By What Authority

A Publication of the Program on Corporations, Law & Democracy

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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.

WHO DO WE THINK WE ARE, ANYWAY?

By Molly Morgan and Virginia Rasmussen

"Contesting the authority of corporations to govern." This is the short, snappy description of POCLAD's work.

"Right on," people cheer. "Go for it!" And then the inevitable question: "So what do you suggest instead?"

"Self-governance," we reply. "You know, real democracy, the likes of which we've never seen. Governing arrangements in which people make decisions about their values and culture, production, work, technologies, politics, food, and future. That's the most important piece of our work together on this planet, and it includes defining economic institutions and their privileges and responsibilities — not ineffectually regulating the harms they do."

At this point the doubters weigh in. And that's a lot of people.

"It's not gonna happen." "Nice idea, but stop kidding yourselves!" "It's against human nature to share power and include everyone."

These are not idle grumblings. They draw on long human experience of the few controlling the many, experience that has stunted democratic imagination, consigned large numbers of people to a resigned servility, and engrained self-limiting assumptions about who we are as human beings.

For many, these assumptions were reinforced by the events of September 11 and their aftermath. The knee-jerk jingoistic response to the horrific attack repeats a seemingly endless and spiraling violence.

Given this cycle of retaliation, there is a special need to examine the assumptions carried around from childhood about who we are, how we work, and what we need. They ooze right into people from the larger culture that shapes individuals, households, communities, and societies.

Largely unrecognized, unmentioned and unchallenged, these assumptions condemn democracy to the impossible.

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Let's drag them into the light of day. Many cultures, particularly "western," assume that human nature is primarily selfish and acquisitive, more singular and individualistic than communal, fundamentally competitive rather than cooperative and caring. This view sees humans as apart from nature rather than a part of the interconnected web of life on the planet. Autonomy is thus valued above connectedness and relationship. Centuries of war, genocide, greed, and brutal oppression convince many that this is our basic nature, even when we witness acts of generosity and compassion on a daily basis. Ironically, it is often the most mind-numbing disaster that brings forth the best of who we are, as we saw amid the wreckage of the World Trade Center and in blood banks throughout the country.

It is easy to create the conditions that "prove" these assumptions are "true." Hunger, pain, fear, injustice, and loneliness can elicit our most aggressive, brutish behavior in the name of survival and self-defense.

Even when the harsh reality of these conditions fades, acquired social norms can ensure that the ingrained behavior remains. The world thus created is characterized by anti-democratic arrangements, individualism, and aggression without end. We need to ask who is best served in such a world.

POWER-OVER AS NORM

Once people accept that our nature is more competitive than cooperative, it's a short step to agreeing that power over us is necessary to survival and essential for protection from one another and from nature itself. Where did these assumptions come from?

Today's nation-states and their predecessor societies in recorded history have in common a *patriarchal worldview* that by most accounts developed some eight or nine millennia ago, assigning to mere human difference an arbitrary and relative value. Skills and characteristics, whether or not useful for a particular circumstance, became the means to divide people and to establish hierarchy.

Once people accept that our nature is more competitive than cooperative, it's a short step to agreeing that power over us is necessary to survival and essential for protection from one another and from nature itself.

Such a system of power relationships requires those exercising dominance to have a subordinate "other." Over time and in different places, "otherness" hinged not only on differences in gender, color and creed, but on property and ownership, an inevitable outcome of assuming that it is our nature to covet things and then to covet more and more of them. **Through most of our patriarchal history only a few people "qualified" to own property, which came at the cost of vigilance and fear lest their own system be turned against them if the majority gained power.**

The term patriarchy reflects the gendered roots of systemic domination and subordination. Some prefer gender-neutral terms, like Riane Eisler's dominator and partnership societies.[1] Others contend that the word patriarchy is apt so long as maleness is the most universal dominant characteristic, though "whiteness" is now running it a close second. This is not to say, of course, that *only* males exhibit patriarchal behavior.

In the way of worldviews, especially one as deep-rooted and long-standing as this one, most people adapt their behavior to the prevailing norm, consciously or not — even social change activists! When peo-

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Readers are encouraged to get back to us with comments, questions and suggestions. Please include a way for us to contact you, should BWA want to quote you with attribution.

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ple stoop to conquer, control or "manage" humans, other creatures and the rest of nature, they engage in the power-over pattern that also shapes state oppression and corporate dominance today.

Thomas Berry identifies the classical empires, the ecclesiastical institutions, the nation-states, and the modern corporation as the world's foremost concentrators of power, wealth and property.[2] The European conquest of the "New World" epitomizes the worldview that bell hooks calls "the white supremacist capitalist patriarchy." Its prime mover today is the multinational corporation and its primary superpower home is the United States.

DEMOCRACY AND PATRIARCHY ARE AS OIL AND WATER

Whether by royal decree, dictate, judicial fiat, or legislative vote, power-over gained legal entitlement. Thus has law facilitated patriarchal control. The promises of radical 17th and 18th century philosophies, particularly the stirring language of equality and freedom characteristic of the revolutionary period in the United States, were summarily undermined by men of power and privilege preaching one thing and doing another. "A nation of laws, not of men" persists as an appeal to egalitarian sentiments, while the few continue to write the law that serves their tyranny.

No patriarchal institution has acquired greater legal entitlement than has the giant corporation. When We the People try to eliminate the corporation's power over us, we are told we're taking away their "rights."

And indeed, legislative and judicial establishments have given corporations a *legal* claim to such authority.

It becomes clear that we cannot strip the corporation of its sweeping

powers without reinventing the culture and law on which these rest. And we certainly cannot create democracy without demolishing the worldview of assumptions out of which such dominating power comes to play the central role.

Extricating ourselves from patriarchal patterns and organization takes courage, is often risky, and for some, seems downright impossible. Catharine MacKinnon, a feminist legal scholar, points out that "**one genius of the system we live under is that the strategies required to survive it from day to day are exactly the opposite of what is required to change it**."[3] An extraordinary achievement of corporate patriarchy is that its imposed order and control are perceived by so many as a kind of freedom, even power. Seduced by consuming and the hope of material prosperity, they have bought a stake in their own subordination.

While the patterns of shared power and democratic processes are within our nature, the art and skills of democracy must be learned. The "democratic arts" need to be understood and valued, taught and practiced.

THE WORK OF DEMOCRACY

To build community, and a society worthy of the name democracy, we must put our institutions in service to the needs of our democratic nature, in addition to meeting our basic needs for survival. Nicola Chiaromonte, an anti-fascist, spoke of our need "to be and feel like 'somebody,' to have both rights and duties and to know what they are... And the coherence of the community must be confirmed by each person's way of being...contributing to its existence by bringing something new and better to it every day."[4]

The most constructive aspects of our nature are reflected in these fundamentally communal, relational and cooperative needs for both rights and duties, for receiving and contributing, for being "somebody" in deciding how things work. This democratic nature allows us to be whole, to be fully human, to satisfy our spiritual as well as material needs.

"If I had to name one quality as the genius of patriarchy, it would be compartmentalization, the capacity for institutionalizing disconnection."[5] For millennia the dominator models of society have broken our humanity into steadily smaller pieces. Sewing them back together is the essential, hard work of democracy-building. It requires us to replace those long-held, self-fulfilling assumptions about ourselves with a faith in our basic democratic nature.

As C. Douglas Lummis tells us, "democratic faith is the true faith of which all other faiths are evasions; it is the faith of which all other faiths are imitations or indirect expressions or distorted forms; it is *radical* faith, at once the most natural and the most difficult."[6]

We strengthen this fledgling faith by practicing the democratic elements of inclusion, mutuality,

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cooperation, and connection-making so easily eclipsed by the dominance and diversions of patriarchy. **Power-sharing relationships between and among us are the heart of the democratic or partnership worldview**. Creating and sustaining such relationships are at the center of our democratic labors. Our lives are the practice arenas: family and friends; the communities we live in and places where we work; our organizations and projects.

While the patterns of shared power and democratic processes are within our nature, the art and skills of democracy must be learned. The "democratic arts" need to be understood and valued, taught and practiced. *The way we do our work is integral to the success of that work.*

Doing democracy includes holding meetings that work for people; designing an engaging, relevant agenda; possessing skills to include everyone in the discussion and to place limits on any one person's participation; reaching decisions without the residue from winning vs. losing; using conflict constructively; taking time to understand someone's resistance or disagreement; organizing for action and planning for the future. This learning should be part of every educational and organizing opportunity we experience.

Those who would maintain their power over us are feeling the resurgence of democratic aspirations around the globe. Revolutionary rhetoric is in the air. This time around it's up to those who would be democrats to make it reality.

Reflections...

As we in POCLAD worked on this issue, the world was gripped by the horrors of September 11. We grieve for the dead and recommit ourselves to working with others to end the conditions that produce such violence here or anywhere. This is a hard time for conversation about history and strategies for justice, but we hear talk spreading around the country.

These conversations, and the civic organizing to follow, are crucial because the majority in this country has never played a significant role in setting policies on peace, war or justice except by building powerful movements.

Absent popular defiance and mobilization, the few — wrapping themselves in laws, constitutions, flags, and divinities — have historically been able to deny the fundamental rights of the many. See our web site or contact us for POCLAD work produced since September.

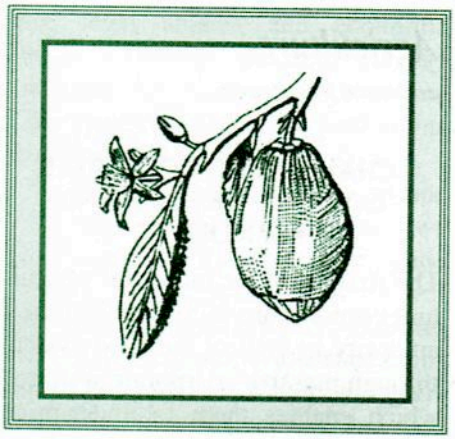
And don't miss our new collection of 73 POCLAD articles, *Defying Corporations, Defining Democracy: A Book of History & Strategy,* edited by Dean Ritz. In the words of Pete Seeger: "The first step in solving a problem is learning more about the problem, and how and why it grew. POCLAD is giving us U.S. history like it's not usually taught in schools. Hooray!"

Endnotes

1. Riane Eisler, *The Chalice & the Blade: Our History, Our Future*, Harper & Row Publishers, San Francisco CA, 1987, Ch. 6.
2. Thomas Berry, *The Dream of the Earth*, Sierra Club Books, San Francisco CA, 1988, p. 145.
3. Catharine MacKinnon, *Feminism Unmodified: Discourses on Life and Law*, Harvard University Press, Cambridge MA, 1987, p. 16.
4. Nicola Chiaromonte, *The Worm of Consciousness and Other Essays*, edited by Miriam Chiaromonte, Harcourt Brace Jovanovich, New York, 1976, p. 223.
5. Robin Morgan, *The Demon Lover: on the Sexuality of Terrorism*, W. W. Norton & Company, New York, 1989, p. 51.
6. C. Douglas Lummis, *Radical Democracy*, Cornell University Press, Ithaca NY, 1996, p. 153.

ASSERTING DEMOCRATIC CONTROL OF FOOD AND AGRICULTURE

By Dave Henson



INDUSTRIAL AGRICULTURE wreaks havoc on human and ecological health. It has torn apart our rural communities and culture, and separated people from land, food and our ancient kinship with nature. How can the small but growing U.S. sustainable farming movement develop more potent organizing strategies to overcome corporate control of the food system?

The U.S. sustainable farming and environmental movements have for decades used a strategy of regulatory and administrative law to address the environmental and human harms caused by industrial agriculture. Organizations have focused on getting relief for small and organic farmers in the latest farm bill, limiting the levels of pesticides that can be put in our water tables and rivers, and facing the latest assault from the giant chemical and seed companies.

The environmental movement has won some major legislative victories, including a National Environmental Protection Act, an Endangered Species Act, a Clean Water Act, a Clean Air Act, and dozens of other laws that limit damage by corporate agriculture. However, the national and global environment remains in a state of severe crisis due to industrial agriculture: worldwide poisoning and endocrine system disruption by chemical pesticides; catastrophic losses of biodiversity; widespread soil salinization and desertification of farmlands; and much more. Due to the dominance of industrial-scale agriculture, today less than 1% of U.S. people are farmers, down from nearly 50% a century ago. With global corporatization, we are witnessing the worldwide collapse of many traditional farming communities, and with them their seeds, cultures and biodiversity.

The strategy of regulating corporate harms has ultimately licensed an unsustainable and unacceptable level of ecological and cultural destruction, and has marginalized our most fundamental concerns. As activists resist corporate assaults against nature and communities one-by-one, corporations become ever more powerful under the regulatory regime, framing the arena of struggle and the terms of the debate, and limiting us to incremental compromises.

CORPORATE VS. DEMOCRATIC DECISION-MAKING

Consider the national struggle around federal organic standards at the end of the 1990s. Congress appointed a blue ribbon panel of organic farmers, nutritionists, scientists, organic product manufacturers, and retailers to propose a new law. After several years of research and hearings, the panel presented comprehensive recommendations to the U.S. Department of Agriculture.

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In 1999, however, the USDA rejected these and substituted draft "organic standards" proposed by corporate agribusiness and the "life science" corporations and written largely by Monsanto Corporation lawyers. It proposed that the U.S. certify as "organic" products with genetically engineered ingredients, food grown with toxic sewage sludge used as fertilizer, and products that have been irradiated.

It took almost two years of mass mobilization, including a record 275,000 letters to the USDA, to expose this hypocrisy and force the USDA to retreat from the worst aspects of their industrial agriculture agenda for organics. Did we "win"? **What could we have accomplished in two years with 275,000 people mobilized to further the sustainable agriculture agenda, if we had not had to confront the corporate takeover of organics?**

Important as the federal definition of "organic" is, the fundamental issue here is about *public, democratic decision–making* versus *private, corporate decision–making* on issues of food and agriculture. This is just one among hundreds of examples of legislatures, courts and regulatory agencies elevating corporate decision–making and corporate private property rights over individual or communal property, human and environmental rights.

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CHALLENGING CORPORATE CONTROL OF FOOD AND AGRICULTURE

The strategy of the industrial agriculture corporations is to establish their authority to control the food system through massive "corporate welfare" which enables them to under-price smaller scale agriculture, and by using a revolving door of corruption between corporate management and the very government agencies charged with enforcing regulations. Through vertical integration — from controlling farm credit, seed patents, chemical inputs, and farm production to monopolizing product distribution, marketing and retail sales — this corporate strategy has enforced farmer-dependency worldwide.

Further, these corporations have appropriated our public educational and research resources, crafting so-called "private-public partnerships" with universities, governments and even the United Nations. Through immense influence on the TRIPS treaty (Agreement on Trade Related Aspects of Intellectual Property Rights) and the WTO negotiations, multinational corporations have gained intellectual property rights for owning life forms and denationalized trade regulation and dispute resolution.

To fully control the global food system, corporations will continue to colonize and homogenize the remaining independent and resistant cultures around the world. Over decades, corporate managers have learned to use — and even create — international institutions and regulatory policies to insure that the economic bottom will not drop so low on any potentially resisting people that they "have nothing to lose but their chains" and will revolt.

This corn dolly was a traditional European harvest figure.

DEVELOPING EFFECTIVE STRATEGIES

To effectively challenge corporate agriculture's control of the global food system, ownership of life, and control of economic decision–making, our movements must rapidly evolve new and more complex strategies. We need to do three kinds of activism at once:

Fight Fires: For the past 30 years our sustainable farming and environmental movements have focused on "fighting fires." We have built thousands of local and national groups to challenge thousands of corporate assaults on nature and people. After a long campaign, we may stop a clear cut or dam, but the corporation will be back to retake the trees or river as soon as it can maneuver a change of judge or politician, or a lull in our vigilance. We have to resist harms forever; they have to win just once.

Of course we have to fight fires — people's lives and critical ecosystems are at stake. However, since this form of struggle alone rarely addresses root causes of ongoing corporate destruction, we will likely just chase the corporation to another community.

Create Alternatives: The ecological farming movement has grown steadily for the past 30 years. We have many models that provide vision and practices reflecting the values of ecological, economic and cultural sustainability. But in building alternatives which model "how it can be," we must remember that corporations can and will buy-out, make illegal, marginalize or destroy people's most successful efforts to get off the corporate treadmill.

Dismantle the Mechanisms of Corporate Rule: While we fight the fires forced upon us, let's not confuse reaction to a problem with proactive strategy. And while we build sustainable alternatives, we will create space for sustainable practices to become the norm *only* if we dismantle the *mechanisms* of corporate rule.

To change in law and culture the definition of who's in charge and to claim our rightful sovereignty over economic activity, we must choose appropriate arenas of struggle. Our most effective campaigns will be about what we put in our state constitutions, corporate codes and corporate charters, and about the laws we pass at the state, county, city and town council levels to define and enforce limits to corporate authority. In other words, about practicing democracy.

TAKING LOCAL ACTION

At the local level, we need to reassess the "us" and "them" and create new alliances. With regard to food and agriculture, we need to broaden "us" to include many local, appropriate scale, family-owned or privately held farms and businesses with local people at the helm. Conversely, "them" will most often be the large, non-local, corporate monocropping resource extractors (mislabeled as "farmers") who structurally can have little concern for local human, ecological, economic, or cultural health, or for democratic process.

Building new strategic alliances means addressing appropriate*scale*, not just appropriate *practices*. Let's focus on local community, local economy and local culture. We may strongly disagree on pesticide use or farm animal practices, for example, but we

can solve those issues over time, based on a united stand against the greater common threat of democracy-destroying corporate control. Such a strategy also helps dismantle the corporate-cultivated illusion that all "farmers" should be allied as a single class, and that "environmentalists" are the enemies of farmers.

To build organizing capacity for long-term work, we must address issues important to local people. Here are examples of city, township or county resolutions and initiatives that assert local democracy:

- Ban genetically engineered (GE) crops from being planted in your community. While many cities — including Cleveland, Boston, San Francisco, Austin, and Minneapolis — have passed resolutions against GE crops, they are largely non-binding. Boulder CO has a policy that bans GE crops from city-owned land (www.mindfully.org/GE/Boulder-AntiGE-Policy.htm).
- Pass a new or re-write an existing "Right to Farm" ordinance, which many rural and semi-rural areas have. It should *define agriculture in sustainable terms*, mandating that subsidies and tax credits only go to ecological agriculture, and that unsustainable agriculture be taxed or disallowed.
- Pass a local Anti-Corporate Farm ordinance. The Community Environmental Legal Defense Fund (www.celdf.org) has helped eight townships in Pennsylvania pass these ordinances in recent years. They are now working on a statewide Family Farm Protection Act.
- Get elected to your local Resource Conservation District, water board, city council or school board. Sebastopol's city council in Northern California, with a Green Party majority, has banned all pesticide use on city-owned land.
- Organize local Food Policy Councils — forums for farmers and environmentalists to craft new policies that use local government resources to support sustainable agriculture. Pass directives at city councils and school boards mandating the purchase of ecologically farmed food in municipal institutions like schools, hospitals and jails. The Berkeley Food Policy Council has pioneered much of this work (www.berkeleyfood.org).

Important as the federal definition of "organic" is, the fundamental issue here is about public, democratic decision-making versus private, corporate decision-making on issues of food and agriculture.

Ultimately, we need to take our campaigns to the state level, including changes to our state constitutions — the most defining statements a people can make. For starters, we can ban non-family owned corporations from owning farmland. It's been done in Nebraska (Initiative 300 in 1982), South Dakota (Amendment E in 1998), and to some degree in seven other U.S. states (www.newrules.org/agri/banning.html).

Other future state initiatives or legislation might include: declaring that a corporation is not a person; prohibiting patents on life forms; instituting the "polluter pays" principle (100% corporate liability for long-term costs of corporate harm) and the "precautionary principle" (no public release of new technology until it has been independently proven safe); and reviving defining language in corporate charters and corporation codes.

When significantly challenging corporate rule on the local level, we will face legal attacks and economic threats. Corporate attorneys will say our measures violate their corporate "free speech" and their "property rights to do business."

They will take their case to the WTO, asserting that our new local laws are "protectionist" and "unfair trade barriers" — WTO no-nos. They will say our local government is violating the U.S. Constitution's interstate commerce clause and constitutional guarantees to equal protection and due process for all *persons*.

These corporate attacks can create a *crisis of jurisdiction*, pitting one level of government against another. When this occurs, we must rethink our notion of "victory."

If a federal court or WTO tribunal overrules our democratically produced ordinance, we have an opportunity to educate and mobilize a disregarded public. At this point the essence of our struggle can be made more clear than ever: *Who is in charge of making the decisions in a democracy, and in whose interest — transnational corporations and the economic elite? or people and the common good?*

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Thank You!

Thanks to those who returned the survey in our last By What Authority. Your responses will help us shape the future of our work and this publication.