

CELDF is pleased to share updated monthly excerpts from the book *“How Wealth Rules the World: Saving Our Communities and Freedoms from the Dictatorship of Property,”* by long-time staff member Ben G. Price. Here is Part One

## **HOW WEALTH RULES PART ONE**

# **ONE RIGHT TO RULE THEM ALL THE DARK SIDE OF PROPERTY**

**Ben G. Price**

*“When plunder becomes a way of life for a group of men living together in society, they create for themselves in the course of time, a legal system that authorizes it and a moral code that glorifies it.” -- Frederic Bastiat <sup>1</sup>*

### **Owning Up to The Real Problem: Wealth Obliterates Self-Government**

Let’s get it out in the open. The United States of America and nations that emulate its governing principles are governed by a dictatorship of property. Is it plutocracy? Sure, but it goes deeper than that.

The U.S. Constitution, as it was written and later interpreted by the Supreme Court, hijacked democratic rights that American Revolutionaries thought they had won. The Federalists developed a whole system of law that serves the interests of wealth.

We live deep within an undemocratic matrix of law that masquerades as a democratic republic while it legalizes an aristocracy of wealth. The U.S. Constitution was written by men who came from a uniformly privileged class. Charles Beard argued this point in his book *An Economic Interpretation of the Constitution of the United States* (1913). Beard analyzed the economic interests of those who met in secret to overturn the Articles of Confederation (the first constitution of the United States) and concluded that the Federalists were motivated by economic self-interest to establish a form of government that would protect their wealth against “*an excess of democracy,*” as Alexander Hamilton put it.<sup>2</sup>

The Federalists who replaced the Articles with the U.S. Constitution were not fully aligned with the liberating agenda of commoners who risked their lives to throw off the hierarchical chains of the British Empire. They were wealthy men educated in the British system of law with opinions that harmonized with aristocratic sentiments.

The authors of the U.S. Constitution are often called the “founding fathers.” Popular history lumps the Federalist counter-revolutionaries in with the likes of Thomas Paine, who

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<sup>1</sup> Frederic Bastiat, *Economic sophisms*, 2nd series (1848), Ch. 1 *Physiology of plunder*

<sup>2</sup> James Madison, paraphrasing Alexander Hamilton, Monday, June 19th, 1787 *Madison’s Notes on Debates in the Federal Convention*

inspired the people to demand independence with his firebrand writings against monarchy, nobility and special privileges for some. Popular culture counts the Federalists as American Revolutionaries no less fervent for liberty than the men whose ideas of leveling the social class system inspired American farmers and day laborers to pick up their muskets and take on the Redcoats.

This conflation of the Federalist counter-revolutionaries with those whose “Spirit of ‘76” is reflected in the Declaration of Independence and absent from the U.S. Constitution is a troubling reminder that popular history too often preserves false memories.

What's the evidence that the Federalists intended a constitution that weaponizes law to protect the accumulation of property and raise wealth above and out of reach of public governance? To begin with, their own words were recorded in Philadelphia in 1787 by James Madison and Robert Yates. Damningly, that record was held secret until every delegate to the clandestine conclave had died and the constitution they wrote was the law of the land for two generations. We have that evidence and it tells the tale

We also have the product of their cleverness to consider. The Federalists established a quasi-monarchical judiciary. Politically appointed judges wield the power to veto any legislation that departs from the Federalists' original intent -- to protect wealth accumulation from democratic oversight. We have the arguments of the Anti-Federalists who called out the would-be American aristocrats for betraying the Revolution. If not for them, we would not have the first ten amendments to the Federalists' document, the Bill of Rights, that many identify as the soul of the U.S. Constitution.

More immediate evidence that the original intent of the U.S. Constitution was to immunize possession of unearned property from public regulation can be found in the anti-social way the document is interpreted by the courts and how it operates on society today.

### **The Dictatorship of Property**

Here's my argument in a nutshell:

We are faced with social, political, and environmental problems that resist resolution because law empowers a wealthy minority to govern based on priorities often at-odds with the general welfare. The Constitution -- and its interpretation by the courts -- amounts to an arsenal of weaponized law able to deliver special privileges to a propertied class. Certain legal mechanisms let those seeking to profit at the public expense block policies that compete with their interests.

These legal doctrines operate by a two-step process. First, they remove democratic rights from the public sphere and deposit them in concentrated accumulations of property. Thus, weaponized by law, the second step is for rights-bearing property to deliver to a wealthy minority sovereign power that has been stripped from the people.

The default settings of American law license a wealthy minority to decide which economic priorities will prevail and divest the people of the authority to protect their fundamental rights against harmful uses of private wealth. Rights vested by law in property nullify the majority's right to decide directly or through elected representatives what community-changing or environmentally destructive projects will and won't be allowed.

As a result, citizens aren't allowed to resolve issues of immediate concern to every community. Even when they understand what needs to be done, they are blocked. Privileges secured by law for an opulent minority outweigh the people's right to self-govern. Communities

are left institutionally powerless when the interests of the rich conflict with settling issues like these through community law-making:

- Homelessness
- Police accountability
- Sanctuary cities / immigrant rights
- Workers' rights on the job
- Minimum/living wage
- Fracking
- Retail Chains
- Water privatization
- Genetically modified plants and animals (GMOs)
- Gun regulation
- School privatization
- Corporatization of food production
- Prisoners' rights
- Prison privatization
- Unsustainable energy policies
- Surveillance and data mining
- Strip Mining
- Predatory lending
- Pipelines
- Urban sewage sludge dumping
- Toxic trespass (private poisoning of the public)

Our social and governing problems are rooted in the legal fiction of property. I say, “legal fiction,” because without law, property does not exist, as we’ll discuss thoroughly in the next installment. For now, it’s important to realize that not all property conveys the same kind of governing clout to its owner. To make this clearer, I’ll draw a distinction between *personal property* and *privileged property*.

*Personal property*, as used in these pages, is derived from one’s own labor. Ownership of it is understandably a cherished right. Our homes and vehicles, our wages, and savings (not “returns” on savings derived from interest) – these justly belong to each of us, meaning we have an exclusive right to them. The right to own the fruit of one’s personal effort is unalienable. “*Unalienable*” means intrinsic, impossible to be separated from, not able to be forfeited, sold, traded or even voluntarily surrendered.

The right to one’s *personal property* is part of the right of self-preservation and includes the right of material security within the social context and within the natural ecosystem. *Personal property* is a limited category, confined to what an individual can produce solely from personal effort. It may be just enough to subsist; it may be a significant treasure. But it is never accumulated at the expense of someone else’s rights.

“*Privileged property*” is the kind of property to which the Federalists, and later their quasi-monarchical Supreme Court, attached legal privileges -- the kind that is *not* earned by personal effort. Either it is the spoils of conquest, the booty of pillaging, the result of the enclosure (privatization) of “the commons,” or it is ownership of amassed property through inheritance, purchase, garnishment, or confiscation.

*Privileged property* involves monopoly control, including the deprivation of the rights of others. It is accumulated and maintained by many mechanisms, including rationing of necessities and extortion of labor in exchange for them. Ownership of *privileged property* is regularly used to justify extractive activities that destroy the ability of human communities and ecosystems to sustain a healthy existence.

I am not claiming that *privileged property* is always used in anti-social ways. Large fortunes amassed by robber barons, real estate moguls, televangelists and dictators are enjoyed through inheritance by their children and heirs, who sometimes apply a part of the hoard to philanthropic causes. Even when it is used for seemingly noble purposes, the accumulation of *privileged property* is, in large measure, what Pierre-Joseph Proudhon<sup>3</sup> called so succinctly, “theft.”

The legal doctrines that institutionalized special privilege for the wealthy include:

- Federal preemption of state and local commercial law-making
- Privatization of public law
- Commoditization of unalienable rights by way of contract (e.g., Mandatory waiver of rights to enter into routine business contracts, mandatory arbitration, and juryless settlements)
- Corporate “rights”
- The denial of legal “standing” to appear in court. without a property claim
- Subordination of local governments through state preemption (prohibitions on local law making)
- Legal biases in favor of the property rights of creditors and against the human rights of debtors
- The dictatorship of precedent over justice
- And many other devices

The rich handily override the rights of individuals and the will of community majorities. When our solutions to local harms involve restricting the use of accumulated wealth, the wealthy rely on rights vested in property to stop us. And the law is on their side.

In 2018 I was working with citizens in Denver Colorado to place a “Right to Survive” amendment to the city charter on the ballot. Its intent was to secure the rights of people who are without permanent shelter against constant harassment and orders to move-on by local law enforcement. Those orders serve the interests of the business community. But they violate the fundamental rights of people who lack the legal protections afforded by wealth to the privileged. As propertyless persons, the law generally fails to recognize their fundamental rights.

People deal with or fail to deal with the many failures of community cohesion, including homelessness, as though they are unrelated. Activists organize separately to stop gas pipelines, address police violence, object to aerial pesticide spraying, advocate for prisoners’ rights, demand a living wage, prohibit the injection of toxic fracking waste into the same ground from which they draw their drinking water. A naïve belief has long been deeply ingrained in progressive minds that they can invoke regulations and protective laws to thwart the worst abuses. But most people who confront these issues run into the same wall. Just when they think they can’t lose because their cause is just, and they’ve gathered all the damning evidence they need to prove their case, it all gets wiped away.

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<sup>3</sup> Author of “What is Property?” (1840)

More often than not, community defenders are frustrated by unreceptive courts, by permits issues without local choice, by litigation their towns can't afford, and by laws that seem tailored to disappoint. Left baffled by negative outcomes, they feel blind-sided. They begin to blame themselves for missing small details, for not organizing better or for not figuring out how to navigate a complex system of law. When local activists ask regulatory agencies and elected representatives for protection, they are routinely told there's nothing to be done. Their local officials shrug and say that they wish they could help, but their hands are tied.

What local campaign organizers generally don't realize is that the outcome was in every case predetermined. It's not the fault of the activists. Rather than ensuring equal rights for all of us, our property-based legal system conveys privileged access to power to those who possess wealth, while denying it to everyone who stands in the way of profits – usually referred to as “progress.” Issues that undeniably affect whole communities are decided by the courts primarily based on property claims. Contracts and corporate law (*private law*)<sup>4</sup> are removed from the public sphere and immunized from public governance.

Here's the gist of it: the privatization of law is the cause of our inability to make democratic decisions about many issues. Once removed from the purview of *public law*,<sup>5</sup> the priorities of wealth are deemed off limits to public governance. Our ability to make public policies on issues in which wealth has an interest has been privatized. As a result, we are institutionally powerless.

### **Here's How We Know Who Government Serves**

By the mid twentieth century, state governments were routinely being recruited by the corporate class to further curtail local self-governing rights. By the second decade of the twenty-first century state preemption (overruling) of the power of municipalities to govern corporate behavior routinely protected incorporated wealth from local democracy.

I'll be discussing local government quite a bit, because people live in particular places, in communities, and municipalities are the mechanisms most commonly available to citizens for exercising the right of self-government. State preemption of local law making frequently amounts to usurpation of public governance to benefit private interests. The courts regularly deny that preemption deprives people of their democratic rights. but forbidding municipalities to enact laws that protect the rights of people accomplishes just that. Underlying these rulings, the courts presume the people never had authority to employ the states' property for their own purposes.

“Dillon's Rule” is the legal theory that claims community governments are utterly subordinate to the state. The rule is asserted day in and day out, not by states intervening directly into municipal affairs, but by the attorneys representing managers and directors of business corporations who habitually sue local governments to overturn local laws that interfere with their agendas. When they sue, they ask the court to rule that the municipality has acted outside of its valid authority in adopting a law prohibiting their corporate project. This repetitious usurpation of community self-governing rights is made possible by industry front groups and lobbyists that use court conjured corporate rights to invest large sums in elections and legislation that translate into the state laws that corporate lawyers can invoke as needed.

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<sup>4</sup> According to The Cyclopedic Law Dictionary a private law is “...one which relates to private matters which do not concern the public at large.” -- James C. Cahill, (1922)

<sup>5</sup> According to The Cyclopedic Law Dictionary a public law is “...one which affects the public, either generally or in some classes.” -- James C. Cahill, 1922

“Preemption” is a term that applies in situations where federal law blocks state law, and when state law trumps local law. The reason for a higher level of government to block law-making at a lower level is that some interested party has a claim that is prior and superior to the interests of everyone else. This works well when preemption blocks a municipal law that would infringe the rights of some members of the community, or when a local law creates unfair advantages for some and not others. But preemption is invoked far more frequently for anti-social ends.

When fundamental rights are being protected by federal and state laws, they sometimes set minimal protections and forbid local legislation that would weaken those protections. This is called “floor preemption” and it is a legitimate use of preemption. When floor preemption is exercised, unalienable rights and other keystone values are held superior to commercial and other considerations. Recall that “*unalienable*,” means intrinsic, impossible to be separated from, not able to be forfeited, sold, traded, or even voluntarily surrendered.

“Ceiling preemption” works in the opposite direction. When rights in *privileged property* are at risk of being diminished by a local law, the state sets *maximum* protections and forbids the municipality to legislate in a way that would exceed community protections afforded by state regulations. Ceiling preemption protects the interests of wealth against the interests of justice. In a system that promotes democracy and justice, ceiling preemption is illegitimate.

“Ceiling preemption” means the state regulations will be minimal and the community will go unprotected. It also means that wealthy speculators, investors, corporations, and developers can rest assured that municipal governments will not interfere with their primary goal of extracting profit from the community.

More significantly, ceiling preemptions are enforced through litigation by publicly chartered and licensed “private” corporations. The rights vested by law in *privileged property* empower corporate management to use the courts to strike down municipal laws that fail to show deference to the propertied class. Even though the preemptive law is adopted by the state, it is the wealthy people using the corporation and the extra rights attached to it, as a form of *privileged property*, who bring legal actions to usurp local governing rights and enforce the preemption.

Upon closer examination, ceiling preemption is revealed to be the privatization of public governing authority. Although it’s public law, it is asserted privately.

### **Liberating Communities to Protect Themselves: Making Government Serve the Governed**

Corporations and their court-bestowed rights aren’t the root of the problem. They’re a symptom. In a system of law that values them, unalienable rights belong to the living, not to *privileged property*, and they are higher law when it comes to a contest of legitimacy with privileges vested by law in property. If we apply this basic premise, we can challenge each of the Federalists’ property-as-sovereignty legal doctrines and expose them for what they are: aristocratic, anti-democratic, and unworthy of deference.

CELDF has worked hard to apply these principles to our community organizing. We’ve heard from people trying to stop state-permitted dumping of toxic waste in their communities who came to the conclusion that there was no way around laws preempting local bans. But what if we take seriously the primacy of unalienable rights? What if *democracy* means that the people affected by governing decisions are the ones to make them? Then state and federal preemptions forbidding the community from criminalizing poisoning their air, water, and soil would obviously be illegitimate. Wouldn’t you say?

When we draft laws for municipal governments, we include language that specifically nullifies permits that pretend to legalize what the community has banned to protect their health, safety and environment. Not to be arbitrarily confrontational, but because the law as it stands legalizes corporate violations of people's rights through the issuance of permits.

Passing municipal laws as a way of telling state and federal governments that they are violating basic rights under the pretense of legality may seem gutsy, but it's not open revolt. Whatever state you live in, your court system is trip-wired to zap pesky upstart towns like mayflies on a summer night. In Youngstown, Ohio, residents have tried to amend their city charter – their local constitution – by ballot initiative seven times. They wanted to protect their drinking water by banning fracking. They were defeated each time by a large influx of corporate money spent on scare tactics and misinformation.

When the community came within less than a percentage point of winning in 2016, a whole new opposition strategy unfolded the next time they tried. The state teamed up with the propertied class to keep the people's proposed law off the ballot and prevent the voters from deciding. Industry honchos were tired of spending their money to thwart local democracy. They enlisted the state attorney general, the county Boards of Elections, and the courts to invent ever more tenuous legal reasons to block access to the ballot for the community's initiative. Even more galling, the people's own tax dollars were spent to defeat their efforts.

Thanks to CELDF Ohio organizer Tish O'Dell, and the Protect Youngstown community group, the struggle for local democratic rights continues. They have a saying in Youngstown, after all these battles: *"You don't lose until you quit."* Every successful struggle for fundamental rights has come to the same conclusion.

One of the provisions included in their proposed amendment has been used over the years by dozens of communities in other states. It rejects the notion that the state can legalize activities that violate the rights of community members. The section says this: *"No permit, license, privilege, or charter issued by any state, federal or international entity which would violate this Charter shall be deemed valid within the City of Youngstown."*

Directly challenging legal doctrines with long pedigrees is necessary because government has no legitimate authority to prohibit free people from protecting their rights with democratically enacted local laws. The right of the people to engage in self-government in their own communities is the essence of what Community Rights Organizing is all about. Ceiling preemption, Dillon's Rule and municipal subordination to state government are legal doctrines used not for the general welfare, but by a propertied minority keen to upend the unalienable right of self-government when it encroaches on the privileges of wealth.

When the City of Pittsburgh defied the state's preemption and banned fracking in 2010, I discussed the implications of challenging doctrines like preemption with Council members during the ordinance drafting process and in public testimony prior to the vote. With each new local law that we draft for our client communities, my colleagues and I include provisions that more completely address the violation of unalienable rights by the *privileged property*. Pittsburgh's ordinance challenged the state's authority to preempt rights-protecting prohibitions on fracking. It also denied corporate personhood and declared that *"Corporations in violation of the prohibition against natural gas extraction or seeking to engage in natural gas extraction shall not . . . be afforded the protections of the commerce or contract clauses within the United States Constitution or corresponding sections of the Pennsylvania Constitution."*

That's right. We took on the *Commerce* and *Contract Clauses* of the U.S. Constitution too because they purport to enforce *private law* publicly and deprive fundamental rights in the process.

### **“We Wish We Could Help, but Our Hands are Tied”**

The lament of every municipal official confronted by a roomful of angry constituents could be summarized on a bumper sticker that says, “*we wish we could help, but our hands are tied.*” It's the mantra that every one of us hears when we show up at a municipal meeting to ask local officials to do something to stop Project X. You know: the pipeline, the frack wells, aerial pesticide spraying, the GMO salmon farm proposed for Lake Erie, the power lines and microwave towers everywhere, the landfill expansion, the big box store, the latest money-maker that nobody wants.

The people we elect locally aren't universally apathetic about the needs of their communities. They generally do what they can with what they've got, which is less and less as states breach their responsibilities to citizens more and more to save money for other priorities, like tax cuts for the rich and subsidies for the biggest of businesses.

When they tell us they can't help us, our municipal officials are telling mostly the truth, although they always have a choice to buck the system and do what's right. The ones who will take that stand are the ones community rights organizers love to bump into. They are the salt of the earth, the ones who offer hope that the precedent-driven repetition of errors of the past can be corrected. They are the special ones who know that neither the state nor the federal government can legitimately forbid public servants from standing up for the rights of the neighbors who elected them. They understand that you can't protect wealth at the expense of everybody and everything else and pretend that's the way it should be.

### **Somebody Stole Our Revolution**

By now many of us know that the U.S. Supreme Court decided on its own, without direction from elected representatives of the people or precedent from judges of the past, that corporate property has constitutional rights. This is a prime example of what I mean when I say that law – including case law -- lodges unalienable rights intended for people within property. The Supreme Court didn't invent the idea of stowing constitutional rights within inert property, although the choice of corporate property was a real innovation. They took their lead from the racist white men who wrote the Constitution.

The Federalists got the ball rolling when they injected rights to extraordinary political representation within the *privileged property* of slaves. Until the Civil War, enslaved Africans counted as three-fifths of a person for purposes of proportional representation in the House of Representatives and delegates to the Electoral College. With the *Three-Fifths Clause*, the Constitution injected political rights into human chattel and gave legalized owners of enslaved human beings palpable political advantages over all Americans, including white males living in non-slave states. The patrician plantation culture of the South cut a deal with Northern proto-industrialists to support adoption of the Federalist's constitution in exchange for the political power of an aristocracy while avoiding the most overt trappings of an institutionalized aristocracy. The new constitution would make possession of *privileged property* in the guise of enslaved people convey superior power in the governance of the nation for otherwise out-numbered possessors of human chattel.



It must be said that neither inert corporate property nor enslaved people are able to enjoy the rights law attaches to them. They are mere vessels for conveying the rights vested in *privileged property* to their owners, who could capitalize on the extra political power thus conveyed. Corporations and “slaves” are prime examples of what I’ve been calling *privileged property*.

The original, unamended federal constitution included other methods of infusing *privileged property* with rights that convey superior political power to the best hoarders of capital. The power to govern, supposedly won by white male revolutionaries, was privatized and made unavailable even to the average unbanked white man on issues impinging on rights in wealth. This was accomplished by inclusion of constitutional provisions like the *Commerce Clause*, the *Contract Clause*, and the *Fugitive Labor Clause*. We’re going to get to all that in the coming months.

We’ll examine each of these wealth-biased constitutional nuggets in later installments. They impose contractual obligations on each citizen, without the consent of each citizen, right there in the U.S. Constitution. As we will see, the long-term effect has been to privatize decision-making on many issues that would otherwise reasonably be considered matters of public concern and democratic governance.

Over the past two hundred years a succession of politically appointed Supreme Court judges has gone further than the Federalists dared by vesting all sorts of property with new governing powers that are transferable upon possession to the owners. Recent outrageous judicial decisions have caused an uptick in the number of people conscious of and alarmed by the ploy.

*Citizen’s United versus Federal Elections Commission* is the Court case decided in 2010 in which the judges gave corporations a constitutional right to spend unlimited amounts of money to influence the outcome of elections. A sleeping public that hadn’t noticed that American law had already put the rich in the driver’s seat was suddenly roused. Some thought the worst thing about the decision was that corporations had been declared legal “persons.” They hadn’t been taught that the courts made that decision a hundred and twenty-four years earlier. Few realized that the *Citizens United* decision wasn’t about corporations at all. It was about clearing the way for the wealthy to decide who will govern in the United States. A scattering of voices could be heard calling for a constitutional amendment to overturn the decision.

If they succeed, it won’t be nearly enough.

## **Half-Fast Measures**

The Supreme Court has betrayed every American with hundreds of rulings just like *Citizens United*. For over two hundred years the Court has devised ways to bias the law in favor of owners of corporate property that disadvantage all other citizens. By claiming to have *found* corporations in the Constitution, although they are never mentioned there, politically appointed life-term judges have amended the Constitution as though it belonged to them and their class.

Our awareness of betrayal has been sublimated beneath the surface of American jingoism. Over time, devotion to the founding patriarchs and their legacy of racism, classism, privilege and misogyny replaced fealty to the ideals of the American Revolution. A general reluctance to demand systemic change has allowed the original plutocratic power structure to metastasize, despite all attempts to bring it under popular control.

The most drastic proposals from constitutional reformers in recent years go no further than calling for constitutional amendments to overturn the damage done by *Citizens United*. The short of it is this: it’s a losing strategy. Because the legal mechanisms for conveying extra power

and authority to the wealthy are deeply engrained in U.S. law, if those amendments were adopted, they would do little to free us from the dictatorship of property. There's no delicate way to say it. We have much bigger problems.

Today, wealth inequality is a hot topic, but the fact that rich people enjoy more leisure and luxury than the rest of us is not the problem. It's not just about corporations, either. Judges *regularly* attach legal privileges to property. Case law (the accumulated collection of court decisions) is a veritable La Brea tar pit filled with the preserved remnants of an extinct democracy, all covered in the black goo of legal double-talk. Judges have solemnly doled out legal opinions, insisting their job is to serve the law and not administer justice, all without making it clear that precedent and the laws they serve favor a propertied class of thinly disguised aristocrats.

We are at a moment in history when a movement is afoot to amplify and strengthen legal rights attached to wealth. Occasional "rogue" court decisions, like *Citizens United*, are taken as the exception even though the U.S. Supreme Court has never failed to preserve the law's protection of rights vested in property over the rights of people.

The Court has regularly created new vessels to carry those privileges through the maelstrom of history. Decisions like *Citizens United* are nothing new. They reinforce and expand the legal default settings that date back to 1789.

Making *privileged property* into a rights-bearing canteen to be drunk from only by its owners guaranteed we'd be ruled by an aristocracy of the propertied class and we'd thirst for the deprived right of self-governance. The Federalists thought they knew better than revolutionaries like Thomas Paine and Samuel Adams. We need to understand and believe they were wrong.

### **International House of Property: Wealth's Global Dominion**

The tactic of storing legal rights and governing authority in property initiated by the Federalists has had profound impacts into the twenty first century not only in the U.S., but globally. Around the world, nations have histories steeped in colonialism, with all its brutality, enslavement, and exploitation. Although the U.S. escaped its colonial chains earlier than many, its racist, misogynistic, homophobic culture preserved oppressive inequities inherited from the British Empire and the common law. From the privatization of the commons, known as the "enclosures," to the treatment of women and Africans as chattel, Americans took inspiration for institutionalized injustice from the empire that succeeded in claiming as its own much of North America.

For good or ill, the U.S. Constitution has been emulated by newly emancipated nation-states, so that many have adopted parts of it as their own. Others, once British colonies, have modeled their governments closer to that of their former imperial master. Fifty-three former colonies are aligned as members of the Commonwealth of Nations to this day. Over the past half-century, neoliberalism and globalization have entrenched the acquisition of wealth and the centralization of control over trade, commerce, and finance as the core values of a planetary regime. International trade agreements are negotiated by those whose *privileged property* empowers them to act in the sphere of domestic and international governance as free agents. Stowing superior political rights in *privileged property* may have a "made in the U.S.A." label on it, as a legal innovation, but by now it's as ubiquitous globally as jazz and rock 'n roll.

The niceties of republicanism, of citizenship, of representation, and even of sovereignty have been courteously mooted. Turning the whole planet and its every aspect and inhabitant into commoditized property is no longer a patrician pipedream. Totalitarian capitalism has been

legalized. Protecting home, family, habitat, and the future from the dictatorship of property is illegal, pretty much no matter where you go.

### **Planetary Emancipation**

There is a movement afoot that could undermine this dystopian reality. Internationally, a movement for the legally enforceable Rights of Nature is underway. It began humbly, in a little borough in Pennsylvania, U.S.A. It spread to Ecuador, to Bolivia, to New Zealand and India. It has a life of its own and that is why it is unstoppable.

How can recognizing unalienable rights for nature, including natural communities of humans, challenge and defeat the global juggernaut of rights vested in property? The answer is in the question. When nature is no longer categorized in its every aspect as property, and when forests, mountaintops, aquifers, coal seams, ore deposits, genetic material, natural medicines, and every subset of the natural world is emancipated from the legal status of property, then the threat to our rights and our common inheritance posed by the hegemony of private ownership of the commons can be ended.

Humans are a part of the natural world. Although the grand philosophies that justified and inspired imperial conquests over other lands, people, and nature are based on the premise that some special humans exist apart from and above nature and community, and that law can legitimately give them monopoly rights all over it, that's simply not the case. We are one of many species on the tree of life, every one of us dependent for our breath, sustenance, and survival on all of it and exempt from none of its priorities.

Because so many Americans still believe that the ideals of the Declaration of Independence are alive, if imperfectly, in the U.S. Constitution and the government it spawned, it's not possible for many to discover the truth right under their noses. But for people in nations more recently liberated from colonialism and exploitation, and in those nations still suffering under its power, the hypocrisy is more immediate and obvious. The unalienable rights bestowed on every one of us by "*Nature. . . and Nature's God*," as the Declaration has it, and the aspiration to establish government at the consent of the governed has been betrayed in America and around the world where those ideals gain no more than lip service. It is an unnatural situation, and it must be corrected.

### **An Invitation**

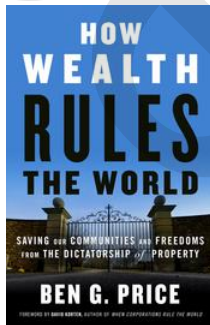
The dictatorship of property has insinuated itself into our hometowns. It sits as a gatekeeper at all our town meetings in the seat of the municipal attorney who advises the erstwhile elected representatives of the people that they must ignore the will of the community and defer to the power and preemptions of their wealthy masters who craft state laws.

These are not idle claims. They are direct observations from the front lines of the Community Rights Movement. If it all sounds too depressing and surreal in a country where the people are supposed to be in charge, take courage from the fact that there is hope. It's been here all along. But do take courage because you'll need it. We're the ones we've been waiting for. It's time to wake up and act. Others have begun. You can join them.

**NEXT MONTH**

**HOW WEALTH RULES  
PART TWO**

**PROPERTY IS NOT  
AN UNALIENABLE RIGHT**



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