



Written by [Warren Mass](#) on July 28, 2016

Democratic Platform Proposes Two Constitutional Amendments and UN Treaty Ratification

The recently released 2016 Democratic Party platform proposes adding two new amendments to the Constitution. The first would overturn the Supreme Court's *Citizens United* and *Buckley v. Valeo* rulings on campaign financing. The second proposal is to pass the so-called Equal Rights Amendment, and would go one step further by urging U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) — an international treaty adopted in 1979 by UN General Assembly.

The platform reads:

Democrats support a constitutional amendment to overturn the Supreme Court's decisions in *Citizens United* and *Buckley v. Valeo*. We need to end secret, unaccountable money in politics by requiring, through executive order or legislation, significantly more disclosure and transparency — by outside groups, federal contractors, and public corporations to their shareholders. We need to amplify the voices of the American people through a small donor matching public financing system. We need to overhaul and strengthen the Federal Election Commission so that there is real enforcement of campaign finance laws. And we need to fight to eliminate super PACs and outside spending abuses.

Our vision for American democracy is a nation in which all people, regardless of their income, can participate in the political process and can run for office without needing to depend on large contributions from the wealthy and the powerful.

The two Supreme Court decisions cited in the platform were significant for protecting the right of free speech of organizations engaged in making contributions to political campaigns. In *Citizens United v. Federal Election Commission* (decided in 2010) the Supreme Court held that freedom of speech prohibited the government from restricting political expenditures by non-profit corporations. The principles outlined by the High Court in the case have also been extended to for-profit corporations, labor unions, and other associations. *Citizens United*, a conservative 501(c)(4) non-profit organization, wanted to air a film critical of Hillary Clinton and to advertise the film during television broadcasts. A U.S. District Court ruled that airing the film within 60 days of a general election or 30 days of a primary was a violation of the 2002 Bipartisan Campaign Reform Act, also known as the McCain-Feingold Act or BCRA. However, in *Citizens United*, the Supreme Court reversed that decision, striking down those provisions of BCRA that prohibited corporations (including non-profit corporations) and unions from making independent expenditures and "electioneering communications."

Justice Anthony Kennedy delivered the majority opinion, which found that the BCRA §203 prohibition of all independent expenditures by corporations and unions violated the First Amendment's protection of



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free speech. The majority wrote, “If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech.”

Buckley v. Valeo (an earlier case decided in 1976) was also considered a landmark case in U.S. campaign finance law, and it set a precedent that influenced *Citizens United*. In *Buckley v. Valeo*, the High Court struck down several provisions in the 1974 amendments to the Federal Election Campaign Act. In its opinion, the Court held that several key provisions of the Campaign Finance Act, which limited expenditure at election campaigns, were unconstitutional and contrary to the First Amendment. While the case upheld several portions of the 1974 amendments to the Federal Election Campaign Act (including limits on contributions to candidates), it struck down limits on expenditures by candidates, limits on independent expenditures (i.e., expenditures by groups or individuals other than candidates and political parties), and the system by which members of Congress directly appointed FEC commissioners.

The second amendment proposed in the platform is found under a heading labeled “Guaranteeing Women’s Rights.” That section reads:

We are committed to ensuring full equality for women. Democrats will fight to end gender discrimination in the areas of education, employment, health care, or any other sphere. We will combat biases across economic, political, and social life that hold women back and limit their opportunities and also tackle specific challenges facing women of color. After 240 years, we will finally enshrine the rights of women in the Constitution by passing the Equal Rights Amendment. And we will urge U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

The so-called Equal Rights Amendment (ERA) is well known to veterans of the conservative movement who fought against it for years during the 1970s and ’80s. The amendment was passed by both houses of Congress in 1972 and sent to the states for ratification. Initially a number of states ratified it in quick succession, with 30 states having done so between March 1972 and March 1973. The pace then slowed dramatically, however. Only five more states ratified the ERA the next four years, the last being in 1977. At that point, the amendment was three states short of the necessary 38 ratifications needed for passage.

The bill passed by Congress in 1972 required ratification to occur by 1979, but this was later extended to 1982. However, no additional states ratified and the amendment is now considered to be dead. Five states rescinded their ratifications of the ERA: Nebraska, in 1973; Tennessee, in 1974; Idaho, in 1977; Kentucky, in 1978; and South Dakota, in 1979.

Both those in favor of — and opposed to — the ERA attribute its failure to be enacted to the strident battle waged against it by opponents led mainly by conservative activist Phyllis Schlafly. Political scientist Jane Mansbridge wrote in her history of the ERA that the claim that passage of the ERA would make women subject to the military draft was the single most powerful argument that Schlafly and her allies used to change public opinion and defeat the ERA. Mansbridge wrote, “Many people who followed the struggle over the ERA believed — rightly in my view — that the Amendment would have been ratified by 1975 or 1976 had it not been for Phyllis Schlafly’s early and effective effort to organize potential opponents.”

The 2016 Democratic Party Platform urges U.S. ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) — an international treaty adopted in 1979 by UN



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General Assembly.

As was pointed out in an [article posted by The New American](#) in 2010, CEDAW is “a treaty that could be used to justify sweeping social engineering across the nation.” That article quoted from an exposé written by Christina Hoff Sommers at *National Review*, which revealed that the most damaging aspect of CEDAW is how it defines discrimination: as any distinction based on sex.

Sommers offers the following as an example of the intrusive behavior practiced by UN bureaucrats toward people in countries that have ratified CEDAW:

Under CEDAW, even private behavior such as how couples divide household and child-care chores is subject to government oversight and modification. The U.N. monitoring committee routinely censures countries like Denmark, Norway, and Iceland for failing to prevent women from taking primary care of children, a practice it deems discriminatory.

Sommers also outlined other problems with the treaty:

American law is based on the ideal of equal opportunity; CEDAW demands equal outcomes.... Groups such as NOW, the Feminist Majority Foundation, and the National Women’s Law Center view a ratified CEDAW as a legal mandate to implement their agenda in the United States. For them, the treaty is a license to sue, re-educate, and re-socialize their fellow citizens — opportunities that have eluded them under the U.S. Constitution.

These three proposals — two to amend our Constitution to erode freedom of speech and radically change the social structure of our nation, and the third to entangle the United States in a UN treaty that would subject American families to the arbitrary dictates of UN bureaucrats — are what one might expect to come from a political party that would nominate Hillary Clinton as their candidate for president. As such, they may not be surprising, but that does not make them any less threatening.

Photo of Barack Obama and Hillary Clinton at the 2016 Democratic National Convention: AP Images

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