

Rethinking the Constitution, Rethinking Democracy

by the **POCLAD**

The nomination and confirmation of Brett Kavanaugh to the U.S. Supreme Court has once again fueled long-suppressed public discussion about the intended and current role of the U.S. Constitution in promoting authentic democracy¹ in our nation.

Public fallout from Kavanaugh's confirmation is similar to the reaction following two presidential elections within the last 18 years in which the candidate with the most popular votes lost the election due to the workings of the Electoral College. In addition, two recent Supreme Court decisions permitted more money from the rich and corporations to flood into elections² and allowed states with histories of discriminatory voting practices exemption from federal pre-approval of new voting laws³. These decisions raise a fundamental question: is the U.S. Constitution and the branch of government that interprets it – the Supreme Court -- fair, just and responsive in protecting the rights of a minority, as well as

the rights of the majority against an economically and politically powerful minority?

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The Kavanaugh confirmation process raises profound questions about the:

- selection and confirmation of Supreme Court justices,
- power and authority of the Supreme Court in relation to the other branches of government,
- differences (or not) between the white, men of property of the current Senate dominating decision-making compared to the white, men of property at our nation's founding who dominated the Constitutional

Convention and alone occupied the Supreme Court for most of our nation's history.

The democratic disconnect between the vote of the Senate to confirm Kavanaugh and the will of the public against confirmation (but without public input!) based on his views and judicial record has given rise to rethinking the:

- U.S. Constitution itself as a static vs a living document that acknowledges changing realities among people, communities and all living things,
- other profoundly undemocratic sections of the Constitution requiring democratic alternatives aspired to by self-governing people.

POCLAD has grappled with these issues for more than two decades. We've examined these concerns in talks, workshops, articles and letters. We believe much of our work, especially the articles printed in our *By What Authority* newsletter, speak timelessly to the challenges inherent in the structures, laws and institutions

that affirm and expand corporate rule, oligarchy, patriarchy, and other systems of oppression.

The constitution is not the 10 Commandments and the "founders" were not like Moses who came down from a mountain top with a stone tablet etched for all time.

It's long past time to rethink the Constitution...with democracy in mind.

We offer below a number of our "timeless" resources on the Constitution and democracy to read and reflect upon. Feel free to gather a few people together to discuss, deliberate and maybe even debate these readings. Let us know of any interesting outcomes or insights.

Rethinking long unquestioned assumptions and narratives is an essential first step in challenging those assumptions and narratives.



Challenging Empire's Story: Control Through Storytelling
by the POCLAD
http://www.poclad.org/BWA/2002/BWA_2002_MAR.html

Our Corporate Elite and the Constitution
by Richard Grossman and Ward Morehouse
http://www.poclad.org/BWA/2002/BWA_2002_JUN.html#2

HELP! I'VE BEEN COLONIZED AND CAN'T GET UP...Take a Lawyer and an Expert To a Hearing and Call Me In a Decade
by Jane Anne Morris
http://www.poclad.org/BWA/2005/BWA_2005_FEB.html

Toward a New Labor Theory
by Peter Kellman
http://www.poclad.org/BWA/2007/BWA_2007_FALL.html#2

The Case Against Judicial Review: Building a strong basis for our legal system
by David Cobb
http://www.poclad.org/BWA/2007/BWA_2007_FALL.html

The U. S. Constitution: Pull the Curtain: One of a series of two articles on the U.S. Constitution
by Greg Coleridge and Virginia Rasmussen
http://www.poclad.org/BWA/2007/BWA_2007_DEC.html

A U.S. Constitution with DEMOCRACY IN MIND
by Virginia Rasmussen and Greg Coleridge
http://www.poclad.org/BWA/2007/BWA_2007_MAR.html#3

Why Abolish All Corporate Constitutional Rights
by the POCLAD
http://www.poclad.org/BWA/2010/BWA_2010_NOV.html

Supreme Authority: The Growing Power of the US Supreme Court and Democratic Alternatives
by Greg Coleridge

http://www.poclad.org/BWA/2014/BWA_2014_Oct.html

Are Not Corporations People, Too?... Encounters with Corporate Liberals
by James Price
http://www.poclad.org/BWA/2017/BWA_2017_May.html

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By What Authority (ISSN: 524-1106) is published by the Program on Corporations, Law & Democracy. The title is English for *quo warranto*, a legal phrase that questions illegitimate exercise of privilege and power. We the people and our federal and state officials have long been giving giant business corporations illegitimate authority. Today, a minority directing giant corporations and backed by police, courts, and the military, define our culture, govern our nation and plunder the earth. **By What Authority** reflects an unabashed assertion of the right of the sovereign people to govern themselves.

POCLAD is a group of 7 people instigating democratic conversations and actions that contest the authority of corporations to govern. Our analysis evolves through historical and legal research, writing, public speaking and working with organizations to develop new strategies that assert people's rights over property interests.

BWA is a tool for democracy proponents to rethink and reframe their work. To that end we encourage readers to engage us with comments, questions and suggestions.

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Thank you