

**Special series: Corporations in the U.S.**  
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In every area of public policy (foreign affairs, health care, education, trade, ecology, energy, etc.) governmental decisions are heavily influenced by a handful of large corporations. Yet, for the first 100 years of this country, states prohibited corporations from participating in politics and shut down those that did become involved. How then, did corporations become so powerful today? This six part series, published in [NewsNotes](#) in 2009, traces the history of the corporation in the U.S. and examines concrete alternatives to rein in their power and influence.

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**Part one: The founding of an anti-corporate nation**

The U.S. Constitution does not mention the word corporation, yet as former Supreme Court Justice Felix Frankfurter said, the history of constitutional law is “the history of the impact of the modern corporation upon the American scene.” Thomas Jefferson warned about the threat of corporations saying, “I hope we shall crush in its birth the aristocracy of our moneyed corporations which dare already to challenge our government in a trial of strength, and bid defiance to the laws of our country.”

Rarely portrayed as such, the American Revolution was as much anti-corporation as it was anti-England. Before the revolution, most of the entities that we now know as states were run like corporations chartered by the British government. The Virginia Company and other “pre-states” were granted to individuals and run by their will. The Virginia Company was known for being especially ruthless in its treatment of workers, including children. In an effort to get the Company’s charter revoked, one stockholder in 1664 complained that of the approximately 6,000 adult and child workers who had been sent to the colony since its foundation, an estimated 4,800 had died from overwork and terrible working and living conditions. In *Gangs of America: The Rise of Corporate Power and the Disabling of Democracy*, Ted Nace paints a harrowing description of life in Virginia at the same time that reports to Virginia Company investors and potential workers portrayed a utopia for workers – not too dissimilar from corporate reports today describing their workshops overseas.

The Boston Tea Party was as much a protest against the East India Tea Company as it was against the British crown that was helping to create its monopoly. The company was deeply in debt due to overexpansion and was facing heavy competition from small businessmen in the colonies who were buying tea from Dutch traders and smuggling it in small ships. After pressure from the Tea Company, the British government passed the Tea Act of 1773. Some think the Act only increased the taxes on tea paid by colonists, but it went far beyond that: It exempted the Company from taxes

on tea exported to the colonies and even gave a tax refund on the millions of pounds of tea they hadn't been able to sell. Since the Company didn't have to pay taxes, it was able to lower its prices and undercut small businesses in the colonies -- much like the experience of Mexico under NAFTA and of small towns in the U.S. trying to stop big box stores like WalMart. In his book, *Unequal Protection*, Thom Hartmann quotes original documents from people involved in the Boston Tea Party who sound quite similar to people today struggling against trade agreements, including solidarity protests in England by people affected by the Tea Act there.

When the same merchants who fought the Tea Act and experienced life under the Virginia Company wrote their new Constitution, they were very careful to place strong controls on corporations, in the same way that they wanted to restrict the power of government officials. The chartering of corporations -- establishing the existence of corporations and the rules by which they operate -- was placed in the hands of state governments, which at the time were the only directly elected bodies. They didn't want corporations to be able to become so powerful again. For the first 100 years of the new nation, corporations were created to do public works without the direct involvement of the government.

The states, almost unanimously, wrote charters with the following characteristics. First, charters were rarely granted, and only if necessary to serve the common good; the corporation was established for a set period of time ranging from three to 50 years, usually 10 to 20 years; banks were limited to three year charters in many states; the corporation had a specific purpose (for example, to build two bridges across a river); it was only allowed to own as much land and capital as was necessary to complete its purpose; it could not be involved in politics; it could not own stock in other corporations; and it was limited to operating only within a state or even county. Some states only chartered banks through direct referendums. Corporations' charters were routinely revoked for breaking any of these, and other, statutes, and the company was divided up among its investors. The idea of the corporation was to serve a public purpose while making an adequate profit for its investors.

So how did we get from there to where we are now, where the tail wags the dog and corporations control government? What can we do now to reestablish popular control over corporations? The following articles will explore these questions.

## Part two: Corporations gain constitutional rights allowed to humans

*In the first article, we discussed how, for over 100 years, corporations in the United States were created in order to serve the public good. Corporations had severe limits placed on them and were regularly disbanded for breaking the strict rules of their charters. Yet, despite our founders' intentions, since 1886 courts have drastically decreased the ability of the legislative or executive branches to control corporations. As we show in the following article, an errant summary of an 1886 court case that pitted a railroad against a California county resulted in corporations obtaining the same constitutional rights allowed to humans.*

In his book, *Unequal Protection: The Rise of Corporate Dominance and the Theft of Human Rights*, Thom Hartmann writes about the conclusion of the 1886 case, "No laws were passed by Congress granting that corporations should be treated the same under the constitution as living, breathing human beings, and none have been passed since then. It was not a concept drawn from older English law. No court decisions, state or federal, held that corporations were 'persons' instead of 'artificial persons.'

"The Supreme Court did not rule, in this case or any case, on the issue of corporate personhood. In fact, to this day there has been no Supreme Court ruling that could explain why a corporation - with its ability to continue operating forever, a legal agreement that can't be put in jail and doesn't need fresh water to drink or clean air to breathe - should be granted the same Constitutional rights our Founders explicitly fought for, died for, and granted to the very mortal human beings who are citizens of the United States...

"But something happened in 1886, even though nobody to this day knows exactly what or why." Ratified in 1868, the 14th Amendment was ostensibly created to extend constitutional rights to former slaves. Section 1 of the Amendment states in part, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws..."

Yet soon after its passage, railroad barons sought to expand the amendment's protections to cover corporations as juridical "persons" under the law. After numerous failures, a simple tax case provided the opportunity.

The 1886 case cited by Hartmann – Santa Clara County vs. South Pacific Railroad – was a rather tedious case about taxes on a fence running along a railroad. The county planned to tax railroads at a higher rate than citizens, but the railroad sued, arguing that the South Pacific Railroad should be considered a "person" under the recently passed 14th Amendment and, as such, could not be taxed at a different rate.

Despite being settled on other grounds, the case has provided corporations the opportunity to acquire incredible rights and privileges. Its ramifications are rarely discussed, yet they have radically changed the power and influence of corporations in the U.S. and around the world.

Before arguments in the Santa Clara case, Chief Justice Morrison Waite, a former attorney for the railroads, was heard saying, "The court does not wish to hear argument on the question whether the provision in the 14th Amendment to the Constitution, which forbids a state to deny to any person within its jurisdiction the equal protection of the laws, applies to these corporations. We are of the opinion that it does." Yet in the official decision of the court, it clearly states that the case was not decided on the 14th Amendment issue.

In personal correspondence between Waite and J.C. Bancroft Davis, a court reporter who also served as president of the board of directors for the Newburgh and New York Railroad Company, the chief justice reiterated that "we avoided meeting the constitutional question in the decision." Yet in his book *United States Reports: Cases Adjudged in the Supreme Court at October Term 1885 and October Term 1886*, Davis began his summary of the case with, "The defendant corporations are persons within the intent of the clause in section I of the Constitution of the United States, which forbids a State to deny to any person within its jurisdiction the equal protections of the law." Despite not having any legal weight, Davis' summary of the case has since become accepted as jurisprudence. Various authors have different theories of which of the three principal characters (Waite, Davis, or Justice Stephen Field) is most responsible for this monumental non-decision. But what is clear is that it has resulted in corporations gaining constitutional rights in case after case in years since. Indeed, of the 307 14th Amendment cases brought before the Supreme Court from 1886 to 1910, only 19 dealt with African Americans while 288 were lawsuits brought by corporations seeking to expand their newly acquired rights as Constitutional "people."

As we will see in future parts of this series, the results of granting corporations the same rights as everyday citizens has drastically reshaped our law system and radically shifted the relationship between we the people, the government, and corporations. In a 1912 book *The Fourteenth Amendment and the States*, Charles Wallace Collins wrote, "Although [the 14th Amendment] was a humanitarian measure in origin and purpose and was designed as a charter of liberty for human rights, it has become the magna carta of accumulated wealth and organized capital."

## Part three: Corporations and the Bill of Rights

*In the second part of this series, we learned about the seminal 1886 case when a court reporter misrepresented a Supreme Court decision and created the impression that corporations were considered persons under the 14th Amendment. Since that case, the courts have granted rights to corporations that were never envisioned by the writers of the Constitution.*

From the late 1800s into the early 1900s, corporations, wanting more freedom to expand into other areas of business, buy other corporations, etc., began fiercely lobbying the states to change the requirements in their charters. New Jersey was the first state to capitulate, granting corporations the right to own equity in other corporations in 1889. This set off a “race to the bottom” as states rushed to be more “business friendly” in order to attract corporate charters, a situation not unlike globalization today which sets national governments against each other. In fact, trade agreements can be seen as simply an extension of this quest for power and influence by corporations. The free trade agenda, pushed heavily by transnational corporations, encode many of the “rights” that corporations have won in the U.S. into international law.

In 1896, New Jersey passed its General Incorporation Law, which removed restrictions on a corporation’s size and market share, put time limits on charters, reduced shareholder powers and permitted all kinds of mergers of corporations. Results for the state were remarkable: By 1901, New Jersey was home to 71 percent of all U.S. corporations with assets of more than \$25 million and its legislature struggled to spend the surplus revenue brought in from these corporations.

In 1899, Delaware won the “race” by passing its General Incorporation Law that basically allowed corporations to write their own rules of governance. Today, Delaware, where nearly 60 percent of all Fortune 500 companies are incorporated, remains the most popular state for corporations. One result of the states’ new laws was a huge consolidation of corporate power. From 1895 to 1904, nearly 1,800 companies were consolidated into 137 megacorporations or trusts leaving U.S. Steel with 63 percent of the steel market, International Harvester with 85 percent of the agricultural tools market, etc.

Troubled by this concentration of control, Congress, with only one dissenting vote, passed the Sherman Antitrust Act in 1890, designed to prevent monopolies or cartels that disrupt interstate commerce. It did not, however, have the hoped-for effect.

Ironically, one of the earliest uses of the Act was in 1894 to break up not a corporation, but a union. The Pullman Palace Car Company won an injunction against the American Railway Union to stop a strike, arguing that the strike disrupted interstate commerce. The Antitrust Act was used more than 4,000 times before 1930 to break up strikes. Before the Great Depression, only Theodore Roosevelt, who ruptured 40 large corporations, and William Taft, who divided the Standard Oil trust into 33 companies and broke up American Tobacco, used the Act for its original purpose.

In 1905, the landmark case *Lochner v. New York* involved a state law mandating a 60-hour work week in baking establishments. The court determined that this law violated the corporation’s “liberty of contract” that was implied in the due process clause of the 14th Amendment. The

majority opinion wrote that this was an “unreasonable, unnecessary and arbitrary interference with the right and liberty of the individual to contract.” The case established substantive due process for corporations that was then used in the following decades to overturn more than 200 recently passed Progressive era statutes, such as child labor laws, maximum work week laws, safety standards, workers’ compensation, etc.

Corporations were further strengthened in 1893 when the Supreme Court allowed the Union River Logging Railroad the right to due process, granted in the Fifth Amendment. With this new privilege, corporate lawyers could challenge, and the Supreme Court could overturn, democratically legislated laws at the federal or state level, where most progressive laws were being passed.

The right against undue search and seizure protected by the Fourth Amendment was granted to corporations by the Court in 1906 in the *Hale v. Henkel* case. A corporate representative refused to turn over documents claiming Fifth Amendment rights from incriminating itself. The Court decided that the witness would not be incriminating himself but the corporation he worked for, and so must turn over the documents. Yet the Court then went on to determine that the corporation’s Fourth Amendment rights had been broken by forcing the turn over of documents. Access to Fourth Amendment protections have been used by corporations repeatedly ever since to avoid a variety of government regulations.

In a few short decades from the 1880s-1920s, corporations had gone from the limited public service tools originally imagined in the Constitution to enormous and incredibly influential entities with human rights. Entities that were designed to be carefully controlled by government had now become too big to control. The result was the roaring 1920s when corporations operated almost completely unchecked and workers were denied the ability to organize and fight for their needs. The lack of controls led to the corporate excesses that created the conditions for crash that led to the Great Depression. In the next article, we will explore the strengthening of corporate controls after the Depression and the campaign of corporations to loosen those same controls in the following decades.

Go [here](#) for a good article on corporations and the bill of rights.

(“Personalizing the impersonal: Corporations and the Bill of Rights,” by Carl Mayer, 1990; [http://www.reclaimdemocracy.org/personhood/mayer\\_personalizing.html](http://www.reclaimdemocracy.org/personhood/mayer_personalizing.html))

## Part four: The corporate regulatory system

*The corporate regulatory system in the U.S. was created over many decades. While ostensibly created to rein in corporations' power, in many ways regulatory agencies instead have been used to limit competition and public influence.*

In 1887, the establishment of the first regulatory agency, the Interstate Commerce Commission (ICC), set the mold for future bodies. Originally proposed by frustrated citizens unable to stop the railroads' unwanted actions, the ICC's formation eventually was overtaken by the leaders of the railroads themselves. Documents from the time show that executives saw the ICC as an effective way to shield the railroads from the growing Populist movement which called for tough state laws and government ownership of railroads and utilities. Then-Attorney General Richard Olney explained to executives that the ICC was to be "a sort of barrier between the railroad corporations and the people." Through their influence, railroad leaders were able to design the ICC to pay the costs of coordinating the industry in terms of standards, inspections and enforcement while guaranteeing a profit for large corporations. Profits were guaranteed by setting price limits -- not maximum limits, but minimum prices so that smaller railroads could not undercut the corporations. The Railroad Gazette opined its hope that the ICC would "go ahead and catch every law-breaking rate cutter in the country." John D. Rockefeller hoped it would stop what he called the "ruinous competition" of the smaller railroads.

Seeing the benefits brought to the railroads by the ICC, corporate leaders in a host of other industries often led the push for, or at least were deeply involved in, the formation of regulatory agencies for meat packing, insurance, banking, communications, etc. (Gabriel Kolko has written on this history using original documents from the time in his classic, *Railroads and Regulation, 1877-1916*.)

After the Great Depression, President Franklin Roosevelt created 42 major regulatory agencies and programs for such specific sectors as broadcasting, oil and agriculture production, airlines, etc. As William Greider notes in *Who Will Tell the People?*, "The explosion of modern regulation, more than anything else, is what brought the money to Washington and transformed the capital from a sleepy small town to a glamorous power center."

In the 1960s another flourish of regulation began with 53 programs enacted; from 1970-80, 130 more regulatory laws were passed. The new agencies, such as the Environmental Protection Agency or the Occupational Safety and Health Administration, differed from previous ones in that they were not limited to specific sectors like oil or airlines, but could police corporations in any sector. In response, corporations created multi-sector coalitions staffed with hundreds of lawyers and lobbyists providing expert advice for the new laws and regulations.

In 1986, Monsanto lobbied for regulations on genetically engineered (GE) crops even though no such products had been produced yet and successfully managed to get rules passed that allow manufacturers, not the government, to determine the dangers of GE crops, and permit testing only when corporations want. The rules also stipulate that consumers would not be notified which foods

are genetically changed so as to not “mislead” the public by implying that there was reason for concern.

Greider writes, “Instead of containing the political influence of concentrated economic power and liberating government from its clutches, the steady diffusion of authority has simply multiplied the opportunities for power to work its will. The original progressive purpose of the New Deal has been stood on its head and now the weak and unorganized segments of society are the principal victims.” In her aptly titled piece “Sheep in wolf’s clothing,” Jane Anne Morris writes: “1) Regulatory agencies have too much discretionary authority, which is almost invariably abused. 2) They combine legislative, executive, and judicial power in one place. 3) Their personnel and outlook reflect the views of the corporations they are supposed to be regulating. 4) Since individuals and small businesses can’t afford the time and expense to fully participate, large corporations dominate. 5) Procedural considerations are so intricate and demanding that matters of fairness, justice and overall policy questions, not to mention common sense, are ruled irrelevant if they come up at all.” Today the regulatory system in the U.S. is, at best, dysfunctional requiring very significant reforms. But even with good regulatory reform, we will have to make deeper changes in order to truly rein in corporate power.

## Part five: The increase in corporate influence

*This fifth part of the series focuses on how [a memo](#) to the Chamber of Commerce in 1971 led to a unified corporate campaign to convince U.S. residents of the benefits of corporations and free enterprise. This campaign led to a significant increase in corporate influence on key sectors of society such as schools, media and the courts.*

It's hard to imagine today, but in 1971, an important lawyer who sat on the boards of 11 corporations wrote: "One does not exaggerate to say that, in terms of political influence with respect to the course of legislation and government action, the American business executive is truly the 'forgotten man.'" The author was Lewis F. Powell, writing to Eugene Sydnor, Jr., chair of the education committee of the Chamber of Commerce, in a memo titled "Attack of American Free Enterprise System." It was to serve as a discussion piece at the next Chamber meeting.

In the memo he lamented how the radical left was more numerous and better financed than ever before and gaining support from universities, the press and even churches. Powell issued a clarion call to use "the wisdom, ingenuity and resources of American business to be marshaled against those who would destroy it." Those at the meeting were very interested in Powell's recommendations and began a well-financed campaign to influence public opinion and the government, led by the Chamber of Commerce and the Business Roundtable, an organization of the CEOs of hundreds of the largest corporations in the country. They pooled their vast resources to create think tanks like the Heritage Foundation, the Cato Institute, Accuracy in Academe and others that produce authoritative papers on the benefits of free enterprise to influence media and government officials.

The memo stressed the importance of countering "the assault on the enterprise system" in universities and high schools and called on corporations to fight for "academic freedom" with "openness, freedom and balance" that would provide openings for members of the Chamber's "staff of speakers" to address students about the values of capitalism. They created a panel of scholars who "believe in the system" and "whose authorship would be widely respected - even when disagreed with" to write pro-business articles and to "evaluate social science textbooks, especially in economics, political science and sociology."

In the section titled, "What can be done about the public?" Powell suggested that television "should be monitored in the same way that textbooks should be kept under constant surveillance." When "programs are unfair or inaccurate" prompt complaints should be sent to the media and the Federal Communications Commission; corporations should call for equal time on the TV and radio so that networks would "afford at least as much opportunity for supporters of the American system to participate as these programs do for those who attack it." ... "There should be a fairly steady flow of scholarly articles presented to a broad spectrum of magazines and periodicals." He also suggests that corporations spend 10 percent of their advertising budgets to this overall purpose of convincing people of the benefits of capitalism.

Yet it was in the legal arena that Powell saw the most potential. "Under our constitutional system, especially with an activist-minded Supreme Court, the judiciary may be the most important

instrument for social, economic and political change.” “This is a vast area of opportunity for the Chamber, if it is willing to undertake the role of spokesman for American business and if, in turn, business is willing to provide the funds.” Since then, the Business Roundtable and the Chamber’s litigation center have fulfilled this role very well with high-paid lawyers initiating and defending cases in favor of corporations at all levels of the judicial system.

Less than two months after the Chamber of Commerce discussed Powell’s memo, Richard Nixon appointed him to the Supreme Court. The memo was not released to the public until after his confirmation. During his tenure as Justice, Powell wrote the majority opinion in *First National Bank of Boston v. Bellotti*, a 1978 decision that effectively invented a First Amendment “right” for corporations to influence ballot questions, among other pro-business decisions.

Through the offensive described in Powell’s memo, U.S. corporations succeeded in shifting the mood of the country to favor big business and free markets. The absurdity of the phrase “Few elements of [our] society today have as little influence in government as the American businessman, the corporation, or even the millions of corporate stockholders” today shows the measure of their success.

Powell’s appointment to the Supreme Court also shows the importance of analyzing court appointees according to their ties to business. During Senate appointment hearings many are concerned about the nominee’s views on social issues while ignoring their economic views, even though decisions in the economic area will more directly affect them. The Chamber of Commerce has been very effective in getting people it supports on to state and federal courts.

Today’s Supreme Court has shown itself to be more pro-business than the Rehnquist court before it. John Roberts had written two briefs for the Chamber and was highly favored by it for the nomination, and not without reason. According to Jeffrey Rosen in the *New York Times* magazine, quoting *Scotusblog*, “Although the court is currently accepting less than two percent of the 10,000 petitions it receives each year, the Chamber of Commerce’s petitions between 2004 and 2007 were granted at the rate of 26 percent.” A Georgetown law professor found that the court reverses lower court decisions in 65 percent of its cases, but when they are Chamber of Commerce petitions, the rate rises to 75 percent.

In order to counteract this incredibly effective permanent campaign of corporations to increase the pro-corporate mindset in the country, we need to carry out a similarly complex and multi-faceted movement to rein in corporate power. In the next issue, we will point to promising ways to do so.

## Part six: What are the solutions?

*The previous five articles of this series have examined how, over the course of 100 years or so, corporations in the United States radically increased their influence on government and general society. What are the solutions then? How can we rein in corporate power and influence?*

In order to achieve change, we must be more strategic. In her book [The divine right of capital](#), Marjorie Kelly said those interested in addressing corporate influence should learn from the women's movement: "It would not have been enough to see poor funding for girls' athletics as one problem, unequal wages for women as a separate problem, and harassment in the office as still a different problem. These battles became one when their common source in sex discrimination was recognized. Yet today we chase after corporate pollution as one problem, low wages as another problem, and corporate welfare as still a third problem." We need to strategically attack the common cause of these problems: corporate power. Below are some suggestions of reforms that would more fundamentally address corporate power and influence.

### Electoral and lobby reform

We first need to declare a separation of corporation and state and work for reforms that remove money and corporate influence from elections and law making. Without diminishing corporate influence on elected officials, it will be next to impossible to pass more substantial reforms. Probably the most effective way to do this is through publicly funded elections. By not depending on large donations in order to be elected, politicians would be freer to make tough decisions. Even business leaders recently placed ads in favor of publicly funded elections. "We are on the receiving end of senators' and representatives' endless fundraising calls. And trust us: we hate getting those calls every bit as much as they hate making them," read part of their ad.

Unfortunately, Congressional initiatives in the area of campaign financing are threatened to be overruled by the Supreme Court. In [Citizens United v. the Federal Election Commission](#), the Roberts court could soon allow corporations to make political donations from their general funds even in the final days of a campaign. Currently, political donations made by a corporation have to be raised for that specific purpose from individual donations, and stronger restrictions are held in the final days of a campaign. The Court could overturn these and other precedents of controlling corporate political spending which date back to the early 1900s.

### Transparency

In his book [Tyranny of the Bottom Line](#), Ralph Estes argues that it is the defined goal of the corporation - profit for its shareholders - that leads so many ethical managers to do unethical things. He shows how effective something as simple as more information about a corporation can be in changing its behavior. Estes calls for a corporate report to be completed by all corporations and made available to the public at no charge. Corporations already fill out a host of reports for different agencies, but by simply combining all the information into one document, it will cut costs for corporations and, by making it easily accessible to the public, will greatly increase the amount of information to the public.

Armed with the new information, workers, consumers and communities would be much better able to regulate corporations through their choices. In the same way that a corporation wants to know the background of its workers, those workers should be able to know a corporation's worker safety and employment history. Customers should also know which products are produced with poisonous chemicals or not. After Congress passed the 1986 Superfund law that required corporations to publicly disclose their use of over 300 chemicals, major producers reduced their emissions by 35 percent out of fear of public criticism. If information on issues important to consumers, workers and the communities where corporations function were made available, corporate behavior would change dramatically.

## **Media**

Large media conglomerates should be broken up to guarantee a plentitude of voices. Technically, their licenses require media corporations to serve the public good, but these provisions are not enforced. They should give a much larger percentage of their programming to public service announcements. To make elections significantly cheaper, all media outlets could be required to provide free air time to candidates for office, which is the case in many countries. By doing a survey of how other countries use their media during elections, we could adopt those ideas that best fit.

## **Corporate crime**

More money and lives are lost due to corporate crime than from street crime, yet much of it goes unpunished. Daily we see cases of corporations charged with breaking the law but either they settle with their accusers for undeclared amounts of money in exchange for silence regarding the case, or they are found guilty and given nominal fines that are considered the cost of business for most corporations. Clearly, the government needs to take a stronger line with corporate crime. In order to make an impact, fines should be based on a percentage of a corporation's gross income instead of a nominal monetary amount.

An International Corporate Crime Tribunal has been proposed by social movements to address crimes committed by corporations throughout the world. "Repeat offender" corporations should not have access to publicly funded projects and courts should levy increasingly significant penalties against them, up to and including the death penalty for a corporation: the revocation of its charter.

## **Corporation charters**

As Estes wrote, "When our cars or computers don't work right, we go back and read the instructions. Similarly, we need to return to the original concept of corporations: organizations that were granted charters to serve the public interest." By chartering corporations at the federal level we could avoid the race to the bottom between states as they compete to give better conditions to corporations. These federal charters could redefine the purpose of the corporation to serve social and ecological goals in addition to providing profits to its shareholders. The charters could include demands such as requiring a percentage of recycling, or use of clean energy, etc. In her article [Corporations for the seventh generation: Changing the ground rules](#), Jane Anne Morris lists a number of measures that could be included in corporate charters.

Requiring that corporations renew these charters every 10 to 20 years would significantly improve our ability to keep check on corporate behavior. At these 10-year reviews, corporations that failed to fulfill their social role and/or were guilty of too many crimes could be disbanded as they routinely were in the first decades of our country.

### **Corporate personhood**

Probably the most effective way to control corporate power is by reversing the legal precedent that corporations have equal rights under the Constitution. Corporations are never even mentioned in the document. Only people have rights, inalienable rights. “We the people” grant or revoke corporate privileges through our government. A long term campaign would be to pass a Constitutional amendment specifying that corporations do not have the same rights as humans. To help progress toward that, local struggles incorporate the issue of corporate personhood into their demands.

### **How to get involved**

A number of ways to address corporate power and influence are available, many not mentioned here. The key factor is an informed citizenry. We first need to overcome our colonized minds and see the real potential for reining in corporate power. Perhaps the best way to start is to organize a group of people interested in these issues to study the history of the corporation. The Women’s International League for Peace and Freedom (WILPF) has [an excellent 10-session study packet](#) that such groups can read and discuss together.

The [Community Environmental Legal Defense Fund \(CELDF\)](#) helps local communities struggling against corporations for clean air or water, or against big box stores, etc., to use their local efforts to challenge the concept of corporate personhood. Many cities have passed ordinances banning corporate activity and negating the concept of corporate personhood. More ordinances and legal cases challenging this concept will make their way to appellate courts and eventually to the Supreme Court.

A promising proposal is the [Strategic Corporate Initiative \(http://corpethics.org/section.php?id=17\)](http://corpethics.org/section.php?id=17) that explains how we could move “toward a global citizens’ movement to bring corporations back under control.” The Initiative provides an excellent framework from which to work in a variety of areas, including some of the proposals discussed above.

## Addendum

On January 20, 2010 the Supreme Court handed down a landmark decision in [Citizens United v. the Federal Election Commission](#). The ruling removes any limits on corporations' "first amendment right" to free speech, which in the Court's opinion is the same as the ability to spend unlimited amounts of money to propagate a corporation's opinion. The decision opens up a floodgate for corporate money to pour into elections.

Jamie Raskin, a law professor at American University and Maryland state senator, succinctly stated the amazing potential that corporations will have to influence elections. "I looked at just one corporation, Exxon Mobil, which is the biggest corporation in America. In 2008, they posted profits of \$85 billion. And so, if they decided to spend, say, a modest 10 percent of their profits in one year, \$8.5 billion, that would be three times more than the Obama campaign, the McCain campaign and every candidate for House and Senate in the country spent in 2008. That's one corporation. So think about the Fortune 500. They're threatening a fundamental change in the character of American political democracy."

One positive consequence of this decision is a growing citizen backlash to corporate personhood. Numerous organizations were launched after the decision including a promising alliance of groups called [Move to Amend](http://www.movetoamend.org) (<http://www.movetoamend.org>) that organizes to pass a Constitutional amendment to end corporate personhood and the ability to spend unlimited amounts of money on elections. In the end, only such an amendment will rein in corporate power and it is good that this decision has at least awakened people to this fact. If every organization working for social change that encounters undue corporate power and influence were to spend five percent of their staff time and budgets to support campaigns like Move to Amend, we could turn this disastrous Court decision into the clarion call for returning corporations to their proper role in society.

### ***A few resources on corporations in the U.S.:***

#### **Books**

- [Unequal protection: The rise of corporate dominance and the theft of human rights](#), by Thom Hartmann, Mythical Research, Inc. 2002
- [Defying corporations, defining democracy: A book of history and strategy](#), by Dean Ritz, The Apex Press, 2001
- [Gangs of America: The rise of corporate power and the disabling of democracy](#), by Ted Nace, Berrett-Koehler Publisher, 2003
- [The divine right of capital: Dethroning the corporate aristocracy](#), by Marjorie Kelly, Berrett-Koehler Publisher, 2001
- [Tyranny of the Bottom Line](#), by Ralph Estes, Berrett-Koehler Publisher, 1996

#### **Websites**

- Reclaiming Democracy, [www.reclaimingdemocracy.org](http://www.reclaimingdemocracy.org)
- Program on Corporations, Law and Democracy, <http://www.poclad.org/>
- WILPF's 10-part study guide on corporations vs. democracy, [www.wilpf.org/CPOWER\\_10sessions](http://www.wilpf.org/CPOWER_10sessions)