

POCLAD at the Democracy Convention

by Greg Coleridge and David Cobb

“Universalizing Resistance, Democracy Power” was the theme of the third Democracy Convention in Minneapolis in early August. The Convention’s eight separate but overlapping conferences each focused on a different aspect of democracy. “Democratizing the Constitution” was the conference where our workshop, “How Judicial Review and Lifetime Appointments make the Supreme Court a Democratic Threat,” was housed. Our session was well attended and received.

Our presentations were based on previous POCLAD articles on judicial review (http://www.poclad.org/BWA/2007/BWA_2007_FALL.html) and the Supreme Court (http://www.poclad.org/BWA/2014/BWA_2014_Oct.html).

The session was covered by WFAI, the local alternative radio station. To hear the session, go to http://www.poclad.org/BWA/files/audio/NorthernSunNews_2017-08-10.mp3

What follows are several observations from the Convention about POCLAD, the specifics of our workshop, the status of the growing democracy movement and where the movement needs to go based on current political, economic, social and

environmental conditions to create real authentic self-determination.

POCLAD’s ideas have spread

A little over two decades ago POCLAD was one of a handful of groups anywhere that challenged the concept that corporations should be legally subordinate to people as they once were, should not possess constitutional rights, that corporate constitutional rights were a fundamental threat to authentic democracy and that even abolishing corporate constitutional rights would not usher in a democratic nirvana that honestly never originally existing.

POCLAD’s writings and “Rethinking Democracy, Rethinking the Corporation” retreats across the country helped plant seeds that have since spread far and wide. Corporate constitutional rights and our undemocratic Constitution is now much more widely understood and being organized against via Move to Amend, launched by several POCLAD Principals

POCLAD materials remain relevant

Virtually every piece of material (mostly back issues of By What Authority newsletters related to our workshop and the US Constitution) taken to the

Convention for our information table was gone by the end. Unless picked up and pitched by janitors, we assume attendees were the picker-uppers. Many also signed up to receive these monthly emails. As POCLAD supporters are aware, our stuff isn’t flashy or boiled down to superficial “talking points.” It’s mostly dense with little white space. Nevertheless, many of our pieces are timeless in their observations and analysis.

Corporate rights are much more than simply First Amendment “free speech” rights

There is still much work to do to help democracy educators, advocates and organizers understand that the universe of corporate constitutional rights is broader than simply the 1st Amendment right to politically donate (or more accurately, invest) to candidate and issue campaigns.

The corporate 1st Amendment constitutional right not to speak, 1st Amendment religious rights, 4th Amendment search and seizure rights, 5th Amendment takings rights, and 14th Amendment due process and equal protection rights, as well as the constitutional Contracts and Commerce clauses have all been perverted by corporations to defend their power and authority over the rights of workers, consumers, communities

and the environment. Constitutional amendment proposals to end merely corporate first amendment rights to politically donate/invest will simply permit corporations to shift their strategies to other previously won constitutional rights as well as advocate through the courts for new ones.

It was a good sign that *Why Abolish All Corporate Constitutional Rights* (http://www.poclad.org/BWA/2010/BWA_2010_NOV.html) at our table at the Convention was among the most popular articles taken.

Judicial Review

Judicial review is the alleged authority of the unelected Supreme Court to declare acts of elected members of Congress and/or the elected President unconstitutional. There is no explicit reference to the concept in the Constitution. Article III of the Constitution provides that “judicial power shall be vested in one Supreme Court and shall extend to all cases arising under this Constitution.”

The Court first exercised the power of judicial review in the 1803 case of *Marbury v. Madison*. The decision caused an uproar, leading Thomas Jefferson to express his deep reservations about the principle. He wrote:

“To consider judges as the ultimate arbiters of all constitutional questions is a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so. They have, with others, the same passions for party, for power, and for privilege. But their power [is] the more dangerous, as they are in office for life, and not responsible

to elective control.” Jefferson warned that judicial review would make the Constitution nothing but “a mere thing of wax in the hands of the Judiciary, which they may twist and shape into any form they please.”

Abraham Lincoln also spoke out against judicial review in response to the repugnant *Dred Scott* decision:

“The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal. Nor is there in this view any assault upon the court or the judges. It is a duty from which they may not shrink to decide cases properly brought before them, and it is no fault of theirs if others seek to turn their decisions to political purposes.”

We appreciate that many folks are understandably nervous about what might happen to constitutional protections in the chaotic worlds of practical politics and everyday life. But it is up to all of us—to “We the People”—to take responsibility for protecting our liberties. Guarding them is not (nor should it be) the exclusive preserve of judges. The Constitution belongs to us collectively, as we act in political dialogue with each other—whether in the street, in the voting booth, or in the course of our day-to-day activities. An engaged and active citizenry would be more effective at protecting civil liberties than the courts anyway.

Reforming the Supreme Court

Among the many changes needed to the US Constitution is a means to make justices more accountable to other branches of government, if not to the public. It’s important for the High Court to be relatively insulated from current times to prevent “tyranny of the majority” against a minority. The reverse is, however, also true. A totally isolated and unaccountable Supreme Court has time and again ruled in ways favoring the “tyranny of the minority” against the majority (e.g., favoring corporate rights over human rights).

US justices serve for life and are virtually impossible to be removed for any reason. Constitutions of other nations, including many European countries and other representative democracies, contain provisions requiring justices at the highest level to retire at a certain age or serve a fixed term. Some constitutions require a more inclusive selection process (including in some cases public involvement) while others provide greater powers to other branches of government to check the judicial branch. See the above referenced article for details.

Growing support for amending the US Constitution

There’s a cultural shift taking place around the need to fundamentally amend the US Constitution, if not rewrite it. It should be noted that this shift is across the political spectrum. Just as POCLAD’s analysis evolved over time from merely the need to abolish “corporate personhood” to more fundamentally democratize the constitution, awareness and acceptance of change is increasing among people struggling for justice, peace, sustainability and democracy.

The growing feeling behind it is that it's not enough, though still important, to change public officials and laws and regulations. There are currently vast differences among constitutional amendment advocates about the timing, process and content of such changes. This includes whether to work for amendments through the federal level or via a constitutional convention. There is great concern, of course, given the control of the levers of political power by the super wealthy and corporations, that any constitutional convention at this time could prove democratically disastrous.

Several POCLAD articles speak to the need for the need for and proposals to democratizing the US Constitution.

The US Constitution: Pull the Curtain,

http://www.poclad.org/BWA/2007/BWA_2007_DEC.html

A US Constitution with Democracy in Mind,
http://www.poclad.org/BWA/2007/BWA_2007_MAR.html#3

Overcoming oppression is a democracy issue

We can't say it any better that the Democracy Convention conveners who issued this statement:

"Our purpose is to build a truly inclusive democracy movement, one that takes on oppression in order to finally overcome it, in order to build a truly democracy society.

Overcoming oppression involves building strong community and collective power. Community power begins with creating what Dr. King called the beloved community, something we are doing now with the Democracy Convention.

Inclusive democracy is anything but power-neutral. We include in order to democratize. Therefore, we also exclude. We exclude and confront white supremacy and racism, patriarchy and sexism, class rule and elitism, cisnormativity and homophobia, ableism, ageism, and anthropocentrism, and other structures and expressions of domination. Each oppression denies self-government, collective liberation, and full personhood. Each reinforces capitalism, a system that turns living and free beings into things for sale and consumption.

An inclusive democracy movement builds new institutions, cultures, and systems based on equity and direct resistance to oppressions, with the leadership and participation of those most directly affected by those oppressions.

The goal of the movement we are building is to overcome, not just regulate, oppression. We are outward oriented, globally aware, and always thinking about who is struggling for liberation. We seek social transformation and a democratic revolution."

Current moment is one of multiple crises

Convention sessions and plenaries were stimulating and nurturing. Anyone paying even half way attention could not help but learn and feel part of something larger than oneself. There were, though, other sets of feelings equally pronounced – feelings of deep responsibility and urgency based on oppressive, destructive and unsustainable systems assaulting people, communities and the environment. The rise in this country of what can legitimately be called fascism; income

inequality; perpetual wars and occupations; endless more economic growth on a finite planet; political disenfranchisement; overt racism, misogyny and homophobia; and eco system destruction are on their own frightening.

Any one of them, if unaddressed, reaching a tipping point will spark widespread social disruptions, which seemingly has now begun in response to Charlottesville. It's a virtually certainly that the triggering of one reality will at some point dramatically worsen one or more of the others – the cumulative result being unpredictable forms and degrees of widespread societal collapse.

Educate, advocate and organize for power

We at POCLAD have always insisted that the fundamental premise of this government is that all legitimate political power resides with the people. We have stated the obvious—that a small ruling elite have literally stolen the social, political and economic institutions of our society, and use "the rule of law" to legitimize the theft. By allowing unelected and unaccountable judges to dictate what is constitutionally acceptable is to disenfranchise ordinary citizens and to utterly ignore the principles of self-government and political equality. "We the People" own our government. Properly understood, we are the government. We need to start acting like it.

So we invite you to work with us to help build a genuine democracy movement.

Contact Greg Coleridge at Greg@MoveToAmend.org in his capacity as Outreach Co

Director at Move To Amend (<https://www.movetoamend.org>) to learn how you can get involved in the campaign for a constitutional amendment to abolish the concepts of corporate constitutional rights and money as political speech.

Contact David Cobb at DavidKCobb@gmail.com in his capacity as a Fellow at Liberty Tree Foundation for a Democratic Revolution to learn about his work in co-facilitating “Movement Schools for Revolutionaries” (<https://www.school4rev.org>).

A Publication of the PROGRAM ON CORPORATIONS, LAW & DEMOCRACY

By What Authority (ISSN: 524-1106) is published by the Program on Corporations, Law & Democracy. The title is English for *quo warranto*, a legal phrase that questions illegitimate exercise of privilege and power. We the people and our federal and state officials have long been giving giant business corporations illegitimate authority. Today, a minority directing giant corporations and backed by police, courts, and the military, define our culture, govern our nation and plunder the earth. **By What Authority** reflects an unabashed assertion of the right of the sovereign people to govern themselves.

POCLAD is a group of 7 people instigating democratic conversations and actions that contest the authority of corporations to govern. Our analysis evolves through historical and legal research, writing, public speaking and working with organizations to develop new strategies that assert people's rights over property interests.

BWA is a tool for democracy proponents to rethink and reframe their work. To that end we encourage readers to engage us with comments, questions and suggestions.

POCLAD
P.O. Box 18465
Cleveland Heights, OH 44118
216-255-2184
people@poclad.org; www.poclad.org

POCLAD is a project of the Jane Addams Peace Association
David Cobb, CA Karen Coulter, OR
Greg Coleridge, OH Mike Ferner, OH
Jim Price, AL Virginia Rasmussen, NY
Mary Zepernick, MA

Distribution policy: POCLAD welcomes all interested people to join our mailing list. Please consider an annual minimum contribution of \$25 to support POCLAD's ongoing work (or whatever you can afford). Copyright 2017 by the Programs on Corporations, Law and Democracy. The content of BWA has been copyrighted only to ensure that it is not appropriated by others. POCLAD encourages the noncommercial reproduction and widespread distribution of material in BWA without prior approval, provided the material is unchanged and attribution is given to both BWA and the author(s). Please send us two copies of any material. Thank you!