

“HELP! I’VE BEEN COLONIZED AND I CAN’T GET UP . . .”

TAKE A LAWYER AND AN EXPERT TO A HEARING
AND CALL ME IN A DECADE

by Jane Anne Morris

A THIRD OF YOUR friends are locked down in an old growth grove or at a corporate headquarters, with law enforcement officers rubbing pepper spray in their eyes. Another third are preparing testimony so you can be persuasive at a generic regulatory agency hearing while you’re begging them to enforce a tiny portion of our laws. The third third are trying to raise money to pay lawyers to get your friends out of jail (after they’ve been released from the hospital) or take the regulatory agency to court (after it declines to enforce the law).

The pepper spray, groveling and money-grubbing might not be so bad if we could honestly say that the earth is better off today than it was four years ago. I can’t honestly say that.

This diatribe is an effort to take a hard look at what we’re doing and insinuate some new elements into the debate. It’s not intended to belittle any of our efforts, point fingers, or assign blame, so don’t take it personally. We are all earthlings.

Our campaigns follow the gambling addiction model. The last bet didn’t pay off but the next one might if . . . if . . . if we just had a new, improved tripod, three more experts, more labor or church support, ten more elected officials on our side, a hundred more people at

the demo, or a thousand more letters in the mail . . . Who are we kidding? We are just doing the “same old thing” over and over again and fooling ourselves that it might work next time.

We are stuck in a feedback loop where our failures are interpreted as signs that we should repeat our failed tactics, but try harder. This is what it is to be colonized. The telltale sign is not that we’re failing, but that we’re fooling ourselves, and don’t see it as a feedback loop.

If our minds are not colonized, then how come almost every *Earth First! Journal* action piece starts with a banner or a lockdown and ends with a plea to write a letter to a white male bigshot? (Go ahead, look through back issues. It goes on for years and years.)

Over at corporate headquarters they have a steeper learning curve.

Despite the occasional bag of guts on the committee table or clever banner, it must be reassuring for corporate executives and those who serve them to sit back and smile at the success of their containment efforts, and the predictability of our campaigns.

The issue of whose minds are colonized is a delicate one. We all know people whose minds have been colonized. Who are they? They are *other people*—people *out there*. They are somebody else. Not us.

It's time we did the unthinkable and asked ourselves if we have been colonized. What do we see when we compare our strategies to corporate strategies?

Many of our groups are organized to *save* wolves, butterflies, trees, prairie flowers, rivers, deserts, or estuaries. But corporation executives don't organize to *destroy* the wolves, butterflies . . . flowers . . . estuaries. Nor do they organize to pollute the air, spoil the rivers, or promote five-legged frogs.

This asymmetry should give us pause as we try to understand why corporations are on a roll while we're stuck in a feedback loop. Let's look again.

Corporate strategy leverages their power; their efforts reinforce and magnify each other. Our strategy splits our resources and dissipates our power.

Corporate strategy aims to increase the power that corporations have over people. That means that when a single corporation gets a victory, it helps all other corporations, too. They are all stronger, they all have more power, and the people have less.

We work on separate harms. When we lock down to one old growth stand, others go unprotected. When we protest about one chemical, others go unprotested. When we testify to preserve one watershed, others are not spoken for.

We have whole campaigns directed at one chemical, one corporation, one species, one grove of trees, one article of clothing.

In doing so, we fracture our resources. While we're out working on a "Chlorine is Bad" or "Wolves are Good" campaign, we're not working on all of the other chemicals, animals, trees, etc., that also need attention.

Some of us argue that this fracturing is inevitable, because there's so much wrong in the world. (Declaring a problem to be inevitable is a great way to justify not talking

about it. Another gift to the corporate world view.)

Others of us think that the fracturing results from not being organized *enough*, or not being organized *right*. This opens the door for endless bickering about whether we should organize by bioregion or by article of clothing, by species or by chemical, by issue or by occupation. Either way, we're still fractured.

Being fractured is another way of being colonized.

Another sure sign of being colonized is when you censor yourselves, and don't even wait for others to do it. Some of our self-imposed limitations are right off of a corporate wish list.

We have a strange "but it's the law" syndrome. Why can't we bring up important issues at EPA hearings? It's regulatory (administrative) law. Why can't we get our views accurately presented on TV? It's (corporate) private property law and FCC regulations. Why can't we imprison corporate executives for what their corporations do? It's liability law.

So what do we do? We toe the line at the EPA hearing. We dress up as animals to get a moment on TV. We let lying corporate executives lie.

That is, we work around the defining laws that are the groundwork for a rigged system. We're looking for favors, lucky breaks. We don't even dream of control, yet we call this a democracy.

This is being colonized.

Corporation representatives do not feel constrained in this way. Nothing is too destructive, too audacious, too outrageous for them to attempt. After all, they have most of us believing and not even objecting to the idea that corporations have "rights." In early 1998 an association of corporations (itself a corporation that supposedly has "free speech" rights, according to prevailing legal opinion) sued a talk show host in Texas for saying that she's going to stop eating hamburgers.¹

Then there's the Zen of "Describing The Problem."

We need our storytellers, we need our scribes, we need our analysts, we need our own human fonts of crazy ideas. We needed *Silent Spring*.² By now we have the equivalent of *Son of Silent Spring*, *Daughter of Silent Spring*, *Second Cousin Once Removed of Silent Spring*. But habitat destruction continues as fast as we can describe it, if not faster. Our compulsion to Describe The Problem (something we do really well) serves a purpose, especially for people who think there's no problem, but the people who need to hear it the most aren't hearing it. We're Describing The Problem to each other in lavish detail, which crowds out efforts to rethink our whole strategy.

Are we doing anything other than lurching back and forth between Describing The Problem and then buckling the seatbelt on our feedback loop? I for one think I've heard enough "Bad Things About Corporations," and I'm pretty tired of working on campaigns that will not only fail, but fail in predictable ways.

How have we been colonized? Let me count the ways. We interpret failures as signals to do the same things over again. We are predictable. Our strategies and styles of organizing fracture and dilute our resources. We either accept this dilution as inevitable, or blame each other for not organizing right. We censor ourselves, in thought and action. We act as though if we Describe The Problem to each other enough, it might go away.

And now, we can argue about whether we've been colonized or not. Corporate management is popping extra popcorn for this one.

But enough of what we do. What do corporations do? (The question should be, "What do people do behind the fiction of corporations?") One of the signs of our being colonized is that we personify corporations. I've been trying to

avoid that in this piece but . . . help, I've been colonized and I need help getting up . . .)

Corporate management figured out a hundred years ago that fighting against each other, competing and diluting their resources was weakening them and limiting their power. So they don't do that any more.

So what do people do while hiding behind the corporate shield? The short version is that they write a script for us, and we follow it. Then they write a script for themselves, and we don't even read it.

A big part of the script written for us involves Regulatory Law (including environmental and administrative law). It assumes that corporations have the rights of constitutional "persons."

It outlines procedures for what We the People can do (not much); what government can do (a little more); and what corporations can do (a lot).

At regulatory agencies *corporate* "persons" (that is, corporations) have constitutional rights to due process and equal protection that *human* persons, affected citizens, do not have. For non-corporate human citizens there's a "Democracy Theme Park" where we can pull levers on voting machines and talk into microphones at hearings. But don't worry, they're not connected to anything and nobody's listening 'cept us.

What Regulatory Law regulates is citizen input, not corporate behavior. So when we cooperate in regulatory law proceedings, we are following the script that corporation representatives wrote for us. We're either colonized, or we're collaborators. *That* the regulatory agencies fail to protect the public is clear. *Why* they fail is another matter.

One reason is that they were set up with the cooperation of and sometimes at the urging of big corporations. Today regulatory agencies and trade associations work together to do the work that the "trusts" of the last cen-

tury were set up to do.

A second reason for regulatory failure concerns the nature of the corporation, to which we turn briefly.

Corporations are not natural entities, like karner blue butterflies or white pines. Corporations are artificial creations that are set up by state corporation codes. These state laws, plus a bunch of court cases, form the basis for the notion that corporations have powers and "rights."

This law is Defining Law. This law is the script that corporate lawyers write for corporations. This law is the law that we don't even read.

It's right there in the law books in black and white, just like the "regs" that we spend so much time on. But this Defining Law is invisible to us because we've been colonized and have accepted it as a given. We leave this defining law—in corporation codes, bankruptcy law, insurance law, etc.—to corporation lawyers, who rewrite it every few years without so much as a whimper from citizen activists. Then we wonder why the parts-per-million regulations aren't enforced.

So, the second reason that regulatory agencies fail to protect the public is that we have allowed corporate lawyers to write the Defining Law of corporations. This law bestows upon corporations powers and rights that exceed those of human persons and sometimes of government as well. It seems pretty obvious, then, that we need to rewrite the Defining Law.

Sooner or later we come up against the claim that all this stuff about "rights" and so on is just too legalistic. None of us wants to be involved in narrow and excessively legalistic strategies.

However, a glance through any *Earth First! Journal* will confirm that we're constantly dealing with The Law, whether we're filing testimony or engaged in direct action. As long as we're in the

legal arena, we might as well be dealing with Defining Law, and not the regulatory fruffru that we've allowed to distract us.

If the civil rights movement had been afraid to touch the deep defining "law of the land" we'd still be laboring under "separate but equal." For as long as we stick with Regulatory Law and leave Defining Law to corporate lawyers, we'll have corporate government.

What are we going to do tomorrow morning?

We could keep doing what hasn't worked in case it works next time; we could denounce people who suggest that what we're doing isn't working; we could declare victory so our folks won't get so depressed and discouraged. I'd like to steer clear of those options.

I'd also like to avoid "negotiating" with corporations as though they were persons with a role in a democratic system, and avoid doing anything else that accepts that corporations have the constitutional rights of human persons.

Here is one cluster of ideas for rewriting the Defining Law of corporations. It's not a 3-point plan, and it's not the beginning of a twenty point plan—just some ideas to think about.

1. Prohibit corporations from owning stock in other corporations. Owning stock in other corporations enables corporations to control huge markets and shift responsibility, liability, resources, assets and taxes back and forth among parent corporations, subsidiaries and other members of their unholy families. By defining corporations in such a way to prohibit such ownership, much of the anti-trust regulatory law becomes unnecessary and superfluous.
2. Prohibit corporations from being able to choose when to go out of business (in legalese, no voluntary dissolution). This would prevent corporations from dissolving themselves when it came time to pay

taxes, repay government loans, pay creditors, pay pensions, pay for health care, and pay for toxic cleanups.

3. Make stockholders liable for a corporation's debts. People who want to be stockholders would reallocate their resources to corporations that they knew something about, that weren't engaged in risky, toxic projects. (This would encourage local, sustainable businesses and healthy local economies. Imagine that.)

These three measures might seem "unrealistic" to some, but it beats the heck out of a voluntary code of conduct, or a wasted decade at a regulatory agency. All three of these provisions were once common features of state corporation codes. No wonder corporate apologists prefer that we hang around in the regulatory agencies with our heads spinning with parts per million and habitat conservation plans.

These three measures were quite effective, which is why corporation lawyers worked so hard to get rid of them. But they address only a tiny portion of what needs to be done.

Here's another cluster of ideas for ways to shape a democratic process that is about people. (The idea that corporations have "rights" would seem nonsensical to any but a colonized mind.)

- I. No corporate participation in the democratic process. Democracy is for and about human beings. Corporations should be prohibited from paying for any political advertisements, making any campaign contributions, or seeking to influence the democratic process in any way.
2. Corporations have no constitutional rights.

A corporation is an artificial creation set up to serve a public need, not an independent entity with intrinsic "rights."

3. Corporations should be prohibited from making any civic, charitable, or educational donations. Such donations are used to warp the entire social and economic fabric of society, and make people afraid to speak out against corporations.

These probably seem even more "unrealistic" than the first batch. Imagine how good it is for corporate executives that we find these ideas "impractical." And by the way, these were all once law, too.

The final objection to be raised is that we'll never get anywhere as long as the "news media" are against us, refuse to cover our issues, and distort our views. Agreed.

But the "news media" are corporations, key players in a system of propaganda that encompasses not only television, radio and newspapers, but also the entire educational system. The "airwaves" belong to the public.

Why have we allowed a puppet federal agency to "lease" the public airwaves to huge corporations? Ya wanna lock down? Lock down to a TV or radio station and make the public airwaves public again. Not for a day but for a lifetime.

Ya like boycotts? What if a regulatory agency gave a hearing and nobody came? The outcome would be the same but we wouldn't have wasted all the time and resources, nor would we have helped grant an aura of legitimacy to a sham proceeding.

What could we do instead? We could get together with the lawyer and the expert and begin to figure out how to stop being collaborators. ■

NOTES

¹ The talk show host was Oprah Winfrey. She had the financial resources and popularity to beat the lawsuit. —Ed

² Carson 1962.