, directly orienting at least some portion of the corporate structure to the benefit of the commonweal, instead of allowing

the entire legal category to become a tool of unbridled self-interest. While only one strategy, this proposal is at least consistent with the spirit of Niebuhr's claims about the essential role of the state in combating collective egotism, and it is also consistent with the parameters of the *Citizens United* decision.

There are, of course, other avenues that individuals concerned about the corrupting influence of collective egotism in campaign finance might want to pursue in order to modify the current system while still operating within the confines of a post-*Citizens United* reality. At least they will have more tools at their disposal in these efforts, and a greater sense of where to target their energy for the most effective outcomes, thanks to Niebuhr's theological framework. Indeed, if any of Niebuhr's categories have the ability to expand the thinking about possible alternatives to the current state of affairs, then this interdisciplinary conversation between theology and law will have more than served its purpose, and the nation's public discourse will be the better for it. Of course, the proposed changes do not take away from the fact that the Supreme Court's decision in the *Citizens United* case remains deeply flawed, for precisely the reasons Niebuhr's theological account of collective egotism helped to identify. Efforts to challenge the merits of the case more directly, then, should not be set aside as a result of the arguments for reforms within the parameters of the case outlined above. Instead, these constructive proposals for a more effective balance of power and a stronger role for government interaction should be understood as attempts at rectifying immediate injustices, not ultimate solutions. In a truly Niebuhrian fashion, they will remain realist responses and, therefore, merit continual evaluation against the law of love, the perfection of which will indicate both how much better these temporal approximations are than the current state of affairs, and how much better things can still become.

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## Notes

1. At both the state and national level, legislation regarding campaign finance questions seems to have been pursued in a manner that would intentionally limit or preclude active debate. For instance, the Wisconsin state legislature recently approved a bill that would eliminate restrictions on cooperation between candidates and outside groups. The bill was passed quickly enough to avoid any sustained public debate (Pitrof and Dennis 2015). Meanwhile, the United States Congress has repeatedly decided to use amendments on must-pass spending legislation to reshape campaign finance law in a form of brinkmanship that forestalls debate on the issue (Berman 2015).
2. This tactic can be seen in the legal arguments put forward in the 2014 Supreme Court case *Burwell v. Hobby Lobby*, which ruled that closely held corporations could opt out of the Affordable Care Act's so-called contraceptive mandate on religious grounds. See Brief for Respondents at 25, *Burwell v. Hobby Lobby* 134 S.Ct. 2751 (2014) (No. 13–354); Brief for Petitioners at 27, *Hobby*

Lobby 134 S.Ct. 2751 (No. 13–356); Brief for the Christian Booksellers Association et al. as Amici Curiae in Support of Hobby Lobby and Conestoga at 28; Brief for the Council for Christian Colleges & Universities et al. as Amici Curiae in Support of Respondents Hobby Lobby, Mardel, and Petitioner Conestoga, at 17, Hobby Lobby 134 S.Ct. 2751; Brief for Ethics and Public Policy Center as Amicus Curiae in Support of Respondents in 13–354 and Petitioners in 13–356, at 20–21.

3. There are a number of objections to Rawls’s theory of “public reason” (for a good illustration of the debate see Audi and Wolterstorff 1997), so the two-step process proposed here is not a definitive solution. Rather, it is one practical way in which to employ theological thinking and arguments in public discourse and legal analysis without overstepping the bounds of the separation of church and state, as those bounds are currently understood. This is not to say that the two-step process is ideal, only that it is viable, especially for the issue at hand because Rawls developed his category of public reason for government officials (like justices on the Supreme Court) in particular.
4. For the sake of brevity and clarity, references to *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010) will be abbreviated CU.
5. For legal purposes, “The term ‘independent expenditure’ means an expenditure by a person—(A) expressly advocating the election or defeat of a clearly identified candidate; and (B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate’s authorized political committee, or their agents, or a political party committee or its agents.” 52 U.S.C. §30101(17).
6. This equation of political expenditures with political speech is the portion of the Supreme Court’s decision that Ruprecht finds the most problematic. For more on the significance of this elision, see Ruprecht 2013, 103, 108; 2015, 18.
7. Technically, there is a fourth legal basis, for the government could identify a compelling interest in “preventing foreign individuals or associations from influencing our Nation’s political process,” but this basis was ignored by the Court because the BCRA provisions in question were not restricted to foreign owned corporations (CU 362).
8. Niebuhr was often criticized for emphasizing pride at the expense of sensuality. See Stone 2012a, 125–26; Rasmussen 1988, 19.
9. Indeed, one might consider as a counterpoint Aristotle’s rosier view of groups, which located the roots of collectives in the pursuit of common goods that individuals could not achieve alone. Aristotle, *Politics*, I.1–2.
10. This vision has obvious roots and parallels in Augustine’s understanding of imperfect earthly peace as the tranquility of order. See Niebuhr 1953a, 125–26; Augustine, *City of God*, XIX.
11. See *SpeechNow.org v. FEC*, 692–95 (D.C. Cir. 2010). The “Super PAC” is a political action committee that only makes independent expenditures and, therefore, can spend unlimited amounts of money advancing its political aims, as long as it does not coordinate directly with a candidate’s campaign. In practice, most candidates for elected office (especially at the national level) now have at least one Super PAC collecting unlimited funds in order to advocate for the candidate’s election without their explicit coordination. For more on the “Super PAC,” see Dowling and Miller 2014.

12. Of course, in light of the *Citizens United* ruling, the distinctions between these two types of persons are not that easy to parse out, for individuals can also “incorporate” to donate more anonymously. See Ruprecht 2013, 100.
13. This was, in fact, part of the Court’s argument in favor of lifting restrictions on corporations’ independent expenditures (CU 355).
14. For example, a disclosure mishap inadvertently revealed that the health insurance company Aetna donated more than \$3 million to a Super PAC that was working to prevent the reelection of representatives who voted for the Affordable Care Act at the same time that the company was publicly supporting President Obama’s healthcare reform efforts (Bennet 2012).
15. For instance, Catholic organizations have a special status as “juridic persons” in canon law and they, therefore, benefit from a comparable legal structure in civil law. See Kennedy 2000.

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