



## Why Abolish Corporate Constitutional Rights?

Adapted from the **Program on Corporations, Law and Democracy**, July 2012

The Program on Corporations, Law & Democracy (poclad.org) has educated, advocated and organized for over 15 years against the rights of corporations to govern. Through historical and legal research, writings, speaking, workshops and strategic discussions, we helped build widespread awareness of what we call "corporate personhood" - the corporate acquisition of constitutional rights intended solely for natural persons that have usurped the rights of We the People to govern ourselves.

**Corporations are creations of state laws, not by the Constitution.** As is documented in many resources over many years, they couldn't exist in any form without the legal sanctioning of government. Since citizens are the source of all legitimate power in any representative democracy, We the People have the power to define corporations any way we see fit. We the People have rights and authority. Originally, corporations only possessed privileges bestowed by the state, and the people.

The appointed-for-life US Supreme Court "found" corporations in numerous places in the US Constitution over the past 126 years because there was no other prevailing law to settle the questions corporate lawyers posed. These "findings" gave rights to corporations, including many of those in the Bill of Rights. In other words, illegitimate corporate power didn't begin in 2010. The corporate perversion of rights and the Constitution have resulted in the destruction of our communities, economy, politics and natural world in many ways for a very long time, since 1886, actually.

POCLAD believes ALL corporate constitutional rights should be abolished. These include at least the following:

\* **1st Amendment Free Speech rights.** Corporations use these rights, meant to protect human beings from the power of the state, to influence elections through political "contributions" (more like "investments"); to advertise for guns, tobacco and other dangerous products over the objections of communities; to avoid having to label genetically modified foods. They can choose to speak, or not, regardless of consequences.

\* **4th Amendment Search and Seizure rights.** Corporations have used these rights to avoid subpoenas for unlawful trade and price fixing, and to prevent citizens, communities and regulatory agencies from stopping corporate pollution and other assaults on people or the commons.

\* **5th Amendment Takings, Double Jeopardy and Due Process corporate rights.** Corporations must be compensated for property value lost (i.e. future profits) when regulations are established to protect homeowners or communities. Corporations cannot be retried after a judgment of acquittal in court. The granting of property to a corporation by a public official cannot be unilaterally revoked by a subsequent public official or Act of Congress.

\* **14th Amendment Due Process and Equal Protection corporate rights.** These rights, originally enacted to free slaves from oppression, were gradually extended to corporations by the courts. Corporations have used these rights to build chain stores and erect cell towers against the will of communities; oppose tax and other public policies favoring local businesses over multinational corporations; and resist democratic efforts to prevent corporate mergers and revoke corporate charters through citizen initiatives.

\* **Commerce Clause-related corporate rights.** Corporations have used this section of the Constitution (Art 1, Sec 8), for example, to ship toxic waste from one state to another over the "health, safety, and welfare" objections of communities - claiming the waste isn't actually "waste" but "commerce."

\* **Contracts Clause-related corporate rights.** The Supreme Court ruled in Dartmouth vs. Woodward (1819) that a corporation is a party in a private contract based on the Contracts Clause (Art 1, Sec 10) rather than being a creature of public law. Even though the state creates a corporation when it issues a charter, that state is not sovereign over the charter, merely a party to the contract. Thus, corporations became "private contractors" with the state and, therefore, shielded from many forms of control by We the People.

Since the problem of corporate constitutional rights is multidimensional, the solution must be comprehensive. In any new constitutional amendment, we must now include the status of corporations, which our founders did not do. Corporations, entirely self-interested, have used our laws and courts, and their economic power and wealth, to usurp our government and legislatures, and deny the will of the people.

**The threat to authentic democratic self-governance comes from the fact that corporations have been defined as legal persons.** Corporations have exercised this illegitimate, un-constitutional status in many ways. Addressing only one or two of those ways won't reverse the profound corporate threat to We the People having ultimate power to govern. The problem is greater than "free speech rights" or "due process."

One hundred and sixty years ago, those who believed the section of the Constitution (Art 4, Sec 2) defining people as property (slavery) was fundamentally immoral didn't call for ending one or two dimensions of slavery. They didn't organize to establish a Slavery Protection Agency, nor ask slaveholders to sign a voluntary code of conduct to treat slaves a little less harshly. They called for abolition of the institution of slavery.

As a reflection of that thinking, POCLAD and others who hold that defining property as people and corporations as people with human rights ("corporate personhood") are fundamentally immoral and a threat to real people and the planet, believe that we should not limit our vision and actions. Let's set out to amend the constitution in a way that abolishes all rights wrongly granted to the corporate forms during the last two centuries. Let's put an end to the institution of corporate personhood itself.

Nothing less is worth the considerable time and learning, grit and energy required to amend the Constitution.

Why not make the result worth the effort? Corporations should be doing what we authorize them to do best: business...not politics.