

The Pushback Against Ending Corporate Rule

by Greg Coleridge

Rising anger against the seemingly omnipotent power of corporations to dictate nearly every aspect of society has yielded predictable pushback from corporations and their minions (i.e. human, not small yellow creatures) in government. Laws against mass protests and stronger regulatory protections and increasing corporate SLAPP lawsuits to silence critics are just a few examples.

Not as predictable has been pushback against efforts to reassert control over corporations to protect people, communities and the environment by some across the political spectrum, including “progressives.” This pushback has most clearly targeted the movement to abolish all corporate constitutional rights through a constitutional amendment led by Move to Amend.

What’s going on? Why do so many individuals who acknowledge major harms by entrenched corporate power advocate only relatively minor solutions.

Among the voices who recognize serious corporate harms but oppose ending all corporate constitutional rights

is UCLA Law Professor Adam Winkler. His new book, *We the Corporations: How American Businesses Won Their Civil Rights*, reflects this divergence.

Winkler’s historical account of how corporations came to acquire constitutional rights of people is helpful, especially if it reaches new audiences. It’s not, however, a new narrative.

Groups like the Program on Corporations, Law & Democracy, Women’s International League for Peace & Freedom, Community Environmental Legal Defense Fund and Move to Amend – as well as authors like Thom Hartmann in *Unequal Protection: How Corporations Became ‘People’ and How You Can Fight Back* – revealed years earlier how corporations were strictly defined by *We the People* through elected representatives by separately granted and revoked corporate charters and later general incorporation acts. Sovereign people were in charge of their subordinate legal creations with corporations only possessing privileges. Constitutional rights, including the Bill of Rights, were originally intended solely for human beings -- albeit, at first, only to white, male, property owners.

Increased opposition to ending all corporate constitutional rights has focused on several major concerns – presented below with a response.

Fears the corporate press and property would be legally defenseless against random government censor and seizure

What gives the press its freedom to speak, however, is the 1st Amendment freedom of the press, not any corporate constitutional right as articulated in several Supreme Court decisions. Similarly, random government seizure of corporate property would violate the 14th Amendment due process rights of the human shareholders of corporate property.

Corporations need legal “rights” / protections to function

Corporate constitutional rights are different than corporate statutory “rights,” yet are used interchangeably by activists and organizers, even attorneys. Corporations *do* possess legal “rights” or protections, created by statute passed by legislatures. State and federal statutes provide corporations important provisions, such as the power to sue and be sued. Constitutional rights are *not*

required for the existence of such provisions.

Reversing *Citizens United* and/or ending the influence of the wealthy and corporations in elections should be our sole focus

Our nation's lack of authentic self-governance predates *Citizens United* and even the Court's decision equating political money as equivalent to free speech. Money spent in elections shielded by 1st Amendment "free speech" rights is simply one way corporate entities have overruled public policies. Corporations have been granted and subsequently abused other constitutional rights and provisions to hijack democratic self-determination.

Even other parts of the 1st Amendment (i.e. the right *not* to speak and religious rights) have prevented communities from knowing what poisons are in their food and resulted in the *Hobby Lobby* decision denying contraceptive coverage to corporate employees. Ending 1st Amendment political free speech rights alone would allow corporations to return to misusing and abusing other granted constitutional rights — and likely to concoct new ones.

Abolishing all corporate constitutional rights in this political environment is not realistic

No meaningful change is realistic in the current political environment. That's why Move

to Amend is building a movement to change the political landscape.

The real question is this: given the rising awareness of the destructive and oppressive influence of corporate rule as well as the increasing mobilization of women, young people, people color victimized by police killings and so many others, is creating a large and diverse enough grassroots democracy movement to force fundamental change for justice and democracy possible *without* including abolishing corporate constitutional rights?

The answer is obvious.

So is the need to abolish all never-intended corporate constitutional rights.

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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.

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