

The Struggle for Democracy: Activists Take the Offense

by Virginia Rasmussen

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Remarks at the Empowering Democracy Conference, New York City, April 13, 2002 by Virginia Rasmussen, Women's International League for Peace and Freedom (WILPF), Program on Corporations, Law and Democracy (POCLAD)

Empowering democracy. This phrase reaches the heart of every social justice activist's work. What does it mean to give power to democracy? It relates to making real the people's legal authority to govern. Whatever the focus of our particular struggle, success hinges fundamentally on our having the power to bring the change we envision. *Every* issue is anchored in the struggle for that legal authority.

In his book, *The First American Revolution: Before Lexington and Concord*, Ray Raphael tells us about a democratic moment in Massachusetts history. In 1774, six months before the "shot heard 'round the world," crowds of men numbering in the thousands deposed every Crown-appointed official in rural Massachusetts. This was in response to Parliament's Massachusetts Government Act, which virtually withdrew the considerable self-governance granted to the colonists by the 1691 Massachusetts Charter. In Worcester, 4,622 militiamen lined Main Street and instructed the British-appointed officials to walk the gauntlet, hats in hand, as they recited their resignations 30 times so all could hear. In every county outside Boston, the British lost control and never regained it. Raphael claims that, "Through it all, the revolutionaries engaged in a participatory democracy which far outreached the intentions of the so-called 'Founding Fathers.'" [1]

What is it about this glimpse of times past that's important for us today? Those colonists possessed some critical characteristics that we, despite all our material and technological pizzazz, now have in small measure. They *assumed* themselves capable of self-governing; they displayed the *attitudes and behaviors* of people who took for themselves the authority to be in charge. This story reveals the essence of democratic culture and helps us grasp what the work of activists struggling to empower democracy must be about: *building a culture of*

communities with the assumptions, attitudes, and authority of sovereign citizens.

This is a challenging task. In *The Populist Moment*, Lawrence Goodwyn describes us as "not only culturally confused, our confusion makes it difficult for us even to imagine our confusion." [2] But more and more people are cutting through the fog; our confusion is lifting.

The right to assume that our basic nature just might be decent, cooperative, and compatible with self-governing has been *stolen* by the few who rule over us. And we're figuring it out. Our right to learn and live by the attitudes and behaviors of self-governance has been *denied* to us by the few who are in charge. And we're figuring it out.

Our authority to be a nation of self-governing people was given away to the corporation, a "legal fiction" created to serve us. **We intended the corporation to concern itself with business and commerce, but it now dominates our politics and government.** It was redesigned and legally empowered over the last 150 years to scoop up wealth and power. It has amassed so much legal authority in the USA that a propertied few, shielded by corporate "rights," now govern the many. And having seized most power and wealth in this country, those few now write international agreements they would have us believe are about "trade," but which, in fact, foist corporate governing rights on every nation of the world.

What's an activist to do?

We're Mad As Hell and We're Not Taking It Any More!

What was done in the name of the Enron Corporation has made people furious -- not only because it engaged in criminal activity like financial fraud and insider trading, but because most of what the Enron Corporation did was perfectly legal. Even worse, the laws condoning those actions were essentially written by Enron operatives and their cohorts: laws that allow them to pick candidates and bankroll them into office; make energy policy and define energy debate; hide debt in ghost entities called partnerships; buy and sell fictional "derivatives"; put profits in tax-free, off-shore banks, eliminating Enron Corporation's tax burden in four of the last five years . . . all quite legal. It's legal for corporations to fund think tanks that tell us how to think and what to believe; to endow university chairs, write textbooks, control research.

In a nation of self-governing people, these are *our* debates to define and decisions to make, and more and more activists are figuring it out.

We're fed up with behaving like subordinates content to influence the decisions of corporate boards and the corporate class. Having influence is valuable, but influencing is *not deciding*. We're weary of waging long, hard battles simply for the "right to know." Knowing is critical, but knowing is *not deciding*. We're tired of exercising our right to dissent as the be-all and end-all. Dissent is vital, but dissenting is *not deciding*. Influencing, knowing, dissenting, participating -- all are important to a democratic life, but not one of them carries with it the *authority to decide*, the power to be in charge.

Launching The Offensive

More and more people are taking this power, shifting goals and strategies in order to defy corporate authority over our lives, work, communities, values, law and politics, culture and future. These initiatives are directed toward public officials, attorneys general, elected boards, and legislatures. We're *not* taking the subordinate role of asking the Enron Corporation to behave a little better. We're *not* content with putting a corporate-designed and -controlled regulatory agency on Enron's trail. Regulatory law protects corporations from pesky people. It *enables and protects* the corporate agenda as it was intended to do. **We're catching on that the language and strategy, actions and arenas that frame our work determine its outcome. If we seek democratic outcomes, we must frame activism in the people's sovereign authority to rule.**

Coalitions of citizens and activist organizations around the country are conducting community-based study groups, learning how corporations acquired legal powers way beyond those possessed by human beings. We are getting clear that corporate lawyers relied on judges to turn into law whatever business practices gave corporate actors power over people and natural resources. They interpreted state-granted corporate charters to be contracts over which states were no longer sovereign; they made gifts of private property to corporate claimants that transformed We the People into trespassers. They saw to it that a corporation's future profits and the decision-making in its name are constitutionally protected from us -- *beyond the people's authority*.

We are learning that the commerce clause, prohibiting states from interfering with interstate commerce, was the first incarnation of a free-trade agreement. Corporate insiders and their judge advocates used it to declare that laws protecting workers, communities, children, and the environment are unconstitutional impediments to free-flowing commerce. We are finding an early model for powerful international trade tribunals in the unelected, unaccountable Supreme Court.

Where is the people's authority in this picture? Why do corporate entities have rights at all? Rights are for people. Corporations should have privileges only, to do what we ask of them. This was once obvious to people, until corporations were declared "persons" under the law by the Supreme Court in 1886. The court extended 14th Amendment protections of due process of law to the corporate form, protections intended for recently freed slaves. From the day of that decision, corporate lawyers *have not stopped* seeking and winning protection after protection for corporations while African Americans have struggled to realize the promise of the 14th Amendment in their lives.

Endowed with legal personhood status, the corporate form then acquired the protections of the Bill of Rights. First Amendment free speech rights for "corporate persons" leave *real* people in the electoral dust; Fourth Amendment protections from search and seizure for "corporate persons" trump workplace safety and health law. Now corporate lawyers say that the Fifth Amendment protects corporations from any government "taking" without "just compensation." They are making the case that *any* environmental regulation encroaches on corporate property "rights." Some federal judges are agreeing, awarding compensation based on alleged lost future profits. **The final curtain on environmental regulation may well be coming down. Indeed, corporate rights of private property give them power over the**

people, and their personhood rights bring them protection *from* the people.

Unless we challenge corporatized law and culture, activists will be waging defensive battles against harm after endless harm forevermore.

Where do we take action to oppose corporate rule? To our communities for conversation and learning, to the culture for reflection and rethinking, to town boards, public officials, and state legislators. This is where we have legal standing. In these arenas we have the opportunity to empower democracy, to write true democratic law. Such law can only arise from the will of the people and the vision of a democratic culture. It will never arise in the arenas of oppression: corporate boardrooms, courts of law, or regulatory bodies.

The people in ten townships of south central Pennsylvania passed ordinances to protect family farms that are locally owned and managed. They wanted to prevent corporate hog farms from invading their communities. They could see that battles about parts per million of hog pollution in their creeks, or square feet of stinking hog waste in lagoons, was waging a fruitless battle on the corporation's terms. Like the 18th-century Massachusetts democrats before them, they sought to define their own lives and work, economies and communities.

In response to this assertion of people's authority, lawyers for the farm bureau and agribusiness corporations filed a lawsuit declaring that Belfast Township has no constitutional authority to pass such an ordinance. They state that the Constitution's equal protection and due process clauses, its no takings clause, its commerce clause, its contracts clause, its privacy protections, its 14th Amendment protections are all stacked *against* the people and *for* the corporations. This action strengthened the people's and township supervisors' resolve, convinced as they are that the Constitution should be in service to people and not to property organized in the corporate form. At a recent meeting of Pennsylvania municipalities, 350 township governments voted to oppose the stripping away of local governmental control over corporate farming and sewage sludge management. This is forceful evidence of a growing determination to drive self-governance into the Constitution, which is what our activist labors must be about.

This is not anti-corporate work. This is the work of healing our body politic, of coming to the defense of our common good. It's the work of empowering democracy.

We are among generations of people who've struggled for the right to be self-governing. **There were always those who understood, who pulled themselves together, took the offense, organized resistance, demanded democratic alternatives, established some of their own. And while their efforts were often ridiculed, crushed, or coopted, they offered lessons to inform this generation's work.** Knowing their stories is essential if we are to create our own. Like our activist forebears, we are pulling ourselves together and pushing into the Constitution and the rule of law that was asserted by those in Massachusetts who tossed out British rule in 1774, and by our Declaration of Independence and the American Revolution: the right of the people to govern.

It's a radical task, a large and long one. Whom do we summon to this assignment?

Poet and author Annie Dillard has this to say:

There is no one but us. There is no one to send, nor a clean hand nor a pure heart on the face of the earth, nor in the earth, but only us, a generation comforting ourselves with the notion that we have come at an awkward time, that our innocent fathers are all dead -- as if innocence had ever been -- and our children unfit, not yet ready, having each of us chosen wrongly, made a false start, failed, yielded to impulse and the tangled comfort of pleasures and grown exhausted, unable to seek the thread, weak, and involved. But there is no one but us. There never has been.[3]

Endnotes

1. Raphael, Ray, *The First American Revolution: Before Lexington and Concord*, The New Press, New York, 2002.
2. Goodwyn, Lawrence, *The Populist Moment: A Short History of the Agrarian Revolt in America*, Oxford University Press, NY, 1978, p. ix.
[See (PDF) excerpts from the Introduction to this book presented in "Session VI - People's and Workers' Resistance Movements" one of ten study group packets from the Women's International League for Peace and Freedom Campaign: Challenging Corporate Power, Asserting the People's Rights and the Abolishing Corporate Personhood. "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, and (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." --rator]
3. Dillard, Annie, *Holy the Firm*, Harper and Row, New York, 1977, p. 56.

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By What Authority, the name of our publication, is English for *quo warranto*. *Quo warranto* is the sovereign's command to halt continuing exercise of illegitimate privileges and authority. Evolved over the last millennium by people organizing to perfect a fair and just common law tradition, the spirit of *By What Authority* animates people's movements today.

We the people and our federal and state officials have long been giving giant business corporations illegitimate authority. As a result, a minority directing giant corporations privileged by illegitimate authority and backed by police, courts and the military, define the public good, deny people our human and constitutional rights, dictate to our communities, and govern the Earth. *By What Authority* is an unabashed assertion of the right of the sovereign people to govern themselves. A publication of the Program on Corporations, Law and Democracy.

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POCLAD
P.O. Box 246, So. Yarmouth
Massachusetts 02664-0246
Phone: (508) 398-1145
FAX: (508) 398-1552
E-mail: people@poclad.org
Website: www.poclad.org

Karen Coulter, OR
Greg Coleridge, OH
Mike Ferner, OH
Richard Grossman, NH
Dave Henson, CA
Peter Kellman, ME
Ward Morehouse, NY
Jane Anne Morris, WI
Jim Price, AL
Virginia Rasmussen, MA
Mary Zepernick, MA

Bill Bachle, London, UK

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