Challenging Corporate Power, Asserting the People’s Rights
Discussion Group Topic Outline

Session I - Introduction
Session II - Historical Overview of the Corporate Taking of Our Authority to Govern
Session III - Corporate Personhood
Session IV - The Regulatory State
Session V - Private Property and the Recovery of the Commons
Session VI - People’s and Workers’ Resistance Movements
Session VII - Economic Development and Militarism
Session IX - What Does Democracy Look Like?
Session X - Where Do We Go From Here: Local Campaign Development
Appendix - Glossary, Suggested Readings
Challenging Corporate Power, Asserting the People’s Rights
Session I — Introduction

The first session of the study group provides an opportunity for the group members to meet each other, find out about the design and content of the course, agree upon discussion and facilitation guidelines, work out logistical details, and conduct an initial discussion. The objectives of the study groups are:

1. to frame learning and discussion in ways that focus on the root causes of corporate and state oppression
2. to direct efforts for change in law and culture toward those public officials and public bodies that must take the authority to place economic institutions and all corporate entities under the control of a self-governing people

Structure: Before every meeting each person receives a set of materials (a cover sheet and readings) to read and reflect on before the discussion (reading will take 1-2 hours per session). The study packet includes suggested questions for the discussion, but groups are free to create their own questions in addition to, or instead of, the ones in the packet.

The reading materials have not been selected to provide a balanced view of corporate power and its impacts on countries and people in all parts of the world. In modern society we are inundated with the corporate perspective on almost every issue. These materials are intended to provide pieces of the largely untold story of how corporations have come to dominate our lives in the name of profit and at the expense of people and the planet.

The study groups represent an opportunity to create intentional laboratories to experience and practice democracy. This initial session focuses on the process the group chooses to use in its discussions. Democracy is a word we use daily in the United States, but many of us have not had the opportunity or motivation to think deeply about what it means to be a self-governing people. The study groups provide us with an opportunity to challenge ourselves to notice and explore both content and process during discussions. Optimal group size is 6-10 people to ensure enough viewpoints for lively discussion and adequate opportunity for everyone to participate.

The people in each group represent a range of experience and knowledge about the subjects for discussion and other related topics. A few of the readings are somewhat academic and intellectually challenging; others are more easily accessible. In the evaluation forms that WILPF has been receiving from around the country, some people find a particular reading stimulating and provacative while others find it confusing or even useless. This diversity of experience and response to the readings fuels each group’s discussions.

Readings:
1 – WILPF fact sheet (1 page)
2 – Study Group Guidelines- Process and Facilitation (4 pages)
3 - Campaign questions and answers (6 pages)
4 – “Remarks on the Campaign Proposal,” by Virginia Rasmussen (2 pages)
Session II — Historical Overview of the Corporate Taking of Our Authority to Govern

Few would argue that corporations today are not only ubiquitous but have enormous power over our lives. Was it always like this? How did it get to be this way? And what are the implications of this situation for democracy? The readings in this session explore the answers to these questions and challenge the concepts of democracy that are commonly accepted today. Indeed, so much power and wealth has been amassed by corporations that they can be said to govern, presenting a mortal threat to our body politic. To use a medical analogy, when a surgeon cuts out a cancer, it’s not to punish the cancer; it’s to save the body. If we wish to prevent the total demise of democracy — rule by the people — then we must return corporations to their subservient role.

A central task in this session is to establish the group’s process of sharing leadership, an opportunity to design and practice democracy as you grapple with the history and ongoing struggle for self-governance.

Readings:
1 – “Know Thine Enemy,” by Joel Bleifuss (2 pages)
2 – “Can Corporations Be Accountable?” by Richard Grossman (7 pages)
3 – “Human vs. Corporate Rights,” by Mary Zepernick (2 pages)
4 – “Meet the Corporation” by Chris Warren (5 pages)
5 – “Gangs of America” by Ted Nace (6 Pages)

Session III — Corporate Personhood

In Session II we noted the 1886 Supreme Court decision that gave corporations the same rights and protections as human beings, and in this session we explore that phenomenon in depth. The 14th Amendment to the Constitution was ratified in 1868 in order to protect the rights of newly freed slaves. Section 1 reads as follows:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The U.S. Constitution and the country’s legal foundations were rooted in the sanctity of property rights and the individual. So it was clear to corporate lawyers, following the burst of corporate growth and influence during the Civil War, that it would be necessary to get the Supreme Court to declare the corporation equivalent to a “person” with the same 14th Amendment protection of the laws. Only with this designation could the corporate form pursue growth, wealth, and power free from the restraining will of the people.

In 1936 the dean of the John Marshall Law School said, “In the entire Constitution and the Amendments thereto, the word ‘person’ is used thirty-four times; in thirty-three times, it refers only and can refer only to creatures of flesh and blood. And in the 14th Amendment the word is used five times, ...it is obvious that natural persons alone can be meant, as only natural persons can be born or naturalized, become citizens...” Nevertheless, in 1886 lawyers for the Southern
Pacific Railroad achieved their goal with the Supreme Court declaring that the 14th Amendment applied to corporations.

This session explores the cultural impact of this decision. What has it meant for the role of us human persons, and the organizing of people’s movements for full inclusion and personhood, when the biggest, wealthiest, and most powerful “persons” are our own corporate creations?

Readings:
1 – “The Birth” and “The Rule,” by Kalle Lasn and Tom Liacas (2 pages)
2 – “Gangs of America,” by Ted Nace pages 5-7 (2 pages)
3 – “Timeline of Personhood Rights and Powers,” by Jan Edwards (5 pages)
4 – “Should Not the 14th Amendment to the Constitution of the United States be Amended?,” excerpts by Edward T. Lee (3 pages)
5 – “Corporations Behave as if They are More Human than We Are,” by George Monbiot (1 page)
6 – “Corporate Citizens,” by Carl Pope (1 page)
7 – Corporate Personhood Resolution, City of Point Arena (2 pages)
8 – “Democracy in St. Thomas,” by James Allison (2 pages)
9 – “Tea Time in Humboldt County (CA),” by Jim and Tomi Allison (2 pages)

Session IV — The Regulatory State
Since the late 19th century, protection of the U.S environment, workers, consumers, and communities has been in the hands of regulatory agencies and the laws that established them — Interstate Commerce Commission (ICC), Federal Trade Commission (FTC), Nuclear Regulatory Commission (NRC), Environmental Protection Agency (EPA), Food and Drug Administration (FDA), Occupational Safety and Health Administration (OSHA), Consumer Product Safety Commission (CPSC) — to name a few. When our news is filled with stories of defective Firestone tires and genetically modified animal feed in taco shells, more people are starting to wonder: are these institutions effective in carrying out their assignments? Are we safe in their hands? Who and what are protected by regulatory law and its implementers? What are the consequences for public and environmental health when poisoning, endangering, and destroying are violations of regulatory standards rather than violations of human beings, communities, and the earth?

For many decades concerned citizens have focused their efforts on nudging regulatory agencies toward more rigorous enforcement rather than challenging the illegitimate power of corporate entities and the people running them. This session asks us to talk about these realities and to imagine the kind of changes in our understanding, approach, and institutions that will provide the protections and authority we seek.

Readings:
1 – “Sheep in Wolf’s Clothing,” by Jane Anne Morris (4 pages)
2 – Excerpt from “The Grand Bazaar” chapter of Who Will Tell the People by William Greider (9 pages)
3 – “The People’s Business” by Lee Drutman and Charlie Cray (13 pages)
4 – “How to Curb Corporate Power” by Ralph Nader (6 pages)
Session V — Private Property and the Recovery of the Commons

If we want to take away the disproportionate power held by those who own property and wealth and shift it toward people and their governments, it is necessary to know more about the head start that property rights had over people’s rights in this country’s formative years.

The design of the federal government relied heavily on the principle of self-interest narrowly seen as the right for citizens (at that time elite, white males only) to acquire property and have that property protected and enhanced. The notion of liberty, so highly prized, was primarily taken as the liberty to own things. Jennifer Nedelsky, a student and writer of the Anti-Federalist period, states that the “court built upon the general acceptance of the sanctity of property... and aimed at containing the democratic threat to the rights the Federalists considered necessary to a stable market economy and a free and secure society.” (There will be more about Federalists and Anti-Federalists in Session IX.) The states were denied the power to make decisions about property — its definition, production, movement, or distribution. Such matters were the province of the law, the courts, and the minority, not of politics, legislatures, and the majority.

According to this theory, progress would come about not through the promise of community or wide democratic participation, but through the virtuous male seeking stable conditions for securing property (“virtue” comes from Latin, vir, for man). The Founding Fathers sought to establish a pre-eminence of the talented minority over the ordinary majority. Talent was measured largely by one’s capacity to accumulate material things.

With these sentiments written into the nation’s founding doctrines, men of property, using the corporate form (deemed “private” property by the courts), took themselves to great heights of power and control. The costs of this court-granted illegitimate authority — in a country where We the People are supposed to be in charge — grow apparent as they grow enormous. This discussion invites us to examine the role property should or should not play in our lives, rights, and governance.

Readings:
1 – WILPF handout on property (3 pages)
2 – “Labor Organizing and Freedom of Association,” by Peter Kellman (4 pages)
3 – “The Divine Right of Capital,” by Marjorie Kelly (14 pages)
4 – “Thinking Seven Generations Ahead,” by Winona LaDuke (3 pages)

Session VI — People’s and Worker’s Resistance Movements

The changes in the United States throughout the 19th century were profound and rapid, picking up speed as the decades passed. The industrial revolution changed the nature and pace of both urban and rural livelihoods, and a predominantly independent workforce was converted to a majority of wage earners working for someone else. Capitalism came to dominate the economic system, bringing periodic depressions. Immigrants flooded into the country, creating a complex and constantly shifting hierarchical order that affected who worked and who didn’t, what kind of work they could do, where they could live, and what kind of life they could lead. The country grew rapidly in size, providing opportunity for some and destroying a way of life for others. The Civil War, resisted by thousands on both sides, left over half a million dead, the South on its knees, and corporations with significantly increased wealth and power.
For the majority of people, all these changes added up to a life of increased subservience to the wealthy minority, and they didn’t accept it lying down. Abuse of workers by industrialists was ruthless and rampant; strikes were frequent and often brutally broken by police, Pinkerton’s hired men, and even federal army troops. Increased mechanization, monopolistic practices by banks and railroads, and falling crop prices all conspired to drive hundreds of thousands of farmers off their land and into tenancy or low wage work. By the century’s close there was an enormous gap between the wealthy and the poor. Resistance to these oppressive systems was born of desperation, hope, and a belief in the promise of democracy. Facing injury, death, disease, and starvation, people rose again and again in the largest mass movements in the country’s history.

The readings in this session provide an opportunity to explore this world of resistance — what motivated people, what challenges they faced, what lessons we can learn, and how these events shaped the world we live in today.

Readings:
1 – Excerpts from *Who Built America?* by the American Social History Project (10 pages)
2 – Excerpts from the introduction to *The Populist Moment*, by Lawrence Goodwyn (10 pages)
3 – “Tragedy and Hope in American Labor,” by Paul Buhle (6 pages)
4 – “Labor Must Challenge Corporate Rule,” by Peter Kellman (5 pages)
5 – “A People’s history of the United States,” by Howard Zinn (4 pages)

**Session VII — Economic Development and Militarism**

“I spent 33 years and 4 months in active service as a member of our country’s most agile military force — the Marine Corps.... And during that period I spent most of my time being a high-class muscle man for Big Business, for Wall Street, and for the bankers. In short, I was a racketeer for capitalism.... I helped make Mexico, especially Tampico, safe for American oil interests in 1914. I helped make Haiti and Cuba a decent place for the National City Bank boys to collect revenues in. I helped in the raping of half a dozen Central American republics for the benefits of Wall Street... I helped purify Nicaragua for the international banking house of Brown Brothers in 1909-1912. I brought light to the Dominican Republic for American sugar interests in 1916. In China I helped to see to it that Standard Oil went its way unmolested... Looking back on it, I feel I might have given Al Capone a few hints. The best he could do was to operate his racket in three city districts. We Marines operated on three continents.”

*– Smedley Butler, a decorated Marine general, writing in 1935*

There is a story that during Bill Clinton’s 1992 presidential campaign an aide posted a sign on the wall to remind everyone of the most crucial campaign issue: “It’s the economy, stupid.” Indeed, judging by its coverage in the corporate press, a healthy economy seems essential to people’s livelihoods and our country’s success, and worries abound when the economy is growing too fast or not fast enough. The latest governmental reports on prices, sales, new housing starts, production of durable goods, and many other indicators receive prime time coverage and serious analysis, and no news report is complete without the latest on the Dow Jones and NASDAQ averages.

This obsession with the economy is such a normal part of our day-to-day lives that we seldom stop to question it. What fuels this expectation that our economy must continually grow? What underlying values does economic development rest upon? What are the consequences of these
beliefs and our economic system?

“Democracy,” a word with which we have strong, positive, emotional ties, is often conflated with “capitalism,” and this is no accident. We are told that democracy triumphed over communism in the Cold War and that the West is bringing democracy to the long-suffering people of the formerly socialist countries. This ensures the acquiescence of a majority of people in the US while global corporations and complicit governments force their way to economic and political control around the world.

As Smedley Butler noted during his career nearly a century ago, it is a system that has long gone hand-in-hand with violence. The readings in this session examine this phenomenon, and are also linked to the following session on global corporatization. For 500 years economic expansionism and militarism have been inextricably linked in the brutal colonization of every continent. In the past, invading armies from another country were required to accomplish this colonization. Now universal domination is achieved through the imperative of economic development and modernization, with primary enforcement provided by each country’s own military and police force.

Readings:
1 – Excerpts from Radical Democracy by C. Douglas Lummis (2 pages in condensation)
2 – “The Truth Behind US Foreign Policy,” by Henry Rosemont, Jr. (4 pages)
3 – “The Reagan Legacy,” chapter from The Spoils of War, by John Tirman (3 pages)
4 – “Seeing the System: Alan Greenspan, Unemployment, and the Validation of Radical Analysis,” by Tim Wise (4 pages)

Session VIII — Global Corporatization

“If we will not endure a king as a political power, we should not endure a king over the production, transportation, and sale of any of the necessities of life. If we would not submit to an emperor, we should not submit to an autocrat of trade.”

— from Robert La Follette’s 1911 autobiography

Corporate capitalism and its protection by government “security forces” aren’t new, but under the past two decades of influence from the World Bank and International Monetary Fund, their destructive impacts have increased dramatically. Multinational corporations now comprise half the world’s 100 largest economies, and the World Trade Organization epitomizes institutionalized power and protection on a global scale. In response to the loss of their homes, jobs, and even lives, the peoples of the world have not stood idly by — from the Chiapas uprising at the dawn of NAFTA to Indian farmers burning fields of genetically modified crops to French farmers bulldozing a McDonald’s.

None of this made headline news in the US until November 1999, when more than 50,000 people took over the streets of Seattle, helping to prevent the WTO Ministerial gathering from negotiating more global trade rules. Inspired by Seattle, similar protests have continued to take place against the WTO, IMF, World Bank, and other institutions of global power throughout the US and other parts of the world. These struggles on the streets and at the teach-ins, marches, meetings, rallies, and seminars are developing new strategic alliances among labor, human rights, environment, student, farming, peace and justice, and many more activists, and they
signal a growing global people’s movement. The hopes raised make it all the more important to ground our energy and efforts in an understanding of the forces of corporate and state oppression.

Readings:
1 – “Free Trade: The Great Destroyer,” by David Morris, from The Case Against the Global Economy (5 pages)
2 – “Globalization and the Poor,” by Amitabh Pal (1 page)
3 – “A Choice for the Nice Conspirators,” by Caroline Lucas (1 page)
4 – “WTO: Militarism Goes Global,” by Molly Morgan (4 pages)
5 – “Globalization from Below,” by Jeremy Brecher, Tim Costello, and Brendan Smith (3 pages)
6 – “Corporate Cash” flyer (1 page)
7 – “The Party of Davos. The Ruling Class Depends on US Power- Which is slipping into crisis” by Jeff Faux (7 pages)

Session IX — What Does Democracy Look Like?
The democratic founding ideals of the American Revolution were soon subordinated to the fears of white propertied men who had the power to take charge and write the Constitution. These men believed that genuine people’s rule (what Alexander Hamilton called “the mob at the gate”) would undermine the order and stability on which they believed the future of the republic rested. Many people are surprised to learn that the word “democracy” does not appear anywhere in the Constitution of the United States of America.

People ask what alternatives we who resist corporate power suggest. Indeed, a component of our struggle needs to be developing and modeling ways of organizing our common economic and social life based on human equity and ecological health. Ultimately, however, the fundamental alternative to illegitimate corporate governance is democracy: rule by the people.

Cornel West remarked that our minds have been colonized for so long we can scarcely imagine what real democracy would look like. What images and forms could breathe life into self-governance? And how do we achieve it, especially in light of the wide diversity of beliefs, circumstances, and opinions of “the people”?
A key task is to critique what currently passes for democracy. What kind of processes would we design for governing ourselves and selecting our spokespeople? What values and beliefs would underlie our choices? Equally important is the challenge of designing and practicing democratic processes in our own lives and work. What attitudes, behavior, and skills support (and impede) this effort?

We suggest checking in at the beginning of this session by sharing a democratic experience each person has had, and including in the discussion some evaluation of the group’s process from the standpoint of democracy: is leadership being shared? Is participation balanced and egalitarian? What helps and what hinders the democratic functioning of the group?

Readings:
1 – Excerpt from an interview of Noam Chomsky, by David Barsamian (1 page)
2 – “Confining Democratic Politics: Anti-Federalists, Federalists, and the Constitution,” excerpts from a book review by Jennifer Nedelsky (5 pages)
3 – Excerpts from Political Freedom: The Constitutional Powers of the People, by Alexander
Session X — Where Do We Go From Here: Local Campaign Development

This is the final discussion session in this study packet. During this session, the group will need to attend to some logistical business in addition to its regular discussion time.

After discussing the readings, allow some time to discuss the entire program that the group has experienced together. Have the people in the group acquired a broader understanding of how the corporate system works and what the power dynamics are behind it? Does the group have a different vision of democracy and its possibilities? Are people interested in incorporating more democratic practices in their other social and work organizations? Do people feel inspired and empowered to change the system?

Please allow time in this session to fill out the evaluation form, either as a group exercise or each person individually. Feedback from these evaluation forms from people all over the country have helped to improve the study group materials, so we want to know what you think!

Does this group want to continue to meet? There are abundant materials for continued discussion — you can explore the supplementary materials listed with each session or those in the bibliography; the group can find other materials on its own; or we would be happy to work with you to suggest other possibilities. Is the group interested in developing a local action campaign? Would the group like to have a workshop to build on its discussions for action? WILPF can provide a workshop packet, and leadership team members are available for consultations with groups.

If this is the final meeting of the group, be sure to allow time for closure — to say goodbye, to acknowledge the time the group has shared together, to honor each other, and to celebrate your exploration of democracy.

Readings:
1 — “Speaking Truth to Power About Campaign Reform,” by Jane Anne Morris (7 pages)
2 — WTO article critique by Molly Morgan (2 pages)
3 — “The Crackdown,” by Kalle Lasn and Tom Liacas (8 pages)
4 — “Look Who Demands Profits Above All,” by Robert B. Reich (2 pages)
5 — Evaluation Form (2 pages)
6 — “Preempt This! Michigan Cities Fight Back,” by Daniel Kraker (optional, 4 pages)
7 — “Idiocy and Sustainability” by Thomas Prugh (optional, 3 pages)
Getting Started

If you’re interested in convening a Challenging Corporate Power, Asserting the People’s Rights study group, here are a few tips for getting started:

• You don’t need any special skills or knowledge. Anyone can start a study group!

• **Announce** the formation of the group in print and anywhere people gather:
  - local community or organization bulletin boards
  - newsletters
  - newspapers
  - websites
  - at meetings
  - coffee shops
  - bookstores
  - union halls

• **Collect names**, phone numbers, and addresses of people who are interested.

• **Find a place** to hold the meeting. This can be in someone’s home, in a community center, a union hall, a church or synagogue or mosque, or anyplace where a small group can hear each other easily to talk.

• When you have six to ten people who are interested, **find a two-hour time slot** when everyone can get together for the initial session.

• **Duplicate** the materials for Session I and Session II before the meeting. Distribute Session I materials at the beginning of the meeting and Session II materials at the end.

• At the first session, be sure that the group commits to **democratically sharing responsibilities** — rotate who facilitates, who coordinates logistics like photocopying the readings, who phones or emails reminders about the next meeting, and so forth. Just because you have convened the group doesn’t mean you have to do all the work!

• The information for everything else you need can be found in the cover sheets and readings for the sessions. If you have questions or need any help, contact WILPF at www.wilpf.org or email at wilpf@wilpf.org. Ask for a contact person to get in touch with you.

• **Local organizations** that might be interested in this kind of discussion group include unions, co-ops, consumer groups, faith-based communities with social responsibility or social action committees, peace organizations, environmental
groups, college and university campuses, and local chapters or branches of the Alliance for Democracy, Green Party, and Public Interest Research Groups (PIRGs).
### Challenging Corporate Power, Asserting the People’s Rights
#### Study Group Session Schedule

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Study groups are being formed around town to:

• explore the history and roots of corporate usurpation of our sovereign authority to govern
• examine global corporatization and its local impacts
• decolonize our minds
• consider the appropriate relationship between human beings and entities we create to serve us
• participate in democratic conversation

Study groups will be ten two-hour sessions at dates, times, and locations determined by the group.
If you are interested in participating, please fill in the information requested below.

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Challenging Corporate Power, Asserting the People’s Rights

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1. to frame learning and discussion in ways that focus on the root causes of corporate and state oppression
2. to direct efforts for change in law and culture toward those public officials and public bodies that must take the authority to place economic institutions and all corporate entities under the control of a self-governing people

Begin the session by allowing everyone to introduce themselves and tell why they are interested in this particular study group. Then the convener of the meeting can lead the group through the following material.

Structure: Before every meeting each person receives a set of materials (a cover sheet and readings) to read and reflect on before the discussion (reading will take 1-2 hours per session). The study packet includes suggested questions for the discussion, but groups are free to create their own questions in addition to, or instead of, the ones in the packet.

The reading materials have not been selected to provide a balanced view of corporate power and its impacts on countries and people in all parts of the world. In modern society we are inundated with the corporate perspective on almost every issue. These materials are intended to provide pieces of the largely untold story of how corporations have come to dominate our lives in the name of profit and at the expense of people and the planet.

The study groups represent an opportunity to create intentional laboratories to experience and practice democracy. This initial session focuses on the process the group chooses to use in its discussions. Democracy is a word we use daily in the United States, but many of us have not had the opportunity or motivation to think deeply about what it means to be a self-governing people. The study groups provide us with an opportunity to challenge ourselves to notice and explore both content and process during discussions.

Discussion Guidelines: Allow each person in the group to describe how much experience she or he has with group discussion. Review Reading 1, “Study Group Guidelines — Process and Facilitation,” as needed. For some groups this material may already be familiar territory, but for others, it should help the group structure itself. Remember: this is your study group! Design processes that work for you.

Logistics: The date, time, frequency, place, and duration of each session are up to the group. Most groups find two hours per discussion to be about right. We recommend that the group meet weekly or every other week to maintain continuity with the material and to develop the cohesiveness of the group. (If an already-intact group is using these materials, monthly meetings may be ok.) At this initial session, the group will need to:

- develop its own set of discussion guidelines (use Reading 1, if needed)
• determine when and where it will meet next
• establish a process for obtaining the readings (who needs photocopies, who can get material off the WILPF website)
• distribute the readings for the next session (as needed)
• select a facilitator for the next session (we strongly recommend the democratic approach of rotating facilitation responsibilities among the members of the group)

We suggest that each person obtain a three-ring notebook to keep all their materials in one place. We also recommend that you use recycled paper and use both sides when making photocopies.

The people in each group represent a range of experience and knowledge about the subjects for discussion and other related topics. A few of the readings are somewhat academic and intellectually challenging; others are more easily accessible. In the evaluation forms that WILPF has been receiving from around the country, some people find a particular reading stimulating and provocative while others find it confusing or even useless. This diversity of experience and response to the readings fuels each group’s discussions.

Optimal group size is 6-10 people to ensure enough viewpoints for lively discussion and adequate opportunity for everyone to participate.

An evaluation form is included with the materials in this session. We ask that each person in the group, or the group as a whole, please provide us with this feedback. It has been extremely helpful to us to improve the study materials and find out what works and what doesn’t. You may wish to fill in the form as you go, especially comments about which readings you found particularly useful or useless, which is why the form is provided now.

**Supplementary Materials:** In addition to the readings for each session, there is a list of additional material that groups may use in a variety of ways. The primary purpose for this is to provide any individual or the entire group with an opportunity to dive deeper into the topic if they wish. Here are some possible ways the group might use these materials:

- One person might review one or more of the items and then provide a synopsis for the group.
- The group may be so intrigued with a particular topic that they want to spend more time on it before going on to the following sessions.
- After completing all ten sessions, the group may wish to continue meeting and can select from any of these supplementary materials for further discussions.

When a reading has been taken from a book, we provide the title, author, and publishing information so anyone interested can obtain it (note: we urge you to use the library and purchase books from independent bookstores whenever possible). Some of the materials are available on the internet. Some of them are pamphlets or videotapes, for which we provide the publishing organization. If there is no publishing information, the material is available from WILPF.

Please let us know about any supplementary materials that you recommend adding to the list. Also let us know if we need to make any corrections regarding where to obtain materials.

**Discussion:** After reviewing the course and working out whatever logistical needs the group has, use the remaining time in this initial session for the first discussion. Distribute the materials for this session and allow everyone five minutes to read the campaign proposal remarks by Virginia
Rasmussen (Reading 4) and then discuss your reactions, concerns, and ideas. (In addition, or alternatively, you may wish to use the first three questions from the Q&A document, Reading 3.)

Readings:
1 – WILPF fact sheet (1 page)
2 – Study Group Guidelines- Process and Facilitation (4 pages)
3 - Campaign questions and answers (7 pages)
4 – “Remarks on the Campaign Proposal,” by Virginia Rasmussen (2 pages)

Supplementary Materials:
- The Constitution of the United States of America. All members of the group may wish to have a copy of the Constitution; at a minimum, we suggest that at least one person have it handy so that the group can refer to it, if desired, during discussions. The Constitution can be obtained on the internet at www.house.gov or at a variety of other websites by searching on “U. S. Constitution”.
- Suggested Readings (see Appendix)
- Campaign Glossary (see Appendix)
Founded in 1915, the Women’s International League for Peace and Freedom (WILPF) is the oldest and largest international women’s peace and justice organization in the world.

Since World War I, WILPF has taken action to oppose the root causes of war, and to promote peace, social justice, racial equality and women’s empowerment.

WILPF has an international office located in Geneva, Switzerland; a United Nations office in New York City; and a national office in Philadelphia.

WILPF members have included five Nobel Peace Prize laureates: founders Jane Addams and Emily Greene Balch (the only two American women to win the peace prize prior to Jody Williams), Linus Pauling, Alva Myrdal, and Dr. Martin Luther King, Jr.

There are WILPF sections in more than 40 countries, including Argentina, Bolivia, Bulgaria, Canada, Chile, Colombia, Costa Rica, Denmark, El Salvador, Finland, France, Germany, Israel, Korea, Lebanon, Netherlands, New Zealand, Norway, Palestine, Panama, Paraguay, Peru, Philippines, Poland, French Polynesia, Portugal, Russia, Sierra Leone, Sri Lanka, Sweden, Switzerland, United Kingdom, Uruguay, Venezuela, and the United States.

Recent WILPF Projects:

Women Challenge US Policy: Building Peace of Justice in the Middle East:
WILPF's Middle East campaign will examine the role of U.S. policy in the dynamics of current conflicts. It will educate communities to policy dimensions seldom discussed regarding Palestine, Israel, Iraq, Afghanistan and elsewhere. What economic interests underlie the power struggles in the region? What U.S. policy changes will end violence and promote justice? The campaign will work to bridge gaps, engage diverse groups in developing a women's vision for U.S. foreign policy, and join with women in the region to claim U.N. Security Council Resolution 1325's promise that women's active participation can bring peaceful, democratic resolution to the conflicts.

Save the Water Campaign:
Water is the earth’s most precious resource. Access to safe and affordable water is a human right. Local, democratic control of water is essential for food security and peace. Everywhere accelerating privatization threatens public control over access to water while scarcity looms from overuse and pollution. WILPF's campaign starts with developing water literacy and awareness that the protection and use of water is a community issue. WILPF-fostered local water research and planning groups empower communities to take responsibility for their own water quality and availability. The campaign seeks to be a catalyst for a national mobilization to "take back the water" and move this vital resource for all life into the Public Trust."
Challenging Corporate Power, Asserting the People’s Rights
Study Group Guidelines — Process and Facilitation

Brazilian educator Paulo Freire claims that through conscious efforts of education, reflection, and action people can build movements that change conditions. Meeting that goal requires that we define ourselves and our communities, deciding what a democratic society should look like and how it ought to work. Study groups — small, democratic, and participatory — are a proven method for social learning. They offer a way to voice our own histories and experiences and to engage one another in matters of our common life. Study groups give us an opportunity to pay as much attention to our process of interaction as the content of what we discuss, since democracy is something you do, not something you have.

Discussion Tips

- **Stay focused without being rigid.** Most people do not find a rambling discussion useful.
- **Don’t allow the most talkative people to dominate.** Effective group discussion guidelines enable such behavior to be interrupted without hurt feelings.
- **Encourage comments from quiet participants.** Create space that welcomes this without putting anyone on the spot. Examples: “Is there anyone who has not yet spoken?” “Are there some ideas we might be missing in this discussion?”
- **Encourage active listening.** Hearing and understanding what people say and responding appropriately helps a group stay on track and fosters respect for the process and the participants.
- **Pay attention to the group process** as well as the discussion content. Sometimes called a “vibes watcher,” one person can take on this role (rotating each time), or anyone in the group can make observations about the style of interaction at any time.
- **Use conflict constructively.** Avoid personalizing disagreements and keep different views focused on the issue at hand.
- **Pauses and silences are fine.** They allow thinking and reflection.
- **The discussion can be synthesized, summarized, and refocused occasionally,** a leadership function anyone can provide at a given moment.
- **If necessary, one person takes on the role of being timekeeper.** If the group has agreed upon a time limit for each person to speak, then someone should have a watch to keep track. This role should be rotated.
- **No “experts” are needed.** There are no “right” answers. This work is about sharing views, developing understanding, and mobilizing energy.
- **Make sure the physical space is comfortable** and conducive to relaxed democratic conversation.

Study Group Facilitation Techniques

There are many styles and purposes of facilitation, but this document does not attempt to mention or describe them all. Facilitation for a meeting at which a group is trying to make decisions and adhere to an agenda can be different from a general discussion like that for a study group, although many aspects may be similar.

**What does a facilitator do?** The primary function of the facilitator in a study group is one of traffic cop — the main purpose is to keep the conversation moving by managing who speaks.
when. At the beginning of the session, the facilitator should call the group to begin and review the process by which the group will proceed for the discussion period. It is a good idea to post the agreed-upon discussion guidelines and review them. Some groups rotate a role of writing a synopsis of the readings and sharing that at the beginning. Others start by deciding whether they will allow a certain amount of time for each question or article, or, alternatively, let the facilitator or the group just decide organically when it is time to move on. You may come up with other procedural matters that are important to the members of your group that the facilitator manages. Another option is that each facilitator may do things slightly differently and begin the session by proposing a process that the group accepts. Any of these and other variations are possible.

How can a facilitator help people participate? When the discussion gets going, it’s not uncommon for more than one person to want to speak at a time, so here is a commonly used facilitation technique. As one person talks, other people who wish to speak next raise their hands and the facilitator notes that person’s name on a list. The person who’s raised her/his hand and the facilitator make brief eye contact, the facilitator nods so the person knows they’ve been added to the list, and then that person can put their hand down, relax, and listen until s/he is called on to speak. The facilitator keeps a written list (some people can do it in their heads) and then calls on people in the order they were added to the list. If the discussion is energetic and/or if the facilitator wishes to make sure everyone is on the list, when calling on the next speaker s/he might say something like, “I have Roy, then Kris, then Chuck, then Charlotte. Is that everyone?” That way, if someone who already raised their hand is missing from the list, they can be sure to get added to it right then.

Here are some dynamics to observe while managing this process. It is not uncommon for the facilitator to give 100% of their attention to the person who’s speaking, but a better amount is about 90%. A good metaphor is driving a car. When you’re driving, it’s recommended that every ten seconds or so you should check your rear view and side mirrors and glance out your side windows so you always know what’s going on around you, because things are constantly changing on the road. The same is true when you’re facilitating a discussion. It’s important to listen to the person speaking, but every ten seconds or so you should unobtrusively glance around the group to see if anyone has their hand up. People could think of something they want to say at any point when someone else is speaking, and since people are often eager to share their comments, it’s important to get them on the list so they can relax and really concentrate on the current speaker without worrying that they won’t get their turn.

Note that the facilitator can put him or herself on the list as well. Being the facilitator does not mean you do not participate in the conversation.

Sometimes people worry that if there are several people ahead of them on the list, they’ll forget what they wanted to say. You might jot down a few words or a phrase that will reconnect you to your idea, since other speakers may take the discussion in a different direction before you get to speak. If this happens, you might start by saying something like, “I’d like to go back to what Audrey was saying about…”

What about someone who monopolizes airtime? Some groups need to set a discussion guideline of limiting how long each person speaks. It is a matter of respect for the group that no one person dominates the conversation, but some people don’t have a very good
sense of time and just really aren’t aware of how long they speak, or don’t realize when they’re starting to repeat themselves. If this is happening, the facilitator might gently say something like, “Are you almost finished?” giving the person a chance to complete their thought and reminding them that it’s time to stop. If a facilitator needs to be more directive, s/he could say something like, “OK, I’m going to cut you off now” to a particularly loquacious person, especially after they’ve been given a warning that their time is up. Because the study group is small, you are not likely to need such a time length guideline or intervention technique, but it’s handy to know about it in case the group decides it would be helpful.

 Avoiding conversations of two. A dynamic to watch for is cross-talk. Remember that this is a group discussion, so one goal is to avoid a dialog between just two people in the group. If the facilitation is very casual, the way this sometimes happens is that one person is speaking and another asks them a short, direct question (usually without being on the list) that the speaker feels compelled to answer, and sometimes this can happen several times while the rest of the group just watches. In this case, the group counts on the facilitator to remind people to raise their hands so everyone gets a fair chance to speak, although anyone in the group should feel empowered to remind the group of the discussion guidelines. You can simply say something like, “I’d like to remind everyone that we’ve agreed to raise our hands before we speak.”

 Points of clarification. There is a behavior that looks similar to cross-talk, but isn’t, and is an exception to people being on the list. This is called asking for a point of clarification. If a person can’t hear the speaker or doesn’t understand a word they’ve used, or just doesn’t understand what they’re saying, they can immediately ask for a point of clarification. Examples are: “Excuse me, did you say ‘permeate’ or ‘punctuate’?” or “I’m sorry, what did you say after ‘In 1886’?” or “What does ‘tesselate’ mean?” or “I’m completely not following you.” (This last one is rare.) A point of clarification is NOT, for example, “Based on what you said, what kind of items do you think should be on a party platform?” A speaker’s response to a real point of clarification is usually short and does not break the speaker’s concentration or flow while it enables the listener to understand what the speaker is already saying, not expanding on it. It is appropriate for the questioner to ask the facilitator if they can ask a point of clarification. Sometimes the questioner asks the speaker directly, but then that momentarily puts the speaker into the role of facilitator without the agreement of the group. Sometimes this puts the speaker in an awkward position, especially if the group is counting on the facilitator to keep the group organized.

 Staying on topic. One of the most challenging parts of being the facilitator in these study groups is trying to keep the conversation on track. People drawn to these discussions have a wide variety of experience and knowledge, and it’s easy to get sidetracked onto all kinds of interesting topics. You want this other information to enrich your conversation — that’s the whole point of bringing disparate people together — but you also want to try to keep it tethered to the topic at hand. Anyone in the group who feels the discussion is straying too far should feel empowered to point this out or just ask the question “Have we gotten too far off topic?” so the group can decide whether to continue that thread or shift back to where they started. But it is a good idea for the facilitator to be particularly alert to this phenomenon and watch for it.
Including all participants in the discussion. In any group discussion there may be a few people who are quieter than others. In these study groups the number of participants is small so that everyone has enough time to participate meaningfully, but some people may have less to say about one topic than another. Who is quieter in any given discussion may change from meeting to meeting. The facilitator should try to keep track of who hasn’t spoken and check in periodically to see if they want to participate. This can be unobtrusive — for example, “Does anyone who hasn’t spoken yet want to speak?” — which can prevent putting someone on the spot. Or you can be more directive — for example, “Tim, Brenda, we haven’t heard from you in awhile. Do either of you want to say something or pass for now?” Some groups use a guideline that says no one should speak twice until everyone has had a chance to speak once. If you choose to implement this, then the facilitator needs to keep track of who’s spoken and who hasn’t. People should not feel that they must speak, just be given the opportunity to do so.

Occasional need for summarizing. Another role the facilitator may perform is to summarize the discussion periodically, particularly when it is time to move to another question. Again, anyone in the group should feel empowered to do this when it seems appropriate. The group may not feel the need for summaries — this is something that is often necessary in groups that need to make decisions, which is not the purpose of a study group. Some facilitators find it easier to make summaries than others do, so you may just leave it to whoever is facilitating to decide. Also, there may be no real summary to make — this is, after all, a discussion group, and each person can make a summary for him or herself.

Sample Agenda

- **Checkin.** This is an opportunity for participants to build community, sharing something that’s going on with them or a thought or question related to the day’s discussion. A limited amount of time (usually one minute) is allotted for each person.

- **Agenda review.** Go over what is planned for the discussion and allow modifications or additions by the group. Agree upon an ending time and, if appropriate, allocate time blocks to certain questions, readings, or other topics.

- **Review the discussion guidelines.**

  - If the group has decided that each time one person should perform these functions, **assign or confirm a timekeeper, notetaker, and/or vibes watcher.**

  - If the group has decided to use this format, **one or two people can make a brief presentation** of the materials to get the discussion rolling. This should be highlights only to ensure that everyone is “on the same page.”

- **Facilitated discussion.**

- **Plan for the next session.** Distribute the readings and choose a facilitator and any other needed roles.

- **Wrap-up and evaluation** (what worked well for people; what did not).
WILPF Campaign to
Challenge Corporate Power and Assert the People’s Rights

Below are questions that have been raised since this campaign was selected at the U.S. Section Congress in June, 1999. The campaign committee hopes that you’ll add to these answers and create new questions in our exploration of democratic dialog.

1. Why is this campaign important and what are its primary goals?

The corporate form has existed for hundreds of years, but in the last century its impact on people’s lives has increased exponentially. The prime directive of all corporations is to increase shareholder wealth. In pursuit of ever-increasing profits, a variety of societal and environmental harms inevitably occurs, whether or not these are intended by the people who work in corporations. The past decade of accelerating transnational corporate growth has demonstrated clearly the oppressive and destructive capacity of this institutional form. The powerful executives who run the world’s multinationals control society in a way that undermines democracy, social justice, labor rights, and the environment.

WILPF’s campaign has two equally important goals. One is to redefine the relationship that currently exists and return economic institutions to their rightful place as subservient to the needs of people. We can begin by educating ourselves about the roots of illegitimate corporate power and how it has colonized our minds, usurped our governments, and deteriorated our lives and the natural world that sustains us. The other goal is to reclaim democracy by exploring what it means, examining our own behaviors, and experimenting with truly democratic ways of interacting. Facing these twin challenges can help create new social structures that better serve the needs of all people.

This work is particularly important for those of us in the United States, where the corporate form is the most entrenched, sophisticated, and voracious and the citizens the most accepting. Corporations in the U.S. determine in large part the food we eat, the clothes we wear, the news we see, the people we elect, the jobs we have. When we remain silent, we continue to benefit from corporate exploitation at the expense of other people around the world. By speaking out, we challenge the evangelical lies with which corporate globalization is being triumphed as the solution for the world’s problems.

2. What kinds of activities will happen in this campaign?

Like all of WILPF’s work, the kind of comprehensive change we envision will not happen overnight. The core issue is not corporations or even our economic systems, although they are integrally connected. We feel that the greatest challenge is to shift our energy toward focusing on democracy — what it is, what it is not, and what it can be. This requires us to examine who we are as human beings. What is our nature, our potential? What are our capabilities? Grounded in such critical analysis, we can choose more effective strategies and actions.
WILPF branches have an expanded opportunity with this campaign to become intentional laboratories that model truly democratic processes in our communities. The work begins at home — each of us must look at our own colonization, dependencies, beliefs, practices, denial systems, and how we interact with others. There is much we can learn from studying other groups, such as native peoples, about social interaction and building sustainable communities. Focusing on democracy, we may find a fresh perspective with which to build bridges to other groups and find allies with whom we can work in coalition.

This does not mean we should end efforts that challenge one corporate law, permit, or abuse at a time. Urgent situations deserve our attention and are excellent opportunities to educate ourselves and our communities about not only the injustice at hand, but also about the illegitimate authority of corporations and the kind of democracy we can work to establish. We can research state constitutions, laws governing corporate charters and what it takes to revoke one, and the history of people’s efforts to keep corporations subordinate to their legislatures. What laws have been removed from the books that would benefit the public good by being reinstated? The recent “victories” against tobacco corporations have increased public awareness of corporate excess and abuse. How can we capitalize on this situation for deeper change? How do we critique our work to make certain that we frame it as sovereign citizens who belong in charge? As we move past the first phase of this campaign, we look forward to exciting ideas coming from the branches for more activities.

3. Do people really want true democracy? What would it take?

We encourage WILPF communities to explore these questions. Cornel West, speaking of the “colonization of our minds,” said that it’s difficult “even to imagine what a free and democratic society would look like.” Here are some characteristics you might explore. People in such a society might have to:

- figure out where we want to go and what we want to be instead of being told; in such circumstances, our social structures would unfold from this perspective, not the other way around
- be adults, fully responsible for our actions and accountable for our lives; this would require us to let go of the comfort of hierarchy and excuses like “it’s someone else’s job/fault” and “no one told me”
- respect, trust, support, and listen to others; contemplate non-judgmentally what they say and do
- embrace the complexity, diversity, and paradox in our lives; accept that there aren’t simple, easy answers, although our lives can be much simpler
- give according to our ability and take according to our need
- deal constructively with our personal wounds and fears
- let go of our illusions of safety
- be fully alive instead of being emotionally numb
- share ourselves and our resources rather than be selfish

Session I, Reading 3, page 2
4. How did corporations get to be so big and powerful?

The colonial war for independence from England was fomented primarily by a small number of white, propertied men who wanted the freedom to exploit the Americas on their own and had grown tired of sharing their burgeoning wealth with the English ruling class. They rejected not only the monarchy but also the large trading companies chartered by the king and the colonies to control property and commerce. Thus the framers of the Constitution provided for corporate charters to be issued by state legislators — the people’s representatives — not presidents, governors, or judges. A charter defined and limited the corporation, with specific provisions about what it could do and for how long, and corporate charters were frequently revoked when violated.

But the fundamental purpose of the Constitution was to protect the rich. Despite their initial resistance to corporations, the wealthy in the U.S. increasingly used them as shields for their personal fortunes. Growing in size and numbers during and after the Civil War, corporations began influencing legislators, bribing public officials, and employing lawyers to write new laws and file court cases. Gradually legislators increased corporate charter length while they decreased corporate liability and citizen authority over corporate structure, governance, production, and labor.

The Supreme Court was established as the ultimate protector of the propertied class. In this role it has rendered what otherwise seem to be bizarre judgments. In 1868 the U.S. ratified the Fourteenth Amendment, ostensibly to guarantee the rights of freed slaves. But as Supreme Court Justice Hugo Black noted in 1938, “Of the cases in this court in which the Fourteenth Amendment was applied during the first fifty years after its adoption, less than one-half of one per-cent invoked it in protection of the Negro race, and more than fifty percent asked that its benefits be extended to corporations.” This was possible because in 1886, in Santa Clara v. Southern Pacific Railroad, the Court cited the Fourteenth Amendment, declaring that private corporations were “persons de-serving the law’s due process.” The decision was significant in light of the fact that women, Native Americans, and most African American men were still denied the right to vote.

It took the wealthy only a century to change the corporation from an entity subservient to the public good into a “person” with legal rights that exceed those of human beings. There have been many struggles against the corporation in the century since Santa Clara, but the legacy of the Robber Barons has, in many ways, strangled democracy just as effectively as the king against whom the colonists initially railed.

5. Don’t regulatory agencies effectively monitor corporations and protect citizens and the environment from harm?

Regulatory agencies are one of the biggest public relations success stories in the U.S. The first such agency, the Interstate Commerce Commission (ICC), was created in 1887 to mollify a public sick of railroad corruption. But the ICC was actually a creation of the railroad executives. Weary from years of fierce price cutting and rate wars, and wary of populist uprising against them, they hatched a plan to protect themselves from consumers and each other. The ICC was
so successful for the railroads that other industries — such as insurance, meat packing, food, banking, and communications — soon acquired their own regulatory agencies.

These big corporate players sought an escape from the rigors of competition through control of markets, government-borne costs of infrastructure and quality control, and direct or indirect price maintenance or guaranteed rates of return. But even though the government provides these services with taxpayer dollars, all profits still belong to the stockholders and owners. Criticism by those who saw through the charade began with the ICC and has resurfaced periodically, but regulatory agencies remain because they effectively protect the corporations that control politicians today as much as — or more than — they did at the end of the 19th century.

Some of the recurring criticisms are that:

(1) regulatory agencies are unaccountable to voters, with discretionary authority that is too easily abused;
(2) they combine legislative, executive, and judicial power in one place;
(3) their personnel and outlook reflect the views of the corporations they are supposed to be regulating;
(4) since individuals and small businesses can’t afford the time and expense to fully participate, large corporations dominate; and
(5) procedural considerations are so intricate and demanding that matters of fairness, justice, and overall policy questions, not to mention common sense, are ruled irrelevant if they come up at all.

Any one of these five would present a serious obstacle to democratic control. Together, they are so formidable anti-democratic that their existence is a clear indictment of the disconnection between people and our sovereignty. Under the regulatory system, harms done by corporations are violations of the law, not violations of people and communities. This enables corporations to employ legions of lawyers skilled in defense, offense, and evasion to bring about delay, distortion, denial, dilution of charges, dismissal of charges, and nonpayment of fines. Harms to real people are often unpunished and unchanged for many years while the corporations continue to accumulate profits.

It is all too easy to find collusion between corporations and the agencies that are supposed to regulate them — not unlike the relationship between the Pentagon and military contracting corporations. Former officials with the Food and Drug Administration, for example, can be found in the executive ranks of companies like Monsanto, and vice versa. Corporations are allowed to submit their own research data proving product efficacy and safety, but since the data is classified as a trade secret, it’s not available to the wider scientific community for verification. Academic institutions further complicate the mix. A revolving door between universities and agencies also exists, and corporations often provide significant funding for “independent” research that invariably supports the products and services under consideration.

Session I, Reading 3, page 4
Even when committed people work for them, regulatory agencies are underfunded, understaffed, and usurped by powerful legislators who are influenced by campaign contributions and constituent pressure for jobs. What’s more, regulatory agencies make great red herrings. Corporate public relations teams blame them for economic ills and bureaucratic delays, and the public blames them for not doing their jobs. Attention is deflected away from corporations as the source of the problems and toward efforts to reform regulatory agencies. That the concept of the regulatory agency is inherently flawed doesn’t even make it into the discussion. Until we can move this idea to the center of our debates, we cannot open up new strategies for change and greater democracy.

6. What’s so bad about corporate power?

Corporations are legal creations designed to protect a limited number of people in their accumulation of wealth. Because their primary concern is increasing shareholder value, they have no obligations to people or the planet. Competition drives corporations inexorably toward greater profits to increase their stock prices or go out of business, and increased profits must eventually be achieved through reductions in expenses. The corners cut negatively impact the number of jobs, wages and benefits for workers, and protection of the environment. Furthermore, accounting systems do not fully account for all expenses; for example, corporations do not budget for the cost of recycling packaging or toxic site cleanup. In other words, profits are privatized and costs are socialized.

Capitalism is characterized by private ownership of goods, so only those with resources can continue to benefit from the system of investment. This creates a tendency toward monopoly and over time expands the gap between the rich and the poor. Decisions are increasingly made to benefit a few at the expense of the many. The resulting power imbalance drives societies further and further from democracy.

7. Aren’t corporations making the world a better place by becoming more socially responsible, creating jobs, contributing to education and the arts, and being good corporate citizens?

“Socially responsible corporation” is an oxymoron created by corporate public relations teams. Corporations, by definition, have no responsibility to society; their stated purpose is to increase shareholder wealth. Likewise, there is no such thing as a “good corporate citizen”; corporations are legal creations, not citizens. Individual people at corporations may genuinely care about their communities and use corporate wealth to invest in them; however, this occurs only when the corporation is adequately profitable and usually because the corporation realizes valuable public support as a result. Corporations only create jobs and engage in socially responsible acts if it is in their best interest. Because corporations have so much wealth and power, people are rendered supplicants to them, grateful for their apparent generosity, but this relationship is upside down. It is corporations who should be subservient to sovereign citizens and accountable to the public good.

Most people are so disconnected from the political process that they are unaware of how corporate welfare contributes to this cycle. Government transfers as much as $167 billion
annually to corporations in the form of outright cash payments, provision of below-cost products and services (such as loans and insurance), tax breaks, laws that help business bottom lines, and government purchases of goods and services from businesses at inflated prices (even though laws have been passed to prevent this). All of this government incentive to businesses can leave public coffers bare, creating an ideal opportunity for corporations to acquire public gratitude by contributing to schools, museums, and symphonies. It’s a highly successful scheme for co-opting public power and colonizing the public mind.

8. Isn’t competition a good thing, ensuring our ability to choose the best quality products and services we want at affordable prices?

The alleged benefits of competition are another product of corporate public relations teams. Healthy competition is a normal part of life on planet Earth, but in patriarchal systems, corporate competition can encourage the worst possible excesses of human behavior. Because of the relentless search for increasing profits, individuals are constantly tempted to make unethical decisions in order to stay in business. Those who stoop the lowest eventually set the standard for all, keeping a steady down-ward pressure on the level of acceptable behavior. Excuses like “if we don’t, some-one else will” and “everyone else is doing it” are frequently invoked.

In the competitive marketplace, the only measure of comparison is the best quality for the lowest price. Rampant consumer-ism conspires with this system and is an essential component for keeping it alive. Since consumers are distant from production, they seldom know what corners are cut to achieve “affordable” prices. Indoctrinated to amass as many possessions as possible — to be consumers rather than citizens — many people become concerned only about the price of a good or service instead of the condition of workplaces, the wages paid, the pollution of the environment during production, or the disposal process once their purchase is no longer useful.

Institutionalized cooperative structures, processes, and behaviors have the potential to provide for the needs of people far more effectively without increasing personal wealth at the expense of others. Until we let go of our need to feel we are better than others by getting ahead of them, competition will continue to be viewed as a good thing by the few who benefit from the system as well as the masses on the bottom who believe they can eventually do the same, even though their actual chances are almost nonexistent.

9. Why would corporations want to degrade the environment when they or their loved ones live there, too?

Those benefiting most from corporate practices don’t live where the greatest degradation occurs. The more wealth one has, the more one is insulated from social violence, overcrowded communities, environmental pollution, and toxic exposure, and the more likely one is to receive good healthcare, a quality education, and opportunities for a satisfying life.
In the United States, there are millions of people in wealthy communities, which, in this context, includes the middle class. When we are surrounded by so much wealth, so many like ourselves, and such a variety of diversions it is easy to believe that social problems suffered by the majority of the world’s population are not quite real or even ignore them altogether. Job security and continuity of lifestyle is a real concern even for people with wealth (especially those in the middle class), and denial is a way to get past the uncomfortable idea that one is inflicting harm, however indirectly.

Apparently personal gain outweighs possible risk for some people. Many corporate spokespersons appear to believe their own rhetoric. Tobacco executives smoke cigarettes, agribusiness scientists eat bioengineered food, automotive engineers drive fuel-inefficient cars. They scoff at criticisms of their products or practices and insist that they are not harmful. Since much of the damage can take years or decades to manifest itself, these reassurances can be seductive. We can ask ourselves, “What does this person have to gain if I believe him/her? Will any harm to me impact this person negatively?”

10. How can we make a difference without financial leverage when the issue is so big?

WILPF’s campaign committee for Challenging Corporate Power and Asserting the People’s Rights believes that democracy really matters. Our own explorations of this issue have convinced us of the importance of claiming our sovereign rights for more satisfying lives, if not our very survival. The structures we have that are called “democratic” pale beside the possibility of what we could have.

It is true that the challenge is enormous — corporations have money, legislators, judges, and the majority of public opinion on their side. For inspiration, we can look to the history of change effected by committed people who abolished slavery, achieved women’s suffrage, protected laborers, and improved civil rights for people of color, gays and lesbians, and older and displaced people. These struggles took place over many decades and required an enormous change in values for the majority of the population. In contemporary times, we may be hampered in a way that our forebears were not because instant gratification has become such a widespread expectation. Further, our omnipresent media suggests that if you are not famous or influencing hordes of people, your efforts don’t count and you shouldn’t bother.

All of us who undertake this work must believe we make a difference. Even if it appears to be a small effort, it’s not. Reclaiming our power and our sovereignty is a significant achievement! Decolonizing our minds so that we may explore new social structures will enrich our own and others’ lives. We cannot control what others do, but we can make our own choices. Modeling the kind of truly democratic behavior we seek is a critical first step, and our work will attract others who will bring fresh inspiration to augment our efforts. This is making a difference at a fundamental and crucial level. We look forward to sharing the work with you.
Challenging Corporate Power, Asserting the People’s Rights
Remarks on the Campaign Proposal
WILPF National Congress, June 23-27, 1999 • St. Louis, Missouri
by Virginia Rasmussen

There have been four pervasive patriarchal institutions in the history of Western Civilization. These are the classical empires, the ecclesiastical institutions, the nation state and the modern corporation. But the WORST of these is the modern corporation.

It holds this distinction because it exerts the functions and powers of all those other institutions AND more.

Like the classical empires, the giant corporations have become global empire. Like the ecclesiastical institutions, they preach a faith and pronounce what is of value. Like the nation states, they are now our government, and determined to bring us our future.

In addition, the modern corporation increasingly determines the nature, content and our personal roles within the economy, the world of work and the educational system. They steadily shape the nature of our communities, of our very planet, and our relationship with both.

The biggest of these giant multinationals are larger in income and budget than most nation-states and growing.

Along with this relentless growth, the world has been experiencing “ever deepening environmental degradation, widespread unemployment and economic insecurity, displacement of peoples and cultures, violence against and trafficking in women and girls, pandemic poverty, an unraveling of the social fabric, and an assault on democratic institutions and spiritual values.”

This proposal, “Challenging Corporate Power, Asserting the People’s Rights,” recognizes and responds to the need for a new kind of struggle to wrest power over life, law and culture from these corporate bodies.

The proposal focuses WILPF’s efforts to do this work in three major realms:
• our preparation and that of others in our communities for a campaign against locally-felt corporate takings of OUR power,
• the carrying out of that campaign, and
• the merging of that work in a way that allows us to conduct some sort of national event or action that asserts the people’s rights OVER corporations.

Such campaigns might center around (1) the struggle to prevent a megastore’s...
assaultive entry into a local economy; (2) holding public meetings on the question of why your community SHOULD and how it MIGHT establish democratic control OVER the corporations in its midst; (3) exploring the possibilities behind a municipal ordinance that defines the basis on which corporations can set up shop in that community; or (4) working on ways to remove encroaching, co-opting corporations from the local public school system.

The IMPORTANT question is HOW we do this work? ........RADICALLY.

This proposal acknowledges that we are NOT succeeding in stopping the damage corporations impose by doing what we’ve been doing — trying to regulate, reform, make more responsible or better behaving these institutions we created to serve us, institutions that have become pathologies in the body politic.

The proposal responds to the need for a NEW understanding of history, one that reveals the corporate usurpations of governing authority occurring in this country over the last 150 years.

It addresses our need to grasp more deeply the toxic impact of these corporate entities on our capacities to BE democratic, on the trust, process, skills, even the time we the people need to DO democracy, to carry out the rights and responsibilities necessary for our own governance.

This proposal operates out of a framework for learning and language, for strategies and action that seeks a change in the NATURE of economic institutions to one that puts them in appropriate relationship to the people, that of subservience.

There are several key truths that anchor this framework. They relate to what corporations are and what they are not:

• The corporation is NOT a person ...it is a THING, a legal construct. Yet it was declared a person by a Supreme Court under corporate control in 1886.
• The corporation is NOT private property. Created by the public to serve the public, it does not become a private entity upon that creation but should remain under public DEFINING, not regulating, powers.
• The corporation does NOT have rights. It has only privileges which we the people gave it and we the people can take away. PEOPLE have rights, and it is WE who are responsible to one another for the performance of our corporate creations.

While this is a large and long task, it is NOT undoable. Rule by corporations is neither inevitable nor irreversible, but we must, as WILPF so well knows, work to pull out the ROOTS of this pathological engine driving the corporate-capitalist economy.

WILPF is well placed to help kick such a people’s movement into gear through its branches at the grassroots.
Few would argue that corporations today are not only ubiquitous but have enormous power over our lives. Was it always like this? How did it get to be this way? And what are the implications of this situation for democracy? The readings in this session explore the answers to these questions and challenge the concepts of democracy that are commonly accepted today. Indeed, so much power and wealth has been amassed by corporations that they can be said to govern, presenting a mortal threat to our body politic. To use a medical analogy, when a surgeon cuts out a cancer, it’s not to punish the cancer; it’s to save the body. If we wish to prevent the total demise of democracy — rule by the people — then we must return corporations to their subservient role.

A central task in this session is to establish the group’s process of sharing leadership, an opportunity to design and practice democracy as you grapple with the history and ongoing struggle for self-governance.

**Readings:**
1. “Know Thine Enemy,” by Joel Bleifuss (2 pages)
2. “Can Corporations Be Accountable?” by Richard Grossman (7 pages)
3. “Human vs. Corporate Rights,” by Mary Zepernick (2 pages)
4. “Meet the Corporation” by Chris Warren (5 pages)
5. “Gangs of America” by Ted Nace (6 Pages)

**Discussion Questions:**
1. How does this history shed light on the role corporations play on the current scene? In what ways is our democracy affected? Our minds colonized?

2. At the time of the Constitution, who defined what a person is and what property is? How did having the power to define shape the evolution of democracy? Who has the power to define today? Why does the power to define matter?

3. What decisions, laws, and institutions have supported the accumulation of corporate wealth, power, and privilege?

4. Discuss definitions for the following: sovereignty, public interest, common good. How are these concepts incorporated into dominant thinking today and how have they changed over time?

5. Can corporations be reformed or does their very existence threaten self governing democracy?
Supplementary Materials:


- “Who's in Charge?” by The Programme on Corporations, Law & Democracy, London, England. Reviews the evolution of corporations in Great Britain over the same period of time as the readings in this session. 16-page booklet (equivalent of eight standard 8.5x11 pages). Price: $2 (includes postage).


- “Gangs of America” by Ted Nace. Condensation can be downloaded from www.bloomingtonwilpf.org. Click on local agenda.
Corporations can’t cast a ballot, but they do vote with their wallets. In the 1995-96 election cycle, corporations and corporate PACs contributed $147 million to candidates running for federal office. The United States is one of the few democracies where such donations are legal. The Supreme Court affirmed the right of corporations to pay for electoral campaigns in the 1978 case First National Bank v. Bellotti. Writing for the majority, Justice Lewis Powell explained that giving cash to influence the outcome of an election “is the type of speech indispensable to decision making in a democracy, and this is no less true because the speech comes from a corporation rather than an individual.”

Indeed, under the prevailing interpretation of the Constitution, corporations have the same rights as individuals. This was not always the case: American corporations gained these protections in the 19th century, when the Supreme Court, in a series of rulings, defined the relationship between business and the state. Those rulings shielded companies from government regulation and thus allowed the corporation to become the dominant form of economic organization. As we near the 21st century, the combined gross revenues of the 200 largest corporations exceed the GDP of all but the nine richest nations. In this context, it is important to know how corporations came to hold such sway over our everyday lives, and what can be done about it.

The first corporations appeared in 17th-century Europe, during capitalism’s infancy. At the time, the government chartered all corporations—that is, it gave them a specific public mission in exchange for the formal right to exist. The United States was settled by one such corporation, the Massachusetts Bay Company, which King Charles I chartered in 1628 in order to colonize the New World. The practice of chartering companies was a crucial part of the mercantile economic system practiced by the epoch’s great powers—Holland, Spain and England. By allowing investors to pool their capital, the monarch made it possible for companies to launch ventures that would have been beyond the means of one person. And in exchange for the charter, companies expanded their government’s wealth and power by creating colonies that served both as sources of raw materials and as markets for exported goods.

But in the 18th century, the Enlightenment challenged this model of economic organization by putting forward the idea that people need not be subjects in feudal structures but could act as individuals. American revolutionaries, inspired by radical notions of “unalienable rights” to “life, liberty and the pursuit of happiness,” fought for independence not only from the Crown, but from the corporate bodies it had chartered. The Boston Tea Party, for example, was a protest against the British East India Company’s monopoly of Eastern trade. Another critic was Adam Smith, whose Wealth of Nations was published in the same year as the Declaration of Independence. Influenced by John Calvin, Smith believed that human resourcefulness and industry were earthly signs of God’s favor, and thus that wealth obtained in a market economy was an expression of “natural justice.” Smith, however, did not think that corporations were a natural part of this order. Arguing that large business associations limit competition, he wrote, “The pretense that corporations are necessary to the better government of the trade is without foundation.”

In the infancy of the republic, Americans gave little thought to corporations. In 1787, fewer than 40 corporations operated in the United States. By 1800, that number had grown to 334. Like the British corporations before them, these companies were typically chartered by the state to perform specific public functions, such as digging canals, building bridges, constructing turnpikes or providing financial services. In return for this public service, the state granted corporations permanence, limited liability and the right to own property.

American manufacturers began to form corporations only when trade with Europe was shut down by President Thomas Jefferson’s embargo of France and Britain from 1807 to 1809 and by the War of 1812. In order to supply the domestic market with the manufactured goods that had previously come from England, Americans formed new companies to amass the capital needed to build factories. The rise of these associations—created not to fulfill a public mission, but to create private wealth—led to a legal dilemma: How would these new forms of business enterprise be treated under the law?
That task fell to the Supreme Court, then under the leadership of John Marshall, a staunch federalist from Virginia. The Marshall Court (1801-1835) created a national market by striking down trade barriers between the states. It also set precedent for later business interpretations of the Constitution by invoking the Constitution’s “obligation of contracts” clause (Article I, Section 10), which states that “no state shall… pass any… law impairing the obligation of contracts.” For example, in Fletcher v. Peck (1810), the Supreme Court refused to allow the Georgia legislature to right a wrong committed by a previous heavily corrupt legislature, because to do so would entail voiding contracts that had been made in good faith.

Not all justices agreed that business reigned supreme. Chief Justice Roger Taney, an Andrew Jackson appointee who served from 1836 to 1864, tried to ameliorate the Marshall Court’s rulings on the sanctity of contracts. In Charles River Bridge v. the Proprietors of the Warren Bridge (1837), he wrote for the majority, “The continued existence of a government would be of no great value, if by implications and presumptions, it was disarmed of the powers necessary to accomplish the ends of its creation; and the functions it was designed to perform, transferred to the hands of privileged corporations.”

In the 1880s and 1890s, the Supreme Court allowed state courts to apply the Marshall Court’s principles on a larger scale. At the time, states with strong Populist movements were passing laws to regulate corporations and the robber barons who owned them. But the courts, using Marshall’s interpretation of the inviolability of contracts, struck down numerous attempts to regulate the workplace and protect collective bargaining.

The hand of capital was further strengthened by an unlikely legal sword: the 14th Amendment, which states that “no state shall deprive any person of life, liberty or property, without due process of law.” The amendment was adopted during Reconstruction to protect recently emancipated slaves in a hostile South. But in the landmark case of Santa Clara County v. Southern Pacific Railroad (1886), the Court, invoking the 14th Amendment, defined corporations as “persons” and ruled that California could not tax corporations differently than individuals. It followed that, as legal “persons,” corporations had First Amendment rights as well.

Using this definition of corporations as persons, the Court proceeded to strike down a whole range of state regulations. In 1938, Justice Hugo Black noted that in the 50 years after Santa Clara, “less than one-half of 1 percent [of Supreme Court rulings that invoked the 14th Amendment] invoked it in protection of the Negro race, and more than 50 percent asked that its benefits be extended to corporations.”

Corporations suffered a setback in the ’30s, when the Great Depression discredited laissez-faire economics. In West Coast Hotel Co. v. Parrish (1937), the Court redefined the due process clauses of the 14th Amendment. In a rebuke of the Marshall Court’s ruling in Fletcher v. Peck, Chief Justice Charles Evans Hughes wrote, “The Constitution does not speak of freedom of contract. It speaks of liberty and prohibits the deprivation of liberty without due process of law.” That same year, the Court, which had previously struck down key components of Roosevelt’s New Deal, upheld the National Labor Relations Act and Social Security legislation. As Justice William Douglas observed in Williamson v. Lee Optical of Oklahoma (1955), “The day is gone when the Court uses the Due Process Clause of the 14th Amendment to strike down state laws, regulatory of business and industrial conditions because they may be... out of harmony with a particular line of thought.”

Although courts now permit government regulation of business, corporations have managed to retain the First Amendment rights they were granted in Santa Clara. Few, if any, mainstream voices consider the question: Should corporations have the same rights as people have? Corporations based in the United States wield vast economic and political power. They can live forever. They feel no pain. They do not need clean air to breathe, potable water to drink or healthy food to eat. Their only goal is to grow bigger and more powerful.

Rather than treating these institutions as if they were flesh and blood, the political and legal system should acknowledge the fact that corporations are merely one way that people organize themselves to do business. They are not “endowed by the creator with unalienable rights” but rather are human-made creatures that can just as easily be unmade if they cease to serve a worthwhile public function.

To begin this retooling process, we need to expose the absurdity of granting First Amendment rights to corporations. We can draw our inspiration from both the 17th-century English philosopher Thomas Hobbes, who decried corporations as “worms in the body politic,” and from Hobbes’ star pupil, King Charles II. In 1664, the owners of the Massachusetts Bay Company protested when Charles II tried to investigate their company’s operations. The Crown responded, “The King did not grant away his sovereignty over you when he made you a corporation. ... When his majesty gave you authority over such subjects as live within your jurisdiction, he made them not your subjects, nor you their supreme authority.”

We should be as wise.

**In These Times, February 8, 1998**

Session II, Reading 1, page 2
Part I: CAN CORPORATIONS BE ACCOUNTABLE?

by Richard Grossman*

In 1628, King Charles I granted a charter to the Massachusetts Bay Company. In 1664, the King sent his commissioners to see whether this company had been complying with the terms of the charter. The governors of the company objected, declaring that this investigation infringed upon their rights. On behalf of the King, his commissioners responded:

“The King did not grant away his sovereignty over you when he made you a corporation. When His Majesty gave you power to make wholesome laws, and to administer justice by them, he parted not with his right of judging whether justice was administered accordingly or not. When His Majesty gave you authority over such subjects as live within your jurisdiction, he made them not your subjects, nor you their supreme authority.”

From childhood, this King had been led to act as a sovereign should. What about us?

By means of the American Revolution, colonists took sovereignty from the English monarchy and invested it in themselves. Emerging triumphant from their struggle with King George and Parliament, they decided they would figure out how to govern themselves. Alas, a minority of colonists were united and wealthy enough to define most of the human beings in the 13 colonies as property or as non-persons before the law and within the society, with no rights that a legal person was bound to respect.

Ours was a flawed sovereignty from the beginning. Because of its moral failings and structural inequities, whole classes of people had to organize and struggle over centuries to gain recognition as part of the sovereign people—that is, they had to get strong enough as a class to define themselves and not let either people or institutions define them: African Americans, native peoples, women, debtors, indentured servants, immigrants...

To this day, many still must struggle to exercise the rights of persons, to be recognized as persons by law and by society.

Throughout this nation’s history, there has always been plenty of genuflecting to democracy and self-governance. But the further each generation gets from the Revolution, the less the majority act like sovereign people. And when it comes to establishing the proper relationship between sovereign people and the corporations we create, recent generations seem to be at a total loss.

Yet, earlier generations were quite clear that a corporation was an artificial, subordinate entity with no inherent rights of its own, and that incorporation was a privilege bestowed by the sovereign. In 1834, for example, the Pennsylvania Legislature declared:

“A corporation in law is just what the incorporation act makes it. It is the creature of the law and may be moulded to any shape or for any purpose the Legislature may deem most conducive for the common good.”

Session II, Reading 2, page 1
During the 19th century, both law and culture reflected this relationship between sovereign people and their institutions. People understood that they had a civic responsibility not to create artificial entities which could harm the body politic, interfere with the mechanisms of self-governance, assault their sovereignty.

They also understood that they did not elect their agents to positions in government to sell off the sovereignty of the people. In other words, they were human beings who tried to act as sovereign people. One thing they did was to define the nature of the corporate bodies they created. If we look at mechanisms of chartering—and at the language in corporate charters, state general incorporation laws and even state constitutions prior to the 20th century—we find precise, defining language that was often mandatory and prohibitory and self-executory in nature. These mechanisms defined corporations by denying corporations political and civil rights, by limiting their size, capitalization and duration, by specifying their tasks, and by declaring the people’s right to remove from the body politic any corporations which dared to rebel.

Here is an example of language which sovereign people—responding to the rise of corporations after the Civil War—placed in the California Constitution of 1879, and which appears in other state constitutions at about that time:

“Article I, section 2: All power is inherent in the people...
“Article I, section 10: The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives...
“Article XII, section 8: The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as the property of individuals, and the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the state.”

The principal mechanism which sovereign people used during the 19th century to assess whether their corporate creations were of a suitably subordinate nature was called *quo warranto*. *Quo warranto* simply means “by what authority?” All monarchs understood how to use this tool in self-defense. They realized that when a subordinate entity they had created acted “beyond its authority,” it was guilty of rebellion and must be terminated.

Sovereignty is in our hands now, but the logic is the same: when the people running a corporation assume rights and powers which the sovereign had not bestowed, or when they assault the sovereign people, this entity becomes an affront to the body politic. And like a cancer ravaging a human body, such a rebellious corporation must be cut out of our body politic.

During the first hundred years of these United States, people mobilized so that legislatures, attorneys general and judges would summon corporations to appear and answer to *quo warranto*. In 1890, the highest court in New York State revoked the charter of the North River Sugar Refining Corporation in a unanimous decision: “The judgment sought against the defendant is one of corporate death. The state which created, asks us to destroy, and the penalty invoked represents the extreme rigor of the law. The life of a corporation is, indeed, less than that of the humblest citizen, and yet it envelopes great accumulations of property, moves and carries in large volume the business and enterprise of the people, and may not be destroyed without clear and abundant reason... Corporations may, and often do, exceed their authority only where private rights are affected. When these are adjusted, all mischief ends and all harm is averted. But where the transgression has a wider scope, and threatens the welfare of the people, they may summon the offender to answer for the abuse of its franchise and the violation of its corporate duty...
The abstract idea of a corporation, the legal entity, the impalpable and intangible creation of human thought, is itself a fiction, and has been appropriately described as a figure of speech... The state permits in many ways an aggression of capital, but, mindful of the possible dangers to the people, overbalancing the benefits, keeps upon it a restraining hand, where such aggregation depends upon its permission and grows out of its corporate grants... the state, by the creation of the artificial persons constituting the elements of the combination and failing to limit and restrain their powers, becomes itself the responsible creator, the voluntary cause, of an aggregation of capital... the defendant corporation has violated its charter, and failed in the performance of its corporate duties, and that in respects so material and important as to justify a judgment of dissolution... Unanimous.”

Such a judgment should not be regarded as punishment of the corporation, but rather a vindication of the sovereign people. When our sovereignty has been harmed, we are the ones who must be made whole. The concept is similar to what Hannah Arendt described in her book *Eichmann in Jerusalem* (1963), writing about Nazi crimes against humanity,

“The wrongdoer is brought to justice because his act has disturbed and gravely endangered the community as a whole, and not because, as in civil suits, damage has been done to individuals who are entitled to reparation. The reparation effected [here] is of an altogether different nature; it is the body politic itself that stands in need of being ‘repaired,’ and it is the general public order that has been thrown out of gear and must be restored, as it were. It is, in other words, the law, not the plaintiff that must prevail.”

There is no shortage of court decisions affirming the sovereignty of the American people over corporate fictions, recognizing the need to restore the general public order. In *Richardson v. Buhl*, the Nebraska Supreme Court in the late 19th century declared:

“Indeed, it is doubtful if free government can long exist in a country where such enormous amounts of money are... accumulated in the vaults of corporations, to be used at discretion in controlling the property and business of the country against the interest of the public and that of the people, for the personal gain and aggrandizement of a few individuals.”

Part 2:
CAN CORPORATIONS BE ACCOUNTABLE?

by Richard Grossman*

In the late 19th century, the Supreme Court of Georgia, in Railroad Co. v. Collins, wrote:

“All experience has shown that large accumulations of property in hands likely to keep it intact for a long period are dangerous to the public weal. Having perpetual succession, any kind of corporation has peculiar facilities for such accumulations, and most governments have found it necessary to exercise caution in their grants of corporate charters. Even religious corporations, professing and in the main, truly, nothing but the general good, have proven obnoxious to this objection, so that in England it was long ago found necessary to restrict them in their powers of acquiring real estate. Freed, as such bodies are, from the sure bounds—the grave—to the schemes of individuals they are able to add field to field, and power to power, until they become entirely too strong for that society which is made of up those whose plans are limited by a single life.”


“It has long been recognized, however, that the special status of corporations has placed them in a position to control vast amount of economic power which may, if not regulated, dominate not only the economy but also the very heart of our democracy, the electoral process... The State need not permit its own creation to consume it.”

Chief Justice Rehnquist, dissenting in the same case:

“...the blessing of potentially perpetual life and limited liability... so beneficial [sic—R.G.] in the economic sphere, poses special dangers in the political sphere.”

A great achievement of corporations, as they set out towards the end of the 19th century to transform the law and recreate themselves, was to replace basic tools of sovereign people—chartering, defining incorporation laws, “by what authority” proceedings and charter revocation—with regulatory and administrative law, new legal doctrines and fines as corporate punishment. Many people of that time understood that these changes amounted to a counterrevolution, and so they resisted with great passion and energy.

Farmers and workers were not willing to concede that the corporate form would define work and money and progress and efficiency and productivity and unions and justice and ethical conduct and sustainability and food and harmful and reasonable behavior. They were not willing to concede that corporations should have the rights and privileges of persons.

So they organized, educated, resisted. They were crushed by giant corporations’ ability to use state and federal government to take rights away from people and bestow them upon corporations.

Over time, corporations were able to claim for them-selves rights and privileges taken from the sovereign people via violence with favorable decisions by federal judges. Corporations were conceded personhood, and a long list of civil and political rights such as free speech, and property rights such as the right to define and control investment, production, and the organization of work.
By the beginning of the 20th century, corporations had become sovereign and they had turned people into consumers, or workers, or whatever the corporation of the moment chose to define humans as.

Without a clear understanding of history, most citizen efforts against corporations in this century have been struggles against the symptoms of corporate domination which we have waged in regulatory and administrative law arenas.

But these are not arenas of sovereignty. These are stacked-deck proceedings, where people, communities and nature are fundamentally disadvantaged to the constitutional rights of corporations. Here, we cannot demand “by what authority” has corporation X engaged in a pattern of behavior which constitutes an assault upon the sovereign people? Here, we cannot declare a corporation ultra vires, or “beyond its authority.” To the contrary, regulatory and administrative law only enables us to question specific corporate behaviors, one at a time, usually after the harm has been done... over and over and over again.

In these regulatory and administrative proceedings, both the law and the culture concede to the corporation rights, privileges and powers, which earlier generations knew were illegitimate for corporations to possess. In addition, in these proceedings, the corporation has the rights of natural persons: a human and a corporation meet head on, in a “fair fight.”

Today, our law and culture bestow our sovereignty on corporations. So do most of our own citizen organizations dedicated to justice and environmental protection and worker rights and human rights. Consequently, our organizations use their energy and resources to study each corporation as if it were unique, and to contest corporate acts one at a time, as if that could change the nature of corporations.

Folks relentlessly tally corporate assaults, study the regulatory agencies and try to strengthen them. We try to make corporate toxic chemicals and corporate radiation and corporate energy and corporate banking and corporate agriculture and corporate transportation, corporate buying of elections, and corporate writing of legislation, and corporate education of our judges and corporate distorting of our schools, a little less bad.

Isn’t it an old story? People create what looks to be a nifty machine, a robot, called the corporation. Over time the robots get together and overpower the people. They redesign themselves and reconstruct law and culture so that people fail to remember they created the robots in the first place, that the robots are machines and not alive. For a century, the robots propagandize and indoctrinate each generation of people so they grow up believing that robots are people too, gifts of God and Mother Nature; that they are inevitable and the source of all that is good. How odd that we have been so gullible, so docile, so obedient.

Isn’t it odd that we don’t remember who We the People are? How sovereign people should regard ourselves, how sovereign people should act? We need to realize what power and authority we possess, and how we can use it to define the nature of corporations, so that we do not have to mobilize around each and every corporate decision that affects our communities, our lives, the planet.

In the face of what we experience about corporations, of what we know to be true, why are so many people so obedient? Why do we hang on to the hope that the corporation can be made socially responsible? Isn’t this an absurd notion? After all, organizations cannot be responsible. This is just not a relevant concept, because a principal purpose of corporations is to protect the managers, directors and stockholders from responsibility for what their corporations do.

But only people can be responsible. How? By defining ourselves as sovereign people so that we then can define all the corporate bodies that we create (governmental, business, educational, charitable, and civic).

We the People are the ones who must be accountable. We are not accountable when we create monster robots which run rampant in our communities and which, in our names, sally forth the across the world to wreak havoc upon other places and upon other people’s self-governance.

We are not being socially responsible or civically accountable when we don’t act like sovereign people.
We are not being socially responsible or civically accountable when we play in corporate arenas by corporate rules.

We are not being socially responsible or civically accountable when we permit our agents in government to bestow our sovereignty upon machines.

We are not being socially responsible or civically accountable when we organize our communities and then go to corporate executives and to the hacks who run corporate front groups and ask them to please cause a little less harm; or when we offer them even more rewards for being a little less dominating.

Sovereign people do not beg of, or negotiate with, subordinate entities which we created. Sovereign people instruct subordinate entities. Sovereign people define all entities we create. And when a subordinate entity violates the terms of its creation, and undermines our ability to govern ourselves, we are required to move in swiftly and accountably to cut this cancer out of the body politic.

With such deeds do we honor the millions of people who struggled before us to wrest power from tyrants, to define themselves in the face of terror and violence. And we make all struggles for justice and democracy easier by weakening the ability of corporations to make the rules, and to rule over us.

Some might say this is not a practical way to think and act. Why? Because corporations will take away our jobs? Our food? Our toilet paper? Our hospitals? Because we don’t know how to run our towns and cities and nation without global corporations? Because they will run away to another state, to another country? Because the Supreme Court has spoken? Because philanthropic corporations won’t give us money? Because it’s scary? Because it’s too late to learn to act as sovereign people?

Because in 1997 it is not realistic for people across the nation and around the world to take away the civil and political rights of all corporations, to take the property rights and real property corporations have seized from human being and from the Earth?

Yeah, and it is realistic to keep ceding sovereign powers to corporations, to keep fighting industrial corporations and banking corporations and telemedia corporations and resource extraction corporations and public relations corporations and transportation corporations and educational corporations and insurance corporations and agribusiness corporations and energy corporations and stock market corporations, one at a time forever and ever?

On January 10, 1997, President William Jefferson Clinton sent a letter to the mayor of Toledo, Ohio. The mayor had asked the President for help in getting the Chrysler Corporation to build a new Jeep factory within Toledo city limits to replace the ancient one which Chrysler Corporation was closing. The President of the United States, leader of the most powerful nation the world has ever known, elected head of a government always eager to celebrate the uniqueness of its democracy to the point of forcing it upon other nations, wrote:

“...As I am sure you know, my Administration cannot endorse any potential location for the new production site. My Intergovernmental Affairs staff will be happy to work with you once the Chrysler Board of Directors has made its decision...”

Our President may not have a clue, but We the People did not grant away our sovereignty when we made Chrysler into a corporation. When we gave the Chrysler Corporation authority to manufacture automobiles, we made the people of Toledo not its subjects, nor Chrysler Corporation their supreme authority.

How long shall We the People, the sovereign people, stand hat in hand outside corporate boardrooms waiting to be told our fate? How long until we instruct our representatives to do their constitutional duty? How long until we become responsible...until we become accountable, to our forebears, to ourselves, to our children, to other peoples and species and to the Earth?
[3] The same source as Note 2 above.

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Human vs. corporate rights
Mary Zepernick

“The right of property in a slave is distinctly and expressly affirmed in the Constitution.”

In 1857, the U.S. Supreme Court found against Dred Scott’s right to freedom, despite the fact that his owner had taken him to a free state and territory before returning with him to Missouri, a slave state.

The court also declared the Missouri Compromise unconstitutional on the grounds that Congress had no authority to exclude slavery from the territories. “No word can be found in the Constitution which gives Congress a greater power over slave property, or which entitles property of that kind to less protection than property of any other description. The only power conferred is the power coupled with the duty of guarding and protecting the owner in his rights....”

Thus did the highest court come down foursquare on the side of property over people. As for human freedom, Abraham Lincoln, born 190 years ago today, wrote in a letter to journalist Horace Greeley in 1862, that “My paramount object in this struggle is to save the Union, and is not either to save or destroy Slavery. If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could do it by freeing some and leaving others alone, I would also do that.” Lincoln’s humanitarian impulses took a back seat to practical politics.

For example, the Emancipation Proclamation, issued the first day of 1863, freed only those slaves behind enemy lines, where Lincoln had no authority. However, soon after the Union won the Civil War (or War Between the States to those who believe the South will rise again), the 13th Amendment to the Constitution abolished slavery. Three years later, the 14th Amendment extended citizenship to African-Americans. The “due process” and “equal protection of the laws” clauses prohibited states from depriving any person of guaranteed civil liberties and equal treatment.

Not long before he was assassinated, President Lincoln had spoken on another threat to his beloved Union. “I see in the near future a crisis approaching that unnerves me and causes me to tremble for the safety of my country. As a result of the War, corporations have been enthroned, an era of corruption in high places will follow, and the money-power of the country will endeavor to prolong its reign by working upon the prejudices of the people until the wealth is aggregated in a few hands and the Republic is destroyed.”

Upon this nation’s founding, conditions of corporate operations were clearly defined by state-issued charters. However, with the growth of railroads, banking and manufacturing in the mid-19th century, corporate barons and lawyers figured their fortunes would be better served if their institutions gained the rights of people.

In 1886, after decades of corporate maneuvering and corrupting those in high places, the Supreme Court issued a watershed decision in Santa Clara County vs. Southern Pacific Railroad, declaring the corporation a natural person under the Constitution, entitled to the protection of the 14th Amendment.

Sixty years later, Justice William O. Douglas wrote that “There was no history, logic or reason given to support that view.”

In 1896, a decade after giving corporations legal personhood, the court stripped it from African-Americans in Plessy vs. Ferguson (“separate but equal”), putting the Supreme seal of approval on segregation.

Between 1890 and 1910, 307 14th Amendment cases came before the Supreme Court, 19 dealing with African-Americans, 288 with corporations. It took 58 years of freedom...
struggles before the court reversed Plessy, with Brown vs. Board of Education finding in 1954 that separate is inherently unequal.

Referring to the mid-20th century civil rights movement, researcher Jeff Kaplan writes that “these attempts by real human beings to assert their rights threatened the prerogatives of the corporations. Corporate lawyers responded by seeking to expand the standing of corporate persons to include a number of protections under the Bill of Rights which previously had been granted only to human beings.... In other words the Court has endorsed a counter attack by property against the assertion of human rights by the public in general and people of color and women in particular.”

Consequently, at the turn of another century we witness the grotesquerie of corporate “free speech”; of Omnipoint Corp. suing the citizens of Wellfleet over the placement of cell towers for allegedly violating the corporate entity’s civil rights under the Civil Rights Act of 1964 and the Wells Fargo Corp. threatening a suit against the people of Santa Cruz for denying them a piece of public land; of activists and the government negotiating “voluntary” codes of corporate conduct rather than insisting that the people’s representatives once again define the nature and activities of our legal fictions.

Some folks, alarmed by the corporate usurpation of our power to govern, seek to “level the playing field.” But this is not the people vs. corporations suiting up for a contest between two equal teams. Becoming self-governing, in charge of our common life and institutions, isn’t a game; it’s the work of “We the People.”

Abraham Lincoln had it right. The future of our Republic is at stake.

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Meet the Corporation

It Has No Conscience. It's Pathological. And It's In Your Neighborhood. How Can We Stop The Juggernaut?

Chris Warren
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In April 2003, a group assembled outside the capitol in Richmond, Virginia, to celebrate the chartering of a new tobacco company: Licensed to Kill Incorporated. Cofounder Robert Hinkley bluntly declared the company’s purpose: to manufacture and market its products in a way that "generates profits for investors while each year killing over 400,000 Americans and more than 4.5 million other people worldwide."

Licensed to Kill (motto: "We’re rich, you’re dead!") was formed as a stunt but with the serious goal of demonstrating how states sanction and protect corporations, even those dedicated to making money at the expense of public health and the environment. "We told the Commonwealth of Virginia that we were going to kill people," says Hinkley, a corporate attorney. "To their credit, they didn't want to set this company up, but there was nothing they could do about it."

Obtaining a corporate charter in Virginia—and most other states—is as easy as filling out a short form and paying a modest fee. Only if it planned to break the law would a company not receive a charter. (Despite its name, Licensed to Kill wasn't illegal: The tobacco company merely had the audacity to plainly state its products' effects.) But then again, applicants don't usually even have to list the purpose of their business.

Once chartered, corporations are granted a long list of benefits under state and federal law, including the ability to exist forever (there's no expiration date for charters) and the right to influence elections and shape legislation through campaign contributions. Additionally, their shareholders and directors are shielded by limited liability. Meant to encourage investment in business ventures by ensuring that an individual's assets cannot be seized by creditors if a company fails, limited liability also insulates stockholders and directors, in most cases, from personal responsibility for the company's potential debts or even misdeeds.

Many of these rights stem from a series of court decisions over the past 120 years that have, in effect, established corporations as legal "persons"—often powerful ones with little accountability to society. Their widely accepted purpose is simple: to maximize return to shareholders. (This does not, of course, apply to not-for-profit corporations like churches, schools, and charities.)

Thus it has been for at least a century. Professor Jesse Choper, an expert on constitutional and corporate law at the University of California at Berkeley, points to a 1919 case in which automaker Henry Ford was sued by his shareholders for proposing to sell his cars at a below-market price. Ford said he wanted to do it to create more jobs—thereby "spread[ing] the benefits of this industrial system to the greatest possible number, to help them build up their lives and their homes"—but the Michigan Supreme Court ruled in favor of the shareholders. Later cases in other
states have broadened corporations’ ability to contribute to public welfare but generally followed the Michigan Court’s opinion that business should be conducted "primarily for the profit of the stockholders."

Obligations to workers, customers, the environment or the communities in which a company operates generally take a backseat, if they are considered at all. "Nothing in its legal makeup limits what [the corporation] can do to others in its pursuit of its selfish ends," writes Joel Bakan, a law professor at the University of British Columbia and author of The Corporation: The Pathological Pursuit of Profit and Power. Indeed, "it is compelled to cause harm when the benefits of doing so outweigh the costs."

Corporations' accumulation of unbridled power--and the way they often misuse it--has inspired myriad efforts to restrain them: boycotts, protests, lawsuits, legislation and shareholder actions to change company policies from within. But after witnessing corporations riding roughshod over local communities' rights to regulate everything from cell phone towers to trash dumping, activists like Hinkley are calling for a new approach. He and others realize that such battles will be endless unless citizens challenge the corporate system itself. "We've created this entity; it's like a monster," says Jim Price, a member of the Sierra Club's Corporate Accountability Committee. "We've given corporations more power than we reserve for ourselves."

That might sound hyperbolic to some, but not to members of the communities that have tried to challenge corporate power. In 1996, for example, the voters of Montana, worried about the influence of money in politics, passed a ban on corporate participation in ballot-initiative campaigns. The federal courts struck down the ban, saying it went against the corporate "person's" constitutionally protected free speech--a right the Supreme Court had affirmed for corporations in the 1970s.

In 1998, Omnipoint Communications (now part of T-Mobile) sought a permit to install a wireless tower in the steeple of a historic church in Wellfleet, Massachusetts, a tiny Cape Cod town. After deliberating, Wellfleet's planning board said no. Undeterred, Omnipoint sued the town for violating its rights under the Telecommunications Act. Faced with the prospect of paying the company for damages (as well as its legal fees), the town relented.

In Virginia in 2001, a federal court threw out a state law that had attempted to restrict the dumping of trash from other states in its own landfills. The court's reasoning? The law violated trash hauler Waste Management Corporation's constitutional rights under the Commerce and Supremacy Clauses, which were designed to prevent state and local governments from restricting the flow of goods.

And just last May, Wal-Mart, the world's largest retailer, thwarted the Flagstaff, Arizona, city council's efforts to regulate land use and limit sprawl. Wal-Mart poured some $300,000 into an initiative campaign that convinced voters to overturn a council-approved ordinance to restrict the size of big-box stores. The campaign attracted national attention when a Wal-Mart-funded political action committee ran ads featuring a photo of a Nazi-era book burning that asked, "Should we let government tell us what we can read? Of course not. . . . So why should we allow local government to limit where we shop?"
"The authority to govern in this country is theoretically in the hands of the people," notes activist and historian Richard Grossman. But if that's the case, how can a company nullify a state law? Why does a corporation have the power to overturn a local planning decision? To Grossman, it comes down to one basic question--who gets to make the rules?--and one not-so-simple answer: People can only begin to regain control over their communities by confronting corporations' "illegitimate claims to constitutional rights, powers and authorities."

An activist most of his life, Grossman has helped pass laws, elect people, and stop many instances of corporate abuse. A former Peace Corps volunteer and director of Environmentalists for Full Employment, he has also brought community groups together to fight environmental injustice. But despite the individual victories, he felt his side was losing the war. A successful fight to save one forest, say, was soon followed by a hard slog to protect another. "If you're upset about toxics in the air and water, for example, eventually you want to write a law," Grossman says. "But it's not enough to just write an environmental law, or a labor law, or a consumer law, because the fundamental law--the Constitution--is a stacked deck against us." His search for a more comprehensive approach led him to found the Program on Corporations, Law, and Democracy, a small group of organizers, activists, and writers from around the country who are educating the public about how corporations have become more powerful than the institutions that created them--and what people can do to right the scales.

These beliefs have taken hold in rural Pennsylvania, where Grossman now works for the Community Environmental Legal Defense Fund. In the late 1990s, large corporate hog farms were generating a mountain of manure that threatened to seep into the area's groundwater and wells. Instead of protesting these specific conditions, citizens in some of the area's townships--many conservative, lifelong Republicans--worked with Thomas Linzey, head of the defense fund, to pass local laws that banned corporate farms altogether. In two cases, they declared that corporations don't have the same rights as people.

Agribusiness firms have fought back by pushing for a plan--unveiled last year by Governor Edward Rendell (D)--to set up a board of political appointees with the power to overturn local ordinances. "The establishment of this board is nothing less than the state being used by agribusiness and sludge corporations to eliminate those 'pesky' Townships and rural communities who continue to believe in local, democratic control over issues affecting their lives," a group of township supervisors wrote. A bill based on Rendell's initiative was signed into law in July.

A similar battle is being waged on the other side of the country, where residents of the Northern California city of Arcata were struggling with the economic impact of fast-food franchises. In 1998, the city passed an ordinance that prohibited any more of these businesses from opening. "Local businesspeople were very much in favor of it," says David Cobb, a Humboldt County activist and the Green Party's 2004 presidential candidate. So much so that they said, Why only do restaurants?" The city is considering a prohibition on all chain retailers, while the county weighs a ban on

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nonlocal corporate involvement in elections. Last year Arcata voted (in a non-binding resolution) to oppose corporate personhood altogether, declaring that "only persons who are human beings should be able to participate in the democratic process."

The conviction shared by these disparate communities--that democracy is impossible unless corporations are subordinate to citizens--is nonpartisan and proliferating. And its biggest advertisement is the corporations themselves: Every time big business comes into a community and effectively declares that its citizens don't have the right to govern themselves, Grossman says, more people will understand what is at stake.

Tobacco-industry provocateur Hinkley is less troubled by the rights of corporations than by their lack of responsibilities. Legally designed to "valorize self-interest and invalidate moral concern," as author Bakan writes, the amoral corporation behaves in ways that most people would find "abhorrent, even psychopathic, in a human being." Current environmental regulations, Hinkley says, do little more than tell companies how much they can legally do. A law that limits the amount of mercury and other toxic emissions, for instance, essentially allows a certain level of pollution. As entities dedicated to the pursuit of profit, corporations naturally regard these rules as impediments to making money and try to circumvent them any way they can.

To change that dynamic, Hinkley wants to add a coda to the laws that govern corporate charters that says, yes, corporate directors should be focused on profit but not at the expense of "the environment, human rights, the public health and safety, the welfare of communities . . . [or] the dignity of employees." The essence of capitalism--the profit motive--would remain intact. But corporations would have to serve interests beyond the bottom line. Just as potential profits are already limited by specific laws against, for example, child labor and false advertising, harm to the environment and communities would no longer be an acceptable part of competition.

Under Hinkley's proposed changes to state business laws, pollution would be flatly prohibited--after companies were given 15 years to develop and implement the technology they need to meet that requirement. Any violations after that deadline would be illegal, making large corporations and their directors subject to criminal or civil charges for their misdeeds.

State legislators in California, Maine, and Minnesota have already introduced bills based on, or similar to, Hinkley's ideas. "My goal is to make social responsibility and social responsiveness and social benefit integral to the nature of corporations," says California state senator Richard Alarcon (D). But the going is slow. The Maine bill, sponsored by Representative John Eder (G), was quickly voted down in committee. The Minnesota version, championed by Senator Sandra Pappas (D), received a hearing and was tabled for further review. Alarcon's bill received a hearing in early 2004. But the California Chamber of Commerce and other business groups dubbed it a "job killer," and it did not make it out of committee.

In a letter to Alarcon, the Chamber said that the bill would act as the "ultimate disincentive" for people to serve on corporate boards and that a flood of litigation could result. Its language, the Chamber argued, "could render the corporation and its directors liable for the economic and environmental consequences of any number of
legitimate business decisions, such as closing a facility within a community or engaging in a regulated activity that has some adverse environmental consequences."

Hinkley believes the 15-year transition period would allow companies and their directors to avoid unfair liability by retooling their operations so they won't damage the public interest in the first place. He's watched corporations respond in this way to the demand of corporate securities law, his specialty as an attorney. "Companies basically err on the side of caution" when disclosing financial information to potential investors, Hinkley says. "It's not so they'll win a lawsuit, but so they'll never face one."

What he says his proposal would do is change the rules of the game: Build in an obligation to be socially responsible and let companies compete, and profit, on that basis. Even with new rules, few companies would abandon the profitable U.S. market altogether, and their operations conducted and products sold here would be subject to these restrictions, regardless of where the companies were based. Many might find it more cost-effective to just follow the same rules everywhere.

The European Union is already moving businesses in this direction, passing strict environmental regulations that require manufacturers selling their product in Europe to conduct extensive tests on common chemicals and limit dangerous materials in electronic products. (See "Old Europe's New Ideas," January/February 2004). If adopted widely in the United States, Hinkley's proposal might even become a model for other countries, just as California's clean-car regulations have paved the way for other states to demand more environmentally friendly options.

Hinkley is convinced that once corporations accept that they can no longer damage the public interest in pursuit of profit, they'll innovate and evolve. "When businesses see this is what consumers want--and they'll see this if we stand up and pass a law--they're going to say, OK, the profit motive is still what we're about. We're just going to have to do things a little better." Not requiring them to change, he insists, is not an option.

It's too early to tell whether corporations can be reined in by Hinkley's attempts to broaden their responsibilities or Grossman's challenges to their rights--or something else entirely. But these efforts are unquestionably helping to forge a broad movement for reform. "More than two centuries of government 'of the people, by the people, and for the people' in the United States came to an end at the beginning of the twenty-first century," businessman Robert Monks wrote last year in a report for the London-based Centre for the Study of Financial Innovation. "Instead, what we have today is a new phenomenon, one that I deplore: the corporate state."

Monks should know. He served on the board of Tyco International before scandals engulfed the company and its CEO. Now a shareholder activist working to influence other corporations, he says reform is urgently needed. "We're like a frog in the water that's boiling away. We're not cooked yet, but my God, when history looks back, people will say, Where were you? Didn't you understand what was happening?"

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According to recent Harris polls, the great majority of Americans think that big companies have too much power in Washington. How did they get that power? The answers lurk in the history of the American corporation and its British progenitor.

Crafts guilds began to proliferate in 13th-century Britain. They were not businesses, but umbrella groups of those who plied different crafts: clothworkers, fishmongers, haberdashers and the like. With the growth of international trade some guilds became the first business corporations. Among them were the Merchant Adventurers, independent traders who pooled their capital to finance a shared infrastructure that comprised such facilities as wharfs, convoys and overseas embassies. At first each member maintained his own capital. However, as maritime innovations extended the reach of trade, the attendant increase in potential risk and reward made it advantageous for merchants’ financial backers to spread their capital across several trade ventures. This method of pooling capital was essentially a joint-stock company, the form used by the modern corporation. They also found it advantageous to seek grants of exclusive access to particular regions. Within such regions they repelled rivals and imposed order by means of private armies and police.

This kind of entity was no longer a federation of independent businessmen, but a separate entity, chartered by the state, that allowed the law to deal with it instead of the individual investors. The consummate corporation, still the most powerful one in history, was the British East India Company, formed in 1600 in the reign of Elizabeth I. It pioneered the use of joint-stock capital and limited liability, under which stockholders evade responsibility for corporate misdeeds and debts. It had its own army, jails and justice system, and it squeezed India dry for over 200 years.

A major cause of the Boston Tea Party was an attempt by the British East India Company to expand its tea business at the expense of independent American tea merchants. History texts typically portray the American Revolution as a revolt against unfair taxes, but it was truly more of an anti-corporate revolt. An important ingredient in the revolution was a long-standing grudge against corporations on the part of indentured servants, conscripted sailors and others at the bottom of the socioeconomic ladder. Many of them had experienced the exploitative practices—starvation, overwork and brutal treatment—commonly employed in the great archipelago of corporate colonies scattered along the Atlantic rim in Ireland, West Africa, the Caribbean and the eastern coast of North America. The upper reaches of American society were also hostile to the corporation, because most American businesses were owned by family or partnerships: they neither had nor needed corporate charters or joint-stock ownership. It was an economic depression in Europe that knocked the bottom out of the tea market and inspired the East India Company to request permission to dump its tea on the American market through specially commissioned local consignees.
proposal involved both an export tax abatement for the company on the British side, and a continued import tax on the American side, but that alone would not have moved wealthy American businessmen to rebellion. What moved them was their certainty that if the East India Company could control tea distribution from top to bottom, it would eventually control in the same way every other imported commodity. When John Hancock learned that he was not to be one of the favored merchants, he patched up a quarrel with Sam Adams and joined the rebellion. It was the excessive British reaction to the tea rebellion that brought about the American Revolution, with its odd coalition of adherents across the entire spectrum of colonial society.

After the revolution, the founding fathers worried about corporations. When the Constitutional Convention convened in 1787 there were only six corporations besides banks. Nevertheless, the framers thought it advisable to place the corporation under democratic oversight and use it to meet the need for public projects that required an unusually large amount of capital, such as the building of canals, roads and bridges. James Madison proposed that the federal government take charge of corporations in cases where the authority of a state might be “incompetent.” Other delegates, anxious to avoid an American version of the East India Company, stood fast for local control.

For the most part the states had their way. Two rare exceptions were federal charters for the Bank of the United States, chartered twice and revoked twice between 1791 and 1832, and our 20th century Amtrak. Otherwise, it was state legislatures that granted the charters and laid down restrictions and standards of accountability. There was a legislative focus on restrictions, rather than privileges, that reflected a widespread notion that great corporate power would endanger democracy. In consonance with that notion, in 1809 the Virginia Supreme Court stated that a charter should not be granted if the applicant’s “object is merely private or selfish; if it is detrimental to, or not promotive of, the public good.” In 1816, Thomas Jefferson wrote “I hope we shall crush in its birth the aristocracy of our monied corporations which dare already to challenge our government to a trial of strength, and bid defiance to the laws of our country.” Note that the prevailing sentiment was anti-corporate, not anti-business. As a representative of the National Trade Union wrote in 1835, “We entirely disapprove of the incorporation of Companies, for carrying on manual mechanical business, inasmuch as we believe their tendency is to eventuate in and produce monopolies, thereby crippling the energies of individual enterprise, and invading the rights of smaller capitalists.”

In those early days corporations were kept on a tight leash. They had to renew their charters as often as every three years. State legislatures denied them limited liability. Corporations were prohibited from any activities not specified in their charters. They could not own stock in other corporations. Most states limited the amount of capital a corporation could raise. Most corporations could not operate outside the home state; some were restricted to the home county. They could not own property not needed for their authorized activities. Errant or scofflaw corporations had their charters revoked in
Massachusetts, New York and Pennsylvania. In those days the proper role of corporations was thought to be the building of public infrastructure or the provision of public services, such as banking and insurance. Their absence from manufacturing, which was carried on mainly by partnerships, did not inhibit the growth of American manufacturing, which reached by 1860 a per capita output second only to that of Great Britain.

Despite its success, this system had been swept aside by 1900. A major figure in the change was Tom Scott, of the Pennsylvania Railroad, who began to wield his influence in the 1850s, when railroad lobbyists began to wring concessions from the state legislatures. His monumental coup came when he persuaded the Pennsylvania legislature to permit one corporation to own stock in another.

His first mission as a lobbyist was the repeal of the tonnage tax levied by the state on the railroads. He organized supporters at the county level, bought ads in nearly every Pennsylvania newspaper and, when he still lacked a legislative majority, began to make deals with legislators—mainly promises to build rail lines to particular communities. The kicker was a legislative proposal that would let the railroad divert its state taxes to the construction of local spur lines. The measure squeaked through, but the public was outraged. In the next election almost all of the legislators who had supported the bill were defeated. But when the next session tried to undo the bill, legislators found that it had been written as a contract between the state and the railroad, and could therefore not be repealed without the consent of both parties. Scott had made the bill almost irrevocable, and his allies in the legislature frustrated an attempt to investigate allegations of bribery.

During the Civil War Scott gave extraordinary service in the Lincoln government as a railroad expert. As a result, he returned from the war not as a despicable manipulator, but as Colonel Scott the war hero, with more legislative clout than ever. His postwar dream was to replace the jumble of small fragmented lines with a nationwide railroad system that ran from New York to Washington, deep into the old Confederacy, and west along the southern tier to California. To achieve this goal he had to outmaneuver numerous interests that benefited from the fragmented system, and conceal the hand of the Pennsylvania Railroad and its sinister taint of imperial Yankee capital.

Scott’s solution was the holding company, an entity formed specifically to own stock in other companies. Corporate charters normally prohibited ownership of stock in another company, but Colonel Scott was able to persuade the Pennsylvania legislature to ease the restriction, first for the Pennsylvania Railroad and then for another company that would buy up southern railroads. This tactic allowed Scott to buy up lines in southern states without getting charters from hostile southern legislatures. When word got out, Scott’s southern rivals tried to use the press to inflame the public against the northern invader, but Scott silenced the opposition by buying up scads of southern newspapers and ordering their editors to toe the company line. By the time he was done, Scott had co-opted the Ku Klux Klan and
used as free construction labor the entire penitentiary population of North Carolina. He had also forged back room deals that put Rutherford Hayes in the White House, installed Jim Crow in the South and secured for his railroad millions of acres of public land and huge federal subsidies. He conducted bloody strike-breaking battles with the aid of federal troops furnished by President Hayes. As the first oligarch whose power rivaled that of the government, Scott embodied the worst fears of those who framed the Constitution.

By 1889, through the efforts of a New York attorney named William Nelson Cromwell, Scott's interesting invention for the Pennsylvania Railroad had become available to all corporations. That was the year in which the New Jersey legislature relaxed the state’s incorporation statutes so as to permit any corporation chartered there to hold stock in any other corporation in America. When Governor Woodrow Wilson tightened up the New Jersey law in 1913, Delaware rushed in to fill the vacuum. Having won the race to the bottom, Delaware remains to this day the corporate venue of choice. But the flood had begun years before: In the period 1897-1903 about 2,650 firms were absorbed by a handful of immense corporations, such as International Paper, U.S. Steel and International Harvester. By 1903 some 250 corporations dominated the American economy, and the legal system, once democracy's shield against corporate power, had turned into a corporate shield against legislative power.

By 1903 anyone could get a corporate charter by filing some papers with the state, and corporations had begun to acquire an unlimited life span. A discredited corporation could disappear and re-emerge by means of reorganizations, sell-offs or absorptions into other companies. Because the corporation could go venue-shopping, its accountability to any particular state had greatly diminished. Because states had begun to charter corporations for “any lawful purpose” rather than some specific purpose, corporations were now free to form conglomerates; they could also form vertically integrated companies that controlled the entire life of a product from production to distribution and retail. Limited liability had arrived in full, which meant the end of any external incentive for shareholders to concern themselves with the behavior of businesses in which they owned an interest. Several court decisions had made shareholders subordinate to corporate managers in such matters as acquisitions, mergers and bankruptcy proceedings. Many of these changes had the effect of removing restrictions on size. Anti-trust laws have tended to restrict size, but the enforcement and judicial interpretation of such laws have often reflected political ideology.

The biggest impediments to democratic control are the constitutional rights the corporations wrested from the courts, starting in the 19th century. Encouraged by Thomas Jefferson, New Hampshire had enacted legislation that would have converted Dartmouth, a private college, into a public one. Dartmouth trustees argued that the 1769 charter from King George was a contract protected under Article 1 of the Constitution, which prohibits states from impairing contractual obligations. The court
ruled for the state, declaring the trustees to be servants of the public. The trustees appealed to the Supreme Court, which reversed the lower court and held that the charter from King George was a contract protected by the Constitution. However, Chief Justice John Marshall made it clear that corporations were subordinate to state power, and state legislatures added a clause to charters which asserted the state’s right of revocation. Nevertheless, the Dartmouth case marked the beginning of a long phase in which the courts steadily eroded state sovereignty over corporations.

Enacted in 1868, the Fourteenth Amendment sought to protect the rights of freed slaves by means of due process and equal protection of the law, but its most profound effect was the empowerment of the corporation. One cause of this unintended consequence was Supreme Court Justice Stephen J. Field, son of a New England Congregational minister. Field graduated from law school, clerked for his brother, a lawyer for railroad robber barons Fisk and Gould, traveled in Europe and followed the California gold rush in 1849. He became Mayor of Marysville his third day in town, and a state legislator the following year. He was elected to the California Supreme Court in 1857 and became its chief justice in 1859. When Congress created a new federal court of appeals for the Pacific region in 1863, Field became the head of the new circuit court. By the custom of the day, he became at the same time a justice of the U.S. Supreme Court. Field had been recommended by Governor Leland Stanford, who later became a Southern Pacific railroad magnate. When he organized his university, Leland Stanford made Field a trustee. Field had also been recommended by his brother, a Lincoln partisan. President Lincoln duly nominated Field, who soon became notorious for his pro-railroad sympathies.

Their lobbyists' bribes had the Congress well in hand, but at the state level the railroad barons needed help from a Supreme Court willing to invalidate state legislation on Constitutional grounds. There was no problem in Pennsylvania, where Tom Scott ruled. The trouble came from the west and the midwest, where militant farm and labor movements often had enough muscle to enact regulations and taxes harmful to railroads. For example, in Illinois Grangers and small-town merchants, in their opposition to rate-gouging by railroads and grain elevators, pushed for the creation of a state regulatory commission. Corporate interests challenged Illinois law, claiming that the state regulation of rates violated the due process clause of the Fourteenth Amendment. In 1877, in Munn v. Illinois, the U.S. Supreme court ruled, seven to two, that such regulation was acceptable. The guiding principle: When private property is “affected with a public interest, it ceases to be juris privati only.” Field dissented on the principle that such an interpretation would leave all property and all business in the state to the mercy of a majority of its legislature.

But Field soon had another chance. Under the 1879 California constitution it was a democratically elected State Board of Equalization, staffed with excellent legal and accounting talent, that controlled the assessment of railroad taxes. At issue was how to value land for tax purposes. Individuals were taxed on the value of the land minus any outstanding mortgage. If railroads were taxed the same way they would pay no...
state property tax, because railroads could point to bonds worth more than the land itself. State law recognized that different rules were required for railroads and individuals, but the railroads took the issue to court. One of their arguments was that the difference in methods of assessment was a violation of the equal protection clause of the Fourteenth Amendment.

Two such cases reached Field at the ninth circuit court: San Mateo County v. Southern Pacific Railroad in 1882, and Santa Clara County v. Southern Pacific Railroad in 1883. In San Mateo both Field and Justice Sawyer ruled in favor of the corporation on the basis of the Fourteenth Amendment guarantee of equal protection to all persons, but they differed in their interpretation of “person.” Sawyer simply ruled that a corporation was a legal person, but Field knew that the personhood of corporations had always applied only to the corporate ability to make contracts and own property. The courts had already rejected the notion that this restricted kind of personhood entitled corporations to broader rights. Accordingly, Field sought another justification for the extension of equal protection to corporations. He argued that it was the personhood rights of stockholders that were violated when counties levied discriminatory taxes on corporations. He used the same rationale in his circuit court opinion in the second case, Santa Clara County.

Field’s rationale may look plausible on paper, but it had no grip on reality. Courts had long distinguished between corporate property and individual property. The most important distinction was that the shareholder, in accepting the privilege of limited liability, also renounced control of the property. It was patently absurd to state that a tax on the corporation was a tax on the shareholders, especially when the buying and selling of stocks meant that the group called “shareholders” was in a constant state of flux. Additional proof that they were not one and the same was that shareholders could sue the corporation. Nevertheless, on the train from California to Washington he hoped the Supreme Court would ratify his new theory of the Fourteenth Amendment as a protector of corporations. The Court was to disappoint him, but an obscure Court Reporter would grant far more than Field could have hoped for, corporate personhood under the Fourteenth Amendment. (Continued in Session III.)
Challenging Corporate Power, Asserting the People’s Rights

Session III — Corporate Personhood

In Session II we noted the 1886 Supreme Court decision that gave corporations the same rights and protections as human beings, and in this session we explore that phenomenon in depth. The 14th Amendment to the Constitution was ratified in 1868 in order to protect the rights of newly freed slaves. Section 1 reads as follows:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The U.S. Constitution and the country’s legal foundations were rooted in the sanctity of property rights and the individual. So it was clear to corporate lawyers, following the burst of corporate growth and influence during the Civil War, that it would be necessary to get the Supreme Court to declare the corporation equivalent to a “person” with the same 14th Amendment protection of the laws. Only with this designation could the corporate form pursue growth, wealth, and power free from the restraining will of the people.

In 1936 the dean of the John Marshall Law School said, “In the entire Constitution and the Amendments thereto, the word ‘person’ is used thirty-four times; in thirty-three times, it refers only and can refer only to creatures of flesh and blood. And in the 14th Amendment the word is used five times, ...it is obvious that natural persons alone can be meant, as only natural persons can be born or naturalized, become citizens...” Nevertheless, in 1886 lawyers for the Southern Pacific Railroad achieved their goal with the Supreme Court declaring that the 14th Amendment applied to corporations.

This session explores the cultural impact of this decision. What has it meant for the role of us human persons, and the organizing of people’s movements for full inclusion and personhood, when the biggest, wealthiest, and most powerful “persons” are our own corporate creations?

Readings:
1 – “The Birth” and “The Rule,” by Kalle Lasn and Tom Liacas (2 pages)
2 – “Gangs of America,” by Ted Nace (2 pages in condensation)
3 – “Timeline of Personhood Rights and Powers,” by Jan Edwards (5 pages)
4 – “Should Not the 14 th Amendment to the Constitution of the United States be Amended?” excerpts by Edward T. Lee (3 pages)
5 – “Corporations Behave as if They are More Human than We Are,” by George Monbiot (1 page)
6 – “Corporate Citizens,” by Carl Pope (1 page)
7 – Corporate Personhood Resolution, City of Point Arena (2 pages)
8 – “Democracy in St. Thomas,” by James Allison (2 pages)
9 – “Tea Time in Humboldt County (CA),” by Jim and Tomi Allison (2 pages)
Discussion Questions:
1. In what ways do so-called “corporate persons” have more rights under the law today than human persons? What are the differences in the limits and resources of each?

2. How does the existence of these artificial “persons” affect (a) our sense of self and our identity, and (b) our relationship to the natural world and the other living creatures in it?

3. What is meant by the term “judge-made law” and what has been its impact?

4. How has the evolution of our democracy been shaped by the conferring of personhood status to corporations at a time when it was denied to the majority of human beings?

5. What can be gained when a community organizes to pass a resolution against corporations having personhood status under law?

Supplementary Materials:

- “Can Corporations be People?” Workshop, Jan Edwards and Molly Morgan, Minneapolis, June 2002. Available as DVD from Lois Fiedler, loisfiedler@sbcglobal.net (phone 408-294-0981). Excellent overview of history and legal timeline, about 40 minutes long.
The modern corporation came to life in the hands of nine men. In *Santa Clara County vs. Southern Pacific Railroad*, an 1886 dispute over a railbed, the US Supreme Court made an historic decision. It held that, under the Constitution, a private corporation was a “natural person,” entitled to all the rights and privileges of a human being.

This single legal stroke changed America fundamentally. From that moment on, the country’s citizens would have to think of corporations very differently. Every corporation — though it was still technically only an idea, a paper phantom — nonetheless had its own “life” now, its own “ego.” They could compete directly against real people and demand equal treatment under the law. Were corporations suddenly as powerful as people? No. Because of their vast financial resources, they were now much more powerful. They could defend and exploit their rights and freedoms more vigorously than any individual. In real terms, the corporation was actually more free than any private citizen. The whole intent of the American Constitution — that all citizens have one vote, and exercise an equal voice in public debates — had been under-mined.

The birth of the corporate “I” could not have been anticipated in 1600, when Queen Elizabeth I of England chartered the first corporations of the Anglo-American tradition, essentially to exploit and colonize foreign lands. As North America was colonized, corporations like the Massachusetts Bay Company and the Hudson’s Bay Company were there every step of the way. Most companies during that period had a charter life of 20 years to accomplish their goals.

These early corporations were conceived as institutions serving the public interest. They were temporary structures granted the right to operate for a fixed period of time, with fixed capital, to achieve fixed goals. To lay claim to the whole of the New World, though, the British Crown needed huge amounts of capital. To encourage investment in such a large and risky enterprise, the Crown agreed to insulate investors from legal and financial responsibility for the undertaking, beyond the amount of their investment. In other words, investors were not liable, in the last resort, for the debts of their company. That decision blew apart one of the bedrock principles of common law: individual responsibility. For the first time, business investors were privileged with limited liability.

Colonials feared these chartered entities. They recognized the way British kings and their cronies used corporations as robotic arms to maintain their sovereignty and control over the affairs of the colonies. The American Revolution was in large part a revolt against what Thomas Jefferson called this “remote tyranny.”

The Declaration of Independence freed Americans not only from Britain but also from the control of British corporations, and for 100 years after the document’s signing, Americans remained deeply suspicious of corporate power. The 200 or so corporations operating in the US by the year 1800 were kept on short leashes. They weren’t allowed to participate in the political process. They couldn’t buy stock in other corporations. And if one of them acted improperly, the consequences were severe. In 1832, President Andrew Jackson vetoed a motion to extend the charter of the corrupt and tyrannical Second Bank of the United States, and was widely applauded for doing so. That same year the state of Pennsylvania revoked the charters of ten banks for operating contrary to the public interest.

The people — not the corporations — were in control.

By the middle of the 19th century, the nation’s commercial engine was humming, and corporations were becoming an indispensable part of business life. They pushed for and gained extended rights and freedoms in their charters. Then, in a series of landmark decisions, state legislators, one after another, enacted “free incorporation laws” that gave corporations the right to engage in any kind of business they wanted. This was a crucial step in the evolution of the corporate form. Corporations were no longer limited to activities that served the public good, yet they continued to enjoy the extraordinary “limited liability” exemption from investor responsibility that they had historically obtained in the name of public service.

During the Civil War, corporations bagged huge profits from procurement contracts. They took advantage of the chaos and corruption of the times to buy judges, legislatures and even presidents. They forced amendments to laws limiting their profits and, in hundreds of cases, won minor legal victories extending their rights and privileges.
They had immense political clout. Civil society was reeling, unable to keep up. Then came Santa Clara, that pivotal 1886 decision, which gave corporations the final boost they needed — “natural person” status under the law. It was one of the greatest blunders in legal history, and it triggered the corporations’ hundred-year march to global power.

1886-1999 The Era of Great Corporate Bodies

II
The RULE

Today we live in the shadow of a super-species, a quasi-legal organism that competes with humans and other life-forms in order to grow and thrive. This new species has a number of capacities and powers that we mortal humans can only dream of. For one thing, it can “live” in many places simultaneously. It can change its body at will — shed an arm or a leg or even a head without harm. It can morph into a variety of new forms, absorb other members of its species, or be absorbed itself. Most astoundingly, it can live forever. To remain alive, it only needs to meet one condition: its income must exceed its expenditures over the long run.

The story of the evolution of corporations has a strange, sci-fi air about it. Once upon a time we humans constructed a legal entity, only to watch helplessly as it broke its bonds and stormed the global village.

Between 1890 and 1930, America was transformed, at lightning speed, by a corporate invasion of everyday life. Giant companies like DuPont, US Steel and Standard Oil grew to dominate commerce. Factories, department stores and amusement parks began to dot the landscape. Street-lights, electric signs, the telegraph, mail-order catalogs, fashion shows — all celebrated the new industrial message.

By the 1930s, corporations employed more than 80 percent of the people and produced most of America’s wealth. The large corporations were now too big and powerful to challenge in the courts, which consistently favored their interests. Employees found themselves without recourse if, for example, they were injured on the job (if you worked for a corporation, you voluntarily assumed the risk, was the courts’ position). During this period, many of the original ideals of the American Revolution were forgotten or watered down, and America was increasingly a corporate state, governed by a coalition of government and business interests.

In the post World War II years, corporations merged, consolidated, restructured and metamorphosed into ever larger and more complex units of resource extraction, production, distribution and marketing. In the 1990s, corporations put aside their traditional competitive feelings toward each other and forged tens of thousands of co-branding deals, marketing alliances, co-manufacturing projects and R&D agreements, and created a global network of common interests.

By 1997, 51 of the world’s largest economies were not countries but corporations. Today, the top 100 companies control 33 percent of the world’s assets, but employ only one percent of the world’s workforce. General Motors is larger than Denmark; Wal-Mart bigger than South Africa. The mega-corporations roam freely around the globe, lobbying legislators, bankrolling elections and playing governments against each other to get the best deals. Their private hands control the bulk of the world’s news and information flows.

By the closing years of the 20th century it was no exaggeration to say that corporations were setting the world’s industrial, economic and cultural agendas. Civil society was in retreat and it looked as if, in the coming century, corporations would indeed rule the world. But then civil society scored two quick victories: an international campaign scuttled the Multinational Agreement on Investment (MAI), which would have greatly extended global corporate powers. And on November 30, 1999 — the cusp of the millennium — citizens shut down a meeting of the World Trade Organization in Seattle. After a phenomenal 200-year run, the corporate ego had fallen prey to its own arrogance. The superspecies suddenly looked much more like a dinosaur. >>>

ADBUSTERS NO. 31, Aug/Sept 2000
Both cases reached the Supreme Court, but San Mateo was quickly withdrawn and faded out of sight. Santa Clara was decided in favor of the railroads and, by one of the great flukes of American history, gained mythic fame as the case that gave the corporations their Fourteenth Amendment personhood. The taint on the case has only recently become apparent to scholars who discovered that the court ruling said nothing at all about corporate personhood. As published in the Supreme Court Reporter, Vol. 6 (1886) the Santa Clara decision, written by Justice Harlan, discourses on fences and mortgages, and concludes that these narrow technical matters fall on the side of the railroads. It is another compilation of Supreme Court decisions that alludes to corporate personhood. In United States Reports, Vol. 118, J. C. Bancroft Davis, Reporter (1886), the following paragraph, prefatory to Harlan’s decision, appears in a section called “Statement of Facts”:

“One of the points made and discussed at length in the brief of counsel for defendants in error was that ‘Corporations are persons within the meaning of the Fourteenth Amendment to the Constitution of the United States.’ Before argument Mr. Chief Justice Waite said: 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 the opinion that it does.”

Another such reference appears in the “Headnotes,” annotations prepared by the Court Reporter to summarize the opinion. The first sentence says that “The defendant Corporations are persons within the intent of . . . the Fourteenth Amendment . . . “

The consensus among students of this bizarre episode of Supreme Court history is that Chief Justice Waite made a personhood comment from the bench that was not supposed to be part of the Court’s Santa Clara decision. Nevertheless, Court Reporter Davis chose to highlight that comment as the main point of the case. In Santa Clara Waite probably stopped oral argument about corporate personhood because the Court had recently covered that ground in San Mateo. He wanted to settle Santa Clara on narrower technical grounds; he was not ready to break new constitutional ground. Even Justice Field thought that the court had avoided the issue of corporate personhood in its Santa Clara decision. Davis’ motivation remains unclear, but those who have studied the matter have pointed out his ties to railroad interests and his status as a political player.

Fallacious though it was, the Supreme Court soon began to treat the Santa Clara decision as a personhood precedent. In another case five months later, Justice Harlan wrote a dissenting opinion that quoted Waite’s oral comment as if it were a part
of the Santa Clara decision. Unfortunately, the legal status of headnotes was not decided until 1905, when the Court ruled in United States v. Detroit Lumber Co. that headnotes and statements of facts are not part of the Court’s decision. On the question of the validity of the Santa Clara precedent, it seems that time validates Supreme Court decisions, even those based on imaginary precedent.

Why did Chief Justice Waite comment as he did? Why did the Court embrace its decision as a personhood precedent? In each case the answer seems to be “Roscoe Conkling.”

Conkling, a former Senator, had been hired by the Southern Pacific Railroad and charged with one task: to persuade the Supreme Court that Congress had intended that corporations be considered persons under the Fourteenth Amendment. Conkling’s ace in the hole was that he had been a member of the committee that wrote the amendment. The committee’s intent had never been revealed, but Conkling had documentary evidence, a secret journal of the committee’s deliberations, that he brought with him in 1882 when he argued a case very like Santa Clara before the Supreme Court. Over 50 years later a Stanford law librarian, Howard Graham, found as he examined the journal that Conkling had deceived the Court by switching key words so as to prove his point about the intent of the committee. His trick was to claim that the committee had gone back and forth between two alternative words—first “person,” then “citizen,” and finally “person”—because the broader legal meaning of that word could include corporations. Graham discovered that the switch had not occurred. All drafts of the amendment had used “person” consistently. In his argument to the Court, Conkling had made a great show of emphasizing the switch, all the while claiming that the committee had feared that if the word “citizen” were used corporations would not have the protections the committee meant them to have.

Imagine Chief Justice Waite a few years later, confronted with Santa Clara. He is not quite ready to break new constitutional ground, but he has already bought Conkling’s claims. He acknowledges them orally, but not as a written precedent-setting decision. Court Reporter Davis, a railroad sympathizer with a mind of his own, plays up Waite’s comments in the notes he writes to accompany the written record of the case. As Justice Harlan writes the Court’s opinion on Santa Clara he relies on technicalities, not personhood, but five months later he cites Santa Clara as a personhood precedent. The reason for his change is unknown, but the deed is done: Corporations have become persons by judicial fiat, carelessness, gall and chicanery. And the Santa Clara decision contains no judicial rationale for the deed.
## Timeline of Personhood Rights and Powers

<table>
<thead>
<tr>
<th>People Gain or Lose Rights and Powers</th>
<th>Year</th>
<th>Corporations Gain or Lose Rights and Powers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Somersett’s Case [England, 1772]</td>
<td>1772</td>
<td>Revolutionary War Begins [1776]</td>
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<tr>
<td>An English judge rules slavery does not exist in England. A slave becomes free by stepping on English soil. The colonists wonder if slavery will soon be abolished in all English colonies. Runaway slaves attempt to flee to England to gain their freedom.</td>
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<tr>
<td>Bill Of Rights [1791]</td>
<td>1776</td>
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<tr>
<td>The first 10 Amendments to the U.S. Constitution were adopted to protect We the People from excesses of government. At this time, We the People meant only white males who owned property and were over 21 years old. The states decided how much property must be owned to qualify to vote or run for office. (New Jersey women who met property and residency requirements could vote when the Constitution was ratified, but the state revoked that right in 1807.)</td>
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<tr>
<td>States Begin to Loosen Property Requirements for white males to obtain voting and citizenship rights. [1840 on]</td>
<td>1789</td>
<td>U.S. Constitution [1789]</td>
</tr>
<tr>
<td>Dred Scott v. Sanford [1857]</td>
<td>1791</td>
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<tr>
<td>Supreme Court decides that slaves are property and Congress cannot deprive citizens of their property. Slaves are “not citizens of any state” and “have no rights a court must respect.” This decision is the functional opposite of Somersett’s Case.</td>
<td>1803</td>
<td>Marbury v. Madison [1803]</td>
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<tr>
<td>13th Amendment [1865]</td>
<td>1819</td>
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<tr>
<td>Slavery is abolished in the U.S. and any place subject to its jurisdiction. This amendment changed the third paragraph of Article 4, Section 2 of the Constitution.</td>
<td>1840</td>
<td>Dartmouth College v. Woodward [1819]</td>
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<tr>
<td>14th Amendment [1868]</td>
<td>1857</td>
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<tr>
<td>Black males are now citizens of the USA: “...nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”</td>
<td>1861</td>
<td>Civil War Begins [1861]</td>
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<tr>
<td>15th Amendment [1870]</td>
<td>1865</td>
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<tr>
<td>Black males get the right to vote. “The right of citizens... to vote shall not be denied or abridged... on account of race, color, or previous condition of servitude.”</td>
<td>1868</td>
<td>Paul v. Virginia [1868]</td>
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<td></td>
<td>1870</td>
<td>Corporate lawyers argued that under the privileges and immunities clause, corporations are citizens. Supreme Court ruled that corporations are not citizens under Article IV, Section 2. “The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.”</td>
</tr>
</tbody>
</table>
Women argued that under the 14th Amendment equal protection clause, the U.S. Constitution established that their right to vote could not be denied by the state. The Supreme Court rejected this stating that the 14th Amendment was only intended to apply to black males.

Compromise of 1877
To settle a disputed presidential election, the Republicans made a deal with the Democrats (the party of slavery) that if the Republican Hayes became president, he would remove the Union troops from the South, the last obstacle to the reestablishment of white supremacy there.

Of the 14th Amendment cases brought before the Supreme Court between 1890 and 1910, 19 dealt with African Americans, 288 dealt with corporations.

Plessy v. Ferguson [1896]
The Supreme Court ruled that state laws enforcing segregation by race are constitutional if separate accommodations are equal. Black males effectively lost 14th Amendment rights and much access to the “white world.” Plessy legalized “Jim Crow” laws.

Slaughterhouse Cases [1873]
The Supreme Court said: “…the main purpose of the last three Amendments [13, 14, 15] was the freedom of the African race, the security and perpetuation of that freedom and their protection from the oppression of the white men who had formerly held them in slavery.” Corporations were not included in these protections.

Munn v. Illinois [1877]
Supreme Court ruled that the 14th Amendment cannot be used to protect corporations from state law. They did not actually rule on personhood.

The Railroad Tax Cases [1882]
In one of these cases, San Mateo County v. Southern Pacific Railroad, it was argued that corporations were persons and that the committee drafting the 14th Amendment had intended the word person to mean corporations as well as natural persons. Senator Roscoe Conkling waved an unknown document in the air and then read from it in an attempt to prove that the intent of the Joint Committee was for corporate personhood. The court did not rule on corporate personhood, but this is the case in which they heard the argument.

Santa Clara County v. Southern Pacific Railroad [1886]
“The court does not wish to hear argument on the question whether the provision in the 14th Amendment to the Constitution, which forbids a State to deny to any person within its jurisdiction the equal protection of the laws, applies to corporations. We are all of the opinion that it does.” This statement by the Supreme Court before the hearing began gave corporations inclusion in the word “person” in the 14th Amendment to the Constitution and claim to equal protection under law. (The case was decided on other grounds.)

Minneapolis & St. Louis Railroad v. Beckwith [1889]
Supreme Court rules a corporation is a “person” for both due process and equal protection.

Noble v. Union River Logging [1893]
For the first time corporations have claim to the Bill of Rights. The 5th Amendment says: “... nor be deprived of life, liberty, or property, without due process of law.”

Lochner v. New York [1905]
“Lochner” became shorthand for using the Constitution to invalidate government regulation of the corporation. It embodies the doctrine of “substantive due process.” From 1905 until the mid 1930s the Court invalidated approximately 200 economic regulations, usually under the due process clause of the 14th Amendment.
Slavery is the legal fiction that a Person is Property. Corporate Personhood is the legal fiction that Property is a Person.

17th Amendment [1913]
The U.S. Senate is now elected by the people, instead of appointed by state governments.

19th Amendment [1920]
Women finally get the vote after 75 years of struggle. “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.”

Louis K. Liggett Co. v. Lee [1933]
Justice Brandeis dissents: “The Prevalence of the corporation in America has led men of this generation to act, at times, as if the privilege of doing business in corporate form were inherent in the citizen; and has led them to accept the evils attendant upon the free and unrestricted use of the corporate mechanism as if these evils were the inescapable price of civilized life, and hence to be borne with resignation. Throughout the greater part of our history a different view prevailed.”

National Labor Relations Act of 1935
The National Labor Relations Board required employer neutrality when it came to the self organization of workers. It was a violation of the act if an employer interfered in any way with a union organizing drive.

Conn. General Life Ins. v. Johnson [1938]
Justice Black dissents: “I do not believe the word ‘person’ in the Fourteenth Amendment includes corporations.”

Hague v. C.I.O. [1939]
The Court denies an incorporated labor union 1st Amendment rights. Only the individual plaintiffs, not the labor union or the ACLU, could invoke 1st Amendment protections. “[A corporation] cannot be said to be deprived of freedom of speech and of assembly, for the liberty guaranteed by the due process clause is the liberty of natural, not artificial persons.”

1906 Hale v. Henkel [1906]
Corporations get 4th Amendment “search and seizure” protection. Justice Harlan disagreed on this point: “…the power of the government, by its representatives, to look into the books, records and papers of a corporation of its own creation, to ascertain whether that corporation has obeyed or is defying the law, will be greatly curtailed, if not destroyed.”

1908 Armour Packing Co. v. U.S. [1908]
Corporations get 6th Amendment right to jury trial in a criminal case. A corporate defendant was considered an “accused” for 6th Amendment purposes.

1913 U.S. enters World War I [1917]

1919 Dodge v. Ford Motor Co. [1919]
Michigan Supreme Court says, “A business corporation is organized and carried on primarily for the profit of the stockholders. The powers of the directors are to be employed for that end.” “Stockholder primacy” is established. This is still the leading case on corporate purpose.

1922 Pennsylvania Coal Co. v. Mahon [1922]
Corporations get 5th Amendment “takings clause”: “…nor shall private property be taken for public use, without just compensation.” A regulation is deemed a takings.

1933 Louis K. Liggett Co. v. Lee [1933]
The people of Florida passed a law that levied higher taxes on chain stores. The Supreme Court overturned the law citing the due process and equal protection clause of the 14th Amendment and the Interstate Commerce clause.

1935 National Labor Relations Act of 1935

1936 Grosjean v. American Press Co. [1936]
A newspaper corporation has a 1st Amendment liberty right to freedom of speech that would be applied to the states through the 14th Amendment. The Court ruled that the corporation was free to sell advertising in newspapers without being taxed. This is the first 1st Amendment protection for corporations.

U.S. enters World War II [1941]

1947 Taft-Hartley Act [1947]
Corporations are granted “free speech” in the union certification process, usurping the worker’s right to “freedom of association” and greatly weakening the Labor Relations Act of 1935.
**Wheeling Steel Corp. v. Glander** [1949]
Justice Douglas dissents. Regarding the ruling that corporations are given rights as persons under the 14th Amendment, he said, “There was no history, logic or reason given to support that view nor was the result so obvious that exposition was unnecessary.”

**Brown v. Board of Educ. of Topeka** [1954]
Public schools cannot be racially segregated. Often said to have overturned *Plessy*. The Supreme Court recognized that separate was not equal.

**Civil Rights Act** [1964]
This act ended voting discrimination and literacy testing as a qualification for voting, established the Commission on Equal Employment Opportunity, and ended discrimination in public facilities.

**24th Amendment** [1964]
Poll taxes, which were used to keep Blacks and others from voting in some states, were abolished. “The right... to vote ... shall not be denied... by reason of failure to pay any poll tax or other tax.”

**26th Amendment** [1971]
Voting age changed from 21 to 18 years of age. Passed to recognize that if 18-year-olds could be drafted into military service, they should be allowed to vote.

**Reed v. Reed** [1971]
Women get the 14th Amendment. There were earlier cases where it was assumed that women had equal protection. This was the case in which the 14th was ruled to apply to women.

**Roe v. Wade** [1973]
The Supreme Court rules that state statutes against abortion are vague and infringe on a woman’s 9th and 14th Amendment rights (to privacy). Abortion is legalized in the first trimester of pregnancy.

**U.S. ground troops in Vietnam War** [1963]

**See v. City of Seattle** [1967]
Supreme Court grants corporations 4th Amendment protection from random inspection by fire department. The Court framed the question in terms of “business enterprises,” corporate or otherwise. An administrative warrant is necessary to enter and inspect commercial premises.

**Ross v. Bernhard** [1970]
Corporations get 7th Amendment right to jury trial in a civil case. The Court implies that the corporation has this right because a shareholder in a derivative suit would have that right.

**Buckley v. Valeo** [1976]
The Supreme Court rules that political money is equivalent to speech. This ruling expanded the First Amendment’s protections to include financial contributions to candidates or parties.

**U.S. v. Martin Linen Supply** [1976]
A corporation successfully uses the 5th Amendment to protect itself against double jeopardy to avoid retrial in an anti-trust case.

**Virginia Board of Pharmacy v. Virginia Consumer Council** [1976]
The Supreme Court protects commercial speech. Advertising is now free speech.
**First National Bank of Boston v. Bellotti**  
[1977]

Dissent by Justices White, Brennan, Marshall: “...the special status of corporations has placed them in a position to control vast amounts of economic power which may, if not regulated, dominate not only our economy but the very heart of our democracy, the electoral process... The State need not allow its own creation to consume it.” Rehnquist also dissented: “The blessings of perpetual life and limited liability ... so beneficial in the economic sphere, pose special dangers in the political sphere.”

**Pacific Gas & Electric Co. v. Public Utilities Commission**  
[1986]

Dissent by Justices Rehnquist, White, Stevens: “To ascribe to such entities an ‘intellect’ or ‘mind’ for freedom of conscience purposes, is to confuse metaphor with reality.”

1977  **First National Bank of Boston v. Bellotti**  
[1977]

The First Amendment is used to overturn state restrictions on corporate spending on political referenda. The Court reverses its longstanding policy of denying such rights to non-media business corporations. This precedent is used, with *Buckley v. Valeo*, to thwart attempts to remove corporate money from politics.

1978  **Marshall v. Barlow**  
[1978]

This case gave corporations the 4th Amendment right to require OSHA to produce a warrant to check for safety violations.

1986  **Pacific Gas and Electric Co. v. Public Utilities Commission**  
[1986]

Supreme Court decided that PG&E was not required to allow a consumer advocacy group to use the extra space in their billing envelope, upholding the corporation’s right not to speak and protecting the corporation’s “freedom of mind.”

1990  **Austin v. Michigan Chamber of Commerce**  
[1990]

Supreme Court upholds limitations on corporate spending in candidate elections. First Amendment rights can be infringed if the state has a compelling interest.

1996  **International Dairy Foods Association v. Amestoy**  
[1996]

Supreme Court overturns a Vermont law requiring the labeling of all products containing bovine growth hormone. The right not to speak inheres in political and commercial speech alike and extends to statements of fact as well as statements of opinion.

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This timeline was compiled by Jan Edwards with much help from Doug Hammerstrom, Bill Meyers, Molly Morgan, Mary Zepernick, Virginia Rasmussen, Thomas Linzey, Jane Anne Morris, and Richard Grossman.

(revised June 2002)
SHOULD NOT THE 14th AMENDMENT TO THE
CONSTITUTION OF THE UNITED STATES
BE AMENDED?

An Address

to the
Gary, Indiana, Bar Association
November 20th, 1936

by
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Chicago

President Fletcher and Members of the Gary Bar:

As you know, the 14th Amendment to the Constitution of the United States, ratified in 1868, is one of three “War Amendments,” following the close of the Civil War. The 13th Amendment abolished slavery, the 15th forbade the denial of the franchise to citizens of the United States on account of race, color or previous condition of servitude.

Section 1 of the Amendment reads as follows:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

In the entire Constitution and the Amendments thereto, the word “person” is used thirty-four times; in thirty-three times, it refers only and can refer only to creatures of flesh and blood. And in the 14th Amendment, the word is used five times, three times in Section 1, and in four of the five times it is used, it is obvious that natural persons alone can be meant, as only natural persons can be born or naturalized, become citizens, be deprived of life and liberty, be electors, hold any civil or military office, or furnish the basis of representation in Congress. Being used then thirty-three times out of thirty-four in one and the same sense, the Rule of Interpretation would require that this should be held to be the meaning of the word when used elsewhere, unless specifically narrowed or enlarged...

The people must know and understand; their laws must be expressed in such language as they can understand. And when this amendment was under consideration in Congress and in the State legislatures they understood that the word “person” meant a human being. And for seventeen years the Supreme Court of the United States shared with the plain people this understanding of the meaning of the word “person.”

In 1885, however, the field was prepared for a “revolution of our Constitutional Law,” to use the language of Charles A. Beard of Columbia University, an authority on American history, of whom you people of his native State of Indiana may be justly proud. In that year there appeared for the defendant in the case of San Mateo County v. Southern Pacific Railroad Company, 116 U. S. 138, a trio of great lawyers, Wm. M. Evarts, Attorney-General under Johnson, Secretary of State under Hayes, George F. Edmonds, a leader of the U. S. Senate, practicing law on the side, and a former distinguished U. S. Senator, then a corporation lawyer, Roscoe Conkling of New York, whose political power had vanished when, after resigning in a huff in a fight for patronage with President Garfield, the legislature of his State refused to re-elect him.

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The defendant railroad alleged that it was in danger of being deprived of its property in violation of the 14th Amendment, Section 1. Conkling, in his argument told the Court that he had been a member of the Joint Committee of Fifteen of Congress on Reconstruction that had framed the 14th Amendment (which later had been steamrolled through Congress in 1868 by the radical republican faction under Thaddeus Stevens and Charles Sumner). He exhibited to the Court and read extracts from the forgotten Journal of that Committee. It was in manuscript form and had never been ordered printed and distributed by Congress. On the basis of this Journal and his asserted knowledge as a member of the Committee, he claimed that the word “person” used in Section 1 was intended to be applied to corporations as well as to natural persons. He did this notwithstanding the fact that Mr. Justice Miller had said, in 1882, in the Slaughter-House Cases, 16 Wallace 36:

“On the most casual examination of the language of these Amendments [13th, 14th and 15th], no one can fail to be impressed with the one pervading purpose found in them all, lying at the foundation of each, and without which none of them would have been even suggested: —we mean the freedom of the slave race, the security and firm establishment of that freedom, and the protection of the newly made free man the citizens from the oppression of those who had formerly exercised unlimited dominion over him. * * * That its [the 14th Amendment’s] main purpose was to establish the citizenship of the negro can admit of no doubt.”

The Court, however, did not pass upon the point raised by Conkling in the San Mateo case, as the railroad company paid the amount of taxes involved and the case was dismissed.

But in the following year, in the case of Santa Clara County vs. Southern Pacific Railroad Company, 118 U. S. 394, — case similar to the San Mateo County case — Chief Justice Waite, at the opening of the case said:

“The Court does not wish to hear arguments on the question whether the provision of the 14th Amendment to the Constitution which forbids a State to deny any person within its jurisdiction the equal protection of the laws, applies to corporations. We are all of the opinion that it does.”

Arthur T. Hadley, then President of Yale University, in an article entitled “Constitutional Position of Property in America,” published in the Independent,* a leading journal of its day, wrote in 1908:

“The Fourteenth Amendment was framed to protect the negroes from oppression by the whites, not to protect corporations from oppression by the Legislatures. It is doubtful whether a single one of the members of Congress had any conception that it would touch the question of corporate regulation at all.”

Nor did anyone else suppose such a thing. Congress and the States were not intending to give to corporations the rights given to natural persons, any more than they intended to give the black man rights that the white man did not or could not possess.

Neither in the Declaration of Independence, nor in the Constitution of the United States, is the word “corporation” used. Did the men who wrote the Declaration of Independence and pledged “Our lives, our fortunes, and our sacred honor,” fought the Revolutionary War and framed the Constitution of the United States, have in mind that “artificial being, invisible, intangible, and existing only in contemplation of law” — the corporation?

In a book entitled “The Fourteenth Amendment and the States,” (1912) Charles Wallace Collins, tells that in the first forty-four years of the life of this Amendment 604 cases were taken to the Supreme Court of the United States, of which only 28 involved a question concerning the negro race, and 312 concerned a corporation as the principal party. Since then this disproportion has been maintained, private corporation litigation continually leading in number of cases. Gradually the door was closed to a crack for the negro, after his “250 years of unrequited toil” and thrown wide-open to the “bear that walks like a man.”

Collins concludes:

“Although it was a humanitarian measure in origin and purpose and was designed as a charter of liberty for human rights, it has become the magna charta of accumulated wealth and organized capital.”

Corporations, as we know, are creatures of the State. Many of them are formed by citizens of a State who go into another State for the purpose of securing a more favorable charter, then return to the State where they intend to operate, there obtain a license as a foreign corporation and so become practically independent both of the State of their creation and of the State of their domicile; and in time of legal trouble they seek the Federal courts and finally the Supreme Court of the United States as their place of refuge and security. Against their momentum, the individual is oftentimes, helpless. And the material resources and the legal talent are with the

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corporation. Even a State is frequently at a disadvantage in these respects, and its sovereignty is “cribbed, cabined and confined” by its own corporations, under the present interpretation of this amendment. As a consequence, greater and greater strain is placed upon the Supreme Court and upon the Federal courts — a strain which would be better born if distributed among the forty-eight States of the Union.

Joint Resolution presented to the U. S. House and Senate by Edward T. Lee:

“ARTICLE ________________________
“SECTION 1. The provisions of section 1 of the fourteenth amendment to the Constitution of the United States shall be held to apply only to natural persons and not to corporate or other artificial persons created by law…. “
Corporations Behave As If They Are More Human Than We Are

by George Monbiot

Published on Thursday, October 5, 2000 in the Guardian of London

The location of the boundaries of our humanity is perhaps the key moral question of our age. Whether a test-tube baby should be selected so that his cells can be used to save the life of his sister, whether one conjoined twin should die so that another can live, whether partial human embryos should be cloned and reared for organ transplants confront us with problems we have never faced before. Medical advances, both wonderful and terrifying, are eroding the edges of our identity.

The new Human Rights Act is intended to provide us with some of the guidelines we need to help sort this out. It insists that we have an inalienable right both to life itself and to the freedom without which that life would be wretched. But while the rights it guarantees have proved fairly easy to define, it is, curiously, the concept of humanity which turns out to be precarious.

Human beings, you might have thought, are animate, bipedal creatures a bit like you and me. But the lawyers would have it otherwise. Big companies might not breathe or speak or eat (though they certainly reproduce), but they are now using human rights laws to claim legal protections and fundamental liberties. As their humanity develops, so ours diminishes.

Last month, a quarrying company called Lafarge Redland Aggregates took the Scottish environment minister to court on the grounds that its human rights had been breached. Article 6 of the European Convention determines that human beings should be allowed a fair hearing of cases in which they are involved “within a reasonable time.” Lafarge is insisting that the results of the public inquiry into its plan to dig up a mountain in South Harris have been unreasonably delayed. The company, as the campaigning academic Alastair McIntosh has argued, may have good reason to complain, but to use human rights law to press its case sets a frightening precedent.

It is a concept developed in the US. The 14th amendment to the constitution was introduced in 1868 with the aim of extending to blacks the legal protections enjoyed by whites: equality under the law, the right to life, liberty and the enjoyment of property. By 1896, a series of extraordinary rulings by a corrupt, white and corporate-dominated judiciary had succeeded in denying these rights to the black people they were supposed to protect, while granting them instead to corporations.

Though black people eventually reclaimed their legal protections, corporate human rights were never rescinded. Indeed, while they have progressively extended the boundaries of their own humanity, the companies have ensured that ours is ever more restrained.

Firms in the US have argued that regulating their advertisements or restricting their political donations infringes their “human right” to “free speech.” They have insisted that their right to the “peaceful enjoyment of possessions” should oblige local authorities to grant them planning permission, and prevent peaceful protesters from gathering on their land.

At the same time, however, they have helped to ensure that the “social, economic and cultural” rights, which might have allowed us to challenge their dominance, remain merely “aspirational.” As the solicitor Daniel Bennett has pointed out, article 13 of the European Convention, by which we could have contested the corporations’ absolute control of fundamental resources, has been deliberately excluded from our own Human Rights Act.

The rise of corporate human rights has been accompanied by an erosion of responsibilities. Limited liability allows firms to shed their obligations towards their creditors. Establishing subsidiaries — regarded in law as separate entitles — allows them to shed their obligations towards the rest of us. And while they can use human rights laws against us, we can’t use human rights laws against them, as they were developed to constrain only the activities of states. As far as the law goes, corporations are now more human than we are.

The potential consequences are momentous. Governments could find themselves unable to prevent the advertising of tobacco, the dumping of toxic waste or the export of arms to dictatorships. Yet in Britain the public discussion of this issue has so far been confined to the pages of the Stornoway Gazette.

The creatures we invented to serve us are taking over. While we have been fretting about the power of nanotechnology and artificial intelligence, our domination by bodies we created but have lost the means to control has already arrived. It is surely inconceivable that we should grant human rights to computers. Why then should they be enjoyed by corporations?

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Session III, Reading 5
Carl Pope

Corporate Citizens

Many Sierra Club members fondly recall William O. Douglas, the late Supreme Court Justice and member of the Club’s Board of Directors, for his ringing argument that “trees should have standing,” the right to be represented in court. Unfortunately, Douglas’ argument was made in a dissent, not a majority opinion. Although the Club was ultimately successful in Sierra Club v. Morton in blocking the Disney Corporation’s efforts to build a ski resort at Mineral King (now part of Sequoia National Park), it was allowed to intervene only because its members hiked in Mineral King. The valley itself — its trees, streams, and wildlife — was denied standing. Courts exist to resolve disputes among human beings, the majority ruled, not between humans and trees. To this day, environmental groups go to court on behalf of their members, not the wild places they seek to save. (The Sierra Club Legal Defense Fund did include an endangered Hawaiian bird, the palila, as a plaintiff in a lawsuit several years ago, but was careful to include humans as well.)

Some nonhumans, however, are welcome in U.S. courts. In 1886, the Supreme Court declared corporations to be “legal persons” under the law. Corporations were granted not only standing to sue, but virtually the full range of rights granted to people. For example, corporations are allowed to spend unlimited sums to defeat environmental initiatives, because campaign spending limitations have been ruled to interfere with their right to free speech. Like people, corporations cannot be restricted in their ability to acquire other businesses (except within the increasingly ignored boundaries of the Sherman Antitrust Act). In an effort to preserve family farms, for instance, some states barred corporations from owning farms — only to have those prohibitions struck down by the courts.

In another famous dissent, Justice Douglas argued that the decision to make corporations persons under the law was “without logic, history, or rationale.” In early America, state legislatures could both grant charters to corporations and revoke or limit their rights. But by the end of the 19th century, an era in which federal courts consistently sided with powerful economic interests, corporations were given full constitutional rights — while their actual human owners and directors were absolved of liability for their debts and responsibility for their actions. Limiting liability is, after all, the primary purpose of the corporate form — hence the British shorthand for a corporation, “Ltd.”

There is little else that is limited about corporations, however. Since they exist to maximize profits (shareholders can sue them if they don’t), they are compelled by their nature to grow and grow, consuming more natural resources and encouraging more consumption. This has made them major obstacles to the defense of clean air and water and the preservation of wildlife habitat.

It’s time for environmentalists to join the debate on the proper function of these economic machines in a democratic society. The destructive role of unchecked corporations is amply demonstrated in Russell Mokhiber’s Sierra Club book, Corporate Crime and Violence (1988). And the people are ready to listen: a June poll for the Preamble Center for Public Policy revealed a striking increase in public anger at corporate behavior, with seven out of ten Americans blaming corporate greed for layoffs, declining wages, and the economic problems of the middle class.

How can we make these gigantic economic engines accountable for their actions? Rejecting the concept that they deserve the same constitutional rights as individuals would be a powerful first step. Environmentalists should urge closer scrutiny and more effective regulation of corporations, in their overall behavior and governance as well as their environmental performance. Society should treat them as what they are — forms of business organization, not individuals.

At the very least, we should remember William O. Douglas and treat the natural world as well as we treat fictitious entities. True, trees are not people — but neither are Exxon or DuPont. One can certainly argue whether grizzly bears ought to have particular rights — voting seems inappropriate — but it is hard to argue that corporations deserve the protections accorded to living, breathing individuals while entire ecosystems lack the legal standing to be represented in our courts. If we’re going to grant standing to fictitious entities, we could make the law a more reliable protector of everyone’s long-range interests by opening the courthouse doors to the salmon and the sequoia. By doing so, we might even see Justice Douglas’ vision translated from the text of his dissents to the fabric of our society.

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Northern California City Challenges Corporate Personhood
A New Strategy for Placing Limits on Corporate Power
June 2000

How many people know that under U.S. law corporations are persons? And that, as a result, corporations have been able to amass ever greater power to influence democratic processes and restrain governmental regulation? For example...

● Do advocates for campaign finance reform know that corporations cannot be prevented from contributing money to political campaigns? Corporate personhood means that any restraints on campaign contributions represent an abridgment of corporate rights to free speech.

● Do those who favor increased public monitoring of the operations of oil refineries, chemical manufacturers, paper mills, silicon chip makers, hospitals, or other plants generating toxic waste or emissions know that corporations can deny access to their premises by citizens wishing to determine whether government regulations are being followed? Personhood means that corporations are protected from warrant-less search and seizure.

● Do supporters of local, independent businesses know that citizens cannot limit access by, or create special requirements for, any corporation that wishes to conduct business in their community? Corporate personhood means that such practices would infringe on corporate rights to equal protection.

● Do labor rights supporters know that people lose their rights to free speech and freedom of association, as well as other Bill of Rights protections, when on corporate property? Personhood reinforces a corporation’s private property rights.

News Item

On April 25, 2000 the City Council of Point Arena, California, passed by a vote of 4 to 1 a resolution that rejects the concept of corporate personhood.

Why This Is Significant

● This is the first such action taken in the United States.

● It represents a new strategy designed to restrain corporate power. Rather than use incentives and regulations to guide corporate behavior — practices that at best result in incremental gains in the public interest — the citizens of Point Arena have asserted their democratic right to challenge a fundamental aspect of corporate existence. They have taken a step to assert sovereignty over corporations.

● Citizens of other cities, including Eugene, Oregon, and Santa Cruz, California, are initiating campaigns to challenge corporate personhood.

● Communities and groups across the United States and Canada are pursuing complementary tactics designed to define what corporations can and cannot do.

● These activities are manifestations of a new movement supporting the spread of political and economic democracy.
Brief Background

The Supreme Court first gave corporations, a legal creation, personhood (for purposes of the 14th amendment) in an 1886 decision. Other court cases led to full corporate personalization in 1910. Corporations have used this court-assigned status since the late 19th century to advocate successfully for having the protections and rights granted to people by the U.S. Constitution and Bill of Rights. As a consequence, corporations have been able to limit governmental efforts at regulation, constrain the workings of democracy, and subordinate the rights of people.

Members of the Redwood Coast Chapter of the Alliance for Democracy were inspired to challenge corporate personhood by the work of the Program on Corporations, Law and Democracy (POCLAD), devoted to "instigating democratic conversations and actions that contest the authority of corporations to govern." Alliance members engaged members of the community of Point Arena in learning about corporate personhood, its history and consequences, and the consequences of revoking it. They then placed a Resolution on Corporate Personhood before the City Council. Following sessions of public debate and revisions of the original document, the City Council adopted the following resolution:

**Resolution on Corporate Personhood in the City of Point Arena**

Whereas, the Citizens of the City of Point Arena hope to nurture and expand democracy in our community and our nation; and

Whereas, democracy means governance by the people and only natural persons should be able to participate in the democratic process; and

Whereas, interference in the democratic process by corporations frequently usurps the rights of citizens to govern; and

Whereas, corporations are artificial entities separate and apart from natural persons, are not naturally endowed with consciousness or the rights of natural persons, are creations of law and are only permitted to do what is authorized under law; and

Whereas, rejecting the concept of corporate personhood will advance meaningful campaign finance reform.

Now, therefore, be it resolved that: the City Council of the City of Point Arena agrees with Supreme Court Justice Hugo Black in his 1938 opinion in which he stated, "I do not believe the word 'person' in the 14th Amendment includes corporations;" and

Be it further resolved that: the City of Point Arena shall encourage public discussion on the role of corporations in public life and urge other cities to foster similar public discussion.

For more information, contact Jan Edwards, 707-882-1818, janedwards@mcn.org. If you would like to have an article submitted for publication, contact Alis Valencia, 707-964-7964, avalencia@mcn.org.

website:  http://www.iiipublishing.com/alliance.htm

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Democracy in St. Thomas

James Allison
June 12, 2006

St. Thomas Township, on Highway 30, is home to about 5,600 south-central Pennsylvanians. Rebel troops in gray marched through the township on their way to defeat in Gettysburg. About 140 years later, in 2003, a corporation bought 416 acres of St. Thomas land, mainly apple orchards, with plans to dig a limestone quarry there. The outfit was St. Thomas Development Inc., a subsidiary of a Philadelphia-area real estate and construction company. From a 90-acre pit, 280 feet deep, would come a half million tons of limestone annually. Eventually there might also be a concrete/asphalt plant. The corporation expected to create 20 plus jobs.

As the corporation would say little about the quarry’s impact on the quality of life in St. Thomas, dozens of curious citizens formed FROST (Friends and Residents of St. Thomas Township) and began to investigate. They found reasons to worry about air and noise pollution attendant on blasting and the crushing of rock, about heavy truck traffic around the quarry, and about adverse effects on water wells, property values and the aquifer. With the township’s elementary school only 1,000 feet away, they worried about airborne silicate dust and the pulmonary health of developing children.

Township supervisors said they were powerless to stop the project, as there was no restrictive zoning ordinance. Republican Frank Stearn, then a FROST member, decided to run for township supervisor himself. He ran as a write-in candidate in opposition to the quarry, despite long odds against any write-in entry late in the game. He won the election.

On his first day on the job, Feb. 18, 2004, Stearn received a letter from the corporation’s lawyer. The letter warned him to recuse himself on matters concerning the quarry. Otherwise the corporation might sue, in which case St. Thomas municipal government might find itself liable, and any quarry vote might be void. Attorney Timothy Sandefur, a property rights specialist, agreed: The corporation has a constitutional right to do business in a way that a majority of the community might deplore.

Stearn’s fellow Supervisors followed the corporate line. They prevented him from discussing or voting on any aspect of the quarry project.
FROST attorney Thomas Linzey countered that a corporation should not be able to nullify an election. The corporate position would simply emasculate any candidate who runs on a platform contrary to any corporate interest. What is fair or democratic about that? It is time to examine the 200 years of finely crafted law that have somehow stolen our constitutional rights and given them to corporations, including the right to run our communities as the citizens see fit.

On April 7, 2005, the Class Action Reporter (vol. 7, no. 68) noted that U.S. Middle District Judge Yvette Kane had ruled against the FROST claim of $49 million in damages. Kane ruled that the alleged injuries were “indirect and largely ephemeral.” She added that she had very nearly declared the suit frivolous and required FROST to pay the company’s attorney fees. She said that FROST attorney Linzey had ignored numerous decisions in constitutional law that established corporate rights.

On appeal, Judge Ronald L. Buckwater, U.S. 3rd Circuit Court of Appeals, ruled against FROST on April 10, 2006. According to him, FROST lacked standing in filing the lawsuit, as its members suffered no real, direct injury from the corporation’s threat. FROST has not decided whether to appeal further.

In a parallel development, in February 2006 Franklin County Court Judge Doug Herman ruled that Supervisor Stearn could vote in quarry matters. Oddly, Stearn proceeded to approve the quarry project. Notwithstanding his turnabout, the corporation proceeded to appeal the Herman ruling.

Back in St. Thomas, excavation began in late April, 2006.
Tea Time in Humboldt County (CA)

On June 6, 2006, the voters of Humboldt County will stamp “Pass” or “Fail” on Measure T. Reminiscent of the Boston Tea Party, another rebellion against rampant corporate power, Measure T would enhance local control by keeping “foreign” corporate money out of local elections. The measure specifies that financial contributions in Humboldt County elections come only from individuals, local businesses and local organizations.

Measure T has a long history and two recent defining events. In 1999 Wal-Mart mounted a $250,000 campaign to change Eureka’s zoning laws. In 2004 Houston-based Maxxam, the parent of Pacific Lumber Company, mounted a $300,000 effort to recall a popular District Attorney who had sued Pacific Lumber for fraud. The suit alleged a corporate concealment of information whose disclosure would have reduced logging in watersheds so as to protect salmon habitat and downstream properties.

These long-range corporate strikes left a poor impression among local targets. In 2004 a student at Humboldt State University did a telephone survey of registered county voters that revealed considerable opposition to corporate influence in the electoral process. For example, 78% agreed that corporate contributions made political corruption more likely. Confronted with the proposal that any corporation, regardless of its place of incorporation, should be able to contribute financially to local elections, 72% disagreed. Asked if they would be more likely to support a local corporation than a non-local one, 86% said “yes.”

Here are some of the salient points of the ordinance proposed by Measure T. Only natural persons have civil and political rights; as legal creatures, corporations have no legitimate civil or political rights. Corporate contributions in elections undermine democratic processes. The ordinance proposes to keep non-local corporations from contributing to Humboldt County elections. A local corporation is one whose employees all reside in Humboldt County. Its primary place of business and corporate headquarters are in Humboldt County. It is not owned in whole or part by another corporation. Its stockholders (if any) all reside in Humboldt County. The District Attorney is responsible for enforcing this ordinance, but every citizen of Humboldt County has the right to sue to compel compliance with the ordinance. All actions shall be brought in the Superior Court of California, Humboldt County.

Supporters of Measure T include the Humboldt Coalition for Community Rights, numerous labor organizations, the Democratic and
Green parties of Humboldt County, and many veterans of city and county government--mayors and city council members, past and present, and the Humboldt County District Attorney. The opposition includes the Eureka and Fortuna Chambers of Commerce, the Republican and Libertarian parties of Humboldt County, the mayor of Fortuna, and two newspapers. Several local members of WILPF are working for Measure T. Further information is available at www.votelocalcontrol.org (a pro-T site) and www.measuretno.org (a con-T site).

The complete text of Measure T can be seen at www.bloomingtonwilpf.org (click on “Local Agenda”).

P.S.: On June 6 the voters of Humboldt County adopted Measure T by a sizable margin, 55%-45%.

Jim and Tomi Allison
Contact Persons, Corporations v. Democracy Issue Committee
Challenging Corporate Power, Asserting the People’s Rights

Session IV — The Regulatory State

Since the late 19th century, protection of the U.S environment, workers, consumers, and communities has been in the hands of regulatory agencies and the laws that established them — Interstate Commerce Commission (ICC), Federal Trade Commission (FTC), Nuclear Regulatory Commission (NRC), Environmental Protection Agency (EPA), Food and Drug Administration (FDA), Occupational Safety and Health Administration (OSHA), Consumer Product Safety Commission (CPSC) — to name a few. When our news is filled with stories of defective Firestone tires and genetically modified animal feed in taco shells, more people are starting to wonder: are these institutions effective in carrying out their assignments? Are we safe in their hands? Who and what are protected by regulatory law and its implementers? What are the consequences for public and environmental health when poisoning, endangering, and destroying are violations of regulatory standards rather than violations of human beings, communities, and the earth?

For many decades concerned citizens have focused their efforts on nudging regulatory agencies toward more rigorous enforcement rather than challenging the illegitimate power of corporate entities and the people running them. This session asks us to talk about these realities and to imagine the kind of changes in our understanding, approach, and institutions that will provide the protections and authority we seek.

Readings:
1. “Sheep in Wolf’s Clothing,” by Jane Anne Morris (4 pages)
2. Excerpt from “The Grand Bazaar” chapter of Who Will Tell the People by William Greider (9 pages)
3. “The People’s Business” by Lee Drutman and Charlie Cray (13 pages)
4. “How to Curb Corporate Power” by Ralph Nader (6 pages)

Discussion Questions:
1. Discuss the driving forces behind the creation of the regulatory agencies. What are the impacts of privatizing profits while socializing costs? Do railroad executives’ comments about “ruinous competition” (and their solutions for it) shed any light on current statements about competition from the business world?

2. Give examples of regulatory agencies acting as “permitting” bodies for corporations, providing more protection for corporations than us. What do you see as alternatives to put “we the people” in charge?

3. How does the labyrinthine system described by William Greider impact the ability of people to practice democracy? What is the impact of random enforcement of the law? Who gets to participate in this system, and who is excluded?
4. How do occasional stories of victories by the EPA, FDA, anti-trust, and others affect our beliefs in the regulatory system? Are court decisions such as the one against “Big Tobacco” really victories?

Supplementary Materials:


Sheep in Wolf’s Clothing

By Jane Anne Morris

**IF YOU’RE HAVING TROUBLE** getting to sleep, you can count sheep, or read a book about the history of regulatory agencies. It may turn out to be the same thing.

The nation’s first federal regulatory agency, the Interstate Commerce Commission (ICC), was established in 1887. Concerned citizens, having failed to solve their difficulties in more traditional ways, sought the intervention and assistance of the federal government. Over the next three decades, these mavericks worked to defend the ICC’s existence and increase its powers to regulate the railroad corporations.

Who were these pioneers who dared to go where no one had gone before, to urge the formation of and expand the powers of the first federal regulatory agency?

Prominent among them were the Director and General Counsel for several of Vanderbilt’s railroad corporations, including the New York Central Railroad Company, Chauncey M. Depew; the President of the Union Pacific Railroad Company and former chairman of the Massachusetts Rail-road Commission, Charles F. Adams; the President of the Minnesota and Northwestern Railroad Company, and President and Chairman of the Board of the Chicago and Great Western Railway Company, A. B. Stickney; the Vice President, General Manager, Director, and President of the Chicago, Burlington & Quincy Railroad Company and later, President of the Burlington & Missouri River Railroad Company, Charles E. Perkins; the Vice President, General Manager, Director, and President of the Pennsylvania Railroad Company, Alexander J. Cassatt; Andrew Carnegie (Man of Steel); the prominent J. P. Morgan, banker, associated with the rise of the International Harvester Company and U.S. Steel Corporation; and 1912 chairman of the national executive committee of the Progressive Party, George W. Perkins.

The role of these and other railroad corporation men has been explored by historians whose research into primary materials led them to things you’ll never read on the back of a cereal box. One such historian, Gabriel Kolko, made use of letters, speeches, testimony before Congressional committees, and trade journal articles in his efforts to piece together the story of what amounts to a regulatory revolution in the U.S.

That such a revolution occurred is historical fact. After a slow start, an alphabet soup of regulatory agencies proliferated like lawyers on the national scene. But that the midwives of this revolution were railroad men and other corporate executives is a reality less widely appreciated, and at odds with current regulatory agency creation myths.

Late nineteenth century railroad companies were troubled by too much competition: waves of fierce rate cutting and rate wars, the use of discriminatory rebates (a form of discount—a bribe—used by rival companies to steal each other’s customers), and major bankruptcies. This is hardly the scenario that would have existed had the railroad companies succeeded in fixing prices, establishing monopolies, and controlling the market. But they tried.

Corporate mergers, trusts, pools, and trade associations were all methods through which corporations sought to eliminate competition. Each ran into glitches, however.

Until the late 1880s, many mergers were effectively illegal because most states had laws prohibiting a corporation from owning stock in other corporations. Trusts, an effort to finesse this prohibition, were made technically illegal by the 1890 Sherman Antitrust Act (subject to spotty enforcement and soon rendered nearly useless by judicial monkey-wrenching). Pools—sometimes illegal, sometimes not—ultimately failed to maintain price levels for their members because they lacked enforcement powers (to sanction a member that broke ranks and cut prices, for instance.) Trade associations tried to control the market by means of informal price agreements, standards, and licenses, but as with pools, such agreements lacked the force of law.
So, throughout the late nineteenth and early twentieth centuries, mergers, trusts, pools, and trade associations all failed to meet the needs of large corporations eager to crush competition in order to maintain price levels.

Railroad companies wanted to fix rates among themselves, and then enforce these rates. (That is, they wanted legally enforceable price-fixing). They wanted a shield against a tide of public activism that was showing itself in the form of tough state laws, increased populism, calls for government ownership of railroads and other public utilities, and a resurgence of socialist movements.

They wanted the public to pay the costs of coordinating an industry and maintaining quality control (standards, inspection, enforcement), while guaranteeing the railroad corporations a basic (and profitable) rate of return. Despite all of this government investment, however, profits were to go to corporate coffers and stockholder wallets.

Railroad executives wanted the ICC to enforce rates. But enforcing rates did not mean capping rates in order to protect the public. Enforcing rates meant prohibiting upstart companies from offering lower rates and thus undercutting the profits of the established railroad companies. Enforcing rates was a means of protecting large corporations from what John D. Rockefeller called “ruinous competition.”

A. B. Stickney (Chicago & Great Western Railway Co.) explained about rates: “Let the law name the rates, and let the law maintain and protect their integrity.” The Railroad Gazette expressed a hope that the ICC would “go ahead and catch every law-breaking rate-cutter in the country.”

The 1906 Hepburn Act (augmenting ICC powers) has frequently been cited as a victory for “reformers.” However, Railway World stated, “...we can see nothing in the measure threatening the interests of the railroads.” In Railway and Engineering Review, G. J. Gram-mar of the New York Central Railroad Company concurred: “The enforcement of the new rate law will, I believe, be of the greatest benefit to all the rail-roads.”

One such benefit was protection from what historian Lawrence Goodwyn called “the largest democratic mass movement in American history.” A railroad man wrote to the ICC in 1897, “Oh Lord pity us in Nebraska and preserve us from the results of a populist legislature and State government.” Richard Olney, President Cleveland’s Attorney General, explained to railroad corporation executives that the ICC was to be “a sort of barrier between the railroad corporations and the people…”

From the early days of the ICC, Charles F. Adams (later President of the Union Pacific Railroad Co.) saw what was needed to solve the railroad corporations’ problems. “What is de-sired...” Adams wrote, “is something having a good sound, but quite harm-less, which will impress the popular mind with the idea that a great deal is being done, when, in reality, very little is intended to be done.”

The public was to be pacified with laws that sounded tough but placed much discretion in the hands of regulators. As Charles E. Perkins (Chicago, Burlington & Quincy Railroad Company) said succinctly in 1888, “Let us ask the [ICC] Commissioners to enforce the law when its violation by others hurts us.” In this context, federal regulatory agencies emerged like the Promised Land from a wilderness torn by rate wars, strewn with the carcasses of bankrupt corporations, clouded over with competition and uncertainty, and ringed by the howls of an outraged public.

Regulatory agencies like the ICC transformed activities once illegal (such as price-fixing and market control) into practices that were now not only legal but mandatory—with the government doing the enforcing and taxpayers bearing the infrastructure costs, while business corporations, investors and speculators reaped the profits.

By 1920 railroad corporations pretty much had it all, courtesy of the U.S. government and the ICC. The Transportation Act of 1920 gave the railroads what they had dreamed of since the 1890s if not before: legalized pooling (i.e., price-fixing), guaranteed prices, exemption from antitrust laws and an assured rate of return.

Thus emerged the ICC over its first decades as coordinator and guarantor of a government-enforced, regulated monopoly. The ICC had been exceedingly flexible in using its discretionary powers; its commissioners had been exceedingly sensitive to the views of railroad corporation officials. In short, it had been a good sheep, in wolf’s clothing. Its actions had be-come so vital to railroad corporations’ well-being that others could not help but notice. And so—you guessed it—this sheep was cloned. The ICC, considered to be a successful model commission, became a template for the next dozen or so regulatory agencies, effectively establishing the U.S. regulatory system pattern.

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The argument will be made that the ICC is only one regulatory agency, that the railroad industry is different from other industries, and that the railroads are, well, a special case. With due respect to the railroads (which went into decline because corporation executives decided they could make more money from steel, rubber, and oil transformed into the polluting profit-makers known as automobiles), and to the ICC (abolished by an act of Congress in 1995), all industries are “special.”

Kolko describes how regulation came to corporations in a host of industries in the decades around the turn of the century—including insurance, meat packing, food, banking, and communications (telephone and telegraph). The parallels to the railroad industry are striking. The big corporate players in various industries sought an escape from the rigors of competition through control of mar-kets, government-borne costs of infra-structure and quality control, and direct or indirect price maintenance or guaranteed rates of return. Special, indeed.

No sooner had a flock of regulatory agencies been established than critiques began to appear. Every generation or so, there arises a great hue and cry about how corrupt and/or ineffective they are. Soon after World War II one wave of criticism receded and left behind the Administrative Procedures Act (1946), which outlined measures that would supposedly make regulatory agencies less arbitrary by making them more like courts. Marver Bernstein followed up in 1955 with a classic critique that concluded, “Be-cause [the regulatory agency idea] is based upon a mistaken concept of the political process which undermines the political theory of democracy, [it] has significant anti-democratic implications.” In 1960 James Landis, a regulatory agency veteran, made a report on regulatory agencies to President-elect John F. Kennedy. Landis, a supporter of the regulatory agency concept, nevertheless conceded that regulatory agencies were mired in “Alice in Wonderland” procedures; the costs were “staggering”; the delays “inordinate”; and the failures sometimes “spectacular.” Then in 1975, Christopher D. Stone’s Where the Law Ends delivered an updated and still devastating analysis, this one encompassing the newer 1970s crop of regulatory agencies, many of them concerned with the environment.

It is difficult to say which is more discouraging: that the criticisms have changed very little over time, or that the suggested changes are clearly unequal to the task. Some of the recurring criticisms are that 1) regulatory agencies have too much discretionary authority, which is almost invariably abused; 2) they combine legislative, executive, and judicial power in one place; 3) their personnel and outlook reflect the views of the corporations they are supposed to be regulating; 4) since individuals and small businesses can’t afford the time and expense to fully participate, large corporations dominate; and 5) procedural considerations are so intricate and demanding that matters of fairness, justice, and overall policy questions, not to mention common sense, are ruled irrelevant if they come up at all.

Any one of these five would present a serious obstacle to democratic control. Together, they are so formidably antidemocratic that it’s a wonder we can keep a straight face while claiming that by tinkering with regulatory agencies, we might “reform” them. There is nothing new about these problems, of course: they are why federal regulatory agencies were established.

Regulatory agencies are the corporations’ response to people’s calls for democracy and self-governance. Corporate officials who once hired Pinker-ton’s goons to do their dirty work and protect them from an activist public can now rest assured that much of that burden has been assumed by regulatory agencies. They work as the barriers they were designed to be.

Over the last century the regulatory regime did something else, something that receives too little of our attention. It replaced, and seemingly erased from memory, a myriad of imperfect but promising democratic measures that defined the corporation at the outset as a subordinate entity chartered to serve the public good. Many of these measures were straightforward, effective, and even clever, and did not require arcane administrative structures for their implementation and enforcement.

In contrast, our current system heaps huge helpings of powers, privileges, property protections, grants, exemptions, subsidies, and favors upon the corporate form, and then, as if in an afterthought, adds: And, by the way, now we’ll go through the motions of regulating you.

And what great targets these regulatory agencies make. Corporate public relations teams blame them for economic ills, and the public blames them for “not doing their jobs.” Attention is deflected away from corporations as the source of problems, and toward efforts to “reform” regulatory agencies. The idea that the concept of the regulatory agency is inherently flawed doesn’t even make it onto the table.
Moving this idea to the center of our debates opens up new strategies, more democratic goals, and opportunities for activism that have long been obscured by regulatory minutiae.

What would it take for us to discuss this possibility openly?

We have heard the howl of the regulatory agencies: a resounding “Baa-a-a, baa-a-a.”

We’ve had a century to watch them fail to work for the public interest. Corporate lawyers might as well have put up billboards: “Do people think your factory stinks? Hire an expert to prove they’re wrong!” “State legislature too democratic? Escape to a federal regulatory agency. And then to the courts!”

Why is so much of today’s activism confined to what Harper’s editor Lewis Lapham calls “clean and well-lit regulatory agencies”? What lies outside the regulatory realm?

Some of what lies beyond that realm can be found in the lore of labor struggles and the nineteenth century populist movement. Some is between the lines in the convoluted prose of state corporation laws. Much lies dormant but frustrated, drowned out by the clanking machinery of our current democracy theme park. But we won’t see or use any of it until we step out of the glare of the “Alice in Wonderland” regulatory realm, and let our eyes adjust to the unfamiliar light of democratic conversations and actions.

A sheep is a sheep is a sheep. Pulling the wool over our eyes won’t change that.

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BIBLIOGRAPHIC NOTE. The bulk of background materials for this article, including quotations, can be found in Gabriel Kolko’s excellent books, Railroads and Regulation and The Triumph of Conservatism. Both are readable and widely available. Lawrence Goodwyn’s The Populist Moment and R. Jeffrey Lustig’s Corporate Liberalism are also indispensable in providing background on this critical period of U.S. history. The Bernstein, Landis, and Stone critiques are all classics in the regulatory agency genre.

The interested reader can obtain a complete bibliography and list of references by sending a self-addressed, stamped envelope to the Program on Corporations, Law and Democracy, P.O. Box 246, South Yarmouth, MA 02664; (508) 398-1145.
WHO WILL TELL THE PEOPLE?

The Betrayal of American Democracy

4

THE GRAND BAZAAR

The gleaming temples of democracy that tourists visit in Washington, the marble shrines to great leaders and great ideals, are no longer an appropriate emblem for the nation’s capital. Washington now is more aptly visualized as a grand bazaar — a steamy marketplace of tents, stalls and noisy peddlers. The din of buying and selling drowns out patriotic music.

The high art of governing — making laws for the nation and upholding them — has been reduced to a busy commerce in deal making. Thousands and thousands of deals are transacted every day in diffuse corners of the city. The rare skills required for politics at the highest level are trivialized as petty haggling, done with the style and swagger of rug merchants.

The Department of Transportation dickers with Detroit over automobile safety. The Department of Agriculture makes deals with farmers on the price of corn and the permissible poison level in pesticides. The Treasury Department haggles with important taxpayers. The Department of Defense buys rockets and airplanes and sells them too. In the grand bazaar, the two staples of trade are the myriad claims on the federal treasury and the commercial rights and privileges that only the government can bestow — licenses for television stations or airlines, the use of public assets like land or water or timber. All may produce vast good fortune for the winners and the competition for them naturally draws many eager contestants.
It is bargaining over the law itself, however, that provides the richest commerce and has the greatest consequences for democracy. While the news media focus on the conventional political drama of enacting new laws, another less obvious question preoccupies Washington: Will the government enforce the law? Does the new law enacted by Congress really have to mean what the public thinks it means? Or is there a way to change its terms and dilute its impact on private interests? Lawyers inquire whether exceptions can be arranged for important clients. Major corporations warn enforcement officers of dire economic consequences if the legal deadlines are not postponed for a few more years. Senators badger federal agencies to make sure the law is treating their clients and constituents with due regard.

Washington, in other words, engages in another realm of continuing politics that the public rarely sees — governing contests where it is even more difficult and expensive to participate. This is where the supposedly agreed-upon public objectives are regularly subverted, stalled or ignored, where the law is literally diverted to different purposes, where citizens’ victories are regularly rendered moot.

Confusion spreads across almost every function of the government, a continuing uncertainty about whether laws will actually be implemented. Those interests that have the resources and the incentive to stall the law’s application do not always succeed, of course, but their persistent efforts keep government authority always in doubt — often long after the public was assured that a problem had been addressed.

The transactions where this occurs are mostly submerged in the Executive Branch, scattered across hundreds of bureaus and agencies and focused mainly on the esoteric language of federal regulations and enforcement. The regulatory government is a many-chambered labyrinth, staggeringly complex and compartmentalized in its thousands of parts. But one does not have to study a dizzying organizational chart of federal agencies to understand how it works. One need only visualize what happens to a law after it is enacted to grasp the antidemocratic dynamic.

The deal making is the principal source of the money scandals that occasionally ensnare senators or representatives. When a politician is caught trying to fix things for a campaign contributor, he usually reacts with injured innocence. He was only doing his job. Besides, everyone does it. As morally unsatisfying as these excuses seem, the crooked politicians are articulating an unpleasant truth about modern government. Everybody does it, including especially the politicians of the Executive Branch.

For democracy, the result is a kind of random lawlessness. Corrective mechanisms that are supposed to prevent irregular political manipulations have been purposely weakened. And the public inherits grave injustice: a government that will not faithfully perform its most basic function — enforcing the laws.

The regulatory government is arguably the largest or second largest component in the political commerce surrounding the federal government, rivaled only by the defense sector in terms of the human and financial resources it consumes. Professor Robert B. Reich of Harvard attempted a precise census in the early 1980s and found that the “regulatory community” in Washington consisted of 92,500 people — lawyers, lobbyists, trade-association and public-relations specialists, consultants and corporate reps. Their primary function is to argue over the content of federal regulations — the precise meaning that will flow from the laws that Congress has enacted. A decade later, Reich’s head count doubtless understates reality.1

The general-interest press does not try to cover the regulatory government, except for an occasional controversy, mainly because regulatory politics seldom provides a concise, convenient event. These contests are stretched out over years — a continuum of tedious actions that confounds the standard definition of “news.” The regulatory details, moreover, do not look like “politics,” but generally surface as mind-numbing arguments over law, science and economics.2

The explosion of modern regulation, more than anything else, is what brought the money to Washington and transformed the capital from a sleepy small town to a glamorous power center. During the 1930s, Roosevelt’s New Deal created 42 major regulatory agencies and programs. Most of these involved economic regulation of specific sectors (airlines, broadcasting, oil and agricultural production and others), arrangements usually created in cooperation with the affected industries. During the 1960s, 53 regulatory programs were enacted, as consumer issues and environmental protection gained political momentum. From 1970 to 1980, 130 major regulatory laws were enacted. That is what brought the Fortune 500 to Washington, along with the tens of thousands of lawyers.3

Unlike most of the earlier regulatory laws, the modern generation of regulation was primarily aimed at curbing the antisocial behavior of businesses and was equipped to act in much more intrusive ways. New agencies like EPA or OSHA were not confined to specific industrial sectors like airlines or broadcasting, but were responsible for policing conduct across the entire spectrum. In that sense, the purposes were truly national. This design presumably made it harder for a single industry to capture its regulator and control the agency’s decisions, but it also had a unifying impact on corporate politics — an incentive for diverse business interests to collaborate in campaigns to thwart new laws. Coalition building among different companies and industrial sectors became the preferred mode of corporate pressure, and these alliances now deploy battalions of lawyers and lobbyists armed with their expert testimony.4

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While regulatory laws have accomplished many things, the cumulative result is a civic culture that is quite different from the classical version of government described in civic textbooks. The arrangements of regulatory laws invite — and often require — that all things be negotiable later in the fine print. In time, once that assumption permed government, the interested parties established that no principle was exempt from tampering. Theodore J. Lowi, the Cornell political scientist, captured the spirit of modern Washington when he described it as governing by “universalized ticket fixing.”

The bargaining mode of governance, as Lowi explained, originated in the pluralist logic that fostered many of the New Deal’s innovations — reforms and economic interventions intended originally to share governing power with the weak and unrepresented. The goal was to create new forums and agencies for decision making in particular fields of interest, which would provide a place at the governing table for groups of citizens that could not hope to win in the larger political contests over general law. Struggling labor unions were given the National Labor Relations Board. Farmers were given an elaborate committee system with which to influence agricultural policy. The fledgling airline industry was regulated but also protected from competition by the Civil Aeronautics Board.

At the dawn of the New Deal, principled conservatives (as distinct from those conservatives merely fronting for monied interests) had warned that a government that dabbled in every corner of the society would be unable to sustain a classical sense of general law. Political decisions would resemble, instead, particular deals, made piecemeal across every front. In those terms, the old conservative nightmare has come true.

But so has the liberal nightmare. Instead of containing the political influence of concentrated economic power and liberating government from its clutches, the steady diffusion of authority has simply multiplied the opportunities for power to work its will. The original progressive purpose of the New Deal has been stood on its head and now the entrenched monied interests are back in charge of the marketplace, running the tables in the grand bazaar.

The idea, roughly speaking, was to encourage people to organize themselves into identifiable interest groups whose claims and aspirations the government could address, one by one. Out of the many voices, it was supposed, an equilibrium of just results would emerge from the competition among different groups. Lowi called it “interest-group liberalism.” This civic philosophy is now fully internalized by both political parties and, indeed, by most citizens too. However, as Lowi said, it “corrupts democratic government because it deranges and confuses expectations about democratic institutions.”

This approach, multiplied and elaborated over time, produced a rudderless vessel — a government designed to fix things at many different tables in the grand bazaar. At the dawn of the New Deal, principled conservatives (as distinct from those conservatives merely fronting for monied interests) had warned that a government that dabbled in every corner of the society would be unable to sustain a classical sense of general law. Political decisions would resemble, instead, particular deals, made piecemeal across every front. In those terms, the old conservative nightmare has come true.

But so has the liberal nightmare. Instead of containing the political influence of concentrated economic power and liberating government from its clutches, the steady diffusion of authority has simply multiplied the opportunities for power to work its will. The original progressive purpose of the New Deal has been stood on its head and now the weak and unorganized segments of society are the principal victims. In the liberal nightmare, pluralist deal making continues in the guise of governing — but now the entrenched monied interests are back in charge of the marketplace, running the tables in the grand bazaar.

The practical result is a lawless government — a reality no one in power wishes to face squarely since all are implicated, one way or another. The clear standards that citizens expect from law — firm definitions of right and wrong, commandments of thou shalt or thou shalt not — are corrupted by a fog of tentative declarations of intent. The classical sense of law is lost in sliding scales of targets and goals, acceptable tolerances and negotiated exceptions, discretionary enforcement and discretionary compliance.

To say that government is lawless does not mean that the laws are never enforced or never obeyed. Of course they are. It means that law is applied with such randomness that its reliability is betrayed. It means that the certitude citizens expect in law is now routinely subverted by the application of political influence. The political interventions are generally not themselves illegal, however. Indeed the processes of law often invite them.

This reality betrays the principle that is most necessary to democracy — equal protection of law — and, for that reason, it is perhaps the gravest disorder in the governing system. A shared confidence in just laws is the prerequisite social faith supporting every other function in democracy. Citizens are entitled to the presumption, regardless of their own economic and social status, regardless of whether they personally participate in the processes of elections and public debate or decline to do so.

As people everywhere now sense, this presumption has been grossly compromised. Though the problem is seldom addressed in public-opinion studies, I suspect that the general awareness of corrupted law is an important factor feeding the popular alienation from government and politics. This may be part of what people mean when they tell the polls that the government is devoted to serving a “few big interests.”

“There is one set of laws we are all supposed to follow and then there’s another set of laws determined by calling your buddy and asking him what he thinks,” said David Vladeck, a lawyer with Ralph Nader’s Public Citizen. Vladeck, like scores of other public-interest lawyers in Washington, devotes most of his energy to suing the government — trying to get various federal agencies to enforce their own laws. The same agencies are sued endlessly by the other side as well, the corporate lawyers trying to block and dilute the force of those laws. Whether in courtrooms or in bureaucratic forums, this contest over law enforcement, more than anything else, is what consumes the persuasive energies of the capital’s many lawyers.

William D. Ruckelshaus, the first administrator of the Environmental Protection Agency in 1971, described the continuing uncertainty of law he found when he returned to the job in 1983:
“When I came back into EPA, I hadn’t been in office twenty-four hours when I was sued three times. I asked the general counsel to study it and he found that 85 percent of the decisions made by the EPA administrator that are appealable were appealed. Each case takes three to five years to work out in court and the way it’s worked out is a settlement negotiated between the industry and the environmentalists with the government sitting on the sidelines as an arbitrator.”

What Ruckelshaus did not mention is that, according to another study, 68 percent of the challenges against EPA decided by judges were ultimately won by the environmentalists. Ruckelshaus himself was once held in contempt of court by a federal judge who called the EPA administrator a scofflaw and threatened to jail him because Ruckelshaus was deliberately ignoring a court order to quit stalling on enforcement. “The judge was right,” Ruckelshaus acknowledged cheerfully, though he defended his rank evasion.6

The lawless bazaar existed long before Ronald Reagan came to Washington and so did its permissiveness. But the political favoritism and insider fixes of the Reagan-Bush years were so flagrant — and crude — that they encouraged the impression that lawless behavior was a partisan problem, peculiar to a Republican regime indebted to big business. The Nixon appointees, it is true, did bend laws and ignore them with more zeal and thoroughness than any of their predecessors, but the roots of this governing disorder are much too deep and bipartisan to be explained away so easily.7

In the simplest terms, the lawlessness is another expression of concentrated political power, in most instances the power of corporations to resist the law. Stated another way, corporate interests, on the whole, still do not accept that they must comply with the new regulatory controls enacted during the last twenty-five years. Corporations do comply with laws, of course, and have spent billions to do so (and also paid many millions in fines for their violations). But major business interests have a choice that is not available to most citizens. If they regard the law as unworthy, irrational or too demanding, they have the ability to fight on.

That’s real political power — choosing whether to honor a law or resist it. Since the cost of resistance is often quite modest compared to the cost of compliance, companies benefit in real dollars from any success at political stalling, even if they know that they may eventually lose the fight. Thus, what often looks like a legal contest on the surface is really a political struggle in its deeper dimensions.

Curtis Moore, a lawyer who served fifteen years as Republican counsel on the Senate Environment and Public Works Committee, described the tortuous struggle to make the laws meaningful in the face of corporate tenacity:

“Twenty years ago, we set out to eliminate sulfur dioxide from the air. Here we are twenty years later and more than 100 million Americans are still breathing air with unhealthy levels of sulfur dioxide. Why? Because the companies fight you when you try to pass a law. They fight you when you try to pass a second law. They fight you when you try to write the regulations. They fight you when you try to enforce the regulations. Nowhere do they ever stop and say: “Let’s obey the law.”

The very first secretary of transportation to order airbags installed as life-saving devices in automobiles was John Volpe in 1970 during Richard Nixon’s first term. Henry Ford and Lee Iacocca, then Ford’s top executive, called on Nixon at the White House the following April and delivered a blustery attack on airbags and other federal safety and environmental laws.

Their visit marked the beginning of a successful twenty-year stalling campaign by the auto industry — political pleas followed by postponed regulations, more studies, court challenges and watered-down proposals and more litigation. The industry’s evasive tactics blocked airbags through four presidencies. The episode is revealing because the Nixon-Ford-Iacocca dialogue was recorded for history in the Watergate tapes. Yet it is also a commonplace story in modern government — a law in name only, a law deferred to please a political friend.

“We’re not only frustrated,” Iacocca exclaimed to Nixon, “but we’ve reached the despair point. We don’t know what to do any more.”8

Airbags, he told the president, were another untested “gadget” that Ralph Nader and other safety zealots wanted, but they would merely increase auto prices and feed inflation. “We are in a downhill slide, the likes of which we have never seen in our business,” Iacocca warned. “And the Japs are in the wings ready to eat us up alive. We’re not only frustrated,” Iacocca exclaimed to Nixon, “but we’ve reached the despair point. We don’t know what to do any more.”8

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Richard Nixon responded sympathetically with his own diatribe against Nader and the reformers. They are hostile to industrial progress, per se, Nixon complained, and would like to go back and live like the Indians. “You know how the Indians lived?” the president said. “Dirty, filthy, horrible.”

The Nixon-Ford-Iacocca dialogue is instructive for its rambling, semicoherent quality — a series of unfocused grumblings. Neither Nixon nor Henry Ford seemed to know much about how the regulatory process works. Iacocca tried to instruct them, but his task was confused by his own scattershot invective and rambling aside.

Reading the transcript of their conversation will be disturbing to anyone who thinks of the Oval Office as a place where the best minds come together to address the most serious matters.

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At the conclusion, Nixon instructed his aide, John Ehrlichman, to take care of “this airbag thing.” It was taken care of, and for a long, long time. Through Nixon, Ford, Carter and Reagan, the auto industry successfully kept airbags out of automobiles, making the same arguments at every step to administrators, courts and presidents. Airbags didn’t work. They would increase prices. Consumers didn’t really want them.

Finally, by 1990, the legal and bureaucratic evasions were exhausted and airbags were at last made available for American consumers. Their effectiveness was demonstrated immediately in dramatic incidents in which motorists survived terrible head-on collisions because their cars were equipped with airbags.

And Lee lacocca, now CEO of Chrysler, appeared in Chrysler’s TV commercials, boasting that his auto company was the leader in making airbags available to American car buyers.

Aside from lacocca’s rank hypocrisy, the story of airbags is unexceptional. It is possible to collect dozens, even scores of similar examples of laws that were bent or stalled in regulatory limbo or simply never enforced at the behest of selected clients.

At the Food and Drug Administration, it took more than twenty-five years — and twenty-eight postponements encouraged by industry pressure — before the agency decided to restrict the use of cancer-causing red dyes in food products, a danger the FDA scientists first identified in the early 1960s. At the Nuclear Regulatory Commission, the regulators issued only 350 fines during the 1980s, though public utilities had reported approximately thirty-four thousand mechanical malfunctions, worker errors and security infractions at nuclear-power plants.

At the Pentagon, exceptions to law were granted routinely to the major defense contractors — General Electric, Boeing, General Motors, Rockwell, Northrop and others — who committed criminal fraud against the government itself. The New York Times reported that twenty-five of the one hundred largest contractors have been found guilty of procurement fraud in recent years — some of them several times. The criminal behavior persists because, other than brief embarrassment, there is no significant penalty, at least for the largest companies. Typically, they plead guilty and pay a fine. To appease the public, the Pentagon sometimes “suspends” contractors, but the suspensions are always lifted in time for the company to participate in the next bidding for contracts.

At Transportation, the law enacted in 1975 to require greater fuel efficiency in automobiles was deferred repeatedly by both the Carter and the Reagan administrations at the behest of industry lobbyists. Whenever it appeared that companies might not meet the legal standard, they appealed to the White House for another postponement: Reagan granted three of them.

At the Environmental Protection Agency, the inspector general found that 80 percent of the case files on hazardous-waste violations showed no evidence that the violators had ever complied with the enforcement order. Instead, typically, EPA “enforces” its rules on land, air and water pollution by negotiating with the offenders — at the behest of industry lobbyists. Whenever it appeared that companies might not meet the legal standard, they appealed to the White House for another postponement: Reagan granted three of them.

At the Department of Labor, the Occupational Safety and Health Administration referred only forty-two cases of industrial negligence for criminal prosecution over nearly twenty years. Only fourteen of those were actually prosecuted, with ten convictions. No one was ever sent to jail, even for a day, for violating this federal law.

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Over time, as the intellectual independence of the Foreign Service was debased, the quality of its expert judgments became less and less relevant to the political appointees who made foreign policy decisions. Recurring episodes of failure — Vietnam, the debacle in Iran, the war against Nicaragua in the 1980s — all confirmed the problem of high officials who ignored or actively suppressed informed dissent from the Foreign Service. Instead of nurturing honest voices in foreign policy, presidents regularly appoint political hacks who are routinely dispatched to U.S. embassies as a reward for their campaign contributions.

The Nixon administration, as in so many aspects, was more brutally systematic than others in its efforts to defenestrate the domestic civil service. Frederick Malek, a businessman who served as the White House personnel director in 1969, issued an exhaustive manual for political appointees on how to evade the civil-service laws and intimidate or dislodge uncooperative federal employees who did not accept Nixon’s political agenda and his idea of what the law required. “There is no substitute in the beginning of any administration for a very active political personnel operation,” Malek wrote. He cited Democratic predecessors, Kennedy and Johnson, as his model.

Among other tactics, Malek recommended personal threats to any civil servant who seemed politically disloyal — a transfer to distant parts of the country or damaging reports placed in the employee’s personnel file. “There should be no witnesses in the room at the time,” Malek warned. “Caution: this technique should only be used for the timid at heart with a giant ego. This is an extremely dangerous technique and the very fact of your conversation can be used against the department.”

As a grander strategy, Malek proposed: “Another organizational technique for the wholesale isolation and disposition of undesirable employee-victims is the creation of an apparently meaningful, but essentially meaningless, new activity to which they are all transferred. This technique is designed to provide a single barrel into which you can dump a large number of widely located bad apples.”

Civil servants are not oblivious to this sort of purposeful manipulation. Some react with extraordinary courage, carefully protecting their legal prerogatives and making sure that their decisions are technically correct and invulnerable to political assault. Others, more commonly, learn to keep their heads down. John Moran, who served a dozen years as an occupational health expert at EPA and the Labor Department, described the bureaucratic reality that has evolved:

“I was really trying at Labor. I got out safety alerts largely in spite of the system. They kept tightening the screws until they shut me down. My view is that, in the government, the fundamental rule is: Just play the game. Go with the flow. But don’t take initiatives or try to go out and solve problems.

“It makes too many headaches for too many people. You get political flak, you get press. A lot of people in the federal bureaucracy are quite happy with that system. They are the ones, by and large, who survive and get promoted. The higher they get, the more cautious they become.”

Another technique for subversion, used most dramatically by the Reagan administration, is to starve an agency for funds so that its civil servants cannot conceivably carry out their functions, no matter how conscientious they might be. Overall, regulatory personnel in the federal government peaked at 131,000 in 1980 and fell to 112,000 by 1986, despite the greatly enlarged regulatory obligations that new legislation continued to produce.

In Reagan’s first term, EPA’s budget was cut by 10 percent and its staff shrank by more than 20 percent (at one point, EPA’s office of enforcement was abolished in one of those “reorganization” ploys recommended in the Malek manual). The Interior Department reduced strip-mine enforcement by nearly 60 percent. OSHA cut four hundred inspectors and its citations declined by half. The National Highway Traffic Safety Administration’s budget was cut by 22 percent and its formal investigations into potential car defects shrank from eleven a year to four. At the Food and Drug Administration, the number of “emergency exemptions” granted to new pesticides was tripled.4

More insidious is the way in which government has put some functions in the hands of private parties — “privatized” them, as the conservative scholars would say — by contracting out the work to companies and consulting firms. This trend was promoted in the name of efficiency and reduced costs, but it has inevitably, deepened the irresponsibility of government — private contractors are often asked to recommend the rules and standards that will govern their own behavior.

The Department of Energy’s flagrant abuse of environmental laws stemmed largely from private companies like Du Pont that were hired to do the government’s work for it. “Some of the severity of DOE’s predicament stems from the fact that structurally it is a supervisory agency,” Gregg Easterbrook wrote in The Washington Post. “Its budget puts bread on the table for about 165,000 people but only 16,000 of them are government employees; the majority work for contractors and consultants.”15

Despite occasional scandals, government contracting has become a popular remedy for governmental breakdown and tight budgets. If money is saved in the process, this is usually achieved by avoidance of the wage-and-benefit requirements of federal employment. Privatizing governmental functions provides rich contracts for private enterprise, but evades the more difficult questions of authority. It plays to the inherent popular distrust of government bureaucracy, but it also further confuses the public accountability.

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Senator David Pryor of Arkansas, a persistent critic of the practice, noted that congressional testimony given before the House Armed Services Committee by the secretary of energy was actually prepared in part by a private defense contractor, unbeknownst to the secretary of energy himself. “Who is running our government?” Senator Pryor asked. “My no. 1 concern is totally unaccountable decision-makers. We don’t know who they are, how they got there or why they got there.”

Fanning out the government’s responsibilities to private contractors — while simultaneously holding federal pay for senior executives and technical professionals below that of the private marketplace — naturally encourages a “revolving door” in personnel. Young bank examiners typically put in a few years as government regulators, then join regulated banks at much more substantial incomes. Justice Department attorneys take their expertise to private law firms where they represent the violators.

The federal government, as a whole, has been reduced to a training camp for private enterprise — a school in which the students learn the skills and inside knowledge that will be most valuable to outside employers. Under those circumstances, only the most dedicated civil servants — or the most incompetent — are willing to remain in the public’s hire.

In a world of unreliable laws, the news media have become a principal agent of law enforcement. Wherever the press turns its beacon, embarrassed officers of government are compelled to follow. The routine of law enforcement has become a hit-or-miss system dependent upon exposure and scandal.

During the last three months of 1988, The New York Times published 108 stories, thirty-seven of them on its front page, devoted to a single scandal. A young reporter named Keith Schneider had discovered the gross and dangerous radioactive pollution emanating from the federal government’s own nuclear-weapons production plants. At his urging, the Times made a major project of exposing the full dimensions of neglect and deceit. The cost of cleaning up radioactive contamination from forty years of reckless mismanagement at the seventeen federal plants was subsequently estimated to be as much as $155 billion.

The story itself was not entirely new or even secret, despite the rigid national-security classifications that surround the nuclear weapons plants. Congressional committees had investigated the subject for years and voiced their alarm. Freelance documentary filmmakers had produced devastating films exposing the radioactive contamination at Savannah River, South Carolina; Rocky Flats, Colorado; and other installations. Still, it was The New York Times that single-handedly made the nation sit up and take notice.

“Congress doesn’t have the ability to get an agency to respond,” said Representative Mike Synar of Oklahoma, a member of the House Commerce Committee who has led many of its aggressive oversight investigations. “There’s only one way to make them respond and that’s to get them on the front page or on the evening news. I was pounding hard on the Department of Defense and Department of Energy installations for six or seven years and nothing happened.

“Then Keith Schneider picked it up and wrote stories for thirteen days in a row on the front page of The New York Times and that changed everything. He has more power than any congressman over regulatory agencies.”

Congressman Synar may not be exaggerating. Press exposure is a powerful therapeutic agent against the lawless behavior in government, but it is also quite random. Citizens’ groups, large and small, work hard to alert news organizations to their complaints, while government regulators and the regulated industries live in perpetual dread that the roving eye of the media will, for some reason, stop on them. When it does, they are required at a minimum to prepare rituals of responsiveness that will appease the public outrage.

But, as every reporter and editor appreciates, the media’s glare is essentially a transient, accidental force. It picks and chooses among many possibilities and usually settles on the most visibly alarming ones. Certain kinds of stories — dead fish floating in the river or workers who lost their hands in unsafe machines — are visual and accessible to press exposure. The more complicated, systemic scandals usually are not.

Depending on the media to make government agencies enforce the law is another aspect of randomness. People are often disappointed by the media’s fickle attention span, their devotion to certain issues and indifference to others. But frustration with the press is directed at the wrong target. The government is supposed to enforce the law, not the newspapers.

The government, however, is a principal violator itself. As the Times’s exposure of the nuclear weapons scandal suggested, major scandals of lawlessness often involve not just private companies, but installations of the federal government itself. During a generation of enacting ambitious environmental protection legislation, the government has been, without doubt, the single worst polluter in the nation. Private corporations can always plead that they were merely following the example set in Washington. The attorney general of Maine, James A. Tierney, compared the two major boatyards in his state — Bath Iron Works, a private corporation that builds destroyers, frigates and cruisers for the Navy, and the Navy’s own Portsmouth yard that overhauls and maintains nuclear submarines — both of which generate dangerous hazardous wastes.
“One of these yards obeys the law,” Tierney said. “One pays penalties when they do not. One pays fees. One has taken a responsible attitude toward the handling of hazardous waste. And that, sad to say, is the private yard. With our public yard, the Portsmouth Naval Shipyard, we have had an exact opposite situation.” Shellfish in the Piscataqua River estuary, he said, have been contaminated with PCBs, lead and other heavy metals from the U.S. Navy.

In Minnesota, the Twin Cities Army Ammunition Plant was responsible for contaminating more than twenty square miles of the principal aquifer underlying the northern suburbs of Minneapolis. In the state of Washington, authorities estimate that as many as thirteen hundred hazardous-waste sites mixing radioactive materials with other industrial wastes qualify for Superfund cleanup on the Hanford nuclear weapons reservation; numerous “contaminant plumes” have been observed in the ground water, carrying such deadly chemicals as cyanide and carbon tetrachloride. In Arizona, pollution of an underground area four and a half miles long, contaminated with toxic chemicals that threatened Tucson’s sole source of drinking water, was traced to an Air Force plant operated by Hughes Aircraft. These were not exceptional instances. A survey by EPA in 1988 found that half of all federal facilities caused environmental damage. The General Accounting Office estimated that federal departments violated the clean-water law at twice the rate of private industry.

Many of these federal facilities are in practice operated by private industry — companies like Du Pont or General Electric that managed the nuclear weapons plants — but the companies, until recently, were indemnified in their government contracts against any liability for the pollution damage they caused. DOE would pay the fines levied against its contractors — which put the taxpayers in the role of underwriting violations of law.

The federal government, of course, enjoys a crucial advantage in its ability to evade laws. It owns the prosecutor. Every regulatory case that reaches the stage of formal charges or lawsuits must first pass through a narrow funnel at the Justice Department where the constraint of limited resources encourages negotiation and settlement instead of litigation.

Agencies are told to negotiate a compliance agreement with violators because there simply aren’t enough lawyers to go around. During the Reagan years, the Justice Department went much further. Aligning itself with the Pentagon and the Energy Department, Justice argued that their violations were not subject to EPA enforcement action at all. How then would these federal departments be required to comply with the laws? The Justice Department suggested that EPA bargain with them.

NOTES

Four: The Grand Bazaar
1. Robert B. Reich’s regulatory community included 12,000 lawyers in law firms representing business before courts and agencies, 9,000 lobbyists in firms specializing in lobbying, 42,000 trade association lobbyists and employees, 9,300 public-relations and public-affairs specialists, 1,200 trade journalists, 3,500 consultants advising government agencies and 15,500 lawyers and lobbyists from large corporations and federal agencies. Reich, “Regulation by Confrontation or Negotiation,” Harvard Business Review, May–June 1981, cited by Bryner in Bureaucratic Discretion.

2. I can testify from personal experience on the enormous difficulty of covering regulatory politics in a manner that matches the demands of a daily newspaper. As assistant managing editor for national news at The Washington Post, I made several attempts to do so and all failed. In 1981, under my supervision, the Post initiated the “Federal Page,” devoted each day to large and small stories from the regulatory government. For a year or so, the expanded coverage of regulation seemed engaging and occasionally significant, but in time the effort lost its energy and focus.

To cover the full range of complex regulatory battles with any depth would require a substantial number of reasonably sophisticated reporters and lots of patience — an investment of resources that very few news organizations are able or willing to make. As a result, the coverage of regulatory issues is almost totally dependent on the sporadic alarums sounded by interested parties. A news story may be generated, for instance, by an environmental organization that exposes malign behavior in an agency’s decisions. But otherwise reporters keep their distance from the process and are usually quite ignorant of who is winning or losing.

3. The growth of regulatory laws was cited by Bryner, Bureaucratic Discretion.


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6. The environmentalists’ record of winning 68 percent of those challenges to EPA that were decided by judges was between 1970 and 1980, cited in Bryner, *Bureaucratic Discretion*.

7. The “grand bazaar” metaphor I am using in this chapter is borrowed from an essay I wrote on the same subject fifteen years ago on the eve of Jimmy Carter’s inauguration. This ought to establish at least that my own analysis of lawless government did not result from the scandals in the Reagan years. See *Washington Post*, January 20, 1977.

8. The Nixon-Ford-Iacocca dialogue lasted only thirty-five minutes on the morning of April 27, 1971. The ill-focused quality of their conversation is a jarring contrast with the conventional claim that regulatory matters of health and safety should be decided with scientific precision. The tangled history of airbag regulation was recounted by Joan Claybrook, president of Public Citizen and highway-safety administrator under Jimmy Carter, in a speech, “Influencing Agency Decision-Making,” August 1, 1983.

9. The delayed enforcement of the ban on red dyes was reported by Bryner, *Bureaucratic Discretion*.

10. Nuclear accidents and fines were analyzed by Ken Bossong, leader of Critical Mass, Ralph Nader’s watchdog organization on nuclear power.


13. Frederick Malek’s manual on how to politicize the civil service was revealed during the Watergate investigations into the Nixon administration. The text was published in *Federal Times*, December 18, 1974. Malek himself became campaign manager for George Bush’s 1992 re-election campaign.

14. Data on federal regulatory personnel are from Michael Reagan, *Regulation: The Politics of Policy*. Details on how the Reagan administration cut back enforcement are from David Vogel, *Fluctuating Fortunes*.


17. Elite leaders, led by Lloyd Cutler and former Federal Reserve Chairman Paul Volcker, began a campaign in the late 1980s to reverse the decline of government management. The National Commission on the Public Service, chaired by Volcker, warned of a “quiet crisis” in the senior ranks of the civil service. The campaign produced some progress on salaries for senior executives, but it also collided with the antigovernment attitudes that conservative business interests had spent two decades encouraging. It seemed out of character for a think tank like the American Enterprise Institute to begin worrying about the quality of government employees, when AEI had devoted so much scholarship over the years to demeaning their efforts.

18. The *New York Time*s dramatic and repetitious coverage of this scandal actually drew some reproach from other news organizations, which seemed to consider it untoward for a major newspaper to “crusade” on public matters. In an earlier time, repetition and dramatic emphasis were the standard techniques that newspapers used to force political attention to neglected issues. See *Washington Post*, January 8, 1989.


20. The issues surrounding EPA’s ability to enforce the law against other federal departments were explored in “Environmental Compliance by Federal Agencies,” House Commerce Committee, April 28, 1987.

One does not have to look far in Washington these days to find evidence that government policy is being crafted with America’s biggest corporations in mind.

For example, the Bush administration’s 2006 budget cuts the enforcement budgets of almost all the major regulatory agencies. If the gutting of the ergonomics rule, power plant emissions standards and drug safety programs was not already enough evidence that OSHA, EPA and FDA are deeply compromised, the slashing of their enforcement budgets presents the possibility—indeed, probability—that these public agencies will become captives of the private corporations they are supposed to regulate.
This should come as no surprise to anybody familiar with the streams of corporate money that flowed into Bush campaign coffers (as well as the Kerry campaign and all races for the House and Senate) in the 2004 election. The old “follow the money” adage leads us to a democracy in thrall to giant corporations—a democracy that is a far cry from the government “of the people, by the people, and for the people” that Lincoln hailed at Gettysburg.

At a time when our democracy appears to be so thoroughly under the sway of large corporations, it is tempting to give up on politics. We must resist this temptation. Democracy offers the best solution to challenging corporate power. We must engage as citizens, not just as consumers or investors angling for a share of President Bush’s “ownership society.”

**The problem of corporate power**

Unfortunately, the destructive power of large corporations today is not limited to the political sphere. The increasing domination of corporations over virtually every dimension of our lives—economic, political, cultural, even spiritual—poses a fundamental threat to the well-being of our society.

Corporations have fostered a polarization of wealth that has undermined our faith in a shared sense of prosperity. A corporate-driven consumer culture has led millions of Americans into personal debt, and alienated millions more by convincing them that the only path to happiness is through the purchase and consumption of ever-increasing quantities of material goods. The damage to the earth’s life-supporting systems caused by the accelerating extraction of natural resources and the continued production, use, and disposal of life-threatening chemicals and greenhouse gases is huge and, in some respects, irreversible.

Today’s giant corporations spend billions of dollars a year to project a positive, friendly and caring image, promoting themselves as “responsible citizens” and “good neighbors.” They have large marketing budgets and
public relations experts skilled at neutralizing their critics and diverting attention from any controversy. By 2004, corporate advertising expenditures were expected to top $250 billion, enough to bring the average American more than 2,000 commercial messages a day.

The problem of the corporation is at root one of design. Corporations are not structured to be benevolent institutions; they are structured to make money. In the pursuit of this one goal, they will freely cast aside concerns about the societies and ecological systems in which they operate.

When corporations reach the size that they have reached today, they begin to overwhelm the political institutions that can keep them in check, eroding key limitations on their destructive capacities. Internationally, of the 100 largest economies in the world, 51 are corporations and 49 are nations.

**How Big Business got to be so big**

Corporations in the United States began as quasi-government institutions, business organizations created by deliberate acts of state governments for distinct public purposes such as building canals or turnpikes. These corporations were limited in size and had only those rights and privileges directly written into their charters. As corporations grew bigger and more independent, their legal status changed them from creatures of the state to independent entities, from mere business organizations to “persons” with constitutional rights.

The last three decades have represented the most sustained pro-business period in U.S. history.

The corporate sector’s game plan for fortifying its power in America was outlined in a memo written in August 1971 by soon-to-be Supreme Court Justice Lewis F. Powell Jr. at the behest of the U.S. Chamber of Commerce. The “Powell Memorandum,” drafted in response to rising popular skepticism about the role of big business and the unprecedented growth of
consumer and environmental protection laws, was intended as a catalytic plan to spur big business into action. Powell argued that corporate leaders should single out the campuses, the courts and the media as key battlegrounds.

One of the most significant developments that followed Powell’s memo was the formation of the Business Roundtable in 1972 by Frederick Borch of General Electric and John Harper of Alcoa. As author Ted Nace has explained, “The Business Roundtable ... functioned as a sort of senate for the corporate elite, allowing big business as a whole to set priorities and deploy its resources in a more effective way than ever before. ... The ’70s saw the creation of institutions to support the corporate agenda, including foundations, think tanks, litigation centers, publications, and increasingly sophisticated public relations and lobbying agencies.”

For example, beer magnate Joseph Coors, moved by Powell’s memo, donated a quarter of a million dollars to the Analysis and Research Association, the forerunner of the massive font of pro-business and conservative propaganda known today as the Heritage Foundation. Meanwhile, existing but tiny conservative think tanks, like the Hoover Institute and the American Enterprise Institute for Public Policy Research, grew dramatically in the ’70s. Today, they are key players in the pro-business policy apparatus that dominates state and federal policymaking.

According to a 2004 study by the National Committee for Responsive Philanthropy, between 1999 and 2001, 79 conservative foundations made more than $252 million in grants to 350 “archconservative policy nonprofit organizations.” By contrast, the few timid foundations that have funded liberal causes often seem to act as a “drag anchor” on the progressive movement, moving from issue to issue like trust fund children with a serious case of attention-deficit disorder.
From analysis to action

The vast majority of people, when asked, believe that corporations have too much power and are too focused on making a profit. “Business has gained too much power over too many aspects of American life,” agreed 82 percent of respondents in a June 2000 Business Week poll, a year and a half before Enron’s collapse. A 2004 Harris poll found that three-quarters of respondents said that the image of large corporations was either “not good” or “terrible.”

Corporations have achieved their dominant role in society through a complex power grab that spans the economic, political, legal and cultural spheres. Any attempt to challenge their power must take all these areas into account.

There is a great need to develop a domestic strategy for challenging corporate power in the United States, where 185 of the world’s 500 largest corporations are headquartered. Although any efforts to challenge corporations are inevitably bound up in the global justice movement, there is much to do here in the United States that can have a profoundly important effect on the global situation.

By understanding the origin of the corporation as a creature of the state, we can better understand how we, as citizens with sovereignty over our government, ultimately can and must assert our right to hold corporations accountable. The task is to understand how we can begin to reestablish true citizen sovereignty in a country where corporations currently have almost all the power.

Developing the movement

To free our economy, culture and politics from the grip of giant corporations, we will have to develop a large, diverse and well-organized movement. But at what level should we focus our efforts: local, state,
national or global? The answer, we believe, is a balance of all four.

Across the country, many local communities continue to organize in resistance to giant chain stores like Wal-Mart, predatory lenders, factory farms, private prisons, incinerators and landfills, the planting of genetically modified organisms, and nuclear power plants. Local communities are continuously organizing to strengthen local businesses, raise the living wage, resist predatory marketing in schools, cut off corporate welfare and protect essential services such as water from privatization. Local struggles are crucial for recruiting citizens to the broader struggle against corporate rule.

Unfortunately, examples of grassroots movements that have succeeded in placing structural restraints on corporations are not as common as they should be. One of the ways we can accelerate the process is by organizing a large-scale national network of state and local lawmakers who are interested in enacting policies that address specific issues or place broader restraints on corporate power.

Just as the corporations have the powerful American Legislative Exchange Council (ALEC) to distribute and support model legislation in the states, so we need our own networks to experiment with and advance different policies that can curb and limit corporate power. The National Caucus of Environmental Legislators—a low-budget coalition of state lawmakers established in 1996 in response to the Republican takeover of Congress and several state legislatures—is a model that could be used to introduce and advance innovative legislative ideas at the state level. The New Rules Project has also begun to analyze and compile information on these kinds of laws. Additionally, the U.S. PIRG network of state public interest research groups and the Center for Policy Alternatives have worked to promote model progressive legislation, as has the newly founded American Legislative Issue Campaign Exchange (ALICE).
Moving the movement

Despite their many strengths, many major movements of the past few decades (labor, environmental, consumer) have all suffered from internal fractures and a lack of connection to the broader society. The result is that they have been increasingly boxed into “special interest” roles, despite the fact that the policies they advocate generally benefit the vast majority of people.

Cognitive linguist George Lakoff puts it this way: “Coalitions with different interest-based messages for different voting blocks [are] without a general moral vision. Movements, on the other hand, are based on shared values, values that define who we are. They have a better chance of being broad-based and lasting. In short, progressives need to be thinking in terms of a broad-based progressive-values movement, not in terms of issue coalitions.”

If there is one group at the center of the struggle to challenge corporate power, it is organized labor. As a Century Foundation Task Force Report on the Future of Unions concluded, “Labor unions have been the single most important agent for social justice in the United States.”

Labor is at the forefront of efforts to challenge excessive CEO pay, corporate attempts to move their headquarters offshore to avoid paying their fair share of taxes, and the outsourcing of jobs. Labor also has played a leading role in opposing the war in Iraq and exposing war profiteers benefiting from Iraq reconstruction contracts.

As AFL-CIO President John Sweeney has written, unions need to start “building social movements that reach beyond the workplace into the entire community and offer working people beyond our ranks the opportunity to improve their lives and livelihood.” This is beginning to occur more frequently. Union locals and national labor support groups like Jobs With
Justice have been a key force in building cross-town alliances around economic justice battles such as living wage campaigns and the new Fair Taxes for All campaign.

These union-led, cross-community alliances have in turn supported some of the strongest union organizing campaigns, including the nearly two-decades-old Justice for Janitors campaign that the Service Employees International Union (SEIU) and its allies successfully organized in Los Angeles and other cities across the country.

Clearly, labor unions, along with community-based organizations and churches, will be central to the construction of lasting local coalitions that can serve as organizing clearinghouses to challenge corporate rule.

**Constructing a new politics**

To challenge corporate power we must also value and rebuild the public sphere, and draw clear lines of resistance against the expansion of corporate power, such as the current push by Bush to convert Social Security into individual investment accounts that will allow Wall Street to rake off billions of dollars in annual brokerage fees. Most importantly, we must work to change the rules instead of agreeing to play with a stacked deck.

In our hyper-commercialized culture, we spend far more time and energy thinking about what products we want to buy next instead of thinking about how we can change our local communities for the better, or affect the latest debates in Washington, D.C. or the state capitol. And when so much energy is spent on commercial and material pursuits instead of on collective and political pursuits, we begin to think of ourselves as consumers, not citizens, with little understanding of how or why we are so disempowered.
The restoration of democracy requires us to address the backstory behind this process of psychological colonization. It requires us to address the public policies and judicial doctrines that treat advertising as a public good—a tax-deductible business expense and a form of speech protected by the First Amendment. It’s been so long since we have seriously addressed such fundamental questions that, as a result, the average American is now exposed to more than 100 commercial messages per waking hour. As of October 2003, there were 46,438 shopping malls in the United States, covering 5.8 billion square feet of space, or about 20.2 square feet for every man, woman and child in the United States. As economist Juliet Schor reports, “Americans spend three to four times as many hours a year shopping as their counterparts in Western European countries. Once a purely utilitarian chore, shopping has been elevated to the status of a national passion.”

A consequence of the hyper-commercialization of our culture is that instead of organizing collectively, we often buy into the market-based ideology of individual choice and responsibility and assume that we can change the world by changing our personal habits of consumption. The politics of recycling offers a minor but telling example of how corporations manage to escape blame by utilizing the politics of personal responsibility. Although recycling is a decent habit, the message conveyed is that the onus for environmental sustainability largely rests upon the individual, and that the solutions to pollution are not to be found further upstream in the industrial system.

The personal choices we make are important. But we shouldn’t assume that’s the best we can do. We need to understand that it can’t truly be a matter of choice until we get some more say in what our choices are. True power still resides in the ability to write, enforce and judge the laws of the land, no matter what the corporations and their personal-choice, market-
centered view of the world instruct us to believe.

Rebuilding the public sphere

With increased corporate encroachment upon our schools and universities, our arts institutions, our houses of worship and even our elections, we are losing the independent institutions that once nurtured and developed the values and beliefs necessary to challenge the corporate worldview. These and other institutions and public assets should be considered valuable parts of a public “commons” of our collective heritage and therefore off limits to for-profit corporations.

“The idea of the commons helps us identify and describe the common values that lie beyond the marketplace,” writes author David Bollier. “We can begin to develop a more textured appreciation for the importance of civic commitment, democratic norms, social equity, cultural and aesthetic concerns, and ecological needs... A language of the commons also serves to restore humanistic, democratic concerns to their proper place in public policy-making. It insists that citizenship trumps ownership, that the democratic tradition be given an equal or superior footing vis-à-vis the economic categories of the market.”

Changing the rules

Much citizen organizing today focuses on influencing administrative, legislative and judicial processes that are set up to favor large corporations from the very start. Put simply, many of the rules are not fair, and until we can begin to collectively challenge this fundamental unfairness, we will continue to fight with one hand tied behind our backs. Instead of providing opportunities for people to organize collectively to demand real political solutions and start asking tough questions about how harmful policies become law in the first place, many community-based organizations seem content to merely clean up the mess left behind by failed economic policies and declining social services.

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The most successful organizing happens when it is focused on specific demands. Two crucial reforms have great potential to aid the movement’s ability to grow: fundamental campaign finance reform and media reform. Together, these could serve as a compelling foundation for a mass movement that challenges corporate power more broadly.

The movement for citizen-controlled elections, organized at the local level with support from national groups such as the Center for Voting and Democracy and Public Campaign, provides a useful framework for action for the broad spectrum of people who currently feel shut out of politics.

Media reform is also essential. With growing government secrecy and a corporate-dominated two-party political system, the role of independent media is more critical than ever. As Bill Moyers suggested in his keynote address at the National Conference on Media Reform in 2003, “If free and independent journalism committed to telling the truth without fear or favor is suffocated, the oxygen goes out of democracy.”

The media have always been and will continue to be the most important tool for communicating ideas and educating the public about ongoing problems. Thomas Paine wrote more than 200 years ago:

There is nothing that obtains so general an influence over the manners and morals of a people as the press; from that as from a fountain the streams of vice or virtue are poured forth over a nation.”

History is replete with examples that show how critical the media’s role has been in addressing the injustices of our society. For instance, many Progressive Era reforms came only in response to the investigative exposés of corporate abuses by muckraking journalists like Upton Sinclair and Ida Tarbell. Writing in popular magazines like Collier’s and McClure’s, these writers provided a powerful public challenge to the corruption of the Gilded
Because of increased corporate consolidation of the media, coverage of all levels of government has been greatly reduced. When people are kept ignorant of what is happening in their communities, in their states, in Washington, D.C. and in the world, it becomes much easier for large corporations to overwhelm the political process and control the economy without citizens understanding what is happening. Though media reform is a complex subject, one approach bears mentioning—establishing and strengthening nonprofit media outlets.

**The long-term vision**

Though campaign finance reform and media reform offer useful starting points, ultimately, there is much more to be done. We need to get tough on corporate crime. We need to make sure markets are properly competitive by breaking up the giant corporate monopolies and oligarchies. We need to make corporations more accountable to all stakeholders and less focused on maximizing shareholder profit above all. We need to stop allowing corporations to claim Bill of Rights protections to undermine citizen-enacted laws.

Ultimately, we need to restore the understanding that in a democracy the rights of citizens to govern themselves are more important than the rights of corporations to make money. Since their charters and licenses are granted by citizen governments, it should be up to the people to decide how corporations can serve the public good and what should be done when they don’t. As Justices Byron White, William Brennan and Thurgood Marshall noted in 1978: “Corporations are artificial entities created by law for the purpose of furthering certain economic goals... . The State need not permit its own creation to consume it.”
The people’s business

The many constituencies concerned with the consequences of corporate power are indeed a diverse group, and although this diversity can be a source of strength, it also makes it difficult to clearly articulate a vision for the struggle. What principles, then, can unite us?

One abiding faith that almost all of us share is that of citizen democracy: that citizens should be able to decide how they wish to live through democratic processes and that big corporations should not be able to tell citizens how to live their lives and run their communities. The most effective way to control corporations will be to restore citizen democracy and to reclaim the once widely accepted principle that corporations are but creatures of the state, chartered under the premise that they will serve the public good, and entitled to only those rights and privileges granted by citizen-controlled governments. Only by doing so will we be able to create the just and sustainable economy that we seek, an economy driven by the values of human life and community and democracy instead of the current suicide economy driven only by the relentless pursuit of financial profit at any cost.

Therefore, we must work assiduously to challenge the dominant role of the corporation in our lives and in our politics. We must reestablish citizen sovereignty, and we must restore the corporations to their proper role as the servants of the people, not our masters. This is the people’s business.

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How to Curb Corporate Power
by Ralph Nader

The Nation, Oct. 10, 2005

Scarcely a week goes by without another surge in the ongoing corporate crime wave--a large drug company misleads doctors about heart attack risks in order to sell more pills, an insurance company manipulates its earnings by billions through complicated offshore reinsurance dealings, major banks are under investigation for illegally charging minority borrowers higher loan rates or helping a dictator stash his ill-gotten gains.

These particular stories, unlike many other business crimes and frauds, made the news and sometimes even drew Congressional hearings. But Congress has produced no corrective legislation since the narrow-gauged Sarbanes-Oxley law of 2002, inspired by the Enron scandal. Rather, the major accomplishments of the legislative season so far have been laws from the wish list of the behemoth corporations, who annually shell out tens of millions of dollars for lobbying--a bankruptcy "reform" bill for a credit card industry that reported $30 billion in profits last year, a class-action-lawsuit "reform" bill for the insurance companies and the Chamber of Commerce (now the biggest lobbyist in Washington) and an "energy" bill with generous taxpayer subsidies for oil and gas companies like ExxonMobil, which in 2004 already reported the world's biggest-ever annual profit for a single company: $25.3 billion.

What can be done? Lots. Those looking for ideas would do well to pick up The People's Business: Controlling Corporations and Restoring Democracy, a new book sponsored by Citizen Works, which I founded, whose authors, Lee Drutman and Charlie Cray, propose that we frame a vigorous movement around a number of immediate and long-term shifts of power away from giant corporations to strengthen a citizen-sovereign democracy.

But nothing begins to happen unless the few progressives in Congress get over their resistance to introducing corporate reform legislation, while pressing for a national and Congressional debate on this all-important subject. Back in the 1960s a few archconservative corporatists would put bills into the hopper that would cause raucous laughter among the dominant liberals. No one is laughing anymore; the corporations' wish list is now Congress's to-do list.

The lesson is that even bills that do not make it to a public hearing can still form a nucleus of ideas for educating and organizing the assertive citizenry around the country. Such bills commit their
sponsoring legislators to speak for and defend the reallocation of power from the corporate state to patients, laborers, consumers, communities and voters. Such bills form the start of an offense against the corporate supremacists and their allies in the House and Senate. I've made these arguments for years with Congressional progressives, providing fully drafted legislation requiring no, or little, allocation from public budgets because it shifts power and facilitates civic organization. Yet none of the fifty-five members of the Progressive Caucus to date would introduce even one of these empowerment bills, though they had little disagreement with them on the merits. Consigned to playing defense (and not too robustly at that) for two decades, discouraged, deflated progressives have become accustomed to defensive thinking, which, of course, corrosively feeds on itself.

It would not be difficult to get the ball rolling with the following modest legislative proposals. Given media attention, such prudent positions might even attract some unlikely Republican co-sponsors, along with liberal Democratic supporters.

1. Crack Down on Corporate Crime. Most of the leading federal agencies responsible for pursuing corporate criminals--including the Justice Department, the Internal Revenue Service and even the Securities and Exchange Commission--remain woefully understaffed, underfunded and undermotivated. The Justice Department should be directed to create a permanent, well-funded corporate crime division with specialized technical personnel (including accountants, engineers and lab technicians) and the additional resources necessary not only to handle major ongoing fraud, corruption and safety violations (the FBI reports it is investigating at least eighteen cases of corporate fraud involving at least $1 billion each) but also to develop the kind of tools prosecutors can use to crack down on corporate crime.

An annual corporate crime report similar to the one the FBI produces on street crime would help law-enforcement officials identify emerging patterns and direct resources more effectively. If we are truly serious about cracking down on the ongoing epidemic of corporate crime, at a minimum the government must collect and disseminate comprehensive information about the nature and extent of the damage.

Another ongoing question is how to effectively penalize corporate lawbreakers. Creative sanctions like equity fines, probationary treatment, behavioral sanctions, dechartering and other structural reforms that address the incentives behind a criminogenic corporate culture are routinely ignored in favor of denials of culpability.
garnished by slap-on-the-wrist fines. All too often these fines are passed on to consumers and taxpayers. Federal acquisition regulations should be tightened so those lawbreaking corporations do not receive any fraction of the $265 billion worth of government contracts given out each year. Aggressively applied, the debarment sanction can offer a good carrot-and-stick approach to companies that not only break the law but also restructure their operations in order to claim nominal residence in Bermuda and other tax havens.

2. Rein in the Imperial CEOs. Warren Buffett once suggested that willingness to curb excessive CEO pay is "the acid test of corporate reform." Yet the ratio of average large company CEO pay (now $11.8 million) to average worker pay ($27,460) spiked from 301 to 1 in 2003 to 431 to 1 in 2004. While Wal-Mart paid CEO Lee Scott 871 times what it paid the average "associate," the ratio between executive and worker pay in Europe hovers closer to 25 to 1. In 1982 the ratio at US corporations was about 42 to 1; by 2000 it had spiraled to about 525 to 1.

Not only does executive greed spawn corruption and down-the-line resentment; it also creates significant conflicts of interest, such as providing an incentive for CEOs to offload debt and inflate profits so their stock options are more enriching.

Unfortunately, shareholders' increasing attempts to rein in outrageous CEO pay packages by reforming the board nomination process and creating tighter links between pay and performance have been met with fierce resistance by dominant company executives, the Chamber of Commerce and the Business Roundtable. It's time for the SEC to give corporate shareholders--the true owners of the corporations--the right to curb out-of-control executive pay packages, which often expand while the companies' earnings and performance decline. Representative Martin Sabo in July introduced the Income Equity Act, which would eliminate tax deductions for executive compensation exceeding twenty-five times that of the company's lowest-paid full-time employee.

3. Shore Up the Civil Justice System. One of the lost lessons of Enron and other corporate crime cases is how Washington's deregulation created an incentive for the market system's professional "gatekeepers"--the accountants, bankers and lawyers--to avoid their responsibilities and, in some cases, even aid and abet the fraud. Shortly after Enron's collapse Columbia law professor John Coffee advised a Senate committee that so-called securities reform laws like the Private Securities Litigation Reform Act (PSLRA) of 1995, which made it harder for shareholder victims of corporate financial fraud to sue, along with related laws and court decisions, were probably the single
greatest structural and psychological cause of the company's downfall. The reason is that these laws weakened the potential deterrent of civil lawsuits, emboldening the executives, accountants and lawyers behind Enron and other scandals to cook the books.

This experience with the PSLRA should be a sobering harbinger of what will likely result from the current bipartisan tort "reform" binge. Although the twisted positions advanced by proponents of tort "reform" have been handily rebutted by Public Citizen (citizen.org) and the Center for Justice and Democracy (centerjd.org), which have produced mountains of facts and brought forth the victims of bad physician or hospital practices to speak for the freedom to hold their harm-doers accountable, the civic and political organization is not there yet.

4. Regulate in the Public Interest. The ferocious corporate assault over the past twenty-five years on regulations that worked has cost lives, health and trillions of dollars. Most of the companies involved in recent giant accounting scams fall within the industrial sectors that were radically deregulated just years before--energy, banking, brokerage and telecommunications. In these industries, deregulation, or taking the government cop off the corporate beat, created a kind of gold-rush mentality. This put pressure on companies to cook up new deals and phony accounting to lure investors. Bills to re-regulate with more resources for corporate law enforcement and to revive the proposed small consumer advocacy agency, which almost passed in the 1970s, were blocked by lobbies.

5. Trust-Busting in the New Century: Start With the Media. It's time to think seriously about a new antitrust policy that recognizes new ways of domestic and international collusion, price-fixing and product fixing. When transnational power rests with a handful of large corporations, democracy necessarily suffers. As Louis Brandeis once famously put it, "We can have democracy in this country, or we can have great wealth concentrated in the hands of a few, but we can't have both."

The key to corporate reform is a vibrant press. When the media fail to provide coverage of civic engagement, change is difficult. Because today's media are essentially dominated by six multinational conglomerates, much of the news looks and sounds the same, regardless of what channel we may be watching or what newspaper we may be reading, and regardless of our own political views. One way to insure the broader spectrum of opinion necessary for a vibrant democracy is to enact competition rules--limits on cross-media ownership, especially in localities, and on vertical integration, for example--that essentially
mandate diversity by prohibiting media conglomerates and restoring the fairness doctrine on the public's airwaves. Remember the remarkable collaboration in 2003 of left and right (e.g., Common Cause and the NRA) against the FCC's media concentration rules.

In addition to advancing the nonprofit, noncommercial media outlets, including low-power radio, today's media activists are battling the corporate takeover of new media technologies like community wireless networks, key community assets that deserve to be protected from predatory corporations. Democratic leadership has not thrown its support behind Representative Maurice Hinchley's Media Ownership Reform Act, which would reduce media concentration and restore more fairness to broadcasting.

6. Get Corporations Out of Our Elections. The cost of running for a seat in the House of Representatives is more than $1 million. The cost of winning a seat in the Senate is well over $5 million--running nearly as high as $40 million in the largest states. The Bush/Cheney 2004 re-election campaign spent $367 million. As a result, those who run for office package their candidacies in a manner attractive to those with money. Roughly 75 percent of the money raised in campaigns comes from business or business-related interests. Corporations are legal entities, not human beings; as such they should be prohibited from contributing to campaigns, sponsoring PACs or lobbying.

7. Reclaim the Constitution. The court-made doctrine of "corporate personhood," created by pro-corporate judicial activists in the late nineteenth century, continues to expand as the result of a well-orchestrated "business civil liberties" movement led by dozens of corporate-front legal groups and right-wing think tanks. The consequences are far-reaching and often insidious. Corporations' growing use of referendums to advance their economic interests and the intrusion of commercial advertising into the public sphere are often legitimized by questionable claims to First Amendment speech rights. Corporations also increasingly use constitutional challenges to undermine local decision-making authority and federal regulations and to impede the right of association by workers, consumers and small investors.

The relentless colonization of the Constitution by corporations and their proxies has overwhelmed citizens' ability to express their collective interest and exercise their sovereign authority over big business. Comprehensive corporate reform should be a central concern of progressive legislators. But they must drop the bills in the hopper to get the discussion under way. Avoidance of corporate power issues
reaches deeply into both parties. This was reflected in the non-questioning of former corporate attorney John Roberts during his Senate confirmation hearings.

Conclusion: Subordinating Corporations to People. Ultimately, the most effective way to control corporations is to restore citizen democracy and find effective ways to reclaim the once widely accepted principle that corporations are but creatures of the state, chartered by the state under the premise that they will serve the public good, and entitled only to those revocable rights and privileges granted by citizen governments. That is, corporations are our servants, not our masters. By doing so we will be able to create a more just and sustainable economy, an economy driven by the values of humanity and community and democracy instead of the current globally omnicidal economy driven by the relentless pursuit of short-range financial profit at any cost--market and military--to innocent peoples of the world.
Challenging Corporate Power, Asserting the People’s Rights

Session V — Private Property and the Recovery of the Commons

If we want to take away the disproportionate power held by those who own property and
wealth and shift it toward people and their governments, it is necessary to know more about the
head start that property rights had over people’s rights in this country’s formative years.

The design of the federal government relied heavily on the principle of self-interest narrowly
seen as the right for a citizen (at that time elite, white males only) to acquire property and have
that property protected and enhanced. The notion of liberty, so highly prized, was primarily
taken as the liberty to own things. Jennifer Nedelsky, a student and writer of the Anti-
Federalist period, states that the “court built upon the general acceptance of the sanctity of
property... and aimed at containing the democratic threat to the rights the Federalists
considered necessary to a stable market economy and a free and secure society.” (There will be
more about Federalists and Anti-Federalists in Session IX.) The states were denied the power to
make decisions about property — its definition, production, movement, or distribution. Such
matters were the province of the law, the courts, and the minority, not of politics, legislatures,
and the majority.

According to this theory, progress would come about not through the promise of community or
wide democratic participation, but through the virtuous male seeking stable conditions for
securing property (“virtue” comes from Latin, *vir*, for man). The Founding Fathers sought to
establish a pre-eminence of the talented minority over the ordinary majority. Talent was
measured largely by one’s capacity to accumulate material things.

With these sentiments written into the nation’s founding doctrines, men of property, using the
 corporate form (deemed “private” property by the courts), took themselves to great heights of
power and control. The costs of this court-granted illegitimate authority — in a country where
We the People are supposed to be in charge — grow apparent as they grow enormous. This
discussion invites us to examine the role property should or should not play in our lives, rights,
and governance.

One reading in this session is included for two purposes. Marjorie Kelly’s article provides fresh
perspectives on wealth and property in the context of the stock market, which is particularly
helpful at a time when the health of our economy (and therefore our country) is viewed so
frequently through that lens. Her ideas are built, however, upon a clear enthusiasm for
capitalism and an assumption that democracy is alive and well in the U.S. She notes that we
haven’t democratized economics, at the same time assuming that we *have* democratized politics.
She sees corporations as needing to be accountable but is not demanding they be *subordinate*
to human beings. As with all the readings, you should be alert for concepts with which you
disagree. This particular reading may provide you with even more opportunity to do so
because Ms. Kelly’s assumptions are commonly shared.

**Readings:**
1 – WILPF handout on property (3 pages)
2 – “Labor Organizing and Freedom of Association,” by Peter Kellman (4 pages)
Discussion Questions:

1. How have the readings expanded or modified your beliefs about property? Do an exercise listing what you consider to be your property. Did you consider any public property as “yours”?  
2. How have the legal concepts of what is public property and what is private property affected the power of citizens, workers, and employers? Discuss how other concepts of property might affect the development of democracy.  
3. How do Marjorie Kelly’s insights into how the stock market works connect the modern-day corporation with its aristocratic roots in the 17th century?  
4. All systems — social, cultural, economic, legal — work because the people affected by them continue to participate in them. Discuss the ways in which widespread beliefs about the stock market and its corporate engines enable its continued operation. What keeps the current allegedly stable system from collapse?  
5. Explore Winona LaDuke’s proposed Seventh Generation Amendment and its distinction between private and common property.  

Supplementary Materials:  
- The Transformation of American Law (two volumes), by Morton J. Horwitz. Harvard University Press, 1977. For the person interested in the story of the alliance between the legal establishment and the propertied interests of commerce; many chapters stand well on their own if you don’t wish to read the whole book.  
Throughout US history, property has been a major lens through which laws were passed and interpreted. Here is James Madison, main architect of the Constitution, writing about property in *The National Gazette*, March 29, 1792:

This term in its particular application means “that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual.”

In its larger and juster meaning, it embraces every thing to which a man may attach a value and have a right; and *which leaves to every one else the like advantage*.

In the former sense, a man’s land, or merchandize, or money is called his property.

In the latter sense, a man has property in his opinions and the free communication of them.

He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them.

He has property very dear to him in the safety and liberty of his person.

He has an equal property in the free use of his faculties and free choice of the objects on which to employ them.

In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights.

Where an excess of power prevails, property of no sort is duly respected. No man is safe in his opinions, his person, his faculties or his possessions.

Where there is an excess of liberty, the effect is the same, tho’ from an opposite cause.

Government is instituted to protect property of every sort; as well that which lies in the various rights of individuals, as that which the term particularly expresses. This being the end of government, that alone is a just government, which *impartially* secures to every man, whatever is his own.

Madison’s writings reflect beliefs not only about what property is but what the purpose of government is: to protect property. These are core values that permeate every aspect of our legal, political, and social systems in the US. Observing the evolution of these systems, in 1938 Max Lerner wrote in *Minority Rule and the Constitutional Tradition*:

American life has pushed forward along a variety of trails — farm, frontier, and factory; plantation and city; trade route, logging camp, mining town and real-estate boom; corporation and cooperative. But through all these the common base-line has been a persistent and pervasive sense of property... property individualism, born of the movements for European liberation, blessed with the approval of Protestant capitalism, flourishing in the wilderness of the American frontier, turned into laissez faire by the conditions of a reckless and exploitative capitalism; and finally, when individualism could no longer thrive as an idea because it has been extinguished as a fact in economic life, the clinging to the profit system and the cash nexus served as bulwarks against
social anarchy and the destruction of the social fabric. This sense of
property, even when its widespread social base has been so largely
destroyed in the age of absentee ownership, is still a powerful ally for judicial
power.

Real and Intangible

When we hear the word *property*, most of us picture various forms of what is called **real
property**: tangible possessions, land, buildings, animals — and sometimes human beings. For
hundreds of years, millions of Africans, as well as indentured servants and other contract
workers, were the legal property of their owners. Women and children have at some times and
in some places been the property of men, and even when this was not the case legally,
women’s right to own property in their own name has historically been widely denied or
limited (and still is in some countries).

From the perspective of the Founding Fathers, property was not only the right to private
ownership, but also **the right to exclude others** from that which was owned. Real property was
of two kinds: our personal possessions, the stuff of daily life — houses, clothing, the tools of an
occupation, etc. — and that which could be amassed **in excess of one’s needs**. This latter kind
of property represented a private ownership of the valuables of the community, of the society.
This was a system of property ownership that, through the exclusion of others, gave controlling
power to owners over non-owners, to the few over the many.

Another form of property is called **intangible property**: the economic and political rights that
people and corporations have claimed, and our judges have protected, as property rights. For
corporations, these include the right to make contracts, the right to hire and fire at will, the right
to own employees’ work, and even the right to future profits. Managerial prerogative and
business judgment is also a “property right” — any action taken in good faith and in the
ordinary course of doing business is legally protected. “Intellectual property,” such as
copyrights, trademarks, and patents, are also forms of intangible property. Our laws and courts
have guaranteed these “rights” for corporations, along with such Bill of Rights protections as
free speech.

When we talk about property and challenge corporate claims to Constitutional rights, we need
to consider both real and intangible property. From ownership of real property comes the
**wealth, power, and control over people’s minds and daily lives** that enable corporations to
rule. From ownership of intangible property, corporations have gained the **legal authority to
perform the functions of governance**: financing elections, framing public policy discussions,
lobbying, and writing laws.

Public and Private

Property can also be categorized as either public or private. **Private property** is that which is
owned by an individual, group, or legal entity such as a corporation. **Public property** is that
which is owned by everyone — air, water, parks, some utilities, some public buildings. Over
the years more and more public property has been commodified and legally converted to
private property. For example, a hot topic in international environmental circles is “air

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pollution credits.” This is an arrangement whereby a corporation or country polluting more than the legal limit can buy credits from one polluting less than the limit, instead of changing their production so that it does not break the law or — even better — does not pollute at all. The commodification of water is also gaining international attention. Billions of people in the world do not have access to adequate safe water, and corporations in countries with abundant water are interested in making money by selling it for profit to the highest bidder.

The concept of publicly shared resources available to everyone is being rapidly eroded. It is ironic that, in a country that claims to have a government of, by, and for the people, much “government property” is labelled “Do Not Trespass” and is inaccessible to most citizens.

**Considering Alternatives**

It is important for people to be aware of the differences in the amount and kind of property that is owned by human beings and corporations. For example, how much intangible property do you own? We can challenge commonly held assumptions about what property is and who can own it. Not all societies hold the same beliefs about property that are prevalent in the US today. Some property theories hold that it is illegitimate to own anything beyond what you need, and everything else should be public property. Many traditional communities do not consider any part of the natural environment to be something that can be privately owned — they believe that air, land, water, plants, and animals all belong to everyone for wise use and careful stewardship. Different concepts of property and what role those concepts should or should not play in structuring a system of governance can result in widely varying societies. It is the work of sovereign citizens to consider the consequences of those alternatives.
Part 2 — LABOR ORGANIZING AND FREEDOM OF ASSOCIATION

[Because large economic inequalities create serious public health problems and give rise to social instability, and because labor unions help reduce economic inequalities, we are publishing this illuminating series on U.S. history from a labor perspective. — P.M.]

by Peter Kellman*

As we saw last week (REHW #697), American men of property in 1776 wanted to be free from English taxation and control. They wanted to be free to exploit the resources of America and not share the wealth with the English ruling class.

The American Revolution was promoted primarily by two groups of people. The members of these two groups had three things in common: (1) they owned property, (2) they were white, and (3) they were men. The first group consisted of speculators, large landowners, plantation owners and those that had large commercial interests. In the second group were shopkeepers and skilled artisans, the small business people of their day. These two groups made up at most 10% of the population. They organized the revolution and ran the state governments that took power when the 13 colonies declared independence in 1776. They formed the Republic of the United States.

However, most of the population was excluded from participating in the Republic. Those on the outside looking in included people who were the outright property of other people. Some of these people were African slaves and their American descendants who represented 20% of the population. Another group was indentured servants, people who were the outright property of other people for a set period of years. Indentured servants made up about 10% of the population. All women, native people and freemen without much property were denied the right to vote. In South Carolina in 1787, for example, “every free white man of the age of 21... and has a freehold of fifty acres” was eligible to register to vote.[1] But to be Governor of South Caroline the bar was raised even higher: one had to be worth 10,000 pounds.[2]

The U.S. Constitution

In 1776, the 13 colonies declared their independence from the British Crown and in 1781 the former colonies, now states, ratified a set of rules called the Articles of Confederation which determined their relationship to each other. In 1787 the state legislatures sent delegates to a meeting to discuss amending the Articles of Confederation.

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This meeting is now known as the Constitutional Convention of 1787. It was a closed meeting, the minutes of which were made public 53 years later.[3]

Much had happened between 1781 and 1787 that caused the class of people who fomented the revolution to be concerned about their future. Divisions within the propertied class surfaced in the state legislatures and conflict between classes manifested itself in armed insurrections against the authority of state governments.

In the state legislatures, the interests of the small business owners and artisans clashed with those of the large commercial organizations. The small businessmen wanted high state tariffs to protect their small concerns, while those with large commercial interests demanded so-called “free trade” between the states. Meanwhile, the people who were clearing the land wanted to own it, and armed insurrection against state authority broke out in many places. For example, the rebellion of Vermont’s Green Mountain Boys against their New York landlords eventually led to the establishment of Vermont as the 14th State in 1777. But it was Shays Rebellion, the armed insurrection of western Massachusetts farmers against the policies of the commercial class in Boston in 1786-1787, that weighed most heavily on the large property owners who sat down in 1787 to write the Constitution of the United States. Those who wanted free trade between the states saw the need to have a strong federal government and federal army that would always be available to put down rebellions that could not be suppressed by state militias.

The men who assembled in Philadelphia in 1787 to write the constitution were all men of property. The noted historian Charles Beard states that James Madison, primary author of the Constitution, “...in more than one speech pointed out that the conflict of interests was inescapable. He told the convention that the greatest conflict of all in the country was between those who had property and those who had none.” Beard goes on to say that, “Leaders among the framers wanted, among other things, first to hold the Union together; second, to set up a government that would protect, regulate, and promote types of economic enterprise; third, to put brakes on the state legislatures which had been attacking the interests of protected classes.”[4]

*Here is some of what the founding fathers came up with:*

**The Commerce Clause — The First NAFTA**

The Commerce Clause of the Constitution, Article I Sec. 8(3), was written “To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes” and was created to straighten out the conflict of interest between the small and large property owners. After the Constitution was ratified, independent state legislatures were no longer able to erect protective tariffs that “hindered” the flow of goods between the states. The big commercial interests of the day had triumphed over the small enterprises trying to “grow” local businesses.

Recently a similar event took place when the large transnational corporate interests triumphed over national business interests and labor with the passage of the North American Free Trade Agreement (NAFTA). The Commerce Clause was the first “free trade” agreement in North America, and like NAFTA, it was negotiated at a closed meeting. [5]
The Contracts Clause

The Contracts Clause of the Constitution, Article I Sec.10.(1), says in part that, “No State shall... pass any... Law impairing the Obligation of contracts.” Legal theory holds that contracts are agreements made between equals, and therefore the state should not meddle. [6] If a state were to pass a public law that, for example, set the maximum hours an employer could require people to work, it would be seen by the courts as impairing the right of individual citizens to negotiate contracts free from outside interference. Contracts are private laws. And thus most labor laws passed by state legislatures and Congress prior to 1937 were ruled unconstitutional by the U.S. Supreme Court because they violated the Contracts Clause. They were public laws that violated private laws. The meaning is clear. The obligation of the government, as stated in the preamble to the Constitution, to promote the “general Welfare,” is secondary to the private law, the law of contracts.

Once again, the theory of contracts is based on the assumption that the contracting parties are equals. The founding fathers would have us believe that an indentured servant negotiating a contract with his master was somehow equal to the master at the negotiating table. The situation is similar to a small local union with 200 members negotiating a contract with a large employer who brings to the table enough resources to move the plant. In practice this can hardly be called a contract negotiated between equals. But this is the legal fiction, and the courts, congress, national guard, army and police uphold this distortion of common sense.

The *Lochner v. New York* case of 1905 is a classic example of how the Contracts Clause suppressed the democratic legislative activities of working class people. As a result of popular agitation, the New York State Legislature passed a law limiting the hours of work for people employed in bakeries to no more than 10 per day and 60 per week. The U.S. Supreme Court ruled, “Under such circumstances the freedom of master and employee to contract with each other in relation to their employment, and in defining the same, cannot be prohibited or interfered with, without violating the Federal Constitution.” Do you know of any state or federal law today that limits the number of hours an employer can require an adult to work?

Dominance of the private law over the public law in our Constitution has made it very hard for working people to use the political process to better their conditions. This is true because the Constitution restricts our collective activity primarily to contractual relationships with employers, and the National Labor Relations Act limits our activity even further. So much for “We the People” forming a Government to “promote the general Welfare” that the Preamble to the Constitution promises. The question is: Who defines the “general Welfare.” So far it has been the lawyers of the elite, who become Supreme Court justices, not shop stewards, teachers or home makers. When the constitutionality of a law is questioned it is five Supreme Court justices who decide for the rest of us issues like: Is a maximum 40 hour week constitutional? Do workers have free speech at work? Do employers have free speech rights in union certification elections?

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The Return Servants Clause

Human rights didn’t seem to be high on the agenda of the constitutional fathers, but labor did make it into the Constitution.

Article IV Sec 2.(3) says, “No person held in Service or Labour in one State, under the laws thereof, escaping into another, shall, in Consequence of any regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.”

Men like James Madison and George Washington wanted their human property, slaves and indentured servants, to know that if they escaped into another state the Constitution of the United States guaranteed their return. James Madison, fourth President of the United States and “master builder of the Constitution,” had a great financial interest in protecting his property. He “told a British visitor shortly after the American Revolution that he could make $257 on every Negro in a year, and spend only $12 or $13 on his keep.”[7] At one time James Madison enslaved 116 human beings. Based on his statement, Madison would have made a yearly profit of $28,304 on slave labor and the slaves would have realized nothing but the inhumanity of being a slave. If you were a slave or indentured servant how would you feel about this “master builder of the Constitution” writing your constitution?

[To be continued.]
The Divine Right of Capital

Marjorie Kelly

Wealth

Where does wealth come from? More precisely, where does the wealth of major public corporations come from? Who creates it?

To judge by the current arrangement in corporate America, one might suppose capital creates wealth — which is odd, because a pile of capital sitting there creates nothing. Yet capital-providers (stockholders) lay claim to most of the wealth that public corporations generate. They also claim the more fundamental right to have corporations managed on their behalf. Corporations are believed to exist for one purpose alone: to maximize returns to shareholders. This principle is reinforced by CEOs, the Wall Street Journal, business schools, and the courts. It is the law of the land — much as the divine right of kings was once the law of the land. Indeed, “maximizing returns to shareholders” is universally accepted as a kind of divine, unchallengeable mandate.

In the business world at large, it is not in the least controversial. Though it should be.

What do shareholders contribute to justify the extraordinary allegiance they receive? They take risk, we’re told. They put their money on the line, so corporations might grow and prosper. Let’s test the truth of this with a little quiz:

Stockholders fund major public corporations — True or False?

False. Or, actually, a tiny bit true — but for the most part, massively false. What’s intriguing is that we speak as though it were entirely true: “I have invested in AT&T,” we say, imagining AT&T as a steward of our money, with a fiduciary responsibility to take care of it. In fact, “investing” dollars don’t go to AT&T but to other speculators. Equity “investments” reach a public corporation only when new common stock is sold — which for major corporations is a rare event. Among the Dow Jones Industrials, only a handful have sold any new common stock in thirty years. Many have sold none in fifty years.

The stock market works like a used car market, as accounting professor Ralph Estes observes in Tyranny of the Bottom Line. When you buy a 1993 Ford Escort, the money doesn’t go to Ford. It goes to the previous owner. Ford gets the buyer’s money only when it sells a new car. Similarly, companies get stockholders’ money only when they sell new common stock, which mature companies rarely do. According to figures from the Federal Reserve and the Securities and Exchange Commission, about 99 percent of the stock out there is “used stock.” That is, ninety-nine out of one hundred “invested” dollars are trading in the purely speculative market, and never reach corporations.

Public corporations do have the ability to sell new stock. And they do need capital (funds beyond revenue) to operate — for inventory, expansion, and so forth. But they get very little of this capital from stockholders. In 1993, for example, corporations needed $555 billion in capital. According to the Federal Reserve, sales of common stock contributed 4
percent of that. I used this fact in one of those large-typeface quotes in a magazine article once, and the designer changed it to 40 percent, assuming it was a typo. It’s not. Of all capital public corporations needed in 1993, stockholders provided 4 percent.

Well yes, some will say — that’s recently. But stockholders did fund corporations in the past.

Again, only a tiny bit true. Take the steel industry. An accounting study by Eldon Hendriksen examined capital expenditures in that industry from 1900 to 1953, and found that issues of common stock provided only 5 percent of capital. That was over the entire first half of the twentieth century, when industry was growing by leaps and bounds.

So, what do stockholders contribute, to justify the extra/ordinary allegiance they receive? Very little. And that’s my point.

Equity capital is provided by stockholders when a company goes public, and in occasional secondary offerings later. But in the life of most major companies today, issuance of common stock represents a distant, long-ago source of funds, and a minor one at that. What’s odd is that it entitles stockholders to extract most of the corporation’s wealth — forever. Equity investors essentially install a pipeline, and dictate that the corporation’s sole purpose is to funnel wealth into it. The pipeline is never to be tampered with and no one else is to be granted significant access (except executives, whose function is to keep it flowing).

The truth is, the commotion on Wall Street is not about funding corporations. It’s about extracting from them.

The productive risk in building businesses is borne by entrepreneurs and their initial venture investors, who do contribute real investing dollars to create real wealth. Those who buy stock at sixth or seventh hand, or one thousandth hand, also take a risk — but it is a risk speculators take among themselves, trying to outwit one another like gamblers. It has little to do with corporations, except this: Public companies are required to provide new chips for the gaming table, into infinity.

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It’s odd. And it’s connected to a second oddity — that we believe stockholders are the corporation. When we say “a corporation did well,” we mean its shareholders did well. The company’s local community might be devastated by plant closings, its groundwater contaminated with pollutants. Employees might be shouldering a crushing workload, doing without raises for years on end. Still we will say, “the corporation did well.”

We do not see rising employee income as a measure of corporate success. Indeed, gains to employees are losses to the corporation. And this betrays an unconscious bias: that employees are not really part of the corporation. They have no claim on the wealth they create, no say in governance, and no vote for the board of directors. They’re not citizens of corporate society, but subjects.

Investors, on the other hand, may never set foot inside “their” companies, may not know where they’re located or what they produce. Yet corporations exist to enrich investors
alone. In corporate society, only those who own stock can vote — like America until the mid-1800s, when only those who owned land could vote. Employees are disenfranchised.

We think of this as the natural law of the free market, but it’s more accurately the result of the corporate governance structure, which violates free-market principles. In a free market, everyone scrambles to get what they can, and they keep what they earn. In the construct of the corporation, one group gets to keep what another earns.

The oddity of it all is veiled by the incantation of a single, magical word: “ownership.” Because we say stockholders “own” corporations, they are permitted to contribute very little, and take quite a lot.

What an extraordinary word. One is tempted to recall the comment of Lycophron, a Greek philosopher, during an early Athenian slave uprising against the aristocracy. “The splendour of noble birth is imaginary,” he said, “and its prerogatives are based upon a mere word.”

* * *

A mere word. And yet the source of untold trouble. Why have the rich gotten richer while employee income has stagnated? Because that’s the way the corporation is designed. It is designed to pay stockholders as much as possible, and to pay employees as little as possible. Why are companies demanding exemption from property taxes? Why are they cutting down 300-year-old forests? Because that’s the way the corporation is designed. It is designed to internalize all possible gains from the community, and to externalize all possible costs onto the community.

“A rising tide lifts all boats,” the saying goes. The corporation really functions more like a lock-and-dam operation, raising the water level in one compartment by lowering it in another.

The problem is not the free market. That notion — buyers and sellers regulating prices without external guidance — is relatively innocent. Indeed, brilliant. Nor is the problem capitalism. The capitalist system — private ownership driven by self-interest — is in many ways superbly effective. Certainly free-market capitalism is the most fruitful economic system the world has yet conceived. If we go rummaging through its entire basket of economic ideas — supply and demand, private property, competition, profit, unconscious regulation, wealth creation, and so forth — we’ll find most concepts are sturdy and healthy, well worth keeping. But we’ll also find one concept that is inconsistent with the others. It is the lever that keeps the lock and dam functioning, and it is these four words: maximizing returns to shareholders.

When we pluck this notion out of our basket and turn it over in our hands — really looking at it, as we so rarely do — we will see it is an aristocratic edict. In a competitive free market, it decrees that the interests of one group will be systematically favored over others. In a system devoted to unconscious regulation, it says corporations will consciously serve one group alone. In a system rewarding hard work, it says members of that group will be served regardless of their productivity.

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Shareholder maximization is a form of entitlement. And entitlement has no place in a free market. It is a form of privilege. And privilege accruing to property ownership is a remnant of the aristocratic past.

**Democracy**

Alexis de Tocqueville observed that there are two great ages of human history: the aristocratic age and the democratic age. In the twentieth century, governments worldwide have made a great passage from one to the other. In the years just prior to World War I, kings and emperors sat enthroned atop most nations of the globe — but they did not, by and large, survive the two world wars. After a calamitous interval of dictatorship and communism, a majority of the world’s nations had, by the 1990s, turned to democracy.

We have crossed a great divide in history from aristocracy to democracy. But we have done so only in government. We have yet to democratize economics.

We think of capitalism as the handmaiden of democracy, but that’s only partially true. Free market theory points toward democratic outcomes in its emphasis on individuals getting what they earn. But corporate governance points toward aristocratic outcomes in its insistence on shareholder primacy. Corporate governance is anti-democratic. Or, perhaps, pre-democratic.

The wealth-owning class today is a kind of secular aristocracy, much as dictators were secular monarchs, attempting to reproduce aspects of privilege enjoyed in the aristocratic era. In the past, secular monarchs largely failed because they lacked the sustaining myth of the divine right of kings. As fallen dictators from Mussolini to Marcos showed the world, power without myth does not long endure. Analyzing the fall of dictators in a chapter tellingly titled “The Weakness of Strong States,” Francis Fukuyama observed, “The critical weakness that eventually toppled these strong states was in the last analysis a failure of legitimacy — that is, a crisis on the level of ideas.”

The secular aristocracy must cling to its sustaining myths. They provide the base of its legitimacy, without which the amassing of wealth begins to seem indefensible. That’s why the core myth of today’s aristocracy — that shareholder returns must be maximized — is considered unchallengeable, nearly sacred. It is a myth with the force of law. We might call it our modern version of the divine right of kings.

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Although such myths serve to legitimate a bias favoring those who own property (which today we call “financial assets”), we do not hold them consciously; instead, our legal structures hold them for us, as they once held biases favoring men over women, or whites over blacks.

The first step to changing unconscious bias is to see it. To help us do so is the aim of this essay (and of the book I am writing of the same title). It is a venture into what Michel Foucault would call an “archaeology of knowledge,” a foundational dig, examining the
ancient conceptual structures on which wealth bias is built. It is an inquiry into the aristocratic echoes in the corporate worldview — the sustaining myths which support shareholder primacy.

I’m primarily addressing public corporations, because they are fundamentally different from smaller, private, family-owned corporations. My premise is that the shareholder primacy that drives these mammoth firms is, like the divine right of kings, an increasingly archaic mandate, imposed on an organic system capable of self-governance. It is a stricture that is blocking the natural evolution of capitalism, because it is increasingly out of step with the times due to a number of massive changes in the nature of major public corporations:

1. Increasing size. Today, among the world’s one hundred largest economies, fifty-one are corporations. They have revenues larger than nation-states, yet maintain the guise of being “private.”
2. The shrinking of ownership functions. Though still considered “owners,” stockholders in major public companies do not manage, fund, or accept liability for “their” corporations. Ownership function has shrunk to one dimension: extracting wealth.
3. The rise of the knowledge economy. For many companies, knowledge is the new source of competitive advantage. To allow shareholders to claim the corporation’s increasing wealth — when employees play a greater role in creating that wealth — is a misallocation of resources.
4. The increasing damage to our ecosystem. The rules of accounting were written in the sixteenth century, when nature seemed an unlimited reservoir of resources, and an unlimited sink for wastes. That is no longer true, but the rules of accounting retain fossilized remnants of those ancient attitudes.

Major public corporations have evolved into something new in civilization, structures more massive, more dominant in the world than our democratic forefathers dreamed possible. They left us little guidance on governing these institutions — the word “corporation” appears nowhere in the Constitution — because only a handful of American corporations existed when that seminal document was written. Washington and Jefferson governed a nation of farmers, in which most nonagricultural businesses were indeed “private,” run out of the parlor, or in the barn, as part of the private household.

As the name itself implies, “public” corporations are no longer private. The major corporation, as Franklin D. Roosevelt observed, “represents private enterprise become a kind of private government which is a power unto itself.”

* * *

We fail to see the growing public power of corporations because we accept the myth that corporations are pieces of private property owned by shareholders whose primacy is a natural mandate of free markets, just as our ancestors accepted that nations were private kingdoms owned by kings whose supremacy was a natural mandate of God.
We live with these myths like buried shells from an old war, the war we thought we had won, between monarchy and democracy. When these invisible old bombs go off — as they have in the resurgence of sweatshops, the rise of income inequality, or the increasing demands of corporate welfare — we become alarmed. We ask, how can the “free market” go so wrong? Believing the myth that the system must remain unfettered, we feel powerless to reach down and defuse the explosive and buried nub of the problem, which is shareholder primacy. Or in broader terms, wealth bias.

Property

In searching for the source of stockholder privilege, we come around again to the incantation of that single, magical word: “ownership.” It is property ownership that gives stockholders power. Thus, like a feudal estate, a corporation must be considered a piece of property — not a human community — so it can be owned and sold by the propertied class.

This word “own” is deceptively small, and worth unpacking. Because stockholders “own” corporations, we are implicitly told: 1) the corporation is an object that can be owned; 2) stockholders are sole masters of that object; 3) they can do as they like with “their” object. It’s an entire worldview in three letters. And as a result of this tiny incantation (like the “Shazam” that turns a boy into Captain Marvel), stockholders gain omnipotent powers: they can take over massive corporations, break them apart, sell them, squeeze them dry, or shut them down — while employees and communities remain powerless to stop them.

Power of this sort has an unmistakable feel of something more ancient. Ownership — that bundle of concepts we also label “property rights” — is one antique tradition that has remained impressively intact. It comes down to us from that time when the landed class was the privileged class, by virtue of its wealth in property. To own land was to be master. And in the master’s view, what was owned was subordinate, as in the imperial presumption that India was a “possession” of the throne of England. Or the feudal presumption that lords could own serfs, like so much livestock.

Ownership, according to British law, conferred upon the owner “sole and despotic dominion.” The phrase is from William Blackstone’s eighteenth century *Commentaries on the Laws of England*. It is a phrase worth lingering over, for “dominion” shares the same root as “domination.” And “despotic” means the tyrannical rule of those who are not free.

Even in John Locke’s *Two Treatises of Government* — considered a founding document of democracy — God is conceived of as the Great Property Owner. Locke wrote:

> For Men being all the Workmanship of one Omnipotent, and infinitely wise Maker; All the Servants of one Sovereign Master, sent into the World by his order and about his business, they are his Property, whose Workmanship they are....

This notion of one sovereign master extended to the marriage relationship, where only men were permitted to own property. In early American law, a husband became owner of his wife’s property upon marriage. He had sole right to administer it, had sole claim to its
profits, and was required to render his wife no accounting. In the 1764 case of *Hanlon v. Thayer*, a Massachusetts court said a husband owned even his wife’s clothing — though she’d brought it with her at marriage. Husband and wife were one legal person, and that person was the husband.

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Today, the corporation is considered one legal entity, and that entity is equated with stockholders. Like wives, employees “disappear” into the corporation, where they have no vote. The property of the corporation is administered solely in the interests of stockholders, who like husbands claim the profits, and are required to render employees no accounting. We have thus a “corporate marriage” in which one party has sole dominion. The reason is property.

**Profit**

The “property” stockholders have in corporations is represented by two numbers. The first is the stream of income, called profit, or earnings. Stockholders get a piece of it in dividends. The second is the value of the corporation itself, called market value, or capitalization. (It’s the value of all shares added together.) Stockholders receive their portion of market value when they sell stock and pocket capital gains, if the stock has gone up. In analogy to a rooming house, you might say stockholders own the stream of rent coming in, and they own the house itself.

The key to it all is profits. This is the wealth — the “property” — the corporation creates each year. The value of the corporation as a whole is often expressed as a multiple of profits (generally called “earnings”), as in the price/earnings ratio. If earnings go down, the value of the corporation will often go down. Hence maximizing profits means working in the stockholder’s interests — and if necessary, working against employee and community interests. Profit is often viewed as a neutral concept, and it could be, if companies made some rational, periodic analysis of how to allocate it. But they don’t. Custom grants to employees and the community no right to a cut of profit. Capitalist theory says it belongs to stockholders alone.

Jeff Gates in *The Ownership Solution* calls this the “closed loop” of wealth creation. Stockholders are by definition those who possess wealth. And in the design of the corporation, all new wealth flows to those owning old wealth, in a closed loop.

In the current narrative of the corporation, it works like this: A corporation exists to generate profit. Profit belongs to stockholders, but they leave part of it in the corporation to fund growth. So a portion (about a third) is paid out as dividends, and the rest is kept as retained earnings. Those earnings are generated by the income statement, and retained on the balance sheet, where they are added to shareholder equity. Equity is what stockholders initially contributed when they purchased shares from the company. And by the magical closed loop of accounting, equity grows, year after year, while stockholders never contribute another cent out of their pocket.

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Ergo: Stockholders “create wealth” without lifting a finger.
We call this “return on equity,” or ROE. It is designed to continue into infinity.

It’s a bit like the plant in The Little Shop of Horrors, which ate everything in sight. The more equity grows, the more it demands to grow. If equity is at, say, $1 million, and grows 15 percent a year for ten years, it quadruples. So if a 15 percent return on equity initially means shoveling out $150,000 worth of profits to satisfy shareholders, by the tenth year 15 percent requires a shovel four times as big, or $600,000. The company needs four times the profits just to stay in place as far as stockholders are concerned, yielding the same ROE, year after year.

It’s like pushing a rock up a hill, and when you push nice and hard, the rock gets bigger. There is no top of the hill. You must do this for eternity.

It’s little wonder CEOs at public companies are desperate to boost profits however they can — sending jobs to sweatshops overseas, demanding corporate welfare, refusing to give raises, using temporary workers without benefits, wheeling tax breaks, downsizing staff. No one needs to stand up and tell them to do these things. The financial statements make the demand. The closed loop of corporate accounting holds the demand in place forever.

One enforcement mechanism is the hostile takeover, in which CEOs who fail to deliver are given the boot. Return on equity functions a bit like the Mafia, demanding a larger and larger payment every year, or the hostile takeover folks come and break the CEO’s kneecaps.

Return on equity lasts forever, as did title of nobility, which had a similarly tenuous connection to merit. At some point, it’s true, someone did invest dollars in the corporation, just as someone quite often did do something “noble.” But that single act granted passive privilege to a string of other folks, who did nothing. They continue to pass on privilege, hand to hand, forever. Of course, privilege of nobility passed by inheritance, while privilege of stock ownership passes by purchase. So we have made a few changes.

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One might debate the legitimacy of this arrangement. One might question the rationale of an infinite payback for a one-time hit of money. (Even credit cards let you off the hook at some point.) But let us sidestep that debate.

Let us assume, for the sake of argument, that all profits legitimately belong to stockholders. Let us assume they own all tangible corporate assets: the book value of the corporation is theirs. (Book value means everything you own minus everything you owe. It’s what would be left, theoretically, if you sold everything and paid off debts.) Even granted this, stockholders are still running off with 75 percent of corporate value that’s arguably not theirs.

Consider: At year-end 1995, book value of the S&P 500 accounted for only 26 percent of market value. The combined book value of these companies totaled $1.2 trillion. Market value was $4.6 trillion. Thus “intangibles” were worth $3.4 trillion — three times the value of tangible assets.
Thus, even if S&P stockholders owned the companies’ tangible assets, they got off scot-free with other airy stuff worth three times as much.

Included in intangibles is discounted future value (what the market will pay today for estimated future value), plus things like patents and reputation. But also included is a company’s knowledge base, its living presence. Or to call it by a simpler name: employees.

**Human Capital**

In owning intangible value, stockholders essentially own employees — or at the very least, they have the right to sell them (which amounts to the same thing).

Take the case of the Maryland company in Chapter 11 bankruptcy, which in 1997 sold itself to Space Applications Corp. (SAC) in Vienna, VA. The company’s real assets were its one hundred scientists. So it sold them. As Edward Swallow of SAC told the *Wall Street Journal*, “The company wasn’t worth anything to us without the people.”

“Human capital” acquisitions happen all the time. Through 1997, Cisco Systems Inc. in San Jose, California, had made nineteen of them — mostly acquisitions of small software companies with little revenue but fifty to one hundred employees, for which it paid premium prices: up to $2 million per employee.

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It’s revealing when the accountants go to record such purchases on the balance sheet. If you pay $100 million for a company with, say, $25 million in tangible assets, what’s the other $75 million of stuff you bought? How do you record it? Well, what you don’t record is “one hundred scientists.” In post–Civil War America, we recoil from the notion human beings might be bought and sold. So we say a company has purchased “goodwill.” That’s how it’s booked: as a line item on the balance sheet called “goodwill.”

The parallel to Blackstone is eerie: our law does not support the literal buying and selling of persons, but it does support the principle that stockholders can own certain kinds of property in employees. We allow company owners to sell company assets, even when the primary assets are one hundred scientists. This doesn’t make these scientists property in the sense slaves were property, because the scientists are free to leave. But neither are they property owners, with a right to vote on the sale and a right to pocket the proceeds. Their status is akin to a third category recognized by Blackstone: “that of a right-bearing subject who is also the property of another.”

* * *

Employees-as-property is a disturbing concept. But evidence of it is disturbingly widespread — as in the commonplace observation that “employees are our greatest assets.” Assets, of course, are something one owns.

And companies can take this quite literally. Consider the case of Evan Brown. This computer programmer claimed to have dreamed up a concept that would fix outdated computer codes, and he wanted to develop it on its own. But his employer, DSC

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Communications in Plano, Texas, said the idea was company property, because Brown had signed an agreement granting DSC rights to inventions “suggested by his work.” Brown never made notes for his concept. So when DSC sued him, it wasn’t for ownership of his papers. It was for ownership of his thoughts.

* * *

How can companies own employees’ thoughts? Isn’t it unconstitutional to own human beings? Questions like these are not asked in the property-based society of capitalism. The fact that corporations fail to ask them is a sign of their pre-democratic bias: their archaic mental habit of seeing everything — even human knowledge — as property, and seeking to own it.

Through the lens of ownership, one either owns property, or becomes property. There is nothing else.

It’s an attitude that says, if I own the assets of a firm, I own everything created on top of those assets. All new wealth flows to old wealth. This is a feudal assumption — and we can see it more clearly if we make the analogy to land. Say a landowner pays a tenant to farm some land, and the tenant builds a house there. Who owns the house? The landowner or the tenant?

In feudal England, the landowner legally claimed the house. But as legal scholar Morton Horwitz points out, American courts rejected this claim, beginning with the 1829 case, Van Ness v. Pacard, where Justice Story wrote: “what tenant could afford to erect fixtures of much expence or value, if he was to lose his whole interest therein by the very act of erection?” Under democratic law, the rule became that “the value of improvements should be left with the developer.”

Refusing to bow to ancient property rights, democratic law articulated a new precedent: the house belongs to the person who built it. New wealth flows to those who create it.

In this tradition, employees who “build” atop the corporation (creating new products or new efficiencies) should have a legal right to the value of their improvements. But in corporate law that isn’t the case. Corporate law says stockholders own everything. Hence the increasing value of the corporation flows to shareholders, though they haven’t lifted a finger to create that value. The presumption is literally feudal.

**Personal Assets**

Tied up with this feudal presumption is the notion that property owners are the corporation. Employees are incidental: hire them today, get rid of them tomorrow, they’re of no consequence. They’re not on the balance sheet, so they don’t exist in the tally of what matters.

Yes, well. We might puncture this fantasy with a simple question:

What is a corporation worth without its employees?

This question was acted out, interestingly enough, in London, with the revolutionary birth of St. Luke’s advertising agency, which was formerly the London office of Chiat/

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Day. In 1995, the owners of Chiat/Day decided to sell the company to Omnicom — which meant layoffs were looming — and Andy Law in the London office wanted none of it. He and his fellow employees decided to rebel. They phoned clients and found them happy to join the rebellion. And so at one blow, London employees and clients were leaving.

Thus arose a fascinating question: what exactly did the “owners” of the London office now own? Without employees and clients, what was the London branch worth? One dollar, it turned out. That was the purchase price — plus a percentage of profits for seven years — when Omnicom sold the London branch to Law and his cohorts. They renamed it St. Luke’s, and posted a sign in the hall: Profit Is Like Health. You Need It, But It Is Not What You Live For. All employees became equal owners. Ownership for St. Luke’s is a right that is free, like the right to vote. Every year now the company is revalued, with new shares awarded equally to all.

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Thus we see how the presumptions of property hold up in the knowledge era: the fiction that outsiders can “own” a company, which is nothing but a network of human relationships, is as flimsy as a house of cards. Employees themselves are the cards, willingly holding the place together, even as stockholders walk off with the wealth that employees create.

How long this will be sustainable remains to be seen. But for the time being, employees seem content to remain hypnotized: believing themselves powerless, and accepting (shazam!) that stockholders have sole and despotic dominion.

No one thinks to object when employees are called “assets” — or sold in an acquisition. We don’t notice when employees are lumped with “intangibles”: as though they are not flesh and blood, but ghosts. It seems rational that corporate accountants recognize the value of “goodwill,” even as they ignore the value of employee knowledge.

We accept these notions, because we operate from the unconscious assumption that corporations are objects, not human communities. And if they’re objects — akin to feudal estates — then they’re something outsiders can own, and the humans working there are simply part of the property. Either you own property, or you become property: there is nothing else in a property-based world.

These antique notions inhabit us at levels beneath awareness. We don’t become conscious of them until someone like Andy Law, or Evan Brown, stands up to stockholders and says, “I am not your property.” Such gestures are reminiscent of the founding fathers standing up to Great Britain and saying, “America is no longer your property.” Or women standing up to men saying, “We are not your possessions.”

What seems solid melts under challenge. In the heat of confrontation, the notion of “owning” human beings slips away, like ice melting. Or like an incantation, fading, once we have broken its spell.

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Wealthism

It’s instructive to recall that at America’s founding, the voting franchise was limited by three biases then considered legal: biases based on race, sex, and wealth. All three restrictions on the vote have since been removed. But only the first two restrictions have been recognized as unfair forms of discrimination, which we term “racism” and “sexism.” The third, discrimination based on wealth, hasn’t yet been fully recognized. We might begin by giving it a name. I suggest “wealthism.”

Though it is pervasive, this bias has no coherent history or theory comparable to those dealing with racism and sexism. There is a large literature on “class,” which is a vital beginning. But “class” is too amorphous a term. Wealth lurks in its background, but in the foreground are an array of issues, having to do with the family you’re from, your mode of dress, where you went to school, how you speak — all of which may be only tangentially related to possession of wealth. Furthermore, America pretends it is a society without classes. But no one would suggest we are a society without wealthy individuals.

In point of fact, “wealthism” has a precision that “class” lacks. Corporate financial statements do not discriminate based on mode of dress. The voting franchise was not restricted based on how people spoke. These structural forms of discrimination find their basis in wealth.

Because we fail to name this discrimination precisely, we fail to see how it functions (how many people understand how financial statements work?) and we fail to claim its history. This history lies cloaked in collective amnesia, lost in a kind of vast national forgetting. How many of us could say when or how wealth restrictions on the vote were removed? How many of us remember Thomas Dorr?

Dorr was a hero in the fight for white manhood suffrage in Rhode Island, where property restrictions once kept more than half of adult males from voting. In the Dorr Rebellion of 1842, the disenfranchised rose up and created their own “People’s Constitution” — mandating universal suffrage for white males — and elected Dorr as their governor. This put Rhode Island in the awkward position of having two governors until President Tyler stepped in to crush the rebellion. Dorr was sentenced to “life imprisonment” (which lasted one year), but his cause was soon triumphant: In 1843, state suffrage provisions were liberalized. By the 1850s, wealth restrictions on the vote were abolished in virtually all states.

We don’t know this history, because wealth prejudice remains largely unconscious. Change begins by seeing. And we do not yet see.

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Wealth bias is articulated — quite brazenly — in the mandate to maximize returns to shareholders. It is given institutional form in the denial of corporate voting rights to employees. It is right in front of our eyes.

The 1919 date of *Dodge v. Ford Motor Co.* — the case that said the purpose of the corporation is to serve stockholders — is worth noting, for it anchors the notion of
shareholder primacy in the era to which it belongs: that era which still denied voting rights to women and blacks, that era when such forms of discrimination were legal. In that time, when only white men were considered full members of society, it seemed natural that only wealth-holders would be full members of corporate society.

Corporations still live in the charmed circle of this taboo. They see their customs as unalterable, like the custom that only stockholders may vote, that wealth’s only goal is more wealth, that the measure of success is a rising stock price. We buy into this belief system. With our tiny stashes of stock, we think the system is working for us, even as wages are sluggish, working hours are increasing, layoffs are rampant, and benefits are declining. Even as our children study in poorly funded schools while corporations elude the property taxes that once supported those schools.

There are seams of vulnerability here, once we think to look for them. Great seams of illegitimacy, of a creaky antiquity. One day, when there’s been a bit more of a thaw in the climate of opinion, the time will come to strike at a few of these seams. Change might result more quickly than we imagine. Roosevelt enacted his most transformative New Deal laws in just one hundred days, or slightly over three months. This kind of opening for change is likely to come again. For if the system design is unsustainable (and it is), crisis becomes more likely. If the corporate governance system in the meantime seems impenetrable, it’s because all closed societies seem impenetrable. The monarchy in its day seemed eternal. Shareholder primacy today seems likewise inevitable and eternal. But history suggests it will not be.

For those who are not intimately familiar with the ownership terminology of the corporate world, we provide the following definitions to aid in the understanding of this article:

**Shareholder (or stockholder)** — a person who owns shares in a corporation. The number of shares a corporation sells is controlled by the Securities and Exchange Commission. Some corporations have very few shares and some have millions. Public corporations sell their shares in stock markets, where anyone who can pay the price may purchase them. Shareholders have voting rights proportionate to the number of shares they own and can participate in the annual meetings held by corporations, so they are said to be owners of the corporation.

**Public corporation** — a corporation that sells its shares on the open stock market. There are also private corporations, which can limit the ownership, buying, and selling of their shares to a restricted group of persons. The term “public corporation” can be confusing, because they are considered to be privately owned — that is, the corporation is not owned by the public (like the
government); it’s owned by private citizens, the stockholders. A new corporation that is offering stock for sale for the first time is said to be “going public.” Before that time, the corporation is privately owned by its investors, who are usually some combination of the people who start the business and people or investment firms who advance money to get the business going (in hopes of a profitable return on their investment).

**Equity** — ownership in something. In this context, a stockholder is said to have equity in the corporation.

**Free market** — a concept developed by economists in the 17th and 18th centuries in which there would be no rules or governmental restrictions on the ability of people to trade goods and services among themselves. The belief was that in such an environment, competition would ensure allocation of resources (raw materials, labor, etc.) so that the best goods and services would naturally emerge to serve everyone’s needs. In reality, there has never been such a market, because there have always been restrictive laws to protect one or another kind of interest (such as a local market, local custom or religion, the environment, the workers, and so forth). “Free market” is frequently used today to describe what would more accurately be called “corporate-controlled” market because there are many subsidies, tax breaks, and other forms of welfare provided to large corporations that hide their true cost of doing business and deflect many of their expenses to the public. Small businesses and individuals do not have access to this preferential treatment, so public resources are unequally available, a fundamental violation of a true free market.

**Capitalism** — (from Webster’s Ninth) an economic system characterized by private or corporate ownership of capital goods, by investments that are determined by private decision rather than by state control, and by prices, production, and the distribution of goods that are determined mainly by competition in a free market.

**ECONOMIC POLICY**

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Thinking Seven Generations Ahead

The founding “fathers” of the US envisioned life, liberty, and the pursuit of happiness, but had little idea of what was to come. Since that time, we’ve seen the continent’s landscape change dramatically: culturally, politically, ecologically, and economically. Today, the social and technological foundation of the society has outstripped the law itself. It’s time to amend the Constitution to preserve “the commons” for all of us. It’s time for a Common Property, or Seventh Generation, amendment to the US Constitution.

WINONA LADUKE

The Constitution’s preamble declares as one of its purposes securing “the Blessings of Liberty, to ourselves and our Posterity.” Shouldn’t those blessings include air fit to breathe, water decent enough to drink, and land as beautiful for our descendants as it was for our ancestors? Instead, US public policy has come to reflect short-term interests, fiscal years, and “deficit reduction” programs while being increasingly absent of any inter-generational perspective. That long-term view is crucial to our wellbeing and a valuable role for democratic government. Without it, what is collectively ours — oceans, air, rivers, water, forests, public lands — is often pilfered or degraded by private interests.

The Exxon Valdez oil spill disaster is one example of the destruction of common property by private interests. An accident, and we hope the exception. The rule, however, is chilling.

Consider the challenge of industrial fishing. Seafood conglomerate Tysons and its factory trawlers work inside the US 200-mile limit of the North Pacific Ocean. Tysons’ nets plunder the ocean with an “economic efficiency” that leaves little behind. One net can hold up to six jumbo jets in its grasp, and such fleets now dominate the industry. With 38,000 registered commercial fishing vessels on the seas, it’s ironic that only 60 boats bring in 21 percent of the total US catch. More ironic is the waste. Factory trawlers annually waste 580 millions pounds of fish, in the North Pacific alone, tossed dead-as-a-door-nail back into the ocean.

In the past decade, we’ve seen the collapse of the Atlantic haddock, salmons, and soon pollack stocks, all largely because of “over fishing” and factory trawling. That collapse put thousands of people out of work in Canada, costing US taxpayers millions in economic aid. The impact will last decades, if the fish recover at all. The question might be asked: “What...
right does the factory trawling industry have to cause the collapse of an entire species of fish — our fish?"

Here’s another example: Dow Chemical, Monsanto, Dupont, and dioxin. Dioxin is a true 20th-century child. Its chemical family was created by Herbert Dow in the 1900s and later begat that household savior, chlorine bleach. Subsequent offspring have included most pesticides, solvents, and plastics. Dioxin now appears throughout our economy and food chain. The Environmental Protection Agency (EPA) has known of dioxin’s serious health consequences since the early 1970s but has taken limited action, largely because of lobbying by groups like the Chlorine Council, the industry’s advocacy group. A huge EPA study begun in 1992 was released this year, and reveals that the problems are worse than anticipated.

Nearly everyone in the country is already carrying what is called a “body burden of dioxin” 500 times greater than that carcinogen’s “acceptable risk” level. Dioxin can be considered a sort of environment hormone that ravages the endocrine system, distorting cell growth. In men, dioxin elevates testosterone levels, reduces sperm count and leads to increased rates of diabetes. In the last 50 years, sperm counts declined by more than 50 percent, while testicular cancer tripled.

In women, dioxin seems to prompt endometriosis, a painful uterine disorder that now afflicts 5 million women a year. Dioxin exposure is linked to breast cancer, which more than doubled since 1960. Pregnant women are especially vulnerable, since the daily level of dioxin intake is enough to cause long-term fetal damage, prompt birth defects, disrupt sexual development, and cause immune system damage.

If you live in the Great Lakes region, your dioxin body burden may be two to three times greater than that of someone living on the West Coast. Weather patterns and chemical plant clustering produce this additional exposure. Dioxin is a fat-soluble chemical, bio-accumulating up the food chain. For example, fish from Lake Michigan show levels of dioxin over 100,000 times higher than the surrounding water, plants, and sediment. However, two-thirds of the average US citizen’s exposure to dioxin comes from milk, cheese, and beef, a result of cows eating contaminated crops.

What’s the problem? Environmental laws of today are outstripped by the poisons in our air, water, and land, and their cumulative impacts. We are facing a “catch up” situation at best, and most frequently there is no cumulative or long-term policy protection. We don’t even know what the combined impact of a complicated chemical soup is on our bodies, in our ecosystem, or on future generations. Public policy is lagging behind our ability to destroy ourselves.

We need a Seventh Generation Amendment to ensure the blessings of liberty to ourselves and our posterity. The Fifth Amendment (we hope) preserves our rights to private property, and the protection of that property. The US legal system needs to establish a clear distinction between private property and common property. And both must be defended vigorously. If private property has found safe haven in the Fifth Amendment, where is common property equally protected?

Session V, Reading 4, page 2
Common property resources are those that aren’t or can’t be owned by an individual or a corporation, but are held by all people. These “Blessings of Liberty” envisioned in the US Constitution should be used or enjoyed only in ways that do not impair the rights of others — including future generations — to use or enjoy them. This is perhaps best reflected in the Iroquois Confederacy’s philosophy: We must consider the impact of a decision made today on the impact on the Seventh Generation from now.

The rights of the people to use and enjoy air, water, and sunlight are essential to life, liberty, and the pursuit of happiness. These most basic human rights have been impaired by those who discharge toxic substances into the air or water, thereby taking away life, liberty, and the ability to pursue happiness. These rights are also damaged by those who cause our fish population’s crash or who destroy our oceans. Such “taking” must be recognized as a fundamental wrong in our system of laws, just as a taking of private property is a fundamental wrong.

A Seventh Generation Amendment, or Common Property Amendment, to the US Constitution could state, “The right of citizens of the United States to use and enjoy air, water, sunlight, and other renewable resources determined by the Congress to be common property shall not be impaired, nor shall such use impair their availability for the use of future generations…”

It’s hard to imagine that those who framed the US Constitution could have imagined the US at the millennium. It’s harder yet to imagine what we’ll pass on, if we don’t think of the Seventh Generation from now.
Challenging Corporate Power, Asserting the People’s Rights

Session VI — People’s and Worker’s Resistance Movements

The changes in the United States throughout the 19th century were profound and rapid, picking up speed as the decades passed. The industrial revolution changed the nature and pace of both urban and rural livelihoods, and a predominantly independent workforce was converted to a majority of wage earners working for someone else. Capitalism came to dominate the economic system, bringing periodic depressions. Immigrants flooded into the country, creating a complex and constantly shifting hierarchical order that affected who worked and who didn’t, what kind of work they could do, where they could live, and what kind of life they could lead. The country grew rapidly in size, providing opportunity for some and destroying a way of life for others. The Civil War, resisted by thousands on both sides, left over half a million dead, the South on its knees, and corporations with significantly increased wealth and power.

For the majority of people, all these changes added up to a life of increased subservience to the wealthy minority, and they didn’t accept it lying down. Abuse of workers by industrialists was ruthless and rampant; strikes were frequent and often brutally broken by police, Pinkerton’s hired men, and even federal army troops. Increased mechanization, monopolistic practices by banks and railroads, and falling crop prices all conspired to drive hundreds of thousands of farmers off their land and into tenancy or low wage work. By the century’s close there was an enormous gap between the wealthy and the poor. Resistance to these oppressive systems was born of desperation, hope, and a belief in the promise of democracy. Facing injury, death, disease, and starvation, people rose again and again in the largest mass movements in the country’s history.

The readings in this session provide an opportunity to explore this world of resistance — what motivated people, what challenges they faced, what lessons we can learn, and how these events shaped the world we live in today.

Readings:
1 – Excerpts from *Who Built America?* by the American Social History Project (10 pages)
2 – Excerpts from the introduction to *The Populist Moment*, by Lawrence Goodwyn (10 pages)
3 – “Tragedy and Hope in American Labor,” by Paul Buhle (6 pages)
4 – “Labor Must Challenge Corporate Rule,” by Peter Kellman (5 pages)
5 – “A People’s history of the United States,” by Howard Zinn (4 pages)

Note: For those who would like some historical context of the social and economic conditions in the US during the 19th century, an optional five-page reading is available — excerpts from *A People’s History of the United States*, by Howard Zinn. The unabridged introduction to *The Populist Moment* is also available. Both optional readings can be found at www.wilpf.org.

Discussion Questions:
1. Discuss the economic and social factors that sparked people’s movements at the end of the 19th century. What philosophies and concepts influenced their actions? How are those ideas expressed today (if at all)?
2. Explore Lawrence Goodwyn’s observations about the difficulties that contemporary people have
in understanding the democratic ideals of the last century. What would it take for a democracy movement to happen in the U.S. today?

3. What 20th-century factors have contributed to the current state of unionism? What are the implications of democratic self-governance with the current relationship of labor to management?

4. What would it look like if we didn’t need unions at all — if workers owned the means of production? Would that be more or less democratic than the system we have now?

Supplementary Materials:


- “Freedom of Association: Bringing the Bill of Rights through the Plant Gates,” by Peter Kellman, 1999. Developed to implement a Labor Party resolution on a “Workplace Bill of Rights.” Includes information on rethinking what we mean by workplace rights; practices in other countries; and how the imbalance between corporate and individual worker rights has evolved in the US. 48 standard 8.5x11 pages; $7.


- “Matewan,” 1987, 130 minutes, color. Dramatization of the famous Matewan massacre in the 1920s, in which coal miners in West Virginia, reluctantly influenced by a young union organizer, rebelled against terrible working conditions. Directed by John Sayles; starring Chris Cooper, James Earl Jones, Mary McDonnell, David Straithairn.
“Union for All”: The Knights of Labor

At the center of labor activity in the 1880s was the Noble and Holy Order of the Knights of Labor, a group founded by nine Philadelphia tailors in 1869. Its first leader, Uriah Stephens, had studied for the ministry before apprenticing as a tailor. A man of broad moral vision, he called for an organization that would unite all workers, regardless of race, nationality, occupation, or skill level. In the words of a Detroit parade banner, “‘Each for himself’ is the bosses’ plea; Union for all will make you free.”

Like middle-class Masons, the Knights of Labor engaged in elaborate rituals at secret meetings. In 1879, the Knights of Labor chose Terence V. Powderly as their “Grand Master Workman.” An Irish Catholic machinist and mayor of Scranton, Pennsylvania, Powderly led the Knights for fifteen years. The Order’s programs reflected not only Powderly’s beliefs in temperance, education, and land reform but also his conviction that the wage system should be abolished. Under his leadership, the Knights gradually put aside their secrecy, which had hampered their ability to grow, and membership soared.

Drastic wage cuts accompanying the economic downturn of the early 1880s gave the organization its greatest impetus for growth. Victories against two of the country’s most powerful railroads — the giant Union Pacific and financier Jay Gould’s Southwestern — brought workers across the nation into the Knights. By 1886, the Order boasted 15,000 local assemblies, representing between 700,000 and 1 million members. This was nearly 10 percent of the country’s nonagricultural workforce, a much higher proportion than had ever been enrolled in unions. In Milwaukee, where German-American craftsmen had dominated the Order in the early 1880s, less-skilled Polish immigrants streamed into the organization in 1886; nearly a thousand joined on a single day.

The Knights’ commitment to equality extended beyond healing the split between skilled and unskilled workers and included women, immigrants, and African Americans, all previously shut out of the labor movement. African Americans were welcomed from the beginning. Most joined all-black assemblies, but some locals had mixed membership, even in the South. Black dockworkers in New Orleans, turpentine workers in Mississippi, tobacco factory workers in Virginia, and coal miners in Alabama, West Virginia, and Tennessee all joined the Knights in the first half of the 1880s. African-American workers became the mainstays of many fledgling local assemblies. “The colored people of the South are flocking to us,” trumpeted one Knights organizer.

In Fort Worth, Texas, the Knights united European-, African- and Mexican-American workers in the first coalition of its kind in state history. The Central Trades and Labor Assembly in New Orleans represented some 10,000 black and white workers who regularly joined forces in demonstrations and parades. “In view of the prejudice that existed a few years ago against the negro race,” a Brooklyn Knight wrote, “who would have thought that negroes could ever be admitted into a labor organization on an equal footing with white men?”

The Order’s practice of organizing separate black assemblies provoked controversy among African Americans. Some criticized the labor movement’s continuing racism, particularly its exclusion of African Americans from skilled trades. A North Carolina mason complained, “The white Knights of Labor prevent me from getting employment because I am a colored man, although I belong to the same organization.” But other black leaders believed that the Order’s local and national assemblies represented a significant
advance, providing a context in which black and white workers could begin to make common cause.

The emergence of the Knights of Labor also moved Irish immigrants to the center of the American labor movement. Irish activism had begun with support for the Land League, an organization of tenant farmers in Ireland that built an enormous following in the late 1870s. In the early years, Powderly claimed, the American labor movement and the Irish land movement were “almost identical,” and secret gatherings of the Knights frequently followed public meetings of the Land League. As Patrick Ford, a New York editor, explained, “The cause of the poor in Donegal [Ireland] is the cause of the factory slave in Fall River [Massachusetts].” Monopoly took the form of rent-gouging in Ireland, of labor exploitation in America.

Unlike African Americans and Irish immigrants, women had to fight their way into the Knights of Labor. Leaders of the Order spoke vaguely about “equal rights” and embraced the idea of equal pay for women, but equal pay meant little in a gender-segregated workforce. The Knights stopped short of granting membership to women, and Powderly refused to implement a resolution calling for women to be admitted until rules “for the governing of assemblies of women” were prepared. Then, Mary Stirling, who had led a successful strike of “lady shoemakers” in Philadelphia, presented herself as a delegate at the Knights’ convention in 1881. Forced to take a stand, Powderly finally declared that “women should be admitted on equality with men.” Within a few years, one in ten Knights was a woman.

The Knights of Labor provided an unprecedented opportunity for working-class women to join men in the struggle for better lives. The Knights mobilized support for equal pay for women, equal rights for women within all organizations, and respect for women’s work, whether unpaid in the home or for wages in the factory or mill. The Order’s eclectic reform vision linked women’s industrial and domestic concerns to broad social and political issues, giving rise to a kind of “labor feminism” in the 1880s.

The Knights of Labor, did, however, blatantly discriminate against one group: the Chinese. In the early 1880s, the major focus of the Order’s political activity was promoting the Chinese Exclusion Act, which closed the nation’s gates to Chinese immigrants. When it was passed in 1882, Knights hailed the law as a step forward for “American” workers. Especially on the West Coast, the union label was as much an expression of antagonism to the Chinese as a symbol of worker’s solidarity. Chinese workers served as convenient scapegoats when times were tough.

Despite this persistent racism, the Knights claimed to represent the last best hope for a republic weakened by the forces of monopoly, political corruption, cutthroat competition, and — most important — wage labor. “We declare an inevitable and irresistible conflict between the wage system of labor and republican system of government,” proclaimed the Knights, who sought to eliminate political corruption and industrial degradation and restore independence to American citizens.

With this commitment to republicanism went a deep faith in the “producing classes.” If properly mobilized, the Knights believed, this broad social group producing society’s wealth — the workers, the farmers, even the honest manufacturers — could rescue America from the hands of monopolists and other social parasites. “Nonproducers,” such as bankers, speculators, lawyers, and liquor dealers, were excluded from the ranks of the Knights of Labor. But “fair” employers, who respected the “dignity of labor” by employing union workers and selling union-made goods, could join.

Session VI, Reading 1, page 2
Local Knights of Labor assemblies developed a variety of institutions that reflected the ideals of mutuality and solidarity. Many maintained cooperative stores on the ground floors of their halls and assembly rooms above, where members could hear labor sermons, read reform papers, or debate politics and economics. The balls, picnics, and parades sponsored by the Knights were distinctive forms of recreation and group expression.

There was never total harmony among the groups that comprised the Knights of Labor, but for a time the alliance was sufficiently stable to spark widespread fear among industrialists and their friends. During a Cleveland steel strike, employers called on police to intervene. After violent confrontations at the mill gates, the city’s daily newspapers launched a torrent of invective against the “un-American” Polish workers, labeling them “foreign devils,” “ignorant and degraded whelps,” and “Communistic scoundrels.” But to those who joined the Knights, the important fact was that people of diverse backgrounds were marching together. “All I knew then of the principles of the Knights of Labor,” the Jewish immigrant Abraham Bisno later remembered, “was that the motto . . . was One for All, and All for One.”

1886: The Eight-Hour Movement and Haymarket Square

“The year 1886 will be known as the year of the great uprising of labor,” proclaimed George McNeill, a Massachusetts member of the Knights of Labor. “The skilled and the unskilled, the high-paid and the low-paid all joined hands.” The Knights’ membership drive and the boycott movement peaked that year. Even more important, hundreds of thousands of workers struck, demonstrated, and fought for an eight-hour day.

American workers had been agitating for shorter workdays for decades. In 1884, the demand resurfaced when the Federation of Organized Trades and Labor Unions began a two-year campaign, resolving that “eight hours shall constitute a legal day’s work from and after May 1, 1886” and calling for a general strike to begin that day. The federation, an alliance of eighteen national unions, had been formed in 1881 by local unionists who called for national organizing to deal with employers operating in national markets. At its peak in 1886, federation membership totaled as much as 350,000, or 3 percent of the nation’s nonagricultural workforce.

From Milwaukee, Chicago, and New York, the eight-hour movement spread to towns and cities throughout the country. “This is the workingman’s hour,” proclaimed the workers at Boston’s Faneuil Hall on the eve of May 1, 1886. Across the nation, about one-third of a million workers demonstrated for the eight-hour day, and 200,000 actually went out on strike. By the end of the year, 400,000 workers had participated in 1,500 strikes, more than in any previous year of American history. Most of the strikers won shorter workdays, and 42,000 won an eight-hour day. These strikes marked an important new phase in the mobilization of unskilled workers, brought many workers into the ranks of the labor movement, and turned thousands of union members into activists.

The national leadership of the Knights of Labor discouraged the demonstrations and strikes for the eight-hour day, but many Knights led local campaigns, working with the unions and with the socialists and anarchists who played a prominent role in the agitation.
Although united in their challenge to the concept of private property, socialists and anarchists differed in their views of the role of government. Socialists advocated government ownership of factories and mines, whereas anarchists argued that organized government was by its very nature oppressive.

In Chicago, the eight-hour movement was led by radicals — most notably Albert Parsons, the son of a prominent New England family. Parsons arrived in Chicago after apprenticing as a printer in Waco, Texas, where he had moved before the Civil War. Although he had served in the Confederate Army, Parsons became a Radical Republican during Reconstruction, championing African-American rights, addressing meetings, and mobilizing black voters. He met his wife Lucy when she was sixteen and already a passionate labor and anti-racist activist. Lucy had probably been born a slave in Texas, but she claimed to be the orphaned child of Mexican and Indian parents. Because Texas laws banned interracial marriage, they moved north in 1873, settling in Chicago, where Albert found employment as a typesetter.

Making contacts among Chicago radicals and hosting socialist study groups in their home, Lucy and Albert Parsons were soon at the center of socialist and anarchist agitation. When Albert lost his job because of speeches he gave during the 1877 railroad strike, Lucy set up a dressmaking shop to support them both. By 1885, the Parsons were the most famous radical couple in Chicago and were subjected to regular and vicious attacks in the mainstream press.

On May 1, 1886, Parsons led the 80,000 Chicago marchers in a parade for the eight-hour day. The day passed without incident, but two days later, a clash at the McCormick Reaper Works ended in police beatings and the fatal shooting of two unarmed workmen. August Spies, the editor of a pro-labor German newspaper, witnessed the bloodshed and issued a fiery leaflet, calling Chicago’s workers to a protest at Haymarket Square the following evening. Attendance was sparse at the hastily called rally. As the small crowd began to drift away, a bomb exploded, killing a policeman. The police opened fire immediately, killing at least one more person and wounding many more.

The city’s anti-radical, anti-immigrant civic leaders quickly sought revenge for the policeman’s death. Parsons, Spies, and six other anarchist leaders were arrested, charged with conspiracy to commit murder, tried, convicted, and sentenced to death. No evidence ever connected any of the accused with the bomb. Even so, Powderly refused to support Parsons, a member of the Knights, or to criticize the courts. Despite worldwide protest, Spies, Parsons, and two of their comrades went to the gallows in November 1887. One of the remaining anarchists committed suicide; the three others were pardoned in 1893 by John Peter Altgeld, a German immigrant who had by then become the pro-labor governor of Illinois…

The Decline of the Knights

Haymarket raised fears among the middle and upper classes — anxiety about aliens, radicals, mobs, and labor organizations, and more broadly about the prospects for anarchism and revolution. Government responded to these fears by strengthening the police, militia, and the U.S. Army, and vigilante groups proliferated. Capitalists mounted a sustained counteroffensive to destroy the insurgency of the eight-hour movement and other organized labor efforts. Some employers attempted to undercut unionization by hiring workers from different ethnic groups who would have difficulty communicating with one another. Trade association members discharged strikers, locked out workers who joined unions, and circulated blacklists of labor activists. Industrial spies, many of them employees of the rapidly growing Pinkerton Detective Agency, infiltrated labor organizations.

Employers also relied increasingly on the coercive power of the government. During the 1880s, legal charges such as “inciting to riot,” “obstructing the streets,” “intimidation,” and “trespass” were first used
extensively against strikers, and court injunctions restricting workers’ right to picket became commonplace. One judge, handing down an injunction in a labor dispute, proudly called it a “Gatling [machine] gun on paper.”

Weakened by internal disputes, faulty decisions, and disunity of purpose, the Knights of Labor proved especially vulnerable. The most dramatic setback occurred on the same rail lines where the Knights had first become prominent. After a successful strike in 1885, Southwestern Railroad workers struck again in March 1886, demanding wage increases and the reinstatement of a discharged comrade. But railroad executives, having discovered that placating workers’ organizations fostered militancy and unionization, were intransigent. In the midst of the eight-hour strikes, the Knights capitulated on May 4, 1886 and called off the walkout.

Across the country, employers who had negotiated with labor in 1884 and 1885 refused to do so two years later. The Illinois Bureau of Labor reported that of seventy-six attempts to negotiate differences between labor and employers in 1886, employers rejected any discussion in thirty-two cases. In the second half of 1886, employers locked out some 100,000 workers. Attempts to improve working conditions — by laundry workers in Troy, New York; packinghouse workers in Chicago; and knitters in Cohoes and Amsterdam, New York — ended in harsh defeats.

All these unsuccessful strikes involved the Knights of Labor, which collapsed, no longer able to protect members’ workplace rights. The Knights had claimed 40,000 members in Chicago prior to a confrontation in the meatpacking plants; less than a year later their number had fallen to 17,000. Across the nation, the organization that had boasted perhaps three quarters of a million members at its peak in 1886 shrank to half that size within a year. By 1890, the Knights could claim only 100,000 members.

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End of a Century; End of an Era

Class conflict defined the final two decades of the nineteenth century as working people confronted, with extraordinary creativity, the profound changes wrought by industrial capitalism. The first truly national working-class movement emerged in these years out of the militant protests and oppositional ideas of workers and farmers across the country. In creating a culture of resistance, the late-nineteenth-century labor movement rejected not only capitalists’ growing control over the nation’s economic and political life but also the twin ideologies of acquisitive individualism and Social Darwinism that served to justify that control. While the movement’s programs were eclectic, its philosophies diverse, and its outright victories few, it nonetheless succeeded in galvanizing millions of people with an alternative vision of industrial America.

But the bitter defeats suffered by the Knights of Labor in 1886, the Homestead workers in 1892, the industrial armies in 1893 and 1894, the Pullman workers in 1894, and the Populists in 1896 eroded the power of this alternative vision and marked the end of an era. As a result, many working people in cities and the countryside retreated into insular cultures that included strong elements of racism and nativism. The nineteenth century closed with the labor and agrarian movements fragmented and their broad, organizing efforts defeated. The return of economic prosperity, the expansion of American corporations abroad, and the wave of mergers that swept through the economy further consolidated the power of giant corporations.

The bitter defeats of the 1880s and 1890s left permanent scars. The United States would never again witness such a broad or fundamental challenge by working people to the claims of capital. Racial, ethnic, gender, skill, and ideological divisions would define the labor movement after 1900, displacing the working-class unity of the preceding decades. Thus, as the new century dawned, neither popular movements nor the government imposed serious constraints on the actions of the nation’s capitalists. Working people, African Americans, immigrants, and women would need to find new ways to mitigate their subordinate position in American society.
…By the turn of the century, many Americans — wageworkers, the middle class, elite humanitarians — sensed that corporate power was out of control and that the industrial order needed fundamental reform. The same giant corporations that had brought an incredible new array of products from Crisco to the Model T had also brought incredible exploitation, indignities, and even death. The bitter defeats of the Homestead and Pullman strikes had confirmed the dominance of corporate enterprise and large-scale production and distribution. The United States was now the greatest industrial power in the world, and the Populist vision of a nation of yeoman farmers had faded. Even the republican and producer ideals of the Knights of Labor, which were rooted in the world of the artisan, were clearly no longer viable. But millions of ordinary Americans had grown indignant over the inhuman living and working conditions endured by many laborers and with the corruption that had been rife in U.S. political and economic spheres since the Gilded Age…

Historians use the term progressivism to describe [a wide-ranging set of movements or coalitions that had sprung up to address the cultural, economic, social, and political dislocations and inequities caused by the growth of industrial capitalism.] The term is confusing because it does not refer to a single movement or party but rather applies to a network of overlapping and sometimes conflicting organizations and coalitions that campaigned to reform American society between 1890 and the outbreak of World War I in 1914…

Millions of Americans from all walks of life marched under the progressive banner. Some were working people battling for better pay and control over their lives. Others were urban reformers striving to improve living and working conditions in the slums. Some “reformers” were actually what we might consider conservative in their goals — they wanted to “Americanize” millions of new immigrants, to close working-class saloons, or to make city government more businesslike. Progressive politicians set goals of “trust busting,” regulating corporate activity, and conserving the natural environment. And some parts of the movement addressed issues specific to a certain gender, race, or social group, such as women campaigning for the right to vote and African Americans protesting disfranchisement and lynching…

Progressivism was much more than that: it was an insurgency from below. Women of all classes were important in spearheading major reforms. Another critical influence came ironically from radicals skeptical of progressivism’s potential for effectiveness. Socialists, Wobblies, and other groups who wanted a more thoroughgoing transformation of the system than that offered by progressive reformers mobilized pressure that would lead to more moderate reforms. As these popular insurgencies moved party politics to the left, national political leaders — for one of the few times in U.S. history — competed to be known as “reformers” and “progressives.” Even if feminists, radicals, African Americans, and industrial workers failed to win all of their demands, they succeeded in setting the political agenda to which the more famous progressives like Roosevelt and Wilson would respond.

Militant Communities

Although most working people were neither anarchists nor socialists, radical ideas about the need for fundamental changes had substantial influence in working-class communities in the early twentieth century. The clearest indication of this sentiment was the creation of a new labor organization, the Industrial Workers of the World — the IWW, or Wobblies, as
they were popularly known. “An injury to one is an injury to all,” the IWW declared; “the working class and the employing class have nothing in common.”

The IWW sought to abolish the wage system and to create a society in which workers would own and control the factories, mines, and railroads where they labored. IWW leaders believed that the vehicle for revolutionary change should be a union, not a political party. Organizing all workers into one militant union, they asserted, would lead to a massive general strike. Capitalism would be overthrown, and the people would run industry in a decentralized, democratic fashion.

Dissident socialists, including Eugene V. Debs, together with other radicals and industrial unionists organized the IWW in 1905. Leadership came, in part, from the Western Federation of Miners (WFM), which represented thirty thousand hard-rock miners in the Rocky Mountains. During a decade of bitter strikes against some of the largest corporations in America, the WFM’s leaders had come to reject capitalism and to embrace unions that spanned an entire industry (steelworkers or railroad workers) rather than a specific craft (carpenters or machinists). The federation’s efforts to build alliances with workers in the East culminated in the founding convention of the IWW in Chicago. “Fellow workers,” western miner Big Bill Haywood proclaimed, “this is the Continental Congress of the working class.” The new movement, he declared, “shall have for its purpose the emancipation of the working class from the slave bondage of capitalism.”

Spirited, colorful, and proud in the face of jail sentences and vigilante attacks, the IWW was the most egalitarian labor organization in American history. It was committed to organizing all workers — skilled and unskilled, men and women, black and white, Mexican, Chinese and Japanese. The Wobblies drew upon longstanding traditions: the Knights’ belief in organizing across ethnic and racial lines; the shop-floor control enjoyed by skilled craftsmen; and the industrial unionism of coal miners and the American Railway Union.

At first, factionalism, government harassment, and an economic downturn frustrated the IWW. But in 1909 it won nationwide attention by leading a successful strike among unskilled immigrant steelworkers in McKees Rocks, Pennsylvania. In 1909 and 1910 the IWW also led a series of “free speech” fights in western cities, which served as hiring centers for jobs in forests, mines, and fields. But the union’s reputation soared in 1912, when it led a massive textile strike in Lawrence, Massachusetts. A new Massachusetts state law requiring employers to cut workers’ hours had backfired when employers retaliated by speeding up the looms to compensate for the lost time. The last straw for Lawrence’s thirty thousand textile workers came when mill owners announced a pay cut. Half of the mills’ labor force were young women between the ages of fourteen and eighteen, many of whom suffered from malnutrition and overwork. Two days after the pay cut announcement, more than twenty thousand workers of forty nationalities went on strike. “We want bread and roses, too” was the strikers’ memorable slogan.

The IWW organized separate strike and relief committees for workers of different nationalities and translated speeches and literature into every language. Strikers threw up massive picket lines around the mills and paraded through the streets. Mill owners and government officials responded with a massive show of force, including a declaration of martial law and a ban on public meetings. With an entire town deprived of the workers’ meager wages, hunger was widespread. Eventually, New York socialists, concerned about the effects of hunger on the strikers’ children, organized to care for them. Margaret Sanger, a nurse who later became famous for promoting birth control, arrived in Lawrence to transport children out of the strife-torn town. “Out of the 119 children, only four had underwear on... their outerwear was almost in rags... their coats were simply torn to shreds,” she later testified.

The departure of the children generated so much sympathy for the strikers that Lawrence authorities decreed that children would no longer be allowed to leave the city. Two days later, a group of Philadelphia
socialists arrived to transport two hundred children. As a member of the Philadelphia Women’s committee testified, “The police closed in on us with their clubs, beating right and left with no thought of the children who were in the most desperate danger of being trampled to death. The mothers and children were thus hurled in a mass and bodily dragged to a military truck, and even then clubbed, irrespective of the cries of the panic-stricken women and children.” This was the turning point. Across the country, public opinion turned against the employers. In March, the mill owners agreed to a settlement providing raises and overtime pay to workers.

The Lawrence textile strike demonstrated that immigrant workers could unite to win a strike, but the victory did not open the way for widespread industrial organization. A year later, in 1913, the IWW met serious defeat in a silk workers’ strike in Paterson, New Jersey, where thousands of immigrant women, men, and children had walked out of the mills. Over the course of seven months, IWW leaders again organized picket lines and called enthusiastic rallies, and again the authorities responded with repression, even arresting socialist Frederick Sumner Boyd for reading the free-speech clause of the New Jersey state constitution at a strike meeting. But Paterson employers, unlike their Lawrence counterparts, exploited divisions within the silk workers’ ranks. The skilled, English-speaking workers and their craft unions, put off by the radicalism and anarchism of many of the Italian and Jewish workers, were slow to join the strike. The strike collapsed when the English-speaking mill workers agreed to return to work on a shop-by-shop basis, leaving the unskilled immigrants without support.

In mining communities in the Appalachian and Rocky mountains, the United Mine Workers of America (UMWA) overcame the cultural difficulties that defeated the strikers in Paterson. Although highly skilled, coal miners had no tradition of apprenticeship and therefore little control over who entered their trade. Thus recent immigrants or African Americans could find work as miners more easily than in other trades. Drawing on the legacy of interracial unionism inherited from the Knights of Labor and black UMWA activists, the UMWA extended itself to organize all who worked in and around the mines. By 1910, nearly one-third of all coal miners were unionized, compared with one-tenth of the broader U.S. labor force.

But the mine owners fought back fiercely. In late 1913, John D. Rockefeller’s Colorado Fuel and Iron Company led other companies in an open-shop drive — an attempt to guarantee the right to work without union membership — that prompted more than ten thousand miners to strike. The battle was long and bitter. Despite the determination of the miners and their wives, who were active in the struggle, the owners refused to recognize the union. They evicted strikers from their company-owned homes and brought in deputies and the state militia to quell the protest. On Easter night in 1914, the troops attacked a strikers’ tent camp in Ludlow. Firing machine guns and setting fire to the tents, they killed sixteen people, including twelve children.

In the wake of the Ludlow massacre, the UMWA issued a “call to arms.” For ten days war raged between miners and the state militia, until federal troops finally disarmed the miners. IWW leader Bill Haywood concluded that the country was gripped by “an irreconcilable class struggle” between workers and capitalists. Most progressives would have avoided those terms, but many of them agreed that in Lawrence, Paterson, and Ludlow, the industrial system had generated a terrifying conflict that threatened the very stability and promise of American society.

Like the electoral challenge by the Socialist party, the militant agitation of the Wobblies and mine workers moved the terms of progressive debate to the left. Moderate reformers took up more radical ideas for two reasons. First, they were worried about the threat posed by socialists and Wobblies. They sought to counter the appeal of the radicals — and prevent the more fundamental changes those groups favored — by offering changes that responded, in part, to the radical critique. When the radicals publicized the inequities and
degradations brought by industrial capitalism, progressives proposed ways that reform and regulation could make capitalism more humane while also preserving it.

The second reason moderate reformers incorporated some radical ideas is that they found them attractive. They agreed with the radicals about the threats posed by unregulated big business and great concentrations of wealth. They also adopted the radicals’ view that only a strong national state could tame the giant national corporations — an idea that socialist activists had long argued, but that broke with deep-seated U.S. traditions of limiting the power of the federal government. Although the role of the state espoused by Democratic and Republican progressives was not as vast as that endorsed by the socialists, the moderate reformers did come to accept and endorse a new regulatory function for the federal government.

Toward the Modern State

Progressivism responded to the economic, social, and political dislocations that accompanied industrial capitalism’s dramatic growth during the Gilded Age: rapid technological change; intense and episodic conflict between capital and labor; the influx of enormous numbers of immigrants from southern and eastern Europe, Asia, and Latin America; and the growing national and international reach of American capitalism. Each of these problems posed a special challenge to older American ideals of individual independence and equality.

Progressivism looked to an active government to blunt the worst of capitalism’s economic and social problems. Working people, in coalition with socialists, radicals, and feminists, were key participants in progressive reform struggles, helping to win passage of pro-labor legislation, especially the federal Clayton Act. These reforms helped lay the foundation for our modern notion of government and were among progressivism’s most lasting contributions to American political life.

But by the time war broke out in Europe in 1914, the central role many progressives desired for government had been only partially realized: federal, state, and local laws minimally regulated the economy and industrial relations while extending limited protections to consumers and women and children. Assembling the cross-class coalition that made progressive reforms possible had involved significant compromises. Only a relatively small number of working people — those organized into skilled-craft unions and those working in industries covered by limited factory reforms — fully benefited from the passage of progressive legislation. Many others — unskilled and manual laborers, domestic servants, agricultural wageworkers, and sharecroppers — remained outside progressivism’s protective sphere.

African Americans experienced the Progressive Era quite literally as a tightening noose: the federal government repeatedly ignored the wanton lynching of hundreds of African Americans in the South. At the same time, the modest political and economic gains these Americans had made during Reconstruction were rolled back in a flood of Progressive Era disfranchisement laws and the purging of African Americans from federal jobs by the Wilson administration. Women had been central to the movements that made up progressivism and had succeeded in expanding their public role in American life. Yet their
most important demand — for the right to vote — remained stalled as the United States entered World War I.

Despite these very real limitations, progressivism represented a watershed that marked the beginning of a new relationship between working people and the government. The era’s limited reforms inaugurated a period of governmental involvement in economic and social affairs that would intensify in coming decades. As a result, working people would look increasingly to government to ameliorate the worst excesses of industrial capitalism. Progressivism set the terms of this new relationship, as working people’s experiences in their struggle for a better life were now linked inextricably to national political, economic, and social developments.
Introduction

This book is about the flowering of the largest democratic mass movement in American history. It is also necessarily a book about democracy itself. Finally it is about why Americans have far less democracy than they like to think and what would have to happen to alter that situation.

The passionate events that are the subject of this book had their origins in the social circumstances of a hundred years ago when the American population contained huge masses of farmers. A large number of people in the United States discovered that the economic premises of their society were working against them. These premises were reputed to be democratic — America after all was a democratic society in the eyes of most of its own citizens and in the eyes of the world — but farmers by the millions found that this claim was not supported by the events governing their lives.

The nation’s agriculturalists had worried and grumbled about “the new rules of commerce” ever since the prosperity that accompanied the Civil War had turned into widespread distress soon after the war ended. During the 1870’s they did the kinds of things that concerned people generally do in an effort to cope with “hard times.” In an occupation noted for hard work they worked even harder. When this failed to change things millions of families migrated westward in an effort to enlist nature’s help. They were driven by the thought that through sheer physical labor they might wring more production from the new virgin lands of the West than they had been able to do in their native states of Ohio and Virginia and Alabama. But, though railroad land agents created beguiling stories of Western prosperity, the men and women who listened, and went, found that the laws of commerce worked against them just as much in Kansas and Texas as they had back home on the eastern side of the Mississippi River.

So in the 1870’s, the farmers increasingly talked to each other about their troubles and read books on economics in an effort to discover what had gone wrong. Some of them formed organizations of economic self-help like the Grange and others assisted in pioneering new institutions of political self-help like the Greenback Party. But as the hard times of the 1870’s turned into the even harder times of the 1880’s, it was clear that these efforts were not really going anywhere. Indeed, by 1888 it was evident that things were worse than they had been in 1878 or 1868. More and more people saw their farm mortgages foreclosed. As everyone in rural America knew, this statistic inexorably yielded another, more ominous one: the number of landless tenant farmers in America rose steadily.
year after year. Meanwhile, millions of small landowners hung on grimly, their unpaid debts thrusting them dangerously close to the brink of tenantry and peonage. Hard work availed nothing. Everywhere the explanation of events was the same: “Times were hard.”

Then gradually, in certain specific ways and for certain specific reasons, American farmers developed new methods that enabled them to try to regain a measure of control over their own lives. Their efforts, halting and disjointed at first, gathered form and force until they grew into a coordinated mass movement that stretched across the American continent from the Atlantic coast to the Pacific. Millions of people came to believe fervently that a wholesale overhauling of their society was going to happen in their lifetimes. A democratic “new day” was coming to America. This whirlwind of effort, and the massive upsurge of democratic hopes that accompanied it, has come to be known as the Populist Revolt. This book is about that moment of historical time. It seeks to trace the planting, growth, and death of the mass democratic movement known as Populism.

For a number of reasons, all of them rather fundamental to historical analysis, the Populist moment has proved very difficult for Americans to understand. Under the circumstances, it is probably just as well to take these reasons up one at a time at the very outset in an effort to clear away as much underbrush as possible before turning our attention to the protesting farmers of the 1890’s.

There are three principal areas of interpretive confusion that bear directly on the Populist experience. First, very little understanding exists as to just what mass democratic movements are, and how they happen. Second, there are serious problems embedded in the very language of description modern Americans routinely employ to characterize political events. These problems particularly affect commonly held presumptions about how certain “classes” of people are supposed to “act” on the stage of history. Finally, and by all odds most importantly, our greatest problem in understanding protest is grounded in contemporary American culture. In addition to being central, this cultural difficulty is also the most resistant to clear explanation: we are not only culturally confused, our confusion makes it difficult for us even to imagine our confusion. Obviously, it is prudent, then, to start here.

The reigning American presumption about the American experience is grounded in the idea of progress, the conviction that the present is “better” than the past and the future will bring still more betterment. This reassuring belief rests securely on statistical charts and tables certifying the steady upward tilt in economic production. Admittedly, social problems have persisted — inequities of income and opportunity have plagued the society — but these, too, have steadily been addressed through the sheer growth of the economy. For all of its shortcomings, the system works.

This is a powerful assumption. It may be tested by reflecting upon the fact that, despite American progress, the society has been forced to endure sundry movements of protest. In our effort to address the inconvenient topic of protest, our need to be intellectually consistent — while thinking within the framework of continuous progress — has produced a number of explanations about the nature of dissent in America. Closely followed, these arguments are not really explanations at all, but rather the assertion of more presumptions that have the effect of defending the basic intuition about progress itself. The most common of these explanations rests upon what is perceived to be a temporary malfunction of the economic order: people protest when “times are hard.” When times stop being “hard,” people stop protesting and things return to “normal” — that is to say, progress is resumed.

Unfortunately, history does not support the notion that mass protest movements develop because of hard times. Depressed economies or exploitive arrangements of power and privilege may produce lean years or even lean lifetimes for millions of people, but the
historical evidence is conclusive that they do not produce mass political insurgency. The simple fact of the matter is that, in ways that affect mind and body, times have been “hard” for most humans throughout human history and for most of that period people have not been in rebellion. Indeed, traditionalists in a number of societies have often pointed in glee to this passivity, choosing to call it “apathy” and citing it as a justification for maintaining things as they are.

This apparent absence of popular vigor is traceable, however, not to apathy but to the very raw materials of history — that complex of rules, manners, power relationships, and memories that collectively comprise what is called culture. “The masses” do not rebel in instinctive response to hard times and exploitation because they have been culturally organized by their societies not to rebel. They have, instead, been instructed in deference. Needless to say, this is the kind of social circumstance that is not readily apparent to the millions who live within it.

The lack of visible mass political activity on the part of modern industrial populations is a function of how these societies have been shaped by the various economic or political elites who fashioned them. In fundamental ways, this shaping process (which is now quite mature in America) bears directly not only upon our ability to grasp the meaning of American Populism, but our ability to understand protest generally and, most important of all, on our ability to comprehend the prerequisites for democracy itself. This shaping process, therefore, merits some attention.

Upon the consolidation of power, the first duty of revolutionaries (whether of the “bourgeois” or “proletarian” variety) is obviously to try to deflect any further revolutions that necessarily would be directed against them. Though a strong central police or army has sometimes proved essential to this stabilizing process, revolutionaries, like other humans, do not yearn to spend their lives fighting down counterrevolutions. A far more permanent and thus far more desirable solution to the task of achieving domestic tranquility is cultural — the creation of mass modes of thought that literally make the need for major additional social changes difficult for the mass of the population to imagine. When and if achieved, these conforming modes of thought and conduct constitute the new culture itself. The ultimate victory is nailed into place, therefore, only when the population has been persuaded to define all conceivable political activity within the limits of existing custom. Such a society can genuinely be described as “stable.” Thenceforth, protest will pose no ultimate threat because the protesters will necessarily conceive of their options as being so limited that even should they be successful, the resulting “reforms” will not alter significantly the inherited modes of power and privilege. Protest under such conditions of cultural narrowness is, therefore, not only permissible in the eyes of those who rule, but is, from time to time, positively desirable because it fortifies the popular understanding that the society is functioning “democratically.” Though for millions of Americans the fact is beyond imagining, such cultural dynamics describe politics in contemporary America. It is one of the purposes of this book to trace how this happened.

It can be said, in advance of the evidence, that this condition of social constraint is by no means solely an American one; it is worldwide and traceable to a common source: the Industrial Revolution. Over the last eight generations, increasingly sophisticated systems of economic organization have developed throughout the western world, spawning factories and factory towns and new forms of corporate centralization and corporate politics. Through these generations of the modern era, millions have been levered off the land and into cities to provide the human components of the age of machinery. Meanwhile, ownership of both industrial and agricultural land has been increasingly centralized. Yet, though these events have caused massive dislocations of family, habitat, and work, creating
mass suffering in many societies and anxiety in all of them, mass movements of protest have rarely materialized. This historical constant points to a deeper reality of the modern world: industrial societies have not only become centralized, they have devised rules of conduct that are intimidating to their populations as a whole. Though varying in intensity in important ways from nation to nation, this has now happened everywhere — whether a particular society regards itself as "socialist" or "capitalist." When people discover that their intellectual autonomy has become severely circumscribed and their creativity forcibly channeled into acceptable non-political modes of expression (a not unfrequent circumstance in socialist systems of economic organization), they are told that their autonomous hungers are "decadent," "individualistic," and, if obstinately pursued, will be seen as "revisionist" and "counterrevolutionary" in intent. On the other hand, when people discover they have far fewer opportunities than others of their countrymen (a not infrequent circumstance in capitalist systems of economic organization), they are told — as Populists were told in the 1890’s and as blacks, Appalachian whites, and migrant laborers are told today in America — that they are "improvident," "lazy," inherently "deprived," or in some similar fashion culturally handicapped and at fault. These stigmas (which in earlier times were also visited upon Irish, Jewish, Italian, and other immigrants to America) generate fears; people are driven to undergo considerable indignity to earn sufficient status to avoid them. Accordingly, they try to do those things necessary to "get ahead." The result is visible in the obsequious day-to-day lives of white-collar corporate employees in America — and in the even more obsequious lives of Communist Party functionaries in the Soviet Union. Though life clearly contains far more options in America than in Russia, the persistence of these varying modes of mass deference in both countries illuminate the social limits of democratic forms in modern industrial societies generally. It is interesting to observe that each of the aforementioned adjectives, from "counterrevolutionary" to "lazy," is offered in the name of preserving corporate or state cultures self-described as "democratic." It is clear that the varied methods of social control fashioned in industrial societies have, over time, become sufficiently pervasive and subtle that a gradual erosion of democratic aspirations among whole populations has taken place. Accordingly, it is evident that the precise meaning of the word "democracy" has become increasingly obscure as industrialization has proceeded. It is appropriate to attempt to pursue the matter — for problems inherent in defining democracy underscore the cultural crisis of modern life around the globe.

In America, an important juncture in the political consolidation of the industrial culture came some four generations ago, at the culmination of the Populist moment in the 1890’s. Because the decline in popular democratic aspiration since then has involved an absence of something rather than a visible presence, it has materialized in ways that are largely unseen. Politically, the form exists today primarily as a mass folkway of resignation, one that has become increasingly visible since the end of World War II. People do not believe they can do much "in politics" to affect substantively either their own daily lives or the inherited patterns of power and privilege within their society. Nothing illustrates the general truth of this phenomenon more than the most recent exception to it, namely the conduct of the student radicals of the 1960’s. While the students themselves clearly felt they could substantively affect "inherited patterns of power and privilege," the prevailing judgment of the 1970’s, shared by both the radicals and their conservative critics, is that the students were naive to have had such sweeping hopes. Today, political life in America has once more returned to normal levels of resignation.
Again, the folkway is scarcely an American monopoly. In diverse forms, popular resignation is visible from Illinois to the Ukraine. It does more than measure a sense of impotence among masses of people; it has engendered escapist modes of private conduct that focus upon material acquisition. The young of both societies seek to “plug in” to the system, the better to reap private rewards. Public life is much lower on the scale of priorities. Indeed, the disappearance of a visible public ethic and sense of commonweal has become the subject of handwringing editorials in publications as diverse as the Chicago Tribune in the United States and Izvestia in the Soviet Union. The retreat of the Russian populace represents a simple acknowledgment of ruthless state power. Deference is an essential ingredient of personal survival. In America, on the other hand, mass resignation represents a public manifestation of a private loss, a decline in what people think they have a political right to aspire to — in essence, a decline in individual political self-respect on the part of millions of people.

The principal hazard to a clear understanding of the meaning of American Populism exists in this central anomaly of contemporary American culture. Reform movements such as Populism necessarily call into question the underlying values of the larger society. But if that society is perceived by its members to be progressive and democratic — and yet is also known to have resisted the movement of democratic reform — the reigning cultural presumption necessarily induces people to place the “blame” for the failure of protest upon the protesters themselves. Accordingly, in the case of the Populists, the mainstream presumption is both simple and largely unconscious: one studies Populism to learn where the Populists went wrong. The condescension toward the past that is implicit in the idea of progress merely reinforces such complacent premises.

Further, if the population is politically resigned (believing the dogma of “democracy” on a superficial public level but not believing it privately) it becomes quite difficult for people to grasp the scope of popular hopes that were alive in an earlier time when democratic expectations were larger than those people permit themselves to have today. By conjoining these two contradictory features of modern culture — the assumption of economic progress with massive political resignation — it is at once evident that modern people are culturally programmed, as it were, to conclude that past American egalitarians such as the Populists were “foolish” to have had such large democratic hopes. Again, our “progressive” impulse to condescend to the past merely reinforces such a presumption. In a society in which sophisticated deference masks private resignation, the democratic dreams of the Populists have been difficult for twentieth-century people to imagine. Contemporary American culture itself therefore operates to obscure the Populist experience.

A second obstacle to a clear perception of Populism is embedded in the language of description through which contemporary Americans attempt to characterize “politics.” A central interpretive tool, derived from Marx but almost universally employed today by Marxists and non-Marxists alike, is based upon concepts of class: that is, that the intricate nature of social interaction in history can be rendered more intelligible by an understanding of the mode and extent of class conflict that was or was not at work during a given period. Needless to say, many psychological, social, and economic ingredients are embedded in concepts of class, and, when handled with care, they can, indeed, bring considerable clarity to historical events of great complexity. Nevertheless, as an interpretive device, “class” is a treacherous tool if handled casually and routinely — as it frequently is. For example,
offhand “class analysis,” when applied to the agrarian revolt in America, will merely succeed in rendering the Populist experience invisible. While classes in agricultural societies contain various shadings of “property-consciousness” on the part of rich landowners, smallholders, and landless laborers (“gentry,” “farmers,” and “tenants,” in American terminology), these distinctions create more problems than they solve when applied to the agrarian revolt. It is a long-standing assumption — not so thoroughly tested in America by sustained historical investigation as some might believe — that “landowners” must perforce behave in politically reactionary ways. The political aspirations of the landless are seen to deserve intense scrutiny, but the politics of “the landed” cannot be expected to contain serious progressive ideas. The power of this theoretical assumption can scarcely be understated. It permits the political efforts of millions of human beings to be dismissed with the casual flourish of an abstract category of interpretation. One can only assert the conviction that a thoroughgoing history of, for example, the Socialist Party of the United States, including the history of the recruitment of its agrarian following in early twentieth-century America, will not be fully pieced together until this category of political analysis is successfully transcended. The condition of being “landed” or “landless” does not, à priori, predetermine one’s potential for “progressive” political action: circumstances surrounding the ownership or non-ownership of land are centrally relevant, too. The Populist experience in any case puts this proposition to a direct and precise test, for the agrarian movement was created by landed and landless people. The platform of the movement argued in behalf of the landless because that platform was seen as being progressive for small landowners, too. Indeed, from beginning to end, the chief Populist theoreticians — “landowners” all — stood in economic terms with the propertyless rural and urban people of America.

In consequence, neither the human experiences within the mass institutions generated by the agrarian revolt nor the ideology of Populism itself can be expected to become readily discernible to anyone, capitalist or Marxist, who is easily consoled by the presumed analytical clarity of categories of class. The interior life of the agrarian revolt makes this clear enough. While the economic and political threads of populism did not always mesh in easy harmony (any more than the cultural threads did), the evolution of the political ideology of the movement proceeded from a common center and a common experience and thus possessed an instructive degree of sequential consistency.

The use of the word “sequential” provides an appropriate introduction to the final hazard confronting the student of the agrarian revolt — the rather elementary problem of defining just what “mass movements” are and how they happen. The sober fact is that movements of mass democratic protest — that is to say, coordinated insurgent actions by hundreds of thousands or millions of people — represent a political, an organizational, and above all, a cultural achievement of the first magnitude. Beyond this, mass protest requires a high order not only of cultural education and tactical achievement, it requires a high order of sequential achievement. These evolving stages of achievement are essential if large numbers of intimidated people are to generate both the psychological autonomy and the practical means to challenge culturally sanctioned authority. A failure at any stage of the sequential process aborts or at the very least sharply limits the growth of the popular movement. Unfortunately, the overwhelming nature of the impediments to these stages of sequential achievement are rarely taken into account. The simple fact of the matter is that so difficult has the process of movement-building proven to be since the onset of industrialization in the western world that all democratic protest movements have been aborted or limited in this manner prior to the recruitment of their full natural constituency. The underlying social reality is, therefore, one that is not generally kept firmly in mind as an operative dynamic of
modern society — namely, that mass democratic movements are overarchingly difficult for human beings to generate.

How does mass protest happen at all, then — to the extent that it does happen?
The Populist revolt — the most elaborate example of mass insurgency we have in American history — provides an abundance of evidence that can be applied in answering this question. The sequential process of democratic movement-building will be seen to involve four stages: (1) the creation of an autonomous institution where new interpretations can materialize that run counter to those of prevailing authority — a development which, for the sake of simplicity, we may describe as “the movement forming”; (2) the creation of a tactical means to attract masses of people — “the movement recruiting”; (3) the achievement of a heretofore culturally unsanctioned level of social analysis — “the movement educating”; and (4) the creation of an institutional means whereby the new ideas, shared now by the rank and file of the mass movement, can be expressed in an autonomous political way — “the movement politicized.”

Imposing cultural roadblocks stand in the way of a democratic movement at every stage of this sequential process, causing losses in the potential constituencies that are to be incorporated into the movement. Many people may not be successfully “recruited,” many who are recruited may not become adequately “educated,” and many who are educated may fail the final test of moving into autonomous political action. The forces of orthodoxy, occupying the most culturally sanctioned command posts in the society, can be counted upon, out of self-interest, to oppose each stage of the sequential process — particularly the latter stages, when the threat posed by the movement has become clear to all. In the aggregate, the struggle to create a mass democratic movement involves intense cultural conflict with many built-in advantages accruing to the partisans of the established order.

Offered here in broad outline, then, is a conceptual framework through which to view the building process of mass democratic movements in modern industrial societies. The recruiting, educating, and politicizing methods will naturally vary from movement to movement and from nation to nation, and the relative success in each stage will obviously vary also. The actions of both the insurgents and the defenders of the received culture can also be counted upon to influence events dramatically.

Within this broad framework, it seems helpful to specify certain subsidiary components. Democratic movements are initiated by people who have individually managed to attain a high level of personal political self-respect. They are not resigned; they are not intimidated. To put it another way, they are not culturally organized to conform to established hierarchical forms. Their sense of autonomy permits them to dare to try to change things by seeking to influence others. The subsequent stages of recruitment and of internal economic and political education (steps two, three, and four) turn on the ability of the democratic organizers to develop widespread methods of internal communication within the mass movement. Such democratic facilities provide the only way the movement can defend itself to its own adherents in the face of the adverse interpretations certain to emanate from the received culture. If the movement is able to achieve this level of internal communication and democracy, and the ranks accordingly grow in numbers and in political consciousness, a new plateau of social possibility comes within reach of all participants. In intellectual terms, the generating force of this new mass mode of behavior may be rather simply described as
“a new way of looking at things.” It constitutes a new and heretofore unsanctioned mass folkway of autonomy. In psychological terms, its appearance reflects the development within the movement of a new kind of collective self-confidence. “Individual self-respect” and “collective self-confidence” constitute, then, the cultural building blocks of mass democratic politics. Their development permits people to conceive of the idea of acting in self-generated democratic ways — as distinct from passively participating in various hierarchical modes bequeathed by the received culture. In this study of Populism, I have given a name to this plateau of cooperative and democratic conduct. I have called it “the movement culture.” Once attained, it opens up new vistas of social possibility, vistas that are less clouded by inherited assumptions. I suggest that all significant mass democratic movements in human history have generated this autonomous capacity. Indeed, had they not done so, one cannot visualize how they could have developed into significant mass democratic movements.

Democratic politics hinge fundamentally on these sequential relationships. Yet, quite obviously the process is extremely difficult for human beings to set in motion and even more difficult to maintain — a fact that helps explain why genuinely democratic cultures have not yet been developed by mankind. Self-evidently, mass democratic societies cannot be created until the components of the creating process have been theoretically delineated and have subsequently come to be understood in practical ways by masses of people. This level of political analysis has not yet been reached, despite the theoretical labors of Adam Smith, Karl Marx, and their sundry disciples and critics. As a necessary consequence, twentieth-century people, instead of participating in democratic cultures, live in hierarchical cultures, “capitalist” and “socialist,” that merely call themselves democratic.

All of the foregoing constitutes an attempt to clear enough cultural and ideological landscape to permit an unhampered view of American Populism. The development of the democratic movement was sequential. The organizational base of the agrarian revolt was an institution called the National Farmers Alliance and Industrial Union. Created by men of discernible self-possession and political self-respect, the Alliance experimented in new methods of economic self-help. After nine years of trial and error, the people of the Alliance developed a powerful mechanism of mass recruitment — the world’s first large-scale working class cooperative. Farmers by the hundreds of thousands flocked into the Alliance. In its recruiting phase, the movement swept through whole states “like a cyclone” because, easily enough, the farmers joined the Alliance in order to join the Alliance cooperative. The subsequent experiences of millions of farmers within their cooperatives proceeded to “educate” them about the prevailing forms of economic power and privilege in America. This process of education was further elaborated through a far-flung agency of internal communication, the 40,000 lecturers of the Alliance lecturing system. Finally, after the effort of the Alliance at economic self-help had been defeated by the financial and political institutions of industrial America, the people of the movement turned to independent political action by creating their own institution, the People’s Party. All of these experiences, stretching over a fifteen-year period from 1877 to 1892, may be seen as an evolutionary pattern of democratic organizing activity that generated, and in turn was
generated by, an increasing self-awareness on the part of the participants. In consequence, a mass democratic movement was fashioned.

Once established in 1892, the People’s Party challenged the corporate state and the creed of progress it put forward. It challenged, in sum, the world we live in today. Though our loyalty to our own world makes the agrarian revolt culturally difficult to grasp, Populism may nevertheless be seen as a time of economically coherent democratic striving. Having said this, it is also necessary to add that Populists were not supernatural beings. As theoreticians concerned with certain forms of capitalist exploitation, they were creative and, in a number of ways, prescient. As economists, they were considerably more thoughtful and practical than their contemporary political rivals in both major parties. As organizers of a huge democratic movement, Populists learned a great deal about both the power of the received hierarchy and the demands imposed on themselves by independent political action. As third party tacticians, they had their moments, though most of their successes came earlier in the political phase of their movement than later. And, finally, as participants in the democratic creed, they were, on the evidence, far more advanced than most Americans, then or since.

But American Populists did not parachute in from Mars. They grew up in American culture and felt the pull of its teachings. Though they knew they were pioneers, and earnestly endeavored to persuade others of the merit of what they had learned along their own path of democratic innovation, they did not always do so free of inherited cultural barnacles. They had earlier learned a number of things taught by the dominant culture; and more than a few people stumbled into the movement with many of their traditional inheritances almost wholly intact. The tension between these modes of conduct persisted within the agrarian movement throughout its life. Populists also encountered more specific hazards. They sought to enlist the urban working class without understanding the needs, nor the barriers to autonomous political expression, that informed life in the metropolitan ghettos of the nineteenth-century factory worker. Populists sought to enlist landless black sharecroppers (and in so doing explored new modes of interracial political coalition) without ultimately shaking off the more subtle forms of white supremacy that fundamentally undermine the civility of American society in our own time. And Populists tried through democratic politics to bring the corporate state under popular control without fully anticipating the counter-tactics available to the nation’s financial and industrial spokesmen. In summary, though Populists generated a vibrant democratic movement, they were not unfailingly guided by genius. Their shortcomings as well as their achievements contain much that is useful to all those who study history because they continue to nurse aspirations for an industrial society in which generous social relations among masses of people might prevail as a cultural norm.

A final prefatory comment. It is helpful to bear in mind that the Populist moment in America came before the global twentieth-century struggle between the East and the West. It came, therefore, at a time when the range of culturally sanctioned political traditions was broader than two. As children of the two spreading cultures of intellectual conformity that are a product of that conflict, modern people live in a time of extreme politicization of knowledge throughout the world. Rigid modes of thought and terminology dominate the schools and colleges of both traditions. The young of both can imbibe the particular received wisdom of their theoretical tradition (however distorted by the events of history that theoretical tradition has become) or, if they are somehow unconvinced and can cope with the ostracism involved, they can adopt the rival mode. Within the perceived limits of this most ideologically confined of recent centuries, one is surely right: man is either a...
competitive being or a cooperative being. However all those who are not persuaded by this speculation — or faith — soon discover how difficult it is to express their disbelief in terminology that the confined participants in twentieth-century culture can understand. Capitalist “modernization theory” and Marxist “democratic centralism,” together with supporting linguistic accoutrements, have left mankind in our time with few conceptual options through which to assert believable political aspirations to the mass of the world’s peoples. In both traditions, one “believes” or one does not, but in terms of sanctioned categories of political language, the option for the unconvinced is an option of one. So be it. The Populists did not know that the Russian Revolution, the Chinese Revolution, and the ascendancy of the multinational corporation were to be the coercive and competitive products of the industrial age. Spared the ideological apologetics and narrowness of a later time, Populists thought of man as being both competitive and cooperative. They tilted strongly toward the latter, but they also confronted the enduring qualities of the former. They accepted this complexity about mankind, and they tried to conceive of a society that would be generous — and would also house this complexity. With all of their shortcomings, including theoretical shortcomings, the Populists speak to the anxieties of the twentieth century with their own unique brand of rustic relevance.

Out of their cooperative struggle came a new democratic community. It engendered within millions of people what Martin Luther King would later call a “sense of somebodiness.” This “sense” was a new way of thinking about oneself and about democracy. Thus armed, the Populists attempted to insulate themselves against being intimidated by the enormous political, economic, and social pressures that accompanied the emergence of corporate America.

To describe that attempt is to describe their movement.

L.G.

_Durham, N. C._

_May 1, 1978_

1 Of course protest is not invariably an economic expression; it can also emerge from unsanctioned conceptions of civil liberty, as illustrated by the movements of Anti-Federalists, suffragettes, feminists, and blacks. While demonstrably important in their own terms, such movements historically have not mounted broad challenges to the underlying economic structures of inherited power and privilege that fundamentally shape the parameters of American society. Even the one movement that most nearly approached this level of insurgency — abolitionism — actually challenged, in slavery, only a deviance within the economic order rather than the underlying structure of the order itself.

2 Though European and Asian conceptions of agricultural “classes” can be applied to America only if one is willing to accept a considerable distortion of reality, Populism can with a stretch of the imagination be seen as a product of the organizing efforts of middle peasants engaged in recruiting both their own “kind” and lower peasants. But one must immediately add that such interesting examples of agrarian “unity” can be more swiftly explained through recourse either to the labor theory of value or to simple historical observation rather than to class categories.

3 For example, five sequentially related stages of this ideological process, all contradicting conclusions implicit in perfunctory class analysis, are treated on pp. 75-76, 78-80, 84-87, 91-93 and 108-13. American factory workers, for example, were unable for generations to successfully complete step one of the process because their initial strikes for recognition were lost and their fragile new unions destroyed. They thus were unable to create autonomous institutions of their own. See pp. 41-42, 117-18, and 174-76.

4 Since Populism was a mass movement (and one that attempted to be even more “massive” than it was), the sequential stages in the recruiting and politicizing of its mass constituency are the core of this study. The stages of this sequential development may be found on pp. 26-35, 39-41, 49, 58-59, 64-66, 73, 75-87, 91-93, 108-15, 125-36, 148-64, and 172-82. The mass movement reached its practical range of politicization in 1892 (pp. 175-82). The summary interpretation of these sequential democratic stages is on pp. 293-310 and 318-19.
Tragedy and Hope in American Labor

BY PAUL BUHLE

Millennium Part One - Democratic Left

Just a few years ago, the story of American labor seemed like one of those oversold movies which start out grandly, drift into heavy action with special effects, and wind down as the audience heads for the exits. Several mini-generations of young idealists, many of them in DSA [Democratic Socialists of America] or like-minded feminist and labor reform organizations, had thrown their energies into the labor movement only to face odds so daunting that most drifted out again. Practically a whole generation of radical historians, heading to graduate school on the wave of anti-war campus uprisings, had dedicated itself to rediscovering the secret history of working class life “from below,” in forgotten strikes and the turmoil of daily struggles for bread and dignity. Not unlike their activist cousins, they produced a library of solidly researched and insightful volumes — for fewer and fewer readers.

The outright decline of the contemporary labor movement and its special failure to engage poorer and nonwhite workers; the consuming Cold War conservatism of AFL-CIO leaders on issues ranging from Central America to feminism, affirmative action and environmentalism; and perhaps most of all, the success of the bureaucratic lock-step against reform and reinvigoration, had together taken their toll. By the middle 1980s and in the face of constant denials, the Lane Kirkland leadership had reached something like a dead end. Progressives had successfully eroded the previously unchallenged authority of conservative labor chiefs, especially on Third World human rights issues, and also the mobilization of service workers, but had little luck.

Only a few years later, in 1995, the failed and morally tainted AFL-CIO leadership was outmaneuvered (in part by DSAers), outvoted and out the door, replaced by self-described reformers. Meanwhile, thousands of graduate students formed unions, and yet more undergraduates looked to labor causes, especially the international sweatshop, as a prime campus issue. Labor teach-ins brought progressive unionists and campus audiences back together in ways unforeseen a decade earlier. In 1997, “Scholars, Artists and Writers for Social Justice” (SAWSJ) formed, with a very DSA-like program and the blessings of the John Sweeney administration. Even labor history looked more interesting again. Never, in fact, had things looked better for democratic socialists since the Cold War purge of Left-wing unions and unionists a half-century ago.

Things were, and are, regrettably not so wonderful. An AFL-CIO united behind progressive social movements (peace, antiracism, feminism and ecology) of the 1960s-80s
would surely have changed labor and might have changed the world, but it didn’t happen that way, and we are more than forty years behind. The grand project of labor reform, twin to potential labor alliances with students, women, minorities and others near the bottom of society, has far to go and many well-placed opponents, some of them within the AFL-CIO.

A staff writer for *Forward*, a newspaper which long saw itself intimately allied with a socialist or, later, reformist section of labor, recently commented that organized labor’s pro-business faction had indeed been temporarily defeated, but that success in a heralded drive to “organize high-wage workers in Silicon Valley and across the information technology” could eventually overcome momentum in the direction of what the writer contemptuously called “the likes of strawberry workers.” At that point, the old Cold War labor leadership would “have the votes needed to turn the tables on Mr. Sweeney.”

Leave aside for the moment that many high-technology workers are anything but high-wage workers; the issue is clearer in that ringing phrase, “the likes of strawberry workers.” Not only does it resound with the historic quest of American craft unionism and its leaders for ‘respectability’ in society, but with the assignment of dominant racial and cultural categories to one sector of workers over others. It also returns us to the very making of the America Federation of Labor and Samuel Gompers, business unionism’s iconic figure.

Recent scholars have pinpointed the moment of Gompers’ rise to his identification of the Chinese as objects for exclusion. The very notion of the union label, although used subsequently for better purposes, was the “white label,” designating products free of the Chinese immigrant touch and yellow labor, not contract labor, that Gompers and the early AFL resisted. For forty years Gompers and his coterie sought to limit organized labor to the distinct minority of craft workers, excluding the overwhelming majority of women workers and non-white workers. During those years, Gompers worked effectively with employers, the press and the government to destroy the Knights of Labor and the Industrial Workers of the World, which is to say those movements which sought to embrace all workers and to create an “industrial commonwealth” in place of aggressive capitalism. It should be no surprise that Gompers also clamped down on democracy within the AFL, ruthlessly centralizing power, punishing dissidents, ignoring constitutional provisions in order to quash progressive impulses of all kinds.

Why would an American labor leader abandon the working class at large, and what kind of forces within American labor did Gompers represent? These large questions cannot be exhaustively answered in brief space. But the most important issue is empire. No other modern empire, not even the British, has shown the same capacity to shape its society or its labor leaders to such uniform purpose. The familiar liberal praise of American exceptionalism operating in a labor movement which pragmatically refused socialist alternatives, not only ignores the manipulative grasp of Gompers and his successors for the next century, but also ignores the hierarchy of race and nation which designated certain Americans (and white American males in general) as the aristocrats of the planet. Overlaid with other factors including ethnic hierarchies, the changing rules of industrial production and the compelling need of leaderships to put down or co-opt challenges to authority, empire and law have demanded an “iron triangle” against bottom-up, inclusive labor
democracy, a mind-set accompanied by oceans of anti-socialist, meritocratic, or pseudo-egalitarian rhetoric dividing “worthy” workers from the “unworthy” poor.

Gompers had good cause, in the narrow sense. No labor movement ever faced a capitalist class so powerful, so concentrated, or so framed within a national tradition of territorial and economic expansion at the expense of nonwhite peoples. The steady advance of colonialism had commanded the destruction of existing labor and social frameworks, including an often sophisticated division of labor among Indians and Hispanics. The slave system was the backbone of the emerging economy, and notwithstanding the abolition of slavery, the expansion of U.S. economic power overseas continued the same basic program. Indeed, if the demands for global democracy have usually (not always) been mere rationalizations for territorial expansion and economic supremacy as the answer to all domestic social problems, then Gompers did not intend to be left out of the imperial feast.

Secondly, any labor movement faced the daunting power of the State. The American legal system, from the Constitution onward, has placed property rights in the hands of the courts. Chosen from the elites of business and the law, the judiciary consistently defined “republicanism” in ways to exclude redistribution of power or rights to the lower classes. Massive legal injunctions and the use of court-supported police and militia threatened more radical efforts.

To buck the system meant inviting trouble; accommodation to it permitted a privileged minority of labor to operate safely and respectfully, perhaps even to prove beneficial to the system as a whole by restraining radical “troublemakers” within the working class. Gompers thereby seized opportunities offered him by the courts and the corporations to legitimate his vision of unionism, much as George Meany and Lane Kirkland would use global realities to gain assistance of corporations and intelligence agencies to crush radical or egalitarian challenges at home and abroad.

And yet such interpretations do not fully explain the tragic misdirection of the American labor mainstream. We need to consider briefly the anti-Gompers alternatives. The turning point of American labor was about a century ago. If the American working class up to that point had been deeply divided by race and ethnicity, it was nonetheless impressive in its sometimes ferocious militancy and the willingness of considerable sections to take on realities, like the organization of African-American workers that European counterparts did not face. The Knights of Labor, a half-million strong with female majorities in many factories, had begun to throw labor’s weight against the economic authoritarianism of corporations by simply taking over daily operation of producing goods. A labor party, following the rise of the Republican Party organized just thirty years earlier, was next on the agenda.

Then came ferocious repression, following the explosion of a bomb in Chicago’s Haymarket, releasing police and industry thugs against radicals’ offices, beating and arresting activists, especially the foreign-born, blacklisting good unionists and spreading “red scares” through the press and politicians’ rhetoric. It was this brutalization, along with appeals to race and ethnic prejudice, which doomed the Knights and the labor party movement. A Democratic Party which then represented the revanchist South, triumphing
over a racially mixed Populist movement by playing the “race card” even as lynchings accelerated, along with exclusion of African-Americans from jobs and residences taken over by new European immigrants in northern states, brought Gompers home to the idea of a political coalition suited to his purposes. Thereafter, the notion of a labor ticket or even the demand that Democrats embrace small “d” democratic principles in race, gender or true class terms, were viewed with extreme hostility. Gompers demanded his “cut” from the electoral spoils, although he consistently exaggerated the real effects of labor legislation within Congress, and ignored the influence of industrial unionists propelling politicians to make concessions to the “safe” union movement so as to uproot the dangerous ones.

Gompers did not succeed in building a global labor empire, the fondest dream of his last years and also the fondest dream of his successors. The Pan American Federation of Labor, launched with secret government funding, and the intellectual assistance of turncoat former socialists, was intended to place control of all Latin American unions in Gompers’ hands. By the time of his death it was a dead letter, and the attempts during the 1930s to establish U.S-controlled unions supporting American oil corporations in Mexico also failed.

Gompers also failed American labor, including the AFL itself, in another key regard. When the First World War brought a sudden shortage of labor, working people and experienced unionists, including many socialists, mobilized to strike in unprecedented numbers, and to organize so successfully that by 1919 industrial unionism seemed around the corner. Gompers so successfully demobilized militants that when business howled “Bolshevism,” and President Woodrow Wilson’s reign of oppression spread from vigilante violence to police raids to lengthy jail sentences, labor caved in before the coming corporate counteroffensive. By the middle 1920s, nearly everything won had been lost, especially for unskilled industrial workers.

History does not really repeat itself, and yet so much of labor history remains largely trapped within this tragic framework. We forget too easily how thousands of craft workers, from highly skilled German wood-workers at the center of Chicago’s 1880s anarchist movement, to railroad men and machinists following Eugene Debs, to the needletrades women workers of the 1909 “Uprising of the 20,000” sought to make their own way toward a generous, egalitarian, inclusive labor movement. We forget even more easily the crucial role of thousands of pro-Communist immigrants rallying grassroots support for industrial unionism during the 1920s-30s and urging racial equality. We forget how much positive influence labor wielded within the political world from 1936 through 1944, and how close it came during the 1940s to breakthroughs in organizing southerners, women and nonwhite workers — until the Cold War and Harry Truman ended the dream.

We forget because the bland and defeated AFL-CIO, at the two organizations’ merger in 1956, had effectively rewritten the past with the help of prestigious scholars and journalists, and minimized or marginalized every alternative to Gompersism. The cooperation of the New Deal administration — sometimes tacit, sometimes real — in legitimating industrial unions was now seen as a gift from above rather than won through labor power expressed in direct action of mass strikes and sit-ins. More important, the major political goals were viewed as completed by the welfare (and warfare) state politics that included influential
union leaders. Now, organized labor mainly wanted adjustments, and mainly for itself. Workers outside unions, except those in government, were essentially written off as too much trouble to reach and probably not worth the effort. The popular labor opposition to the weapons industry (“Merchants of Death”) during the 1930s was repressed from memory, and the determined anti-fascism of left-wing unions now treated as a mere preface to anti-communism and the job-creating arms race. Antiracism, nominally a centerpiece of the AFL-CIO political program, was never to be applied within unions themselves; anything approaching affirmative action would be resisted, with resentful comments about the ingratitude of those who dared to ask.

The dual or multiple labor market, a constant in America, where the ratio between the best paid and worst paid workers has long been the largest in the world, thus took on new meaning in the second half of the century. The veterans of 1930s and 1940s unions, by now looking ahead to retirement, had become the favored workers in a factory workforce increasingly nonwhite and in numeric decline. The blue-collar towns of the South, Southwest and far West, practically brought into being by the federal defense and water subsidies, harbored the mulch of future Reagan Democrats. In a larger sense, the suburbs, created twice over by tax dollars for the highways and mortgage benefits, offered what only the streetcar suburbs had made possible for the labor aristocrats of the 1890s: distance from the unwashed masses.

Unions, for all their failures and weaknesses, nevertheless alone possessed the potential power to mediate these differences, to bring together the variegated sections of a working class which even under the most favorable conditions still faced work five days a week, if not more. Self-satisfied and deeply conservative, AFL-CIO leaders (with honorable exceptions) pulled members in the opposite direction, toward imperial — and more subtly, race — claims upon the lives of peoples in the ghettos and around the globe, toward macho war-posturing, toward an indifference and worse about the inherently undemocratic choices, ecological costs, the community destruction and sheer ugliness of economic development-at-any-price.

Other choices were not even considered; to be more positive, they were all considered by labor reformers, tried out and defeated each time until the last time, in October 1995. In retrospect, the Meany and Kirkland administrations’ meanness of spirit, their unwillingness to countenance the mildest retreat from Cold War global strategies even after the Cold War, their organizational blundering and missed cues for potential organizing breakthroughs may have contributed less to the final defeat of the Kirkland team than the willingness of long-distance runners, many from DSA, to stick out the disappointments and keep coming back for more. What we need is more long-distance runners, and quite a few more upsets.
In that sense, American labor history, a long-running tragedy, may yet have a happy ending. At least an especially unhappy act has ended, and the future is open for something a thousand times more interesting, something dramatically more inspiring, and altogether better.

Paul Buhle teaches labor history at Brown University, was co-chair of Section Providence. His latest works are Taking Care of Business: Samuel Gompers, George Meany, Lane Kirkland and the Tragedy of American Labor (Monthly Review); and Images of American Radicalism (Christopher Publishing House).
Labor Must
CHALLENGE CORPORATE RULE

By Peter Kellman

BY WHAT AUTHORITY • SPRING 1999

It is time for labor to go beyond signing contracts with corporations. We need to start challenging the very concept of corporate privilege and rule.

The people of this country need to act on the understanding that we the people create corporations through our state legislatures. As the Pennsylvania Legislature declared in 1834, “A corporation in law is just what the incorporation act makes it. It is the creature of the law and may be molded to any shape or for any purpose the Legislature may deem most conducive for the common good.” If we don’t mold corporations, they will continue to mold us. They will mold us at the expense of our rights, our health, our democracy, our communities, our environment and most importantly, our souls.

For almost 80 years, labor’s message has been primarily limited to protecting the interests of organized workers. But workers’ rights don’t exist in a vacuum. A fundamental law of physics can also be applied to politics: two things cannot occupy the same place at the same time. Workers’ rights in this country have been relegated to a little space under a chair in the corner of a large room occupied by corporate “rights” — in quotes because only people can have rights, and corporations are not people.

People have rights, inalienable rights. Corporations have only the privileges we the people give them, because corporations are created by people through their legislatures. Corporations are not mentioned in the United States Constitution. Their constitutional privileges stem from Supreme Court cases, judge-made law. These judges are lawyers, appointed for life. In Santa Clara County v. the Southern Pacific Railroad Corporation (1886), the Supreme Court of the United States declared that “...equal protection of the laws, applies to these corporations.” The meaning of the Court was clear: corporations are persons under the law deserving “equal protection.”

Equal protection is a term used in the 14th Amendment to bring African-Americans under constitutional protection. The activist Court of 1886 bestowed “equal protection” on the corporation. This judicial conversion of people’s rights to corporate privilege has done much to create the present situation. The price of each expansion of corporate privilege has been a contraction in workers’ rights.

Every day union people are confronted with this erosion of their rights in union organizing, internal governance, the political process and authority over union property such as pension funds. Look, for example, how the court’s role diminishes the power of the Occupational Safety and Health Administration (OSHA) to the detriment of workers’ rights.

OSHA was put in place by Congress in 1970. When you called up OSHA, it would send an investigator to your place of work. Corporate managers objected and went to court. They argued that the corporation should be afforded the same protection that flesh and blood people have under the Fourth Amendment against unreasonable searches of their property. They said OSHA inspectors needed a search warrant to inspect corporate property!

In 1978 (Marshall v. Barlow) the Supreme Court of the United States agreed. So the right of individual people to be protected from the government arbitrarily entering a person’s home was extended to corporations. The Court ruled that corporations have the...
privilege to require OSHA inspectors to get a search warrant before entering corporate property to investigate the complaints of a worker regarding her health and welfare. In essence, the Court interpreted the obligation of the government to “promote the general welfare” of workers to be secondary to the liberty of a corporation to prevent entry of a government inspector. In this case, while the OSHA inspector is getting a warrant from a judge, the corporation can clean up its act and avoid being found in violation of the law.

The OSHA case is but one example of how the granting of privileges to corporations diminishes the rights of workers. Another is the way corporate employers injected “employer free speech rights” into the process by which workers exercise their “right to associate” in choosing a union to represent them in the workplace.

Under the National Labor Relations Act of 1935 the National Labor Relations Board (NLRB) required employer neutrality when it came to the self-organization of workers. That is, if an employer interfered in any way with a union organizing drive it was considered a violation of the Act. “The right of employees to choose their representatives when and as they wish is normally no more the affair of the employer than the right of the stockholders to choose directors is the affair of employees,” stated the Board. However, with the 1947 passage of the Taft-Hartley Act (termed “the slave labor act” by labor), corporate privilege was inserted into labor rights and corporations were granted “free speech” in the union certification process.

The concept of “corporate free speech” in the union certification process may sound benign to the casual observer. However, if you are involved in a union organizing drive the brutality of the corporate employer’s use of “free speech” to usurp the worker’s right to “freedom of association” becomes apparent in many ways. One example is called the “captive audience meeting” where the employer assembles workers during working hours and harangues them on the negative consequences of unionization. The corporate spokesperson will inject the notion that if the workers choose a union the company might take that as a sign that their facility might not be a good one to invest in. The company spokesperson will point out that many union shops have been closed over the past couple of decades and the work moved to non-union areas of the country or offshore. The company uses “corporate free speech” to send a clear message: voting for a union means you are voting to close the facility. So much for a worker’s right to “freely associate.”

The OSHA unreasonable search and the Taft-Hartley corporate free speech instances illustrate that workers cannot assert their fundamental rights unless they deny corporate privilege. Yet for years most of organized labor’s activity has revolved around labor Political Action Committees (PACs) giving money to people running for Congress. The money was followed by union leaders trying to convince union members to vote for endorsed “labor candidates.” Then, when the new congress took office, labor lobbyists encourage politicians to support labor issues. Labor’s record isn’t very good because the focus has been on the money given to politicians instead of rank-and-file organizing to confront corporate privilege.

If labor abandoned its PACs and focused its energy on getting members involved in the process, think of the results. First, labor could develop organizations that would put resources into involving the membership in the political process rather than trying to influence politicians with money for their campaigns. Secondly, imagine the message that labor would be sending by voluntarily giving up that corrupting influence on our body politic, the Political Action Committee.

The bottom line is that historically, managers and large stockholders of corporations have a leg up on the rest of us. This process has continued for over 100 years and unlike the union people of a century ago, we no longer understand the origins of corporate privilege. So it is time to take another look. And out of that look MUST come an agenda created by working people that promotes workers’ rights and challenges the root of corporate privilege.
So what is labor to do? Labor should take a sabbatical for a year and use the time to analyze what we have been doing over the past century. Then, with history as a guide and real democratic participation of the membership, labor could put together a new agenda that promotes workers’ rights and attacks corporate privileges.

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One such agenda is already in place. The following resolution addressing many of the issues raised by Peter Kellman was unanimously approved at the Labor Party’s First Constitutional Convention, held in Pittsburgh, Pennsylvania, November 13-15, 1998.

Resolution: WORKPLACE BILL OF RIGHTS

WHEREAS, the Bill of Rights of the United States Constitution does not protect us against the denial of our rights by private concentrations of power and wealth, and

WHEREAS, we have wrongly come to accept that at work we are not entitled to the rights and privileges we normally enjoy as citizens, and

WHEREAS, private wealth has made sure to convince the Supreme Court that although a corporation is not a living person it is afforded the protections and rights of the Bill of Rights, while living persons at work are denied these same protections, and

WHEREAS, we therefore find that the corporations and Congress through current law have turned democracy exactly backward —

At work, we are guilty unless proven innocent;

At work, we obey orders upon penalty of discharge;

At work, our most fundamental right, that of free speech, does not apply;

At work, we cannot freely associate with others to protect our interests;

At work, we have to qualify for rights, forced to take extraordinary efforts to win representation elections, gain government certification, and bargain employer recognition of even minimal rights. On the other hand, the corporations are assumed to possess civil rights, do not have to gain such rights, and consequently have more rights under the law than do people, including their “right” to free speech, to hold captive meetings of their employees, and to express political opinions; and

WHEREAS, working people’s efforts to organize unions and bargain collectively is now made, because of the very imbalance in civil rights and economic power, to be extremely difficult in all workplaces and almost impossible in some sectors of the economy; and

WHEREAS, our usual political remedies — calls for labor law “reform” and more efficient regulatory agencies — miss the main point, which is that any legislation or agency that seeks to restrict a corporate “person’s” freedom will be rejected, and such efforts have in fact failed miserably under both Democratic and Republican Party administrations; and
WHEREAS, in Japan, Canada and throughout Europe, the very countries which are our trading partners, competitors and national peers, there already exist long-standing methods that recognize civil rights at work, including those for forming unions, bargaining collectively, and otherwise dealing with the employers; and finally

WHEREAS, millions of U.S. workers are AT THIS MOMENT anxious and willing to form unions and bargain with their employers over matters of concern, and are ready to add their huge numbers to our union ranks. In other countries comparable to the United States, these workers would be free to speak, associate, organize unions and bargain with their employers.

THEREFORE BE IT RESOLVED THAT:

1. The Labor Party rejects the status quo of today’s workplace where workers are forced to abandon their Constitutional Rights in order to earn their living, and are as a consequence subject to the tyranny of the corporation.

2. The Labor Party demands that workers have the actual right to concerted activity, free from employer involvement or interference, and that any number of interested workers in a workplace must have the right to form a union, and bargain with their employer.

3. The Labor Party insists that all workers must have the ability to exercise their rights to concerted activity irrespective of job titles and responsibilities, citizenship status, method of payment, or sector of the economy in which employed.

4. The Labor Party holds that workers, including workfare, contingent, part-time, temporary, and contract workers, must have the right to bargain over the terms and conditions of their labor with the employer(s) who controls or influences their work environment, irrespective of ownership title.

5. The Labor Party insists upon the restoration of all rights of free association, including the voluntary joining together to redress grievances by strikes, economic boycotts, sympathy actions, “hot cargo” agreements, and common situs picketing.

6. The Labor Party rejects limits on subjects upon which employees and unions may bargain with employers.

7. In order for this Campaign to be advanced, the Labor Party commits itself to:

   A) Popularize this Campaign through Labor Party communications and with unions affiliated with the Labor Party;

   B) Select a state in which to develop a state-based campaign to reform state labor relations laws and statutes in accordance with the above principles;

   C) Select a state which presently does not permit collective bargaining rights for public employees in which to develop a state-based campaign for rights in accordance with the above principles;

   D) Select a city or other location in which to popularize, build support around, and in other ways make real the Labor Party’s campaign to bring the Bill of Rights into the workplace;
E) Conduct educational work within the trade union movement, helping all of us to rethink what we mean by workplace rights, to learn what is the practice in other countries similar to the United States; how the current imbalance between corporations and individual rights has evolved in our own country, and how the Labor Party proposes to change this;

F) The Labor Party supports the formation of committees of fired workers wherever possible, to organize and support their fight for workers’ rights.
In the North, the Civil War brought high prices for food and the necessities of life. Prices of milk, eggs, cheese were up 60 to 100 percent for families that had not been able to pay the old prices. One historian... described the war situation: “Employers were wont to appropriate to themselves all or nearly all of the profits accruing from the higher prices, without being willing to grant to the employees a fair share of these profits through the medium of higher wages...”

White workers of the North were not enthusiastic about a war which seemed to be fought for the black slave, or for the capitalist, for anyone but them. They worked in semi-slave conditions themselves. They thought the war was profiting the new class of millionaires. They saw defective guns sold to the army by contractors, sand sold as sugar, rye sold as coffee, shop sweepings made into clothing and blankets, paper-soled shoes produced for soldiers at the front, navy ships made of rotting timbers, soldiers' uniforms that fell apart in the rain.

The Irish working people of New York, recent immigrants, poor, looked upon with contempt by native Americans [not Indians], could hardly find sympathy for the black population of the city who competed with them for jobs as longshoremen, barbers, waiters, domestic servants. Blacks, pushed out of these jobs, often were used to break strikes. Then came the war, the draft, the chance of death. And the Conscription Act of 1863 provided that the rich could avoid military service: they could pay $300 or buy a substitute...

Under the deafening noise of the war, Congress was passing and Lincoln was signing into law a whole series of acts to give business interests what they wanted, and what the agrarian South had blocked before secession. The Republican platform of 1860 had been a clear appeal to businessmen. Now Congress in 1861 passed the Morrill Tariff. This made foreign goods more expensive, allowed American manufacturers to raise their prices, and forced American consumers to pay more.

The following year a Homestead Act was passed. It gave 160 acres of western land, unoccupied and publicly owned, to anyone who would cultivate it for five years. Anyone willing to pay $1.25 an acre could buy a homestead. Few ordinary people had the $200 necessary to do this; speculators moved in and bought up much of the land. Homestead land added up to 50 million acres. But during the Civil War, over 100 million acres were given by Congress and the President to various railroads, free of charge. Congress also set up a national bank, putting the government into partnership with the banking interests, guaranteeing their profits.

With strikes spreading, employers pressed Congress for help. The Contract Labor Law of 1864 made it possible for companies to sign contracts with foreign workers whenever the workers pledged to give twelve months of their wages to pay the cost of emigration. This gave the employers during the Civil War not only very cheap labor, but strikebreakers.

More important, perhaps, than the federal laws passed by Congress for the benefit of the rich were the day-to-day operations of local and state laws for the benefit of landlords and merchants...

In the thirty years leading up to the Civil War, the law was increasingly interpreted in the courts to suit the capitalist development of the country... Judgments for damages against businessmen were taken out of the hands of juries, which were unpredictable, and given to judges. Private settlement of disputes by arbitration was replaced by court settlements, creating more dependence on lawyers, and the legal profession gained in importance. The ancient idea of a fair price for goods gave way in the courts to the idea of caveat emptor (let the buyer beware), thus throwing generations of consumers from that time on to the mercy of businessmen...

It was a time when the law did not even pretend to protect working people... Health and safety laws were either nonexistent or unenforced...

In premodern times, the maldistribution of wealth was accomplished by simple force. In modern times, exploitation is disguised — it is accomplished by law, which has the look of neutrality and fairness. By the time of the Civil War, modernization was well under way in the United States.
With the war over, the urgency of national unity slackened, and ordinary people could turn more to their daily lives, their problems of survival. The disbanded armies now were in the street, looking for work. In June 1865, *Fincher's Trades' Review* reported: “As was to be expected, the returned soldiers are flooding the street already, unable to find employment.”

The cities to which the soldiers returned were death traps of typhus, tuberculosis, hunger, and fire. In New York, 100,000 people lived in the cellars of the slums; 12,000 women worked in houses of prostitution to keep from starving; the garbage, lying 2 feet deep in the street, was alive with rats. In Philadelphia, while the rich got fresh water from the Schuylkill River, everyone else drank from the Delaware, into which 13 million gallons of sewage were dumped every day...

In 1873, another economic crisis devastated the nation. It was the closing of the banking house of Jay Cooke — the banker who during the war had made $3 million a year in commissions alone for selling government bonds — that started the wave of panic. While President Grant slept in Cooke’s Philadelphia mansion on September 18, 1873, the banker rode downtown to lock the door on his bank. Now people could not pay loans on mortgages: five thousand businesses closed and put their workers on the street.

It was more than Jay Cooke. The crisis was built into a system which was chaotic in its nature, in which only the very rich were secure. It was a system of periodic crisis — 1837, 1857, 1873 (and later: 1893, 1907, 1919, 1929) — that wiped out small businesses and brought cold, hunger, and death to working people while the fortunes of the Astors, Vanderbilts, Rockefellers, Morgans, kept growing through war and peace, crisis and recovery. During the 1873 crisis, Carnegie was capturing the steel market, Rockefeller was wiping out his competitors in oil...

The depression continued through the 1870s... All over the country, people were evicted from their homes. Many roamed the cities looking for food...

Mass meetings and demonstrations of the unemployed took place all over the country. Unemployed councils were set up. A meeting in New York at Cooper Institute in late 1873, organized by trade unions and the American section of the First International (founded in 1864 in Europe by Marx and others), drew a huge crowd, overflowing into the street. The meeting asked that before bills became law they should be approved by a public vote, that no individual should own more than $30,000; they asked for an eight-hour day...

That year [1877] there came a series of tumultuous strikes by railroad workers in a dozen cities; they shook the nation as no labor conflict in its history had done.

In the year 1877, the signals were given for the rest of the century: the black would be put back; the strikes of white workers would not be tolerated; the industrial and political elites of North and South would take hold of the country and organize the greatest march of economic growth in human history. They would do it with the aid of, and at the expense of, black labor, white labor, Chinese labor, European immigrant labor, female labor, rewarding them differently by race, sex, national origin, and social class, in such a way as to create separate levels of oppression — a skillful terracing to stabilize the pyramid of wealth.

Between the Civil War and 1900, steam and electricity replaced human muscle, iron replaced wood, and steel replaced iron (before the Bessemer process, iron was hardened into steel at the rate of 3 to 5 tons a day; now the same amount could be processed in 15 minutes). Machines could now drive steel tools. Oil could lubricate machines and light homes, street, factories. People and goods could move by railroad, propelled by steam along steel rails; by 1900 there were 193,000 miles of railroad. The telephone, the typewriter, and the adding machine speeded up the work of business...

While some millionaires started in poverty, most did not. A study of the origins of 303 textile, railroad, and steel executives of the 1870s showed that 90 percent came from middle- or upper-class families. The Horatio Alger stories of “rags to riches” were true for a few men, but mostly a myth, and a useful myth for control.

Most of the fortune building was done legally, with the collaboration of the government and the courts...
[J. P.] Morgan had escaped military service in the Civil War by paying $300 to a substitute. So did John D. Rockefeller, Andrew Carnegie, Philip Armour, Jay Gould, and James Mellon. Mellon’s father had written to him that “a man may be a patriot without risking his own life or sacrificing his health. There are plenty of lives less valuable.”

And so it went, in industry after industry — shrewd, efficient businessmen building empires, choking out competition, maintaining high prices, keeping wages low, using government subsidies. These industries were the first beneficiaries of the “welfare state.” By the turn of the century, American Telephone and Telegraph had a monopoly of the nation’s telephone system, International Harvester made 85 percent of all farm machinery, and in every other industry resources became concentrated, controlled. The banks had interests in so many of these monopolies as to create an interlocking network of powerful corporation directors, each of whom sat on the boards of many other corporations. According to a Senate report of the early twentieth century, Morgan at his peak sat on the board of forty-eight corporations; Rockefeller, thirty-seven corporations.

Meanwhile, the government of the United States was behaving almost exactly as Karl Marx described a capitalist state: pretending neutrality to maintain order, but serving the interests of the rich. Not that the rich agreed among themselves; they had disputes over policies. But the purpose of the state was to settle upper-class disputes peacefully, control lower-class rebellion, and adopt policies that would further the long-range stability of the system. The arrangement between Democrats and Republicans to elect Rutherford Hayes in 1877 set the tone. Whether Democrats or Republicans won, national policy would not change in any important way...

Control in modern times requires more than force, more than law. It requires that a population dangerously concentrated in cities and factories, whose lives are filled with cause for rebellion, be taught that all is right as it is. And so, the schools, the churches, the popular literature taught that to be rich was a sign of superiority, to be poor a sign of personal failure, and that the only way upward for a poor person was to climb into the ranks of the rich by extraordinary effort and extraordinary luck...

Farming became mechanized — steel plows, mowing machines, reapers, harvesters, improved cotton gins for pulling the fibers away from the seed, and, by the turn of the century, giant combines that cut the grain, threshed it, and put it in bags. In 1830 a bushel of wheat had taken three hours to produce. By 1900, it took ten minutes. Specialization developed by region: cotton and tobacco in the South, wheat and corn in the Midwest.

Land cost money, and machines cost money — so farmers had to borrow, hoping that the prices of their harvests would stay high, so they could pay the bank for the loan, the railroad for transportation, the grain merchant for handling their grain, the storage elevator for storing it. But they found the prices for their produce going down, and the prices of transportation and loans going up, because the individual farmer could not control the price of his grain, while the monopolist railroad and the monopolist banker could charge what they liked...

The farmers who could not pay saw their homes and land taken away. They became tenants. By 1880, 25 percent of all farms were rented by tenants, and the number kept rising. Many did not even have money to rent and became farm laborers; by 1900 there were 4.5 million farm laborers in the country. It was the fate that awaited every farmer who couldn’t pay his debts...

The government played its part in helping the bankers and hurting the farmers; it kept the amount of money — based on the gold supply — steady, while the population rose, so there was less and less money in circulation. The farmer had to pay off his debts in dollars that were harder to get. The bankers, getting the loans back, were getting dollars worth more than when they loaned them out — a kind of interest on top of interest. That is why so much of the talk of farmers’ movements in those days had to do with putting more money in circulation — by printing greenbacks (paper money for which there was no gold in the treasury) or by making silver a basis for issuing money...

On top of the serious failures to unite blacks and whites, city workers and country workers, there was the lure of electoral politics — all of that combining to destroy the Populist movement. Once allied with the Democratic party in supporting William Jennings Bryan for President in 1896, Populism would drown in a sea of Democratic politics. The pressure for electoral victory led Populism to make deals with the major parties in city after city. If the Democrats won, it
would be absorbed. If the Democrats lost, it would disintegrate. Electoral politics brought into the top leadership the political brokers instead of the agrarian radicals.

There were those radical Populists who saw this. They said fusion with the Democrats to try to “win” would lose what they needed, an independent political movement. They said the much-ballyhooed free silver would not change anything fundamental in the capitalist system. One Texas radical said silver coinage would “leave undisturbed all the conditions which give rise to the undue concentration of wealth.”...

In the election of 1896, with the Populist movement enticed into the Democratic party, Bryan, the Democratic candidate, was defeated by William McKinley, for whom the corporations and the press mobilized, in the first massive use of money in an election campaign. Even the hint of Populism in the Democratic party, it seemed, could not be tolerated, and the big guns of the Establishment pulled out all their ammunition, to make sure.

It was a time, as election times have often been in the United States, to consolidate the system after years of protest and rebellion. The black was being kept under control in the South. The Indian was being driven off the western plains for good... It was the climax to four hundred years of violence that began with Columbus, establishing that this continent belonged to white men. But only to certain white men, because it was clear by 1896 that the state stood ready to crush labor strikes, by the law if possible, by force if necessary. And where a threatening mass movement developed, the two-party system stood ready to send out one of its columns to surround that movement and drain it of vitality.
Challenging Corporate Power, Asserting the People’s Rights

Session VII — Economic Development and Militarism

“I spent 33 years and 4 months in active service as a member of our country’s most agile military force — the Marine Corps.... And during that period I spent most of my time being a high-class muscle man for Big Business, for Wall Street, and for the bankers. In short, I was a racketeer for capitalism.... I helped make Mexico, especially Tampico, safe for American oil interests in 1914. I helped make Haiti and Cuba a decent place for the National City Bank boys to collect revenues in. I helped in the raping of half a dozen Central American republics for the benefits of Wall Street... I helped purify Nicaragua for the international banking house of Brown Brothers in 1909-1912. I brought light to the Dominican Republic for American sugar interests in 1916. In China I helped to see to it that Standard Oil went its way unmolested… Looking back on it, I feel I might have given Al Capone a few hints. The best he could do was to operate his racket in three city districts. We Marines operated on three continents.”

― Smedley Butler, a decorated Marine general, writing in 1935

There is a story that during Bill Clinton’s 1992 presidential campaign an aide posted a sign on the wall to remind everyone of the most crucial campaign issue: “It’s the economy, stupid.” Indeed, judging by its coverage in the corporate press, a healthy economy seems essential to people’s livelihoods and our country’s success, and worries abound when the economy is growing too fast or not fast enough. The latest governmental reports on prices, sales, new housing starts, production of durable goods, and many other indicators receive prime time coverage and serious analysis, and no news report is complete without the latest on the Dow Jones and NASDAQ averages.

This obsession with the economy is such a normal part of our day-to-day lives that we seldom stop to question it. What fuels this expectation that our economy must continually grow? What underlying values does economic development rest upon? What are the consequences of these beliefs and our economic system?

“Democracy,” a word with which we have strong, positive, emotional ties, is often conflated with “capitalism,” and this is no accident. We are told that democracy triumphed over communism in the Cold War and that the West is bringing democracy to the long-suffering people of the formerly socialist countries. This ensures the acquiescence of a majority of people in the US while global corporations and complicit governments force their way to economic and political control around the world.

As Smedley Butler noted during his career nearly a century ago, it is a system that has long gone hand-in-hand with violence. The readings in this session examine this phenomenon, and are also linked to the following session on global corporatization. For 500 years economic expansionism and militarism have been inextricably linked in the brutal colonization of every continent. In the past, invading armies from another country were required to accomplish this colonization. Now universal domination is achieved through the imperative of economic development and modernization, with primary enforcement provided by each country’s own military and police force.

Readings:
1 – Excerpts from Radical Democracy by C. Douglas Lummis (2 pages)
2 – “The Truth Behind US Foreign Policy,” by Henry Rosemont, Jr. (4 pages)
Discussion Questions:
1. Explore C. Douglas Lummis’s observations about the undemocratic nature of economic development.

2. How do corporate interests influence both our military actions abroad and our military production within the US? What attitudes and beliefs exist among members of the group about the need for a militarized national defense?

3. How do policy decisions about interest rates, unemployment rates, and what kinds of production to stimulate impact our economy and our day-to-day lives? Who benefits and who is harmed by these decisions?

4. Does shifting our thinking about economic development and militarism open new possibilities for the future? What social structures (e.g., class, race, culture, gender, religion) impact us and how do they colonize our minds?

Supplementary Materials:
• Radical Democracy, by C. Douglas Lummis. Cornell University, 1996.


• Resist Illegitimate Authority, the newsletter of RESIST, Inc., 259 Elm Street, Suite 201, Somerville, MA 02144, 617.623.5110. www.resistinc.org/newsletter/Index.html
Chapter 2, Antidemocratic Development

Economic development is antidemocratic, contrary to textbook history and superficial appearance. This is because "economic development" does not refer to the collective ways in which humans have maintained their livelihood historically, but a specific way that originated in Europe.

"The economy" is a way of organizing us to work efficiently. Specifically, it organizes us to do unnatural work under unnatural conditions for unnaturally long hours. In addition, it extracts much of the wealth so produced and sends it elsewhere. Although it pretends otherwise, it is political in the most fundamental sense: It organizes power, distributes goods and rules people. Many claim that all of this is inevitable, but it is not inevitable except in the context of a particular ideology.

Economic development is undemocratic in several ways. It imposes conditions of work that free humans would never choose for themselves. This is true in both communist and capitalist societies in terms of both work conditions and the transfer of wealth. It promotes social inequality. Consider, for example, the ethos of "getting ahead," an ethos that now infuses even the old socialist states. It too generates inequality in wealth and power.

The labor movement provides a good example of the influence of the economic development model. Originally, the labor movement struggled for power and democratization of the work place. Now it now struggles for higher wages, a goal that would bring still more inequality in terms of consumption and "getting ahead."

What would happen if we were freed from these unnatural constraints? We would return to the natural form. We would decide what we need and want in a world with no rich-poor relationship, and no danger of military or economic invasion--a world where the dominant culture is a local one. "Prosperity" might come to mean something very different from what it now means. In that event, we would have the reverse of the Marxian order of things: Politics would be substructure, economics superstructure. Thus, economics would derive from politics, and would therefore be a problem to be solved politically, not economically.

Chapter 4, Democracy's Flawed Tradition

The Two Bodies of the Modern Industrial Republic

The Roman Senate wielded economic power by two means: the personal wealth of its members, and its control of public property and public works. This power was similar to that of the consuls in Rome's military phase. In that phase, citizens on campaign duty would be subject to consular authorities, and therefore subject to consular reprisals for any prior opposition to consular projects. "Watch it, Citizen: I'll see you later in the field, when I'm commander and you're a lowly soldier."

The ruling function of the military is on the decline in our time. However, the economy has taken on many characteristics of a ruling military. Note that the corporate bureaucracy has both a hierarchy of command and a strict system of accountability. And in the corporate bureaucracy white collar and blue collar tracks are analogous to officers and enlisted soldiers, the patricians and plebeians of Rome.

Today [1996] Japan is the most successful industrial republic. Lummis attributes this success to Japan's having transfused its military spirit into its economy. In the aftermath of WW2 the Japanese economy, unlike ours, has not had to share military authority with an
actual military force. The Japanese no longer sing their inspirational songs on military duty, but only at work. And economic power is now the main weapon the big powers use to maintain control over former colonies. The corporate economy maintains discipline by means of raises and promotions, suspensions, firings, and the threat of exile to the permanently unemployed underclass. And the corporate body is never disbanded, unlike the military.

Workers spend most of their waking hours under corporate rule. That is why they have little time for the sustained political activity that any true democracy requires. In the U.S., college students, with their relatively large amount of unmanaged time, have been most active; in Japan, housewives. However, democratic politics cannot be sustained as a leisure activity. That is why the democratic project will not be complete until work itself has been democratized.
The Truth Behind US Foreign Policy

Violence For Power and Profit

HENRY ROSEMONT, JR.

When looked at only superficially, US foreign policy since the end of the Cold War has seemed directionless at best, inconsistent at the worst. Why do we celebrate the Chinese government one moment, berate it the next? Why did we intervene in Somalia, but not Rwanda? Why Panama but not Colombia, Iraq but not Iran, Kosovo but not Kurdistan? A closer examination of those policies, however, going back to the end of World War II and even before, reveals a very definite and consistent pattern, but one that is painful for American citizens to reflect upon deeply because of the brutalities committed in our names.

The US has intervened well over 100 times in the internal affairs of other nation states since 1945. The rhetoric has been that we have done so largely to preserve or restore freedom and democracy, or for purely humanitarian reasons. The reality has been that our policies have not done so, but on the contrary, have been consistently designed and implemented to further the interests of US (now largely transnational) corporations, and the elites both at home and abroad who profit from corporate depredations. These policies — often illegal, always unjust — have been enormously successful, so long as we ignore the incalculable suffering endured by tens of millions of innocent peoples the world over as the price paid for "success."

Results of Intervention

Lest this claim be dismissed at the outset as too strong, attempt the following: from among our 100-plus interventions, try to find one in which the great majority of the people in the affected states were not far worse off after than before the intervention. Where have freedom and democracy been strengthened rather than stifled? Where have the “humanitarian” efforts been successful?

Certainly not in those countries where we saw to the overthrow of democratically elected governments — e.g., Iran, 1953; Guatemala, 1954; Chile, 1973 — and installed reactionary royalty and murderous military in their stead: the Shah, right-wing generals, and Augusto Pinochet. And surely no sane person would maintain that even in those countries whose governments we sought to replace which were not democratically elected were their peoples in any way better off for our efforts, including such as Vietnam, Cambodia, Cuba, Iraq, etc.

These examples are only among the more well-known cases of US actions contributing directly to unspeakable horrors being visited on millions of innocent people, most of them poor. However, in order to comprehend the full extent of US responsibility for human suffering through its foreign policies, it is necessary to see that intervention can take many forms.

Forms of US Intervention

For example, the US government did not directly attempt to destabilize the Indonesian government of President Sukarno in 1965 (although we did try seven years earlier). But we made it clear to General Suharto and his fellow thugs how much we appreciated their hard-line stance against the Indonesian Communist Party (PKI), which was legally contesting elections. And after Suharto’s thugs overthrew Sukarno themselves, the US supplied them not only with much weaponry, but also the names of suspected PKI members compiled by our intelligence sources, which insured that the bloodbath which ensued after the coup would destroy the PKI and other progressive organizations once and for all. By even the most conservative estimates, Suharto’s regime slaughtered more than 500,000 people (mostly ethnic Chinese).

This, too, is intervention. And we did it again in Indonesia a decade later, when we let Suharto know that we had no objection to his invading East Timor after the Portuguese withdrew from their former colony. The invasion probably couldn’t have wrought the havoc it did on the Timorese people without, again, the weaponry (and training in how to use it) supplied to the Indonesian army by the US.

Indonesia is by no means a solitary case of this more covert type of intervention; we have engaged in it everywhere from Italy and Greece to Afghanistan to the Congo (opposing Lumumba) and Angola (supporting Savimbi). Covert intervention has been the norm in our dealings with Latin American countries since World War II (before then we simply invaded them when we didn’t approve of their governments).

Moreover, this second type of intervention is ongoing: the Colombian government is murdering its citizens by the thousands with US support, which we also supply to the Turks in their “ethnic cleansing” campaigns against the Kurds. The effect in both cases is profound, especially the latter, in which 80% of Turkey’s armaments have “Made in the USA” stamped on them. These weapons have been used to destroy more than 3,500 Kurd villages and displace at least 2.5 million people since 1991 — roughly seven times the numbers estimated for Kosovo.

Direct and Indirect Killing

It is important for activists to appreciate the difference between the invasive and the covert forms of intervention. In order to aid the Kosovars being slaughtered by the murderous Serb regime, we must ourselves directly engage in slaughter. On the other hand, to aid the Kurds being massacred by the murderous Turk regime we must work to have
our government stop aiding and abetting the even greater slaughter (which is very different from advocating “neo-isolationism”).

A third pattern of US foreign policy which may legitimately be considered interventionist is the systematic attempt to isolate “rogue states” when other efforts are unsuccessful, inconvenient or potentially embarrassing. After more direct actions in Cuba failed to topple the Castro government (the Bay of Pigs invasion, CIA/Mafia attempts to assassinate him, etc.), the economic sanctions were strengthened and enforced with a vengeance, continuing to this day.

In Vietnam, not only did we renege on Kissinger’s promise to help rebuild the country after the war, we placed enormous diplomatic and economic pressures on all countries outside the Soviet bloc not to do so either. We continue to isolate Iraq (coupled with occasional bombings of the country in the “no-fly” zones). The manifold miseries accompanying these sanctions obviously fall disproportionately on the civilian peoples in the affected countries, especially the poor, the children, the sick, and the elderly. What is humanitarian about such policies? How do they promote freedom and democracy?

Betting on the Wrong Sides
Against this indictment, apologists for the foreign policy establishment will allow that some mistakes were made, of course, but that our motives were pure. “We meant well,” they insist, “but simply supported the wrong side at times.” Such apologies appeal to us as a way to assuage our consciences, because the alternative suggests that we should feel a profound sense of shame for the atrocities committed in our name.

But it is anger and not shame that is called for. The record shows fairly clearly that we have always supported the “wrong side,” and worse, much evidence was available at the time of intervention to suggest support for the other side — which simultaneously shows the extent to which apologies for US foreign policies necessitated a great suppression of information, even greater distortion of the “facts,” and much outright lying to the American peoples.

For example, the liberation of the “Pentagon Papers” by Daniel Ellsberg created a stir largely because they showed the CIA had done its intelligence-gathering job well in Vietnam, making clear to the Kennedy and Johnson administrations that: 1) the Diem and Thieu governments, and ARVN military — which we supported to the bitter end — were hopelessly corrupt and brutal; 2) the National Liberation Front (NLF) leadership and cadres (the Viet Cong) were much less corrupt, and were indigenous South Vietnamese, not infiltrators from the North; 3) the NLF enjoyed twice the support as the ARVN (roughly 25% to 12%, with the remaining two-thirds of the people in the best tradition of ancient peasant wisdom seeing all governments simply as tax collectors; and 4) there was no evidence linking the NLF or the North to China.

If genuinely motivated by good will then, the US might have developed a policy of actively supporting the NLF, providing it with the food, medicines, books, walking tractors, fertilizers, building materials and much else that neither the North, nor China, nor the Soviet Union could provide, and in that way assist the NLF in promoting the economic development of South Vietnam. Instead we destroyed the NLF, making the occupation of the entire country by Northern forces a self-fulfilling prophecy. Well over two million Vietnamese (by US estimates) died in the process, along with 58,000 US troops; elements of Agent Orange and land mines continue to plague the country a quarter of a century later.

The Nicaraguan Example
There are numerous other examples of where history would read very differently today had we not supported “the wrong side” — Greece in 1947, China two years later, Cuba a decade after that, etc. — but one more recent case can stand duty for many.

During the early 1980s, Oxfam praised the Sandinista government for the support and assistance it gave the organization in its humanitarian relief efforts in Nicaragua. Amnesty International described some human rights abuses there, but noted that they were far fewer in number and ferocity than in any other Central American country at the time, save Costa Rica. And the unrelenting repression of the three decades-long Somoza regime which the Sandinistas overthrew was admitted on all sides.

Yet when the issue of Nicaragua came before the US Congress, the only question for discussion was whether or not to continue supporting the Contras which had been initiated by the Reagan administration. That is to say, out of 535 members of the US Congress, not one asked: why don’t we support the Sandinistas (as the Nicaraguan people did in the 1984 elections)? Instead of supporting the democratically elected government, we continued to supply the Contras covertly, pumped money into the later elections sufficient to defeat the Sandinistas, and since then have altogether ignored the Nicaraguan peoples whose lives are now the most miserable in all of Central America.

These examples are not intended to suggest that the many insurgent groups the US has violently opposed since World War II were composed solely of saints; clearly they were not. Rather the examples are intended to show, first, that the preponderance of evidence available at the times of intervention suggested those insurgent groups were far more worthy of humanitarian support than their opponents (whom we did support). The examples also raise a troubling question: how much less authoritarian...
might these groups have subsequently been had we supported, rather than endeavored to subvert, them?

The Wages of War

This all-too-hurried sketch of US foreign policy could be elaborated at length, but should suffice to generate great suspicion about all stated reasons for US intervention abroad, past and present. However, all that has been (minimally) argued thus far is that the stated reasons are almost uniformly false; what are the real reasons for our manifold interventions?

These reasons will of course be many and varied, depending on the details of time and place, but they will share the goals of enhancing US corporate interests, or at the minimum, blocking real or imagined threats to these interests. Before turning to specific examples, it might be useful to consider the relationship between the corporations and the government for a moment.

The globalization of the world’s economies is currently too often being described as eliminating nation states in favor of the untrammeled power of transnational companies, and this is highly misleading: these companies, especially the US-owned ones, would collapse in months, if not weeks, without the active support of the US government.

To be sure, the recently shelved (but not forgotten) Multilateral Agreement on Investment would weaken considerably the governments of nation-states, but only in one area: the regulation of commerce. The MAI would surely restrict the ability of governments to check capital flight, restrict currency trading, enact minimum wage and environmental protection laws, and much else that might impede the flow of profits. All of these measures are of course threats to equality, justice, and democracy, and progressives should be vigilant in looking for the return of the MAI, and struggle against it when it again rears its ugly head.

But this is the only area in which the corporations wish an emasculated government. Without a bloated military budget, not only would Boeing, McDonnell Douglas, Grumman, Raytheon and Lockheed-Martin be in trouble, but the automobile companies as well, plus the oil companies, the majority of high-tech firms, and the major suppliers of all these firms.

And the corporations need much more. Profits would be much lower if they had to build and maintain the roads, electric, water, and sewage lines to their plants, run a public transportation system for their workers (or customers), and so on, and were not consistently the recipients of tax breaks.

At the international level, US corporations need the government to ensure that target countries are “safe for investment” (no movements for freedom and democracy), that loans will be repaid, contracts kept, and international law respected (but only when it is useful to do so). It is also the task of the US government to create and maintain markets overseas for US goods, and to protect the corporations from genuine competition from abroad whenever it is feasible to do so.

Finally, the US government must remain in constant standby to rescue US corporations when their mismanagement becomes conspicuous, from consistently subsidizing agribusiness, to the Chrysler bailout, to a bill currently before the House to provide a $1.5 billion loan guarantee to steel corporations that are not competitive with Japan or Taiwan, even though the wage differential is slight (and in the case of Japan, favors the US).

Seen in this light, it can be said that no one knows whether the “free market” could work in the US, for it has never been practiced; corporations have needed the active intervention of the government since industrialization began. Different corporations may have somewhat different interests at times, and hence vie to influence governmental policies. What remains of American manufacturing, for example, in coordination with the AFL-CIO, must press the Clinton administration for an international minimum wage law; the likes of Nike, Mattel, and Wal-Mart must press equally hard against it. But the overall point remains: all corporations want, and desperately need, massive government activity in order to secure profits.

Kosovo and Serbia

Returning now more directly to foreign policy, we may examine the most recent interventionist action of the US government, the bombing of Kosovo and Serbia. At first blush it would appear that this is a counter-example to the claims of foreign policy solely serving corporate economic interests, for Serbian and Kosovar markets are negligible; they manufacture nothing that competes well with US or European goods; no large oil reserves are there, and the strategic importance of the area seems minimal.

The historical precedents enumerated above should generate skepticism that we might have intervened for humanitarian principles, but even if they are ignored, surely the government did not act on behalf of the suffering Albanian Kosovars, for if so, at the least it would not have informed their killers in advance that we would only oppose them from a minimum altitude of 15,000 feet. Moreover, that the Kosovars would suffer much more after the bombing began was, according to military intelligence, “predictable.”

And so it was. By the time the accords were signed, at least 700,000 Kosovars had died, been wounded, or displaced by the Milosevic gang of killers and NATO. The bombing itself killed at least 1,200 civilians and 5,000 Serbian soldiers. The agreements reached were worse for the Kosovars than the earlier Rambouillet Accords, and in the end, there is precious little left in Kosovo to await the return of its citizens. As one reporter on the scene noted, “Large areas of Mitrovica and Pristina, two Kosovar cities, look like a cross between Kristallnacht and the blitzkrieg. What wasn’t burned and looted by Serbian soldiers and para-militaries in those nights of fury after
March 24 has been seen to by the NATO bombs.”

**Aims of Kosovo Intervention**

“NATO bombs” move us closer to the aims of the intervention. The first aim was to ignore the United Nations and thus diminish its power. This will cause resentment on the part of virtually all member states, and severely strain relations with Russia and China; a small price for the US to pay, however, for weakening the organization, because a strong UN would clearly place constraints on the ability of the world’s sole superpower to do whatever it wished, wherever and whenever it wished to. (If we wanted a strong UN, we would pay our back dues, increase our dues, and stop vetoing so many measures in the Security Council).

NATO, on the other hand, was an entirely different matter. With the collapse of the Soviet Union, no credible threat to the security of Western Europe or the United States remained. But ending the alliance would be disastrous for a number of reasons. First, it would in all probability result in a call to reduce significantly the US military budget, which transnational corporations can’t allow to happen (see above). Equally important, the US dominates NATO, and it is one of our major entries into European affairs. A solid European Union might not be so compliant with US policies as the government would wish; they might even become a more independent competitive economic bloc, and worse, endorse and support genuine development in the poorer nations of the world (per capita, the citizens of the Scandinavian countries give thirty times as much in development aid as their US counterparts).

Hence NATO had to have something to do to celebrate its semi-centennial, and with much fanfare they did it in Kosovo. They certainly weren’t about to do anything in Turkey, despite the parallelisms between the Kurds and the Kosovars. Turkey is itself a member of NATO, provides a splendid counterweight to an uppity Iran (and Iraq), and, again, is the recipient of great stores of US-made weaponry. Hence the propaganda ministry — a.k.a. the standard media — had to keep the plight of the Kosovars on page one for months and ignore completely what was, and is, being done to the Kurds.

In much the same way, other US interventionist actions — from the overt occupation of parts of Somalia to the more subtle support for Barak against Netanyahu in the recent Israeli elections — can be seen to be neither directionless nor inconsistent, so long as it is borne in mind that major corporations need a very strong US government abroad no less than at home which can be relied upon to serve their interests. (Despite seeming inconsistencies, even our policies toward China are not an exception to this generalization, but the analysis thereof would be a lengthy one).

**Need for Hope and Action**

To conclude, once media propaganda and academic apologia are set aside, the history of US foreign policy can be seen for what it is: an almost unmitting catalogue of horrors for a great many millions of the world’s peoples.

But the catalogue must be read with hope, and a commitment to struggle for fundamental change, not as a counsel of despair, or to generate feelings of helplessness. Hope, because the historical record shows that despite our strong and consistent support for the Batistas, Diems, Pinochets, and Suhartos of this world, insurgent groups committed to justice arose, and successfully challenged them in several instances. And surely similar insurgencies against US-supported authoritarian governments will rise again, because the thirst for justice and freedom is unquenchable.

It thus behooves all US citizens of goodwill to champion neither violent intervention in other countries nor some form of “neo-isolationism,” but rather to struggle for fundamental changes in the three interventionist patterns of our foreign policy.

This struggle is necessary for two reasons. First, until change comes about the US budget will continue to be tilted heavily toward the military, rather than in support of the millions among us who do not live the American dream, but a nightmare: with fully a fifth of our children growing up in dire poverty, we do not need to spend money for cluster-bombs to rain on Kosovo, or anywhere else.

Second, the peoples of the world who currently endure the suffering caused by US foreign policies can only look to us to alleviate their misery. With the collapse of the Soviet Union, and a currently weak UN, the only possible check on US brutality lies with its own citizenry. Unlike a great many others who struggle for justice and freedom, US citizens can change their government without having to put their lives at stake in an armed uprising. The odds are long, but it can be done, and much of the world must depend on us to do it.

In this spirit, it is perhaps appropriate to end by quoting from the first Call to Resist Illegitimate Authority, which went forth 32 years ago, inspiring a great many readers of this publication, as well as their parents and older friends. Active struggle for fundamental change must be undertaken until such time as “the US ceases to be a terror in the politics among nations.”

Now, more than ever, is the time to Resist.

**Author’s note:** I want to acknowledge and thank fellow Resist Board member Noam Chomsky for his many writings on this topic in general, and for his input and assistance with this article in particular, although any errors of commission or omission are mine alone. Anyone wishing documentation for any points raised in this article, or a bibliography for further reading, should write to me c/o Resist.

Henry Rosemont, Jr., is a member of Resist’s Board of Directors and teaches at St. Mary’s College of Maryland.
Although few in Connecticut and the other epicenters of U.S. military production fully appreciated it, the end of the Reagan rearmament began long before the conservative icon retired to his ranch near Santa Barbara. Spending for the military started to slide in 1986, and only the lag in making contracts and delivering weapons kept the military economy buoyant through the remainder of the decade. Then, in October 1989, the Berlin Wall was torn down by thousands of Germans on both sides of the Iron Curtain, and with it fell the military contractors’ hopes for the future.

With the winding down of the Cold War, which the disassembling of the Wall most clearly symbolized, a debate arose over the impact of the rearmament, the Reagan Doctrine, and military exports. The right wing, naturally enough, claimed victory and drew the lesson of military strength. But the examined results were not so kind. The Cold War was like a heavyweight championship fight in which two boxers slugged it out for many rounds before one of them dropped dead of a heart attack. It could be said, and most conventional wisdom had it, that the expired boxer was exhausted and thereby defeated by the survivor. But the autopsy showed systemic illness that would have felled the deceased rather soon anyway. Chortling over the dead body, in this light, seemed foolishly misguided.

It was especially misguided when we examine what the impact was on the other body — or on bodies politic around the world. The Reagan Doctrine was especially destructive. By the late 1990s, Central America was still reeling from the impoverishing consequences of the wholesale militarization of El Salvador, Guatemala, Honduras, and Nicaragua. Southern Africa, with Reagan shipments of arms to the violent insurgents in Angola and Mozambique, was ravaged by civil war and crime-ridden poverty, which endured for years afterward. Some six million AK-47s were floating around the region in the 1990s, easily purchased from the demobilized rebels the White House had created and supplied. The civil wars themselves had claimed more than a million lives. Places like Somalia, Ethiopia, and Cambodia were similarly afflicted.
The shining case, however, was Afghanistan. Billions of dollars were supplied to Pakistan to funnel into the Afghan mountains, where Islamic radicals were fighting the Soviet army’s occupation. The strategy of bogging down Moscow worked to some degree, but the price was extraordinary. Afghanistan immediately descended into a decade of chaos, with tens of thousands more killed in the factional strife that followed the Soviet pullout. The country has since become the principal source of heroin in the world. Pakistan became infested by the worst sorts of fanatics from the mujahedin factions, and is still constantly besieged by those forces. Karachi’s corruption was furthered by CIA tools like the infamous Bank of Credit & Commerce International (BCCI), which became a money conduit for drug and gun trafficking, bribe-giving and -taking, and other nefarious activities.

The training and supplying of the “muj” is the legacy that has had the most powerful impact on the region. The U.S.-supplied weapons — a thousand Stinger anti-aircraft missiles and three million Kalashnikov automatic rifles — are now for sale around the region, from Kashmir to Turkey and beyond. The AK-47 copies were purchased by the CIA from China, Egypt, and other places so as to be untraceable to the United States. Now, from the arms bazaars of frontier towns in Pakistan to the supply stores of Iran, these Soviet-style assault weapons are finding their way to Kashmir, Kurdistan, even Mozambique. The Stingers, which the CIA has tried to buy back, to no avail, are also rumored to be proliferating widely. The CIA’s guns now stock the arsenals of Hezbollah, Algerian insurgents, and the PKK.

The “blowback” phenomenon was not limited to the spread of weapons, however, as the bombing of U.S. military facilities in Saudi Arabia proved. Islamic fighters all over the region, trained by the CIA in Pakistan, are now turned against the pillars of U.S. interests in the Middle East. Said one Reagan Doctrine enthusiast: “I don’t think the United States realized what the consequences might be,” that is, the consequences of providing millions of weapons to the most ferocious, most anti-Western Muslim fighters in the world.

More routine exports of weaponry reverberated powerfully, too, though they lacked the éclat of a John Le Carré novel. The F-16 deal to Turkey was the largest export of any weapon worldwide, and by 1989 the Fighting Falcons were in the skies over the Kurdish precincts of Turkey and Iraq. Supplies to Egypt, Jordan, Saudi Arabia, and Israel kept the arms race started during the Nixon years going at full steam. By 1988, exports to the Third World had risen to $12 billion. Secretary of State George Shultz was urging more exports, prompting one Florida congressman to ask on the floor of the House, “Don’t we have any policy other than arms sales and Stingers?” One answer was the balance-of-power “diplomacy” in the gulf: covertly supply Iraq with weapons and military intelligence, while overtly giving it financial credits and political credibility.

The Reagan rearmament was most closely identified with the buildup of American forces, and here, too, the results of the 1980s were dreadful.

All the spending did not increase America’s readiness as promised. Some knowledgeable analysts show that the amount of weaponry in the U.S. arsenal, the capability of that weaponry, and the training of our forces scarcely increased at all. Said one analyst: “The Reagan Pentagon has spent 150 percent more for armored vehicles than Carter did, but gotten only 30 percent more of them. Reagan has spent 90 percent more for missiles, but gotten only 6 percent more missiles; spent 75 percent more for aircraft, but gotten only 9 percent more.” If readiness and technology were not obviously improving, the dollars flowing into the defense industry were obviously increasing. Among the biggest winners were the aerospace companies, which realized a 27 percent profit in 1984, to cite one typical year, considerably higher than the 11 percent earned by all manufacturing. Most of that money, moreover, went to products that were not consumable, but did pump wages into the economy at a record rate, going from 4.9 percent of the gross national product in 1979 to 6.6 percent in the late 1980s. Such spending exerted a strong inflationary pressure (more wages without more products to buy bids up prices), keeping interest rates artificially high.
and retarding nondefense economic activity by about one percentage point each year. The enormous budget deficits incurred for the rearmament also jacked up interest rates and swallowed capital that might have been used for civilian economic growth.

When the drawdown began shortly after Reagan rode off into the California sunset, the impact on the workers who had been drawn into the defense industry was stunning. More than a million jobs would disappear over the next several years. Thousands of subcontractors would be particularly hard hit, but the “primes” would also be rocked. One could regard this as a “normal” economic cycle, and note that the million disappearing jobs represented just one percentage point of total employment in the country. It was occurring just as the phenomenon of wage stagnation was discovered, and is one of that problem’s main contributors.

Blue-collar workers at places like Sikorsky, Pratt, Lockheed, and the Stratford Army Engine Plant were paid a higher hourly wage than virtually anyone else in manufacturing. With the rest of the smokestack industries declining, military factories offered the last good assembly-line jobs left in America, especially in the Northeast. The laid-off sheet-metal workers, welders, machinists, engineers, and other skilled men and women would not easily find jobs elsewhere. They were the industrial backbone of the Cold War effort, and all the mythology of the “twilight struggle” accrued to them as well as the uniformed services. And they were unionized, with powerful representation in the Democratic Party to complement the natural sympathy for them found among more conservative politicians.

So the defense drawdown created unique pressures on politicians. Sudden large-scale job losses in a district are the most devastating possible political blow to a member of Congress, and such catastrophes are all the more shattering when the loss comes from a federal contractor. Representatives are expected to do something about such losses, and they are held accountable in ways that a large layoff from a private concern like IBM or AT&T would not stimulate.

The Reagan rearmament created these pressures and expectations. The endless speculation about how to soften the fall in military spending, how to maintain the “defense industrial base,” how to retrain workers for manufacturing jobs that did not exist — all of this was the consequence of an unnecessary and costly buildup to defeat a foe who was tottering anyway.

By 1989, when the Wall came down and the Bush administration, no enemy of a strong military, was forced to cut procurement sharply, the politicians knew what lay ahead. Since few in Washington had the vision or courage to plan for an industrial transition to other kinds of manufacturing, the alternatives were only too apparent: layoffs or exports. To just about any politician, the choice was easy.
May 8, 2000

Seeing the System: Alan Greenspan, Unemployment, and the Validation of Radical Analysis

by Tim Wise

“What’s the difference between a radical and a liberal?” It is a question I’m regularly asked at lectures, usually by college students struggling with their own sense of the world, trying desperately to figure out where they stand on the seemingly endless spectrum from right to left. Often it is put to me by College Democrat types: folks who are frustrated by their party’s lack of commitment to social and economic justice, but who can’t quite bring themselves to break with the group they consider the only alternative to the far right.

Usually, I answer the question in the fairly predictable way: by explaining that at the most basic level, the difference between radicals and liberals is one of focus, and where one places the crux of the blame for our current predicament, whatever that might be. In terms of economics, liberals tend to believe that the larger system of which we are a part is basically just, and that injustices and negative goings-on within that system are mere unintended consequences of an otherwise well-oiled and beneficent machine: a little tinkering here, a little reform there, perhaps a little more money for those at the bottom, and everything will basically be O.K.

On the other hand, the radical believes that the system itself is the problem: in terms of economics this means that the system of profit does not create hardship as the unfortunate sidelight of an otherwise warm-and-fuzzy social order; rather, we believe that the pain experienced by people under such a system is very much inherent to that system, and is in fact required by it in order to function. People are out of work in such a system, and thus poor and even destitute, not because the system is breaking down; but indeed, because it is working exactly as intended.

Now at first, this is an analysis that most don’t want to accept. And that’s no surprise, as “seeing the system” goes against everything most of us have been taught since we were young: the idea that one can be whatever one wants if one simply tries hard enough and plays by the rules. The notion of the U.S. as a pure meritocracy where individual failings are just that — individual — is a very seductive ideological posture, and one that few have ever subjected to real challenge.

The good thing for those of us who are radicals however, is that every now and then we get a little help in proving the larger point from the most unlikely of sources, and this week was no exception. For as I write this, Americans have
just been told that we must brace for a ratcheting up of interest rates: three times in one day as we enter May, and another likely hike in the middle of the month. And why? Well, as Federal Reserve Chair Alan Greenspan explains, the economy is too healthy, unemployment has fallen too low, and wages — God forbid — have started to inch upward for too many, thereby raising the specter of dreaded price hikes. As such, it has now become necessary according to the worldview of the Fed — one that is shared by all major players in both the Democratic and Republican parties and certainly by their Presidential candidates — to raise the cost of borrowing money, thereby cooling off the expansion and hiring spree, and perhaps even nudging the unemployment numbers back up a bit.

But wait: what was that? Intentionally slowing down job and wage growth? Intentionally doing something to push unemployment up — and thus, put folks out of work? Exactly right, and thus, it is Alan Greenspan who has demonstrated this week the accuracy of radical analysis as to the nature of the economy under which we labor and live. This former devotee of the market-worshipping, pseudo-intellectual cultist, Ayn Rand, now demonstrating clearly that pain and suffering, low wages and poverty are not the result of individual moral failings or a decline in the Protestant work ethic, but rather, are built-in to the nature of modern capitalism.

The fact that wages for most workers are still at lower real dollar values than they were in the late 1970s, or that most of the wage gains have been at the top of the employment structure and that over 40 million working people still lack health insurance is of no consequence: according to Greenspan, things are too good for too many people, and now it is time to tighten our monetary belt. But what does it all mean, outside the confines of economists' models and reserve bank meeting rooms?

Well consider this: when the Labor Department says the unemployment rate is 3.9 percent — the current official rate and a 30-year low — this is hardly an accurate depiction of the joblessness picture in the U.S. After all, the official unemployment rate doesn’t include those who have grown so discouraged by their job prospects that they’ve stopped looking for work, nor does it include the many who work only seasonally and so they don’t actively seek employment for much of the year, nor does it count those persons who are able to pull down only a handful of hours — perhaps temping — and instead counts these as if they were every bit as employed as the full-time salaried employee. If these persons were counted in an official unemployment/underemployment rate, the number of such folks would at least double, coming to around 8%, or perhaps even as high as 10%. That the Labor Department does in fact keep this number — called the U-7 rate but never reported to the general population — is only further confirmation that the propaganda system in this land requires intentional obfuscation of the true state of economic affairs.
And so it is essentially a matter of official monetary policy to maintain unemployment at around 8-10% of the potential workforce — around 9-11 million people in all — so as to keep the economy from “overheating,” which really means to keep wages from rising too high, thereby forcing companies to either raise prices or suffer a loss of profitability as workers pocket more of the value produced by their output. If we assume that many of these 9-11 million unemployed and underemployed persons have dependents, and that lacking steady income they likely also lack bankable wealth-producing reserves to call on in hard times, it is fair to estimate that over 20 million Americans are stuck in the ranks of the poor and near-poor thanks to the conscious decisions of economic elites to keep them there.

The doors that this simple and readily apparent fact of American life has the power to open are substantial: after all, if people are out of work and poor (and thus, often in need of public assistance) because of a deliberate economic policy; and if, indeed, the destitution of these individuals is something which is required so that the rest of us may enjoy lower prices by maintaining a certain degree of slackness in labor markets, then not only should we not disparage the poor for their poverty, but indeed, we should perhaps consider them among our most noble citizens: sacrificing their own good for the well-being of us all.

To witness what the Fed is doing this summer to interest rates — all because workers are supposedly doing too well — is to witness perhaps one of the central organizing issues of the new decade: simply put, that working people are hurting and will continue to hurt in this system so long as the interests of the owning class are put ahead of those of everyone else. As long as jobs and wages are seen as zero-sum games — and profit maximization seen as the ultimate goal of a national economic policy — working people will continue to be played off against one another, rotating in and out of financial instability. To highlight the structural nature of economic hardship — and the Fed’s actions make this much easier for radicals to do effectively — is to provide a new way of discussing so many of our most vexing political and social issues. It is to allow citizens to potentially rethink their stereotypical and negative views about the poor, about people of color (blamed for “taking” jobs from whites), and the real sources of whatever pain and insecurity they may be experiencing in their lives. It is to launch a frontal assault against the myth of meritocracy and the “magic” of the marketplace, and it is to make clear the overlapping world views of the two dominant political parties in America: a clarity that will be desperately needed if we are ever to build an effective alternative to the status quo.

So this week, let those of us who are radicals do something we probably never expected to find ourselves doing: thanking Alan Greenspan for making the nature of our economic beast more apparent than any army of sociologists could ever hope to do. And let us go forward, using the facts pulled from the
very headlines of the mainstream press, as we strive to make the public “see the system” for what it is so they may join in an effort to replace it.

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Challenging Corporate Power, Asserting the People’s Rights
Session VIII — Global Corporatization

“If we will not endure a king as a political power, we should not endure a king over the production, transportation, and sale of any of the necessities of life. If we would not submit to an emperor, we should not submit to an autocrat of trade.”

— from Robert La Follette’s 1911 autobiography

Corporate capitalism and its protection by government “security forces” aren’t new, but under the past two decades of influence from the World Bank and International Monetary Fund, their destructive impacts have increased dramatically. Multinational corporations now comprise half the world’s 100 largest economies, and the World Trade Organization epitomizes institutionalized power and protection on a global scale. In response to the loss of their homes, jobs, and even lives, the peoples of the world have not stood idly by — from the Chiapas uprising at the dawn of NAFTA to Indian farmers burning fields of genetically modified crops to French farmers bulldozing a McDonald’s.

None of this made headline news in the US until November 1999, when more than 50,000 people took over the streets of Seattle, helping to prevent the WTO Ministerial gathering from negotiating more global trade rules. Inspired by Seattle, similar protests have continued to take place against the WTO, IMF, World Bank, and other institutions of global power throughout the US and other parts of the world. These struggles on the streets and at the teach-ins, marches, meetings, rallies, and seminars are developing new strategic alliances among labor, human rights, environment, student, farming, peace and justice, and many more activists, and they signal a growing global people’s movement. The hopes raised make it all the more important to ground our energy and efforts in an understanding of the forces of corporate and state oppression.

Readings:
1 – “Free Trade: The Great Destroyer,” by David Morris, from The Case Against the Global Economy (5 pgs)
2 – “Globalization and the Poor,” by Amitabh Pal (1 page)
3 – “A Choice for the Nice Conspirators,” by Caroline Lucas (1 page)
4 – “WTO: Militarism Goes Global,” by Molly Morgan (4 pages)
5 – “Globalization from Below,” by Jeremy Brecher, Tim Costello, and Brendan Smith (3 pages)
6 – “Corporate Cash” flyer (1 page; not available on website)
7 – “The Party of Davos. The Ruling Class Depends on US Power- Which is slipping into crisis” by Jeff Faux (7 pages)

Discussion Questions:
1. Some people have held that capitalism and democracy go hand in hand. Comment from both a US and global perspective. What is the impact of conflating these terms in public discussion?

2. What institutions and forces have propelled the global expansion of corporate capitalism? How do they work? Who benefits, who loses, and why?

3. How does building an export-oriented economy affect the ability to develop democracy?
What is the impact on a community when its customers are on the other side of the world instead of the other side of town? What is the impact on the environment of this system?

4. Discuss the evolution of corporate power from its roots, discussed in Session II, to today’s global system. What basic elements of the system are the same, and which ones are different? Include the role of militarism in your discussion.

Supplementary Materials:

- *The Corporate Consensus: A Guide to the Institutions of Global Power*, by George Draffan. Consists of two sections: Part I is an essay called “The Dynamics of Power,” an excellent and comprehensive overview of the system of global corporate power. Part II is “Profiles in Corporate Power,” a detailed description of the major think tanks and influential organizations in US and global politics (e.g., Brookings Institution, Cato Institute, Heritage Foundation, International Chamber of Commerce, RAND) and how they work. Published by the Blue Mountains Biodiversity Project, HCR 82, Fossil, OR 97830. 114 pages (standard 8.5x11 size), October 2000, $5. Also available on the web at www.endgame.org (and there is a lot of other good resource material at this website as well).


- “By What Authority!” a pamphlet by Tony Clarke. Explains key agreements of the WTO, how some of the corporations benefit from them, and what some of the key issues and impacts are. Available from the Polaris Institute, 4 Jeffrey Avenue, Ottawa, ON K1K 0E2 CANADA, 613.746.8374, tclark@web.net. 36 pages (approximately 18 standard 8.5x11 pages).


- “Women Define Globalization: A Discussion Paper,” from WILPF, 1998. This international collaboration is 36 A4 pages (European standard, approximately equivalent to US 8.5x11). Describes the elements of capitalist globalization (economics and labor, science and technology, communications and media, militarism, governance and politics, social effects) and their social effects; also explores alternatives and people’s movements. $10 (proceeds benefit international WILPF).

- “False Profits: Who Wins, Who Loses when the IMF, World Bank and WTO Come to Town,” a pamphlet co-sponsored by 20 organizations. Explains how the IMF, World, Bank, and WTO work and the impacts of their policies on developing countries, women, workers, people of color, the environment, and children. 26 pages (equivalent of about 10 standard 8.5x11 pages). Available from Booklets/Campaign for Labor Rights, 1247 E Street SE, Washington, DC 20003, 541.344.5410, clr@igc.org.

collectives and the Independent Media Center). 137 minutes (five segments, each approximately one-half hour long); a shorter version is also available.

- “This is What Democracy Looks Like” (videotape). Documentary produced by over 100 media activists about the WTO protest in Seattle, narrated by Susan Sarandon and Michael Franti. The Independent Media Center, 1415 Third Avenue, Seattle, WA 98101, 206.262.0721, info@thisisdemocracy.org. 69 minutes.

- “Global Village or Global Pillage” (videotape). Documentary exploring what the global economy means for ordinary people — and what they are doing about it. Narrated by Edward Asner. World Economy Project, Preamble Center, 1737 21st Street, NW, Washington, DC 20009, phone: 202.265.3263 ext: 232, fax: 202/234-0981, e-mail: wep@preamble.org. Make checks payable to Preamble Center; $25 per copy ($10 students and low-income; can also be downloaded from the website: www.villageorpillage.org). 28 minutes.

- “Trading Democracy” (videotape). PBS documentary by Bill Moyers; first aired in February, 2002. Explains how NAFTA works and examines its effects in the US, Mexico, and Canada, with particular focus on Chapter 11 (the investor rights clause). Available from PBS (www.pbs.org); one hour.


- *One Market, Under God: Extreme Capitalism, Market Populism and the End of Economic Democracy*, by Thomas Frank. Explores the way US leaders in the 1990s came to believe that markets express the popular will more meaningfully than elections, and in the process changed and came to control the whole concept of populism and who “the people” were rebelling against. Doubleday, 2000.

Free Trade
The Great Destroyer
David Morris

David Morris has been one of the most widely quoted critics of the new free trade agreements, arguing his case on the grounds of environmental harm and the devastating effects upon local communities. Morris is director and vice president of the Institute for Local Self-Reliance (ISLR) in Minneapolis, a research and educational organization that provides technical assistance and information on environmentally sustainable economic practices. ISLR works with citizen groups, governments, and businesses to develop policies that extract maximum economic value from resources drawn and used locally.

Free Trade is the religion of our age. With its heaven as the global economy, free trade comes complete with comprehensive analytical and philosophical underpinnings. Higher mathematics are used in stating its theorems. But in the final analysis, free trade is less an economic strategy than a moral doctrine. Although it pretends to be value-free, it is fundamentally value-driven. It assumes that the highest good is to shop. It assumes that mobility and change are synonymous with progress. The transport of capital, materials, goods, and people takes precedence over the autonomy, the sovereignty, and, indeed, the culture of local communities. Rather than promoting and sustaining the social relationships that create a vibrant community, the free trade theology relies on a narrow definition of efficiency to guide our conduct.

THE POSTULATES OF FREE TRADE

For most of us, after a generation of brain washing about its supposed benefits, the tenets of free trade appear almost self-evident:

- Competition spurs innovation, raises productivity, and lowers prices.
- The division of labor allows specialization, which raises productivity and lowers prices.
- The larger the production unit, the greater the division of labor and specialization, and thus the greater the benefits.

The adoration of bigness permeates all political persuasions. The Treasury Department proposes creating five to ten giant U.S. banks. “If we are going to be competitive in a globalized financial services world, we are going to have to change our views on the size of American institutions,” it declares. The vice chair of Citicorp warns us against “preserving the heartwarming idea that 14,000 banks are wonderful for our country.” The liberal Harper’s magazine agrees: “True, farms have gotten bigger, as has nearly every other type of economic enterprise. They have done so in order to take advantage of the economies of scale offered by modern production techniques.” Democratic presidential adviser Lester Thurow criticizes antitrust laws as an “old Democratic conception [that] is simply out of date.” He argues that even IBM, with $50 billion in sales, is not big enough for the global marketplace. “Big companies do sometimes crush small companies,” Thurow concedes, “but far better that small American companies be crushed by big American companies than that they be crushed by foreign companies.” The magazine In These Times, which once called itself an independent socialist weekly, concluded, “Japanese steel companies have been able to outcompete American steel companies partly by building larger plants.”

The infatuation with large-scale systems leads logically to the next postulate of free trade: the need for global markets. Anything that sets up barriers to ever-wider markets reduces the possibility of specialization and thus raises costs, making us less competitive.

The last pillar of free trade is the law of comparative advantage, which comes in two forms: absolute and relative. Absolute comparative advantage is easier to understand. Differences in climate and natural resources suggest that Guatemala should raise bananas and Minnesota should raise walleyed pike. Thus, by specializing in what they grow best, each region enjoys comparative advantage in that particular crop. Relative comparative advantage is a less intuitive but ultimately more powerful concept. As the nineteenth-century British economist David Ricardo, the architect of free trade economics, explained: “Two men can both make shoes and hats and one is superior to the other in both employments; but in making hats he can only exceed his competitor by one-fifth or 20 percent, and in making shoes he can exceed him by one-third or 33 percent. Will it not be for the interest of both that the superior man should employ himself exclusively in making shoes and the inferior man in making hats?”

Thus, even if one community can make every product more efficiently than another, it should specialize only in those items it produces most efficiently, in relative terms, and trade for others. Each community, and ultimately each nation, should specialize in what it does best.

What are the implications of these tenets of free trade? That communities and nations abandon self-reliance and embrace dependence. That we abandon our
companies, only European supracorporations. The U.S., Canadian, and Mexican
being abolished. Increasingly, there are neither Italian nor French nor German
ten in the 1970s to sixteen today, and barriers between these nations are rapidly
was “to get the Tennessee economy integrated with the Japanese economy.”
Alexander, former Republican Governor of Tennessee, agreed with Sajima’s
statement when he declared that the goal of his economic development strategy
was “to get the Tennessee economy integrated with the Japanese economy.”
The revised version of the American Dream is articulated by Stanley J. Mihelick, executive vice president for production at Goodyear: “Until we get real
wage levels down much closer to those of the Brazils and Koreas, we cannot pass
lawsuits — anything that raises the cost of production and makes a corporation
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was “to get the Tennessee economy integrated with the Japanese economy.”
In Europe, the Common Market has grown from six countries in the 1950s to
ten in the 1970s to sixteen today, and barriers between these nations are rapidly
being abolished. Increasingly, there are neither Italian nor French nor German
companies, only European supracorporations. The U.S., Canadian, and Mexican
governments formed NAFTA to merge the countries of the North American
continent economically.
Promotion of exports is now widely accepted as the foundation for a successful
economic development program. Whether for a tiny country such as Singapore or
a huge country such as the United States, exports are seen as essential to a
nation’s economic health.
Globalism commands our attention and our resources. Our principal task, we
are told, is to nurture, extend, and manage emerging global systems. Trade talks
are on the top of everybody’s agenda, from Yeltsin to Clinton. Political leaders
strive to devise stable systems for global financial markets and exchange rates.
The best and the brightest of this generation use their ingenuity to establish the
global financial and regulatory rules that will enable the greatest uninterrupted
flow of resources among nations.
The emphasis on globalism rearranges our loyalties and loosens our neighborly
ties. “The new order eschews loyalty to workers, products, corporate structure,
businesses, factories, communities, even the nation,” the New York Times
announces. Martin S. Davis, chair of Gulf and Western, declares, “All such
allegiances are viewed as expendable under the new rules. You cannot be
emotionally bound to any particular asset.”
We are now all assets.
Jettisoning loyalties isn’t easy, but that is the price we believe we must pay to
receive the benefits of the global village. Every community must achieve the
lowest possible production cost, even when that means breaking whatever
remains of its social contract and long-standing traditions.
The revised version of the American Dream is articulated by Stanley J.
Mihelick, executive vice president for production at Goodyear: “Until we get real
wage levels down much closer to those of the Brazils and Koreas, we cannot pass
along productivity gains to wages and still be competitive.”
Wage raises, environmental protection, national health insurance, and liability
lawsuits — anything that raises the cost of production and makes a corporation
less competitive threatens our economy. We must abandon the good life to sustain
the economy. We are in a global struggle for survival. We are hooked on free
trade.

THE DOCTRINE FALTERS

At this very moment in history, when the doctrines of free trade and globalism are
so dominant, the absurdities of globalism are becoming more evident. Consider
the case of the toothpick and the chopstick.
A few years ago I was eating at a St. Paul, Minnesota, restaurant. After lunch, I
picked up a toothpick wrapped in plastic. On the plastic was printed the word
Japan. Japan has little wood and no oil; nevertheless, it has become efficient enough in our global economy to bring little pieces of wood and barrels of oil to Japan, wrap the one in the other, and send the manufactured product to Minnesota. This toothpick may have traveled 50,000 miles. But never fear, we are now retaliating in kind. A Hibbing, Minnesota, factory now produces one billion disposable chopsticks a year for sale in Japan. In my mind’s eye, I see two ships passing one another in the northern Pacific. One carries little pieces of Minnesota wood bound for Japan; the other carries little pieces of Japanese wood bound for Minnesota. Such is the logic of free trade.

Nowhere is the absurdity of free trade more evident than in the grim plight of the Third World. Developing nations were encouraged to borrow money to build an economic infrastructure in order to specialize in what they do best (comparative advantage, once again) and thereby expand their export capacity. To repay the debts, Third World countries must increase their exports.

One result of these arrangements has been a dramatic shift in food production from internal consumption to export. Take the case of Brazil. Brazilian production of basic foodstuffs (rice, black beans, manioc, and potatoes) fell 13 percent from 1977 to 1984. Per capita output of exportable foodstuffs (soybeans, oranges, cotton, peanuts, and tobacco) jumped 15 percent. Today, although some 50 percent of Brazil suffers malnutrition, one leading Brazilian agronomist still calls export promotion “a matter of national survival.” In the global village, a nation survives by starving its people.

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What about the purported benefits of free trade, such as higher standards of living?

It depends on whose standards of living are being considered. Inequality between and, in most cases, within countries has increased. Two centuries of trade has exacerbated disparities in world living standards. According to economist Paul Bairoch, per capita GNP in 1750 was approximately the same in the developed countries as in the underdeveloped ones. In 1930, the ratio was about 4 to 1 in favor of the developed nations. Today it is 8 to 1.

Inequality is both a cause and an effect of globalism. Inequality within one country exacerbates globalism because it reduces the number of people with sufficient purchasing power; consequently, a producer must sell to wealthy people in many countries to achieve the scale of production necessary to produce goods at a relatively low cost. Inequality is an effect of globalism because export industries employ few workers, who earn disproportionately higher wages than their compatriots, and because developed countries tend to take out more capital from Third World countries than they invest in them.

Free trade was supposed to improve our standard of living. Yet even in the United States, the most developed of all nations, we find that living standards have been declining since 1980. More dramatically, according to several surveys, in 1988 U.S. workers worked almost half a day longer for lower real wages than they did in 1970. We who work in the United States have less leisure time in the 1990s than we had in the 1790s.

A NEW WAY OF THINKING

It is time to re-examine the validity of the doctrine of free trade and its creator, the planetary economy. To do so, we must begin by speaking of values. Human beings may be acquisitive and competitive, but we are also loving and cooperative. Several studies have found that the voluntary, unpaid economy may be as large and as productive as the paid economy.

There is no question that we have converted more and more human relationships into commercial transactions, but there is a great deal of question as to whether this was a necessary or beneficial development. We should not confuse change with progress. Bertrand Russell once described change as inevitable and progress as problematic. Change is scientific. Progress is ethical. We must decide which values we hold most dear and then design an economic system that reinforces those values.

REASSESSING FREE TRADE’S ASSUMPTIONS

If price is to guide our buying, selling, and investing, then price should tell us something about efficiency. We might measure efficiency in terms of natural resources used in making products and the lack of waste produced in converting raw material into a consumer or industrial product. Traditionally, we have measured efficiency in human terms; that is, by measuring the amount of labor-hours spent in making a product.

But price is actually no measure of real efficiency. In fact, price is no reliable measure of anything. In the planetary economy, the prices of raw materials, labor, capital, transportation, and waste disposal are all heavily subsidized. For example, wage-rate inequities among comparably skilled workforces can be as disparate as 30 to 1. This disparity overwhelms even the most productive worker. An American worker might produce twice as much per hour as a Mexican worker but is paid ten times as much.

In Taiwan, for example, strikes are illegal. In South Korea, unions cannot be organized without government permission. Many developing nations have no minimum wage, maximum hours, or environmental legislation. As economist
Howard Wachtel notes, “Differences in product cost that are due to totalitarian political institutions or restrictions on economic rights reflect no natural or entrepreneurial advantage. Free trade has nothing to do with incomparable political economic institutions that protect individual rights in one country and deny them in another.”

The price of goods in developed countries is also highly dependent on subsidies. For example, we in the United States decided early on that government should build the transportation systems of the country. The public, directly or indirectly, built our railroads, canals, ports, highways, and airports.

Heavy trucks do not pay taxes sufficient to cover the damage they do to roads. California farmers buy water at as little as 5 percent of the going market rate; the other 95 percent is funded by huge direct subsidies to corporate farmers. In the United States, society as a whole picks up the costs of agricultural pollution. Having intervened in the production process in all these ways, we then discover it is cheaper to raise produce near the point of sale.

Prices don’t provide accurate signals within nations; they are not the same as cost. **Price** is what an individual pays; **cost** is what the community as a whole pays. Most economic programs in the industrial world result in an enormous disparity between the price of a product or service to an individual and the cost of that same product or service to the society as a whole.

When a U.S. utility company wanted to send electricity across someone’s property, and that individual declined the honor, the private utility received governmental authority to seize the land needed. This is exactly what happened in western Minnesota in the late 1970s. Since larger power plants produced electricity more cheaply than smaller ones, it was therefore in the “public interest” to erect these power lines. If landowners’ refusal to sell had been respected, the price of electricity would be higher today, but it would reflect the cost of that power more accurately.

Because the benefit of unrestricted air transportation takes precedence over any damage to public health and sanitation, communities no longer have the authority to regulate flights and noise. As a consequence, airplanes awaken us or our children in the middle of the night. By one survey, some four million people in the United States suffer physical damage due to airport noise. If communities were given the authority to control noise levels by planes, as they already control noise levels from radios and motorcycles, the price of a plane ticket would increase significantly. Its price would be more aligned with its actual cost to society.

It is often hard to quantify social costs, but this doesn’t mean they are insignificant. **Remember urban renewal?** In the 1950s and 1960s inner-city neighborhoods were leveled to assemble sufficient land area to rebuild our downtowns. Skyscrapers and shopping malls arose; the property tax base expanded; and we considered it a job well done. Later, sociologists, economists, and planners discovered that the seedy areas we destroyed were not fragmented, violence-prone slums but more often cohesive ethnic communities where generations had grown up and worked and where children went to school and played. If we were to put a dollar figure on the destruction of homes, the pain of broken lives, and the expense of relocation and re-creation of community life, we might find that the city as a whole actually lost money in the urban renewal process. If we had used a full-cost accounting system, we might never have undertaken urban renewal.

Our refusal to understand and count the social costs of certain kinds of development has caused suffering in rural and urban areas alike. In 1944, Walter Goldschmidt, working under contract with the Department of Agriculture, compared the economic and social characteristics of two rural California communities that were alike in all respects, except one. Dinuba was surrounded by family farms; Arvin by corporate farms. Goldschmidt found that Dinuba was more stable, had a higher standard of living, more small businesses, higher retail sales, better schools and other community facilities, and a higher degree of citizen participation in local affairs. The USDA invoked a clause in Goldschmidt’s contract forbidding him to discuss his finding. The study was not made public for almost thirty years. Meanwhile, the USDA continued to promote research that rapidly transformed the Dinubas of our country into Arvins. The farm crisis we now suffer is a consequence of this process.

How should we deal with the price-versus-cost dilemma as a society? Ways do exist by which we can protect our lifestyle from encroachment by the global economy, achieve important social and economic goals, and pay about the same price for our goods and services. In some cases we might have to pay more, but we should remember that higher prices may be offset by the decline in overall costs. Consider the proposed Save the Family Farm legislation drafted by farmers and introduced in Congress several years ago by Iowa Senator Tom Harkin. It proposed that farmers limit production of farm goods nationwide at the same time as the nation establishes a minimum price for farm goods that is sufficient to cover operating and capital costs and provides farm families with an adequate living. The law’s sponsors estimate that such a program would increase the retail cost of agricultural products by 3 to 5 percent, but the increase would be more than offset by dramatically reduced public tax expenditures spent on farm subsidies. And this doesn’t take into consideration the cost benefits of a stable rural America: fewer people leaving farms that have been in their families for generations; less influx of jobless rural immigrants into already economically depressed urban areas; and fewer expenditures for medical bills, food stamps, and welfare.

Economists like to talk about externalities. The costs of job dislocation, rising family violence, community breakdown, environmental damage, and cultural collapse are all considered “external.” **External** to what, one might ask?

The theory of comparative advantage itself is fast losing its credibility. Time
was when technology spread slowly. Three hundred years ago in northern Italy, stealing or disclosing the secrets of silk-spinning machinery was a crime punishable by death. At the beginning of the Industrial Revolution, Britain protected its supremacy in textile manufacturing by banning both the export of machines and the emigration of men who knew how to build and run them. A young British apprentice, Samuel Slater, brought the Industrial Revolution to the United States by memorizing the design of the spinning frame and migrating here in 1789.

Today, technology transfer is simple. According to Dataquest, a market research firm, it takes only three weeks after a new U.S.-made product is introduced before it is copied, manufactured, and shipped back to the U.S. from Asia. So much for comparative advantage.

THE EFFICIENCIES OF SMALL SCALE

This brings us to the issue of scale. There is no question that when I move production out of my basement and into a factory, the cost per item produced declines dramatically. But when the factory increases its output a hundredfold, production costs no longer decline proportionately. The vast majority of the cost decreases are captured at fairly modest production levels.

In agriculture, for example, the USDA studied the efficiency of farms and concluded, “Above about $40-50,000 in gross sales — the size that is at the bottom of the end of medium sized sales category — there are no greater efficiencies of scale.” Another USDA report agreed: “Medium sized family farms are as efficient as the large farms.”

Harvard Professor Joseph Bain’s pioneering investigations in the 1950s found that plants far smaller than originally believed can be economically competitive. Further, it was found that the factory could be significantly reduced in size without requiring major price increases for its products. In other words, we might be able to produce shoes for a region rather than for a nation at about the same price per shoe. If we withdrew government subsidies to the transportation system, then locally produced and marketed shoes might actually be less expensive than those brought in from abroad.

Modern technology makes smaller production plants possible. For instance, traditional float glass plants produce 550 to 600 tons of glass daily, at an annual cost of $100 million. With only a $40 to 50 million investment, new miniplants can produce about 250 tons per day for a regional market at the same cost per ton as the large plants.

The advent of programmable machine tools may accelerate this tendency. In 1980, industrial engineers developed machine tools that could be programmed to reproduce a variety of shapes so that now a typical Japanese machine tool can make almost one hundred different parts from an individual block of material.

What does this mean? Erich Bloch, director of the National Science Foundation, believes manufacturing “will be so flexible that it will be able to make the first copy of a product for little more than the cost of the thousandth.” “So the ideal location for the factory of the future,” says Patrick A. Toole, vice president for manufacturing at IBM, “is in the market where the products are consumed.”

CONCLUSION

When we abandon our ability to produce for ourselves, when we separate authority from responsibility, when those affected by our decisions are not those who make the decisions, when the cost and the benefit of production or development processes are not part of the same equation, when price and cost are no longer in harmony, we jeopardize our security and our future.

You may argue that free trade is not the sole cause of all our ills. Agreed. But free trade as it is preached today nurtures and reinforces many of our worst problems. It is an ideological package that promotes ruinous policies. And, most tragically, as we move further down the road to giantism, globalism, and dependence, we make it harder and harder to back up and take another path. If we lose our skills, our productive base, our culture, our traditions, our natural resources; if we erode the bonds of personal and familial responsibility, it becomes ever more difficult to recreate community. It is very, very hard to put Humpty Dumpty back together again.

Which means we must act now. The unimpeded mobility of capital, labor, goods, and raw materials is not the highest social good. We need to challenge the postulates of free trade head on, to propose a different philosophy, to embrace a different strategy. There is another way. To make it the dominant way, we must change the rules; indeed, we must challenge our own behavior. And to do that requires not only that we challenge the emptiness of free trade but that we promote a new idea: economics as if community matters.
Globalization and the poor

By AMITABH PAL

Last week, the United Nations reported a stark figure. The percentage of people around the world living in absolute poverty has increased from 17 percent to 19 percent in the last five years. That total amounts to 1.2 billion people living in absolute poverty — a per capita income of less than a dollar a day. The number has increased by 200 million. An additional 1.6 billion people live on less than $2 a day. That’s almost half the world’s population in destitution.

This is an intolerable situation. And it is brought on, in part, by the very forces of globalization that win praise in the West.

“Clearly at the moment, millions of people, perhaps even a majority of the human race, are being denied” the benefits of globalization, U.N. Secretary-General Kofi Annan said at a U.N. conference in Geneva, which was convened to grapple with global poverty.

The policies governments put in place to practice globalization often come at a severe cost. When governments slash spending to balance their budgets, it can mean denial of much-needed education and health care and the cutting back of subsidies on such basic goods as food and fuel. When governments close public enterprises, it means the laying off of legions of workers in countries that often have few other job opportunities and no unemployment benefits.

When governments liberalize trade, it means the closing down of local small-scale industries and farms that can’t survive competition from large corporations and agribusinesses abroad.

When governments make their currencies fully convertible, it puts their economies at the mercy of currency traders based in the West, as happened during the Asian economic crisis in the late 1990s.

When governments liberalize trade, it often means the closing down of local small-scale industries and farms that can’t survive competition from large corporations and agribusinesses abroad.

But don’t tell that to the high priests of globalization — the World Bank, the International Monetary Fund and the U.S. Treasury Department.

Like true believers, they keep on forcing their globalization formula down the throats of Third World countries, regardless of the results. And the results are apparent in countries around the world.

In India, the latest official poverty figures show that poverty levels have stagnated over the past decade of free-market economic reforms, in spite of high growth. This is a marked contrast to the 1970s and 1980s, when the inward-looking interventionist policies of India’s governments reduced the proportion of India’s poor at a steady clip.

According to the U.N. Economic Commission for Latin America and the Caribbean, the percentage of poor people in that region is higher today than in 1980, before it entered two decades of free-market restructuring so beloved by successive U.S. administrations.

Countries in sub-Saharan Africa have also seen poverty rates stagnate even while their economies have opened up. What can be done to ensure that more and more people around the world do not join the ranks of the destitute?

First, the World Bank and the IMF should let countries follow their own economic path rather than beat them over the head with free-market prescriptions. Countries like China and India were spared much of the effects of the Asian economic crisis because, contrary to World Bank and IMF advice, they did not make their currencies fully convertible.

Second, debt relief should be granted immediately. The debt developing countries carry severely impinges upon their ability to help their poor. For instance, Uganda spends five times as much on debt repayment as it does on health care, this in a country where one of every four kids dies from a preventable disease, according to “Field Guide to the Global Economy” (New Press, 2000).

Third, developed nations need to provide more aid with less strings. Scandinavian countries are the most generous, giving at least 0.7 percent of their gross domestic product as aid. The United States is the stingiest Western country by this criterion, giving less than 0.1 percent of its gross domestic product.

At Geneva, Kofi Annan urged the nations of the world to do battle against the “human misery” caused by poverty. He is absolutely right. We cannot sit back and watch more and more people be driven to extreme destitution.

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A choice for the Nice conspirators

Caroline Lucas  
Guardian, Monday, December 4, 2000

The tedious wranglings between Europhiles and Europhobes over the enlargement of the EU tend to concentrate on esoteric debates over qualified majority voting and the composition of the European commission. This has provided a smokescreen to conceal what the enlargement process is really about.

The planned acceleration of the EU’s free market agenda eastwards has serious implications for the environmental and social condition of the entire continent.

A key driver has been the corporate sector, and in particular the little known European Roundtable of Industrialists, ERT. This consists of up to 45 captains of industry from large European transnational corporations. Virtually unnoticed, the ERT has played a central role in the shaping of the single market, the Maastricht treaty and, more recently, the single currency. For them, enlargement offers an enormous market, as well as a reservoir of cheap skilled labour.

Market enlargement has frequently been at the cost of environmental and social conditions across the countries of central and eastern Europe.

Slovak railways are a case in point. In 1998 the Slovak government announced a halving of the 50,000 staff in the rail sector, the country’s biggest employer. The next year it signed a loan agreement with the European Investment Bank, which resulted in a massive cut in state subsidies, a 30% rise in fares, and scaling back the rail network. Opponents were told bluntly by the president of the EIB, Brian Unwin, that such measures “mirror those agreed over recent years between the bank and virtually all railway companies” in the eastern European applicant countries.

This rundown of railways meeting local needs has made it potentially far more profitable for western companies to take over local firms. This, hand in hand with privatisation, has allowed global car companies to take over domestic car production, often involving huge tax breaks at the expense of the wider economy. The same process is evident in areas as diverse as banking in the Czech Republic, where international banks are expected to exceed 50% of market share by 2001, to the almost total western control of the beer industry in Hungary and Poland.

Such takeovers and foreign investments do not necessarily bring with them any lasting security. General Electric, for example, has globalised its operations by shifting production to low-wage countries, including eastern Europe. Company director Jack Welch has candidly remarked that “ideally you’d have every plant you own on a barge” — ready to move if national governments try to impose constraints, or if workers demand better wages and conditions. The company recently closed a factory in Turkey to move it to lower-wage Hungary. It has since threatened to close a factory in Hungary and move it to India.

At the Nice summit this week opponents will be in the streets to contest the EU’s present emphasis of restructuring and enlarging in pursuit of further globalisation. A different approach is beginning to emerge from opponents of globalisation and is featured in my report published today, From Seattle to Nice. This calls for the protection and rebuilding of local communities and economies in a way that encourages maximum social and environmental sustainability.

Emphasis in the current EU enlargement on competition for the cheapest must be replaced by cooperation for the best, emphasising the flow of ideas, technologies, culture and information, but with the end goal of strengthening local economies continent wide.

The choice facing decision makers in Nice is to pursue ever more deregulated trade and investment in an EU which sees itself as nothing other than a giant supermarket of 500m consumers, or to adopt a more ambitious vision of a Europe of genuine stability and cooperation, based on rebuilding sustainable local economies. We can only hope the latter approach prevails.

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WTO: Militarism Goes Global
– Molly Morgan

On November 30, 1999, 50,000 people in Seattle, Washington, successfully prevented about 3,000 trade delegates representing 135 countries from conducting their first day of trade talks at the meetings for the World Trade Organization (WTO). After a week of protests, which received daily international news coverage, this heretofore little-known organization suddenly became a household word.

The WTO has been in existence since 1995 and is the latest and most powerful development in a process of globalization that’s been evolving for hundreds (some say thousands) of years. This process has picked up considerable speed in recent decades due to significant technology developments and the astonishing growth in power and influence of the transnational corporations that increasingly control governments around the world.

The genesis of globalization’s modern era can be dated to July, 1944, when the world’s leading economists, politicians, bankers, and corporate executives met in Bretton Woods, New Hampshire. These men observed that trade conflicts were at the heart of both world wars and that collapse of economic systems had created the fascist states then wreaking havoc in Europe and Asia. To avoid repeating this phenomenon, they decided to replace the world’s patchwork of bilateral trade agreements with a centralized global economic system, led by private enterprise, that would spur worldwide economic development. (The United States was particularly well positioned to take advantage of this new system because it experienced no infrastructure damage during the war.) Over the next few years new institutions and rules were developed that offered greater mobility and new markets to large corporations.

The institutions that emerged from Bretton Woods became the World Bank, the International Monetary Fund (IMF), and the General Agreement on Tariffs and Trade (GATT), and they played a significant role in the rebuilding of Europe and Japan after WWII. Starting in 1948, the rules of GATT, which were mainly limited to manufactured goods, became the principal regulators of global trade. But over the next decade, progressives who were committed to these new institutions by a vision of world peace and prosperity gradually left or were driven out by the McCarthy inquisition. Trade became another weapon in the Cold War arsenal.

The scope of GATT was slowly expanded during the occasional rounds of negotiations held by member countries. In the 1970s corporations in the industrialized northern countries began to lobby even harder for greater access to the consumer markets, unregulated labor, and natural resources in the global south. Finally, after eight years of negotiations in the GATT Uruguay Round, the WTO was established in 1995. GATT and numerous other multilateral agreements were folded into the WTO, which administers those agreements, facilitates new trade negotiations, and oversees and enforces trade dispute resolution.

It is worth noting who was given access to the government delegations that conducted the negotiations to create the WTO. In the US over 500 corporations and business lobbyists were credentialed as trade advisors, but there were no organizations representing labor, the environment, consumers, human rights, social justice issues, or democratic sovereignty. The most important negotiations were conducted privately by a few of the most powerful and wealthy nations. Although many of the provisions were clearly biased against smaller, poorer nations and permitted unrestricted access by transnational corporations, if a country hesitated they were threatened with abandonment by the global trading system and reduced access to IMF and other international loans. This is how “consensus” is reached in the WTO, and most developing nations have paid a steep price for succumbing to these demands.

The approval process was similarly one-sided, which is why most people had never heard of the WTO before the protests in Seattle. In many countries a simple executive order approved the country’s participation in the WTO. In the US, the first lame duck Congress in 14 years was called; few members of Congress had
even read what they were voting on. Years of building a conservative, pro-business culture and a foundation of corporate power paid off, culminating in a capstone institution with an extreme bias for trade and privatization at the expense of people and planet.

The WTO is extraordinary because of the comprehensive nature of its power. Not only does it have executive, legislative, and judicial authority, it has enforcement power, which is rare in international law. One member country can challenge any law in another member country — federal, state, or local — as a barrier to trade. The WTO’s Dispute Settlement Body is comprised of corporate and trade lawyers and officials whose proceedings are required to be kept completely confidential — not even the attorney general of the state whose law is being challenged can be in the room, let alone the press or the public. Decisions on cases that go through the entire procedure are final; there is no outside appeals process. The losing country can either change its law, pay a perpetual fine, or accept severe retaliatory trade sanctions. This is far more powerful than the dispute system under GATT, in which any one country could block adoption of a case or enforcement of a decision.

Not surprisingly, under WTO the U.S. has initiated the greatest number of disputes, followed by the European Union. Nearly all cases have been decided in favor of the complainant country. It is expensive and time-consuming for countries to defend themselves, which has a greater impact on developing countries than on rich ones. This combination has a chilling effect: increasingly, the mere threat of a dispute is enough to cause a country to change laws or not pass them in the first place. This has even happened with state laws in the US.

It is in this environment that Article XXI of the GATT takes on particular importance. Known as the “security exception,” it is based on the premise that national governments have a legitimate role to protect their country from external threat with a military and from internal threat with a police force. Each country has the latitude to determine what it considers necessary to protect its “essential security interests” and anything “relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment.”

What does this mean for governments trying to grow their economies and build better societies for their citizens? If a country wants to subsidize its domestic farmers or local industries, such laws can be challenged as barriers to free trade because it allegedly gives a price advantage to the domestic producers over those in other countries who also want to sell there. To avoid such a challenge, a government can instead choose a WTO-safe way to create jobs, encourage emerging industries, or support high-tech manufacturing by doing so through military spending. Instead of subsidizing food, the government can subsidize weapons manufacturing. It can’t specify domestic suppliers for its fledgling computer industry, but it can for its police force.

The security exception is also a loophole through which superpowers maintain their economic superiority. When Japan posed a serious threat to the semiconductor industry, the Reagan administration poured millions of dollars into new forms of computer design and interaction, mostly through the military, which enabled the US to regain the lead in the market. US pundits claimed that the “laws of economics” were at work and that the Japanese strategy had failed when, in fact, it was enormous government subsidies — unchallengeable in the global trade arena — that had turned the tide.

Because of the security exception, military corporations can receive government subsidies to expand their operations at the expense of civilian programs. This has already happened with one WTO ruling against Canada. The implications for developing countries are even more dire. Besides increasing the legitimacy and scope of militarism, scarce public funds will be increasingly diverted from education and healthcare into developing the very tools used to keep the masses oppressed.

The use of military forces to protect national and private economic interests is nothing new. Transnational corporations rely on military forces, national armies, police forces, paramilitary groups, and mercenaries around the world to keep their investments secure and their workforce docile. The enforcement power of the WTO combined with Article XXI provides the most effective shield yet, because now citizen groups and even national governments are
superseded by the agreement to protect so-called “free trade” at any cost to people and planet.

Where do we go from here?

In Seattle, organizations from around the world conducted dozens of teach-ins and forums. The educational opportunity was extraordinary because participants were able to hear stories from people who are ignored by the corporate press. Small farmers, fishers, indigenous people, women, environmentalists, labor activists, young people, and many others spoke about the destructive impact that neoliberal trade policies have had on them and their communities. Besides teaching what the WTO is and how it works, in-depth panels explained issues affecting the environment, health, labor, human rights, women, democracy, sovereignty, food, agriculture, and more. But in this remarkable week there was only one forum on the WTO and the global war system.

This creates a unique opportunity for antimilitarism activists!

The WTO infringes in some way on almost every type of social justice work. Although the new round was successfully thwarted in Seattle, this is only a minor setback for “free trade” proponents, who hope to privatize and exploit for profit even more of society. The effort to contain the WTO, let alone roll it back, will be enormous, but the good news is that the focus on this institution has forged remarkable alliances in the progressive world. No matter how people come in contact with the WTO through the issues that matter to them, it creates a fresh opportunity to see how the system of militarism drives and pervades our society. Using the WTO as a link, there is access to people in eye-opening new ways. Seize the day!

Ottawa, ON K1P 5H3
CANADA
www.canadians.org

• Rural Advancement Foundation International
  110 Osborne Street, Suite 202
  Winnipeg, MB R3L 1Y5
  CANADA
  www.rafi.org

• Third World Network
  228 Macallister Road
  Penang 10440
  MALAYSIA
  www.twnside.org.sg

• Global Exchange
  2017 Mission Street, #303
  San Francisco, CA 94110
  www.globalexchange.org

• End the Arms Race
  405-825 Granville Street
  Vancouver, BC V6Z 1K9
  CANADA
  604.687.3223
  www.peacewire.org
INTERNATIONAL SOLIDARITY IS THE KEY TO CONSOLIDATING THE LEGACY OF SEATTLE.

Globalization From Below

JEREMY BRECHER, TIM COSTELLO AND BRENDAN SMITH

In the year since the “Battle of Seattle,” international demonstrations from Washington, DC, to Okinawa and from Bangkok to Prague have confronted and sometimes halted meetings of the WTO, IMF, World Bank and other instruments of globalization. They have had successes that could not have been imagined just a year ago. They have reframed the debate on globalization, put its advocates on the defensive and forced change in the rhetoric if not the actions of world leaders and global institutions.

Such confrontations will no doubt continue to play an important role, but the limits to simply rallying for the next Seattle are becoming increasingly clear. Is this just a movement of “meeting-stalkers,” as Naomi Klein has put it [see “The Vision Thing,” July 10], or can it develop the grassroots power and broad social vision that might make real change? To answer that question, one must look beyond dramatic confrontations at international conferences, which are only a media-grabbing extension of a far broader movement that international law scholar Richard Falk has called “globalization from below.”

Globalization from below has emerged from diverse concerns and experiences. Environmentalists identified globalization as a source of acid rain and global warming and saw global corporations and the World Bank sponsoring the destruction of local environments around the world. Poor people’s movements in the Third World and their supporters around the globe saw neoliberalism, international financial capital and structural adjustment as key causes of global poverty. Advocates for small farmers in both the First and Third Worlds identified new trade agreements as a means to destroy family farming in the interest of agribusiness. Labor movements realized that international capital mobility was leading not to mutual benefit for workers but to competitive wage-cutting. Women’s movements identified workers exploited in the global sweatshop as predominantly women and structural adjustment as an attack on public programs that women particularly need. Consumer movements identified neoliberalism and new trade agreements as attacks on high national standards for food and product safety. College students became outraged that products bearing their schools’ logos were being made by children and women forced to work sixty or more hours per week for less than a living wage.

These disparate developments are all responses to what Falk has called “globalization from above,” an epochal change that involves far more than international organizations like the WTO, IMF and World Bank. It represents the globalization of production, markets and finance; the global restructuring of corporations and work; the development of new technologies like the Internet; a radically changed role for the state; the dominance of neoliberal ideology; large-scale tourism and poverty-induced immigration; worldwide media domination by the culture of corporate globalism; and a neo-imperialism that has concentrated control of poor countries in the hands of First World investors. At its heart lies the ability of capital to move freely around the world, resulting in the dynamic often referred to as the race to the bottom, a destructive competition in which workers, communities and entire countries are forced to gut social, labor and environmental protections to attract mobile capital. Despite the media’s focus on the flight of jobs from First to Third World countries, just as devastating is the competition among Third World countries desperately seeking jobs and investment at any cost.

Those affected by globalization from above have begun to converge, brought together by common interests, goals and a number of specific campaigns. This emerging movement — this network of networks — is the iceberg of which the street demonstrations form the most visible tip. It is the potential power of this confluence of forces and the still-larger forces that share its interests, not the threat of a few thousand demonstrators, that troubles the sleep of finance ministers and international bureaucrats.
Participants in the movement for globalization from below have varied agendas, but the movement’s unifying mission is to bring about sufficient democratic control over states, markets and corporations to insure a viable future for people and the planet. Beyond just saying no to the WTO, World Bank and IMF, achieving that goal requires that people organize themselves and force change at every level, from local to global, in both government and civil society. It requires that they define these struggles as responses to a common problem, as part of a common movement and as sharing common goals. It requires linking together in the manner of the Lilliputians in Jonathan Swift’s fable Gulliver’s Travels, who were able to capture Gulliver, many times their size, by tying him up with hundreds of threads.

While attention has been focused on big international demonstrations, in fact the movement for globalization from below has been acting and linking up in an enormous range of ways that may be less visible than meeting-stalking but that transcend its limitations.

Many actions are linking local concerns to globalization: During the September/October Prague demonstrations, coordinated protests were held in Denver, Indianapolis, Boston and dozens of other US cities. In Hartford, Connecticut, 300 unionized janitors and student activists held a joint protest “to make the connections between global corporate greed and the fight for a living wage by Hartford working people.” Twenty-five people were arrested for blocking downtown traffic in front of the global headquarters of United Technology Corporation, which recently fired unionized janitors and replaced them with lower paid, nonunion workers. UTC has also been accused by the Machinists union of shipping jobs abroad in violation of a union agreement.

Other recent actions have brought new groups into the movement, relating their concerns to the dynamics of the global economy. A coalition in Massachusetts, for example, drew attention to the effects of globalization on the contingent work force. At a recent march through downtown Boston, protesters demanded that temp agencies sign a Temp Worker Bill of Rights. A flier headlined “Join a Global Fight for Justice” explained, “Temp work is the face of globalization. But workers all over the world are fighting back for economic security.” It linked demands for city policies, state legislation and corporate responsibility to the domination of the industry by a few global giants.

Around the world, mass worker movements have contested globalization from above through resistance to privatization, social-services cuts and structural adjustment. May and June 2000 saw six general strikes against the effects of globalization and neoliberalism. In India 20 million workers and farmers paralyzed much of the country with a general strike “aimed against the surrender of the country’s economic sovereignty before the World Trade Organization and the International Monetary Fund,” according to one leader. As many as 12 million Argentine workers struck against IMF-inspired austerity measures. In Nigeria a general strike protesting IMF-promoted fuel-price increases closed much of the country. In South Korea a partial general strike demanded a shorter workweek and labor-law protections for contingent workers to counter the impact of IMF restructuring plans. In South Africa 4 million workers struck to protest the loss of 500,000 jobs as a result of the government’s neoliberal austerity policies. A general strike in Uruguay protested high unemployment rates that workers blamed on IMF-inspired spending cuts. These actions indicate that resistance to globalization from above is at least as strong among Third World as among First World workers.

Some campaigns have targeted global corporations directly. The well-known campaign against Nike, for example, has forced the company to promise significant changes in its employment practices, though few have yet been realized. When a recent cross-country “Nike Truth Tour” organized by students protested the firing of a worker at a Nike subcontractor in Honduras, the employer was forced to rehire her.

Corporate campaign targets are now being expanded to include the crucial but often hidden players in globalization from above — private financial institutions. The Rainforest Action Network has launched a campaign against “the financiers of ecological destruction and human suffering,” focusing on Citigroup, the largest private financial institution in North America. It highlights Citigroup’s role as chief financial adviser in the Chad/Cameroon Oil and Pipeline Project in Africa, which will pollute pristine rainforest and disrupt indigenous forest communities; its role in financing redwood logging operations in California; its firing of unionized janitors; its financing of Monsanto and other genetic engineering companies; its role in predatory lending and denial of loans to African-Americans; and its profits from prison construction and privatization.

The campaign to restrict genetically modified organisms forced Monsanto and US negotiators earlier this year to accept the Cartagena Protocol to the Convention on Biological Diversity, allowing GMOs to be regulated. Greenpeace called the protocol “a historic step toward protecting the environment and consumers from the dangers of genetic engineering.” Monsanto not only accepted the protocol, it announced a decision to withdraw from the business of selling sterile seeds and to participate in a dialogue with Greenpeace.

This example shows the multilevel strategies that globalization from below is using to parlay its power. While asserting authority superior to the WTO, the protocol also illustrates the crucial positive role that international institutions can play in limiting the depredations of global corporations and markets. And it empowered national governments to regulate GMOs and the corporations that...
purvey them. The campaign put pressure both on governments and directly on corporations like Monsanto, while other governments put pressure on the US government, a leading force against regulation of GMOs. It may well have been the pressure on Monsanto and its resultant change of heart that changed the position of the US government.

Globalization-from-below activists are also intervening in sophisticated ways in national politics. When South Africa tried to pass a law allowing it to ignore drug patents during health emergencies, the Clinton Administration lobbied hard against it and put South Africa on a watch list that is the first step toward trade sanctions. But then Philadelphia ACT UP began hounding presidential candidate Al Gore on the issue. According to the New York Times, “The banners saying that Mr. Gore was letting Africans die to please American pharmaceutical companies left his campaign chagrined. After media and campaign staff looked into the matter, the Administration did an about-face” and, while certainly not doing enough to make AIDS drugs available, accepted African governments’ circumvention of AIDS drug patents.

No doubt The Economist exaggerated when it wrote that the new wave of protest around globalization is “more than a mere nuisance: it is getting its way.” But globalization from below is having a concrete impact on policies and conditions in scores of instances all over the world. Each such campaign is a partial representation of the movement’s vision, goals and program, reflecting fundamental values of human dignity, self-government, environmental sustainability and human solidarity.

Trevor Manuel, finance minister of South Africa and co-chairman of the Prague IMF/World Bank meetings, recently complained, “I understand what [protesters] are against, but I am not sure what they are for.” In fact, as even Newsweek had to concede after the Battle of Seattle, “One of the most important lessons of Seattle is that there are now two visions of globalization on offer, one led by commerce, one by social activism.”

The movement for globalization from below is now developing positive programs that integrate the needs and objectives of its diverse constituents. More than 1,000 civil-society organizations in seventy-seven countries — essentially the “Seattle coalition” — have launched a new global campaign to demand “an alternative, humane, democratically accountable and sustainable system of commerce that benefits us all.” They have agreed to an eleven-point program for transformation of the WTO and the global trading system, focused not on eliminating trade or returning to some lost past of national economic isolation but on promoting “internationalism — where different cultures, countries, and people trade and exchange goods and ideas and work together toward common goals.”

Globalization from below’s vision has been articulated in scores of international statements and above all in the movement’s own actions. Many of its guiding principles are elaborated in the Global Sustainable Development Resolution, co-sponsored by a group of progressive members of the US Congress [see “Whose Globalization?” March 22, 1999]. They include leveling labor, environmental, social and human rights conditions upward; democratizing institutions at every level from local to global; making decisions as close as possible to those they affect; equalizing global wealth and power; converting the global economy to environmental sustainability; creating prosperity by meeting human and environmental needs; and protecting against global boom and bust.

The advocates of globalization from above often portray its critics as backward-looking economic nationalists who want to hide from the realities of globalization — and its opportunities — in order to protect narrow special interests. And indeed, all over the world, Patrick Buchanan, Jean-Marie Le Pen and their ilk are exploiting the antiglobalization backlash to recruit followers for ethnocentric, anti-immigrant, antigay, racist, sexist and nationalist bigotry. Globalization from below, in contrast, is rooted in solidarity among people and groups who recognize their diversity but who nonetheless grasp their common interests. It can only succeed to the extent that the diverse elements that make it up are able to incorporate one another’s needs and concerns while holding up their own more xenophobic impulses in check.

Some within the movement advocate centralized global government as the solution to corporate globalization; others seek a reassertion of national or even local sovereignty. But the problems of globalization are unlikely to be solved either by some central global authority or by national or local autarky. The real choice today is between a globalization from above that disempowers people at every level and a globalization from below that expands self-government not only at a global level but at regional, national and local levels as well. The movement faces many potential pitfalls, and given the power of those it opposes, there is no guarantee that it can actually modify globalization enough to preserve people and environment, let alone to build a decent world order. But that is more likely to be achieved by means of a movement that is unified across the boundaries of countries, issues and constituencies than by any other approach. Globalization from above made ordinary people around the world seem powerless; globalization from below has the potential to change the power equation. Rarely in human history have ordinary people had such an opportunity to transform the world for the better.
### Corporate Cash--Few Nations Can Top It

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Session VIII, Reading 6
The Party of Davos
by Jeff Faux

The Nation - February 13, 2006

The world’s movers and shakers are convening once again in January at the annual World Economic Forum in Davos, the posh ski resort nestled in the Swiss Alps. Attendance is invitation-only, enforced by police barricades, razor wire and the latest high-tech military hardware to guard against terrorists, protesters and curious local citizens.

Some 2,000 people will show up to discuss the world’s problems as defined by those who own and manage the great global concentrations of wealth (Microsoft, Citigroup, Siemens, Nestlé, Nomura Holdings, Saudi Basic Industries, etc.). Their guests include prominent political leaders, international bureaucrats, academics, consultants and media pundits—with a few NGO and labor union officials sprinkled along the edges to demonstrate diversity.

Davos is not the place for secret conspiracies. More than 200 hovering journalists will dispatch to the world’s citizens breathless accounts of the chatter and charm of the masters of the economic universe. Davos is rather the most visible symbol of the virtual political network that governs the global market in the absence of a world government. It is more like a political convention, where elites get to sniff one another out, identify which ideas and people are "sound" and come away with increased chances that their phone calls will be returned by those one notch above them in the global pecking order.

Americans are of course prominent members of this "Party of Davos," which relies on the financial and military might of the US superpower to support its agenda. In exchange, the American members of the Party of Davos get a privileged place for their projects--and themselves. Whether it's at Davos, at NATO headquarters or in the boardroom of the International Monetary Fund, heads turn and people listen more carefully when the American speaks.

"Davos Man," a term coined by nationalist scholar Samuel Huntington, is bipartisan. To be sure, Democrats tend to be more comfortable with the forum's informal seminar-style and big-think topics like global poverty, cultural diversity and executive stress. Bill Clinton goes often, and Al Gore, John Kerry, Robert Rubin, Madeleine Albright, Joe Biden and other prominent Democrats are familiar faces. Republicans generally prefer more private venues. George W. Bush, of course, doesn't do anything unscripted. But people like Dick Cheney, Newt Gingrich, John McCain and Condoleezza Rice have all worked the Davos circuit.

That the global economy is developing a global ruling class should come as no shock. All markets generate economic class differences. In stable,
self-contained national economies, where capital and labor need each other, political bargaining produces a social contract that allows enough wealth to trickle down from the top to keep the majority loyal. "What's good for General Motors is good for America," Dwight Eisenhower's Defense Secretary famously said in the 1950s. The United Auto Workers agreed, which at the time seemed to toss the notion of class warfare into the dustbin of history.

But as domestic markets become global, investors increasingly find workers, customers and business partners almost anywhere. Not surprisingly, they have come to share more economic interests with their peers in other countries than with people who simply have the same nationality. They also share a common interest in escaping the restrictions of their domestic social contracts.

The class politics of this new world economic order is obscured by the confused language that filters the globalization debate from talk radio to Congressional hearings to university seminars. On the one hand, we are told that the flow of money and goods across borders is making nation-states obsolete. On the other, global economic competition is almost always defined as conflict among national interests. Thus, for example, the US press warns us of a dire economic threat from China. Yet much of the "Chinese" menace is a business partnership between China's commissars, who supply the cheap labor, and America's (and Japan's and Europe's) capitalists, who supply the technology and capital. "World poverty" is likewise framed as an issue of the distribution of wealth between rich and poor countries, ignoring the existence of rich people in poor countries and poor people in rich countries.

The conventional wisdom makes globalization synonymous with "free trade" among autonomous nations. Yet as Renato Ruggiero, the first director-general of the World Trade Organization, noted in a rare moment of candor, "We are no longer writing the rules of interaction among separate national economies. We are writing the constitution of a single global economy." (Emphasis added.)

On the board of many transnational companies, Ruggiero has been both trade and foreign minister in the Italian government of right-wing businessman Silvio Berlusconi. He is now the chair of Citigroup's Swiss subsidiary. His fellow authors of the Davosian constitution have similar résumés, tracking careers that flow easily across borders and between public and private sectors. After just stepping down as German chancellor, Gerhard Schröder has become board chair of a Russian company building a gas pipeline that Schröder himself had negotiated while in office. And so it goes.

In the absence of global democracy, the forces that act as counterweights to the power of the investor class in national economies--labor, civil society and progressive political parties--are too weak and unorganized to create a global social contract. What might be called the "Party of Porto Alegre"--the NGO activists of the World Social Forum, who also meet annually (usually in Brazil, this year in
Venezuela, Mali and Pakistan) in January—is hardly a match for Davos. It is therefore no surprise that the constitution of the world economy protects just one class of global citizen—the corporate investor.

Given the influence of American elites, the model for this constitution is the North American Free Trade Agreement, conceived under Ronald Reagan, nurtured by George H.W. Bush and delivered by Bill Clinton. Among other things, NAFTA's 1,000-plus pages give international investors extraordinary rights to override government protections of workers and the environment. It sets up secret panels, rife with conflicts of interest, to judge disputes from which there is no appeal. It makes virtually all nonmilitary government services subject to privatization and systematically undercuts the public sector's ability to regulate business. Jorge Castañeda, later Mexico's foreign secretary, observed that NAFTA was "an agreement for the rich and powerful in the United States, Mexico and Canada, an agreement effectively excluding ordinary people in all three societies."

In the fall of 1993 a corporate lobbyist, exasperated by my opposition to NAFTA, stopped me in the corridor of the Capitol. "Don't you understand?" she demanded. "We have to help [then-Mexican President Carlos] Salinas. He's been to Harvard. He's one of us."

Her reference to "us" seemed odd. Neither she nor I was a Harvard graduate. So it took me a while to get her point: "We" internationally mobile professionals had a shared interest in liberating similarly mobile global investors from regulations imposed by national governments on behalf of people who were, well, not like "us." Despite the considerable social distance between Salinas and both of us, she was appealing to class solidarity.

It's impossible to understand why Democratic Party leaders collaborated with Republicans to establish NAFTA unless reference is made to cross-border class interests. There was no compelling economic or political reason for Bill Clinton to make NAFTA a priority in his first year as President. In economic terms, nothing was broken that needed fixing. Politically, NAFTA and the WTO that followed traded away the interests of the Democratic Party's blue-collar electoral base while creating a bonanza for Republican constituencies on Wall Street and in red-state agribusiness.

But Clinton was more Davos than Democrat. Tutored by financier Robert Rubin, a prodigious fundraiser who became his Treasury Secretary, Clinton embraced a reactionary, pre-New Deal vision of a global future in which corporate investors were unregulated and the social contract was history. Indeed, in all three countries it was the leaders of the political parties that had historically claimed to represent ordinary people--the Democrats' Clinton, the Liberal Party's Jean Chrétien and the Institutional Revolutionary Party's Salinas--who delivered NAFTA to their global corporate clients, undercutting their own constituencies. "NAFTA happened," said the then-chairman of American Express, "because of the drive Bill Clinton gave it. He stood up against his two prime constituents,
labor and environment, to drive it home over their dead bodies.”

A year later, in November 1994, enough angry Democratic voters stayed away from the polls to give the Republicans control of the House. Since then, many working-class Americans, feeling abandoned by the Democrats, have responded to the Republican definition of class struggle as a fight over gun control, school prayer and abortion. The Democrats have still not recovered.

Consistent with a deal among the rich and powerful, NAFTA made the distribution of income, wealth and political power more unequal throughout the continent. In all three countries, wages in manufacturing fell behind productivity increases, shifting income from labor to capital. Ordinary Mexicans especially went through the economic wringer--to which the willingness of hundreds of thousands of them to risk their lives each year crossing the border continues to be tragic testimony.

On the other hand, opportunities blossomed for the rich and powerful in all three nations. American and Canadian investors got access to cheaper labor and privatized Mexican companies, while Mexican oligarchs got to broker the deals. One example was the way NAFTA was used to open up Mexico's banking system to foreign ownership, profiting elites on both sides of the border.

The governments of Carlos Salinas and his successor, Ernesto Zedillo--hailed in Washington as great free-market reformers--privatized government-owned banks, turning them over to business cronies, and, through NAFTA, revoked the legal ban on foreign ownership. When the banks started to fail, they were given huge government subsidies to make them attractive to transnational buyers. At the same time, the "reform" government was slashing subsidies to the poor for food and medicine.

Banamex, the country's second-largest bank, was bought by a Mexican syndicate, owned by Salinas pal Roberto Hernandez Rodriguez, for $3.2 billion and when, thanks to NAFTA, foreigners were allowed to own Mexican banks, it was resold to Citigroup for $12.5 billion. Robert Rubin negotiated the deal for Citigroup, where he had gone after leaving the Treasury Department. The Mexican government's welfare program for Citigroup and other foreign investors continues: In 2003 government subsidies to private banks (more than 85 percent of them now owned by foreigners) were almost three times those spent on roads, schools and other infrastructure.

NAFTA was only the beginning. The Clinton/Republican alliance then pushed through the WTO agreement and the subsequent deal with China that traded off more US industrial jobs in exchange for protections for US investors in that huge Asian market. Not only has this produced a massive trade deficit with China and further downward pressure on US wages, it has also sent some 250,000 jobs from Mexico to China. The ubiquitous Citigroup, with banking operations in 100 countries, is now busy building its Chinese banking empire--with Chinese partners.
That well-connected people who move in and out of government and business act in ways that benefit their class and take advantage of their contacts to further their own interests is neither illegal nor new. That's the way class privilege works. Thus, it is unlikely that Dick Cheney ever ordered anyone at the Pentagon to give a huge sole-source contract to Halliburton. He did not have to. Procurement officers already knew the relationship between the company and the Vice President. And Cheney's promotion of more funds for the military and for the war in Iraq in particular was bound to benefit the world to which he belonged--his circle of rich and powerful people who would always be there for him and his projects.

There are of course important differences between the ways the elites of the different parties promote the Davos agenda. The preferred instruments of Rubin Democrats are the economic levers of the US Treasury, the IMF, the World Bank and other international financial institutions. Rumsfeld/Cheney Republicans prefer the Defense and Energy departments. The Rubin mode is certainly less lethal and probably more effective. Still, Davos relies on the Pentagon to protect its class privileges with a worldwide web of military bases, training schools and the always-present threat to send in the Marines. It's worth remembering that virtually the only section of Saddam Hussein's law still untouched by the US occupation is its oppressive labor code.

But the twin pillars of the US superpower--the Pentagon and Wall Street--are slipping into their own crises and soon may not be able to provide the military and economic muscle for the Davos agenda.

The crisis on the military side involves blowback from the overreach in Iraq. Bush, Cheney and Rumsfeld--despite their thick transnational corporate connections--have created a disaster for Davos. The war has unleashed an army of enemies of Western modernization that is making global corporations nervous. Two years ago the wiser heads at Davos were appalled at Cheney's delusional report on the Bush Administration's progress in turning the Middle East into a shopping mall--however much they might have sympathized with the objective. Today the mess in Iraq has revealed to Davos both the incompetence of the American governing class and the unwillingness of the American electorate to make the sacrifices necessary to act as security police for the world's rich and powerful.

The looming economic crisis comes from the unsustainable US external debt. For more than a quarter-century, we Americans have been buying more from the rest of the world than we have been selling it, and borrowing from abroad to make up the difference. The resulting trade deficit has been a major engine of global growth under Davos's management. But common sense and simple arithmetic tell us that even the United States cannot go on much longer spending more than it is earning.

When the day of reckoning comes, high interest rates and a falling dollar will force us Americans to rebalance our trade by cutting the price of what we sell and raising the price of what we buy, lowering
The crisis in the nation's trade sector will be transmitted to the rest of the economy, made vulnerable by overindebted consumers, overleveraged pension funds and overpriced houses. Thanks to George W. Bush's reckless fiscal deficits, the government will have less ability to overcome an economic crisis through borrow-and-spend, as it did in the last economic downturn. With the appetite for America's IOUs diminishing, US politicians will have their hands full dealing with rising energy costs and the tottering finances of healthcare, education and pensions.

The basics of a harder-times scenario are not much in dispute. The debate is between those who foresee a hard landing and those who believe that the world's central bankers will somehow figure out a way to avoid a global financial meltdown. But hard landing or soft, even the staunchest supporters of globalization admit that lower living standards are already in the cards. N. Gregory Mankiw, who as Bush's chief economist famously praised the offshoring of American jobs, recently acknowledged that US reliance on foreign savings to support its consumption means a "less prosperous future."

Financier Warren Buffett reaches the obvious conclusion: We are headed for "significant political unrest." Democratic Senator Max Baucus, a staunch free-trader, recently told Chinese business executives that unless they cut their country's trade deficit with America "US politics will become unmanageable." New York Times columnist and Davos champion Thomas Friedman, who also sees the writing on the wall, suggests dividing political parties by economic class, with Republican Wall Street joining with Democratic Hollywood against disgruntled working-class "populists" in both red and blue states.

But working-class disgruntlement is likely to go beyond Freidman's stereotype of uneducated losers. The outsourcing and downsizing of opportunities is already adding to the insecurity of people much further up the skill ladder. There are signs that the anxiety is spreading to the business class as well; within organizations such as the National Association of Manufacturers, the owners of smaller and medium-sized businesses, who still depend on an American workforce, are beginning to dissent from the once united front in favor of globalization.

Resistance to Davos is also growing in our own hemispheric neighborhood. Latin American oligarchs who prospered by selling their countries' assets and people to transnational investors have been ousted in Brazil, Argentina, Venezuela, Uruguay and Bolivia. In Mexico, which is having a presidential election this July, a leftist critic of NAFTA leads in the polls. The Party of Davos may not be over, but the rest of the world seems less willing to foot the bill.

Here in America, the coming unrest could turn right as well as left. The Republican Party is hopelessly tied to the multinational priorities of the US business elite, but its managers are skilled at stoking nationalist resentment among the working-class victims.

In the two-party system the burden therefore rests on the Democrats' ability to produce leaders who are not co-opted by the Party of Davos.
Given the current crop, our chances may not seem great. But leaders are often produced by the times. As globalization’s squeeze on ordinary Americans continues, the political price will rise for those who continue to give priority to bringing Burger King to Baghdad over healthcare to Baltimore. It’s worth remembering that Franklin Roosevelt, who was as elite and privileged as one could get, responded to the economic crisis of his time by becoming--as they muttered in the best clubs--"a traitor to his class."

This article can be found on the web at:

Challenging Corporate Power, Asserting the People’s Rights

Session IX — What Does Democracy Look Like?

The democratic founding ideals of the American Revolution were soon subordinated to the fears of white propertied men who had the power to take charge and write the Constitution. These men believed that genuine people’s rule (what Alexander Hamilton called “the mob at the gate”) would undermine the order and stability on which they believed the future of the republic rested. Many people are surprised to learn that the word “democracy” does not appear anywhere in the Constitution of the United States of America.

People ask what alternatives we who resist corporate power suggest. Indeed, a component of our struggle needs to be developing and modeling ways of organizing our common economic and social life based on human equity and ecological health. Ultimately, however, the fundamental alternative to illegitimate corporate governance is democracy: rule by the people.

Cornel West remarked that our minds have been colonized for so long we can scarcely imagine what real democracy would look like. What images and forms could breathe life into self-governance? And how do we achieve it, especially in light of the wide diversity of beliefs, circumstances, and opinions of “the people”?

A key task is to critique what currently passes for democracy. What kind of processes would we design for governing ourselves and selecting our spokespeople? What values and beliefs would underlie our choices? Equally important is the challenge of designing and practicing democratic processes in our own lives and work. What attitudes, behavior, and skills support (and impede) this effort?

We suggest checking in at the beginning of this session by sharing a democratic experience each person has had, and including in the discussion some evaluation of the group’s process from the standpoint of democracy: is leadership being shared? Is participation balanced and egalitarian? What helps and what hinders the democratic functioning of the group?

Readings:
1 – Excerpt from an interview of Noam Chomsky, by David Barsamian (1 page)
2 – “Confining Democratic Politics: Anti-Federalists, Federalists, and the Constitution,” excerpts from a book review by Jennifer Nedelsky (5 pages)
3 – Excerpts from Political Freedom: The Constitutional Powers of the People, by Alexander Meiklejohn (2 pages)
4 – Excerpts from Radical Democracy by C. Douglas Lummis (4 pages)
5 – “Nature, Human Community, and the Corporation: Characteristics and Contrast,” WILPF handout (2 pages)
6 – “Some Thoughts and Definitions to Inspire Conversation About Democracy,” WILPF handout (2 pages)
Discussion Questions:
1. How has the history of the political concept of democracy — from Aristotle to the Founding Fathers — shaped our ideas of what constitutes democracy today? If rule by the people was not actually the founding ideal of the Constitution, what was?

2. Discuss Alexander Meiklejohn’s bitterly disappointed hope about radio in the context of the First Amendment. How has this scenario replayed itself in the second half of the 20th century? If the people do not have access to and control of the public forums according to the technology of their day, what replaces real democratic interaction? How are these decisions the same and different between generations and their related level of technological development (e.g., public speaking, literacy, newspapers and other print media, radio, television, internet)?

3. Explore C. Douglas Lummis’s description of democracy as “essential politics: the art of the possible,” with the notion that the power of the people “takes the possible out of the hands of random fortune and transforms it into an art: a creative enterprise.”

4. Discuss democratic attitudes and behaviors in relation to activists and our groups; in relation to common corporate patterns of operating; in relation to ways in which our governance is and is not democratic. How is our concept of democracy framed by our concept of property?

Supplementary Materials:


The following is an excerpt from an interview of Noam Chomsky, MIT professor of linguistics and long-time critic of U.S. government policy and the media, conducted by David Barsamian in February 1997.

Barsamian: You recently gave a talk titled “The Common Good” to a group that included some members of the Progressive Caucus in Congress.

Chomsky: That title was given to me, actually, but since I’m a nice, obedient type, I agreed to talk about it. I started from the beginning, with Aristotle’s Politics, which is the foundation for most subsequent political theory. Aristotle took it for granted that a democracy would be fully participatory — with the notable exception of women and slaves — and would aim to promote the common good. But he argued that, in order to achieve its goal, the democracy would have to ensure “lasting prosperity to the poor” and “moderate and sufficient property” for everyone. If there were extremes of poor and rich, or if you didn’t have lasting prosperity for everyone, Aristotle thought, then you couldn’t talk seriously about having democracy.

Another point Aristotle made was that if you have a perfect democracy, yet have big differences of wealth — a small number of very rich people and a large number of very poor — then the poor will use their democratic muscle to take away the property of the rich. He regarded this as unjust and offered two possible solutions. One was to reduce poverty. The other was to reduce democracy.

A couple of thousand years later, when our Founding Fathers were writing the Constitution, James Madison noticed the same problem, but whereas Aristotle’s preferred solution had been to reduce poverty, Madison’s was to reduce democracy. He said quite explicitly in the Constitutional Convention that, if we had a true democracy, then the poor majority would use its power to demand what nowadays we would call agrarian reform, and that couldn’t be tolerated. The primary goal of government, in Madison’s words, is “to protect the minority of the opulent against the majority.” He also pointed out that, as time went on, this problem was going to get worse, because a growing part of the population would suffer serious inequities and “secretly sigh for a more equal distribution of blessings.” He therefore designed a system that would ensure democracy didn’t function. As he put it, power would be in the hands of the “more capable set of men,” those who held “the wealth of the nation,” and the rest would be factionalized and marginalized in various ways.

It’s only fair to mention, though, that Madison was anticapitalist. In my opinion, he would have been anticapitalist. When Madison was talking about the wealthy being “the more capable set of men,” he was assuming a society in which the wealthy were “enlightened statesmen” and “benevolent philosophers” — not people trying to maximize their own wealth no matter what. When that sort of capitalism began to develop, Madison was appalled by it.

Regardless, the fact remains: if you have a democratic system with large inequities of wealth, the impoverished majority will probably do something about it, which means they will threaten the right of the wealthy to control the property.

Remember, contrary to what Madison and a lot of modern political theorists tacitly assume, property rights are not like other rights. If I have the right of free speech, it doesn’t interfere with your right of free speech. But if I have property, it interferes with your right to have that same property; you don’t have it; I do. So the right to property is very different from the right to freedom of speech.

If a true democratic society were allowed to function, it’s extremely unlikely that the things now called “inevitable results of the market” would ever be tolerated. These results certainly concentrate wealth and power and harm the vast majority. There’s no reason for people to tolerate that. These so-called inevitabilities are really public policy decisions designed to lead to a certain kind of highly unequalitarian society. Talk about the inevitable processes of the market is almost entirely nonsensical, in my opinion. And if we did have a functioning democracy, we would solve the problem as Aristotle suggested: by reducing poverty and making sure that almost everyone had “moderate and sufficient property.”

Barsamian: Many people today advocate equality of opportunity, but not equality of outcome.

Chomsky: This goes back to Aristotle, who thought that equality of outcome was a requirement for a just and free society. In the eighteenth century, the Scottish economist Adam Smith advocated free markets, but based on the assumption that, under conditions of perfect liberty, free markets would lead to perfect equality of outcome. Alexis de Tocqueville, writing in the nineteenth century, said quite explicitly that a “permanent inequality of conditions” would be the death of democracy. He also condemned the “manufacturing aristocracy” that was growing up in the U.S., calling it “one of the harshest” in history. He said that if they came to power we’d be in deep trouble. Of course it’s happened far beyond his worst nightmares.

So, as far back as the humane liberal tradition goes, equality of outcome has been considered a necessity — not equality of opportunity, which is mostly a joke, because opportunity depends on the resources available.

Barsamian: It’s like the metaphor of two runners in a race: one starts at the starting point, and the other one starts five feet from the end.

Chomsky: I agree with that, but suppose you have two runners who start at exactly the same point, and one of them gets to the finish line first and gets everything he wants, whereas the other one starves to death. Even though they had equality of opportunity, the end result is radical inequality.
Introductory Comments to the Nedelsky Piece
Session IX, Reading 2

This reading is a portion of a book review that was printed in the *Harvard Law Review* in 1982. The two books being reviewed are *The Complete Anti-Federalist* by Herbert J. Storing and *The Oliver Wendell Holmes Devise* by George Lee Haskins and Herbert A. Johnson. The person reviewing these two books is Jennifer Nedelsky.

The United States Constitution is so widely revered in this country that many people do not know how controversial it was in its time and how close it came to being rejected. The Treaty of Paris, which formally ended the colonial war for independence, was ratified by Congress in January 1784. Not long thereafter, various groups began calling for a stronger central government than that defined in the Articles of Confederation, which had held the states loosely together through the war. In the summer of 1786, a rebellion formed in Massachusetts under the leadership of Daniel Shays, an army veteran. The thousand armed men who marched on Boston were angry that the state constitution barred the poor and middle classes from voting and holding office. Although Shays’s Rebellion was quickly dismantled after a few casualties on both sides, it (and other skirmishes) shook up the new ruling class in the U.S. and increased their urgency to establish more central control. This led to the Constitutional Convention, which began in Philadelphia on May 25, 1787.

As James McGregor Burns puts it, the 55 delegates who created the Constitution were “the well-bred, the well-fed, the well-read, and the well-wed.” Although they met with the stated purpose of revising the Articles of Confederation, after four months of secret deliberations and negotiations they created an entirely new document. When the Constitution was sent to the states for ratification, the country was almost evenly split between those favoring the strong central government it promised, who came to be known as Federalists, and those who preferred a weaker central government with stronger states’ rights, or the Anti-Federalists. A great deal of lobbying and politicking followed, including a series of treatises later collected and published as *The Federalist Papers*. Anti-Federalists, including Patrick Henry and Samuel Adams, saw in the proposed Constitution an elected monarchy at the expense of the individual liberties they had just fought so hard to win. Some states ratified the Constitution unanimously; others, like Massachusetts, only by the narrowest of margins. Several states, including Virginia (a powerful, wealthy state at the time) would only agree to ratify the Constitution if a bill of rights would be added to it.

The Federalists, of course, won the day. Many modern commentators observe that they succeeded in creating the perfect instrument to assure control of the wealthy over the weak, with enough table scraps for the working and middle classes to assure popular support. The framers of the Constitution were wary of too much democracy, as is evident in the writings of Madison (the primary architect of the Constitution) and others. One of the first actions of the Congress under the new Constitution was to seal the record of the Constitutional Congress for 30 years. Madison’s writings were not published for 53 years. Nedelsky’s review expands on the ideologies of the Federalists and Anti-
Federalists, shedding some light on the foundation that shaped our “democracy.”
CONFINING DEMOCRATIC POLITICS: ANTI-FEDERALISTS, FEDERALISTS, AND THE CONSTITUTION


Reviewed by Jennifer Nedelsky4

The United States Constitution embodies and sustains a conception of politics. The substance of this conception has been a subject of debate among all those concerned with interpreting the Constitution and, more generally, with criticizing or applauding the American political system. Two recent publications offer very different contributions to understanding the values and the vision of politics underlying our constitutional system.

The complete writings of the Anti-Federalists, compiled for the first time by Herbert J. Storing, offer "glimpses of an alternative American polity."5

B. Implications of the Anti-Federalist Critique of the Constitution

The Anti-Federalist vision was a reflection of the Federalist vision; by understanding the Anti-Federalist critique of the Constitution we can better understand the Federalist views upon which our political system is based. The predictions of the Federalists and those of the Anti-Federalists agreed to a striking extent. The Constitution would foster and rely on private interest, not public virtue; the talented few would run the government; the large republic would create a great distance between the people and their representatives. In welcoming these consequences, the Federalists showed themselves to be concerned with problems significantly different from those troubling the Anti-Federalists. The experience of democratic excesses had led the Federalists to believe that, although popular government prevented some kinds of governmental tyranny, democracy had its own inherent danger — oppression by the majority. Thus, unlike the Anti-Federalists, the Federalists perceived the real threat not to be the perfidy of those in power, but rather the faithful execution of the majority’s unjust dictates by the people’s representatives. Accordingly, the task for the Federalists was to contain the threat of the many to the few in order to secure basic rights necessary to the pursuit of private interests.6 The Federalists accepted the resulting economic inequality as an inevitable consequence.

In the Federalist view, the people were entitled to a government based on some form of consent, but popular consent was not sufficient for good, or even legitimate, government. “[R]ules of justice”7 formed an independent standard, and a democratic government that broke those rules by violating rights breached the standard as surely as did the despotism of a monarch.8 Thus, Madison, for example, urged “the necessity, of providing more effectually for the security of private rights, and the steady dispensation of Justice,” and warned that “republican liberty (cannot) long exist under the abuses of it practiced in [some of] the States.”9 Political liberty was simply a means directed to the achievement of the end of government, an end that, according to Madison, was justice.10

As Storing demonstrates, the Federalists offered in place of active political involvement a distant but smoothly functioning state that would ensure the conditions necessary for the effective pursuit of private gain (vol. I, pp. 41-42). The people as a whole would be guaranteed the freedom and security to pursue their private interests, but would be relegated to the margins of politics. Moreover, the reliance on private gain would generate an inequality that the new Constitution would encourage and entrench by concentrating both wealth and power in the hands of the few.

Prosperity and security born of effective government would provide an attachment to government that would substitute not only for the confidence that would have developed from a close relationship between citizen and representative, but also for the attachment based on civic virtue that the Anti-Federalists advocated (vol. I, p. 42). Yet the Federalists did not simply resign themselves to a society without public virtue. They did believe in the public good, but they had faith in only the elite’s capacity to discern and pursue it. This position is entirely consistent with the Federalist assumptions that inequality of wealth is inevitable and that one of the essential conditions of prosperity is preventing the poor from ruining the economy and undermining the republic by trying to expropriate the property of the rich. The Federalists considered the poor prone to misunderstanding their own best interest, particularly the importance of securing private property. The rich, on the other hand, could be relied upon both to discern the public good and to pursue it. In the Federalists’ proposed system, the elite could genuinely devote their attention to the public good with the confidence that the common interest they were promoting was in no conflict with their own.
In dismissing the viability of a generally shared civic virtue, the Federalists seem indirectly to have acknowledged that the public as well as the private benefits of their system would be unequally distributed. The Federalists saw that, under their system, industry and its attendant inequality would make impracticable the Anti-Federalist reliance on civic virtue as the foundation of society (vol. 1, pp. 45-46). Economic inequality would make the people dangerous and require that their role be limited. For this reason, the Federalists designed a structure that would render the experiences that foster, sustain, and prevent a system from working genuinely for the benefit of all, civic virtue can be at best the prerogative of the advantaged. The contrast between the Anti-Federalist reliance on civic virtue as the foundation of society (vol. 1, pp. 45-46). Economic inequality would make the people impracticable the Anti-Federalists agreed that the danger was posed by the element to which the system would accord power, but perceived that in the commercial republic envisioned by the Constitution the threatening element would be the wealthy elite. The Constitution was not designed to contain a threat from that direction. Anti-Federalist thought at least raises the possibility that an enduring flaw in our political system results from the Constitution’s one-sided solution.

18 This position is characteristic of the Anti-Federalist view:
To hold open to [the common people] the offices of senators, judges, and offices to fill which an expensive education is required, cannot answer any valuable purposes for them; they are not in a situation to be brought forward and to fill those offices; these, and most other offices of any considerable importance, will be occupied by the few. The few, the well born, etc. as Mr. Adams calls them, . . . are generally disposed . . . to favour those of their own description.
20 See, e.g., Speech of Patrick Henry at 5.16.2 (vol. 5, pp. 211-20) (speech to the Virginia Ratifying Convention expressing fear of tyranny of ruling minority).
23 The Federalists also argued that, without their proposed safeguards against democratic excesses, virtue itself would be undermined. See Storing, supra note 5, at 241 (“Reject the Constitution, went a typical warning, and ‘you will possess popular liberty with a vengeance,’ with the result that ‘no man’s property will be secure, but each one defrauding his neighbor under the sanction of the law, — thus subverting every principle of morality and religion.’”) (quoting Cato, Poughkeepsie County J., Dec. 12, 1787).
24 The Federalist No. 10, at 130 (J. Madison) (J. Cooke ed. 1961). The Federalists’ working premise was that:
‘Wherever the real power in a Government lies, there is the danger of oppression. In our Governments the real power lies in the majority of the Community, and the invasion of private rights is chiefly to be apprehended, not from acts of Government contrary to the sense of its constituents, but from acts in which the Government is the mere instrument of the major number of the Constituents.” (Vol. 1, p. 39) (quoting Letter from James Madison to Thomas Jefferson (Oct. 17, 1788), reprinted in 5 J. Madison Writings 272 (G. Hunt ed. 1904)).
25 The threat the poor posed to the rich, although not the only kind of majoritarian oppression feared by the Federalists, was the primary focus of Federalist attention and, I think, the source of their perception of the more general problem of securing individual rights. One of the great accomplishments of the Federalist system is that it is designed to meet the general problem and not simply the particular threats to property rights. See Nedelsky, supra note 9, at 95, 134, 264.
26 J. Madison, Speech to the Constitutional Convention (June 6, 1787), reprinted in 1 THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 132, 134 (M. Farrand ed. 1911).

27 See THE FEDERALIST NO. 51, at 352 (J. Madison) (J. Cooke ed. 1961) (“Justice is the end of government. . . . It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit.”).

28 Storing hints at the relation between fears of aristocracy and the Federalist focus on private interest: the Federalist argument “relies . . . on a constitutional system within which the strongest natural forces — particularly the passion of acquisitiveness or avarice — are not stifled (a hopeless endeavor) but are guided into channels . . . that at least make it extremely difficult for anyone to tyrannize over anyone else” (vol. I, p. 48).

29 The Federalists did differ in their expectations about inequality. Noah Webster, for example, argued that “the inequalities introduced by commerce, are too fluctuating to endanger government. An equality of property, with a necessity of alienation, constantly operating to destroy combinations of powerful families, is the very soul of a republic” (vol. I, p. 46) (quoting PAMPHLETS ON THE CONSTITUTION OF THE UNITED STATES, PUBLISHED DURING ITS DISCUSSION BY THE PEOPLE 59 (P. Ford ed. 1808)). Webster was characteristic of the Federalists in his emphasis on the fluidity of property: there would always be the rich and the poor, but there would be great mobility between the two classes. It is nevertheless fair to say that an expectation of a division between the rich and the Poor was central to the Federalist position.

30 Madison doubted that harmony and consensus could ever be bought except at the expense of freedom; as long as there was freedom, there would be perceived differences of interest. The “various and unequal distribution of property” was the most enduring source of conflict, but not the only one. See THE FEDERALIST NO. 10, at 131 (J. Madison) (J. Cooke ed. 1961).
This book is written, not to praise or to justify the First Amendment, but to discover what it means. Finding out what a principle intends to say seems to me prior, though not alternative, to judging its usefulness and truth.

Unless our national education can be raised to much higher levels, it is possible that our enormous wealth and power will be used to weaken intelligence rather than to strengthen it. Our self-governing is not, then, based on assurance of success. It is, as Mr. Justice Holmes has told us, an “experiment.” We have only a chance, but one which is worth fighting for — with our minds.

Now, this political program of ours, though passionately advocated by us, is not — as we all recognize — fully worked out in practice. Over one hundred and seventy years have gone by since the Declaration of Independence was written. But, to an unforgivable degree, citizens of the United States are still subjected to decisions in the making of which they have had no effective share. So far as that is true, we are not self-governing; we are not politically free. We are governed by others. And, perhaps worse, we are, without their consent, the governors of others.

Free men talk about their government, not in terms of its “favors” but in terms of their “rights.” They do not bargain. They reason. Every one of them is, of course, subject to the laws which are made. But if the Declaration of Independence means what it says, if we mean what it says, then no man is called upon to obey a law unless he himself, equally with his fellows, has shared in making it. Under an agreement to which, in the closing words of the Declaration of Independence, “we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor,” the consent which we give is not forced upon us. It expresses a voluntary compact among political equals. We, the People, acting together, either directly or through our representatives, make and administer law. We, the People, acting in groups or separately, are subject to the law. If we could make that double agreement effective, we would have accomplished the American Revolution. If we could understand that agreement we would understand the Revolution, which is still in the making. But the agreement can have meaning for us only as we clarify the tenuous and elusive distinction between a political “submission” which we abhor and a political “consent” in which we glory. Upon the effectiveness of that distinction rests the entire enormous and intricate structure of those free political institutions which we have pledged ourselves to build.

Our preliminary remarks about the Constitution of the United States may, then, be briefly summarized. That Constitution is based upon a twofold political agreement. It is ordained that all authority to exercise control, to determine common action, belongs to “We, the People.” We, and we alone, are the rulers. But it is ordained also that We, the People, are, all alike, subject to control. Every one of us may be told what he is allowed to do, what he is not allowed to do, what he is required to do. But this agreed-upon requirement of obedience does not transform a ruler into a slave. Citizens do not become puppets of the state when, having created it by common consent, they pledge allegiance to it and keep their pledge. Control by a self-governing nation is utterly different in kind from control by an irresponsible despotism. And to confuse these two is to lose all understanding of what political freedom is. Under actual conditions, there is no freedom for men except by the authority of government. Free men are not non-governed. They are governed — by themselves.
We shall not understand the First Amendment unless we see that underlying it is the purpose that all the citizens of our self-governing society shall be “equally” educated.

I cannot, in these closing pages, discuss the methods, the successes and failures, of our national education — through my argument is only a fragment unless that is done. It is essential, however, to mention one typical failure which, since it has to do with the agencies of communication, falls within the field of our inquiry. The failure which I have in mind is that of the commercial radio.

When this new form of communication became available, there opened up before us the possibility that, as a people living a common life under a common agreement, we might communicate with one another freely with regard to the values, the opportunities, the difficulties, the joys and sorrows, the hopes and fears, the plans and purposes, of that common life. It seemed possible that, amid all our differences, we might become a community of mutual understanding and of shared interests. It was that hope which justified our making the radio “free,” our giving it the protection of the First Amendment.

But never was a human hope more bitterly disappointed. The radio as it now operates among us is not free. Nor is it entitled to the protection of the First Amendment. It is not engaged in the task of enlarging and enriching human communication. It is engaged in making money. And the First Amendment does not intend to guarantee men freedom to say what some private interest pays them to say for its own advantage. It intends only to make men free to say what, as citizens, they think, what they believe, about the general welfare.

The radio, as we now have it, is not cultivating those qualities of taste, of reasoned judgment, of integrity, of loyalty, of mutual understanding upon which the enterprise of self-government depends. On the contrary, it is a mighty force for breaking them down. It corrupts both our morals and our intelligence. And that catastrophe is significant for our inquiry, because it reveals how hollow may be the victories of the freedom of speech when our acceptance of the principle is merely formalistic. Misguided by that formalism we Americans have given to the doctrine merely its negative meaning. We have used it for the protection of private, possessive interests with which it has no concern. It is misinterpretations such as this which, in our use of the radio, the moving picture, the newspaper and other forms of publication, are giving the name “freedoms” to the most flagrant enslavements of our minds and wills.

By establishing themselves as an active and responsible “electorate” they have become a Fourth Branch of the government, co-ordinate with the other three branches. By virtue of that establishment they have “reserved” a freedom for their electoral activities with which the other branches are forbidden to interfere. It is that prohibition which the First Amendment expresses in its guarding of the freedom of speech, press, assembly, and petition.

“We, the People,” by our voting, do, or are called upon to do, a great deal of active and responsible governing. There are, then, four different agencies commissioned by the Constitution to carry on the governing of the United States — the Electoral, the Legislative, the Executive, and the Judicial. And the greatest among these governing equals is the Electoral.

Are we then servants of our government or masters over it? As the meanings of the terms “government” and “people” change, that is not one question, but three different questions. And, in answer to these three different questions, three different assertions may be validly made. First, the people of the United States are the government: They govern themselves. Second, they are the masters of the government, since the legislative, executive, and judicial agencies are their subordinates. But, third, they are also the servants of the government, subject to laws, and required to obey them. And the use of slogans which would require us to choose one of these statements and, hence, to reject the others, is unworthy of women and men who are members of a free society.
This book makes no institutional proposals. When I mention institutions I do so to illustrate a principle, not to make a proposal.

I do not consider proposals unimportant — on the contrary, they are the very stuff of political discourse — but here I explore the nature of democracy as a principle in human affairs, as distinct from the various institutions or actions through which people seek to realize this principle in practice. All too often these become fused and confused, and we speak as if democracy were free elections, or legal guarantees of human rights, or workers’ control. Yet we do not say, for example, that peace is peace treaties, or that justice is trial by jury. That peace may be brought about by peace treaties or justice by jury trials, are hypotheses that, as we know from experience, prove true in some cases but not in all. We are able to judge the relative truth, or success, of these hypotheses because we have notions of justice and peace independent of our notions of trials and treaties. Similarly (as will be argued below) “elections,” “legal guarantees,” or “workers’ control” are hypotheses. To judge their worth, we need as clear as possible an idea of the principle in human relations which it is alleged they can bring into being. This book is intended as a contribution to that aspect of the democratic discourse.

Put differently, this book is not intended as a work in utopian theory. I have no proposals that no one has ever thought of before. On the contrary, many fine democratic proposals are already on the table and have been for years, some even for centuries. There are democratic movements on every continent, in each country, in virtually every type of institution. Each of these movements faces a different situation, which requires a different solution. Democratization of the big-money politics of the North is not the same as the democratization of a military dictatorship in the South, or of a factory, a plantation, a “socialist” bureaucracy, a sexist family, a theocracy. Movements fighting for the democratization of these and other institutions all have their methods and aims and hopes. I have no new set to replace the ones that people are fighting for in their real situations. On the contrary, it is my hope that this book can make a small contribution by lending some theoretical support to “actually existing” democratic movements as well as by offering some criteria by which democrats may evaluate, criticize, and clarify their own aims and methods.

In this sense, this book is not really an argument about why democracy is better than other political forms. Rather, it is addressed to people who already think so, or who think they think so. It is not designed to explain why one ought to think so, but to explore some of the consequences of thinking so. If one takes the radical democratic position, what does that turn out to entail? To try to think this through, I have sometimes used the method of hypothesizing an imaginary, or ideal-type, character, the Radical Democrat. This personage will be one of the subjects of examination, and also one of the participants, in what follows, playing a role rather like that of an expert witness. Concerning this issue, what does the radical democrat think? In this situation, what does the radical democrat do? And in so thinking or doing, what does the radical democrat become? The answers are not binding: one may know them, and choose otherwise. But if the argument here is successful, the person choosing otherwise will at least have difficulty calling that choice “democracy.”

For this stance there is at least one honorable precedent. In the prologue to The Human Condition Hannah Arendt writes, “To these preoccupations and perplexities, this book does not offer an answer. Such answers are given every day, and they are matters of practical politics, subject to the agreement of many; they can never lie in theoretical considerations or the opinion of one person, as though we dealt with problems for which only one solution is possible.” Arendt, The Human Condition (New York: Anchor, 1958), pp. 5-6.
At the beginning of this book I wrote that I would not propose institutional solutions, a promise I hope has been mainly kept. Perhaps by now the reason for this eccentricity has become somewhat more clear. I have sought to argue that democracy is better described not as a “system” or a set of institutions but as a state of being and that the transition to it is not an institutional founding but a “change of state.”

Does this argument mean that democracy cannot be institutionalized? If one reasons strictly from the above distinction, the answer is that it cannot. Once again I must hastily add: this reply does not at all denigrate the importance of what are commonly called democratic institutions. Many of the experiences most precious to human life cannot be institutionalized. Laughter cannot be institutionalized — which does not mean that we should abolish institutions such as comic theater. Love cannot be institutionalized — which does not mean that the institutions of courtship and marriage are useless. Wisdom cannot be institutionalized — which does not mean that educational institutions are a waste. Health cannot be institutionalized — which is no argument against hospitals and doctors. We design institutions, hoping that they will help to bring about, or preserve, a certain state of being. Often they do, and sometimes they don’t. And sometimes the state of being may appear without the support of any institutions. People may fall in love watching a comedy, or laugh out loud during a wedding.

The same uncertainty of cause and effect is true of democracy: virtually all the institutions alleged to bring it about may be assembled, and still the state does not come about (think of the apathetic and/or corrupt “representative democracies”); yet all the institutions designed to suppress it may be assembled and it will break out before your very eyes (think of revolution).

Democracy is essential politics: the art of the possible. As an art, democracy is a performance art, like music, dance, and theater. Societies can build theaters, can organize orchestras and troupes of dancers and players, but the art itself exists only while it is being performed. Possible (from the Latin posse: to be able) means merely possible; we call a thing possible only when it is also possibly not. (Consider that no technology can make the experience of a recorded performance the same as that of a live performance. A recorded performance is already over. In a live performance you witness something that at each instant contains the possibility of failing to happen, happening.)

We call democracy the power of the people. Power (this word also from the Latin posse) is what takes the possible out of the hands of random fortune and transforms it into an art: a creative enterprise. Power brings into existence what would never come into existence in the process of the blind, automatic “development” of history. Power transforms dream and fantasy into possibility, and possibility into actuality. But the actuality of democracy itself — the people’s power — exists while the performance is taking place. As Arendt taught us, it is not “making” but “acting.” It is not something that can be, but only something that can be done.

But if democracy cannot directly become an institution, still when it appears it tends — as I argued in Chapter 1 — to take on certain typical forms. People develop a desire to act together, and to talk to one another about their common life. They tend to gather in groups small enough to make this talk possible — in what have been called committees of correspondence, councils, soviets, affinity groups, sectoral groups, and so on. These become the form of “civil society.” These groupings typically evolve into institutions, but this fact does not mean that democracy itself has been institutionalized; on the contrary, the formalization of these groupings may be the beginning of their petrification, as spontaneity evolves into ritual.

As democracy may evolve institutions, it also may consciously found them. That is, democratic movements have typically sought to invent, establish, alter, or abolish the institutions of the state in such a way as to make the democratic condition easier to bring about or harder to suppress. Democratic movements overthrow monarchies; establish constitutions; set up election systems; pass laws that limit state power and guarantee people’s rights; found labor unions; seek to redistribute wealth by reforming land ownership, by changing inheritance laws, by taxing the rich, by setting up welfare systems — to give a complete list one would have to retell the history of the last three centuries, at least. The institutions founded through these struggles are of vital importance to us, but again it is incorrect to say that democracy itself has been institutionalized in them. Some have even been self-defeating, as when a democratic movement seeks to force changes in society through the violence of an all-powerful state, or places all its trust in a leader who turns out to be a demagogue, or confuses freedom with the free market.

Does the fact that democracy cannot be institutionalized mean that there is no way to make it last? The answer depends on whether “last” means “forever” or “for a while.” If it means “forever,” then the answer is clear: despite the
radical democracy

illusions that have been spun by various theorists of progress since Condorcet, history knows nothing of “forever” (except, of course, “forever gone”). Since the French Revolution, people have wanted to believe that someday we would hear an earth-shaking “click,” the great ratchet of history would move to a new position from which it could not go back, and democracy would change from something we have to struggle for into something that is just there, like the air. I would not like to abandon the belief that this permanence may be possible for some states, for example the state of peace. Peace, after all, does not mean doing something but rather means not doing something, that is, not murdering one another. It is possible to conceive that the state of peace could exist without effort. But if the state of democracy means a state of public action, then there is no conceivable stage of history at which it can be had without effort. To suggest that there is would be like suggesting that there could be a time when human consciousness has become so elevated that it is no longer necessary to educate the young. No matter what the future may bring, what in principle can be had only by effort will still be had only by effort. And when people’s efforts flag, those things may again be lost.

On the other hand, if “last” means “for a while,” the answer is also clear. The only remaining question is, How long is “a while”? Sheldon S. Wolin has suggested that democracy should be reconceived as a “fugitive” in history, “a political moment, perhaps the political moment, when the political is remembered and created,” and “a mode of being which is conditioned by bitter experience, doomed to succeed only temporarily, but a recurrent possibility as long as the memory of the political survives.” I agree, with the provisions that we should be cautious about the deterministic overtones of the word “doomed” and that we should remember that in history “temporarily” can be a long time.

Does this temporariness mean that the labors of the democrat are the labors of Sisyphus, that we must heave the stone up the mountain with the certain knowledge that the work is futile, that the stone will roll back down again, bringing all our efforts to nothing? A generation ago, when Albert Camus used the image of Sisyphus as a symbol of action in the face of absurdity, action devoid of hope, he was speaking to a world that still longed to believe in one or another version of progress theory — to believe that history was moving irreversibly through stages of the human spirit, or stages of the relations of production, or stages of economic growth. To say that the stone would roll back down again sounded like a message of despair.

Before the modern age, however, virtually all people everywhere saw human affairs as moving in recurrent cycles, just as nature does. And today even those of us who have been taught to believe in unilinear progress still unconsciously, or instinctively, use cyclical images to describe political phenomena. When oppression eases we call it a “thaw”; when a new democratic movement arises we call it “spring” or a “dawning”; if the movement is strong enough to affect the shape of society we call it a “birth.” Interestingly, while Camus was never able to explain convincingly why his Sisyphus, locked in his cycles of futile labor, was (as Camus claimed) happy, it is not at all absurd to feel glad at the coming of spring, or rejoice at a new birth, even though we know it is the beginning of a cycle that will come to an end.

Let’s change the image, then. To symbolize recurrence, let’s replace the myth of Sisyphus with the myth of Demeter and Persephone. You will remember the story. Hades, king of the Underworld, fell wildly in “love” with Persephone and dragged her screaming down to his kingdom, overstepping his kingly powers. Persephone’s mother, the corn goddess Demeter, searched the world frantically for her daughter and, having located her, called a general strike of the plant kingdom until Persephone would be restored to her. The earth was cast into winter. To avert catastrophe Zeus arranged for Persephone’s return, on condition that she had not eaten any of the food of the dead. Persephone, however — being, like all the Greek gods and goddesses, human — had fallen prey to temptation and eaten seven pomegranate seeds. Her transgression was discovered, and she was sent back to Hades. Finally, a compromise was worked out whereby Persephone would remain in the Underworld for three months of the year and be with her mother for the remaining nine (in some versions it is six and six). And so the world began to move in cycles of spring, summer, fall, and winter.

What can we extract from this tale? Spring is a wonder and a miracle every time it comes; the wonder of it is not compromised by the fact that summer and fall and winter will come again. It is a new beginning every time, without needing to be different from the springs that came before. When it comes, it comes with overwhelming power; the gloom of winter is swept away. At the same time as we move into summer we must choose what to be: grasshopper or ant, hippy or politico? Do we make music or prepare for winter? The wise will prepare for winter: build and stock storehouses, gather firewood, repair leaky roofs, add extra insulation, arrange so that the summer heat, in the form of food and fuel, can somehow carry them through the coming winter. Shall we call these efforts the attempt to institutionalize summer?

There is no question about it: the ant is the wise one in the story, the grasshopper the fool, for it is essential to survive the winter somehow. But there is a danger here. If our preparations for winter are too thorough, we may forget that it is winter. Eating preserved food, we may forget the taste of fresh; standing by the heater, we may forget the warmth of the summer sun. And here is where the analogy begins to break down. For the democratic spring does not roll around by itself, at a regular time. It comes only when people make it come. Without a great collective effort to bring it about, it might not come at all. And if we deceive ourselves into believing that it is summer when it is not, we are less likely to make that effort or even to grasp that it is necessary.

What we mostly have in the “actually existing representative democracies” is winter, with a lot of elaborate equipment designed to help us to survive it:
“democratic institutions.” We are right to cherish those institutions; flawed as they are, we should never allow ourselves to be forced to face winter without them (my argument for a recognition of political cycles should not be taken as meaning that we must accept cycles of democracy and dictatorship). But we must not start thinking of the cave, which we originally entered to get out of the wind, as if it were the whole world, or confuse the stove with the sun. This is the error we fall into when we define democracy as identical to the institutions of the “actually existing democracies.” And this error is surely one of the reasons that, even in this age when virtually everybody claims to be a democrat, democracy itself has still no more than a fugitive existence. If eternal democracy is too much to ask, fugitive democracy is too little. Demeter forced the King of the Underworld to return her daughter for nine months out of the twelve. That’s not a bad bargain, and maybe we can do as well. It would be something to hope for.

2 I offer my apologies to people in the tropical and subtropical regions for the temperate-zone chauvinism built into this image. I am sure the same point could be made in tropical-zone imagery.
### Nature, Human Community, and the Corporation: Characteristics and Contrast

<table>
<thead>
<tr>
<th>How Nature “works,” Nature’s “being”</th>
<th>Fundamental nature of the human being</th>
<th>Nature of community and institutional arrangements that “work”</th>
<th>Nature of the corporation, a nonbeing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Works toward the recreation of balance</td>
<td>Not ultra-acquisitive</td>
<td>Limits on accumulation (from power to paper clips)</td>
<td>Endless growth and profit imperatives</td>
</tr>
<tr>
<td>No excesses; does not accumulate</td>
<td>Non-hierarchical, egalitarian</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Everything is limited</td>
<td>Participatory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nature’s creatures are participants through the niche they occupy</td>
<td>Valuing/including of diversity</td>
<td>Equality of access to participatory processes</td>
<td>Hierarchical, authoritarian, non-participatory, dehumanizing</td>
</tr>
<tr>
<td>Diverse</td>
<td></td>
<td>Integrating of all</td>
<td>Homogenizing</td>
</tr>
<tr>
<td>Not mass produced</td>
<td>Valuing/including of diversity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perishes in imbalance of uniformity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mutuality within community – one species gives something that another needs</td>
<td>Communal, cooperative, nonviolent</td>
<td>Cooperation as basis of social interaction</td>
<td>Competition and aggression imperatives</td>
</tr>
<tr>
<td>Nature runs on renewable energy and resources (sun, wind, biomass, not capital resources</td>
<td>Communal, cooperative, nonviolent</td>
<td>Community-building aims and methods</td>
<td></td>
</tr>
<tr>
<td>Cyclical</td>
<td>Protecting of Earth, conserving</td>
<td>Sustainable economies based on power residing with workers, people, communities, and in harmony with nature</td>
<td>Exploitive, degrades, depletes</td>
</tr>
<tr>
<td>Birth and death are beginnings of one another</td>
<td>Protecting of Earth, conserving</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waste is input and everything is accounted for</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nature is filled with mystery</td>
<td>Being, needing the spiritual</td>
<td>Public policy guided by affirmation/reverence for life; moral</td>
<td>Amoral, aspiritual</td>
</tr>
<tr>
<td>Relational, scale-sensitive</td>
<td>Morality/trust-dependent</td>
<td>Place-oriented</td>
<td>Encompasses “political virtue”</td>
</tr>
</tbody>
</table>

### Leading to these types of political manifestations:

<table>
<thead>
<tr>
<th>Democratic common sense</th>
<th>Elements of peace economy</th>
<th>Elements of war economy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democratic</td>
<td>Post-patriarchal</td>
<td>Patriarchal</td>
</tr>
</tbody>
</table>

Session IX, Reading 5
Is it in our nature to be democratic? Perhaps we can draw some confidence from nature itself. Human beings are a part of the natural world. This matrix summarizes how the fundamental nature of human individuals and communities might be seen to flow from the processes of nature. In contrast, we observe that the nature of the giant business corporation, a legal entity, is wholly in opposition to the way nature and human beings “work.” It is therefore a life-destroying institution as presently designed.
Some Thoughts and Definitions to Inspire Conversation about Democracy

democracy (Webster’s Ninth Collegiate) — (1a) government by the people; esp: rule of the majority, (1b) a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usu. involving periodically held free elections, (2) a political unit that has a democratic government, (3) cap: the principles and policies of the Democratic party in the U.S., (4) the common people esp. when constituting the source for political authority, (5) the absence of hereditary or arbitrary class distinctions or privileges

Proposed by Mary Zepernick for the Democracy Dictionary Project:

sovereignty: where the ultimate decision-making power rests (in other words, who’s in charge?)

democracy: a system of governance, in an organization or political entity, in which the people affected by decisions have the means to participate equitably in making those decisions (literally, rule by the people, with governance and the governed one and the same).

From Greg Coleridge, Ohio Committee on Corporations, Law and Democracy:

In the midst of all the pre/post political party convention hoopla...

DEMOCRACY is more than having elections. Democracy is:

• COMING to learn the story in your community, state and nation of democracy and threats by corporations, legislators, judges, and regulators to all-inclusive self-governance.

• CLAIMING as our main social identity that of “citizen” instead of “consumer” and acting accordingly to challenge every aspect of the corporate culture of overproduction and overconsumption.

• CREATING cooperative, all-inclusive community institutions to provide food, health care, employment, currency, housing, energy, clothing, media, entertainment, etc.

• CONVINCING ourselves and others who work against one corporate harm at a time to shift goals, strategies and tactics to contest the constitutionalized property, personhood, contract and commerce authority of corporations (the rule of thumb should be: “Is this changing a basic groundrule and not simply relieving a single harm?”)

• CHALLENGING and replacing public officials who give away public authority to business and charitable corporations.

• CHANGING state constitutions, corporation codes and corporate charters to define corporations as public, subordinate entities.

• CONTESTING the exercise of illegitimate corporate authority in city councils, state legislatures and the US Congress and instead, becoming involved ourselves in creating, implementing and evaluating rules of government on behalf of people and the planet.
• CHARGING courts which act to shield corporations and privilege as irresponsible and unaccountable and work with others to strategically overturn decisions that threaten authentic self governance.

The most serious threat to democracy is the notion that it has already been achieved. (source unknown)
Challenging Corporate Power, Asserting the People’s Rights

Session X — Where Do We Go From Here: Local Campaign Development

This is the final discussion session in this study packet. During this session, the group will need to attend to some logistical business in addition to its regular discussion time.

After discussing the readings, allow some time to discuss the entire program that the group has experienced together. Have the people in the group acquired a broader understanding of how the corporate system works and what the power dynamics are behind it? Does the group have a different vision of democracy and its possibilities? Are people interested in incorporating more democratic practices in their other social and work organizations? Do people feel inspired and empowered to change the system?

Please allow time in this session to fill out the evaluation form, either as a group exercise or each person individually. Feedback from these evaluation forms from people all over the country have helped to improve the study group materials, so we want to know what you think!

Does this group want to continue to meet? There are abundant materials for continued discussion — you can explore the supplementary materials listed with each session or those in the bibliography; the group can find other materials on its own; or we would be happy to work with you to suggest other possibilities. Is the group interested in developing a local action campaign? Would the group like to have a workshop to build on its discussions for action? WILPF can provide a workshop packet, and leadership team members are available for consultations with groups.

If this is the final meeting of the group, be sure to allow time for closure — to say goodbye, to acknowledge the time the group has shared together, to honor each other, and to celebrate your exploration of democracy.

Readings:
1. “Speaking Truth to Power About Campaign Reform,” by Jane Anne Morris (7 pages)
2. WTO article critique by Molly Morgan (2 pages)
4. “Look Who Demands Pro ts Above All,” by Robert B. Reich (2 pages)
5. Evaluation Form (2 pages)
6. ”Preempt This! Michigan Cities Fight Back,” by Daniel Kraker (optional, 4 pages)
7. ”Idiocy and Sustainability,” by Thomas Prugh (optional, 3 pages)

Discussion Questions:
1. How would you describe the difference between focusing our actions on corporations’ behavior, as opposed to the fundamental relationship between corporations and “we the
people”?

2. Consider the two readings that are critiques (campaign reform and WTO protests). Has participating in the study group changed the way you interpret what you read and hear in newspapers, magazines, radio, TV, and the internet? What do you think of the idea of regularly critiquing information to enhance your skills?

3. Discuss the ways in which various local actions described in the Adbusters article are rooted in the framework from this study group material. How are these activities different from trying to change one corporate harm at a time?

4. How does Robert Reich’s article remind us that the personal is political and that our choices of action every day make a difference in the world? Does it suggest possibilities for individual or group action to anyone in the group?

5. Joshua Holland has proposed a constitutional amendment that would restrict US citizenship to human beings. Would such an amendment keep corporate power in check? Do our constitutional protections apply only to US citizens? (See Joshua Holland, HYPERLINK “http://www.alternet.org” www.alternet.org, July 3, 2006).

6. Corporate Attorney Robert Hinkley proposes that a big improvement in corporate behavior would result from the addition of 28 words to the corporate code of each of our 50 states. The words appear in italics: “The duty of directors henceforth shall be to make money for shareholders, but not at the expense of the environment, human rights, public health and safety, dignity of employees, and the welfare of the communities in which the company operates.” (Interview with Arnie Cooper in the September 2000 issue of The Sun.) Would such a code induce corporation to mend their ways? Would enforcement be the job of some regulatory agency?

7. In light of the local actions reviewed in Session 3— the Point Arena Resolution, St. Thomas and Measure T—what local action would you propose for you own community?

Supplementary Materials:

- “Citizens Over Corporations: A Brief History of Democracy in Ohio and Challenges to Freedom in the Future,” from the Ohio Committee on Corporations, Law and Democracy. An example of a citizen-researched and written history of corporate power in their state. 54 pages (equivalent of 27 standard 8.5x11 pages). Available via: American Friends Service Committee, 513 W. Exchange Street, Akron, OH 44302, 330.253.7151, afscole@aol.com (price $2.50 + $1 for shipping; 10 or more copies: $2 each.)


SPEAKING TRUTH TO POWER ABOUT CAMPAIGN REFORM
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The word “reform” has lost some of its luster lately. Remember regulatory “reform”? Health care “reform”? And then welfare “reform”?

As we stand today, up to our armpits in schemes for campaign finance “reform,” we need to make sure that proposals are grounded in principles that we at least recognize. All the better if they are explicitly democratic.

A bit of history will provide some perspective on how “campaign finance reform” efforts came to assume their current form.

A generation ago public disgust at the way elections were run reached one of its periodic peaks. That last big wave of “campaign finance reform” was set into motion by corruption at CREEP (the Committee to Re-Elect the President) during the Nixon years. Responding to a public outcry, Congress passed the Federal Election Campaign Act (FEC Act, 1971; amended 1974).

What washed ashore shortly thereafter were corporate PACs (political action committees) and the now-legendary Buckley v. Valeo (hereafter, Valeo) Supreme Court decision of 1976. Conditions being optimal, the scum left behind at reform’s high water mark has ripened into the sleaze that is now rotting all around us.

Even more disturbing than the failure of the Watergate-era “reforms” to restore some sense of integrity to our election process is the growing evidence that very little has been learned in the last quarter century. What is the sense of making a mistake if you’re just going to repeat it?

While what little democracy we have goes down the tubes, we are avidly arguing about precisely what formula corporate managers and the very wealthy must use to funnel millions of dollars to targeted candidates.

While corporate speech saturates the legally public airwaves, we’re debating about whether or not we dare to restrict independent expenditures. Nay, we’re debating about how to even define independent expenditures.

Meanwhile, we’re not confronting issues such as....

• Is money speech?

• Should a transnational corporation have the same rights as a human person to participate in the democratic process?

• If this is a democracy then shouldn’t all citizens, regardless of their economic status, be equally able to run for office?

• What should be the nature of our public policy discussions and our elections?

It may be another generation before as much momentum and outrage is again built up around this issue. It would be nice to leave a more democratic heritage than the seventies left us in the form of the FEC Act and the Valeo decision. That is possible only if we first understand the assumptions gently but insidiously folded in the FEC Act-Valeo package, now the “law of the land.”
MONEY AND SPEECH

First, let's examine the issue of viewing money as a form of speech.

Starting out with “separate but equal” ends up with counting drinking fountains to measure equality. Today, starting with “money is speech,” we are doing little more than counting dollars to measure democracy. We’ve missed the point.

How did we come to such a state that we can talk about free speech only by talking about money?

The money equals speech equation derives from the Supreme Court’s 1976 \textit{Valeo} decision. In a nutshell, in that decision the Court held that as far as campaign expenditures were concerned, money is speech. Therefore, limits on expenditures were limits on free speech, which is a constitutional no-no unless “compelling” circumstances are demonstrated.

To complicate the picture further, the Court in \textit{Valeo} also ruled that though \textit{spending} money is free speech and \textit{cannot} be limited (as the original FEC Act provided), \textit{donating} money is a slightly different kind of free speech that can be limited.

So, while demand (expenditures) was unlimited, supply (contributions) was limited, thus creating a perfect setting for creative “bundling” of contributions, the opening up of numerous “conduits” for funds, the use of “independent” expenditures, and the proliferation of other kinds of “soft money” (unregulated expenditures). And that is what happened.

The near unanimity of opinion concurring that money equals speech is striking. From \textit{Valeo}:

“One of the points on which all Members of the Court agree is that money is essential for effective communication in a political campaign.” (Justice Marshall, 424 U.S. 288; Marshall concurred in part and dissented in part)

“[V]irtually all meaningful political communications in the modern setting involve the expenditure of money” (per curiam opinion of court, 424 U.S. 11, describing appellants’ view)

“[C]ontributions and expenditures are at the very core of political speech” (opinion of the court, describing appellants’ views, 424 U.S. 15)

“[V]irtually every means of communicating ideas in today’s mass society requires the expenditure of money” (opinion of the court, per curiam, 424 U.S. 19)

This assumption is echoed in today’s debate.

“Money in politics is not evil. It would be impossible to have a good democracy without paying for candidates to talk with voters...” (Donald F. Kettl, director of the La Follette Institute of Public Affairs, University of Wisconsin at Madison, 26 Jan. 1997 in the \textit{Wisconsin State Journal}).

It was not always so.

In the early days of the First Amendment in this republic, all information and discussion was either by word of mouth — “live” — or by means of reading the printed word. Informal talks, handbills, newspapers, and songs were all part of the public debate. Much later, the air waves — radio and television — became available as media for communication.

Other changes occurred as well. The open marketplace at the crossroads was replaced by the shopping mall. Time once spent in public areas exchanging news and views is now spent in front of the blue glow of the television set.

The meaning of free speech rights has been altered correspondingly. The First Amendment rights of \textit{human persons} have been progressively restricted, primarily through a steady expansion of the concept of private property rights and an ever-growing laundry list of what the government may prohibit by sweeping it into the category of “public safety” laws.

What this means in practical terms is that a \textit{human person’s} free speech rights are severely
restricted in the workplace, at the shopping center, and on the street corner. But in these same contexts, First Amendment rights of corporate “persons,” as interpreted by the courts, are almost limitless.

So as we human persons work and shop, we are bombarded by corporate “free speech” but may not exercise our own First Amendment rights much beyond asking where the bathroom is or what something costs.

From here on out the magic works by itself. You need money to be heard in the only places that matter. Corporations have both First Amendment rights and ample funds; hence, only their views are heard. But any “person” (that means you the reader, or a transnational corporation) is equally free to take out a full-page advertisement in the New York Times or buy a minute of air time for a half a million bucks.

There is a further twist. The airwaves belong to the public, but our federal regulatory regime has leased them to private corporations for a song. These media corporations use them to make huge profits partly by selling the public’s own air waves back to them through public financing of campaigns.

Free civic forums where people can speak truth and debate ideas without fear of harassment are almost nonexistent. Potential forums that remain (like the news media, malls and workplaces) are private property where, with the help of court declarations, free speech by human persons is either forbidden, severely limited, or costs money.

If the only way to speak freely and be heard is to pay the powerful corporations for a forum, and be subject to their censorship whims, then speech is not free.

CORPORATIONS AND FIRST AMENDMENT RIGHTS

Now to the second issue that we are not debating: Should a corporation have the same rights as a human person to participate in the processes of democratic governance?

The absence of this issue from the current debate is disturbing. When we neglect to even question whether corporations should have the Constitutional rights of human persons, we are drifting far afield from any real sense of democracy.

The word democracy, it should not need to be pointed out, means rule by the people: self-rule, self-governance. It is one of the shameful aspects of our history that it took great ferment to establish (at least theoretically) that people means all human beings, and not just the wealthy white males who framed the Constitution. How is it then that corporations have for a century possessed the core Constitutional rights of natural persons? Shouldn’t we debate this, or at least mention it, before embedding corporations even more deeply in our political process?

The FEC Act, like most discussions of “campaign finance reform,” does not distinguish between the rights of natural persons (legal parlance for human beings) and other entities such as corporations and committees.

How can we fail to distinguish people from corporations in laws about the democratic process itself? Our laws distinguish species of birds from each other; we have separate laws for all manner of fish and reptiles. Trees in our yard, trees on federal land, trees along rivers, and trees whose corporate “owners” are involved in leveraged buyouts of other corporations fall into different legal categories. But we lump people and corporations together as Constitutional “persons.”

People didn’t always think that corporations were entitled to Constitutional rights. Since the late nineteenth century the Supreme Court has been handing corporations many of the protections guaranteed to “persons” by the U.S. Constitution. But it wasn’t until the “reforms” of the 1970s that the idea that corporations had free speech “rights” began to be widely accepted.

If corporations have such Constitutional rights, perhaps they ought to vote and have their own named representatives in the hall of Congress. “The Chair recognizes the Senator from Union Carbide Corporation... from WMX Corporation... from the British East India Company...” etc.

Democracy is not a matter of people negotiating with a corporation management team, or with an administrative board, or with a king. It is a matter of “we the people” talking with each other and deciding
what our community, society and economy should look like. We should do it more often.

Imagine a law that prohibited corporations from engaging in any form of political activity. Imagine that breaking such a law was a felony, and that a corporation could be dissolved or kicked out of a state for disobeying it.

Wisconsin had such a law from 1905 until 1953. Check out this language (Wis. Laws, Section 4479a. [Sec. 1, ch 492, 1905]).

No corporation doing business in this state shall pay or contribute, or offer consent or agree to pay or contribute, directly or indirectly, any money, property, free service of its officers or employees or thing of value to any political party, organization, committee or individual for any political purpose whatsoever, or for the purpose of influencing legislation of any kind, or to promote or defeat the candidacy of any person for nomination, appointment or election to any political office.

The law was still on the books with lessened penalties, until the early 1970s when the new improved FEC Act took effect, making PACs legal.

It was not so long ago that corporations were not viewed as appropriate participants in elections. Democracy and free speech were for humans. Dare we think that way again? If we don’t speak truth to power about free speech, what grounds have we for democracy?

WHO SHOULD BE ABLE TO RUN?

And now the third issue that we seem unwilling to raise: If this is a democracy then shouldn’t all citizens, regardless of their economic status, be equally able to run for office?

Today, even with some “public funding” of campaigns, perhaps 80% of the population cannot even consider running for office. That we accept this as “normal” is a stinging indictment of how low our standards for measuring democracy have fallen.

Not surprisingly, most of the reasons why only a small percentage of U.S. citizens can even dream of running for office revolve around money. Who can take time off from work to campaign? Who is assured that after a campaign, or a term served, that they can return to a job? How many public offices provide only a token salary, thereby limiting those who can serve to the independently wealthy?

If we want free and fair elections, and not just “campaign finance reform,” we are going to have to think about and debate these issues.

TODAY’S DEBATE: ENTER MAINE

Against this historical and conceptual backdrop we can view current reform efforts through a distant mirror.

The recent upsurge of interest in what’s being termed “campaign finance reform” reflects people’s growing awareness that big corporations dominate our political process, and with it our economic and social lives. As Sir John Colepepper put it in the early seventeenth century, corporations sip from our cup, they dip in our dish, they sit by our fire.

If you said this only a few years ago, people called you a conspiracy theorist. Now they say either “So what else is new?” or “But there’s nothing we can do about it.”

All over the nation, people are trying to do something about it. Their efforts are termed “campaign finance reform” and many are hailing Maine’s new election law (the Maine Elections Act, passed by initiative in November 1996) as the pot of gold at the end of the campaign finance reform rainbow.

A cursory review of news clippings and editorials about the Maine Act speak of it as a “model,” as a “standard against which all other reform efforts are judged.” It is “far-reaching,” it is “revolutionary.” It “addresses nearly every problem that exists in the campaign world.” One commentator noted that the people of Maine had “reached for the stars.” Another stated flatly, “Maine is the future... We have to figure out how to do Maine everywhere.”
One would expect that such an initiative would represent a fearful threat to entrenched corporations in Maine, and nationwide. One would expect that such an initiative would be fought tooth and nail by the same powerful corporations that launched a successful media barrage to crush the anti-clearcutting initiative on the same ballot.

Instead, it was a real ho-hummer. There was no organized opposition to the Maine “campaign finance reform” initiative. According to Maine labor activist Peter Kellman, who followed the campaign closely for the Program on Corporations, Law and Democracy and voted for the initiative, the only visible opposition was from the American Civil Liberties Union (ACLU).

(The ACLU has embraced the “money equals speech” doctrine, and accepted the extension of Constitutional rights to corporate “persons.” Corporate donations and expenditures for political purposes thus appear as “free speech” issues.)

This great gaping corporate silence — remember how they handled Clinton’s hardly radical health care plan — should be an alarm bell for us. Pretend you’re a corporate CEO and see if you feel threatened by the Maine Act’s provisions.

The Maine Act was intentionally drafted to avoid challenging the Valeo decision.

• It accepts the equation money equals speech.
• It accepts the equivalence of human beings and corporations for most legal purposes relating to the mechanisms of democracy.
• It does not address most of the obstacles preventing most people from running for office. That is, it’s not about democracy, it’s about money. As to how it would affect current campaigns, consider these points.
• It does not prevent a wealthy candidate from using family or personal wealth to outspend a publicly financed opponent ten-to-one, or a thousand-to-one.
• It does not prevent a corporation from setting up scores or thousands of PACs (political action committees), each of which can collect the maximum amount of money for a candidate.
• It does not prevent dozens or hundreds of “independent” individuals or groups from spending unlimited amounts of money advocating a particular candidate or position.

The Maine Act is not only not about democracy, it’s not very much about money, as many so-called current “abuses” will continue.

What the Maine Act does, however, under the guise of “public financing,” is set up a system that collects money from the many, passes it quickly through the hands of the hopeful (candidates), into the coffers of the few (media corporations). Misleadingly termed “public financing,” this scheme is a redistribution of wealth in which we the people pay huge media corporations to allow us limited use of the airwaves we own.

For such a non-solution, scores of citizen organizations around the U.S. are receiving financial infusions from philanthropic foundations to pursue measures much like the Maine Act.

Many proponents of such “reform” admit it’s “not perfect,” but assert that it’s the best we can do at this time. This “best” amounts to accepting the Valeo and FEC Act assumptions as the natural order of things. We say with a sigh... We live in an imperfect world. For reasons of money, only a small proportion of us can even think of running for office. Among those privileged few, campaigns are corrupt by any measure. But we the people are severely limited in what we can do about it because of the Constitution. The best we can do is to limit money in campaigns enough to temper the corruption to tolerable levels but we certainly can’t do anything to chill corporate free speech.

The 1970s electoral “reforms” did not usher in an era of clean and open democratic elections by any means. It follows, then, that if we do want to work toward such a goal, we need to do something different.

If we expect to get beyond the tinkering stage in dealing with the campaign reform issue, we will
have to face each of the following three issues:

- People can recognize and reject the profoundly anti-democratic equation of money and speech, and identify the root causes that make it seem to be “natural.”
- People can reject the notion that persons and corporations are legal or Constitutional equivalents, and that corporations have “rights” at all, other than those limited capacities specifically granted them by the sovereign people.
- People can debate not campaign “finance” but campaigns themselves, and decide how we the people want to hold our elections and make public policy decisions.

RE-FRAMING THE DEBATE

A debate that confronts the fundamental issues underlying current proposals for “campaign finance reform” would begin by recognizing that we need wholesale election reform, not just campaign “finance” reform.

The authors of the Valeo decision stated that “in the free society ordained by our Constitution, it is not the government but the people... who must retain control over the quantity and range of debate on public issues in a political campaign.” (56)

If they meant all people and not just the self-styled elites in power at the moment, we can agree with them.

If they meant human persons and not corporate “persons,” then we can agree with them.

What we’re seeking here isn’t changing the laws of gravity or finding the fountain of youth. It’s self-governance, by all of the people. It is self-governance in a context of the free flow of ideas and information, sparked by debate and discussion. And it is fairness — plain, ordinary fairness, something that any child can detect.

We seek the “unfettered interchange of ideas for the bringing about of political and social changes desired by the people.” (Valeo Court quoting NYT v. Sullivan, quoting Assoc. Press v. U.S. [1945].) Obviously this is not possible where corporations dominate the election process and election opportunities are not equal for all.

Chances are that we won’t achieve this goal by next year’s elections, but if we can’t even imagine it, much less talk about it, we’ll never achieve it. The word campaign comes from the word for open, level field, and that’s what we’re after.

We can start with six basic democratic principles.

I. Free speech is a prerequisite for democracy.

II. Money is not speech.

Participation in the democratic process should not in any way or to any degree be dependent on money. (Note: There is a move afoot to reverse the Valeo decision, but on grounds of “compelling” government interest, as opposed to a refutation of the money=speech equation.)

III. Natural persons (citizens — the demos of democracy) should be distinguished from corporations in all laws regarding the political process.

Since democracy is about people, corporations should not have First Amendment rights. (Note: In view of the fact that the legal term corporation covers municipalities, many environmental groups, media corporations, corporate trade associations, some Native American tribes, some unions, and transnational corporations, among other entities, obviously some fine-tuning is needed here. But there are ways of handling this issue so as to avoid jeopardizing the First Amendment rights of human persons to associate.)

IV. Public forums (such as the airwaves, our newspapers and magazines, our workplaces, malls and streetcorners) should be free from corporate control.
V. Election provisions should be mandatory and apply to all.

“Voluntary” programs should be avoided because they allow rich candidates to buy their way out of conditions imposed on lower and middle income candidates (we can call it the Perot-Forbes Syndrome).

VI. Under no circumstances should public money be paid to media corporations for use of the airwaves that we already own.

Measures to apply these principles might include the following:

• Prohibit all paid political advertisements on radio and television.

• Use the public airwaves for debate and discussion of candidates, issues and concerns. Don’t ask, tell. Corporations are legal fictions granted special powers in order to serve a public need. Corporations that fail to comply shall have their corporate charters or certificates of authority revoked.

• Do not require monetary contributions to qualify a candidate for public financing or an issue to appear on a ballot. Signatures are enough. Current attempts to justify a dollar contribution to demonstrate “seriousness” or “commitment” parallel the arguments offered in previous eras in support of the poll tax, and the “property” requirements of 1789.

• Workplaces, malls and streetcorners should be made into free speech and free assembly zones. As a general rule, any space where we “hear” corporate speech without asking for it should be a place where human persons can express their ideas freely, and have the right to hear others’ views, without fear of harassment or retribution.

• Election opportunities should be the same for all, regardless of wealth. Provisions for time off during campaigns, the guarantee of a job to return to after an election or a term served, and a living wage for both candidates and elected officials will help remove the built-in advantages that now exist for wealthy persons who run for political office.

*          *          *          *

We are a long way from the “unfettered interchange of ideas” described as desirable in the Valeo decision. We need the courage, and the space, to challenge the prevailing wisdom of our age. There is much to discuss, debate, work out, and experiment with. But if we fail on our first try, or succeed only partially, it will be because we spoke truth to power, and not because we worked only for measures that were “achievable” but changed little.

Many of these issues have been discussed by Maine labor activist Peter Kellman, who works with the Program on Corporations, Law and Democracy (POCLAD). Thanks also to Richard Grossman of POCLAD and J.M. Baime of the Gray Panthers.
From the *San Diego Union-Tribune* editorial page, December 2, 2000:

**Lawless in Seattle**

Anti-trade protesters clash with police

For the better part of Thursday, anti-trade protesters in Seattle marked the one-year anniversary of riots that disrupted a ministerial meeting of the World Trade Organization and managed to behave themselves in a peaceful manner.

Alas, the more extremist elements that descended on Seattle could not let the day pass without provoking a clash with police (the better to make the national news). Thus, for the second year in a row, the anti-trade protest disintegrated into violence and mayhem.

It seems clear that the anti-trade movement has been hijacked by extremists who will resort to any means, however lawless, to advance their anti-capitalist agenda.

Rather than make their case against global trade in a civil manner, rather than debate the merits (and demerits) of free trade in an appropriate forum — like the WTO — they choose to throw bricks through the windows of Starbucks coffee shops, to vandalize Nordstrom stores.

The irony is that, by resorting to such guerrilla tactics to advance their cause, the anti-trade extremists thoroughly undermine support for their position among the mass of Americans, including those who might otherwise empathize with them.

For while many Americans may be concerned whether international trade agreements are sufficiently attentive to, say, labor or environmental issues, they are even more concerned when the safety of law-abiding citizens, when the property of innocent business owners, in Seattle or any other city, is threatened by violent protests.

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December 4, 2000

*San Diego Union-Tribune*
P.O. Box 120191
San Diego, CA 92112-0191

To the Editor:

Your editorial of December 2, 2000, “Lawless in Seattle,” is a textbook example of how the corporate media manufactures reality from whole cloth.

You chose the label “anti-trade protesters,” although nearly every group in Seattle made it clear that they had no objection to trade in general, only to trade that benefits a few at the expense of people and the planet. Protesters in Seattle demonstrated against a wide range of destructive corporate practices, but the element that united them was a rejection of corporate globalization and the anti-democratic rule of the WTO, not trade per se.

People in Seattle last week were not marking “the one-year anniversary of riots” but the anniversary of massive nonviolent civil disobedience that successfully prevented the first day of WTO meetings from occurring. As thousands of people who were in the streets (including me) can attest, the protesters did more to try to stop the few individuals engaging in vandalism than did the Seattle police, who simply stood and watched them on the first day. Harm that came to human beings occurred when the police,
unprovoked and sometimes unannounced, used tear gas, pepper spray, rubber bullets, and other less lethal weapons on peaceful, nonviolent protesters, the vast majority of whom still refused to retaliate or escalate the situation.

Many of last year’s and last week’s protesters have spent weeks, months, and even years educating themselves about the issues, training in nonviolence, and working hard for peaceful change in the world. They understand not only how very much is at stake but how important it is to model cooperative, sustainable communities to make this change. Despite this commitment, you say that last week’s protesters “managed to behave themselves in a peaceful manner.”

If there were people last week who “provok[ed] a clash with the police (the better to make the national news),” this says more about the national news than it does about a subset of the protesters. Perhaps you can explain why the corporate media will provide expansive coverage of a handful of people breaking windows or being arrested, but only a brief mention of a colorful, creative, and spirited march of 50,000 people from hundreds of diverse organizations uniting against an enormously powerful institution that, until November 30, 1999, most people had never heard of. Last year’s protest did not “disintegrate into violence and mayhem”; it ended in celebration because the WTO ministerial collapsed without negotiating any new trade rules.

I suppose it might be clear to someone who invented it that “the anti-trade movement has been hijacked by extremists,” but I know of no such movement. What I do know is that the ranks of people who have been working for years to stop global corporatization were enormously augmented during and as a result of last year’s event, and the momentum has continued to build around the world ever since. Some of those people have an “anti-capitalist agenda” because it is so easy to document capitalism’s anti-democratic nature. Other people have a different focus in their work.

For more than 225 years people in this country have taken to the streets when their attempts to “make their case... in a civil manner” are ignored. Perhaps if you had attended the WTO’s showcase forum with NGOs in Seattle last year, as I did, you would have seen firsthand how little interest the WTO has in actually debating the merits of corporate-controlled “free trade” with anyone who questions its agenda. The WTO is not only not an appropriate forum, as you state, it is an illegitimate forum. Operating in secret, accountable only to its transnational corporate masters, the WTO’s authority supercedes even that of elected governments. Democracy does not interest the WTO, but it is of primary concern for the people in the streets.

“The irony is” not that breaking windows undermines support for the protesters, it is that the corporate media deliberately ignores or obfuscates the protesters’ messages so that “the mass of Americans” have no way of knowing what they’re saying. Your carefully crafted editorial is an excellent example. In seven sentences, you marginalize the most exciting, broad-based citizen movement in this country in decades.

“[T]he safety of law-abiding citizens” has been invoked to defend slavery, union-busting, women’s disenfranchisement, war, human rights violations, and a long list of other social injustices, whether or not those citizens are actually in danger. Such fear-mongering is also one of the many wedges used by power holders to divide groups and fracture people’s movements. The fact remains that even the small number of protesters damaging property are not hurting human beings, while transnational corporations continue to do enormous damage to people and the planet in the name of profit that benefits a few. The Union-Tribune could go a long way toward reducing what little violence occurs during street protests by focusing instead on the range of urgent messages the protesters are communicating. If the media covered the content instead of the violence, even fewer people might be motivated to break windows.

Molly Morgan
San Diego

[Note: this letter is NOT a good example of a letter to a newspaper editor – it is way too long!  Although it was sent to the Union-Tribune, this letter was written primarily as an exercise in critiquing -mmn]
The CRACKDOWN

Six months after the Battle in Seattle, protests have erupted in London, Davos and Washington, D.C. Clearly, this is more than a series of isolated out-bursts of rambunctious dissent. It is a revolt that at once harkens back to the American Revolution, and hangs in the air with a hot new excitement.

The usual forces can be seen scrambling for bearings. Who’s in charge? What exactly do they want? Unable to find answers, they try to measure the movement along the old Left-Right dichotomy.

An honest look reveals that, strategically, this is a whole new ball game. It’s not clear who’s in charge. No one is in charge. Citizens from the Left and Right are arguing for a renewal of citizen power, media democracy, and environmen-tal sanity. An uneasy gathering of forces — not exactly a coalition — is clearing a space where fundamental questions of sovereignty and power can again be openly debated and decided. It is an incredibly beautiful void.

The corporation won’t come out of this intact. The new activists — and this is what Bill Clinton, Paul Mar-tin, Mike Moore and all the keepers of the old order don’t get — are no longer protesting against the harms that corporations do, they are pro-testing against the corporation itself. These new activists want to go back to the beginning, back to the laws and legal precedents that gave birth to the corporate “I.” They want to tinker with the corporate genetic code, to change the laws under which charters are granted and revoked, the laws that protect investors from even the foulest taint of their investments, and the rules and regulations under which corporations operate from the local to the international level. They want the laws governing corporate crime and punishment re-tooled.

There is an opening here for a revolution too sweeping to define within current political lines — a revolution by, of, and for the people.

The Community Front — Local Rule
TOWNSHIPS, municipalities and communities are getting together and asserting their sovereignty — it’s one of the most exciting new activist fronts. Here are a few of their stories:

>> On April 25, 2000, the council of Point Arena, a small community in California’s north coast, voted four-to-one to pass a Resolution on Corporate Personhood. “Democracy means governance by the people. Only natural persons should be allowed to participate in the democra-tic process,” the resolution reads. “The city of Point Arena agrees with Supreme Court Justice Hugo Black in his 1938 opinion in which he stated, ‘I do not believe the word ‘person’ in the 14th Amendment includes corporations.’” (Also see “Jan Edwards,” page 44). Contact: Jan Edwards at <janedwards@mcn.org>

>> On November 3, 1998, citizens of the fiercely political university town of Arcata, California, cast ballots on an initiative unique in US history. By a vote of 3,139 to 2,056, Arcata’s council was given a mandate to “ensure democratic control of all corporations conducting business within the city.” The next year, some 600 people attended two town-hall meetings to move the mandate forward. Up for debate: “Can we have democracy when large cor-porations wield so much power and wealth under law?” Contact: Democracy Unlimited at <www.monitor.net/democracyunlimited>

>> A group of 140 local business owners in Boulder, Colorado, has sparked an intense examination of corporations and democracy. The Community Vitality Act proposed by the Boulder Independent Business Alliance (BIBA) would put a city-wide cap on the number of chain businesses. BIBA director Jeff Mil-chen says the group is working to demolish “the myth of the business interest” by showing that indepen-dent, local, small businesses are victims of corporate globalization.

An initiative of the national Reclaim Democracy! group, the Boulder coalition is only the first of a growing network of IBAs across America. The $1,000 attack ads launched against BIBA confirm that, yes, the chain stores are running scared. Contact: Reclaim Democracy! at <www.reclaimdemocracy.org>

>> Nine Midwestern states, representing 30 percent of America’s agricultural income, now forbid large corporations from owning farmland. In Nebraska and South Dakota, the corporate ban is actually written into the state constitution. Activists are currently working to add Pennsylvania to the list, and two townships have already barred corporations from citizen soil. Says Thomas Linzey of the Community Environmental Legal Defense Fund: “Municipal governments are desperately looking for allies, because they are being swallowed [by corporate interests].” Contact: Community Environmental Legal Defense Fund, (717) 530-0931; Dakota Rural Action <drural@brookings.net>
Jan Edwards
Co-Chair
Redwood Coast Alliance for Democracy

In April, the local government of tiny Point Arena, California (pop. 400) passed a resolution stating that corporations are not persons. Ever since a dubious 1886 Supreme Court ruling, US corporations have enjoyed all the “inalienable” rights of natural persons.

“I THINK THE core of this issue is who is to be in charge. Since our constitution says ‘we the people,’ then it is very important who we consider the people to be. It’s not just a semantic game, it’s a question of who gets to rule. And who gets the protection of the Bill of Rights, including free speech.

People ask what would change if you ended corporate personhood. That’s sort of like imagining what would change if you tore down the Berlin Wall. You could prohibit political activity of corporations, stop political donations, stop lobbying. You could prevent mergers or restrict corporations from owning stock in other corporations. You could keep cellular towers out of towns. Leafleting in malls and free speech in the work place could be allowed. You could stop advertising of dangerous products like tobacco. You could enact anti-chain store laws to protect local businesses, or levy differential taxes. You could revoke corporate charters by popular referendum.

Our little group wanted to do something important. We are so far away from everyone in this small place. Now our hope is that another town, maybe a little bigger, will pick up the ball. Then another town, and another. We’ll be glad to pass on what we know. That’s an open offer.”

>> In April, the Corporate Responsibility Coalition launched an aggressive effort to “ground” corporations in Canada. With the Canadian Business Corporations Act under review, the coalition united 25 citizen groups to lobby for change. Among other reforms, the coalition is demanding that corporations be held liable for crimes committed by employees on the job, disclose records of compliance with rules and regulations, protect “whistle-blowers” who report corporate wrongdoing, and permit shareholders or other concerned citizens to apply to have a corporation dissolved if it repeatedly breaks the law.

Contact Duff Conacher, <dwatch@web.net>

Local rule is a powerful notion. It undercuts the whole conceit of corporate rule, and raises the specter of a grassroots revolt against globalization. Townships, municipalities, eventually provinces, states and whole bioregions, could insist on their right to operate by their rules, not rules negotiated (without consultation) at some World Trade Organization meeting of business executives and government bureaucrats. Here, in a showdown between local and federal rule, the locals would clearly have the upper hand. When push comes to shove, what could Washington, Ottawa, London or Paris do to keep such maverick communities in line? Send in the army?

>> The “Oregon Human Rights Initiative” is an ongoing effort to require that civic and commercial businesses in Oregon abide by the United Nations Universal Declaration of Human Rights (signed into international law 51 years ago by virtually every nation except the US). Under the initiative, failure to comply with these essential UN principles could result in charter revocation. Contact: Paul Van De Velder, <oneworld@peak.org>
ACTIVISTS working in this area want to scale back many of the constitutional rights and freedoms that corporations have won over the past 200 years. They want to get the public, the media, and the politicians used to the idea that sovereignty resides only with the people, and that a corporate charter is a privilege that can be with-drawn at any time. The ultimate long-term goal is to revisit the 1886 Santa Clara Supreme Court decision and have it overturned.

Another critical goal is to change the to rewrite the rules of incorporation so that every investor assumes partial liability, then financial markets would immediately undergo dramatic change. Fewer shares would be traded. Instead of simply choosing the biggest cash cows, potential shareholders would carefully investigate the back-grounds of the companies they were about to sink their money into. They would think twice about buying shares in rogue corporations like Philip Morris Inc. or Monsanto. Too risky. They would choose resource companies with good environmental records and stay away from multina-tionals that use child workers overseas. In a number of ways, investors would be grounded — forced to care and take responsi-bility. Stock markets would cease to be gambling casinos. Our whole business culture would heave.

One of the more doable, short-term goals of lawyer-activists is to get corporations out of politics — to ban all forms of political contributions and political advocacy by corpora-tions. A first step in this direc-tion would be to eliminate tax exemptions for corporate ex-penditures related to lobbying, and civic, charitable, and edu-cational “donations” of any kind.

Corporate Crime and Punishment

UP-TO-DATE data is hard to find on this subject, but professor Amitai Etzioni of George Washington University found that 62 percent of the Fortune 500 corporations were involved in one or more “significant illegalities” in the years from 1973 to 1984. Nearly half of them, 42 percent, were linked to episodes of corrupt behavior and 15 percent of them — 75 major corporations — were involved in five or more cases.

A corporation has no heart, no soul, no conscience. It cannot feel sorrow or remorse. Even though it is managed by human beings, its sense of morality as an organization is not at all hu-man. Corporations are “artifi-cial legal persons.” They are, in the most literal sense, “dispas-sonate.” This permits them, in the words of long-time General Motors executive John De Lorean, “to willfully produce ineffective or dangerous prod-ucts, deal dictatorial and often unfairly with suppliers, pay bribes for business, abrogate the rights of employees by de-manding blind loyalty to man-agement or tamper with the democratic process of govern-ment through illegal political contributions.”

Anti-corporate-rule activists want the penalties for corporate crime to be every bit as harsh as those for individual criminals. They want to enact tough new corporate liability laws that make convicted corporations ineligible to hold government contracts or licenses for tele-vision stations, to make polit-ical contributions, or to lobby Congress. And they want three-strikes-and-you’re-out laws for repeat offenders. Here are two stories from the front:

> In parts of the US, “three strikes, you’re out” legislation is used to lock up repeat felons and throw away the key. In 1998, the township of Wayne, Penn-sylvania, applied the same idea to corporate crime. In Wayne, any corporation with three or more regulatory infractions in the US. A vote of 50 percent or more will yank the licence within ten days — though a legal challenge is al-ready expected. Contact: Thomas Linzey, Community Environmental Legal Defense Fund, (717) 530-0931.

> Activists in Shasta Lake City, Calif-ornia, are applying a “ten strikes” variation on the “three strike” system. On November 4, residents will vote on whether or not to pull the business licence of Knauf Fiberglass, known to have committed at least ten regu-latory infractions in the US. A vote of 50 percent or more will yank the licence within ten days — though a legal challenge is al-ready expected. Contact: Heidi Silva (530) 472-1355.
During his election campaign for Attorney General in 1998, Eliot Spitzer issued this statement: “When a corporation is convicted of repeated felonies that harm or endanger the lives of human beings or destroy the environment, the corporation should be put to death, its corporate existence ended, and its assets taken and sold at public auction.”

HE HAS YET to revoke a corporate charter, but Eliot Spitzer has been playing hardball with corporate criminals. From General Electric to Publishers Clearing House, Spitzer has been making sure that corporate ne’er-do-wells pay the price for their transgressions.

Although Spitzer has been careful not to develop an “antibusiness” image since he took office a year and a half ago, he has reconfirmed the state’s power to revoke corporate charters. His platform was progressive enough to earn the endorsement of anticorporate crusader Ralph Nader.

Activists are watching the Attorney General’s office closely. When corporations resort to crime, Spitzer may be the man to read them their last rites.
The Charter Review

Front

ONE WAY of forcing corporations back under civil control is to grant them charters only for a fixed period — say ten years — at the end of which their conduct and performance is reviewed by the attorney general’s office before a new charter is granted. During the review process, citizens can submit complaints, employees can voice any discontent they might have, suppliers and retailers can bring up their concerns. The charter renewals of controversial companies like Microsoft and Monsanto would be hotly contested and debated in the media. Microsoft, for example, as a condition of renewal, could be asked to change its aggressive marketing practices;

There is an opening for a revolution too sweeping to define within current political lines — a revolution by, of, and about citizens. Contact: Community Environmental Legal Defense Fund, (717) 530-0931.

The Charter Revocation Front

CHARTER REVOCATION is a scary business; it’s the equivalent of a death sentence for a corporation. But for activists, that’s precisely the point. Right now there are no penalties that CEOs and executives of corporations fear. The chances of the CEO of a convicted corporation ending up in jail are next to zero. The corporation loses none of its political or legal rights; in fact, the fines and penalties imposed are often seen as the price of doing business. That’s why the executives of rogue corporations like Philip Morris can keep lying to people, hiding information and otherwise flouting the law with impunity year after year after year.

During the first years of the American Revolution, the charters of wayward corporations were routinely revoked, but for more than 100 years now, charter revocation has been just an archaic clause in the law books of some states and provinces. The American Bar Association has removed the clause in many states because it is seen as obsolete.

Actually, it may be a lot more sinister than this. Corporations “invite” the Bar Association to “modernize” the laws and bring “corporate laws up to the 21st century.” This was about to happen in British Columbia in 1999, but The Citizens Council on Corporate Issues petitioned California Attorney General Dan Lungren to pull the plug on the Union Oil Corporation. According to the revocation team, Union Oil is responsible for environmental devastation, unethical treatment of workers and gross human-rights violations. In February of this year, the petition, endorsed by a further 160 signatories, was resubmitted to the current Attorney General, Bill Lockyer. Lockyer has refused to nix Union Oil, but has acknowledged that charter revocation is within his powers. Delighted activists now plan to propose a string of potential candidates. Contact: Robert Benson,

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>> Alabama is the only state in the union where a private citizen can file a legal petition to dissolve a corporation. In June 1998, Judge William Wynn did just that. Comparing his actions to a “citizen’s arrest,” Wynn named six tobacco companies that he believes have broken state child-abuse laws and should be shut down. Said Wynn: “The grease has been hot for a year now, and it’s time to put the chicken in.” Following a meeting with Big Tobacco’s legal team, the ruling judge found a loophole to dismiss Wynn’s action.

>> One of the largest American corporate charter revocation efforts in a century made headlines on September 10, 1998. Thirty individuals and organizations (including the National Organization for Women, Rainforest Action Network and National Lawyers Guild) petitioned California Attorney General Dan Lungren to pull the plug on the Union Oil Corporation. According to the revocation team, Union Oil is responsible for environmental devastation, unethical treatment of workers and gross human-rights violations. In February of this year, the petition, endorsed by a further 160 signatories, was resubmitted to the current Attorney General, Bill Lockyer. Lockyer has refused to nix Union Oil, but has acknowledged that charter revocation is within his powers. Delighted activists now plan to propose a string of potential candidates. Contact: Robert Benson,
In May 1999, Ohio Assemblywoman Barbara Pringle requested that the state's attorney general bring a charter revocation action against the Cleveland Clinic, a non-profit corporation that, she says, is closing hospitals and reducing service to the very citizens who chartered the private company. Contact: Barbara Pringle, 216-749-0154.

Back in May 1998, New York's then-Attorney General Dennis Vacco revoked the charters of the Council for Tobacco Research and the Tobacco Institute. Vacco ruled that the two agencies were "propaganda arms of the industry," complicit in "grave, substantial and continuing abuse." In October 1998, the New York Supreme Court ordered each group to file a $500,000 bond and provide a statement of assets and liabilities, names of creditors and claimants, and all other information relevant to charter dissolution proceedings. Current New York Attorney General Eliot Spitzer campaigned on a platform of revoking corporate charters more frequently, and has hired a special counsel, Carl Mayer to help control corporate power (see “Eliot Spitzer,” page 45).

In order to take off in the public imagination, the charter revocation movement needs one precedent, one notorious corporate criminal metaphorically sent to the electric chair. Philip Morris has been suggested as the ideal candidate. Adbusters is now in pre-production for the following three-pronged strategy:

1. Launch a radio/TV campaign that tells the grim truth about Philip Morris' long criminal record.
2. Simultaneously call for a boycott of Philip Morris' popular food brands: Kraft, Post, Maxwell House, Miller beer.
3. Collect what could be millions of cyberpetition signatures and send them to New York Attorney General Eliot Spitzer demanding that he proceed with charter dissolution.

Will he do it? Let's find out! Contact: <killPM@adbusters.org>

The Global Front - Citizen Rule

ULTIMATELY, the only way to stop corporate rule is for civil society to get its act together and establish an effective system of world law and world government. This remains a wild and woolly idea for most people (and an anarchist's nightmare), but perhaps, in a few years or decades, "the United States of Planet Earth" will have no stranger a ring to it than "the United States of America." Here's how it could happen:

The world's richest nations have no reason to start thinking co-operatively — unless such thinking is forced upon them. A series of extreme economic and environmental developments may be what it takes. (A grand collective alliance doesn't seem so radical when the lives of all citizens are under immediate threat.) Each of the following developments is possible, and may happen much sooner than we care to admit:


Our response? The UN holds emergency meetings to formulate an action plan. It creates for itself a legislature, an executive, a judiciary and a police force. The age-old notion of unlimited national sovereignty dies. The first world elections are held. The General Assembly of the United Nations becomes the first parliament of the United States of Planet Earth.

In its first session, the world parliament votes to revise the veto in the Security Council and adopt a weighted voting system for the General Assembly. The weighted voting system is based not only one-nation-one-vote but also on population.
Zapatistas

On Jan. 1, 1994, Mexico entered the North American Free Trade Agreement. That same day, several thousand Mexicans, mainly Mayan Indians, took up arms to assert sovereignty over their traditional lands. They were the Ejército Zapatista Liberación Nacional — the Zapatistas.

"THE PROBLEM, for us, is not seizing power, but who exerts it." With this statement, Zapatista subcomandante Marcos cast light on an almost forgotten idea: that we possess sovereignty. It can’t be given or taken away, only respected or disdained. Six years later, local sovereignty is setting at the core of the movement to resist corporate rule.

The world’s reaction to the Zapatistas might best be summed up by the fact that, in the wake of the EZLN uprising, two Italian towns declared them-selves Zapatista. The Zapatistas had a global im-pact, but they are anything but globalists. They seized the world’s attention as a local movement, a reminder that we, each in our place, can reject the agenda of what Marcos calls "this modern war."

"Local autonomy is the only available antidote for the 'Global Project,'" write Gustavo Esteva and Madhu Suri Prakash, authors of "Grassroots Post-modernism." The Zapatistas were the first global expression of that autonomy. "Basta!" they shouted. "Enough!"

In rapid-fire subsequent sessions the General Assembly outlaws all arms trading between nations, and sets up:

>> An International Food Agency to eradicate hunger
>> A World Environmental Agency to stop ecosystem collapse
>> An International Criminal Court with a broad mandate for human rights

It then establishes an international code of conduct for transnational corporations and a requirement that every such corporation be chartered under international law and re-viewed yearly for compliance. An antitrust regime is designed to break the corporate monopolies in agribusiness, banking, pharmaceuticals, and the media.

The tables have turned. The population-based voting system in the General Assembly now favors the G77, not the G7, nations. In the old days, 20 percent of the world’s people imposed their technological and economic will on the remaining 80 percent. Now the 80 percent dictate to the 20 percent. They demand immediate cuts in carbon emissions and reductions to ecological footprints. A radical new world democracy is born.

For many people this scenario conjures up the specter of an Orwellian world state, or at least the kind of stultifying world bureaucracy familiar from the old Soviet Union days. But what is the alternative? For activists trying to live authen-tic, empowered lives, the choice has always boiled down to anarchy or servitude. If it must be servitude, at least let it be servitude to a world body that we ourselves fought for and created. This revolution could do for the world what the American Revolution did for America, on one condition: we relearn how to think and act like we’re calling the shots.

Kalle Lasn is the author of Culture Jam - The Uncooling of America™ (William Morrow, 1999)

Tom Liacas is the campaigns manager at Adbusters.

The authors wish to thank Richard Grossman, Paul Cienfuegos, David Korten, Gil Yaron, Camy Matthay and Morris Berman whose writings and meetings and conversations inspired and informed this article.
The following are some of the major groups actively opposing corporate rule:

The Alliance for Democracy is a populist movement, intent on ending the domination of the economy, government, culture, media and the environment by large corporations. Contact: <peoplesall@aol.com>; <www.afd-online.org>

The American Friends Service Committee has worked intensively in Ohio to educate citizens and lawmakers on corporate rule issues. Contact: <AFSC0LE@aol.com>

The Citizen’s Council on Corporate Issues works to educate Canadians on issues of corporate power and lobbies for legislation which ensures corporate accountability. Contact: Gil Yaron <gil@corporateissues.org>; <www.corporateissues.org>

Democracy Unlimited of Humboldt County (DUHC) of California initiated “Measure F” in Arcata and has created a list of over 30 campaigns that are challenging corporate authority. Contact: Paul Cienfuegos, <cienfuegos@igc.org>; <www.monitor.net/democracyunlimited>

The 180 Movement for Democracy and Education of Madison, Wisconsin, has been organizing annual democracy “teach-ins” at hundreds of college campuses stressing democratic rather than corporate control over college affairs. Contact: <clearinghouse@tao.ca>; <http://corporations.org/democracy>

The Program on Corporations, Law and Democracy (POCLAD) is a group of activists, including Richard Grossman and Ward Morehouse, who have spent the last several years researching corporate, labor and legal histories. Their work has inspired many of the movements which now challenge corporate rule. Contact: Mary Zepernick, <people@poclad.org>; <www.poclad.org>

Reclaim Democracy! started the Boulder Independent Business Alliance and is active in organizing local citizens to challenge corporate rule in their own backyards. Contact: Jeff Milchen, <jeff@reclaimdemocracy.org>; <www.reclaimdemocracy.org>
Look Who Demands Profits Above All

By ROBERT B. REICH

Despite the populist rhetoric of this campaign season, many traditional Democrats are pushing companies to generate higher returns regardless of social responsibility.

These Democrats may not mean to do it, but this is the practical consequence of how they’re saving for retirement. American teachers, civil servants, unionized workers, college professors and similar Democratic stalwarts are putting their savings into giant funds like TIAA-CREF, the $290-billion teachers’ retirement system, and the $175-billion California Public Employees Retirement System, or CalPERS. The teachers and others want the highest returns they can get. So the large institutional investors are demanding that companies make big profits and boost their share prices.

In recent years, institutional investors have been active in ousting chief executives at IBM, AT&T, Sears, General Motors, Xerox, Coca-Cola, Aetna, Compaq Computer and other blue-chip American corporations that didn’t boost share prices enough. TIAA-CREF has even ousted an entire board that failed to fire an under-performing CEO. While the huge severance packages for these departing executives makes it hard to feel sorry for them, they are even better compensated when they generate high returns.

Not surprisingly, these incentives have been pushing CEOs to do whatever is necessary within the law to boost their share prices, even if that means pandering to the carnal appetites of teenage movie-goers, messing up the environment, raising oil prices, marketing guns and cigarettes, using sweatshops in East Asia, laying off platoons of employees and treating patients like fast-food drive-in customers.

It’s called cognitive dissonance when a part of your brain wants one thing and another part wants something different. While the frontal lobes of traditional Democrats are delighted by the populist campaign rhetoric that scolds corporations for being socially irresponsible, their hypothalami want hefty returns on the savings in their pension plans. The two aren’t necessarily — or even probably — compatible.

The board of directors of CalPERS recently rejected a proposal from one board member to dump shares of tobacco companies and refrain from investing in nations that didn’t meet some minimally humane political and social criteria. The board’s chairman feared a slippery slope. “Do we one day ban investments in alcohol, handguns and rap music?” he asked rhetorically. (CalPERS’ investment staff noted that just the sale of the fund’s tobacco stocks would cost it upward of $56 million in transaction costs alone.)

Mild-mannered folk like California’s public retirees — tens of thousands of people who spent their careers working for the state and are improbably cast as rabid promoters of free-market capitalism — are also quietly undermining what remains of European social democracy. They are not alone in doing so, of course, but given the extensive holdings of their retirement funds in European-based companies, their influence should not be underestimated.

When Alcatel, a mostly French-owned telecommunications company, announced that its annual profit would be less than had been forecast, its management was driven to the distinctly un-French solution of restoring profits by laying off about 12,000 employees. CalPERS was not the sole instigator, although French President Jacques Chirac testily noted in his Bastille Day address last year that the layoff was triggered when “California retirees suddenly decided to sell Alcatel.”

Europe’s traditional “stakeholder” capitalism has made European companies responsive to employees and communities as well as shareholders, which is why it doesn’t sit well with American institutional investors intent on making companies attentive only to them. Not long ago, CalPERS complained that a German utility gave the cities it served too much control over its board, thereby diminishing the value of the utility’s shares owned by CalPERS. The utility executives explained that its system of city representation maintained a bond with the utility’s customers, but when CalPERS threatened to dump its shares, the utility promptly scrapped the system. The problem here isn’t with CalPERS, TIAA-CREF or other big institutional investors. They’re only doing their job, which is to maximize the value of their investors’ portfolios.

The real issue is that power is shifting away from governments to investors. This means that political speeches calling on companies to be more socially responsible are meaningless. If we want companies to be more socially responsible, we’ll have to pass laws requiring them to be so, and those laws will have to be enforced. And not just national laws. National governments are weakening as highly mobile capital finds better deals elsewhere around the world, where profits are higher because laws are meeker. So, ultimately, many such laws will have to be international.

That’s why a central question for the coming decade is what sorts of global agreements can be reached on the environment, energy and labor and on the production and marketing of dubious products like guns, cigarettes and smut.

Unless Democrats face head-on the cognitive dissonance in their brains, they’ll continue to practice a politics that has little or nothing to do with the personal economic choices they’re making. And they’ll fail to insist that their candidates talk realistically about how to redress the balance...
Robert B. Reich, the former secretary of Labor, is a professor at Brandeis University and national editor of American Prospect magazine.

between the desires of voters and the demands of investors.
Challenging Corporate Power, Asserting the People’s Rights
Evaluation Form

This evaluation form is distributed to participants at the first study session. Participants may fill it out as they go or at the end of the ten sessions. We encourage you to both fill it out on your own and conduct an evaluation session as a group.

1. Was the number of sessions:
   ___ just right
   ___ too few
   ___ too many

2. Who facilitated your meetings?
   ___ the same person each time
   ___ a different person each time
   ___ another system (please describe):

   How well did your group process work and what would you do differently?

3. In regard to the materials provided for the ten study sessions (use additional paper if needed):

   Did you find the readings gave you important information and ideas useful to your discussions? Can you be specific about which ones worked and which ones did not?
Did you find the order of the sessions effective for learning and discussing?

Did you find the questions accompanying each session helpful in provoking and focusing discussion?

4. How would you describe the overall educational effect of the study group?
   Please check as many as apply:
   ___ I learned a lot
   ___ I was already familiar with much of the material
   ___ I found the discussions to be stimulating and empowering
   ___ I found the discussions to be mostly a waste of time
   ___ I don’t believe some of the things I read
   ___ I was very discouraged to learn this material
   ___ We are planning to continue our study as a group
   ___ I am going to continue my study on my own
   ___ I will encourage others to form study groups
   ___ I’m interested in helping design a local campaign to put this analysis into action
   ___ Other:

Please provide any other feedback:
Preempt This!
Michigan Cities Fight Back

What does it take to get a group of polite Midwesterners riled up enough to propose an amendment to their state constitution? Michigan legislators can tell you it’s not too difficult: just pass a series of laws that weaken local authority. By Daniel Kraker

One year after activists disrupted the Seattle meeting of the World Trade Organization with claims that global corporations wield too much power over governments, Michiganders lodged their own protest against distant authority. On the state’s ballot in November was Proposition 2, an amendment to the Michigan Constitution that would have required a two-thirds majority to enact any law that diminishes local authority. The initiative was backed by residents and municipal leaders who were outraged at a series of laws, recently passed by the state legislature, that preempted traditional decisionmaking authority at the local level. Although the proposition was defeated at the polls, it succeeded in bringing issues of local control and state preemption to the forefront of Michigan politics.

Which levels of government should exercise what kind of authority? Most often the focus of this ongoing debate is the relationship between the federal government and the states. This year’s protests against globalization have shifted the focus to unelected international economic organizations and their increasing willingness and ability to preempt the authority of all levels of government.

In Michigan, however, the dispute shifted again, this time to the relationships between state and local governments. While it certainly won’t garner the headlines of the “Battle in Seattle,” the work of local governments in Michigan is arguably even more important because it recognizes the need for rules that reclaims our sovereignty and reassert the rights of communities to determine their own futures.

The politics of preemption

On the last day before adjourning on December 9, 1999, Michigan legislators passed a bill that effectively precludes all local regulation of agriculture, including controversial industrial-size feedlots. The misleadingly titled Michigan Right To Farm Act even blocks private civil nuisance lawsuits in virtually all cases.
Michigan is merely one of the latest in a long line of states that have taken away the ability of municipalities and counties to regulate agricultural operations within their boundaries. Iowa has had an agricultural preemption bill on the books since 1946. North Carolina passed theirs in the late 1980s, and the results have been disastrous, both to that state’s rural economy and to its environment. Family farms have vanished from the countryside, the spin-off economic benefits that they generated have disappeared, and dozens of highly publicized manure spills have poisoned wells, killed thousands of fish and devastated coastal ecosystems.

Other states, including Missouri, Illinois and Ohio, have followed North Carolina’s lead and suffered similar results. Not surprisingly, states that have defended their local governments’ authority to regulate industrial feedlots — including Nebraska and South Dakota — have largely succeeded in keeping them out and have maintained a vibrant small farm sector.

In the 1999 legislative session Michigan’s state legislature also passed a law that preempted the right of cities to sue gun manufacturers. Supported by the National Rifle Association, a version of this bill (Public Act 265, 2000) has already been passed in more than 15 states in response to efforts by many cities to recoup some of the social costs of escalating gun violence.

But the straw that broke the backs of many local officials was a state law (Public Act 212, 1999) that preempted the laws of some 80 Michigan cities that required municipal employees to live within the city’s borders. The frustration voiced by Hazel Park City Manager Joseph Young is indicative of local officials across the state. “Last November, our citizens voted to add a residency requirement to the city charter, and then the Legislature did away with that,” he says. “The Legislature should not be mandating what local communities want.”

Once again, Michigan is not alone. Minnesota also passed a state law that preempted city residency requirements, much to the chagrin of the state’s two largest cities, Minneapolis and St. Paul, both of which required their employees to live within their borders.

**The politics of devolution**

Fearful of further erosion of local control, Michigan towns and cities went on the offensive. With the backing of the Michigan Municipal League, local governments drafted a ballot initiative (and gathered the requisite 300,000+ signatures) to require a two-thirds vote to enact any law that diminishes local authority. If such a requirement would have been in place in 1999, the Right to Farm Act, which was passed along strict party lines, would never have been approved.

Perhaps the most remarkable aspect of the ballot initiative is that it made the ballot. Voters are typically motivated by specific issues — the substance of governance — not by relatively arcane questions about the process of governance. But local officials in Michigan succeeded in making the question of where authority should be located a front-page, and bitterly contested, issue.

Today’s political climate stands in stark contrast to the early years of our nation, when the debate over federalism occupied the hearts and minds of our leaders and the public at large. The distinctly American brand of federalism that emerged from the Constitutional Convention was a compromise between those who feared the parochialism and homogeneity of small units of government and those who felt that government works best and is most legitimate when it is most intimately connected with its citizens.

For the last two centuries, however, decentralists have been fighting an uphill battle as political power has increasingly been centralized in Washington. The courts have played a leading role in the shift toward more remote decisionmaking by aggressively preempting the authority of smaller units of
government to regulate commerce. Only in the last century has the municipal home rule movement gained a modest degree of autonomy for some local governments.

Michigan’s ballot initiative reflected a widespread disenchantment with politics as we have come to know it. As decisionmaking has moved further and further away from those who feel the impact of those decisions — to state capitols, to Congress, and now to unelected international trade tribunals — apathy and disgust with the political system have risen to new heights. The influence of money on policy at the state and federal level has further disillusioned an already cynical American public. Local governments are no panacea, but local control at least creates the conditions for democracy and political participation.

Despite its decreasing importance, local government remains immensely popular. A 1990 Times Mirror poll found that 77 percent of citizens agreed that “the federal government should run only those things that cannot be run at the local level.” Other polls show that since 1972 public confidence in the federal government has dropped from 74 percent to about 40 percent. Yet over the same period confidence in local government has been stable at about 60 percent.

Politicians, keenly aware of localism’s popularity, have long recognized the importance of community and the devolution of political authority — at least rhetorically. Action, however, has never consistently backed up campaign promises. “The policy seems to follow the constituency,” observes Lenny Goldberg in The American Prospect. “If ranchers on federal lands want local control but cable companies insist on local preemption, so be it.”

If Michigan’s ballot proposal had passed, it would have ensured that communities were paid more than lip service. It would have guaranteed the right of local governments to make the decisions that affect the lives of their citizens. Indeed, Proposition 2 could serve as the spark that restores the healthy tension between the federal government and local governments.

Opponents to the ballot initiative united under the banner of “Citizens for Common Sense Government.” The group, funded primarily by the Michigan Chamber of Commerce, contended that the proposal would have introduced “minority rule” to the Michigan Constitution, and would have also resulted in years of costly litigation at taxpayer expense.

But the charge most often voiced was that the proposal was antibusiness. Jim Barrett, Chamber president and CEO, argued that the ballot proposal would “open the floodgates for a wave of new local government regulations on business and there would be little the legislature could do about it.” The Chamber’s number one target is local living wage laws. The state legislature, with the Chamber’s backing, has proposed bills that would place ceilings on living wage laws, but would likely never be able to muster a two-thirds majority if the amendment is passed by voters.

According to Ingrid Sheldon, mayor of Ann Arbor and chair of Let Local Votes Count (the group — organized by the Michigan Municipal League — that was the main backer of the proposal), many local chambers of commerce broke ranks with their state association to support the ballot initiative. “Local business owners who want to expand,” she said, “can go down to city hall and work with their community development department to come up with a site plan that will fit with the ‘flavor’ of that particular community.” The state chamber, by contrast, wants fewer local laws and more “one-size-fits-all” state laws to make it easier for business to operate in different communities. But “if the state enacts cookie-cutter regulations and red tape,” argues Sheldon, “those valuable relationships which bolster the local business community will be lost.”

Proposition 2 led in many polls prior to the election, but support floundered as the vote drew near. The Municipal League had raised about $1 million, but used most of that money to collect signatures, leaving little for advertising. The main PAC set up to fight the proposal, Citizens for Common Sense...
Government, also spent close to $1 million, but they were aided by other PACs — whose spending was buried in the rest of their expenditures on other ballot issues and candidates. Based on the advertising that was run against the amendment, Jennifer Hall, campaign coordinator for Let Local Votes Count, estimates that they were outspent at least 4 to 1. Their radio ads were outplayed at least 3 to 1, and the opposition also bought billboard signs all over Michigan and ran prime time TV commercials.

The Chamber of Commerce and other opponents continued to claim that Proposition 2 would lead to minority rule, where just a handful of legislators could block passage of good legislation. They also argued that the two-thirds requirement would apply to state laws such as those governing the distribution of revenue sharing and the allocation of transportation funds, although supporters emphasized that the requirement applied only to matters of municipal concern.

“The rhetoric,” according to Hall, “basically came down to the opposition making erroneous claims and us saying that isn’t true. This left people confused and confused people don’t vote yes.”

**Can’t governments all just get along?**

The intent of Michigan municipalities was not to eliminate the participation of the state legislature in decisions that affect them. State houses, after all, are made up of representatives of localities who are elected to serve their constituents. The ballot initiative did not expand the authority of any local unit of government, but rather sought to protect existing authority. It would have placed the burden of proof on higher levels of government to show that they were justified in intervening with laws that local governments have democratically enacted. Europe has already embraced this principle of subsidiarity, which holds that wherever possible, decisionmaking should be localized.

In today’s complex political world, the traditional delineations of city, county, state and nation are becoming increasingly obsolete. Regional governance is becoming more vital as metro areas struggle to combat sprawl, maintain equity in school funding and address other issues that transcend municipal borders. Likewise, at the international level, environmental problems rarely stay confined within national borders. Air and water pollution, climate change and the transport of hazardous waste are truly global problems that require democratic, international governance structures to address them.

The protection of civil rights also often requires the intervention of higher levels of government. But these should exercise authority cautiously to allow for maximum individual freedom. They should establish floors rather than ceilings, a minimum standard of adequacy that allows communities the autonomy to do even better. The federal government, for example, requires employers to pay a minimum wage, but allows states and localities to raise the bar to mandate even higher wages.

If the major decisions that shape one’s life are made thousands of miles away by transnational corporations and unelected international tribunals — or even a couple hundred miles away in a state legislature — there is little to be gained from participation in the political realm. But if authority is brought back closer to home, if decisions are made by those who feel the impact of those decisions, the politics in this country will be reenergized. The efforts of local officials in Michigan are hopefully only the first step in this process.

Daniel Kraker is a writer and researcher with the Institute for Local Self-Reliance (dkraker@ilsr.org).

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Session X, Optional Reading 1, page 4
PLACE

What will it take for us to get smart about our use of the planet’s resources?

Idiocy and Sustainability

Thomas Prugh

In Las Vegas, as in much of the American Southwest, new housing developments creep across the arid landscape like kudzu over a derelict Alabama farm. The faux haciendas are often bought by snowbelt refugees who flock to Nevada and other sunny regions in the tens of thousands every year. Their baggage sometimes includes attitudes, cultivated during long habitation in wetter climes, that can be as difficult to eradicate as kudzu. The Las Vegas Valley Water District employs investigators to remind people that water scarce, but it is an uphill struggle.

A recent story in The Washington Post tells how one of them confronted a new homeowner who was operating an illegal water sprinkler. “He got so angry,” the investigator said, “he poked me in the chest and he said, ‘Man, with all these new rules, you people are trying to turn this place into a desert!’”

If Sprinkler Man is typical, he thinks of himself as an environmentalist. Most Americans do, according to polls. Yet he is clueless about one of the most critical environmental issues facing his community and in that regard is also like many of us. Our poll-attested environmentalism is belied by our love of two-ton sport utility vehicles, our sprawl, our profligate energy use, our culture of heedless consumption, and all the rest of our unsustainable living practices. If, as F. Scott Fitzgerald said, “The test of a first-rate intelligence is the ability to hold two opposed ideas in the mind at the same time, and still retain the ability to function,” then we must be the most brilliant nation ever.

Maybe so. More likely, we just don’t grasp the contradiction. Sprinkler Man might see a story about water on the six o’clock news now and then, but every time he turns on his tap, the water flows. Except for rare encounters with water investigators, there are few checks on his casual expectation of cheap and abundant water. No wonder he doesn’t pay attention. Ecological reality is, for him and many others, a feel-good abstraction.

The reason for this is that we are idiots.

That’s what the ancient Greeks called politically uninformed persons, and we have enshrined political uninvolvement in our governmental institutions. Our form of governance is technically not a democracy but a republic. Rather than exercising power directly, voters delegate it to elected officials and career bureaucrats.

If voting really mattered...

This has some critical effects. Because those officials are the ones who have to face (and then address, finesse, or avoid) all the problems of governance, including those of environmental sustainability, they are among the few people who really know what is happening on the ground. And even though their interests and priorities are not necessarily the same as those of the voters, they are the only ones whose decisions matter. Going to the polls and voting every two or four years is mostly a token act, a truth which people implicitly acknowledge by staying away in increasingly large numbers. As the graffiti has it, if voting really mattered, it would be illegal.

Journalist Robert Samuelson has written, “Americans consider freedom from politics to be part of their well-being.” We freely give away our power because we prefer consumerism to citizenship. But the cost is high: By consigning away our power and confining ourselves in consumerism’s gilded cage, we lose the ability to actively choose the shape of our communities. With respect to sustainability, we thereby draw a veil between ourselves and the environmental consequences of our lifestyles. We settle, rather hypocritically, for grumbling about “The Government” in its roles of bogeyman and scapegoat. We cede the held of political deliberation to a wide variety of organized groups, especially corporations, trade groups, and nonprofits that can only coincidentally have our own best interests at heart.

But suppose we had a politics of engagement, rather than consignment, a politics of direct democracy in which the decisions of ordinary people did matter?

Suppose, for example, that Sprinkler Man lived in a community run according to direct democratic principles. Chances are that he, or his wife or brother or neighbor, would occasionally attend meetings of his neighborhood assembly — not just a civic association, but a local deliberative and legislative body with real decision-making power.
The agenda would frequently include water topics, since water is an ongoing concern in the desert Southwest. Water availability, distribution, and price would also be debated periodically during regional interactive television town meetings, and related issues would be resolved by means of local or regional referenda. The man might even have been chosen (by lottery) to sit on the local water resources board for a term. He would know more about the watershed he lived in, where his water came from, and its true monetary and ecological costs. He would inevitably have a fuller understanding of the factors that shape the precarious dependency relationship his city and region have with water, and so would everybody else in the neighborhood. The rules about water usage, rather than seeming to be imposed by a remote and arbitrary bureaucracy, would be part of a community covenant, informed by ecological understanding, that he had taken part in drawing up. Sprinkler Man’s outrage would be unthinkable once he was educated into citizenship in this way. He would be less likely to abuse his water rights, and the neighborhood might be more inclined to gently point out the error of his ways.

**By consigning away our power and confining ourselves in consumerism’s gilded cage, we lose the ability to actively choose the shape of our communities.**

A direct democratic system could help address other environmental problems in the same way. Take traffic congestion, for example. Motorists do not make decisions about transportation systems. They grumble about potholes, unsynchronized traffic lights and rush-hour gridlock, and they may vote for a politician who promises to build more roads. But they don’t themselves debate the general issue of mobility in their communities or shape transportation policy. However, suppose there was a citizen-run Public Mobility Commission in charge of these matters. Members would have a clearer and more immediate picture of the relationships among sprawl, congestion and pollution, and a more acute sensitivity to the trade-offs involved. By involving themselves directly in the resolution of transportation conflicts, engaged citizens would be forced to see how the wish for green space tussles with the wish for greater suburban development; how an automobile-addicted culture enables pollution, vast subdivisions and strip malls, and so on.

Direct democracy would encourage deeper citizen engagement by means of:

- neighborhood assemblies, television town meetings, and Internet forums for promoting meaningful debate and self-education,
- referenda, electronic balloting, and use of selection by lot for picking delegates (when necessary) or members of boards and commissions, as a means of making decisions,
- a national service requirement that would promote a culture of engagement and common action through service in either the military or environmental cleanup and restoration.

Collectively these institutions would bring citizens together in an ongoing process of dialogue (talking and listening) that helps discern truth, investigate issues, establish bonds, explore mutuality, and lead to the common willing of action — in short, that creates a civic political community. The immediate focus would be on the local, because that is the scale at which the deep roots of direct democracy can best be nurtured. But local democracies would be aggregated into a “community of communities” at the regional and national levels for consideration of issues affecting the larger whole.

**Democracy and human imperfection**

Too utopian? On the contrary, it might just be non-utopian enough to work. Utopian communities are implausible in fiction, and generally fail in real life, for two reasons. First, in seeking perfection they deliberately try to expunge politics from the life of the community, yet politics is inevitable because it is the response to human conflict. Second, the visions expressed in utopian works and communities are so pure that they exclude most people. All but a faithful or fanatic handful find something too objectionable about such visions to take part. In contrast, direct democracy rests on pluralism and inclusion, seeks to transform conflict into community bonds, and strives to honor differences while exploring them in the process of seeking common ground.

Still (I hear the skeptics say), direct democracy couldn’t work in the real world. People aren’t interested. They can’t handle the demands it would make, or they aren’t up to the intellectual challenge of dealing, as nonspecialists, with the complex problems of modern life. Or the world is too big and globalized for local communities to be relevant. Or the moneymed and corporate interests that seem increasingly to dominate the democratic political process will never permit it.

These claims are refuted by both past and present practice. There are a number of historical examples of societies that demonstrate the viability of direct democratic governance, even though they limited suffrage to adult males. These include the Greek city-state of Athens during the reign of Pericles, colonial New England town meetings, and the medieval Italian communes in cities like Florence, Venice, Bologna, Genoa and Milan. Especially noteworthy is the Republic of Raetia, now the Swiss canton of Graubünden. From 1524 until Napoleon forced its unification with Switzerland in 1799, the mountain peasants of Raetia governed themselves in village communes employing techniques of face-to-face democ-
racy, having fought off attempts by kings, nobles, and
churchmen to impose the kind of feudal or ecclesiastic
controls common elsewhere in Europe. In Raetia, power
was so firmly vested in the communes that office-seekers
openly tried to buy elections and nobody cared, because
everyone knew the offices did nothing important. The
Raetians probably invented the referendum and used it
often to aggregate the will of the communes and make
policy at the national level (thereby demonstrating that
local, self-governing communities can work together in
larger bodies, even when the fastest means of communica-
tion is a horse and rider).

Direct democratic practices thrive in the modern world
too, often in forms that are directly relevant to sustain-
ability issues. For example:

Annual open town meetings are still the preferred form
of government in most New England towns, ranging from a
how of 68 percent of Rhode Island towns to 97 percent of
Maine towns. Attendance varies, depending on town size
and the urgency of the issues, from 1 percent to 90 percent.
Citizen committees, which study issues and present reports
to the townspeople, help keep the quality of debate and
decision high.

Watershed councils in Oregon and elsewhere in the
United States bring together ordinary citizens to deliberate
on land-use and salmon preservation issues and to resolve
resource management disputes. They capitalize on the
compelling need for bottom-up involvement of many
stakeholders in addressing vexing problems that focus
competing interests, such as the fate of the salmon.

In Denmark, the parliamentary Board of Technology
convenes groups of laypersons to study complex tech-
nology issues and advise lawmakers on how to address
them. The nuanced findings represent a considerably
broader range of perspectives than typical expert reports on
the same subjects.

A 1993 Brookings Institution study of five American
cities (Birmingham; Dayton; Portland, Oregon; St. Paul
and San Antonio) reveals that direct-democratic reforms
carried out in the 1970s have stood the test of time. Power
was distributed to the neighborhoods and extensive efforts
made to broaden and deepen citizen involvement. The new
systems were found to promote tolerance, reduce hostility,
encourage feelings of personal political empowerment,
reduce sour grapes among losers in policy conflicts, and
promote a sense of community. Even city officials agreed
that the benefits far outweighed the costs.

As for the influence of special interests, certainly our
degraded democracy has resisted them imperfectly.
Direct democracy might do any better. But the theory
suggests that dispersing power downward and outward to
more people, and making governance more transparent —
intrinsic features of direct democracy — would make it
much more difficult for special interests to dominate the
process. And that is exactly what the available evidence,
such as the Brookings Institution study, suggests does happen.

Several additional lessons emerge from these examples.
First, direct democracy engages people, despite the extra
demands it makes on their time and energies, because their
decisions count.

Second, a robust tradition of civic engagement can be
created and maintained for a very long time; people can be
educated into citizenship.

Local, self-governing commu-
nities can work together in
larger bodies, even when
the fastest means of communication is a horse and rider.

Third, ordinary people can grasp complex ethical and
environmental issues and contribute thoughtfully to social
decisions about them.

Finally, people with varying interests and viewpoints
can come together as political creatures and will a common
environmental future. These virtues are exactly what the
challenge of sustainability requires of us. Direct democracy
would give us both better eyes to see the environmental
problems we face and superior political means to address
them.

How do we get there?

I don’t know. There are no instructions, other than
“Some assembly required.” We have a bootstrap problem:
direct democracy develops engagement, but people must
be engaged to move toward direct democracy. The modern
world, with its distractions and forces of division and
disempowerment tempts us away from involvement in gov-
ernance of any kind. To combat this trend will require a
certain virtue among a critical mass of people. The system
by itself is unlikely to evoke such virtue, yet there is no
such thing, as T.S. Eliot put it, as “a system so perfect no
one needs to be good.” It boils down to a choice: good
citizens working toward sustainability, or consumption-
crazed idiots lurching toward the cliff of ecological ruin.
Someone — many someones — need to do the good thing,
and choose.

Thomas Prugh is the lead author of Natural Capital and Human
Economic Survival and The Local Politics of Global Sustainability
with Robert Costanza and Herman Daly, upon which this essay is
based.
Glossary

The following are common terms in a discussion of corporations and democracy, with definitions you won’t find in Webster. We welcome dissenting and alternative definitions you may develop and/or additional terms you identify as important in your study group discussions. This is a work in progress.

**CAMPAIGN FINANCE REFORM** — as currently pursued, about limits rather than about basic change to electoral policies that we the people define.

**CAPITALISM** — an economic/political system in which the major means of production and distribution are privately held and operated for profits; characterized by the concentration of wealth, power and property, with labor and nature seen as resources.

**CHARTER** — issued by states, the provisions and permission by which corporations operate; though no longer enforced, let alone revoked, charters are still under state authority and little known or used laws continue to exist around them.

**COMMERCE CLAUSE OF THE CONSTITUTION** (Article 1, Sec. 8[3]) — prohibits states from passing tariffs that “hinder” the flow of goods between states, thus favoring big commercial interests over small local enterprises; recently referred to as “the first NAFTA.”

**CONTRACTS CLAUSE OF THE CONSTITUTION** (Article 1, Sec. 10[1]) — in effect makes contracts private laws between individuals, protected from state interference; thus was much labor legislation ruled unconstitutional prior to 1937, when the National Labor Relations Act was ruled constitutional (though largely negated by Taft-Hartley ten years later.)

**CORPORATIONS** — in the U.S., a legal entity established as subordinate to the people’s representatives, to serve specific purposes in limited ways; in a 19th century judicial counter-revolution, this corporate entity gained the illegitimate authority on which it has built the limited liability and virtually limitless rights and power it holds today.

**DEMOCRACY** — a process or society in which the people define their lives, arrangements and institutions; rule by the ruled, which is incompatible with capitalism and with corporate power and wealth as they exist today.
FIRST AMENDMENT RIGHTS — “Congress shall make no law... abridging the freedom of speech, or the press; or the right of people peaceably to assemble.” The negative wording offers protection from public law but not private; e.g., the Constitution does not prohibit employers from denying workers free speech and assembly.

FOURTEENTH AMENDMENT — “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any PERSON of life, liberty or property without due process of law.” (emphasis added) This was added to the Constitution in 1868 to protect freed slaves; however, the 1886 Santa Clara decision made corporations persons with constitutional protections under the Fourteenth Amendment. Supreme Court Justice Hugo Black pointed out that “Of the cases in this court in which the Fourteenth Amendment was applied during the first fifty years after its adoption, less than one-half of one percent invoked it in protection of the Negro race, and more than fifty percent asked that its benefits be extended to corporations.”

FREE MARKET — an economic theory in which investment and production for profit operate without government restrictions but in practice are publicly subsidized in a variety of ways.

FREE SPEECH — denied to workers on company property; equated with campaign spending in a 1976 Supreme Court decision; corporate rights to advertise, as defended by the ACLU!

PATRIARCHY — a hierarchical system of organizing institutions and relationships, historically but not exclusively male-designed and operated; characterized by dominant and subordinate values assigned to human differences, with power exercised over others based on these rankings. Corporate capitalism on a global scale is a particularly virulent form of patriarchy.

PERSONHOOD — the legal status of human beings granted to the corporate entity by the Supreme Court in Santa Clara County vs. Southern Pacific R.R., 1886; from “personhood” flows much of the illegitimate power and authority to govern accumulated by corporations since then.

POPULIST MOVEMENT — late 19th century efforts by Knights of Labor, Granges and others who established a mass education process, advocating a society in which the people defined their own institutions; Populists offered the most radical and widespread, though ultimately unsuccessful, resistance and alternatives to date to what they understood was a corporate usurpation of the authority to govern.

PRIVATE PROPERTY — property that deprives or excludes the public from use or entry.

PROGRESSIVES — early 20th century reformers who conceded power to corporations, ushering in the regulatory system and era aimed at moderating the behavior of corporations, as distinct from we the people defining and controlling our relationship to them.
SOCIAL RESPONSIBILITY — a behavior and capability within the nature of people, not in the nature of artificial entities; it is we people who are responsible for the creation and impact of institutions intended to serve us.

INTERNATIONAL INSTITUTIONS/AGREEMENTS:

BRETTON WOODS — post–World War II treaty that created the World Bank and the International Monetary Fund, supposedly to help particular states out of financial difficulties; eventually the WB turned from the reconstruction of Europe to the development of former colonies, while the IMF became the enforcement arm of the northern-controlled international monetary system. As some nations’ debts have ballooned, “structural adjustment programs” have been imposed on them, designed to reduce the cost of government services and orient the economy to export in order to feed the global trading dominated by the U.S. and its industrialized allies.

ORGANIZATION OF ECONOMIC COOPERATION & DEVELOPMENT (OECD) — an organization headquartered in Paris and composed of the 29 most industrialized nations, a “rich man’s club” that meets periodically to pursue policies to ensure their continued dominance of the global economy.

G-7 NATIONS — the elite of the elite, who meet biannually to ensure that global trade and monetary policies continue to serve the status quo: U.S., Great Britain, France, Italy, Germany, Japan, Canada.

NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) — a treaty linking the economies of Canada, Mexico and the U.S., removing trade barriers in order to open each country’s resources and labor force to exploitation by the others without restrictions; negotiations underway to include other Western hemisphere states.

GENERAL AGREEMENT ON TARIFFS & TRADE (GATT) — formed in 1947 as part of Bretton Woods agreement, a series of negotiating rounds aimed at reducing and eventually eliminating quotas, duties and tariffs; the Uruguay Round, from 1986 to 1992, redefined “trade” to include not only products but services and intellectual property rights.

WORLD TRADE ORGANIZATION (WTO) — a profoundly un- and anti-democratic body created in January 1995 by governments involved in the Uruguay Round; all WTO members are represented in the Ministerial Conference and in the General Council, which has authority to make rules and implement decisions regarding agreements signed under the GATT. WTO dispute resolution proceedings are secret, binding on member states, and provide no outside appeal or review. The Wall Street Journal approvingly called it “another stake in the heart of the idea that governments can direct economies.”

MULTILATERAL AGREEMENT ON INVESTMENT (MAI) — originating in the WTO, this proposal was transferred to the smaller and more elite OECD and secretly negotiated; it would give corporations legal standing equivalent to that of nation states, prohibiting any performance requirements for transnational investors that governments might impose on
behalf of their citizens. Governments can be sued by corporations for actions resulting in loss of profits, considered expropriation. When the proposal was circulated among the 29 OECD members it was leaked to the global public and led to massive protest. It was not passed intact as the MAI, but many of its provisions are in force and more are to come through the WTO.

**FAST TRACK** — legislation requested by President Clinton to give him authority to ratify global trade and investment agreements with no congressional discussion, simply an up or down vote; defeated twice, with labor unions playing a major role in mobilizing public protest.

**SIDE AGREEMENTS** — the name says it all: in the face of massive pressure, an inadequate and unenforced add-on to trade and investment treaties, supposedly providing protections for labor and the environment.

**STRUCTURAL ADJUSTMENT POLICIES** — imposed by creditor nations on debtor nations through the World Bank and International Monetary Fund:

- **PRIVATIZATION** — transferring a variety of public functions and services (from health care and education to social services, prisons and even the military) from governments to for-profit corporations, thus eliminating public involvement in allocating public resources.

- **DE-REGULATION** — the national and global dismantling of policies and laws placing limits on corporate production and trade; the rollback of admittedly pallid environmental, social and labor advances, seen as restraint of trade.

- **INDUSTRIALIZATION** — the process of pressuring debtor nations to abandon subsistence policies for export crops and products that fill corporate coffers, further transferring resources from the poor to the rich within and among societies.

- **END OF WELFARE STATE** — the systematic destruction of values and policies that promote collective well-being through the public arena, turning social service functions into profit-making ventures by corporations.

- **CONSOLIDATIONS/MERGERS/MONOPOLIES** — with industry-wide consolidations, international markets are controlled by fewer firms with a net worth greater than many countries. Some 500 corporations control 70% of global trade.

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Suggested Readings (Updated 2008)


