
CORPORATE CRIME REPORTER

INTERVIEW WITH RICHARD GROSSMAN, WEST HURLEY, NEW YORK

If the Occupy Wall Street people want to fill in the blanks, they eventually might want to turn to Richard Grossman.

Grossman is best known as the modern father of the movement to challenge the corporate form as a usurpation of people power.

He's writing a book about reconceptualizing organizing to make people's goals, strategies and tactics commensurate with the constitutional, legal, and structural usurpations and traditions accumulated since the nation's founding.

And he's drafted a couple of laws in recent months that the Occupy Wall Street people should take a look at.

One would criminalize fracking.

The other would criminalize chartered, incorporated business entities.

We interviewed Grossman on October 10, 2011.

CCR: You graduated from Columbia University in 1965. What have you been doing since?

GROSSMAN: Right after college, I was a Peace Corps volunteer in the Philippines for a couple of years.

I worked as an adult education teacher in California, New Jersey and New York City.

In the 1970s, I moved to California and became involved in the first statewide anti-nuclear initiative, which was on the ballot in June 1976.

That took a couple of years.

I then moved to Washington, D.C. for ten years. From 1976 to 1985, I was director of Environmentalists for Full Employment.

At the end of that, I started publishing the *Wrenching Debate Gazette*.

While publishing the *Wrenching Debate Gazette*, I was helping to organize peoples' hearings, particularly in the Southeast and Midwest.

We were combating corporate and governmental toxic chemicals.

I moved to Massachusetts in 1990.

I kept publishing the *Wrenching Debate Gazette*. But I also began researching the history of

corporations, constitutional history and law, past people's struggles.

I co-founded the Program on Corporations Law and Democracy (POCLAD) in 1993.

I was with that group until about 2004.

My work over the last twenty years has been to provoke new and different conversation, thought and action among people dissatisfied with what is going on in the USA, among people trying to change the nature of our work – to rethink and reframe problems, our assumptions about this country and our goals, arenas of struggle into which we bring our battles, the language we use, our strategies and tactics.

CCR: Thirty or forty years ago, when you started this work, you were looking at the corporation differently than you are looking at it today.

GROSSMAN: One simple way of comparing then and now is that I don't talk much about corporations anymore. We live under minority rule. And the class of people who do the governing generally could be called a corporate class.

But 180 years ago, they were the slave master class. One hundred years before that they were the propertied nobility in England.

In the USA, a minority designed our structure of governance, has been making the laws, using the power and violence of the nation to deny the many, to accumulate property and wealth, to replicate their designs across generations, to groom leaders of the next generation to continue their supremacy, to create the educational systems, mythologies and celebrations to camouflage and deceive, to channel people who would be activists into realms where even if they stop or slow down a particular corporate state assault, they don't lay a hand on systemic reality, don't touch the structure of governance and law, don't question the country's great myths.

For the past century or so, one such realm has been regulatory and administrative law and agencies, those vast energy sinks and diversions that eat activists for breakfast.

CCR: You say you don't talk about corporations much anymore. But your most recent writing is a draft of a law that would criminalize chartered, incorporated business entities.

GROSSMAN: One governing mechanism of the minority class, of the governing class, is the chartered business corporation, and the two hundred years of constitutional, legal and cultural privilege – of illegitimate governing authority – that legislators and judges have wrapped around corporate directors.

What has been constructed by a few, the many can take down. So as far as I am concerned, this law is for real.

But I wrote this law for educational purposes as well.

With the growing number of demonstrations and occupations going on around the country, I have not heard much analysis, or specific language, about the essence of our problems, or about how we got into such a usurpatory mess, about practical, tangible steps we human earthlings can take to get out from under minority rule so that we can govern ourselves.

I don't hear talk about the tools we have at our disposal, short-term and long-term goals we could seek, strategies and tactics different from past strategies and tactics that have not accomplished what people have sought.

By 1995 or so, I was focusing on usurpation.

The corporate class – driving its values and needs into law and policy – had long been making life and death decisions that defined our communities, defined our nation.

It had long been exercising governing authority. According to lore and myth of the American Revolution and the Constitution, that's usurpation.

Who has been complicit in that usurpation? Our public officials, elected and appointed – legislators, judges, presidents, governors, not to mention legal treatise writers, law professors, historians.

For me, our challenge is teaching ourselves to see beyond each single corporate state invasion and assault and denial to recognize the structures of usurpation that have long been in place – structures of usurpation, of illegitimate governance, that activists with only rare exceptions over the past four-score years have confronted.

The second part of that challenge is this – people who have been taught to mobilize against single corporate state assaults – one at a time and over and over again – start revealing and dismantling those structures, the constitutional and mythological underpinnings of “we the people's” disempowerment.

And begin replacing them with values and

governance structures designed to maximize liberty for the earth and biological systems and other species, while engendering healthy humility for the human species.

In terms of Occupy Wall Street, I haven't been there. I've been reading about the occupation. It's very exciting. But one thing that struck me in the first few days were reports saying that the protesters were focusing on corruption and greed.

Well yes, there's no shortage of corruption and greed going all around. But corruption and greed are not the problem. They are diversions.

The essence of the power arrayed against the 99 percent are structures of minority-rule governance deeply rooted, honored and celebrated, even by, I suspect, many of the people who are occupying Wall Street today.

I'm referring to the great myths of this nation's founding and founders, of the U.S. Constitution and constitutional jurisprudence, the nonsense about limited governance, the sanctification of “the rule of law” when lawmaking and interpreting and enforcing have been the special preserve in every generation of a small minority.

I'm talking about the private ordering of economic decisionmaking, the sweeping constitutional privileges wielded by directors of the “creatures of law” we call chartered, incorporated businesses camouflaged as “free enterprise” and “the invisible hand.”

I hope that teach-ins about such realities in Wall Street and Washington and other places are going on. So far, I've not seen evidence.

CCR: You saw the speech on Wall Street by the philosopher Slavoj Zizek.

He said this: “The problem is not corruption or greed. The problem is the system that pushes you to give up.”

GROSSMAN: Yes. But he didn't go on to describe the system. He didn't talk about the mechanisms of governance, how we got into this mess of government by a few.

I don't know if he believes that the U.S. Constitution provides people seeking change with appropriate and commensurate remedies.

I see the Constitution as a minority rule document.

At the time the Constitution became the law of the land, the small number of men who did the real governing denied the overwhelming majority of people in the thirteen states standing before the law,

the authority to vote, the ability to participate vigorously and equally in the body politic – to drive their values into law and public policy, to write fat legal treatises, to make law from the bench, to accumulate wealth.

The people of my generation – I'm almost 70 – we've been struggling against corporate and government assaults one after another, corporate and government wars – one after another, against usurpations galore engineered by corporate directors.

Where can we turn for remedy? What political, constitutional mechanisms can we use to undo accumulated usurpations of the past, to start governing ourselves, our communities, our states, our nation?

For people who see these constant assaults and denials – defined by our corporate, Earth-gobbling culture as “legal” and “necessary” for freedom, jobs and progress – for people agitating to stop these wars, to stop the destruction of our communities and escalating inequalities, to launch sane and just transitions in energy, food – don't we have to reconceptualize our work as humans on this Earth?

One of the tasks for my generation before we leave the scene is to engage younger generations about all this, starting off with this central terrifying point – we've lost.

Fifty years ago, forty years ago, those of us who started off being very active against all kinds of injustices, we had a very different picture of what this country could be like in 2011.

Today, we're not even close.

Not for lack of struggle, persistence, tenacity.

So what happened? What's to be learned from the past half-century of organizing and resistance and electioneering and law-writing?

Here's how I see it. Like activists and radicals of previous generations – we have been crushed. If we admit to this, if we internalize that crushing as reality – I believe people will find this incredibly liberating. That's the case with me.

Because it enables me to abandon gobs of USA mythology, the holiday celebration stuff, the liberal versions of steady progress under a liberty-friendly, governance structure where, it is claimed, here the people rule.

Generations and generations of bloody struggles to end human slavery, to get the vote, to be seen by the law, to be equal before the law, and on and on – are regarded as glorious victories provided by the exceptional liberty-loving American constitution

writers and law-makers and law-interpreters and historians.

We were born into a structure that provides no remedy to minority rule. We were lied to in grade school and high school. Our energies and resources and hopes have been channeled into making symptoms of minority rule a little less devastating while leaving every generation's minority rule structures and institutions and accumulations untouched.

Once we grasp that nettle, we then can focus on revealing and changing.

CCR: Not only do we have to admit that we have lost, but we have to admit that we were wrong.

Forty years ago, when you were with Environmentalists for Full Employment, you too believed in the power of law, the power of the legal system to control polluting industries. You too were arguing for regulation and law enforcement.

GROSSMAN: Well, initially I never gave much thought to it. When I came to Washington, D.C, I fell into the patterns of the activist movements, of the large, existing organizations. Of the institutions left over from the previous generation's struggles – struggles that had been crushed, institutions that had been neutered. I had no idea about that at the time.

But we – like many others – were able to learn from our experiences. At Environmentalists for Full Employment, as we compiled data to challenge the great “jobs vs. environment” propaganda of those days, as we started looking into the history of regulatory law and agencies, we began to open our eyes.

We had been snookered and deceived and channeled into diversionary efforts. But we started evolving. By the early 1980s, for example, we had pretty much turned our backs on the regulatory system.

In our book *Fear at Work*, we traced some of the relevant history. We even quoted Attorney General Olney in the late 1880s telling railroad corporation executives not to worry about the Interstate Commerce Commission because it would be a “barrier” between corporations and the people.

But you are quite right, that I was wrong about many things, I was ignorant.

I didn't know enough about this country's past even to conceptualize commensurate challenges to illegitimate power in the present.

That's one of the reasons in 1990 or so, I set out to learn what I could about how business

corporations became wrapped in the Constitution, how municipal corporations – our towns, villages, cities – were stripped of genuine governing authority, about the way the nation's plan of governance was designed, about legal and constitutional evolutions, about people's constant struggles to set things right.

Imagine – there's a so-called revolution against England, white colonists win, and then the cream of white colonists – slavemasters and men of property – import the English legal system, English jurisprudential theory, English precedent.

They plunk down structures of governance and law crafted by the five percent of English nobility dictating the labors of the many, vacuuming up the Earth from Ireland to India, and ruling over England for 800 years.

What kind of self-governance by the many with liberty and justice for all, with consciousness of Earth systems, with respect for people who work, could emerge from the rigid governing structures this nation's designers put in place?

So, when I say we lost, I'm suggesting also that activists in every generation lost. And that today, we and generations coming up need to explore that reality with dispassion, without getting defensive.

When we were younger, we knew what we knew, we did what we did. It's time to pass on what we've come to understand. Back in 1977 and 1978, I certainly wasn't able to have the kinds of conversations that I've been having – and trying to provoke – over the last fifteen years or twenty years.

CCR: You have drafted legislation that would criminalize the corporate form.

Is it a smoke bomb, or are you serious about this?

GROSSMAN: I'm serious. All existing charters for incorporated business entities would be null and void. Accumulated corporate constitutional privilege – all that illegitimate private governing authority bestowed by legislators and judges – would be purged.

States and the United States would be prohibited from creating and privileging new business entities.

For starters. And then people would have to get together and figure out what kinds of entities we could design that would not take over like the Sorcerer's Apprentice.

CCR: What happens to currently operating businesses?

GROSSMAN: It seems to me that people behind them should be delighted. It would be the essence of the capitalist idea. People who want to go into business, they could go into business. But why should we – the rest of the people – bestow special privileges on them?

CCR: If you believe this, why did you incorporate POCLAD?

GROSSMAN: We didn't incorporate POCLAD.

CCR: I thought it was a 501c3.

GROSSMAN: Technically, it was part of another non profit corporation.

CCR: But under your proposal, even non profit corporations would be illegal.

GROSSMAN: Right. We went down that path so we could accept tax deductible contributions. We fit right into the pattern. Yes. And we did talk about that frequently as a bit of a straitjacket.

In a broader sense, much of the opposition over the past decades – environmental groups and others – structured themselves in the corporate form, modeled themselves after the dominant oppressive entity of our era.

So, you are quite right to point out the contradiction.

But if people want to do business – isn't the idea of capitalism that you invest your money and you take your risk?

And the rest of us don't allow the people running businesses to wrap themselves in special privilege.

We don't allow a private ordering, private governing, where corporate directors' decisions on investment, production, organization of work and technology are beyond the authority of sovereign people.

We don't allow governance and law and elections that enable the most important decisions shaping our communities, dictating people's work, determining society's relationships with the Earth, with other species, deciding life and death, to be beyond the people's authority.

To get to that point, where we can try to govern ourselves, we have to undo accumulations of governance, accumulations of usurpations, accumulations of illegitimate law and of illegitimate lore and miseducation.

CCR: If we get rid of the corporate form, it will be replaced by another form of business entity that will accumulate wealth. What makes you think it's the form that makes the difference? What makes you

think they won't be as abusive or equally abusive concentrations of private power?

GROSSMAN: That would be the tendency.

There is no such thing as a silver bullet or a magic fix. This draft law is a step to move to reality. But it is also a step to open up different conversations beyond "greed and corruption."

To rethink the past, to see beyond symptoms to sources and causes – toward reconceptualizing and rethinking who we are, how we organize, what we do.

Here in New York State, I've been involved in anti-fracking struggles.

Folks in Ulster and Green counties started meeting last March as a study group.

We named ourselves Sovereign People Action Network (SPAN).

In early summer, seeing so many anti-fracking people across the state pouring their time, resources and hopes into the State's Department of Environmental Conservation (DEC), we began drafting a law to rip decision making from this illegitimate agency, and drive it into our state legislature.

Our law criminalizes fracking and fracking-related activities.

Corporate frackers would be Class C felons.

In August, a bunch of anti-frackers from different parts of the state, representing various anti-fracking groups, participated in three sequential workshops I presented on at the New York Green Fest gathering in Western New York.

Some decided to join SPAN on criminalization.

Together we came up with the current draft of the law. We are now creating a new coalition group to concentrate on compelling the legislature to pass our law.

This law is not a magic bullet, of course. We could never pass it unless we build a mass movement in New York.

CCR: Has it been introduced in the New York legislature?

GROSSMAN: No. We met with a state Senator who wanted to learn more about it but he was pretty resistant. That's okay. This work will take time.

CCR: Do you want to say who that is?

GROSSMAN: Not now. To his credit, he met with us twice. He was patient and courteous, we had some healthy conversations.

We have no illusions about the New York State Legislature. But theoretically at least, that is where laws are made. And that's where sovereign people

go to instruct our representatives.

Our approach to our legislators is: we wrote this law – now you pass it.

But we know we can't do that until we build a formidable statewide movement that is not only talking about fracking as a destructive technology, but also about illegitimate rule by a very small corporate class.

And the same for the proposed law that would criminalize the corporation.

What does it mean to take on the corporate state? That struggle is not about parts per million of this or that deadly chemical, or how to handle deadly fracking fluid.

It's not about a particular manufacturing process.

It's not about campaign finance reform and other diversions.

It's about undoing pillars of the nation's minority-rule structures of governance.

CCR: You are attacking the structure of private business.

GROSSMAN: I'm talking about challenging structures of governance and law which have illegitimately enabled and created a private ordering of this society – increasingly of the whole Earth.

They have denied the many, while empowering private government which Franklin Delano Roosevelt, of all people, labeled fascism.

CCR: But how would capitalism adopt to this law – if it became law? Your proposed law eliminates limited liability for shareholders, it eliminates perpetual life for corporations, it wipes out their Constitutional empowerments.

But what fills the void? Let's say you run an airline or an electrical utility. They might restructure as insured partnerships?

GROSSMAN: Why should sovereign people aspiring to be self-governing bestow upon mere creations of law eternal existence?

Why give them supreme authority – governing powers – over their creators?

Why subsidize investors with the gift of limited liability and other privileges galore?

If people want limited liability, let them buy insurance.

If people want to manufacture and offer services, and they worry about being sued, let them take extra caution not to cause devastations and denials.

Is it so hard to conceive of businesses as businesses, and not as private dictatorships?

Not as deniers of human-ness? Not as pillagers of the Earth?

We can also eliminate the permitting system so that business people wouldn't get permits legalizing poisons and destructions – which is the purpose of today's regulatory and administrative laws.

We could make sure that businesses could not interfere in elections, lawmaking, debate over values and public policy – in the writing of tax laws and health laws and labor laws and laws conforming our society's existence with fundamental Earth laws.

We could rethink the National Labor Relations Act. That law helps make sure that in corporate workplaces, there is no freedom of speech, no due process of law, no equal protection of the laws, no right to confront one's accuser.

Like all regulatory laws, it assumes the constitutionality – not to mention the wisdom – of corporate directors wielding the law of the land against employees, communities, and the earth.

It legalizes corporations denying workers fundamental standing before the law, denying people their basic humanity, denying autonomy over their hands and brains merely because they are employees.

Why should people aspiring to be self-governing allow our states or the United States to privilege business corporation directors to lord over people who do the nation's work?

CCR: The progression of Grossman's thinking – from regulate the corporation, to challenge corporate constitutional empowerment, to criminalize the corporate form.

GROSSMAN: And criminalizing public officials who have enabled and abetted usurpation. And then rethinking everything relating to designing institutions to help a sovereign people live in sane and rational ways.

By the way, I take exception to what you wrote last week – I don't accept paternity for today's corporate personhood fetish.

I never focused on personhood. I helped to explain Supreme Court cases starting with Dartmouth College in 1819 that turned business corporation directors into usurpers.

But I would say from POCLAD's early years in 1994 and 1995, my focus was on the Constitution as a minority-rule plan of governance, and on usurpations galore.

And so this move to amend the Constitution that sprung up after the *Citizens United* decision – I

don't understand it as strategy, as an educational process, as an organizing process, as a goal.

Why validate the idea that amending the Constitution offers a remedy for two hundred years of minority rule? For today's corporate state? Corporate "speech" is such a minuscule aspect of the nation's private governance and mass denials that have been in place since the nation was founded.

Let's keep in mind that when the Constitution was ratified, all states denied most people standing before the law. They denied most people the authority to vote.

The authors of the US Constitution included no language in that plan of governance requiring the United States to remove all barriers to human liberty – to maximize liberty throughout the land.

They did craft language requiring the United States to remove all barriers to commerce – to maximize production and commerce throughout the land. To impose a national economy on communities throughout the land.

They certainly understood the concept of a strong, centralized federal government swimming in the preemption and prerogative authority of kings.

CCR: You were with POCLAD from –

GROSSMAN: We founded it in 1993. And I left in 2004.

CCR: POCLAD is pushing the move to amend the Constitution.

But they are pushing to amend the Constitution so that all corporate Constitutional rights should be abolished.

GROSSMAN: I wish them well.

CCR: Why did you leave POCLAD?

GROSSMAN: I thought we had accomplished what we could accomplish, given who we were.

Through our writings, our "Rethinking the Corporation, Rethinking Strategy" workshops, we began changing discussion on reframing issues, reconceptualizing goals, strategies and arenas of struggle, changing language.

I felt that 2005 was a good time for us voluntarily to dissolve, to let folks move on in diverse directions.

CCR: But they disagreed. And they have started this move to amend the Constitution.

GROSSMAN: Yes.

CCR: They have gathered over 130,000 signatures.

GROSSMAN: I'm continuing to focus on rethinking, reconceptualizing, activist work – on getting off the defensive, on organizing campaigns

against corporate state invasions and denials in ways that challenge its historical, constitutional, legal, cultural and financial underpinnings – all those pillars of usurpation.

Anyway, it's not the corporation, remember? It's about us, people aspiring to be sovereign and self-governing. What will it take for people to govern ourselves?

CCR: In Upstate New York, where you live, you are faced with the assault of fracking.

Your SPAN group drafted legislation that would criminalize fracking. So, you are back to the state legislature to pass this law.

GROSSMAN: We're hoping to move the exciting struggle to prevent the fracking of New York State from the dead end, energy sink regulatory realm to the place where sovereign people make law, decide what is anti-social behavior.

We have no illusions about our state legislature. Both houses are tyrannies. Most of the legislators are colonized. We understand that part of our task is to re-make our legislature, and our legislators.

And that to do this, anti-frackers and others confronting diverse assaults of illegitimate private governance must build a powerful state-wide movement.

CCR: You drafted this law in August. What kind of response are you getting from the activists on the ground?

GROSSMAN: Our new state-wide coalition is only now coming together, we haven't begun taking our message across the state. I can say that whenever any of us talks to folks, their response is – of course fracking should be criminalized, should be declared felonious.

CCR: Has anybody written about it yet?

GROSSMAN: I don't think so. We're still under the radar. But I don't think it will take long to emerge. Think back to the evolution of the anti-nuclear movement.

The fracking struggle involves most of the giant corporations of the country, not just business and industrial corporations, but also law corporations and insurance corporations.

The whole corporate class and its vast usurping structures of governance and propaganda are behind fracking. The reasons are clear: the corporate class is committed to endless more. The fuel for endless more is constantly expanding energy.

So people opposing fracking for oil and gas and water are standing up not just to a few giant energy

corporations, but to the entire corporate class, and to their vast corporate state, just like the anti-nukers of yore.

In New York, people are already organized in hundreds of groups. We think this legislation will help unify anti-frackers, so that one day in the not too distant, the State of New York will declare fracking, corporate frackers, and fracking-related activities to be Class C felonies.

CCR: The anti-nuclear movement took a decade. Are you saying that the anti-fracking movement will take less time?

GROSSMAN: For now, New Yorkers are mobilizing to prevent our state from being fracked. Some of us are proposing criminalization. We will be provoking conversation and discussion about the histories and realities of minority rule and usurpation that we've been talking about here.

It's my hope that unlike the anti-nuclear movement – that magnificently stopped the construction of 850 nuclear radiation factories – New Yorkers will criminalize fracking in ways that begin to challenge the corporate state, that set new and liberating conversations in motion, that begin asserting we the people's authority to govern our communities and our State.

CCR: You have a book in the works. What is it about?

GROSSMAN: What we have been talking about. Rethinking history, goals and strategies.

For people who want to reconfigure how this country is run, the question is – how do we change the activist, political work we do?

How do we rethink the language we use, the political arenas we drive our struggles into?

How do we rethink our goals?

How do we move beyond resisting one corporate state assault at a time – over and over and over again, toward undoing accumulations and structures and habits of the past?

What can we learn from valiant and persistent people's struggles for justice, sanity and self-governance waged since in the beginning that have left us and the Earth in the grip of illegitimate private governance gussied up as the cat's pajamas?

How do we talk across generations about emerging younger and older and wiser from the reality of losing? How do we turn ourselves into sane, self-governing people?

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